

TAX PROVISION AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Francis D. Gibson

LONG TITLE

General Description:

This bill modifies provisions in the Revenue and Taxation code.

Highlighted Provisions:

This bill:

- ▶ adds automobile manufacturing to the NAICS codes that qualify a taxpayer to be a sales factor weighted taxpayer;
- ▶ addresses how a taxpayer determines if the taxpayer is an optional sales factor weighted taxpayer;
- ▶ exempts a purchase or lease of certain machinery, equipment, and parts from sales and use tax;
- ▶ requires the Revenue and Taxation Interim Committee to study annually the exemptions created by this bill for a purchase or lease of machinery, equipment, and parts;
- ▶ requires purchasers that receive the exemptions created by this bill to report information about the purchases to the Governor's Office of Economic Development;
- ▶ requires the Governor's Office of Economic Development to report the information regarding sales-tax exempt purchases to the Revenue and Taxation Interim Committee; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

29 None

30 **Other Special Clauses:**

31 This bill provides a special effective date.

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **59-7-302**, as last amended by Laws of Utah 2016, Chapters 311 and 368

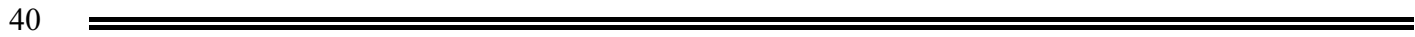
35 **59-12-104**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 6

36 **59-12-104.5**, as last amended by Laws of Utah 2016, Chapter 135

37 ENACTS:

38 **59-12-104.7**, Utah Code Annotated 1953

39 **63N-1-302**, Utah Code Annotated 1953



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

42 Section 1. Section **59-7-302** is amended to read:

43 **59-7-302. Definitions -- Determination of taxpayer status.**

44 (1) As used in this part, unless the context otherwise requires:

45 (a) "Aircraft type" means a particular model of aircraft as designated by the
46 manufacturer of the aircraft.

47 (b) "Airline" means the same as that term is defined in Section **59-2-102**.

48 (c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during
49 the airline's tax period.

50 (d) "Business income" means income arising from transactions and activity in the
51 regular course of the taxpayer's trade or business and includes income from tangible and
52 intangible property if the acquisition, management, and disposition of the property constitutes
53 integral parts of the taxpayer's regular trade or business operations.

54 (e) "Commercial domicile" means the principal place from which the trade or business
55 of the taxpayer is directed or managed.

56 (f) "Compensation" means wages, salaries, commissions, and any other form of
 57 remuneration paid to employees for personal services.

58 (g) (i) Except as provided in Subsection (1)(g)(ii), "mobile flight equipment" [~~is as~~]
 59 means the same as that term is defined in Section 59-2-102.

60 (ii) "Mobile flight equipment" does not include:

61 (A) a spare engine; or

62 (B) tangible personal property described in Subsection 59-2-102(27) owned by an[~~;~~]
 63 air charter service[;] or [~~an~~] an air contract service.

64 (h) "Nonbusiness income" means all income other than business income.

65 (i) [~~Optional~~] Subject to Subsection (2), "optional sales factor weighted taxpayer"
 66 means:

67 (i) for a taxpayer that is not a unitary group, regardless of the number of economic
 68 activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer's total sales
 69 everywhere generated by economic activities performed by the taxpayer if the economic
 70 activities are classified in a NAICS code within NAICS Subsector 334, Computer and
 71 Electronic Product Manufacturing, of the 2002 or 2007 North American Industry Classification

72 System of the federal Executive Office of the President, Office of Management and Budget; or

73 (ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the
 74 taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if
 75 the economic activities are classified in a NAICS code within NAICS Subsector 334,

76 Computer and Electronic Product Manufacturing, of the 2002 or 2007 North American
 77 Industry Classification System of the federal Executive Office of the President, Office of
 78 Management and Budget.

79 (j) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.

80 (k) "Sales" means all gross receipts of the taxpayer not allocated under Sections
 81 59-7-306 through 59-7-310.

82 (l) Subject to Subsection (2), "sales factor weighted taxpayer" means:

83 (i) for a taxpayer that is not a unitary group, regardless of the number of economic
84 activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer's total sales
85 everywhere generated by economic activities performed by the taxpayer if the economic
86 activities are classified in a NAICS code of the 2002 or 2007 North American Industry
87 Classification System of the federal Executive Office of the President, Office of Management
88 and Budget, except for:

- 89 (A) a NAICS code within NAICS Sector 21, Mining;
- 90 (B) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;
- 91 (C) a NAICS code within NAICS Sector 31-33, Manufacturing, other than NAICS
92 Code 336111, Automobile Manufacturing;
- 93 (D) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;
- 94 (E) a NAICS code within NAICS Sector 51, Information, [~~except for~~] other than
95 NAICS Subsector 519, Other Information Services; or
- 96 (F) a NAICS code within NAICS Sector 52, Finance and Insurance; or

97 (ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the
98 taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if
99 the economic activities are classified in a NAICS code of the 2002 or 2007 North American
100 Industry Classification System of the federal Executive Office of the President, Office of
101 Management and Budget, except for a NAICS code under Subsections (1)(1)(i)(A) through (F).

102 (m) "State" means any state of the United States, the District of Columbia, the
103 Commonwealth of Puerto Rico, any territory or possession of the United States, and any
104 foreign country or political subdivision thereof.

105 (n) "Transportation revenue" means revenue an airline earns from:

- 106 (i) transporting a passenger or cargo; or
- 107 (ii) from miscellaneous sales of merchandise as part of providing transportation
108 services.

109 (o) "Utah revenue ton miles" means, for an airline, the total revenue ton miles within

110 the borders of this state:

- 111 (i) during the airline's tax period; and
- 112 (ii) from flight stages that originate or terminate in this state.

113 (2) The following apply to ~~[Subsection]~~ Subsections (1)(i) and (1):

114 (a) (i) Subject to the other provisions of this Subsection (2), for each taxable year, a
115 taxpayer shall ~~[for each taxable year]~~ determine whether the taxpayer is a sales factor weighted
116 taxpayer.

117 (ii) A taxpayer shall make the determination required by Subsection (2)(a)(i) before the
118 due date for filing the taxpayer's return under this chapter for the taxable year, including
119 extensions.

120 (iii) For purposes of making the determination required by Subsection (2)(a)(i), total
121 sales everywhere include only the total sales everywhere:

- 122 (A) as determined in accordance with this part; and
- 123 (B) made during the taxable year for which a taxpayer makes the determination
124 required by Subsection (2)(a)(i).

125 (b) (i) (A) Subject to other provisions of this Subsection (2), for each taxable year, a
126 taxpayer that is not a sales factor weighted taxpayer may determine whether the taxpayer is an
127 optional sales factor weighted taxpayer.

128 (B) A taxpayer that is not a sales factor weighted taxpayer shall determine that the
129 taxpayer is an optional sales factor weighted taxpayer before the taxpayer may use the
130 apportionment options described in Subsection 59-7-311(4).

131 (ii) A taxpayer making the determination described in Subsection (2)(b)(i) shall make
132 the determination before the due date for filing the taxpayer's return under this chapter for the
133 taxable year, including extensions.

134 (iii) For purposes of making the determination described in Subsection (2)(b)(i), total
135 sales everywhere include only the total sales everywhere:

- 136 (A) as determined in accordance with this part; and

137 (B) made during the taxable year for which a taxpayer makes a determination described
138 in Subsection (2)(b)(i).

139 ~~[(b)]~~ (c) A taxpayer that files a return as a unitary group for a taxable year is considered
140 to be a unitary group for that taxable year.

141 ~~[(e)]~~ (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
142 Act, the commission may define the term "economic activity" consistent with the use of the
143 term "activity" in the 2007 North American Industry Classification System of the federal
144 Executive Office of the President, Office of Management and Budget.

145 Section 2. Section **59-12-104** is amended to read:

146 **59-12-104. Exemptions.**

147 Exemptions from the taxes imposed by this chapter are as follows:

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

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

152 (a) construction materials except:

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

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

160 (b) tangible personal property in connection with the construction, operation,
161 maintenance, repair, or replacement of a project, as defined in Section [11-13-103](#), or facilities
162 providing additional project capacity, as defined in Section [11-13-103](#);

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

- 164 (i) the proceeds of each sale do not exceed \$1; and
- 165 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
- 166 the cost of the item described in Subsection (3)(b) as goods consumed; and
- 167 (b) Subsection (3)(a) applies to:
 - 168 (i) food and food ingredients; or
 - 169 (ii) prepared food;
- 170 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
 - 171 (i) alcoholic beverages;
 - 172 (ii) food and food ingredients; or
 - 173 (iii) prepared food;
- 174 (b) sales of tangible personal property or a product transferred electronically:
 - 175 (i) to a passenger;
 - 176 (ii) by a commercial airline carrier; and
 - 177 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 178 (c) services related to Subsection (4)(a) or (b);
- 179 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
- 180 and equipment:
 - 181 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
 - 182 North American Industry Classification System of the federal Executive Office of the
 - 183 President, Office of Management and Budget; and
 - 184 (II) for:
 - 185 (Aa) installation in an aircraft, including services relating to the installation of parts or
 - 186 equipment in the aircraft;
 - 187 (Bb) renovation of an aircraft; or
 - 188 (Cc) repair of an aircraft; or
 - 189 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
 - 190 commerce; or

191 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
192 aircraft operated by a common carrier in interstate or foreign commerce; and

193 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
194 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
195 refund:

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

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

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

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

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

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

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

207 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
208 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
209 washing of tangible personal property;

210 (b) if a seller that sells at the same business location assisted cleaning or washing of
211 tangible personal property and cleaning or washing of tangible personal property that is not
212 assisted cleaning or washing of tangible personal property, the exemption described in
213 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
214 or washing of the tangible personal property; and

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

217 (i) governing the circumstances under which sales are at the same business location;

218 and

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

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

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

226 (a) not registered in this state; and

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

228 (ii) used in this state:

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

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

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

233 (B) if the vehicle is used to conduct business, for the time period necessary to transport
234 the vehicle to the borders of this state;

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

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

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

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

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

240 (A) a drug;

241 (B) a syringe; or

242 (C) a stoma supply; and

243 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
244 commission may by rule define the terms:

- 245 (A) "syringe"; or
- 246 (B) "stoma supply";
- 247 (11) purchases or leases exempt under Section 19-12-201;
- 248 (12) (a) sales of an item described in Subsection (12)(c) served by:
 - 249 (i) the following if the item described in Subsection (12)(c) is not available to the
 - 250 general public:
 - 251 (A) a church; or
 - 252 (B) a charitable institution;
 - 253 (ii) an institution of higher education if:
 - 254 (A) the item described in Subsection (12)(c) is not available to the general public; or
 - 255 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
 - 256 offered by the institution of higher education; or
 - 257 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
 - 258 (i) a medical facility; or
 - 259 (ii) a nursing facility; and
 - 260 (c) Subsections (12)(a) and (b) apply to:
 - 261 (i) food and food ingredients;
 - 262 (ii) prepared food; or
 - 263 (iii) alcoholic beverages;
 - 264 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
 - 265 or a product transferred electronically by a person:
 - 266 (i) regardless of the number of transactions involving the sale of that tangible personal
 - 267 property or product transferred electronically by that person; and
 - 268 (ii) not regularly engaged in the business of selling that type of tangible personal
 - 269 property or product transferred electronically;
 - 270 (b) this Subsection (13) does not apply if:
 - 271 (i) the sale is one of a series of sales of a character to indicate that the person is

272 regularly engaged in the business of selling that type of tangible personal property or product
273 transferred electronically;

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

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

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

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

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

285 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
286 commission shall make rules establishing the circumstances under which:

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

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

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

294 (14) [~~(a)~~] amounts paid or charged for a purchase or lease [~~:(i) by a manufacturing~~
295 ~~facility located in the state; and (ii)] of machinery, equipment, or normal operating repair or~~
296 ~~replacement parts [if the machinery, equipment, or normal operating repair or replacement~~
297 ~~parts have] with an economic life of three or more years [and are used] by:~~

298 (a) a manufacturing facility, except as provided in Subsection (86), that:

299 (i) is located in the state; and
300 (ii) uses the machinery, equipment, or normal operating repair or replacement parts:
301 (A) in the manufacturing process to manufacture an item sold as tangible personal
302 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
303 Utah Administrative Rulemaking Act; or
304 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
305 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
306 Administrative Rulemaking Act;
307 [~~(b) amounts paid or charged for a purchase or lease:~~]
308 [~~(i) by~~] (b) an establishment, as the commission defines that term in accordance with
309 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
310 [~~(A)~~] (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or
311 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
312 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
313 of the 2002 North American Industry Classification System of the federal Executive Office of
314 the President, Office of Management and Budget; [~~and~~]
315 [~~(B)~~] (ii) is located in the state; and
316 [~~(ii) of~~] (iii) uses the machinery, equipment, or normal operating repair or replacement
317 parts [~~if the machinery, equipment, or normal operating repair or replacement parts have an~~
318 economic life of three or more years and are used] in:
319 (A) the production process to produce an item sold as tangible personal property, as the
320 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
321 Administrative Rulemaking Act;
322 (B) research and development, as the commission may define that phrase in accordance
323 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
324 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
325 produced from mining;

326 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
 327 mining; or

328 (E) preventing, controlling, or reducing dust or other pollutants from mining; or
 329 ~~[(c) amounts paid or charged for a purchase or lease:]~~

330 ~~[(i) by]~~ (c) an establishment, as the commission defines that term in accordance with
 331 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

332 ~~[(A)]~~ (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
 333 American Industry Classification System of the federal Executive Office of the President,
 334 Office of Management and Budget; ~~[and]~~

335 ~~[(B)]~~ (ii) is located in the state; and

336 ~~[(ii) of]~~ (iii) uses the machinery, equipment, or normal operating repair or replacement
 337 parts ~~[if the machinery, equipment, or normal operating repair or replacement parts: (A) are~~
 338 used] in the operation of the web search portal; ~~[and]~~

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

340 ~~[(d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,~~
 341 ~~Utah Administrative Rulemaking Act, the commission:]~~

342 ~~[(i) shall by rule define the term "establishment"; and]~~

343 ~~[(ii) may by rule define what constitutes:]~~

344 ~~[(A) processing an item sold as tangible personal property;]~~

345 ~~[(B) the production process, to produce an item sold as tangible personal property; or]~~

346 ~~[(C) research and development;]~~

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

348 (i) tooling;

349 (ii) special tooling;

350 (iii) support equipment;

351 (iv) special test equipment; or

352 (v) parts used in the repairs or renovations of tooling or equipment described in

353 Subsections (15)(a)(i) through (iv); and
354 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
355 (i) the tooling, equipment, or parts are used or consumed exclusively in the
356 performance of any aerospace or electronics industry contract with the United States
357 government or any subcontract under that contract; and
358 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
359 title to the tooling, equipment, or parts is vested in the United States government as evidenced
360 by:
361 (A) a government identification tag placed on the tooling, equipment, or parts; or
362 (B) listing on a government-approved property record if placing a government
363 identification tag on the tooling, equipment, or parts is impractical;
364 (16) sales of newspapers or newspaper subscriptions;
365 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
366 product transferred electronically traded in as full or part payment of the purchase price, except
367 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
368 trade-ins are limited to other vehicles only, and the tax is based upon:
369 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
370 vehicle being traded in; or
371 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
372 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
373 commission; and
374 (b) Subsection (17)(a) does not apply to the following items of tangible personal
375 property or products transferred electronically traded in as full or part payment of the purchase
376 price:
377 (i) money;
378 (ii) electricity;
379 (iii) water;

380 (iv) gas; or
381 (v) steam;
382 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
383 or a product transferred electronically used or consumed primarily and directly in farming
384 operations, regardless of whether the tangible personal property or product transferred
385 electronically:
386 (A) becomes part of real estate; or
387 (B) is installed by a:
388 (I) farmer;
389 (II) contractor; or
390 (III) subcontractor; or
391 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
392 product transferred electronically if the tangible personal property or product transferred
393 electronically is exempt under Subsection (18)(a)(i); and
394 (b) amounts paid or charged for the following are subject to the taxes imposed by this
395 chapter:
396 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is
397 incidental to farming:
398 (I) machinery;
399 (II) equipment;
400 (III) materials; or
401 (IV) supplies; and
402 (B) tangible personal property that is considered to be used in a manner that is
403 incidental to farming includes:
404 (I) hand tools; or
405 (II) maintenance and janitorial equipment and supplies;
406 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product

407 transferred electronically if the tangible personal property or product transferred electronically
408 is used in an activity other than farming; and

409 (B) tangible personal property or a product transferred electronically that is considered
410 to be used in an activity other than farming includes:

411 (I) office equipment and supplies; or

412 (II) equipment and supplies used in:

413 (Aa) the sale or distribution of farm products;

414 (Bb) research; or

415 (Cc) transportation; or

416 (iii) a vehicle required to be registered by the laws of this state during the period
417 ending two years after the date of the vehicle's purchase;

418 (19) sales of hay;

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

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

424 (b) an employee of the producer described in Subsection (20)(a); or

425 (c) a member of the immediate family of the producer described in Subsection (20)(a);

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

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

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

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

- 434 (i) the product is:
- 435 (A) purchased outside of this state;
- 436 (B) brought into this state:
- 437 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
- 438 (II) by a nonresident person who is not living or working in this state at the time of the
- 439 purchase;
- 440 (C) used for the personal use or enjoyment of the nonresident person described in
- 441 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
- 442 (D) not used in conducting business in this state; and
- 443 (ii) for:
- 444 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
- 445 the product for a purpose for which the product is designed occurs outside of this state;
- 446 (B) a boat, the boat is registered outside of this state; or
- 447 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
- 448 outside of this state;
- 449 (b) the exemption provided for in Subsection (24)(a) does not apply to:
- 450 (i) a lease or rental of a product; or
- 451 (ii) a sale of a vehicle exempt under Subsection (33); and
- 452 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
- 453 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
- 454 following:
- 455 (i) conducting business in this state if that phrase has the same meaning in this
- 456 Subsection (24) as in Subsection (63);
- 457 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
- 458 as in Subsection (63); or
- 459 (iii) a purpose for which a product is designed if that phrase has the same meaning in
- 460 this Subsection (24) as in Subsection (63);

461 (25) a product purchased for resale in this state, in the regular course of business, either
462 in its original form or as an ingredient or component part of a manufactured or compounded
463 product;

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

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

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

473 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
474 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
475 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
476 the President, Office of Management and Budget;

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

479 (a) not registered in this state; and

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

481 (ii) used in this state:

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

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

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

487 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time

488 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
489 state;

490 (31) sales of aircraft manufactured in Utah;

491 (32) amounts paid for the purchase of telecommunications service for purposes of
492 providing telecommunications service;

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

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

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

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

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

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

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

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

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

502 (a) a person presents a prescription for the durable medical equipment; and

503 (b) the durable medical equipment is used for home use only;

504 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
505 Section [72-11-102](#); and

506 (b) the commission shall by rule determine the method for calculating sales exempt
507 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

508 (38) sales to a ski resort of:

509 (a) snowmaking equipment;

510 (b) ski slope grooming equipment;

511 (c) passenger ropeways as defined in Section [72-11-102](#); or

512 (d) parts used in the repairs or renovations of equipment or passenger ropeways
513 described in Subsections (38)(a) through (c);

514 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

515 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
516 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
517 59-12-102;

518 (b) if a seller that sells or rents at the same business location the right to use or operate
519 for amusement, entertainment, or recreation one or more unassisted amusement devices and
520 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
521 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
522 amusement, entertainment, or recreation for the assisted amusement devices; and

523 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
524 Utah Administrative Rulemaking Act, the commission may make rules:

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

527 (ii) establishing the procedures and requirements for a seller to separately account for
528 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
529 assisted amusement devices;

530 (41) (a) sales of photocopies by:

531 (i) a governmental entity; or

532 (ii) an entity within the state system of public education, including:

533 (A) a school; or

534 (B) the State Board of Education; or

535 (b) sales of publications by a governmental entity;

536 (42) amounts paid for admission to an athletic event at an institution of higher
537 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
538 20 U.S.C. Sec. 1681 et seq.;

539 (43) (a) sales made to or by:

540 (i) an area agency on aging; or

541 (ii) a senior citizen center owned by a county, city, or town; or

- 542 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 543 (44) sales or leases of semiconductor fabricating, processing, research, or development
- 544 materials regardless of whether the semiconductor fabricating, processing, research, or
- 545 development materials:
 - 546 (a) actually come into contact with a semiconductor; or
 - 547 (b) ultimately become incorporated into real property;
- 548 (45) an amount paid by or charged to a purchaser for accommodations and services
- 549 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
- 550 59-12-104.2;
- 551 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
- 552 sports event registration certificate in accordance with Section 41-3-306 for the event period
- 553 specified on the temporary sports event registration certificate;
- 554 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
- 555 adopted by the Public Service Commission only for purchase of electricity produced from a
- 556 new alternative energy source built after January 1, 2016, as designated in the tariff by the
- 557 Public Service Commission;
- 558 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
- 559 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
- 560 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
- 561 customer would have paid absent the tariff;
- 562 (48) sales or rentals of mobility enhancing equipment if a person presents a
- 563 prescription for the mobility enhancing equipment;
- 564 (49) sales of water in a:
 - 565 (a) pipe;
 - 566 (b) conduit;
 - 567 (c) ditch; or
 - 568 (d) reservoir;

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

571 (51) (a) sales of an item described in Subsection (51)(b) if the item:
572 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
573 (ii) has a gold, silver, or platinum content of 50% or more; and
574 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
575 (i) ingot;
576 (ii) bar;
577 (iii) medallion; or
578 (iv) decorative coin;

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

580 (53) sales of a prosthetic device:
581 (a) for use on or in a human; and
582 (b) (i) for which a prescription is required; or
583 (ii) if the prosthetic device is purchased by a hospital or other medical facility;

584 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
585 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
586 or equipment is primarily used in the production or postproduction of the following media for
587 commercial distribution:
588 (i) a motion picture;
589 (ii) a television program;
590 (iii) a movie made for television;
591 (iv) a music video;
592 (v) a commercial;
593 (vi) a documentary; or
594 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
595 commission by administrative rule made in accordance with Subsection (54)(d); or

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

- 599 (i) a live musical performance;
- 600 (ii) a live news program; or
- 601 (iii) a live sporting event;

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

- 605 (i) NAICS Code 512110; or
- 606 (ii) NAICS Code 51219; and

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

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

610 or

- 611 (ii) define:
 - 612 (A) "commercial distribution";
 - 613 (B) "live musical performance";
 - 614 (C) "live news program"; or
 - 615 (D) "live sporting event";

616 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
617 on or before June 30, 2027, of tangible personal property that:

- 618 (i) is leased or purchased for or by a facility that:
 - 619 (A) is an alternative energy electricity production facility;
 - 620 (B) is located in the state; and
 - 621 (C) (I) becomes operational on or after July 1, 2004; or
 - 622 (II) has its generation capacity increased by one or more megawatts on or after July 1,

623 2004, as a result of the use of the tangible personal property;

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

625 (iii) is used to make the facility or the increase in capacity of the facility described in

626 Subsection (55)(a)(i) operational up to the point of interconnection with an existing

627 transmission grid including:

628 (A) a wind turbine;

629 (B) generating equipment;

630 (C) a control and monitoring system;

631 (D) a power line;

632 (E) substation equipment;

633 (F) lighting;

634 (G) fencing;

635 (H) pipes; or

636 (I) other equipment used for locating a power line or pole; and

637 (b) this Subsection (55) does not apply to:

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

639 (A) a new alternative energy electricity production facility; or

640 (B) the increase in the capacity of an alternative energy electricity production facility;

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

642 and

643 (iii) unless the tangible personal property is used or acquired for an increase in capacity

644 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or

645 acquired after:

646 (A) the alternative energy electricity production facility described in Subsection

647 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

648 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described

649 in Subsection (55)(a)(iii);

650 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
651 on or before June 30, 2027, of tangible personal property that:

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

653 (A) is a waste energy production facility;

654 (B) is located in the state; and

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

656 (II) has its generation capacity increased by one or more megawatts on or after July 1,
657 2004, as a result of the use of the tangible personal property;

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

659 (iii) is used to make the facility or the increase in capacity of the facility described in

660 Subsection (56)(a)(i) operational up to the point of interconnection with an existing

661 transmission grid including:

662 (A) generating equipment;

663 (B) a control and monitoring system;

664 (C) a power line;

665 (D) substation equipment;

666 (E) lighting;

667 (F) fencing;

668 (G) pipes; or

669 (H) other equipment used for locating a power line or pole; and

670 (b) this Subsection (56) does not apply to:

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

672 (A) a new waste energy facility; or

673 (B) the increase in the capacity of a waste energy facility;

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

675 and

676 (iii) unless the tangible personal property is used or acquired for an increase in capacity

677 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

678 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
679 described in Subsection (56)(a)(iii); or

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

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

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

685 (A) is located in the state;

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

687 (I) methanol; or

688 (II) ethanol; and

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

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

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

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

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

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

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

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

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

699 and

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

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

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

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

708 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
709 state or political entity to which the tangible personal property is shipped imposes a sales, use,
710 gross receipts, or other similar transaction excise tax on the transaction against which the other
711 state or political entity allows a credit for sales and use taxes imposed by this chapter; and

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

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

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

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

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

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

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

724 (59) purchases:

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

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

727 (A) names; or

728 (B) addresses; or

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

730 (A) names; or

731 (B) addresses; and
732 (b) used to send direct mail;
733 (60) redemptions or repurchases of a product by a person if that product was:
734 (a) delivered to a pawnbroker as part of a pawn transaction; and
735 (b) redeemed or repurchased within the time period established in a written agreement
736 between the person and the pawnbroker for redeeming or repurchasing the product;
737 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
738 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
739 and
740 (ii) has a useful economic life of one or more years; and
741 (b) the following apply to Subsection (61)(a):
742 (i) telecommunications enabling or facilitating equipment, machinery, or software;
743 (ii) telecommunications equipment, machinery, or software required for 911 service;
744 (iii) telecommunications maintenance or repair equipment, machinery, or software;
745 (iv) telecommunications switching or routing equipment, machinery, or software; or
746 (v) telecommunications transmission equipment, machinery, or software;
747 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
748 personal property or a product transferred electronically that are used in the research and
749 development of alternative energy technology; and
750 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
751 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
752 purchases of tangible personal property or a product transferred electronically that are used in
753 the research and development of alternative energy technology;
754 (63) (a) purchases of tangible personal property or a product transferred electronically
755 if:
756 (i) the tangible personal property or product transferred electronically is:
757 (A) purchased outside of this state;

758 (B) brought into this state at any time after the purchase described in Subsection
759 (63)(a)(i)(A); and

760 (C) used in conducting business in this state; and

761 (ii) for:

762 (A) tangible personal property or a product transferred electronically other than the
763 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
764 for a purpose for which the property is designed occurs outside of this state; or

765 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
766 outside of this state;

767 (b) the exemption provided for in Subsection (63)(a) does not apply to:

768 (i) a lease or rental of tangible personal property or a product transferred electronically;

769 or

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

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

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

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

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

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

782 (a) a person presents a prescription for the disposable home medical equipment or
783 supplies;

784 (b) the disposable home medical equipment or supplies are used exclusively by the

785 person to whom the prescription described in Subsection (64)(a) is issued; and
786 (c) the disposable home medical equipment and supplies are listed as eligible for
787 payment under:

- 788 (i) Title XVIII, federal Social Security Act; or
- 789 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

790 (65) sales:

- 791 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
792 District Act; or
- 793 (b) of tangible personal property to a subcontractor of a public transit district, if the
794 tangible personal property is:
 - 795 (i) clearly identified; and
 - 796 (ii) installed or converted to real property owned by the public transit district;

797 (66) sales of construction materials:

- 798 (a) purchased on or after July 1, 2010;
- 799 (b) purchased by, on behalf of, or for the benefit of an international airport:
 - 800 (i) located within a county of the first class; and
 - 801 (ii) that has a United States customs office on its premises; and
- 802 (c) if the construction materials are:
 - 803 (i) clearly identified;
 - 804 (ii) segregated; and
 - 805 (iii) installed or converted to real property:
 - 806 (A) owned or operated by the international airport described in Subsection (66)(b); and
 - 807 (B) located at the international airport described in Subsection (66)(b);

808 (67) sales of construction materials:

- 809 (a) purchased on or after July 1, 2008;
- 810 (b) purchased by, on behalf of, or for the benefit of a new airport:
 - 811 (i) located within a county of the second class; and

- 812 (ii) that is owned or operated by a city in which an airline as defined in Section
- 813 59-2-102 is headquartered; and
- 814 (c) if the construction materials are:
 - 815 (i) clearly identified;
 - 816 (ii) segregated; and
 - 817 (iii) installed or converted to real property:
 - 818 (A) owned or operated by the new airport described in Subsection (67)(b);
 - 819 (B) located at the new airport described in Subsection (67)(b); and
 - 820 (C) as part of the construction of the new airport described in Subsection (67)(b);
 - 821 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
 - 822 (69) purchases and sales described in Section 63H-4-111;
 - 823 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
 - 824 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
 - 825 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
 - 826 lists a state or country other than this state as the location of registry of the fixed wing turbine
 - 827 powered aircraft; or
 - 828 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
 - 829 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
 - 830 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
 - 831 lists a state or country other than this state as the location of registry of the fixed wing turbine
 - 832 powered aircraft;
 - 833 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
 - 834 (a) to a person admitted to an institution of higher education; and
 - 835 (b) by a seller, other than a bookstore owned by an institution of higher education, if
 - 836 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
 - 837 textbook for a higher education course;
 - 838 (72) a license fee or tax a municipality imposes in accordance with Subsection

839 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
840 level of municipal services;

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

- 844 (a) clearly identified;
- 845 (b) segregated; and
- 846 (c) installed or converted to real property;

847 (74) amounts paid or charged for:

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

849 (i) are used in performing qualified research:

850 (A) as defined in Section 41(d), Internal Revenue Code; and

851 (B) in the state; and

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

853 (b) normal operating repair or replacement parts:

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

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

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

858 (a) for a sale:

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

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

861 tangible personal property prior to making the sale; or

862 (b) for a lease:

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

864 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible

865 personal property prior to making the lease;

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

867 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,

868 Gambling, and Recreation Industries, of the 2012 North American Industry Classification

869 System of the federal Executive Office of the President, Office of Management and Budget;

870 (ii) the machinery or equipment:

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

872 (B) is used by one or more persons who pay admission or user fees described in

873 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

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

875 (A) amounts paid or charged as admission or user fees described in Subsection

876 59-12-103(1)(f); and

877 (B) subject to taxation under this chapter; and

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

879 commission may make rules for verifying that 51% of a purchaser's sales revenue for the

880 previous calendar quarter is:

881 (i) amounts paid or charged as admission or user fees described in Subsection

882 59-12-103(1)(f); and

883 (ii) subject to taxation under this chapter;

884 (77) purchases of a short-term lodging consumable by a business that provides

885 accommodations and services described in Subsection 59-12-103(1)(i);

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

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

888 from the database; and

889 (b) not including amounts paid or charged for a:

890 (i) digital audiowork;

891 (ii) digital audio-visual work; or

892 (iii) digital book;

893 (79) amounts paid or charged for a purchase or lease made by an electronic financial
894 payment service, of:

895 (a) machinery and equipment that:

896 (i) are used in the operation of the electronic financial payment service; and

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

898 (b) normal operating repair or replacement parts that:

899 (i) are used in the operation of the electronic financial payment service; and

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

901 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section [54-15-102](#);

902 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
903 product transferred electronically if the tangible personal property or product transferred
904 electronically:

905 (a) is stored, used, or consumed in the state; and

906 (b) is temporarily brought into the state from another state:

907 (i) during a disaster period as defined in Section [53-2a-1202](#);

908 (ii) by an out-of-state business as defined in Section [53-2a-1202](#);

909 (iii) for a declared state disaster or emergency as defined in Section [53-2a-1202](#); and

910 (iv) for disaster- or emergency-related work as defined in Section [53-2a-1202](#);

911 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
912 in Section [39-9-102](#), made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
913 Recreation Program;

914 (83) amounts paid or charged for a purchase or lease of molten magnesium;

915 (84) (a) except as provided in Subsection (84)(b), amounts paid or charged for a
916 purchase or lease made by a drilling equipment manufacturer of machinery, equipment,
917 materials, or normal operating repair or replacement parts:

918 (i) that are used or consumed exclusively in the drilling equipment manufacturer's
919 manufacturing process; and

920 (ii) except for office:
921 (A) equipment; or
922 (B) supplies; and
923 (b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an
924 exemption described in Subsection (84)(a) only by filing for a refund:
925 (i) of 50% of the tax paid on the amounts paid or charged; and
926 (ii) in accordance with Section 59-1-1410; ~~and~~
927 (85) amounts paid or charged for a purchase or lease made by a qualifying enterprise
928 data center of machinery, equipment, or normal operating repair or replacement parts, if the
929 machinery, equipment, or normal operating repair or replacement parts:
930 (a) are used in the operation of the establishment; and
931 (b) have an economic life of one or more years[-:];
932 (86) amounts paid or charged for a purchase or lease of machinery, equipment, or
933 normal operating repair or replacement parts by a manufacturing facility that:
934 (a) is an establishment, as the commission defines that term in accordance with Title
935 63G, Chapter 3, Utah Administrative Rulemaking Act;
936 (b) is described in NAICS Code 336111, Automobile Manufacturing, of the 2002
937 North American Industry Classification System of the federal Executive Office of the
938 President, Office of Management and Budget;
939 (c) is located in the state; and
940 (d) uses the machinery, equipment, or normal operating repair or replacement parts in
941 the manufacturing process to manufacture an item sold as tangible personal property, as the
942 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
943 Administrative Rulemaking Act; and
944 (87) amounts paid or charged for a purchase or lease of equipment or normal operating
945 repair or replacement parts with an economic life of less than three years by a manufacturing
946 facility that:

947 (a) is an establishment, as the commission defines that term in accordance with Title
948 63G, Chapter 3, Utah Administrative Rulemaking Act;

949 (b) is described in NAICS Code 325120, Industrial Gas Manufacturing, of the 2002
950 North American Industry Classification System of the federal Executive Office of the
951 President, Office of Management and Budget;

952 (c) is located in the state; and

953 (d) uses the equipment or normal operating repair or replacement parts to manufacture
954 hydrogen.

955 Section 3. Section 59-12-104.5 is amended to read:

956 **59-12-104.5. Revenue and Taxation Interim Committee review of sales and use**
957 **taxes.**

958 The Revenue and Taxation Interim Committee shall:

959 (1) review Subsection 59-12-104(28) before October 1 of the year after the year in
960 which Congress permits a state to participate in the special supplemental nutrition program
961 under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on
962 purchases of food under that program; ~~and~~

963 (2) review Subsection 59-12-104(21) before October 1 of the year after the year in
964 which Congress permits a state to participate in the SNAP as defined in Section 35A-1-102,
965 even if state or local sales taxes are collected within the state on purchases of food under that
966 program[-]; and

967 (3) on or before November 30:

968 (a) require the Governor's Office of Economic Development to provide the report
969 described in Section 63N-1-302(2);

970 (b) review for each exemption described in Subsection 59-12-104(86) and (87):

971 (i) the cost of the exemption;

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

973 (iii) the extent to which the state benefits from the exemption; and

974 (c) make recommendations concerning whether the exemptions described in
975 Subsections 59-12-104(86) and (87) should be continued, modified, or repealed.

976 Section 4. Section 59-12-104.7 is enacted to read:

977 **59-12-104.7. Reporting by purchaser of certain sales and use tax exempt**
978 **purchases.**

979 A purchaser that receives a sales and use tax exemption under Subsection
980 59-12-104(86) or (87) shall make the report described in Section 63N-1-302.

981 Section 5. Section 63N-1-302 is enacted to read:

982 **63N-1-302. Reporting of certain sales and use tax exempt purchases.**

983 (1) (a) On or before October 1, a purchaser that receives a sales and use tax exemption
984 under Subsection 59-12-104(86) for the previous calendar year shall report to the office:

985 (i) the total purchase or lease price for all machinery, equipment, or normal operating
986 repair or replacement parts for which the purchaser received the sales and use tax exemption
987 under Subsection 59-12-104(86); and

988 (ii) the total amount of sales and use tax that the purchaser would have owed on the
989 purchase or lease price but for the exemption in Subsection 59-12-104(86).

990 (b) On or before October 1, a purchaser that receives a sales and use tax exemption
991 under Subsection 59-12-104(87) for the previous calendar year shall report to the office:

992 (i) the total purchase or lease price for all equipment or normal operating repair or
993 replacement parts for which the purchaser received the sales and use tax exemption under
994 Subsection 59-12-104(87); and

995 (ii) the total amount of sales and use tax that the purchaser would have owed on the
996 purchase or lease price but for the exemption in Subsection 59-12-104(87).

997 (2) On or before November 30, the office shall report the information received under
998 Subsection (1) to the Revenue and Taxation Interim Committee:

999 (a) for each exemption; and

1000 (b) in the aggregate for all purchasers that make a report in accordance with this

1001 section.

1002 Section 6. **Effective date.**

1003 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2017.

1004 (2) The amendments to Section [59-7-302](#) take effect for a taxable year beginning on or
1005 after January 1, 2018.