

VEHICLE MANUFACTURERS TAX AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Francis D. Gibson

LONG TITLE

General Description:

This bill amends tax provisions related to vehicle manufacturers.

Highlighted Provisions:

This bill:

- ▶ addresses apportionment of business income to the state for purposes of corporate income and franchise taxes;
- ▶ provides a sales and use tax exemption for vehicle manufacturers; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

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

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

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

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

59-7-302. Definitions.



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

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

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

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

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

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

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

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

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

45 (A) a spare engine; or

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

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

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

51 (i) for a taxpayer that is not a unitary group, regardless of the number of economic
52 activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer's total sales
53 everywhere generated by economic activities performed by the taxpayer if the economic
54 activities are classified in a NAICS code within NAICS Subsector 334, Computer and

55 Electronic Product Manufacturing, of the 2002 or 2007 North American Industry Classification
56 System of the federal Executive Office of the President, Office of Management and Budget; or

57 (ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the

58 taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if

59 the economic activities are classified in a NAICS code within NAICS Subsector 334,
60 Computer and Electronic Product Manufacturing, of the 2002 or 2007 North American
61 Industry Classification System of the federal Executive Office of the President, Office of
62 Management and Budget.

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

64 (k) "Sales" means all gross receipts of the taxpayer not allocated under Sections
65 59-7-306 through 59-7-310.

66 (l) Subject to Subsection (2), "sales factor weighted taxpayer" 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 of the 2002 or 2007 North American Industry
71 Classification System of the federal Executive Office of the President, Office of Management
72 and Budget, except for:

73 (A) a NAICS code within NAICS Sector 21, Mining;

74 (B) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;

75 (C) a NAICS code within NAICS Sector 31-33, Manufacturing, other than NAICS
76 Code 336111, Automobile Manufacturing;

77 (D) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;

78 (E) a NAICS code within NAICS Sector 51, Information, [~~except for~~] other than
79 NAICS Subsector 519, Other Information Services; or

80 (F) a NAICS code within NAICS Sector 52, Finance and Insurance; or

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

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

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

90 (i) transporting a passenger or cargo; or
91 (ii) from miscellaneous sales of merchandise as part of providing transportation
92 services.

93 (o) "Utah revenue ton miles" means, for an airline, the total revenue ton miles within
94 the borders of this state:

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

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

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

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

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

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

107 (B) made during the taxable year for which a taxpayer makes the determination
108 required by Subsection (2)(a)(i).

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

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

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

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

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

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

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

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

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

130 **59-12-104. Exemptions.**

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

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

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

136 (a) construction materials except:

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

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

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

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

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

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

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

- 152 (i) food and food ingredients; or
- 153 (ii) prepared food;
- 154 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
- 155 (i) alcoholic beverages;
- 156 (ii) food and food ingredients; or
- 157 (iii) prepared food;
- 158 (b) sales of tangible personal property or a product transferred electronically:
- 159 (i) to a passenger;
- 160 (ii) by a commercial airline carrier; and
- 161 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 162 (c) services related to Subsection (4)(a) or (b);
- 163 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
- 164 and equipment:
- 165 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
- 166 North American Industry Classification System of the federal Executive Office of the
- 167 President, Office of Management and Budget; and
- 168 (II) for:
- 169 (Aa) installation in an aircraft, including services relating to the installation of parts or
- 170 equipment in the aircraft;
- 171 (Bb) renovation of an aircraft; or
- 172 (Cc) repair of an aircraft; or
- 173 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
- 174 commerce; or
- 175 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
- 176 aircraft operated by a common carrier in interstate or foreign commerce; and
- 177 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
- 178 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
- 179 refund:
- 180 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;
- 181 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
- 182 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for

183 the sale prior to filing for the refund;

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

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

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

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

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

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

190 exhibitor, distributor, or commercial television or radio broadcaster;

191 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal

192 property if the cleaning or washing of the tangible personal property is not assisted cleaning or

193 washing of tangible personal property;

194 (b) if a seller that sells at the same business location assisted cleaning or washing of

195 tangible personal property and cleaning or washing of tangible personal property that is not

196 assisted cleaning or washing of tangible personal property, the exemption described in

197 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning

198 or washing of the tangible personal property; and

199 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,

200 Utah Administrative Rulemaking Act, the commission may make rules:

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

202 and

203 (ii) establishing the procedures and requirements for a seller to separately account for

204 sales of assisted cleaning or washing of tangible personal property;

205 (8) sales made to or by religious or charitable institutions in the conduct of their regular

206 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are

207 fulfilled;

208 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of

209 this state if the vehicle is:

210 (a) not registered in this state; and

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

212 (ii) used in this state:

213 (A) if the vehicle is not used to conduct business, for a time period that does not

214 exceed the longer of:

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

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

217 (B) if the vehicle is used to conduct business, for the time period necessary to transport

218 the vehicle to the borders of this state;

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

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

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

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

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

224 (A) a drug;

225 (B) a syringe; or

226 (C) a stoma supply; and

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

228 commission may by rule define the terms:

229 (A) "syringe"; or

230 (B) "stoma supply";

231 (11) purchases or leases exempt under Section [19-12-201](#);

232 (12) (a) sales of an item described in Subsection (12)(c) served by:

233 (i) the following if the item described in Subsection (12)(c) is not available to the

234 general public:

235 (A) a church; or

236 (B) a charitable institution;

237 (ii) an institution of higher education if:

238 (A) the item described in Subsection (12)(c) is not available to the general public; or

239 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan

240 offered by the institution of higher education; or

241 (b) sales of an item described in Subsection (12)(c) provided for a patient by:

242 (i) a medical facility; or

243 (ii) a nursing facility; and

244 (c) Subsections (12)(a) and (b) apply to:

- 245 (i) food and food ingredients;
- 246 (ii) prepared food; or
- 247 (iii) alcoholic beverages;
- 248 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 249 or a product transferred electronically by a person:
 - 250 (i) regardless of the number of transactions involving the sale of that tangible personal
 - 251 property or product transferred electronically by that person; and
 - 252 (ii) not regularly engaged in the business of selling that type of tangible personal
 - 253 property or product transferred electronically;
- 254 (b) this Subsection (13) does not apply if:
 - 255 (i) the sale is one of a series of sales of a character to indicate that the person is
 - 256 regularly engaged in the business of selling that type of tangible personal property or product
 - 257 transferred electronically;
 - 258 (ii) the person holds that person out as regularly engaged in the business of selling that
 - 259 type of tangible personal property or product transferred electronically;
 - 260 (iii) the person sells an item of tangible personal property or product transferred
 - 261 electronically that the person purchased as a sale that is exempt under Subsection (25); or
 - 262 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
 - 263 this state in which case the tax is based upon:
 - 264 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
 - 265 sold; or
 - 266 (B) in the absence of a bill of sale or other written evidence of value, the fair market
 - 267 value of the vehicle or vessel being sold at the time of the sale as determined by the
 - 268 commission; and
 - 269 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 - 270 commission shall make rules establishing the circumstances under which:
 - 271 (i) a person is regularly engaged in the business of selling a type of tangible personal
 - 272 property or product transferred electronically;
 - 273 (ii) a sale of tangible personal property or a product transferred electronically is one of
 - 274 a series of sales of a character to indicate that a person is regularly engaged in the business of
 - 275 selling that type of tangible personal property or product transferred electronically; or

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

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

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

283 (i) is located in the state; and

284 (ii) uses the machinery, equipment, or normal operating repair or replacement parts:

285 (A) in the manufacturing process to manufacture an item sold as tangible personal
286 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
287 Utah Administrative Rulemaking Act; or

288 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
289 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
290 Administrative Rulemaking Act;

291 ~~[(b) amounts paid or charged for a purchase or lease:]~~

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

294 ~~[(A)]~~ (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or
295 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
296 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
297 of the 2002 North American Industry Classification System of the federal Executive Office of
298 the President, Office of Management and Budget; [and]

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

300 ~~[(ii) of]~~ (iii) uses the machinery, equipment, or normal operating repair or replacement
301 parts [if the machinery, equipment, or normal operating repair or replacement parts have an
302 economic life of three or more years and are used] in:

303 (A) the production process to produce an item sold as tangible personal property, as the
304 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
305 Administrative Rulemaking Act;

306 (B) research and development, as the commission may define that phrase in accordance

307 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

308 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
309 produced from mining;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

332 (i) tooling;

333 (ii) special tooling;

334 (iii) support equipment;

335 (iv) special test equipment; or

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

337 Subsections (15)(a)(i) through (iv); and

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

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

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

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

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

348 (16) sales of newspapers or newspaper subscriptions;

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

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

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

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

361 (i) money;

362 (ii) electricity;

363 (iii) water;

364 (iv) gas; or

365 (v) steam;

366 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
367 or a product transferred electronically used or consumed primarily and directly in farming
368 operations, regardless of whether the tangible personal property or product transferred

369 electronically:

370 (A) becomes part of real estate; or

371 (B) is installed by a:

372 (I) farmer;

373 (II) contractor; or

374 (III) subcontractor; or

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

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

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

378 (b) amounts paid or charged for the following are subject to the taxes imposed by this

379 chapter:

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

381 incidental to farming:

382 (I) machinery;

383 (II) equipment;

384 (III) materials; or

385 (IV) supplies; and

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

387 incidental to farming includes:

388 (I) hand tools; or

389 (II) maintenance and janitorial equipment and supplies;

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

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

392 is used in an activity other than farming; and

393 (B) tangible personal property or a product transferred electronically that is considered

394 to be used in an activity other than farming includes:

395 (I) office equipment and supplies; or

396 (II) equipment and supplies used in:

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

398 (Bb) research; or

399 (Cc) transportation; or

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

402 (19) sales of hay;

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

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

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

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

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

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

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

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

418 (i) the product is:

419 (A) purchased outside of this state;

420 (B) brought into this state:

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

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

424 (C) used for the personal use or enjoyment of the nonresident person described in
425 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

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

427 (ii) for:

428 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
429 the product for a purpose for which the product is designed occurs outside of this state;

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

431 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
432 outside of this state;

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

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

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

436 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
437 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
438 following:

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

441 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
442 as in Subsection (63); or

443 (iii) a purpose for which a product is designed if that phrase has the same meaning in
444 this Subsection (24) as in Subsection (63);

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

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

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

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

457 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
458 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
459 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
460 the President, Office of Management and Budget;

461 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State

462 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

463 (a) not registered in this state; and

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

465 (ii) used in this state:

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

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

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

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

474 (31) sales of aircraft manufactured in Utah;

475 (32) amounts paid for the purchase of telecommunications service for purposes of
476 providing telecommunications service;

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

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

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

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

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

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

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

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

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

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

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

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

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

492 (38) sales to a ski resort of:

- 493 (a) snowmaking equipment;
- 494 (b) ski slope grooming equipment;
- 495 (c) passenger ropeways as defined in Section 72-11-102; or
- 496 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 497 described in Subsections (38)(a) through (c);
- 498 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 499 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 500 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 501 59-12-102;
- 502 (b) if a seller that sells or rents at the same business location the right to use or operate
- 503 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 504 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 505 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 506 amusement, entertainment, or recreation for the assisted amusement devices; and
- 507 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
- 508 Utah Administrative Rulemaking Act, the commission may make rules:
- 509 (i) governing the circumstances under which sales are at the same business location;
- 510 and
- 511 (ii) establishing the procedures and requirements for a seller to separately account for
- 512 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
- 513 assisted amusement devices;
- 514 (41) (a) sales of photocopies by:
- 515 (i) a governmental entity; or
- 516 (ii) an entity within the state system of public education, including:
- 517 (A) a school; or
- 518 (B) the State Board of Education; or
- 519 (b) sales of publications by a governmental entity;
- 520 (42) amounts paid for admission to an athletic event at an institution of higher
- 521 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
- 522 20 U.S.C. Sec. 1681 et seq.;
- 523 (43) (a) sales made to or by:

- 524 (i) an area agency on aging; or
- 525 (ii) a senior citizen center owned by a county, city, or town; or
- 526 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 527 (44) sales or leases of semiconductor fabricating, processing, research, or development
- 528 materials regardless of whether the semiconductor fabricating, processing, research, or
- 529 development materials:
 - 530 (a) actually come into contact with a semiconductor; or
 - 531 (b) ultimately become incorporated into real property;
 - 532 (45) an amount paid by or charged to a purchaser for accommodations and services
 - 533 described in Subsection [59-12-103\(1\)\(i\)](#) to the extent the amount is exempt under Section
 - 534 [59-12-104.2](#);
 - 535 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
 - 536 sports event registration certificate in accordance with Section [41-3-306](#) for the event period
 - 537 specified on the temporary sports event registration certificate;
 - 538 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
 - 539 adopted by the Public Service Commission only for purchase of electricity produced from a
 - 540 new alternative energy source built after January 1, 2016, as designated in the tariff by the
 - 541 Public Service Commission;
 - 542 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
 - 543 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
 - 544 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
 - 545 customer would have paid absent the tariff;
 - 546 (48) sales or rentals of mobility enhancing equipment if a person presents a
 - 547 prescription for the mobility enhancing equipment;
 - 548 (49) sales of water in a:
 - 549 (a) pipe;
 - 550 (b) conduit;
 - 551 (c) ditch; or
 - 552 (d) reservoir;
 - 553 (50) sales of currency or coins that constitute legal tender of a state, the United States,
 - 554 or a foreign nation;

- 555 (51) (a) sales of an item described in Subsection (51)(b) if the item:
556 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
557 (ii) has a gold, silver, or platinum content of 50% or more; and
558 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
559 (i) ingot;
560 (ii) bar;
561 (iii) medallion; or
562 (iv) decorative coin;
563 (52) amounts paid on a sale-leaseback transaction;
564 (53) sales of a prosthetic device:
565 (a) for use on or in a human; and
566 (b) (i) for which a prescription is required; or
567 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
568 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
569 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
570 or equipment is primarily used in the production or postproduction of the following media for
571 commercial distribution:
572 (i) a motion picture;
573 (ii) a television program;
574 (iii) a movie made for television;
575 (iv) a music video;
576 (v) a commercial;
577 (vi) a documentary; or
578 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
579 commission by administrative rule made in accordance with Subsection (54)(d); or
580 (b) purchases, leases, or rentals of machinery or equipment by an establishment
581 described in Subsection (54)(c) that is used for the production or postproduction of the
582 following are subject to the taxes imposed by this chapter:
583 (i) a live musical performance;
584 (ii) a live news program; or
585 (iii) a live sporting event;

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

589 (i) NAICS Code 512110; or

590 (ii) NAICS Code 51219; and

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

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

594 or

595 (ii) define:

596 (A) "commercial distribution";

597 (B) "live musical performance";

598 (C) "live news program"; or

599 (D) "live sporting event";

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

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

603 (A) is an alternative energy electricity production facility;

604 (B) is located in the state; and

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

606 (II) has its generation capacity increased by one or more megawatts on or after July 1,
607 2004, as a result of the use of the tangible personal property;

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

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

610 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
611 transmission grid including:

612 (A) a wind turbine;

613 (B) generating equipment;

614 (C) a control and monitoring system;

615 (D) a power line;

616 (E) substation equipment;

- 617 (F) lighting;
- 618 (G) fencing;
- 619 (H) pipes; or
- 620 (I) other equipment used for locating a power line or pole; and
- 621 (b) this Subsection (55) does not apply to:
 - 622 (i) tangible personal property used in construction of:
 - 623 (A) a new alternative energy electricity production facility; or
 - 624 (B) the increase in the capacity of an alternative energy electricity production facility;
 - 625 (ii) contracted services required for construction and routine maintenance activities;
- 626 and
 - 627 (iii) unless the tangible personal property is used or acquired for an increase in capacity
 - 628 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
 - 629 acquired after:
 - 630 (A) the alternative energy electricity production facility described in Subsection
 - 631 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
 - 632 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
 - 633 in Subsection (55)(a)(iii);
 - 634 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
 - 635 on or before June 30, 2027, of tangible personal property that:
 - 636 (i) is leased or purchased for or by a facility that:
 - 637 (A) is a waste energy production facility;
 - 638 (B) is located in the state; and
 - 639 (C) (I) becomes operational on or after July 1, 2004; or
 - 640 (II) has its generation capacity increased by one or more megawatts on or after July 1,
 - 641 2004, as a result of the use of the tangible personal property;
 - 642 (ii) has an economic life of five or more years; and
 - 643 (iii) is used to make the facility or the increase in capacity of the facility described in
 - 644 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
 - 645 transmission grid including:
 - 646 (A) generating equipment;
 - 647 (B) a control and monitoring system;

- 648 (C) a power line;
- 649 (D) substation equipment;
- 650 (E) lighting;
- 651 (F) fencing;
- 652 (G) pipes; or
- 653 (H) other equipment used for locating a power line or pole; and
- 654 (b) this Subsection (56) does not apply to:
 - 655 (i) tangible personal property used in construction of:
 - 656 (A) a new waste energy facility; or
 - 657 (B) the increase in the capacity of a waste energy facility;
 - 658 (ii) contracted services required for construction and routine maintenance activities;
- 659 and
 - 660 (iii) unless the tangible personal property is used or acquired for an increase in capacity
 - 661 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
 - 662 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
 - 663 described in Subsection (56)(a)(iii); or
 - 664 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
 - 665 in Subsection (56)(a)(iii);
 - 666 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
 - 667 or before June 30, 2027, of tangible personal property that:
 - 668 (i) is leased or purchased for or by a facility that:
 - 669 (A) is located in the state;
 - 670 (B) produces fuel from alternative energy, including:
 - 671 (I) methanol; or
 - 672 (II) ethanol; and
 - 673 (C) (I) becomes operational on or after July 1, 2004; or
 - 674 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
 - 675 a result of the installation of the tangible personal property;
 - 676 (ii) has an economic life of five or more years; and
 - 677 (iii) is installed on the facility described in Subsection (57)(a)(i);
 - 678 (b) this Subsection (57) does not apply to:

- 679 (i) tangible personal property used in construction of:
680 (A) a new facility described in Subsection (57)(a)(i); or
681 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
682 (ii) contracted services required for construction and routine maintenance activities;
683 and
684 (iii) unless the tangible personal property is used or acquired for an increase in capacity
685 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
686 (A) the facility described in Subsection (57)(a)(i) is operational; or
687 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
- 688 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
689 product transferred electronically to a person within this state if that tangible personal property
690 or product transferred electronically is subsequently shipped outside the state and incorporated
691 pursuant to contract into and becomes a part of real property located outside of this state;
692 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
693 state or political entity to which the tangible personal property is shipped imposes a sales, use,
694 gross receipts, or other similar transaction excise tax on the transaction against which the other
695 state or political entity allows a credit for sales and use taxes imposed by this chapter; and
696 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
697 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
698 refund:
- 699 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;
700 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
701 which the sale is made;
702 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
703 sale prior to filing for the refund;
704 (iv) for sales and use taxes paid under this chapter on the sale;
705 (v) in accordance with Section 59-1-1410; and
706 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
707 the person files for the refund on or before June 30, 2011;
- 708 (59) purchases:
709 (a) of one or more of the following items in printed or electronic format:

- 710 (i) a list containing information that includes one or more:
- 711 (A) names; or
- 712 (B) addresses; or
- 713 (ii) a database containing information that includes one or more:
- 714 (A) names; or
- 715 (B) addresses; and
- 716 (b) used to send direct mail;
- 717 (60) redemptions or repurchases of a product by a person if that product was:
- 718 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 719 (b) redeemed or repurchased within the time period established in a written agreement
- 720 between the person and the pawnbroker for redeeming or repurchasing the product;
- 721 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
- 722 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
- 723 and
- 724 (ii) has a useful economic life of one or more years; and
- 725 (b) the following apply to Subsection (61)(a):
- 726 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 727 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 728 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 729 (iv) telecommunications switching or routing equipment, machinery, or software; or
- 730 (v) telecommunications transmission equipment, machinery, or software;
- 731 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
- 732 personal property or a product transferred electronically that are used in the research and
- 733 development of alternative energy technology; and
- 734 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 735 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
- 736 purchases of tangible personal property or a product transferred electronically that are used in
- 737 the research and development of alternative energy technology;
- 738 (63) (a) purchases of tangible personal property or a product transferred electronically
- 739 if:
- 740 (i) the tangible personal property or product transferred electronically is:

- 741 (A) purchased outside of this state;
- 742 (B) brought into this state at any time after the purchase described in Subsection
743 (63)(a)(i)(A); and
- 744 (C) used in conducting business in this state; and
- 745 (ii) for:
- 746 (A) tangible personal property or a product transferred electronically other than the
747 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
748 for a purpose for which the property is designed occurs outside of this state; or
- 749 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
750 outside of this state;
- 751 (b) the exemption provided for in Subsection (63)(a) does not apply to:
- 752 (i) a lease or rental of tangible personal property or a product transferred electronically;
753 or
- 754 (ii) a sale of a vehicle exempt under Subsection (33); and
- 755 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
756 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
757 following:
- 758 (i) conducting business in this state if that phrase has the same meaning in this
759 Subsection (63) as in Subsection (24);
- 760 (ii) the first use of tangible personal property or a product transferred electronically if
761 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
- 762 (iii) a purpose for which tangible personal property or a product transferred
763 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
764 Subsection (24);
- 765 (64) sales of disposable home medical equipment or supplies if:
- 766 (a) a person presents a prescription for the disposable home medical equipment or
767 supplies;
- 768 (b) the disposable home medical equipment or supplies are used exclusively by the
769 person to whom the prescription described in Subsection (64)(a) is issued; and
- 770 (c) the disposable home medical equipment and supplies are listed as eligible for
771 payment under:

- 772 (i) Title XVIII, federal Social Security Act; or
- 773 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- 774 (65) sales:
- 775 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
- 776 District Act; or
- 777 (b) of tangible personal property to a subcontractor of a public transit district, if the
- 778 tangible personal property is:
- 779 (i) clearly identified; and
- 780 (ii) installed or converted to real property owned by the public transit district;
- 781 (66) sales of construction materials:
- 782 (a) purchased on or after July 1, 2010;
- 783 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 784 (i) located within a county of the first class; and
- 785 (ii) that has a United States customs office on its premises; and
- 786 (c) if the construction materials are:
- 787 (i) clearly identified;
- 788 (ii) segregated; and
- 789 (iii) installed or converted to real property:
- 790 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 791 (B) located at the international airport described in Subsection (66)(b);
- 792 (67) sales of construction materials:
- 793 (a) purchased on or after July 1, 2008;
- 794 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 795 (i) located within a county of the second class; and
- 796 (ii) that is owned or operated by a city in which an airline as defined in Section
- 797 [59-2-102](#) is headquartered; and
- 798 (c) if the construction materials are:
- 799 (i) clearly identified;
- 800 (ii) segregated; and
- 801 (iii) installed or converted to real property:
- 802 (A) owned or operated by the new airport described in Subsection (67)(b);

- 803 (B) located at the new airport described in Subsection (67)(b); and
- 804 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 805 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 806 (69) purchases and sales described in Section [63H-4-111](#);
- 807 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 808 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 809 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 810 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 811 powered aircraft; or
- 812 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 813 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 814 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 815 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 816 powered aircraft;
- 817 (71) subject to Section [59-12-104.4](#), sales of a textbook for a higher education course:
- 818 (a) to a person admitted to an institution of higher education; and
- 819 (b) by a seller, other than a bookstore owned by an institution of higher education, if
- 820 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
- 821 textbook for a higher education course;
- 822 (72) a license fee or tax a municipality imposes in accordance with Subsection
- 823 [10-1-203\(5\)](#) on a purchaser from a business for which the municipality provides an enhanced
- 824 level of municipal services;
- 825 (73) amounts paid or charged for construction materials used in the construction of a
- 826 new or expanding life science research and development facility in the state, if the construction
- 827 materials are:
- 828 (a) clearly identified;
- 829 (b) segregated; and
- 830 (c) installed or converted to real property;
- 831 (74) amounts paid or charged for:
- 832 (a) a purchase or lease of machinery and equipment that:
- 833 (i) are used in performing qualified research:

834 (A) as defined in Section 41(d), Internal Revenue Code; and
835 (B) in the state; and
836 (ii) have an economic life of three or more years; and
837 (b) normal operating repair or replacement parts:
838 (i) for the machinery and equipment described in Subsection (74)(a); and
839 (ii) that have an economic life of three or more years;
840 (75) a sale or lease of tangible personal property used in the preparation of prepared
841 food if:
842 (a) for a sale:
843 (i) the ownership of the seller and the ownership of the purchaser are identical; and
844 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
845 tangible personal property prior to making the sale; or
846 (b) for a lease:
847 (i) the ownership of the lessor and the ownership of the lessee are identical; and
848 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
849 personal property prior to making the lease;
850 (76) (a) purchases of machinery or equipment if:
851 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
852 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
853 System of the federal Executive Office of the President, Office of Management and Budget;
854 (ii) the machinery or equipment:
855 (A) has an economic life of three or more years; and
856 (B) is used by one or more persons who pay admission or user fees described in
857 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
858 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
859 (A) amounts paid or charged as admission or user fees described in Subsection
860 59-12-103(1)(f); and
861 (B) subject to taxation under this chapter; and
862 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
863 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
864 previous calendar quarter is:

- 865 (i) amounts paid or charged as admission or user fees described in Subsection
866 [59-12-103\(1\)\(f\)](#); and
- 867 (ii) subject to taxation under this chapter;
- 868 (77) purchases of a short-term lodging consumable by a business that provides
869 accommodations and services described in Subsection [59-12-103\(1\)\(i\)](#);
- 870 (78) amounts paid or charged to access a database:
- 871 (a) if the primary purpose for accessing the database is to view or retrieve information
872 from the database; and
- 873 (b) not including amounts paid or charged for a:
- 874 (i) digital audiowork;
- 875 (ii) digital audio-visual work; or
- 876 (iii) digital book;
- 877 (79) amounts paid or charged for a purchase or lease made by an electronic financial
878 payment service, of:
- 879 (a) machinery and equipment that:
- 880 (i) are used in the operation of the electronic financial payment service; and
- 881 (ii) have an economic life of three or more years; and
- 882 (b) normal operating repair or replacement parts that:
- 883 (i) are used in the operation of the electronic financial payment service; and
- 884 (ii) have an economic life of three or more years;
- 885 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section [54-15-102](#);
- 886 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
887 product transferred electronically if the tangible personal property or product transferred
888 electronically:
- 889 (a) is stored, used, or consumed in the state; and
- 890 (b) is temporarily brought into the state from another state:
- 891 (i) during a disaster period as defined in Section [53-2a-1202](#);
- 892 (ii) by an out-of-state business as defined in Section [53-2a-1202](#);
- 893 (iii) for a declared state disaster or emergency as defined in Section [53-2a-1202](#); and
- 894 (iv) for disaster- or emergency-related work as defined in Section [53-2a-1202](#);
- 895 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined

896 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
897 Recreation Program;

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

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

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

904 (ii) except for office:

905 (A) equipment; or

906 (B) supplies; and

907 (b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an
908 exemption described in Subsection (84)(a) only by filing for a refund:

909 (i) of 50% of the tax paid on the amounts paid or charged; and

910 (ii) in accordance with Section 59-1-1410; ~~and~~

911 (85) amounts paid or charged for a purchase or lease made by a qualifying enterprise
912 data center of machinery, equipment, or normal operating repair or replacement parts, if the
913 machinery, equipment, or normal operating repair or replacement parts:

914 (a) are used in the operation of the establishment; and

915 (b) have an economic life of one or more years[-]; and

916 (86) amounts paid or charged for a purchase or lease of machinery, equipment, or
917 normal operating repair or replacement parts by a manufacturing facility that:

918 (a) is an establishment, as the commission defines that term in accordance with Title
919 63G, Chapter 3, Utah Administrative Rulemaking Act;

920 (b) is described in NAICS Code 336111, Automobile Manufacturing, of the 2002
921 North American Industry Classification System of the federal Executive Office of the
922 President, Office of Management and Budget;

923 (c) is located in the state; and

924 (d) uses the machinery, equipment, or normal operating repair or replacement parts in
925 the manufacturing process to manufacture an item sold as tangible personal property, as the
926 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah

927 Administrative Rulemaking Act.

928 Section 3. **Effective date.**

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

930 (2) The amendments to Section [59-7-302](#) take effect for a taxable year beginning on or

931 after January 1, 2018.

Legislative Review Note
Office of Legislative Research and General Counsel