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**SALES AND USE TAX AMENDMENTS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Howard A. Stephenson**

House Sponsor: Daniel McCay

Cosponsor: Curtis S. Bramble

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**LONG TITLE**

**General Description:**

This bill amends sales and use tax exemptions relating to a purchase or lease of machinery, equipment, normal operating repair or replacement parts, and materials.

**Highlighted Provisions:**

This bill:

- ▶ amends sales and use tax definitions;
- ▶ repeals the economic life provision of the sales and use tax exemption for the purchase or lease of machinery, equipment, or normal operating repair or replacement parts by a manufacturing facility, certain mining establishments, or a web search portal for use in certain business activities;
- ▶ creates a sales and use tax exemption for the purchase or lease of materials, except office equipment and office supplies, by a manufacturing facility, certain mining establishments, or a web search portal that are used or consumed in certain business activities;
- ▶ creates a sales and use tax exemption for the purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except office equipment or office supplies, by a medical laboratory;
- ▶ makes the expansion of the exemption for a manufacturing facility, certain mining



27 operations, or a web search portal and the new exemption for a medical laboratory effective  
28 upon action by the federal government permitting the state to require remote sellers to collect  
29 sales and use tax; and

30       ▶ makes technical and conforming changes.

31 **Money Appropriated in this Bill:**

32       None

33 **Other Special Clauses:**

34       None

35 **Utah Code Sections Affected:**

36 AMENDS:

37       **59-12-102**, as last amended by Laws of Utah 2017, Chapters 181, 382, and 422

38       **59-12-104**, as last amended by Laws of Utah 2017, Chapters 264, 268, and 429

39       **59-12-104.5**, as last amended by Laws of Utah 2017, Chapter 268

40       **59-12-104.7**, as enacted by Laws of Utah 2017, Chapter 268

41       **63N-1-302**, as enacted by Laws of Utah 2017, Chapter 268

42 ENACTS:

43       **59-12-104.8**, Utah Code Annotated 1953



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

46       Section 1. Section **59-12-102** is amended to read:

47       **59-12-102. Definitions.**

48       As used in this chapter:

49       (1) "800 service" means a telecommunications service that:

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

51       (b) is typically marketed:

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

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

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

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

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

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

- 58 Federal Communications Commission.
- 59 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 60 (i) a subscriber purchases;
- 61 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 62 the subscriber's:
- 63 (A) prerecorded announcement; or
- 64 (B) live service; and
- 65 (iii) is typically marketed:
- 66 (A) under the name 900 service; or
- 67 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 68 Communications Commission.
- 69 (b) "900 service" does not include a charge for:
- 70 (i) a collection service a seller of a telecommunications service provides to a
- 71 subscriber; or
- 72 (ii) the following a subscriber sells to the subscriber's customer:
- 73 (A) a product; or
- 74 (B) a service.
- 75 (3) (a) "Admission or user fees" includes season passes.
- 76 (b) "Admission or user fees" does not include annual membership dues to private
- 77 organizations.
- 78 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 79 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 80 Agreement after November 12, 2002.
- 81 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 82 (a) listed under Subsection (6); and
- 83 (b) that are imposed within a local taxing jurisdiction.
- 84 (6) "Agreement sales and use tax" means a tax imposed under:
- 85 (a) Subsection 59-12-103(2)(a)(i)(A);
- 86 (b) Subsection 59-12-103(2)(b)(i);
- 87 (c) Subsection 59-12-103(2)(c)(i);
- 88 (d) Subsection 59-12-103(2)(d)(i)(A)(I);

- 89 (e) Section 59-12-204;
- 90 (f) Section 59-12-401;
- 91 (g) Section 59-12-402;
- 92 (h) Section 59-12-402.1;
- 93 (i) Section 59-12-703;
- 94 (j) Section 59-12-802;
- 95 (k) Section 59-12-804;
- 96 (l) Section 59-12-1102;
- 97 (m) Section 59-12-1302;
- 98 (n) Section 59-12-1402;
- 99 (o) Section 59-12-1802;
- 100 (p) Section 59-12-2003;
- 101 (q) Section 59-12-2103;
- 102 (r) Section 59-12-2213;
- 103 (s) Section 59-12-2214;
- 104 (t) Section 59-12-2215;
- 105 (u) Section 59-12-2216;
- 106 (v) Section 59-12-2217;
- 107 (w) Section 59-12-2218; or
- 108 (x) Section 59-12-2219.
- 109 (7) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 110 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 111 (a) except for:
- 112 (i) an airline as defined in Section 59-2-102; or
- 113 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 114 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 115 state, of an airline; and
- 116 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 117 whether the business entity performs the following in this state:
- 118 (i) check, diagnose, overhaul, and repair:
- 119 (A) an onboard system of a fixed wing turbine powered aircraft; and

- 120 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 121 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 122 engine;
- 123 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 124 aircraft:
- 125 (A) an inspection;
- 126 (B) a repair, including a structural repair or modification;
- 127 (C) changing landing gear; and
- 128 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 129 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 130 completely apply new paint to the fixed wing turbine powered aircraft; and
- 131 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 132 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 133 authority that certifies the fixed wing turbine powered aircraft.
- 134 (9) "Alcoholic beverage" means a beverage that:
- 135 (a) is suitable for human consumption; and
- 136 (b) contains .5% or more alcohol by volume.
- 137 (10) "Alternative energy" means:
- 138 (a) biomass energy;
- 139 (b) geothermal energy;
- 140 (c) hydroelectric energy;
- 141 (d) solar energy;
- 142 (e) wind energy; or
- 143 (f) energy that is derived from:
- 144 (i) coal-to-liquids;
- 145 (ii) nuclear fuel;
- 146 (iii) oil-impregnated diatomaceous earth;
- 147 (iv) oil sands;
- 148 (v) oil shale;
- 149 (vi) petroleum coke; or
- 150 (vii) waste heat from:

- 151 (A) an industrial facility; or
- 152 (B) a power station in which an electric generator is driven through a process in which
- 153 water is heated, turns into steam, and spins a steam turbine.

154 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production

155 facility" means a facility that:

- 156 (i) uses alternative energy to produce electricity; and
- 157 (ii) has a production capacity of two megawatts or greater.

158 (b) A facility is an alternative energy electricity production facility regardless of

159 whether the facility is:

- 160 (i) connected to an electric grid; or
- 161 (ii) located on the premises of an electricity consumer.

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

163 provision of telecommunications service.

164 (b) "Ancillary service" includes:

- 165 (i) a conference bridging service;
- 166 (ii) a detailed communications billing service;
- 167 (iii) directory assistance;
- 168 (iv) a vertical service; or
- 169 (v) a voice mail service.

170 (13) "Area agency on aging" means the same as that term is defined in Section

171 [62A-3-101](#).

172 (14) "Assisted amusement device" means an amusement device, skill device, or ride

173 device that is started and stopped by an individual:

- 174 (a) who is not the purchaser or renter of the right to use or operate the amusement
- 175 device, skill device, or ride device; and
- 176 (b) at the direction of the seller of the right to use the amusement device, skill device,
- 177 or ride device.

178 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or

179 washing of tangible personal property if the cleaning or washing labor is primarily performed

180 by an individual:

- 181 (a) who is not the purchaser of the cleaning or washing of the tangible personal

182 property; and

183 (b) at the direction of the seller of the cleaning or washing of the tangible personal  
184 property.

185 (16) "Authorized carrier" means:

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

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

191 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling  
192 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling  
193 stock in more than one state.

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

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

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

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

199 (B) animal waste;

200 (C) waste vegetable oil;

201 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of  
202 wastewater residuals, or through the conversion of a waste material through a nonincineration,  
203 thermal conversion process;

204 (E) aquatic plants; and

205 (F) agricultural products.

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

207 (i) black liquor; or

208 (ii) treated woods.

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

211 (i) distinct and identifiable; and

212 (ii) sold for one nonitemized price.

- 213 (b) "Bundled transaction" does not include:
- 214 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 215 the basis of the selection by the purchaser of the items of tangible personal property included in
- 216 the transaction;
- 217 (ii) the sale of real property;
- 218 (iii) the sale of services to real property;
- 219 (iv) the retail sale of tangible personal property and a service if:
- 220 (A) the tangible personal property:
- 221 (I) is essential to the use of the service; and
- 222 (II) is provided exclusively in connection with the service; and
- 223 (B) the service is the true object of the transaction;
- 224 (v) the retail sale of two services if:
- 225 (A) one service is provided that is essential to the use or receipt of a second service;
- 226 (B) the first service is provided exclusively in connection with the second service; and
- 227 (C) the second service is the true object of the transaction;
- 228 (vi) a transaction that includes tangible personal property or a product subject to
- 229 taxation under this chapter and tangible personal property or a product that is not subject to
- 230 taxation under this chapter if the:
- 231 (A) seller's purchase price of the tangible personal property or product subject to
- 232 taxation under this chapter is de minimis; or
- 233 (B) seller's sales price of the tangible personal property or product subject to taxation
- 234 under this chapter is de minimis; and
- 235 (vii) the retail sale of tangible personal property that is not subject to taxation under
- 236 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 237 (A) that retail sale includes:
- 238 (I) food and food ingredients;
- 239 (II) a drug;
- 240 (III) durable medical equipment;
- 241 (IV) mobility enhancing equipment;
- 242 (V) an over-the-counter drug;
- 243 (VI) a prosthetic device; or



- 244 (VII) a medical supply; and
- 245 (B) subject to Subsection (18)(f):
- 246 (I) the seller's purchase price of the tangible personal property subject to taxation under
- 247 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 248 (II) the seller's sales price of the tangible personal property subject to taxation under
- 249 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 250 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
- 251 service that is distinct and identifiable does not include:
- 252 (A) packaging that:
- 253 (I) accompanies the sale of the tangible personal property, product, or service; and
- 254 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
- 255 service;
- 256 (B) tangible personal property, a product, or a service provided free of charge with the
- 257 purchase of another item of tangible personal property, a product, or a service; or
- 258 (C) an item of tangible personal property, a product, or a service included in the
- 259 definition of "purchase price."
- 260 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
- 261 product, or a service is provided free of charge with the purchase of another item of tangible
- 262 personal property, a product, or a service if the sales price of the purchased item of tangible
- 263 personal property, product, or service does not vary depending on the inclusion of the tangible
- 264 personal property, product, or service provided free of charge.
- 265 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
- 266 does not include a price that is separately identified by tangible personal property, product, or
- 267 service on the following, regardless of whether the following is in paper format or electronic
- 268 format:
- 269 (A) a binding sales document; or
- 270 (B) another supporting sales-related document that is available to a purchaser.
- 271 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
- 272 supporting sales-related document that is available to a purchaser includes:
- 273 (A) a bill of sale;
- 274 (B) a contract;

- 275 (C) an invoice;
- 276 (D) a lease agreement;
- 277 (E) a periodic notice of rates and services;
- 278 (F) a price list;
- 279 (G) a rate card;
- 280 (H) a receipt; or
- 281 (I) a service agreement.

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

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

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

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

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

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

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

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

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

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

305 (i) on a transaction; and

- 306 (ii) in the states that are members of the agreement;
- 307 (b) determines the amount of agreement sales and use tax to remit to a state that is a
- 308 member of the agreement; and
- 309 (c) maintains a record of the transaction described in Subsection (19)(a)(i).
- 310 (20) "Certified service provider" means an agent certified:
- 311 (a) by the governing board of the agreement; and
- 312 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
- 313 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
- 314 own purchases.
- 315 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel
- 316 suitable for general use.
- 317 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 318 commission shall make rules:
- 319 (i) listing the items that constitute "clothing"; and
- 320 (ii) that are consistent with the list of items that constitute "clothing" under the
- 321 agreement.
- 322 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
- 323 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
- 324 fuels that does not constitute industrial use under Subsection (56) or residential use under
- 325 Subsection (106).
- 326 (24) (a) "Common carrier" means a person engaged in or transacting the business of
- 327 transporting passengers, freight, merchandise, or other property for hire within this state.
- 328 (b) (i) "Common carrier" does not include a person who, at the time the person is
- 329 traveling to or from that person's place of employment, transports a passenger to or from the
- 330 passenger's place of employment.
- 331 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
- 332 Utah Administrative Rulemaking Act, the commission may make rules defining what
- 333 constitutes a person's place of employment.
- 334 (c) "Common carrier" does not include a person that provides transportation network
- 335 services, as defined in Section 13-51-102.
- 336 (25) "Component part" includes:

- 337 (a) poultry, dairy, and other livestock feed, and their components;
- 338 (b) baling ties and twine used in the baling of hay and straw;
- 339 (c) fuel used for providing temperature control of orchards and commercial
- 340 greenhouses doing a majority of their business in wholesale sales, and for providing power for
- 341 off-highway type farm machinery; and
- 342 (d) feed, seeds, and seedlings.

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

- 344 (a) (i) in digital form; or
- 345 (ii) in a form similar to digital form; and
- 346 (b) manipulates that information for a result based on a sequence of instructions.

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

- 348 (a) a computer to perform a task; or
- 349 (b) automatic data processing equipment to perform a task.

350 (28) "Computer software maintenance contract" means a contract that obligates a seller

351 of computer software to provide a customer with:

- 352 (a) future updates or upgrades to computer software;
- 353 (b) support services with respect to computer software; or
- 354 (c) a combination of Subsections (28)(a) and (b).

355 (29) (a) "Conference bridging service" means an ancillary service that links two or

356 more participants of an audio conference call or video conference call.

357 (b) "Conference bridging service" may include providing a telephone number as part of

358 the ancillary service described in Subsection (29)(a).

359 (c) "Conference bridging service" does not include a telecommunications service used

360 to reach the ancillary service described in Subsection (29)(a).

361 (30) "Construction materials" means any tangible personal property that will be

362 converted into real property.

363 (31) "Delivered electronically" means delivered to a purchaser by means other than

364 tangible storage media.

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

- 366 (i) by a seller of:
- 367 (A) tangible personal property;

368 (B) a product transferred electronically; or  
369 (C) services; and  
370 (ii) for preparation and delivery of the tangible personal property, product transferred  
371 electronically, or services described in Subsection (32)(a)(i) to a location designated by the  
372 purchaser.

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

- 374 (i) transportation;
- 375 (ii) shipping;
- 376 (iii) postage;
- 377 (iv) handling;
- 378 (v) crating; or
- 379 (vi) packing.

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

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

- 383 (a) is intended to supplement the diet;
- 384 (b) contains one or more of the following dietary ingredients:
  - 385 (i) a vitamin;
  - 386 (ii) a mineral;
  - 387 (iii) an herb or other botanical;
  - 388 (iv) an amino acid;
  - 389 (v) a dietary substance for use by humans to supplement the diet by increasing the total  
390 dietary intake; or
  - 391 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient  
392 described in Subsections (34)(b)(i) through (v);
- 393 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
  - 394 (A) tablet form;
  - 395 (B) capsule form;
  - 396 (C) powder form;
  - 397 (D) softgel form;
  - 398 (E) gelcap form; or

- 399 (F) liquid form; or
- 400 (ii) if the product is not intended for ingestion in a form described in Subsections
- 401 (34)(c)(i)(A) through (F), is not represented:
- 402 (A) as conventional food; and
- 403 (B) for use as a sole item of:
- 404 (I) a meal; or
- 405 (II) the diet; and
- 406 (d) is required to be labeled as a dietary supplement:
- 407 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 408 (ii) as required by 21 C.F.R. Sec. 101.36.
- 409 (35) "Digital audio-visual work" means a series of related images which, when shown
- 410 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 411 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 412 musical, spoken, or other sounds.
- 413 (b) "Digital audio work" includes a ringtone.
- 414 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
- 415 sense as a book.
- 416 (38) (a) "Direct mail" means printed material delivered or distributed by United States
- 417 mail or other delivery service:
- 418 (i) to:
- 419 (A) a mass audience; or
- 420 (B) addressees on a mailing list provided:
- 421 (I) by a purchaser of the mailing list; or
- 422 (II) at the discretion of the purchaser of the mailing list; and
- 423 (ii) if the cost of the printed material is not billed directly to the recipients.
- 424 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 425 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 426 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 427 single address.
- 428 (39) "Directory assistance" means an ancillary service of providing:
- 429 (a) address information; or

- 430 (b) telephone number information.
- 431 (40) (a) "Disposable home medical equipment or supplies" means medical equipment
- 432 or supplies that:
  - 433 (i) cannot withstand repeated use; and
  - 434 (ii) are purchased by, for, or on behalf of a person other than:
    - 435 (A) a health care facility as defined in Section 26-21-2;
    - 436 (B) a health care provider as defined in Section 78B-3-403;
    - 437 (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or
    - 438 (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).
- 439 (b) "Disposable home medical equipment or supplies" does not include:
  - 440 (i) a drug;
  - 441 (ii) durable medical equipment;
  - 442 (iii) a hearing aid;
  - 443 (iv) a hearing aid accessory;
  - 444 (v) mobility enhancing equipment; or
  - 445 (vi) tangible personal property used to correct impaired vision, including:
    - 446 (A) eyeglasses; or
    - 447 (B) contact lenses.
  - 448 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
  - 449 commission may by rule define what constitutes medical equipment or supplies.
- 450 (41) "Drilling equipment manufacturer" means a facility:
  - 451 (a) located in the state;
  - 452 (b) with respect to which 51% or more of the manufacturing activities of the facility
  - 453 consist of manufacturing component parts of drilling equipment;
  - 454 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
  - 455 manufacturing process; and
  - 456 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
  - 457 manufacturing process.
- 458 (42) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 459 compound, substance, or preparation that is:
  - 460 (i) recognized in:

- 461 (A) the official United States Pharmacopoeia;
- 462 (B) the official Homeopathic Pharmacopoeia of the United States;
- 463 (C) the official National Formulary; or
- 464 (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);
- 465 (ii) intended for use in the:
  - 466 (A) diagnosis of disease;
  - 467 (B) cure of disease;
  - 468 (C) mitigation of disease;
  - 469 (D) treatment of disease; or
  - 470 (E) prevention of disease; or
- 471 (iii) intended to affect:
  - 472 (A) the structure of the body; or
  - 473 (B) any function of the body.
- 474 (b) "Drug" does not include:
  - 475 (i) food and food ingredients;
  - 476 (ii) a dietary supplement;
  - 477 (iii) an alcoholic beverage; or
  - 478 (iv) a prosthetic device.
- 479 (43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means
- 480 equipment that:
  - 481 (i) can withstand repeated use;
  - 482 (ii) is primarily and customarily used to serve a medical purpose;
  - 483 (iii) generally is not useful to a person in the absence of illness or injury; and
  - 484 (iv) is not worn in or on the body.
- 485 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 486 equipment described in Subsection (43)(a).
- 487 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 488 (44) "Electronic" means:
  - 489 (a) relating to technology; and
  - 490 (b) having:
    - 491 (i) electrical capabilities;



- 492 (ii) digital capabilities;
- 493 (iii) magnetic capabilities;
- 494 (iv) wireless capabilities;
- 495 (v) optical capabilities;
- 496 (vi) electromagnetic capabilities; or
- 497 (vii) capabilities similar to Subsections (44)(b)(i) through (vi).
- 498 (45) "Electronic financial payment service" means an establishment:
- 499 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 500 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 501 federal Executive Office of the President, Office of Management and Budget; and
- 502 (b) that performs electronic financial payment services.
- 503 (46) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 504 (47) "Fixed guideway" means a public transit facility that uses and occupies:
- 505 (a) rail for the use of public transit; or
- 506 (b) a separate right-of-way for the use of public transit.
- 507 (48) "Fixed wing turbine powered aircraft" means an aircraft that:
- 508 (a) is powered by turbine engines;
- 509 (b) operates on jet fuel; and
- 510 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 511 (49) "Fixed wireless service" means a telecommunications service that provides radio
- 512 communication between fixed points.
- 513 (50) (a) "Food and food ingredients" means substances:
- 514 (i) regardless of whether the substances are in:
- 515 (A) liquid form;
- 516 (B) concentrated form;
- 517 (C) solid form;
- 518 (D) frozen form;
- 519 (E) dried form; or
- 520 (F) dehydrated form; and
- 521 (ii) that are:
- 522 (A) sold for:

- 523 (I) ingestion by humans; or
- 524 (II) chewing by humans; and
- 525 (B) consumed for the substance's:
- 526 (I) taste; or
- 527 (II) nutritional value.
- 528 (b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).
- 529 (c) "Food and food ingredients" does not include:
- 530 (i) an alcoholic beverage;
- 531 (ii) tobacco; or
- 532 (iii) prepared food.
- 533 (51) (a) "Fundraising sales" means sales:
- 534 (i) (A) made by a school; or
- 535 (B) made by a school student;
- 536 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 537 materials, or provide transportation; and
- 538 (iii) that are part of an officially sanctioned school activity.
- 539 (b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity"
- 540 means a school activity:
- 541 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 542 district governing the authorization and supervision of fundraising activities;
- 543 (ii) that does not directly or indirectly compensate an individual teacher or other
- 544 educational personnel by direct payment, commissions, or payment in kind; and
- 545 (iii) the net or gross revenues from which are deposited in a dedicated account
- 546 controlled by the school or school district.
- 547 (52) "Geothermal energy" means energy contained in heat that continuously flows
- 548 outward from the earth that is used as the sole source of energy to produce electricity.
- 549 (53) "Governing board of the agreement" means the governing board of the agreement
- 550 that is:
- 551 (a) authorized to administer the agreement; and
- 552 (b) established in accordance with the agreement.
- 553 (54) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

- 554 (i) the executive branch of the state, including all departments, institutions, boards,  
555 divisions, bureaus, offices, commissions, and committees;
- 556 (ii) the judicial branch of the state, including the courts, the Judicial Council, the  
557 Office of the Court Administrator, and similar administrative units in the judicial branch;
- 558 (iii) the legislative branch of the state, including the House of Representatives, the  
559 Senate, the Legislative Printing Office, the Office of Legislative Research and General  
560 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal  
561 Analyst;
- 562 (iv) the National Guard;
- 563 (v) an independent entity as defined in Section [63E-1-102](#); or
- 564 (vi) a political subdivision as defined in Section [17B-1-102](#).
- 565 (b) "Governmental entity" does not include the state systems of public and higher  
566 education, including:
- 567 (i) a school;
- 568 (ii) the State Board of Education;
- 569 (iii) the State Board of Regents; or
- 570 (iv) an institution of higher education described in Section [53B-1-102](#).
- 571 (55) "Hydroelectric energy" means water used as the sole source of energy to produce  
572 electricity.
- 573 (56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or  
574 other fuels:
- 575 (a) in mining or extraction of minerals;
- 576 (b) in agricultural operations to produce an agricultural product up to the time of  
577 harvest or placing the agricultural product into a storage facility, including:
- 578 (i) commercial greenhouses;
- 579 (ii) irrigation pumps;
- 580 (iii) farm machinery;
- 581 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered  
582 under Title 41, Chapter 1a, Part 2, Registration; and
- 583 (v) other farming activities;
- 584 (c) in manufacturing tangible personal property at an establishment described in:

585 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of  
586 the federal Executive Office of the President, Office of Management and Budget; or

587 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North  
588 American Industry Classification System of the federal Executive Office of the President,  
589 Office of Management and Budget;

590 (d) by a scrap recycler if:

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

594 (A) iron;

595 (B) steel;

596 (C) nonferrous metal;

597 (D) paper;

598 (E) glass;

599 (F) plastic;

600 (G) textile; or

601 (H) rubber; and

602 (ii) the new products under Subsection (56)(d)(i) would otherwise be made with  
603 nonrecycled materials; or

604 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a  
605 cogeneration facility as defined in Section 54-2-1.

606 (57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge  
607 for installing:

608 (i) tangible personal property; or

609 (ii) a product transferred electronically.

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

611 (i) repairs or renovations of:

612 (A) tangible personal property; or

613 (B) a product transferred electronically; or

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

615 (A) to other tangible personal property; and

- 616 (B) as part of a manufacturing or fabrication process.
- 617 (58) "Institution of higher education" means an institution of higher education listed in  
618 Section [53B-2-101](#).
- 619 (59) (a) "Lease" or "rental" means a transfer of possession or control of tangible  
620 personal property or a product transferred electronically for:
- 621 (i) (A) a fixed term; or  
622 (B) an indeterminate term; and  
623 (ii) consideration.
- 624 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the  
625 amount of consideration may be increased or decreased by reference to the amount realized  
626 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue  
627 Code.
- 628 (c) "Lease" or "rental" does not include:
- 629 (i) a transfer of possession or control of property under a security agreement or  
630 deferred payment plan that requires the transfer of title upon completion of the required  
631 payments;
- 632 (ii) a transfer of possession or control of property under an agreement that requires the  
633 transfer of title:
- 634 (A) upon completion of required payments; and  
635 (B) if the payment of an option price does not exceed the greater of:
- 636 (I) \$100; or  
637 (II) 1% of the total required payments; or  
638 (iii) providing tangible personal property along with an operator for a fixed period of  
639 time or an indeterminate period of time if the operator is necessary for equipment to perform as  
640 designed.
- 641 (d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to  
642 perform as designed if the operator's duties exceed the:
- 643 (i) set-up of tangible personal property;  
644 (ii) maintenance of tangible personal property; or  
645 (iii) inspection of tangible personal property.
- 646 (60) "Life science establishment" means an establishment in this state that is classified

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

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

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

651 Manufacturing; or

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

653 (61) "Life science research and development facility" means a facility owned, leased,

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

655 more of the total area of the facility.

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

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

658 (63) "Local taxing jurisdiction" means a:

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

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

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

662 (64) "Manufactured home" means the same as that term is defined in Section

663 [15A-1-302](#).

664 (65) "Manufacturing facility" means:

665 (a) an establishment described in:

666 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of

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

668 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North

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

670 Office of Management and Budget;

671 (b) a scrap recycler if:

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

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

674 products:

675 (A) iron;

676 (B) steel;

677 (C) nonferrous metal;

- 678 (D) paper;
- 679 (E) glass;
- 680 (F) plastic;
- 681 (G) textile; or
- 682 (H) rubber; and
- 683 (ii) the new products under Subsection (65)(b)(i) would otherwise be made with
- 684 nonrecycled materials; or

685 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is

686 placed in service on or after May 1, 2006.

687 (66) "Member of the immediate family of the producer" means a person who is related

688 to a producer described in Subsection 59-12-104(20)(a) as a:

- 689 (a) child or stepchild, regardless of whether the child or stepchild is:
  - 690 (i) an adopted child or adopted stepchild; or
  - 691 (ii) a foster child or foster stepchild;
- 692 (b) grandchild or stepgrandchild;
- 693 (c) grandparent or stepgrandparent;
- 694 (d) nephew or stepnephew;
- 695 (e) niece or stepniece;
- 696 (f) parent or stepparent;
- 697 (g) sibling or stepsibling;
- 698 (h) spouse;
- 699 (i) person who is the spouse of a person described in Subsections (66)(a) through (g);

700 or

701 (j) person similar to a person described in Subsections (66)(a) through (i) as

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

703 Administrative Rulemaking Act.

704 (67) "Mobile home" means the same as that term is defined in Section 15A-1-302.

705 (68) "Mobile telecommunications service" is as defined in the Mobile

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

707 (69) (a) "Mobile wireless service" means a telecommunications service, regardless of

708 the technology used, if:

709 (i) the origination point of the conveyance, routing, or transmission is not fixed;  
710 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or  
711 (iii) the origination point described in Subsection (69)(a)(i) and the termination point  
712 described in Subsection (69)(a)(ii) are not fixed.

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

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

717 (70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment"  
718 means equipment that is:

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

721 (ii) appropriate for use in a:

722 (A) home; or

723 (B) motor vehicle; and

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

725 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of  
726 the equipment described in Subsection (70)(a).

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

728 (i) a motor vehicle;

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

731 (iii) durable medical equipment; or

732 (iv) a prosthetic device.

733 (71) "Model 1 seller" means a seller registered under the agreement that has selected a  
734 certified service provider as the seller's agent to perform all of the seller's sales and use tax  
735 functions for agreement sales and use taxes other than the seller's obligation under Section  
736 [59-12-124](#) to remit a tax on the seller's own purchases.

737 (72) "Model 2 seller" means a seller registered under the agreement that:

738 (a) except as provided in Subsection (72)(b), has selected a certified automated system  
739 to perform the seller's sales tax functions for agreement sales and use taxes; and



- 740 (b) retains responsibility for remitting all of the sales tax:
- 741 (i) collected by the seller; and
- 742 (ii) to the appropriate local taxing jurisdiction.
- 743 (73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under
- 744 the agreement that has:
- 745 (i) sales in at least five states that are members of the agreement;
- 746 (ii) total annual sales revenues of at least \$500,000,000;
- 747 (iii) a proprietary system that calculates the amount of tax:
- 748 (A) for an agreement sales and use tax; and
- 749 (B) due to each local taxing jurisdiction; and
- 750 (iv) entered into a performance agreement with the governing board of the agreement.
- 751 (b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of
- 752 sellers using the same proprietary system.
- 753 (74) "Model 4 seller" means a seller that is registered under the agreement and is not a
- 754 model 1 seller, model 2 seller, or model 3 seller.
- 755 (75) "Modular home" means a modular unit as defined in Section [15A-1-302](#).
- 756 (76) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).
- 757 (77) "Oil sands" means impregnated bituminous sands that:
- 758 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
- 759 other hydrocarbons, or otherwise treated;
- 760 (b) yield mixtures of liquid hydrocarbon; and
- 761 (c) require further processing other than mechanical blending before becoming finished
- 762 petroleum products.
- 763 (78) "Oil shale" means a group of fine black to dark brown shales containing kerogen
- 764 material that yields petroleum upon heating and distillation.
- 765 (79) "Optional computer software maintenance contract" means a computer software
- 766 maintenance contract that a customer is not obligated to purchase as a condition to the retail
- 767 sale of computer software.
- 768 (80) (a) "Other fuels" means products that burn independently to produce heat or
- 769 energy.
- 770 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible

771 personal property.

772 (81) (a) "Paging service" means a telecommunications service that provides  
773 transmission of a coded radio signal for the purpose of activating a specific pager.

774 (b) For purposes of Subsection (81)(a), the transmission of a coded radio signal  
775 includes a transmission by message or sound.

776 (82) "Pawnbroker" means the same as that term is defined in Section [13-32a-102](#).

777 (83) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).

778 (84) (a) "Permanently attached to real property" means that for tangible personal  
779 property attached to real property:

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

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

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

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

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

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

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

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

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

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

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

796 (iii) property attached to oil, gas, or water pipelines, except for the property listed in  
797 Subsection (84)(c)(iii) or (iv).

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

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

801 (A) convenience;

- 802 (B) stability; or
- 803 (C) for an obvious temporary purpose;
- 804 (ii) the detachment of tangible personal property from real property except for the
- 805 detachment described in Subsection (84)(b)(ii);
- 806 (iii) an attachment of the following tangible personal property to real property if the
- 807 attachment to real property is only through a line that supplies water, electricity, gas,
- 808 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 809 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 810 (A) a computer;
- 811 (B) a telephone;
- 812 (C) a television; or
- 813 (D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as
- 814 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 815 Administrative Rulemaking Act; or
- 816 (iv) an item listed in Subsection (125)(c).
- 817 (85) "Person" includes any individual, firm, partnership, joint venture, association,
- 818 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
- 819 municipality, district, or other local governmental entity of the state, or any group or
- 820 combination acting as a unit.
- 821 (86) "Place of primary use":
- 822 (a) for telecommunications service other than mobile telecommunications service,
- 823 means the street address representative of where the customer's use of the telecommunications
- 824 service primarily occurs, which shall be:
- 825 (i) the residential street address of the customer; or
- 826 (ii) the primary business street address of the customer; or
- 827 (b) for mobile telecommunications service, is as defined in the Mobile
- 828 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 829 (87) (a) "Postpaid calling service" means a telecommunications service a person
- 830 obtains by making a payment on a call-by-call basis:
- 831 (i) through the use of a:
- 832 (A) bank card;

- 833 (B) credit card;
- 834 (C) debit card; or
- 835 (D) travel card; or
- 836 (ii) by a charge made to a telephone number that is not associated with the origination
- 837 or termination of the telecommunications service.
- 838 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
- 839 service, that would be a prepaid wireless calling service if the service were exclusively a
- 840 telecommunications service.
- 841 (88) "Postproduction" means an activity related to the finishing or duplication of a
- 842 medium described in Subsection [59-12-104\(54\)\(a\)](#).
- 843 (89) "Prepaid calling service" means a telecommunications service:
- 844 (a) that allows a purchaser access to telecommunications service that is exclusively
- 845 telecommunications service;
- 846 (b) that:
- 847 (i) is paid for in advance; and
- 848 (ii) enables the origination of a call using an:
- 849 (A) access number; or
- 850 (B) authorization code;
- 851 (c) that is dialed:
- 852 (i) manually; or
- 853 (ii) electronically; and
- 854 (d) sold in predetermined units or dollars that decline:
- 855 (i) by a known amount; and
- 856 (ii) with use.
- 857 (90) "Prepaid wireless calling service" means a telecommunications service:
- 858 (a) that provides the right to utilize:
- 859 (i) mobile wireless service; and
- 860 (ii) other service that is not a telecommunications service, including:
- 861 (A) the download of a product transferred electronically;
- 862 (B) a content service; or
- 863 (C) an ancillary service;

- 864 (b) that:
- 865 (i) is paid for in advance; and
- 866 (ii) enables the origination of a call using an:
- 867 (A) access number; or
- 868 (B) authorization code;
- 869 (c) that is dialed:
- 870 (i) manually; or
- 871 (ii) electronically; and
- 872 (d) sold in predetermined units or dollars that decline:
- 873 (i) by a known amount; and
- 874 (ii) with use.
- 875 (91) (a) "Prepared food" means:
- 876 (i) food:
- 877 (A) sold in a heated state; or
- 878 (B) heated by a seller;
- 879 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 880 item; or
- 881 (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided
- 882 by the seller, including a:
- 883 (A) plate;
- 884 (B) knife;
- 885 (C) fork;
- 886 (D) spoon;
- 887 (E) glass;
- 888 (F) cup;
- 889 (G) napkin; or
- 890 (H) straw.
- 891 (b) "Prepared food" does not include:
- 892 (i) food that a seller only:
- 893 (A) cuts;
- 894 (B) repackages; or

- 895 (C) pasteurizes; or
- 896 (ii) (A) the following:
  - 897 (I) raw egg;
  - 898 (II) raw fish;
  - 899 (III) raw meat;
  - 900 (IV) raw poultry; or
  - 901 (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);
- 902 and
- 903 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 904 Food and Drug Administration's Food Code that a consumer cook the items described in
- 905 Subsection (91)(b)(ii)(A) to prevent food borne illness; or
- 906 (iii) the following if sold without eating utensils provided by the seller:
  - 907 (A) food and food ingredients sold by a seller if the seller's proper primary
  - 908 classification under the 2002 North American Industry Classification System of the federal
  - 909 Executive Office of the President, Office of Management and Budget, is manufacturing in
  - 910 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
  - 911 Manufacturing;
  - 912 (B) food and food ingredients sold in an unheated state:
    - 913 (I) by weight or volume; and
    - 914 (II) as a single item; or
    - 915 (C) a bakery item, including:
      - 916 (I) a bagel;
      - 917 (II) a bar;
      - 918 (III) a biscuit;
      - 919 (IV) bread;
      - 920 (V) a bun;
      - 921 (VI) a cake;
      - 922 (VII) a cookie;
      - 923 (VIII) a croissant;
      - 924 (IX) a danish;
      - 925 (X) a donut;

- 926 (XI) a muffin;
- 927 (XII) a pastry;
- 928 (XIII) a pie;
- 929 (XIV) a roll;
- 930 (XV) a tart;
- 931 (XVI) a torte; or
- 932 (XVII) a tortilla.
- 933 (c) An eating utensil provided by the seller does not include the following used to
- 934 transport the food:
  - 935 (i) a container; or
  - 936 (ii) packaging.
- 937 (92) "Prescription" means an order, formula, or recipe that is issued:
  - 938 (a) (i) orally;
  - 939 (ii) in writing;
  - 940 (iii) electronically; or
  - 941 (iv) by any other manner of transmission; and
- 942 (b) by a licensed practitioner authorized by the laws of a state.
- 943 (93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer
- 944 software" means computer software that is not designed and developed:
  - 945 (i) by the author or other creator of the computer software; and
  - 946 (ii) to the specifications of a specific purchaser.
- 947 (b) "Prewritten computer software" includes:
  - 948 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
  - 949 software is not designed and developed:
    - 950 (A) by the author or other creator of the computer software; and
    - 951 (B) to the specifications of a specific purchaser;
  - 952 (ii) computer software designed and developed by the author or other creator of the
  - 953 computer software to the specifications of a specific purchaser if the computer software is sold
  - 954 to a person other than the purchaser; or
  - 955 (iii) except as provided in Subsection (93)(c), prewritten computer software or a
  - 956 prewritten portion of prewritten computer software:

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

958 (B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is  
959 designed and developed to the specifications of a specific purchaser.

960 (c) "Prewritten computer software" does not include a modification or enhancement  
961 described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:

962 (i) reasonable; and

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

966 (A) the books and records the seller keeps at the time of the transaction in the regular  
967 course of business, including books and records the seller keeps at the time of the transaction in  
968 the regular course of business for nontax purposes;

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

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

971 (94) (a) "Private communications service" means a telecommunications service:

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

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

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

978 (i) an extension line;

979 (ii) a station;

980 (iii) switching capacity; or

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

983 (95) (a) Except as provided in Subsection (95)(b), "product transferred electronically"  
984 means a product transferred electronically that would be subject to a tax under this chapter if  
985 that product was transferred in a manner other than electronically.

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

987 (i) an ancillary service;



- 988 (ii) computer software; or
- 989 (iii) a telecommunications service.
- 990 (96) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 991 (i) artificially replace a missing portion of the body;
- 992 (ii) prevent or correct a physical deformity or physical malfunction; or
- 993 (iii) support a weak or deformed portion of the body.
- 994 (b) "Prosthetic device" includes:
- 995 (i) parts used in the repairs or renovation of a prosthetic device;
- 996 (ii) replacement parts for a prosthetic device;
- 997 (iii) a dental prosthesis; or
- 998 (iv) a hearing aid.
- 999 (c) "Prosthetic device" does not include:
- 1000 (i) corrective eyeglasses; or
- 1001 (ii) contact lenses.
- 1002 (97) (a) "Protective equipment" means an item:
- 1003 (i) for human wear; and
- 1004 (ii) that is:
- 1005 (A) designed as protection:
- 1006 (I) to the wearer against injury or disease; or
- 1007 (II) against damage or injury of other persons or property; and
- 1008 (B) not suitable for general use.
- 1009 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1010 commission shall make rules:
- 1011 (i) listing the items that constitute "protective equipment"; and
- 1012 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1013 under the agreement.
- 1014 (98) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
- 1015 printed matter, other than a photocopy:
- 1016 (i) regardless of:
- 1017 (A) characteristics;
- 1018 (B) copyright;

- 1019 (C) form;
- 1020 (D) format;
- 1021 (E) method of reproduction; or
- 1022 (F) source; and
- 1023 (ii) made available in printed or electronic format.
- 1024 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1025 commission may by rule define the term "photocopy."
- 1026 (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 1027 (i) valued in money; and
- 1028 (ii) for which tangible personal property, a product transferred electronically, or
- 1029 services are:
  - 1030 (A) sold;
  - 1031 (B) leased; or
  - 1032 (C) rented.
- 1033 (b) "Purchase price" and "sales price" include:
- 1034 (i) the seller's cost of the tangible personal property, a product transferred
- 1035 electronically, or services sold;
- 1036 (ii) expenses of the seller, including:
  - 1037 (A) the cost of materials used;
  - 1038 (B) a labor cost;
  - 1039 (C) a service cost;
  - 1040 (D) interest;
  - 1041 (E) a loss;
  - 1042 (F) the cost of transportation to the seller; or
  - 1043 (G) a tax imposed on the seller;
- 1044 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1045 (iv) consideration a seller receives from a person other than the purchaser if:
  - 1046 (A) (I) the seller actually receives consideration from a person other than the purchaser;
  - 1047 and
  - 1048 (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a
  - 1049 price reduction or discount on the sale;

1050 (B) the seller has an obligation to pass the price reduction or discount through to the  
1051 purchaser;

1052 (C) the amount of the consideration attributable to the sale is fixed and determinable by  
1053 the seller at the time of the sale to the purchaser; and

1054 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the  
1055 seller to claim a price reduction or discount; and

1056 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,  
1057 coupon, or other documentation with the understanding that the person other than the seller  
1058 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1059 (II) the purchaser identifies that purchaser to the seller as a member of a group or  
1060 organization allowed a price reduction or discount, except that a preferred customer card that is  
1061 available to any patron of a seller does not constitute membership in a group or organization  
1062 allowed a price reduction or discount; or

1063 (III) the price reduction or discount is identified as a third party price reduction or  
1064 discount on the:

1065 (Aa) invoice the purchaser receives; or

1066 (Bb) certificate, coupon, or other documentation the purchaser presents.

1067 (c) "Purchase price" and "sales price" do not include:

1068 (i) a discount:

1069 (A) in a form including:

1070 (I) cash;

1071 (II) term; or

1072 (III) coupon;

1073 (B) that is allowed by a seller;

1074 (C) taken by a purchaser on a sale; and

1075 (D) that is not reimbursed by a third party; or

1076 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately  
1077 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of  
1078 sale or later, as demonstrated by the books and records the seller keeps at the time of the  
1079 transaction in the regular course of business, including books and records the seller keeps at the  
1080 time of the transaction in the regular course of business for nontax purposes, by a

1081 preponderance of the facts and circumstances at the time of the transaction, and by the  
1082 understanding of all of the parties to the transaction:

1083 (A) the following from credit extended on the sale of tangible personal property or  
1084 services:

1085 (I) a carrying charge;

1086 (II) a financing charge; or

1087 (III) an interest charge;

1088 (B) a delivery charge;

1089 (C) an installation charge;

1090 (D) a manufacturer rebate on a motor vehicle; or

1091 (E) a tax or fee legally imposed directly on the consumer.

1092 (100) "Purchaser" means a person to whom:

1093 (a) a sale of tangible personal property is made;

1094 (b) a product is transferred electronically; or

1095 (c) a service is furnished.

1096 (101) "Qualifying enterprise data center" means an establishment that will:

1097 (a) own and operate a data center facility that will house a group of networked server  
1098 computers in one physical location in order to centralize the dissemination, management, and  
1099 storage of data and information;

1100 (b) be located in the state;

1101 (c) be a new operation constructed on or after July 1, 2016;

1102 (d) consist of one or more buildings that total 150,000 or more square feet;

1103 (e) be owned or leased by:

1104 (i) the establishment; or

1105 (ii) a person under common ownership, as defined in Section [59-7-101](#), of the  
1106 establishment; and

1107 (f) be located on one or more parcels of land that are owned or leased by:

1108 (i) the establishment; or

1109 (ii) a person under common ownership, as defined in Section [59-7-101](#), of the  
1110 establishment.

1111 (102) "Regularly rented" means:

- 1112 (a) rented to a guest for value three or more times during a calendar year; or
- 1113 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1114 value.
- 1115 (103) "Rental" means the same as that term is defined in Subsection (59).
- 1116 (104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible
- 1117 personal property" means:
- 1118 (i) a repair or renovation of tangible personal property that is not permanently attached
- 1119 to real property; or
- 1120 (ii) attaching tangible personal property or a product transferred electronically to other
- 1121 tangible personal property or detaching tangible personal property or a product transferred
- 1122 electronically from other tangible personal property if:
- 1123 (A) the other tangible personal property to which the tangible personal property or
- 1124 product transferred electronically is attached or from which the tangible personal property or
- 1125 product transferred electronically is detached is not permanently attached to real property; and
- 1126 (B) the attachment of tangible personal property or a product transferred electronically
- 1127 to other tangible personal property or detachment of tangible personal property or a product
- 1128 transferred electronically from other tangible personal property is made in conjunction with a
- 1129 repair or replacement of tangible personal property or a product transferred electronically.
- 1130 (b) "Repairs or renovations of tangible personal property" does not include:
- 1131 (i) attaching prewritten computer software to other tangible personal property if the
- 1132 other tangible personal property to which the prewritten computer software is attached is not
- 1133 permanently attached to real property; or
- 1134 (ii) detaching prewritten computer software from other tangible personal property if the
- 1135 other tangible personal property from which the prewritten computer software is detached is
- 1136 not permanently attached to real property.
- 1137 (105) "Research and development" means the process of inquiry or experimentation
- 1138 aimed at the discovery of facts, devices, technologies, or applications and the process of
- 1139 preparing those devices, technologies, or applications for marketing.
- 1140 (106) (a) "Residential telecommunications services" means a telecommunications
- 1141 service or an ancillary service that is provided to an individual for personal use:
- 1142 (i) at a residential address; or

1143 (ii) at an institution, including a nursing home or a school, if the telecommunications  
1144 service or ancillary service is provided to and paid for by the individual residing at the  
1145 institution rather than the institution.

1146 (b) For purposes of Subsection (106)(a)(i), a residential address includes an:

1147 (i) apartment; or

1148 (ii) other individual dwelling unit.

1149 (107) "Residential use" means the use in or around a home, apartment building,  
1150 sleeping quarters, and similar facilities or accommodations.

1151 (108) (a) "Retailer" means any person engaged in a regularly organized business in  
1152 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and  
1153 who is selling to the user or consumer and not for resale.

1154 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
1155 engaged in the business of selling to users or consumers within the state.

1156 (109) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
1157 than:

1158 (a) resale;

1159 (b) sublease; or

1160 (c) subrent.

1161 (110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
1162 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
1163 Subsection 59-12-103(1), for consideration.

1164 (b) "Sale" includes:

1165 (i) installment and credit sales;

1166 (ii) any closed transaction constituting a sale;

1167 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
1168 chapter;

1169 (iv) any transaction if the possession of property is transferred but the seller retains the  
1170 title as security for the payment of the price; and

1171 (v) any transaction under which right to possession, operation, or use of any article of  
1172 tangible personal property is granted under a lease or contract and the transfer of possession  
1173 would be taxable if an outright sale were made.

1174 (111) "Sale at retail" means the same as that term is defined in Subsection (109).

1175 (112) "Sale-leaseback transaction" means a transaction by which title to tangible  
1176 personal property or a product transferred electronically that is subject to a tax under this  
1177 chapter is transferred:

1178 (a) by a purchaser-lessee;

1179 (b) to a lessor;

1180 (c) for consideration; and

1181 (d) if:

1182 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase  
1183 of the tangible personal property or product transferred electronically;

1184 (ii) the sale of the tangible personal property or product transferred electronically to the  
1185 lessor is intended as a form of financing:

1186 (A) for the tangible personal property or product transferred electronically; and

1187 (B) to the purchaser-lessee; and

1188 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee  
1189 is required to:

1190 (A) capitalize the tangible personal property or product transferred electronically for  
1191 financial reporting purposes; and

1192 (B) account for the lease payments as payments made under a financing arrangement.

1193 (113) "Sales price" means the same as that term is defined in Subsection (99).

1194 (114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or  
1195 amounts charged by a school:

1196 (i) sales that are directly related to the school's educational functions or activities  
1197 including:

1198 (A) the sale of:

1199 (I) textbooks;

1200 (II) textbook fees;

1201 (III) laboratory fees;

1202 (IV) laboratory supplies; or

1203 (V) safety equipment;

1204 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1205 that:

1206 (I) a student is specifically required to wear as a condition of participation in a  
1207 school-related event or school-related activity; and

1208 (II) is not readily adaptable to general or continued usage to the extent that it takes the  
1209 place of ordinary clothing;

1210 (C) sales of the following if the net or gross revenues generated by the sales are  
1211 deposited into a school district fund or school fund dedicated to school meals:

1212 (I) food and food ingredients; or

1213 (II) prepared food; or

1214 (D) transportation charges for official school activities; or

1215 (ii) amounts paid to or amounts charged by a school for admission to a school-related  
1216 event or school-related activity.

1217 (b) "Sales relating to schools" does not include:

1218 (i) bookstore sales of items that are not educational materials or supplies;

1219 (ii) except as provided in Subsection (114)(a)(i)(B):

1220 (A) clothing;

1221 (B) clothing accessories or equipment;

1222 (C) protective equipment; or

1223 (D) sports or recreational equipment; or

1224 (iii) amounts paid to or amounts charged by a school for admission to a school-related  
1225 event or school-related activity if the amounts paid or charged are passed through to a person:

1226 (A) other than a:

1227 (I) school;

1228 (II) nonprofit organization authorized by a school board or a governing body of a  
1229 private school to organize and direct a competitive secondary school activity; or

1230 (III) nonprofit association authorized by a school board or a governing body of a  
1231 private school to organize and direct a competitive secondary school activity; and

1232 (B) that is required to collect sales and use taxes under this chapter.

1233 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1234 commission may make rules defining the term "passed through."

1235 (115) For purposes of this section and Section 59-12-104, "school":



- 1236 (a) means:
- 1237 (i) an elementary school or a secondary school that:
- 1238 (A) is a:
- 1239 (I) public school; or
- 1240 (II) private school; and
- 1241 (B) provides instruction for one or more grades kindergarten through 12; or
- 1242 (ii) a public school district; and
- 1243 (b) includes the Electronic High School as defined in Section [53A-15-1002](#).
- 1244 (116) "Seller" means a person that makes a sale, lease, or rental of:
- 1245 (a) tangible personal property;
- 1246 (b) a product transferred electronically; or
- 1247 (c) a service.
- 1248 (117) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1249 means tangible personal property or a product transferred electronically if the tangible personal
- 1250 property or product transferred electronically is:
- 1251 (i) used primarily in the process of:
- 1252 (A) (I) manufacturing a semiconductor;
- 1253 (II) fabricating a semiconductor; or
- 1254 (III) research or development of a:
- 1255 (Aa) semiconductor; or
- 1256 (Bb) semiconductor manufacturing process; or
- 1257 (B) maintaining an environment suitable for a semiconductor; or
- 1258 (ii) consumed primarily in the process of:
- 1259 (A) (I) manufacturing a semiconductor;
- 1260 (II) fabricating a semiconductor; or
- 1261 (III) research or development of a:
- 1262 (Aa) semiconductor; or
- 1263 (Bb) semiconductor manufacturing process; or
- 1264 (B) maintaining an environment suitable for a semiconductor.
- 1265 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1266 includes:

1267 (i) parts used in the repairs or renovations of tangible personal property or a product  
1268 transferred electronically described in Subsection (117)(a); or

1269 (ii) a chemical, catalyst, or other material used to:

1270 (A) produce or induce in a semiconductor a:

1271 (I) chemical change; or

1272 (II) physical change;

1273 (B) remove impurities from a semiconductor; or

1274 (C) improve the marketable condition of a semiconductor.

1275 (118) "Senior citizen center" means a facility having the primary purpose of providing  
1276 services to the aged as defined in Section [62A-3-101](#).

1277 (119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable"  
1278 means tangible personal property that:

1279 (i) a business that provides accommodations and services described in Subsection  
1280 [59-12-103\(1\)\(i\)](#) purchases as part of a transaction to provide the accommodations and services  
1281 to a purchaser;

1282 (ii) is intended to be consumed by the purchaser; and

1283 (iii) is:

1284 (A) included in the purchase price of the accommodations and services; and

1285 (B) not separately stated on an invoice, bill of sale, or other similar document provided  
1286 to the purchaser.

1287 (b) "Short-term lodging consumable" includes:

1288 (i) a beverage;

1289 (ii) a brush or comb;

1290 (iii) a cosmetic;

1291 (iv) a hair care product;

1292 (v) lotion;

1293 (vi) a magazine;

1294 (vii) makeup;

1295 (viii) a meal;

1296 (ix) mouthwash;

1297 (x) nail polish remover;

- 1298 (xi) a newspaper;
- 1299 (xii) a notepad;
- 1300 (xiii) a pen;
- 1301 (xiv) a pencil;
- 1302 (xv) a razor;
- 1303 (xvi) saline solution;
- 1304 (xvii) a sewing kit;
- 1305 (xviii) shaving cream;
- 1306 (xix) a shoe shine kit;
- 1307 (xx) a shower cap;
- 1308 (xxi) a snack item;
- 1309 (xxii) soap;
- 1310 (xxiii) toilet paper;
- 1311 (xxiv) a toothbrush;
- 1312 (xxv) toothpaste; or
- 1313 (xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may
- 1314 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1315 Rulemaking Act.
- 1316 (c) "Short-term lodging consumable" does not include:
- 1317 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 1318 property to be reused; or
- 1319 (ii) a product transferred electronically.
- 1320 (120) "Simplified electronic return" means the electronic return:
- 1321 (a) described in Section 318(C) of the agreement; and
- 1322 (b) approved by the governing board of the agreement.
- 1323 (121) "Solar energy" means the sun used as the sole source of energy for producing
- 1324 electricity.
- 1325 (122) (a) "Sports or recreational equipment" means an item:
- 1326 (i) designed for human use; and
- 1327 (ii) that is:
- 1328 (A) worn in conjunction with:

- 1329 (I) an athletic activity; or
- 1330 (II) a recreational activity; and
- 1331 (B) not suitable for general use.
- 1332 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1333 commission shall make rules:
  - 1334 (i) listing the items that constitute "sports or recreational equipment"; and
  - 1335 (ii) that are consistent with the list of items that constitute "sports or recreational
  - 1336 equipment" under the agreement.
- 1337 (123) "State" means the state of Utah, its departments, and agencies.
- 1338 (124) "Storage" means any keeping or retention of tangible personal property or any
- 1339 other taxable transaction under Subsection [59-12-103\(1\)](#), in this state for any purpose except
- 1340 sale in the regular course of business.
- 1341 (125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property"
- 1342 means personal property that:
  - 1343 (i) may be:
    - 1344 (A) seen;
    - 1345 (B) weighed;
    - 1346 (C) measured;
    - 1347 (D) felt; or
    - 1348 (E) touched; or
  - 1349 (ii) is in any manner perceptible to the senses.
- 1350 (b) "Tangible personal property" includes:
  - 1351 (i) electricity;
  - 1352 (ii) water;
  - 1353 (iii) gas;
  - 1354 (iv) steam; or
  - 1355 (v) prewritten computer software, regardless of the manner in which the prewritten
  - 1356 computer software is transferred.
- 1357 (c) "Tangible personal property" includes the following regardless of whether the item
- 1358 is attached to real property:
  - 1359 (i) a dishwasher;

1360 (ii) a dryer;  
1361 (iii) a freezer;  
1362 (iv) a microwave;  
1363 (v) a refrigerator;  
1364 (vi) a stove;  
1365 (vii) a washer; or  
1366 (viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the  
1367 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1368 Rulemaking Act.

1369 (d) "Tangible personal property" does not include a product that is transferred  
1370 electronically.

1371 (e) "Tangible personal property" does not include the following if attached to real  
1372 property, regardless of whether the attachment to real property is only through a line that  
1373 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the  
1374 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1375 Rulemaking Act:

- 1376 (i) a hot water heater;
- 1377 (ii) a water filtration system; or
- 1378 (iii) a water softener system.

1379 (126) (a) "Telecommunications enabling or facilitating equipment, machinery, or  
1380 software" means an item listed in Subsection (126)(b) if that item is purchased or leased  
1381 primarily to enable or facilitate one or more of the following to function:

- 1382 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1383 (ii) telecommunications transmission equipment, machinery, or software.

1384 (b) The following apply to Subsection (126)(a):

- 1385 (i) a pole;
- 1386 (ii) software;
- 1387 (iii) a supplementary power supply;
- 1388 (iv) temperature or environmental equipment or machinery;
- 1389 (v) test equipment;
- 1390 (vi) a tower; or

1391 (vii) equipment, machinery, or software that functions similarly to an item listed in  
1392 Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in  
1393 accordance with Subsection (126)(c).

1394 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1395 commission may by rule define what constitutes equipment, machinery, or software that  
1396 functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

1397 (127) "Telecommunications equipment, machinery, or software required for 911  
1398 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.  
1399 Sec. 20.18.

1400 (128) "Telecommunications maintenance or repair equipment, machinery, or software"  
1401 means equipment, machinery, or software purchased or leased primarily to maintain or repair  
1402 one or more of the following, regardless of whether the equipment, machinery, or software is  
1403 purchased or leased as a spare part or as an upgrade or modification to one or more of the  
1404 following:

1405 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1406 (b) telecommunications switching or routing equipment, machinery, or software; or

1407 (c) telecommunications transmission equipment, machinery, or software.

1408 (129) (a) "Telecommunications service" means the electronic conveyance, routing, or  
1409 transmission of audio, data, video, voice, or any other information or signal to a point, or  
1410 among or between points.

1411 (b) "Telecommunications service" includes:

1412 (i) an electronic conveyance, routing, or transmission with respect to which a computer  
1413 processing application is used to act:

1414 (A) on the code, form, or protocol of the content;

1415 (B) for the purpose of electronic conveyance, routing, or transmission; and

1416 (C) regardless of whether the service:

1417 (I) is referred to as voice over Internet protocol service; or

1418 (II) is classified by the Federal Communications Commission as enhanced or value  
1419 added;

1420 (ii) an 800 service;

1421 (iii) a 900 service;

- 1422 (iv) a fixed wireless service;
- 1423 (v) a mobile wireless service;
- 1424 (vi) a postpaid calling service;
- 1425 (vii) a prepaid calling service;
- 1426 (viii) a prepaid wireless calling service; or
- 1427 (ix) a private communications service.
- 1428 (c) "Telecommunications service" does not include:
- 1429 (i) advertising, including directory advertising;
- 1430 (ii) an ancillary service;
- 1431 (iii) a billing and collection service provided to a third party;
- 1432 (iv) a data processing and information service if:
- 1433 (A) the data processing and information service allows data to be:
- 1434 (I) (Aa) acquired;
- 1435 (Bb) generated;
- 1436 (Cc) processed;
- 1437 (Dd) retrieved; or
- 1438 (Ee) stored; and
- 1439 (II) delivered by an electronic transmission to a purchaser; and
- 1440 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1441 or information;
- 1442 (v) installation or maintenance of the following on a customer's premises:
- 1443 (A) equipment; or
- 1444 (B) wiring;
- 1445 (vi) Internet access service;
- 1446 (vii) a paging service;
- 1447 (viii) a product transferred electronically, including:
- 1448 (A) music;
- 1449 (B) reading material;
- 1450 (C) a ring tone;
- 1451 (D) software; or
- 1452 (E) video;

- 1453 (ix) a radio and television audio and video programming service:
- 1454 (A) regardless of the medium; and
- 1455 (B) including:
  - 1456 (I) furnishing conveyance, routing, or transmission of a television audio and video
  - 1457 programming service by a programming service provider;
  - 1458 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
  - 1459 (III) audio and video programming services delivered by a commercial mobile radio
  - 1460 service provider as defined in 47 C.F.R. Sec. 20.3;
  - 1461 (x) a value-added nonvoice data service; or
  - 1462 (xi) tangible personal property.
- 1463 (130) (a) "Telecommunications service provider" means a person that:
  - 1464 (i) owns, controls, operates, or manages a telecommunications service; and
  - 1465 (ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or
  - 1466 resale to any person of the telecommunications service.
- 1467 (b) A person described in Subsection (130)(a) is a telecommunications service provider
- 1468 whether or not the Public Service Commission of Utah regulates:
  - 1469 (i) that person; or
  - 1470 (ii) the telecommunications service that the person owns, controls, operates, or
  - 1471 manages.
- 1472 (131) (a) "Telecommunications switching or routing equipment, machinery, or
- 1473 software" means an item listed in Subsection (131)(b) if that item is purchased or leased
- 1474 primarily for switching or routing:
  - 1475 (i) an ancillary service;
  - 1476 (ii) data communications;
  - 1477 (iii) voice communications; or
  - 1478 (iv) telecommunications service.
- 1479 (b) The following apply to Subsection (131)(a):
  - 1480 (i) a bridge;
  - 1481 (ii) a computer;
  - 1482 (iii) a cross connect;
  - 1483 (iv) a modem;



- 1484 (v) a multiplexer;
- 1485 (vi) plug in circuitry;
- 1486 (vii) a router;
- 1487 (viii) software;
- 1488 (ix) a switch; or
- 1489 (x) equipment, machinery, or software that functions similarly to an item listed in
- 1490 Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in
- 1491 accordance with Subsection (131)(c).

1492 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1493 commission may by rule define what constitutes equipment, machinery, or software that

1494 functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

1495 (132) (a) "Telecommunications transmission equipment, machinery, or software"

1496 means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for

1497 sending, receiving, or transporting:

- 1498 (i) an ancillary service;
  - 1499 (ii) data communications;
  - 1500 (iii) voice communications; or
  - 1501 (iv) telecommunications service.
- 1502 (b) The following apply to Subsection (132)(a):
- 1503 (i) an amplifier;
  - 1504 (ii) a cable;
  - 1505 (iii) a closure;
  - 1506 (iv) a conduit;
  - 1507 (v) a controller;
  - 1508 (vi) a duplexer;
  - 1509 (vii) a filter;
  - 1510 (viii) an input device;
  - 1511 (ix) an input/output device;
  - 1512 (x) an insulator;
  - 1513 (xi) microwave machinery or equipment;
  - 1514 (xii) an oscillator;

- 1515 (xiii) an output device;
- 1516 (xiv) a pedestal;
- 1517 (xv) a power converter;
- 1518 (xvi) a power supply;
- 1519 (xvii) a radio channel;
- 1520 (xviii) a radio receiver;
- 1521 (xix) a radio transmitter;
- 1522 (xx) a repeater;
- 1523 (xxi) software;
- 1524 (xxii) a terminal;
- 1525 (xxiii) a timing unit;
- 1526 (xxiv) a transformer;
- 1527 (xxv) a wire; or
- 1528 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1529 Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in
- 1530 accordance with Subsection (132)(c).

1531 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1532 commission may by rule define what constitutes equipment, machinery, or software that

1533 functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).

1534 (133) (a) "Textbook for a higher education course" means a textbook or other printed

1535 material that is required for a course:

- 1536 (i) offered by an institution of higher education; and
- 1537 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1538 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1539 (134) "Tobacco" means:

- 1540 (a) a cigarette;
- 1541 (b) a cigar;
- 1542 (c) chewing tobacco;
- 1543 (d) pipe tobacco; or
- 1544 (e) any other item that contains tobacco.

1545 (135) "Unassisted amusement device" means an amusement device, skill device, or

1546 ride device that is started and stopped by the purchaser or renter of the right to use or operate  
1547 the amusement device, skill device, or ride device.

1548 (136) (a) "Use" means the exercise of any right or power over tangible personal  
1549 property, a product transferred electronically, or a service under Subsection 59-12-103(1),  
1550 incident to the ownership or the leasing of that tangible personal property, product transferred  
1551 electronically, or service.

1552 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
1553 property, a product transferred electronically, or a service in the regular course of business and  
1554 held for resale.

1555 (137) "Value-added nonvoice data service" means a service:

1556 (a) that otherwise meets the definition of a telecommunications service except that a  
1557 computer processing application is used to act primarily for a purpose other than conveyance,  
1558 routing, or transmission; and

1559 (b) with respect to which a computer processing application is used to act on data or  
1560 information:

- 1561 (i) code;
- 1562 (ii) content;
- 1563 (iii) form; or
- 1564 (iv) protocol.

1565 (138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are  
1566 required to be titled, registered, or titled and registered:

- 1567 (i) an aircraft as defined in Section 72-10-102;
- 1568 (ii) a vehicle as defined in Section 41-1a-102;
- 1569 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1570 (iv) a vessel as defined in Section 41-1a-102.

1571 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1572 (i) a vehicle described in Subsection (138)(a); or
- 1573 (ii) (A) a locomotive;
- 1574 (B) a freight car;
- 1575 (C) railroad work equipment; or
- 1576 (D) other railroad rolling stock.

1577 (139) "Vehicle dealer" means a person engaged in the business of buying, selling, or  
1578 exchanging a vehicle as defined in Subsection (138).

1579 (140) (a) "Vertical service" means an ancillary service that:

1580 (i) is offered in connection with one or more telecommunications services; and

1581 (ii) offers an advanced calling feature that allows a customer to:

1582 (A) identify a caller; and

1583 (B) manage multiple calls and call connections.

1584 (b) "Vertical service" includes an ancillary service that allows a customer to manage a  
1585 conference bridging service.

1586 (141) (a) "Voice mail service" means an ancillary service that enables a customer to  
1587 receive, send, or store a recorded message.

1588 (b) "Voice mail service" does not include a vertical service that a customer is required  
1589 to have in order to utilize a voice mail service.

1590 (142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a  
1591 facility that generates electricity:

1592 (i) using as the primary source of energy waste materials that would be placed in a  
1593 landfill or refuse pit if it were not used to generate electricity, including:

1594 (A) tires;

1595 (B) waste coal;

1596 (C) oil shale; or

1597 (D) municipal solid waste; and

1598 (ii) in amounts greater than actually required for the operation of the facility.

1599 (b) "Waste energy facility" does not include a facility that incinerates:

1600 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

1601 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1602 (143) "Watercraft" means a vessel as defined in Section [73-18-2](#).

1603 (144) "Wind energy" means wind used as the sole source of energy to produce  
1604 electricity.

1605 (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic  
1606 location by the United States Postal Service.

1607 Section 2. Section **59-12-104** is amended to read:

1608 **59-12-104. Exemptions.**

1609 Exemptions from the taxes imposed by this chapter are as follows:

1610 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax  
1611 under Chapter 13, Motor and Special Fuel Tax Act;1612 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political  
1613 subdivisions; however, this exemption does not apply to sales of:

1614 (a) construction materials except:

1615 (i) construction materials purchased by or on behalf of institutions of the public  
1616 education system as defined in Utah Constitution, Article X, Section 2, provided the  
1617 construction materials are clearly identified and segregated and installed or converted to real  
1618 property which is owned by institutions of the public education system; and1619 (ii) construction materials purchased by the state, its institutions, or its political  
1620 subdivisions which are installed or converted to real property by employees of the state, its  
1621 institutions, or its political subdivisions; or1622 (b) tangible personal property in connection with the construction, operation,  
1623 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities  
1624 providing additional project capacity, as defined in Section 11-13-103;

1625 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

1626 (i) the proceeds of each sale do not exceed \$1; and

1627 (ii) the seller or operator of the vending machine reports an amount equal to 150% of  
1628 the cost of the item described in Subsection (3)(b) as goods consumed; and

1629 (b) Subsection (3)(a) applies to:

1630 (i) food and food ingredients; or

1631 (ii) prepared food;

1632 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

1633 (i) alcoholic beverages;

1634 (ii) food and food ingredients; or

1635 (iii) prepared food;

1636 (b) sales of tangible personal property or a product transferred electronically:

1637 (i) to a passenger;

1638 (ii) by a commercial airline carrier; and

1639 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or  
1640 (c) services related to Subsection (4)(a) or (b);  
1641 [~~(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts~~  
1642 ~~and equipment:]~~  
1643 [~~(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002~~  
1644 ~~North American Industry Classification System of the federal Executive Office of the~~  
1645 ~~President, Office of Management and Budget; and]~~  
1646 [~~(H) for:]~~  
1647 [~~(Aa) installation in an aircraft, including services relating to the installation of parts or~~  
1648 ~~equipment in the aircraft;]~~  
1649 [~~(Bb) renovation of an aircraft; or]~~  
1650 [~~(Cc) repair of an aircraft; or]~~  
1651 [~~(B) for installation in an aircraft operated by a common carrier in interstate or foreign~~  
1652 ~~commerce; or]~~  
1653 [~~(ii) beginning on October 1, 2008;]~~  
1654 (5) sales of parts and equipment for installation in an aircraft operated by a common  
1655 carrier in interstate or foreign commerce; [and]  
1656 [(b) notwithstanding the time period of Subsection [59-1-1410](#)(8) for filing for a refund,  
1657 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a  
1658 refund:]  
1659 [(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;]  
1660 [(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;]  
1661 [(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for  
1662 the sale prior to filing for the refund;]  
1663 [(iv) for sales and use taxes paid under this chapter on the sale;]  
1664 [(v) in accordance with Section [59-1-1410](#); and]  
1665 [(vi) subject to any extension allowed for filing for a refund under Section [59-1-1410](#),  
1666 if the person files for the refund on or before September 30, 2011;]  
1667 (6) sales of commercials, motion picture films, prerecorded audio program tapes or  
1668 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture  
1669 exhibitor, distributor, or commercial television or radio broadcaster;

1670 (7) (a) except as provided in Subsection (88) and subject to Subsection (7)(b), sales of  
1671 cleaning or washing of tangible personal property if the cleaning or washing of the tangible  
1672 personal property is not assisted cleaning or washing of tangible personal property;

1673 (b) if a seller that sells at the same business location assisted cleaning or washing of  
1674 tangible personal property and cleaning or washing of tangible personal property that is not  
1675 assisted cleaning or washing of tangible personal property, the exemption described in  
1676 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning  
1677 or washing of the tangible personal property; and

1678 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,  
1679 Utah Administrative Rulemaking Act, the commission may make rules:

1680 (i) governing the circumstances under which sales are at the same business location;  
1681 and

1682 (ii) establishing the procedures and requirements for a seller to separately account for  
1683 sales of assisted cleaning or washing of tangible personal property;

1684 (8) sales made to or by religious or charitable institutions in the conduct of their regular  
1685 religious or charitable functions and activities, if the requirements of Section [59-12-104.1](#) are  
1686 fulfilled;

1687 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of  
1688 this state if the vehicle is:

1689 (a) not registered in this state; and

1690 (b) (i) not used in this state; or

1691 (ii) used in this state:

1692 (A) if the vehicle is not used to conduct business, for a time period that does not  
1693 exceed the longer of:

1694 (I) 30 days in any calendar year; or

1695 (II) the time period necessary to transport the vehicle to the borders of this state; or

1696 (B) if the vehicle is used to conduct business, for the time period necessary to transport  
1697 the vehicle to the borders of this state;

1698 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

1699 (i) the item is intended for human use; and

1700 (ii) (A) a prescription was issued for the item; or

1701 (B) the item was purchased by a hospital or other medical facility; and  
1702 (b) (i) Subsection (10)(a) applies to:  
1703 (A) a drug;  
1704 (B) a syringe; or  
1705 (C) a stoma supply; and  
1706 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1707 commission may by rule define the terms:  
1708 (A) "syringe"; or  
1709 (B) "stoma supply";  
1710 (11) purchases or leases exempt under Section 19-12-201;  
1711 (12) (a) sales of an item described in Subsection (12)(c) served by:  
1712 (i) the following if the item described in Subsection (12)(c) is not available to the  
1713 general public:  
1714 (A) a church; or  
1715 (B) a charitable institution;  
1716 (ii) an institution of higher education if:  
1717 (A) the item described in Subsection (12)(c) is not available to the general public; or  
1718 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan  
1719 offered by the institution of higher education; or  
1720 (b) sales of an item described in Subsection (12)(c) provided for a patient by:  
1721 (i) a medical facility; or  
1722 (ii) a nursing facility; and  
1723 (c) Subsections (12)(a) and (b) apply to:  
1724 (i) food and food ingredients;  
1725 (ii) prepared food; or  
1726 (iii) alcoholic beverages;  
1727 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property  
1728 or a product transferred electronically by a person:  
1729 (i) regardless of the number of transactions involving the sale of that tangible personal  
1730 property or product transferred electronically by that person; and  
1731 (ii) not regularly engaged in the business of selling that type of tangible personal



1732 property or product transferred electronically;

1733 (b) this Subsection (13) does not apply if:

1734 (i) the sale is one of a series of sales of a character to indicate that the person is  
1735 regularly engaged in the business of selling that type of tangible personal property or product  
1736 transferred electronically;

1737 (ii) the person holds that person out as regularly engaged in the business of selling that  
1738 type of tangible personal property or product transferred electronically;

1739 (iii) the person sells an item of tangible personal property or product transferred  
1740 electronically that the person purchased as a sale that is exempt under Subsection (25); or

1741 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of  
1742 this state in which case the tax is based upon:

1743 (A) the bill of sale or other written evidence of value of the vehicle or vessel being  
1744 sold; or

1745 (B) in the absence of a bill of sale or other written evidence of value, the fair market  
1746 value of the vehicle or vessel being sold at the time of the sale as determined by the  
1747 commission; and

1748 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1749 commission shall make rules establishing the circumstances under which:

1750 (i) a person is regularly engaged in the business of selling a type of tangible personal  
1751 property or product transferred electronically;

1752 (ii) a sale of tangible personal property or a product transferred electronically is one of  
1753 a series of sales of a character to indicate that a person is regularly engaged in the business of  
1754 selling that type of tangible personal property or product transferred electronically; or

1755 (iii) a person holds that person out as regularly engaged in the business of selling a type  
1756 of tangible personal property or product transferred electronically;

1757 (14) subject to Section 59-12-104.8, amounts paid or charged for a purchase or lease of  
1758 machinery, equipment, or normal operating repair or replacement parts with an economic life  
1759 of three or more years by:

1760 (a) a manufacturing facility, except as provided in Subsection (86), that:

1761 (i) is located in the state; and

1762 (ii) uses the machinery, equipment, or normal operating repair or replacement parts:

1763 (A) in the manufacturing process to manufacture an item sold as tangible personal  
1764 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,  
1765 Utah Administrative Rulemaking Act; or

1766 (B) for a scrap recycler, to process an item sold as tangible personal property, as the  
1767 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah  
1768 Administrative Rulemaking Act;

1769 (b) an establishment, as the commission defines that term in accordance with Title 63G,  
1770 Chapter 3, Utah Administrative Rulemaking Act, that:

1771 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS  
1772 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal  
1773 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the  
1774 2002 North American Industry Classification System of the federal Executive Office of the  
1775 President, Office of Management and Budget;

1776 (ii) is located in the state; and

1777 (iii) uses the machinery, equipment, or normal operating repair or replacement parts in:

1778 (A) the production process to produce an item sold as tangible personal property, as the  
1779 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah  
1780 Administrative Rulemaking Act;

1781 (B) research and development, as the commission may define that phrase in accordance  
1782 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1783 (C) transporting, storing, or managing tailings, overburden, or similar waste materials  
1784 produced from mining;

1785 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in  
1786 mining; or

1787 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

1788 (c) an establishment, as the commission defines that term in accordance with Title 63G,  
1789 Chapter 3, Utah Administrative Rulemaking Act, that:

1790 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North  
1791 American Industry Classification System of the federal Executive Office of the President,  
1792 Office of Management and Budget;

1793 (ii) is located in the state; and

1794 (iii) uses the machinery, equipment, or normal operating repair or replacement parts in  
1795 the operation of the web search portal;

1796 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

1797 (i) tooling;

1798 (ii) special tooling;

1799 (iii) support equipment;

1800 (iv) special test equipment; or

1801 (v) parts used in the repairs or renovations of tooling or equipment described in

1802 Subsections (15)(a)(i) through (iv); and

1803 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

1804 (i) the tooling, equipment, or parts are used or consumed exclusively in the

1805 performance of any aerospace or electronics industry contract with the United States

1806 government or any subcontract under that contract; and

1807 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),

1808 title to the tooling, equipment, or parts is vested in the United States government as evidenced

1809 by:

1810 (A) a government identification tag placed on the tooling, equipment, or parts; or

1811 (B) listing on a government-approved property record if placing a government

1812 identification tag on the tooling, equipment, or parts is impractical;

1813 (16) sales of newspapers or newspaper subscriptions;

1814 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a

1815 product transferred electronically traded in as full or part payment of the purchase price, except

1816 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,

1817 trade-ins are limited to other vehicles only, and the tax is based upon:

1818 (i) the bill of sale or other written evidence of value of the vehicle being sold and the

1819 vehicle being traded in; or

1820 (ii) in the absence of a bill of sale or other written evidence of value, the then existing

1821 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the

1822 commission; and

1823 (b) Subsection (17)(a) does not apply to the following items of tangible personal

1824 property or products transferred electronically traded in as full or part payment of the purchase

1825 price:

- 1826 (i) money;
- 1827 (ii) electricity;
- 1828 (iii) water;
- 1829 (iv) gas; or
- 1830 (v) steam;

1831 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property  
1832 or a product transferred electronically used or consumed primarily and directly in farming  
1833 operations, regardless of whether the tangible personal property or product transferred  
1834 electronically:

- 1835 (A) becomes part of real estate; or
- 1836 (B) is installed by a~~[-(F)]~~ farmer~~[-(H)]~~,<sub>2</sub> contractor~~[-(I)]~~,<sub>2</sub> or ~~[(H)]~~ subcontractor; or
- 1837 (ii) sales of parts used in the repairs or renovations of tangible personal property or a  
1838 product transferred electronically if the tangible personal property or product transferred  
1839 electronically is exempt under Subsection (18)(a)(i); and

1840 (b) amounts paid or charged for the following are subject to the taxes imposed by this  
1841 chapter:

- 1842 (i) (A) subject to Subsection (18)(b)(i)(B), [~~the following~~] machinery, equipment,  
1843 materials, or supplies if used in a manner that is incidental to farming~~[-(F) machinery; (H)~~  
1844 ~~equipment; (H) materials; or (IV) supplies~~]; and

1845 (B) tangible personal property that is considered to be used in a manner that is  
1846 incidental to farming includes:

- 1847 (I) hand tools; or
- 1848 (II) maintenance and janitorial equipment and supplies;

1849 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product  
1850 transferred electronically if the tangible personal property or product transferred electronically  
1851 is used in an activity other than farming; and

1852 (B) tangible personal property or a product transferred electronically that is considered  
1853 to be used in an activity other than farming includes:

- 1854 (I) office equipment and supplies; or
- 1855 (II) equipment and supplies used in:

- 1856 (Aa) the sale or distribution of farm products;
- 1857 (Bb) research; or
- 1858 (Cc) transportation; or
- 1859 (iii) a vehicle required to be registered by the laws of this state during the period
- 1860 ending two years after the date of the vehicle's purchase;
- 1861 (19) sales of hay;
- 1862 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
- 1863 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
- 1864 garden, farm, or other agricultural produce is sold by:
- 1865 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
- 1866 agricultural produce;
- 1867 (b) an employee of the producer described in Subsection (20)(a); or
- 1868 (c) a member of the immediate family of the producer described in Subsection (20)(a);
- 1869 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
- 1870 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 1871 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
- 1872 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
- 1873 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
- 1874 manufacturer, processor, wholesaler, or retailer;
- 1875 (23) a product stored in the state for resale;
- 1876 (24) (a) purchases of a product if:
- 1877 (i) the product is:
- 1878 (A) purchased outside of this state;
- 1879 (B) brought into this state:
- 1880 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
- 1881 (II) by a nonresident person who is not living or working in this state at the time of the
- 1882 purchase;
- 1883 (C) used for the personal use or enjoyment of the nonresident person described in
- 1884 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
- 1885 (D) not used in conducting business in this state; and
- 1886 (ii) for:

- 1887 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of  
1888 the product for a purpose for which the product is designed occurs outside of this state;
- 1889 (B) a boat, the boat is registered outside of this state; or
- 1890 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
1891 outside of this state;
- 1892 (b) the exemption provided for in Subsection (24)(a) does not apply to:
- 1893 (i) a lease or rental of a product; or
- 1894 (ii) a sale of a vehicle exempt under Subsection (33); and
- 1895 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
1896 purposes of Subsection (24)(a), the commission may by rule define what constitutes the  
1897 following:
- 1898 (i) conducting business in this state if that phrase has the same meaning in this  
1899 Subsection (24) as in Subsection (63);
- 1900 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)  
1901 as in Subsection (63); or
- 1902 (iii) a purpose for which a product is designed if that phrase has the same meaning in  
1903 this Subsection (24) as in Subsection (63);
- 1904 (25) a product purchased for resale in this state, in the regular course of business, either  
1905 in its original form or as an ingredient or component part of a manufactured or compounded  
1906 product;
- 1907 (26) a product upon which a sales or use tax was paid to some other state, or one of its  
1908 subdivisions, except that the state shall be paid any difference between the tax paid and the tax  
1909 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if  
1910 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax  
1911 Act;
- 1912 (27) any sale of a service described in Subsections [59-12-103](#)(1)(b), (c), and (d) to a  
1913 person for use in compounding a service taxable under the subsections;
- 1914 (28) purchases made in accordance with the special supplemental nutrition program for  
1915 women, infants, and children established in 42 U.S.C. Sec. 1786;
- 1916 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other  
1917 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code

1918 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of  
1919 the President, Office of Management and Budget;

1920 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State  
1921 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:  
1922 (a) not registered in this state; and  
1923 (b) (i) not used in this state; or  
1924 (ii) used in this state:  
1925 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a  
1926 time period that does not exceed the longer of:  
1927 (I) 30 days in any calendar year; or  
1928 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to  
1929 the borders of this state; or  
1930 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time  
1931 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this  
1932 state;

1933 (31) sales of aircraft manufactured in Utah;

1934 (32) amounts paid for the purchase of telecommunications service for purposes of  
1935 providing telecommunications service;

1936 (33) sales, leases, or uses of the following:  
1937 (a) a vehicle by an authorized carrier; or  
1938 (b) tangible personal property that is installed on a vehicle:  
1939 (i) sold or leased to or used by an authorized carrier; and  
1940 (ii) before the vehicle is placed in service for the first time;

1941 (34) (a) 45% of the sales price of any new manufactured home; and  
1942 (b) 100% of the sales price of any used manufactured home;

1943 (35) sales relating to schools and fundraising sales;

1944 (36) sales or rentals of durable medical equipment if:  
1945 (a) a person presents a prescription for the durable medical equipment; and  
1946 (b) the durable medical equipment is used for home use only;

1947 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in  
1948 Section [72-11-102](#); and

1949 (b) the commission shall by rule determine the method for calculating sales exempt  
1950 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;  
1951 (38) sales to a ski resort of:  
1952 (a) snowmaking equipment;  
1953 (b) ski slope grooming equipment;  
1954 (c) passenger ropeways as defined in Section 72-11-102; or  
1955 (d) parts used in the repairs or renovations of equipment or passenger ropeways  
1956 described in Subsections (38)(a) through (c);  
1957 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;  
1958 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for  
1959 amusement, entertainment, or recreation an unassisted amusement device as defined in Section  
1960 59-12-102;  
1961 (b) if a seller that sells or rents at the same business location the right to use or operate  
1962 for amusement, entertainment, or recreation one or more unassisted amusement devices and  
1963 one or more assisted amusement devices, the exemption described in Subsection (40)(a)  
1964 applies if the seller separately accounts for the sales or rentals of the right to use or operate for  
1965 amusement, entertainment, or recreation for the assisted amusement devices; and  
1966 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,  
1967 Utah Administrative Rulemaking Act, the commission may make rules:  
1968 (i) governing the circumstances under which sales are at the same business location;  
1969 and  
1970 (ii) establishing the procedures and requirements for a seller to separately account for  
1971 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for  
1972 assisted amusement devices;  
1973 (41) (a) sales of photocopies by:  
1974 (i) a governmental entity; or  
1975 (ii) an entity within the state system of public education, including:  
1976 (A) a school; or  
1977 (B) the State Board of Education; or  
1978 (b) sales of publications by a governmental entity;  
1979 (42) amounts paid for admission to an athletic event at an institution of higher



1980 education that is subject to the provisions of Title IX of the Education Amendments of 1972,  
1981 20 U.S.C. Sec. 1681 et seq.;

1982 (43) (a) sales made to or by:

1983 (i) an area agency on aging; or

1984 (ii) a senior citizen center owned by a county, city, or town; or

1985 (b) sales made by a senior citizen center that contracts with an area agency on aging;

1986 (44) sales or leases of semiconductor fabricating, processing, research, or development

1987 materials regardless of whether the semiconductor fabricating, processing, research, or

1988 development materials:

1989 (a) actually come into contact with a semiconductor; or

1990 (b) ultimately become incorporated into real property;

1991 (45) an amount paid by or charged to a purchaser for accommodations and services

1992 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section

1993 59-12-104.2;

1994 (46) [~~beginning on September 1, 2001,~~] the lease or use of a vehicle issued a temporary

1995 sports event registration certificate in accordance with Section 41-3-306 for the event period

1996 specified on the temporary sports event registration certificate;

1997 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff

1998 adopted by the Public Service Commission only for purchase of electricity produced from a

1999 new alternative energy source built after January 1, 2016, as designated in the tariff by the

2000 Public Service Commission;

2001 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies

2002 only to the portion of the tariff rate a customer pays under the tariff described in Subsection

2003 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the

2004 customer would have paid absent the tariff;

2005 (48) sales or rentals of mobility enhancing equipment if a person presents a

2006 prescription for the mobility enhancing equipment;

2007 (49) sales of water in a:

2008 (a) pipe;

2009 (b) conduit;

2010 (c) ditch; or

2011 (d) reservoir;

2012 (50) sales of currency or coins that constitute legal tender of a state, the United States,

2013 or a foreign nation;

2014 (51) (a) sales of an item described in Subsection (51)(b) if the item:

2015 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and

2016 (ii) has a gold, silver, or platinum content of 50% or more; and

2017 (b) Subsection (51)(a) applies to a gold, silver, or platinum:

2018 (i) ingot;

2019 (ii) bar;

2020 (iii) medallion; or

2021 (iv) decorative coin;

2022 (52) amounts paid on a sale-leaseback transaction;

2023 (53) sales of a prosthetic device:

2024 (a) for use on or in a human; and

2025 (b) (i) for which a prescription is required; or

2026 (ii) if the prosthetic device is purchased by a hospital or other medical facility;

2027 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of

2028 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery

2029 or equipment is primarily used in the production or postproduction of the following media for

2030 commercial distribution:

2031 (i) a motion picture;

2032 (ii) a television program;

2033 (iii) a movie made for television;

2034 (iv) a music video;

2035 (v) a commercial;

2036 (vi) a documentary; or

2037 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the

2038 commission by administrative rule made in accordance with Subsection (54)(d); or

2039 (b) purchases, leases, or rentals of machinery or equipment by an establishment

2040 described in Subsection (54)(c) that is used for the production or postproduction of the

2041 following are subject to the taxes imposed by this chapter:

- 2042 (i) a live musical performance;
- 2043 (ii) a live news program; or
- 2044 (iii) a live sporting event;
- 2045 (c) the following establishments listed in the 1997 North American Industry
- 2046 Classification System of the federal Executive Office of the President, Office of Management
- 2047 and Budget, apply to Subsections (54)(a) and (b):
- 2048 (i) NAICS Code 512110; or
- 2049 (ii) NAICS Code 51219; and
- 2050 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2051 commission may by rule:
- 2052 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
- 2053 or
- 2054 (ii) define:
- 2055 (A) "commercial distribution";
- 2056 (B) "live musical performance";
- 2057 (C) "live news program"; or
- 2058 (D) "live sporting event";
- 2059 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
- 2060 on or before June 30, 2027, of tangible personal property that:
- 2061 (i) is leased or purchased for or by a facility that:
- 2062 (A) is an alternative energy electricity production facility;
- 2063 (B) is located in the state; and
- 2064 (C) (I) becomes operational on or after July 1, 2004; or
- 2065 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 2066 2004, as a result of the use of the tangible personal property;
- 2067 (ii) has an economic life of five or more years; and
- 2068 (iii) is used to make the facility or the increase in capacity of the facility described in
- 2069 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
- 2070 transmission grid including:
- 2071 (A) a wind turbine;
- 2072 (B) generating equipment;

2073 (C) a control and monitoring system;  
2074 (D) a power line;  
2075 (E) substation equipment;  
2076 (F) lighting;  
2077 (G) fencing;  
2078 (H) pipes; or  
2079 (I) other equipment used for locating a power line or pole; and  
2080 (b) this Subsection (55) does not apply to:  
2081 (i) tangible personal property used in construction of:  
2082 (A) a new alternative energy electricity production facility; or  
2083 (B) the increase in the capacity of an alternative energy electricity production facility;  
2084 (ii) contracted services required for construction and routine maintenance activities;  
2085 and  
2086 (iii) unless the tangible personal property is used or acquired for an increase in capacity  
2087 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or  
2088 acquired after:  
2089 (A) the alternative energy electricity production facility described in Subsection  
2090 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or  
2091 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described  
2092 in Subsection (55)(a)(iii);  
2093 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but  
2094 on or before June 30, 2027, of tangible personal property that:  
2095 (i) is leased or purchased for or by a facility that:  
2096 (A) is a waste energy production facility;  
2097 (B) is located in the state; and  
2098 (C) (I) becomes operational on or after July 1, 2004; or  
2099 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
2100 2004, as a result of the use of the tangible personal property;  
2101 (ii) has an economic life of five or more years; and  
2102 (iii) is used to make the facility or the increase in capacity of the facility described in  
2103 Subsection (56)(a)(i) operational up to the point of interconnection with an existing

- 2104 transmission grid including:
- 2105       (A) generating equipment;
- 2106       (B) a control and monitoring system;
- 2107       (C) a power line;
- 2108       (D) substation equipment;
- 2109       (E) lighting;
- 2110       (F) fencing;
- 2111       (G) pipes; or
- 2112       (H) other equipment used for locating a power line or pole; and
- 2113       (b) this Subsection (56) does not apply to:
- 2114           (i) tangible personal property used in construction of:
- 2115               (A) a new waste energy facility; or
- 2116               (B) the increase in the capacity of a waste energy facility;
- 2117           (ii) contracted services required for construction and routine maintenance activities;
- 2118 and
- 2119           (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 2120 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
- 2121               (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
- 2122 described in Subsection (56)(a)(iii); or
- 2123               (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
- 2124 in Subsection (56)(a)(iii);
- 2125       (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
- 2126 or before June 30, 2027, of tangible personal property that:
- 2127           (i) is leased or purchased for or by a facility that:
- 2128               (A) is located in the state;
- 2129               (B) produces fuel from alternative energy, including[~~-(F)~~] methanol[;] or [~~(H)~~] ethanol;
- 2130 and
- 2131           (C) (I) becomes operational on or after July 1, 2004; or
- 2132               (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
- 2133 a result of the installation of the tangible personal property;
- 2134           (ii) has an economic life of five or more years; and

2135 (iii) is installed on the facility described in Subsection (57)(a)(i);  
2136 (b) this Subsection (57) does not apply to:  
2137 (i) tangible personal property used in construction of:  
2138 (A) a new facility described in Subsection (57)(a)(i); or  
2139 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or  
2140 (ii) contracted services required for construction and routine maintenance activities;  
2141 and  
2142 (iii) unless the tangible personal property is used or acquired for an increase in capacity  
2143 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:  
2144 (A) the facility described in Subsection (57)(a)(i) is operational; or  
2145 (B) the increased capacity described in Subsection (57)(a)(i) is operational;  
2146 (58) (a) subject to Subsection (58)(b) [~~or (c)~~], sales of tangible personal property or a  
2147 product transferred electronically to a person within this state if that tangible personal property  
2148 or product transferred electronically is subsequently shipped outside the state and incorporated  
2149 pursuant to contract into and becomes a part of real property located outside of this state; and  
2150 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other  
2151 state or political entity to which the tangible personal property is shipped imposes a sales, use,  
2152 gross receipts, or other similar transaction excise tax on the transaction against which the other  
2153 state or political entity allows a credit for sales and use taxes imposed by this chapter; [~~and~~  
2154 [~~(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~  
2155 ~~a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a~~  
2156 ~~refund;~~]  
2157 [(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;]  
2158 [(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on  
2159 which the sale is made;]  
2160 [(iii) if the person did not claim the exemption allowed by this Subsection (58) for the  
2161 sale prior to filing for the refund;]  
2162 [(iv) for sales and use taxes paid under this chapter on the sale;]  
2163 [(v) in accordance with Section 59-1-1410; and]  
2164 [(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,  
2165 if the person files for the refund on or before June 30, 2011;]

- 2166 (59) purchases:
- 2167 (a) of one or more of the following items in printed or electronic format:
- 2168 (i) a list containing information that includes one or more[:(A)] names[:] or [(B)]
- 2169 addresses; or
- 2170 (ii) a database containing information that includes one or more[:(A)] names[:] or
- 2171 [(B)] addresses; and
- 2172 (b) used to send direct mail;
- 2173 (60) redemptions or repurchases of a product by a person if that product was:
- 2174 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 2175 (b) redeemed or repurchased within the time period established in a written agreement
- 2176 between the person and the pawnbroker for redeeming or repurchasing the product;
- 2177 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
- 2178 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
- 2179 and
- 2180 (ii) has a useful economic life of one or more years; and
- 2181 (b) the following apply to Subsection (61)(a):
- 2182 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 2183 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 2184 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 2185 (iv) telecommunications switching or routing equipment, machinery, or software; or
- 2186 (v) telecommunications transmission equipment, machinery, or software;
- 2187 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
- 2188 personal property or a product transferred electronically that are used in the research and
- 2189 development of alternative energy technology; and
- 2190 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2191 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
- 2192 purchases of tangible personal property or a product transferred electronically that are used in
- 2193 the research and development of alternative energy technology;
- 2194 (63) (a) purchases of tangible personal property or a product transferred electronically
- 2195 if:
- 2196 (i) the tangible personal property or product transferred electronically is:

2197 (A) purchased outside of this state;  
2198 (B) brought into this state at any time after the purchase described in Subsection  
2199 (63)(a)(i)(A); and  
2200 (C) used in conducting business in this state; and  
2201 (ii) for:  
2202 (A) tangible personal property or a product transferred electronically other than the  
2203 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property  
2204 for a purpose for which the property is designed occurs outside of this state; or  
2205 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
2206 outside of this state;  
2207 (b) the exemption provided for in Subsection (63)(a) does not apply to:  
2208 (i) a lease or rental of tangible personal property or a product transferred electronically;  
2209 or  
2210 (ii) a sale of a vehicle exempt under Subsection (33); and  
2211 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
2212 purposes of Subsection (63)(a), the commission may by rule define what constitutes the  
2213 following:  
2214 (i) conducting business in this state if that phrase has the same meaning in this  
2215 Subsection (63) as in Subsection (24);  
2216 (ii) the first use of tangible personal property or a product transferred electronically if  
2217 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or  
2218 (iii) a purpose for which tangible personal property or a product transferred  
2219 electronically is designed if that phrase has the same meaning in this Subsection (63) as in  
2220 Subsection (24);  
2221 (64) sales of disposable home medical equipment or supplies if:  
2222 (a) a person presents a prescription for the disposable home medical equipment or  
2223 supplies;  
2224 (b) the disposable home medical equipment or supplies are used exclusively by the  
2225 person to whom the prescription described in Subsection (64)(a) is issued; and  
2226 (c) the disposable home medical equipment and supplies are listed as eligible for  
2227 payment under:



- 2228 (i) Title XVIII, federal Social Security Act; or
- 2229 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- 2230 (65) sales:
- 2231 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
- 2232 District Act; or
- 2233 (b) of tangible personal property to a subcontractor of a public transit district, if the
- 2234 tangible personal property is:
- 2235 (i) clearly identified; and
- 2236 (ii) installed or converted to real property owned by the public transit district;
- 2237 (66) sales of construction materials:
- 2238 (a) purchased on or after July 1, 2010;
- 2239 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 2240 (i) located within a county of the first class; and
- 2241 (ii) that has a United States customs office on its premises; and
- 2242 (c) if the construction materials are:
- 2243 (i) clearly identified;
- 2244 (ii) segregated; and
- 2245 (iii) installed or converted to real property:
- 2246 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 2247 (B) located at the international airport described in Subsection (66)(b);
- 2248 (67) sales of construction materials:
- 2249 (a) purchased on or after July 1, 2008;
- 2250 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 2251 (i) located within a county of the second class; and
- 2252 (ii) that is owned or operated by a city in which an airline as defined in Section
- 2253 [59-2-102](#) is headquartered; and
- 2254 (c) if the construction materials are:
- 2255 (i) clearly identified;
- 2256 (ii) segregated; and
- 2257 (iii) installed or converted to real property:
- 2258 (A) owned or operated by the new airport described in Subsection (67)(b);

- 2259 (B) located at the new airport described in Subsection (67)(b); and
- 2260 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 2261 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 2262 (69) purchases and sales described in Section [63H-4-111](#);
- 2263 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 2264 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 2265 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 2266 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 2267 powered aircraft; or
- 2268 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 2269 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 2270 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 2271 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 2272 powered aircraft;
- 2273 (71) subject to Section [59-12-104.4](#), sales of a textbook for a higher education course:
- 2274 (a) to a person admitted to an institution of higher education; and
- 2275 (b) by a seller, other than a bookstore owned by an institution of higher education, if
- 2276 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
- 2277 textbook for a higher education course;
- 2278 (72) a license fee or tax a municipality imposes in accordance with Subsection
- 2279 [10-1-203\(5\)](#) on a purchaser from a business for which the municipality provides an enhanced
- 2280 level of municipal services;
- 2281 (73) amounts paid or charged for construction materials used in the construction of a
- 2282 new or expanding life science research and development facility in the state, if the construction
- 2283 materials are:
- 2284 (a) clearly identified;
- 2285 (b) segregated; and
- 2286 (c) installed or converted to real property;
- 2287 (74) amounts paid or charged for:
- 2288 (a) a purchase or lease of machinery and equipment that:
- 2289 (i) are used in performing qualified research:

2290 (A) as defined in Section 41(d), Internal Revenue Code; and  
 2291 (B) in the state; and  
 2292 (ii) have an economic life of three or more years; and  
 2293 (b) normal operating repair or replacement parts:  
 2294 (i) for the machinery and equipment described in Subsection (74)(a); and  
 2295 (ii) that have an economic life of three or more years;  
 2296 (75) a sale or lease of tangible personal property used in the preparation of prepared  
 2297 food if:  
 2298 (a) for a sale:  
 2299 (i) the ownership of the seller and the ownership of the purchaser are identical; and  
 2300 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that  
 2301 tangible personal property prior to making the sale; or  
 2302 (b) for a lease:  
 2303 (i) the ownership of the lessor and the ownership of the lessee are identical; and  
 2304 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible  
 2305 personal property prior to making the lease;  
 2306 (76) (a) purchases of machinery or equipment if:  
 2307 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,  
 2308 Gambling, and Recreation Industries, of the 2012 North American Industry Classification  
 2309 System of the federal Executive Office of the President, Office of Management and Budget;  
 2310 (ii) the machinery or equipment:  
 2311 (A) has an economic life of three or more years; and  
 2312 (B) is used by one or more persons who pay admission or user fees described in  
 2313 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and  
 2314 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:  
 2315 (A) amounts paid or charged as admission or user fees described in Subsection  
 2316 59-12-103(1)(f); and  
 2317 (B) subject to taxation under this chapter; and  
 2318 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
 2319 commission may make rules for verifying that 51% of a purchaser's sales revenue for the  
 2320 previous calendar quarter is:

- 2321 (i) amounts paid or charged as admission or user fees described in Subsection  
2322 [59-12-103\(1\)\(f\)](#); and
- 2323 (ii) subject to taxation under this chapter;
- 2324 (77) purchases of a short-term lodging consumable by a business that provides  
2325 accommodations and services described in Subsection [59-12-103\(1\)\(i\)](#);
- 2326 (78) amounts paid or charged to access a database:
- 2327 (a) if the primary purpose for accessing the database is to view or retrieve information  
2328 from the database; and
- 2329 (b) not including amounts paid or charged for a:
- 2330 (i) digital audiowork;
- 2331 (ii) digital audio-visual work; or
- 2332 (iii) digital book;
- 2333 (79) amounts paid or charged for a purchase or lease made by an electronic financial  
2334 payment service, of:
- 2335 (a) machinery and equipment that:
- 2336 (i) are used in the operation of the electronic financial payment service; and
- 2337 (ii) have an economic life of three or more years; and
- 2338 (b) normal operating repair or replacement parts that:
- 2339 (i) are used in the operation of the electronic financial payment service; and
- 2340 (ii) have an economic life of three or more years;
- 2341 (80) [~~beginning on April 1, 2013,~~] sales of a fuel cell as defined in Section [54-15-102](#);
- 2342 (81) amounts paid or charged for a purchase or lease of tangible personal property or a  
2343 product transferred electronically if the tangible personal property or product transferred  
2344 electronically:
- 2345 (a) is stored, used, or consumed in the state; and
- 2346 (b) is temporarily brought into the state from another state:
- 2347 (i) during a disaster period as defined in Section [53-2a-1202](#);
- 2348 (ii) by an out-of-state business as defined in Section [53-2a-1202](#);
- 2349 (iii) for a declared state disaster or emergency as defined in Section [53-2a-1202](#); and
- 2350 (iv) for disaster- or emergency-related work as defined in Section [53-2a-1202](#);
- 2351 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined

2352 in Section [39-9-102](#), made pursuant to Title 39, Chapter 9, State Morale, Welfare, and  
 2353 Recreation Program;

2354 (83) amounts paid or charged for a purchase or lease of molten magnesium;

2355 (84) ~~[(a) except as provided in Subsection (84)(b);]~~ subject to Section [59-12-104.8](#),  
 2356 amounts paid or charged for a purchase or lease made by a drilling equipment manufacturer of  
 2357 machinery, equipment, ~~[materials, or]~~ normal operating repair or replacement parts~~[-(t)]~~ or  
 2358 materials, except for office equipment or office supplies, that are used or consumed exclusively  
 2359 in the drilling equipment manufacturer's manufacturing process; ~~[and]~~

2360 ~~[(ii) except for office:]~~

2361 ~~[(A) equipment; or]~~

2362 ~~[(B) supplies; and]~~

2363 ~~[(b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an~~  
 2364 ~~exemption described in Subsection (84)(a) only by filing for a refund:]~~

2365 ~~[(i) of 50% of the tax paid on the amounts paid or charged; and]~~

2366 ~~[(ii) in accordance with Section [59-1-1410](#);~~

2367 (85) amounts paid or charged for a purchase or lease made by a qualifying enterprise  
 2368 data center of machinery, equipment, or normal operating repair or replacement parts, if the  
 2369 machinery, equipment, or normal operating repair or replacement parts:

2370 (a) are used in the operation of the establishment; and

2371 (b) have an economic life of one or more years; and

2372 (86) subject to Section [59-12-104.8](#), amounts paid or charged for a purchase or lease of  
 2373 machinery, equipment, or normal operating repair or replacement parts by a manufacturing  
 2374 facility that:

2375 (a) is an establishment, as the commission defines that term in accordance with Title  
 2376 63G, Chapter 3, Utah Administrative Rulemaking Act;

2377 (b) is described in NAICS Code 336111, Automobile Manufacturing, of the 2002  
 2378 North American Industry Classification System of the federal Executive Office of the  
 2379 President, Office of Management and Budget;

2380 (c) is located in the state; and

2381 (d) uses the machinery, equipment, or normal operating repair or replacement parts in  
 2382 the manufacturing process to manufacture an item sold as tangible personal property, as the

2383 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah  
2384 Administrative Rulemaking Act;

2385 (87) subject to Section 59-12-104.8, amounts paid or charged for a purchase or lease of  
2386 equipment or normal operating repair or replacement parts with an economic life of less than  
2387 three years by a manufacturing facility that:

2388 (a) is an establishment, as the commission defines that term in accordance with Title  
2389 63G, Chapter 3, Utah Administrative Rulemaking Act;

2390 (b) is described in NAICS Code 325120, Industrial Gas Manufacturing, of the 2002  
2391 North American Industry Classification System of the federal Executive Office of the  
2392 President, Office of Management and Budget;

2393 (c) is located in the state; and

2394 (d) uses the equipment or normal operating repair or replacement parts to manufacture  
2395 hydrogen;

2396 (88) sales of cleaning or washing of a vehicle, except for cleaning or washing of a  
2397 vehicle that includes cleaning or washing of the interior of the vehicle; ~~and~~

2398 (89) amounts paid or charged for a purchase or lease of machinery, equipment, normal  
2399 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used  
2400 or consumed:

2401 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined  
2402 in Section 63M-4-701 located in the state;

2403 (b) if the machinery, equipment, normal operating repair or replacement parts,  
2404 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

2405 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is  
2406 added to gasoline or diesel fuel;

2407 (ii) research and development;

2408 (iii) transporting, storing, or managing raw materials, work in process, finished  
2409 products, and waste materials produced from refining gasoline or diesel fuel, or adding  
2410 blendstock to gasoline or diesel fuel;

2411 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in  
2412 refining; or

2413 (v) preventing, controlling, or reducing pollutants from refining; and

2414 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office  
2415 of Energy Development under Subsection 63M-4-702(2)[:-];

2416 (90) subject to Section 59-12-104.8, amounts paid or charged for a purchase or lease of  
2417 machinery, equipment, normal operating repair or replacement parts, or materials, except for  
2418 office equipment or office supplies, by:

2419 (a) a manufacturing facility that:

2420 (i) is located in the state; and

2421 (ii) uses or consumes the machinery, equipment, normal operating repair or  
2422 replacement parts, or materials:

2423 (A) in the manufacturing process to manufacture an item sold as tangible personal  
2424 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,  
2425 Utah Administrative Rulemaking Act; or

2426 (B) for a scrap recycler, to process an item sold as tangible personal property, as the  
2427 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah  
2428 Administrative Rulemaking Act;

2429 (b) an establishment, as the commission defines that term in accordance with Title  
2430 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

2431 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS  
2432 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal  
2433 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the  
2434 2002 North American Industry Classification System of the federal Executive Office of the  
2435 President, Office of Management and Budget;

2436 (ii) is located in the state; and

2437 (iii) uses or consumes the machinery, equipment, normal operating repair or  
2438 replacement parts, or materials in:

2439 (A) the production process to produce an item sold as tangible personal property, as the  
2440 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah  
2441 Administrative Rulemaking Act;

2442 (B) research and development, as the commission may define that phrase in accordance  
2443 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2444 (C) transporting, storing, or managing tailings, overburden, or similar waste materials

2445 produced from mining;

2446 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in  
2447 mining; or

2448 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

2449 (c) an establishment, as the commission defines that term in accordance with Title  
2450 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

2451 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North  
2452 American Industry Classification System of the federal Executive Office of the President,  
2453 Office of Management and Budget;

2454 (ii) is located in the state; and

2455 (iii) uses or consumes the machinery, equipment, normal operating repair or  
2456 replacement parts, or materials in the operation of the web search portal; and

2457 (91) subject to Section 59-12-104.8, amounts paid or charged for a purchase or lease of  
2458 machinery, equipment, normal operating repair or replacement parts, or materials, except for  
2459 office equipment or office supplies, by an establishment, as the commission defines that term  
2460 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

2461 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North  
2462 American Industry Classification System of the federal Executive Office of the President,  
2463 Office of Management and Budget;

2464 (b) is located in this state; and

2465 (c) uses the machinery, equipment, normal operating repair or replacement parts, or  
2466 materials in the operation of the establishment.

2467 Section 3. Section 59-12-104.5 is amended to read:

2468 **59-12-104.5. Revenue and Taxation Interim Committee review of sales and use**  
2469 **taxes.**

2470 (1) The Revenue and Taxation Interim Committee shall:

2471 [(1)] (a) review Subsection 59-12-104(28) before October 1 of the year after the year in  
2472 which Congress permits a state to participate in the special supplemental nutrition program  
2473 under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on  
2474 purchases of food under that program;

2475 [(2)] (b) review Subsection 59-12-104(21) before October 1 of the year after the year in



2476 which Congress permits a state to participate in the SNAP as defined in Section [35A-1-102](#),  
2477 even if state or local sales taxes are collected within the state on purchases of food under that  
2478 program; and

2479 ~~[(3)]~~ (c) on or before November 30:

2480 ~~[(a)]~~ (i) require the Governor's Office of Economic Development to provide the report  
2481 described in Section [63N-1-302](#)(2);

2482 ~~[(b)]~~ (ii) review for each exemption described in Subsection [59-12-104](#)(86) and (87):

2483 ~~[(i)]~~ (A) the cost of the exemption;

2484 ~~[(ii)]~~ (B) the purpose and effectiveness of the exemption; and

2485 ~~[(iii)]~~ (C) the extent to which the state benefits from the exemption; and

2486 ~~[(e)]~~ (iii) make recommendations concerning whether the exemptions described in  
2487 Subsections [59-12-104](#)(86) and (87) should be continued, modified, or repealed.

2488 (2) Once the commission implements the sales and use tax exemption described in  
2489 Subsection [59-12-104](#)(90) in accordance with Section [59-12-104.8](#), the provisions described in  
2490 Subsection (1)(c) no longer have effect.

2491 Section 4. Section [59-12-104.7](#) is amended to read:

2492 **[59-12-104.7. Reporting by purchaser of certain sales and use tax exempt](#)**  
2493 **[purchases.](#)**

2494 (1) A purchaser that receives a sales and use tax exemption under Subsection  
2495 [59-12-104](#)(86) or (87) shall make the report described in Section [63N-1-302](#).

2496 (2) Once the commission implements the sales and use tax exemption described in  
2497 Subsection [59-12-104](#)(90) in accordance with Section [59-12-104.8](#), the provision described in  
2498 Subsection (1) no longer has effect.

2499 Section 5. Section [59-12-104.8](#) is enacted to read:

2500 **[59-12-104.8. Exemption for machinery, equipment, normal operating repair or](#)**  
2501 **[replacement parts, and materials.](#)**

2502 (1) As used in this section, "committee" means:

2503 (a) the Revenue and Taxation Interim Committee; or

2504 (b) the House Revenue and Taxation Standing Committee and the Senate Revenue and  
2505 Taxation Standing Committee jointly.

2506 (2) The sales and use tax exemptions described in Subsections [59-12-104](#)(90) and (91)

2507 take effect, in accordance with Subsection (3), if the Supreme Court of the United States issues  
2508 a decision or Congress passes legislation that permits a state to require the following sellers to  
2509 collect a sales or use tax:

2510 (a) a seller that does not meet one or more of the criteria described in Subsection  
2511 59-12-107(2)(a); or

2512 (b) a seller that is not required to pay or collect and remit sales and use tax under  
2513 Subsection 59-12-107(2)(b).

2514 (3) (a) The commission shall make an electronic report regarding the action of the  
2515 Supreme Court of the United States or Congress immediately after the action becomes effective  
2516 to:

2517 (i) between the conclusion of the General Session and the conclusion of interim  
2518 meetings, the Revenue and Taxation Interim Committee; or

2519 (ii) between the conclusion of interim meetings and the conclusion of the General  
2520 Session:

2521 (A) the House Revenue and Taxation Standing Committee; and

2522 (B) the Senate Revenue and Taxation Standing Committee.

2523 (b) After receiving the report described in this Subsection (3), the committee shall:

2524 (i) review the action taken by the Supreme Court of the United States or Congress;

2525 (ii) direct the commission to:

2526 (A) implement the sales and use tax exemptions described in Subsections

2527 59-12-104(90) and (91) on the first day of the next calendar quarter that is at least 30 days after  
2528 the day on which the committee directs the commission; and

2529 (B) treat the sales and use tax exemptions described in Subsections 59-12-104(14),

2530 (84), (86), and (87) as subsumed by the sales and use tax exemption described in Subsection

2531 59-12-104(90) once the commission implements the sales and use tax exemption described in

2532 Subsection 59-12-104(90); and

2533 (iii) make a recommendation:

2534 (A) to the Legislative Management Committee that the Revenue and Taxation Interim

2535 Committee study whether as a result of the action by the Supreme Court of the United States or

2536 Congress, the Legislature should amend or repeal any provisions of this chapter; or

2537 (B) to the Legislative Management Committee or in the form of legislation regarding

2538 the need for amendment or repeal of any provisions of this chapter as a result of the action by  
2539 the Supreme Court of the United States or Congress and the implementation of this section.

2540 Section 6. Section **63N-1-302** is amended to read:

2541 **63N-1-302. Reporting of certain sales and use tax exempt purchases.**

2542 (1) (a) On or before October 1, a purchaser that receives a sales and use tax exemption  
2543 under Subsection [59-12-104](#)(86) for the previous calendar year shall report to the office:

2544 (i) the total purchase or lease price for all machinery, equipment, or normal operating  
2545 repair or replacement parts for which the purchaser received the sales and use tax exemption  
2546 under Subsection [59-12-104](#)(86); and

2547 (ii) the total amount of sales and use tax that the purchaser would have owed on the  
2548 purchase or lease price but for the exemption in Subsection [59-12-104](#)(86).

2549 (b) On or before October 1, a purchaser that receives a sales and use tax exemption  
2550 under Subsection [59-12-104](#)(87) for the previous calendar year shall report to the office:

2551 (i) the total purchase or lease price for all equipment or normal operating repair or  
2552 replacement parts for which the purchaser received the sales and use tax exemption under  
2553 Subsection [59-12-104](#)(87); and

2554 (ii) the total amount of sales and use tax that the purchaser would have owed on the  
2555 purchase or lease price but for the exemption in Subsection [59-12-104](#)(87).

2556 (2) On or before November 30, the office shall report the information received under  
2557 Subsection (1) to the Revenue and Taxation Interim Committee:

2558 (a) for each exemption; and

2559 (b) in the aggregate for all purchasers that make a report in accordance with this  
2560 section.

2561 (3) Once the commission implements the sales and use tax exemption described in  
2562 Subsection [59-12-104](#)(90) in accordance with Section [59-12-104.8](#), the provisions described in  
2563 this section no longer have effect.