

PASSENGER RAIL CAR SALES AND USE TAX EXEMPTIONS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jacob L. Anderegg

House Sponsor: _____

House Sponsor: _____

House Sponsor: _____

LONG TITLE

General Description:

10 This bill modifies the Sales and Use Tax Act by amending provisions relating to sales
11 and use tax exemptions.

Highlighted Provisions:

13 This bill:

- ▶ provides definitions;
- ▶ enacts a sales and use tax exemption for the sale of a passenger rail car manufactured or assembled in this state;
- ▶ enacts a sales and use tax exemption for amounts paid or charged for a new or existing passenger rail car manufacturing facility in the state; and
- ▶ makes technical changes.

20 Money Appropriated in this Bill:

21 None

22 Other Special Clauses:

23 This bill provides a special effective date.

24 Utah Code Sections Affected:

25 AMENDS:

26 **59-12-102**, as last amended by Laws of Utah 2018, Chapters 25, 281, 415, 424, and 472

27 **59-12-104**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6



28

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

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

31 **59-12-102. Definitions.**

32 As used in this chapter:

33 (1) "800 service" means a telecommunications service that:

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

35 (b) is typically marketed:

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

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

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

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

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

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

42 Federal Communications Commission.

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

44 (i) a subscriber purchases;

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

46 the subscriber's:

47 (A) prerecorded announcement; or

48 (B) live service; and

49 (iii) is typically marketed:

50 (A) under the name 900 service; or

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

52 Communications Commission.

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

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

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

57 (A) a product; or

58 (B) a service.

90 (v) Section 59-12-2217;
91 (w) Section 59-12-2218;
92 (x) Section 59-12-2219; or
93 (y) Section 59-12-2220.

94 (7) "Aircraft" means the same as that term is defined in Section 72-10-102.

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

119 (9) "Alcoholic beverage" means a beverage that:
120 (a) is suitable for human consumption; and

121 (b) contains .5% or more alcohol by volume.

122 (10) "Alternative energy" means:

123 (a) biomass energy;

124 (b) geothermal energy;

125 (c) hydroelectric energy;

126 (d) solar energy;

127 (e) wind energy; or

128 (f) energy that is derived from:

129 (i) coal-to-liquids;

130 (ii) nuclear fuel;

131 (iii) oil-impregnated diatomaceous earth;

132 (iv) oil sands;

133 (v) oil shale;

134 (vi) petroleum coke; or

135 (vii) waste heat from:

136 (A) an industrial facility; or

137 (B) a power station in which an electric generator is driven through a process in which

138 water is heated, turns into steam, and spins a steam turbine.

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

140 facility" means a facility that:

141 (i) uses alternative energy to produce electricity; and

142 (ii) has a production capacity of two megawatts or greater.

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

144 whether the facility is:

145 (i) connected to an electric grid; or

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

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

148 provision of telecommunications service.

149 (b) "Ancillary service" includes:

150 (i) a conference bridging service;

151 (ii) a detailed communications billing service;

- 152 (iii) directory assistance;
- 153 (iv) a vertical service; or
- 154 (v) a voice mail service.

155 (13) "Area agency on aging" means the same as that term is defined in Section
156 [62A-3-101](#).

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

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

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

163 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
164 washing of tangible personal property if the cleaning or washing labor is primarily performed
165 by an individual:

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

168 (b) at the direction of the seller of the cleaning or washing of the tangible personal
169 property.

170 (16) "Authorized carrier" means:

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

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

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

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

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

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

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

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

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

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

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

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

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to

214 taxation under this chapter and tangible personal property or a product that is not subject to
215 taxation under this chapter if the:

216 (A) seller's purchase price of the tangible personal property or product subject to
217 taxation under this chapter is de minimis; or

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

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

222 (A) that retail sale includes:

223 (I) food and food ingredients;

224 (II) a drug;

225 (III) durable medical equipment;

226 (IV) mobility enhancing equipment;

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

228 (VI) a prosthetic device; or

229 (VII) a medical supply; and

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

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

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

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

237 (A) packaging that:

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

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

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

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

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

254 (A) a binding sales document; or

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

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

258 (A) a bill of sale;

259 (B) a contract;

260 (C) an invoice:

261 (D) a lease agreement;

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

263 (E) a price list;

264 (G) a rate card:

265 (II) *carica*

266 *Journal of Health Politics, Policy and Law* / April 2004

(c) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal

268 property on a product subject to taxation under this chapter is to minimize if:

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

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

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

274 (A) shall use the seller's purchase price or the seller's sales price to determine if the
275 purchase price or sales price of the tangible personal property or product subject to taxation

276 under this chapter is de minimis; and

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

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

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

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

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

290 (i) on a transaction; and

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

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

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

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

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

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

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

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

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

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

307 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
308 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
309 fuels that does not constitute industrial use under Subsection (56) or residential use under
310 Subsection [106] 107.

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

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

319 (c) "Common carrier" does not include a person that provides transportation network
320 services, as defined in Section 13-51-102.

321 (25) "Component part" includes:

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

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

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

327 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

337 (a) future updates or upgrades to computer software

338 (b) support services with respect to computer software; or
339 (c) a combination of Subsections (28)(a) and (b).

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

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

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

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

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

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

351 (i) by a seller of:

352 (A) tangible personal property;

353 (B) a product transferred electronically; or

354 (C) services; and

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

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

359 (i) transportation;

360 (ii) shipping;

361 (iii) postage;

362 (iv) handling:

363 (v) crating; or

364 (vi) packing.

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

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

368 (a) is intended to supplement the diet:

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

- (i) a vitamin;
- (ii) a mineral;
- (iii) an herb or other botanical;
- (iv) an amino acid;
- (v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or
- (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (34)(b)(i) through (v);

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

- (A) tablet form;
- (B) capsule form;
- (C) powder form;
- (D) softgel form;
- (E) gelcap form; or
- (F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections (34)(c)(i)(A) through (F), is not represented:

- (A) as conventional food; and
- (B) for use as a sole item of:

 - (I) a meal; or
 - (II) the diet; and

- (d) is required to be labeled as a dietary supplement:

 - (i) identifiable by the "Supplemental Facts" box found on the label; and
 - (ii) as required by 21 C.F.R. Sec. 101.36.

(35) "Digital audio-visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

(36) (a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) "Digital audio work" includes a ringtone.

(37) "Digital book" means a work that is generally recognized in the ordinary and usual

400 sense as a book.

401 (38) (a) "Direct mail" means printed material delivered or distributed by United States
402 mail or other delivery service:

403 (i) to:

404 (A) a mass audience; or

405 (B) addressees on a mailing list provided:

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

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

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

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

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

413 (39) "Directory assistance" means an ancillary service of providing:

414 (a) address information; or

415 (b) telephone number information.

416 (40) (a) "Disposable home medical equipment or supplies" means medical equipment
417 or supplies that:

418 (i) cannot withstand repeated use; and

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

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

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

422 (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or

423 (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).

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

425 (i) a drug;

426 (ii) durable medical equipment;

427 (iii) a hearing aid;

428 (iv) a hearing aid accessory;

429 (v) mobility enhancing equipment; or

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

(A) eyeglasses; or
(B) contact lenses.

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

(41) "Drilling equipment manufacturer" means a facility:

(a) located in the state;

(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

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

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) "Drug" does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

462 (iii) an alcoholic beverage; or
463 (iv) a prosthetic device.

464 (43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means
465 equipment that:

466 (i) can withstand repeated use;
467 (ii) is primarily and customarily used to serve a medical purpose;
468 (iii) generally is not useful to a person in the absence of illness or injury; and
469 (iv) is not worn in or on the body.

470 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
471 equipment described in Subsection (43)(a).

472 (c) "Durable medical equipment" does not include mobility enhancing equipment.

473 (44) "Electronic" means:

474 (a) relating to technology; and

475 (b) having:

476 (i) electrical capabilities;

477 (ii) digital capabilities;

478 (iii) magnetic capabilities;

479 (iv) wireless capabilities;

480 (v) optical capabilities;

481 (vi) electromagnetic capabilities; or

482 (vii) capabilities similar to Subsections (44)(b)(i) through (vi).

(45) "Electronic financial payment service" means an establishment:

484 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
485 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
486 federal Executive Office of the President, Office of Management and Budget; and

487 (b) that performs electronic financial payment services.

(16) "Emalouage" means the same as that term is defined in Section 58, 10, 401.

(47) "Fixed guideway" means a public transit facility that uses and occupies

(7) "Public gateway" means a public gateway that is not a local interface to a private network.

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

(3) a separate right of way for the use of public transit.

493 (a) is powered by turbine engines;
494 (b) operates on jet fuel; and
495 (c) has wings that are permanently attached to the fuselage of the aircraft.

496 (49) "Fixed wireless service" means a telecommunications service that provides radio
497 communication between fixed points.

498 (50) (a) "Food and food ingredients" means substances:
499 (i) regardless of whether the substances are in:
500 (A) liquid form;
501 (B) concentrated form;
502 (C) solid form;
503 (D) frozen form;
504 (E) dried form; or
505 (F) dehydrated form; and
506 (ii) that are:
507 (A) sold for:
508 (I) ingestion by humans; or
509 (II) chewing by humans; and
510 (B) consumed for the substance's:
511 (I) taste; or
512 (II) nutritional value.

513 (b) "Food and food ingredients" includes an item described in Subsection [(91)]
514 (92)(b)(iii).

515 (c) "Food and food ingredients" does not include:
516 (i) an alcoholic beverage;
517 (ii) tobacco; or
518 (iii) prepared food.

519 (51) (a) "Fundraising sales" means sales:
520 (i) (A) made by a school; or
521 (B) made by a school student;
522 (ii) that are for the purpose of raising funds for the school to purchase equipment,
523 materials, or provide transportation; and

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

525 (b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity"
526 means a school activity:

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

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

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

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

535 (53) "Governing board of the agreement" means the governing board of the agreement
536 that is:

537 (a) authorized to administer the agreement; and
538 (b) established in accordance with the agreement

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

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

542 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
543 Administrative Office of the Courts, and similar administrative units in the judicial branch;

544 (iii) the legislative branch of the state, including the House of Representatives, the
545 Senate, the Legislative Printing Office, the Office of Legislative Research and General
546 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fi
547 Analyst:

548 (iv) the National Guard;

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

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

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

553 (i) a school;

554 (ii) the State Board of Education;

586 (G) textile; or

587 (H) rubber; and

588 (ii) the new products under Subsection (56)(d)(i) would otherwise be made with

589 nonrecycled materials; or

590 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a

591 cogeneration facility as defined in Section 54-2-1.

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

594 (i) tangible personal property; or

595 (ii) a product transferred electronically.

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

597 (i) repairs or renovations of:

598 (A) tangible personal property; or

599 (B) a product transferred electronically; or

600 (ii) attaching tangible personal property or a product transferred electronically;

601 (A) to other tangible personal property; and

602 (B) as part of a manufacturing or fabrication process

603 (58) "Institution of higher education" means an institution of higher education listed in
604 Section 53B-2-101.

605 (59) (a) "Lease" or "rental" means a transfer of possession or control of tangible
606 personal property or a product transferred electronically for:

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

608 (B) an indeterminate term; and

609 (ii) consideration.

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

615 (i) a transfer of possession or control of property under a security agreement or
616 deferred payment plan that requires the transfer of title upon completion of the required

617 payments;

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

620 (A) upon completion of required payments; and

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

622 (I) \$100; or

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

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

627 (d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to
628 perform as designed if the operator's duties exceed the:

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

630 (ii) maintenance of tangible personal property; or

631 (iii) inspection of tangible personal property.

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

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

636 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
637 Manufacturing; or

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

639 (61) "Life science research and development facility" means a facility owned, leased,
640 or rented by a life science establishment if research and development is performed in 51% or
641 more of the total area of the facility.

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

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

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

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

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

648 (64) "Manufactured home" means the same as that term is defined in Section
649 [15A-1-302](#).

657 (b) a scrap recycler if:

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

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

660 products:

661 (A) iron;

662 (B) steel;

663 (C) nonferrous metal;

664 (D) paper;

665 (E) glass;

666 (F) plastic;

667 (G) textile; or

668 (H) rubber; and
669 (ii) the new products under Subsection (65)(b)(i) would otherwise be made with
670 nonrecycled materials; or

671 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
672 placed in service on or after May 1, 2006.

673 (66) "Member of the immediate family of the producer" means a person who is related
674 to a producer described in Subsection 59-12-104(20)(a) as a:

675 (a) child or stepchild, regardless of whether the child or stepchild is;

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

677 (ii) a foster child or foster stepchild;

678 (b) grandchild or stepgrandchild;

- (c) grandparent or stepgrandparent;
- (d) nephew or stepnephew;
- (e) niece or stepniece;
- (f) parent or stepparent;
- (g) sibling or stepsibling;
- (h) spouse;
- (i) person who is the spouse of a person described in Subsections (66)(a) through (g);

686 or

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

(68) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

693 (69) (a) "Mobile wireless service" means a telecommunications service, regardless of
694 the technology used, if:

695 (i) the origination point of the conveyance, routing, or transmission is not fixed;
696 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
697 (iii) the origination point described in Subsection (69)(a)(i) and the termination point
698 described in Subsection (69)(a)(ii) are not fixed.

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

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

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

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

- 707 (ii) appropriate for use in a:
- 708 (A) home; or
- 709 (B) motor vehicle; and

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

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

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

(i) a motor vehicle;

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

(iii) durable medical equipment; or

(iv) a prosthetic device.

(71) "Model 1 seller" means a seller registered under the agreement that has selected a service provider as the seller's agent to perform all of the seller's sales and use tax obligations for agreement sales and use taxes other than the seller's obligation under Section 124 to remit a tax on the seller's own purchases.

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

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

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

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under the agreement that has:

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

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

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

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

(B) due to each local taxing jurisdiction; and

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

(b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

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

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

(76) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(77) "Oil sands" means impregnated bituminous sands that:

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

other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished
um products.

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

(79) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail computer software.

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

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

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

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

(82) "Passenger rail car" means a piece of railway rolling stock that is designed to carry passengers on a mode of transit service, including commuter rail, light rail, or heavy rail.

[f82] (83) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

[~~83~~] (84) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

[~~84~~] 85 (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

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

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

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

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

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

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

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

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

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

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

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

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection [~~(84)~~] (85)(c)(iii) or (iv).

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

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

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection [~~(84)~~] (85)(b)(ii);

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

(A) a computer;

(B) a telephone;

(C) a television; or

803 (D) tangible personal property similar to Subsections [§84] (§85)(c)(iii)(A) through (C)
804 as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
805 Administrative Rulemaking Act; or

806 (iv) an item listed in Subsection [¶125] (126)(c).

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

811 [86] (87) "Place of primary use":

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

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

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

817 (b) for mobile telecommunications service, means the same as that term is defined in
818 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

[87] (88) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

821 (i) through the use of a:

822 (A) bank card;

823 (B) credit card;

824 (C) debit card; or

825 (D) travel card; or

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

828 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
829 service, that would be a prepaid wireless calling service if the service were exclusively a
830 telecommunications service.

[(88)] (89) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

833 [§89] (90) "Prepaid calling service" means a telecommunications service:

834 (a) that allows a purchaser access to telecommunications service that is exclusively
835 telecommunications service;

836 (b) that:

837 (i) is paid for in advance; and

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

839 (A) access number; or

840 (B) authorization code;

841 (c) that is dialed:

842 (i) manually; or

843 (ii) electronically; and

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

845 (i) by a known amount; and

846 (ii) with use.

847 [~~90~~] 91 "Prepaid wireless calling service" means a telecommunications service:

848 (a) that provides the right to utilize:

849 (i) mobile wireless service; and

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

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

852 (B) a content service; or

853 (C) an ancillary service;

854 (b) that:

855 (i) is paid for in advance; and

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

857 (A) access number; or

858 (B) authorization code;

859 (c) that is dialed:

860 (i) manually; or

861 (ii) electronically; and

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

863 (i) by a known amount; and

864 (ii) with use.

865 [§91] (92) (a) "Prepared food" means:
866 (i) food:
867 (A) sold in a heated state; or
868 (B) heated by a seller;
869 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
870 item; or
871 (iii) except as provided in Subsection [§91] (92)(c), food sold with an eating utensil
872 provided by the seller, including a:
873 (A) plate;
874 (B) knife;
875 (C) fork;
876 (D) spoon;
877 (E) glass;
878 (F) cup;
879 (G) napkin; or
880 (H) straw.
881 (b) "Prepared food" does not include:
882 (i) food that a seller only:
883 (A) cuts;
884 (B) repackages; or
885 (C) pasteurizes; or
886 (ii) (A) the following:
887 (I) raw egg;
888 (II) raw fish;
889 (III) raw meat;
890 (IV) raw poultry; or
891 (V) a food containing an item described in Subsections [§91] (92)(b)(ii)(A)(I) through
892 (IV); and
893 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
894 Food and Drug Administration's Food Code that a consumer cook the items described in
895 Subsection [§91] (92)(b)(ii)(A) to prevent food borne illness; or

902 (B) food and food ingredients sold in an unheated state:

903 (I) by weight or volume; and

904 (II) as a single item; or

905 (C) a bakery item, including:

906 (I) a bagel;

907 (II) a bar;

908 (III) a biscuit;

909 (IV) bread;

910 (V) a bun;

911 (VI) a cake;

912 (VII) a cook

913 (VIII) a croissant;

914 (IX) a danish;

915 (X) a donut;

916 (XI) a muffin;

917 (XII) a pastr

918 (XIII) a pie;

919 (XIV) a roll;

920 (XV) a tart;

921 (XVI) a torte

922 (XVII) a tort

923 (c) An eating

924 transport the food:
925 (i) a container; or

926 (iii) packaging

C H A P T E R S E V E N

927 [92] (93) "Prescription" means an order, formula, or recipe that is issued:
928 (a) (i) orally;
929 (ii) in writing;
930 (iii) electronically; or
931 (iv) by any other manner of transmission; and
932 (b) by a licensed practitioner authorized by the laws of a state.

933 [93] (94) (a) Except as provided in Subsection [93] (94)(b)(ii) or (iii), "prewritten
934 computer software" means computer software that is not designed and developed:
935 (i) by the author or other creator of the computer software; and
936 (ii) to the specifications of a specific purchaser.

937 (b) "Prewritten computer software" includes:
938 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
939 software is not designed and developed:
940 (A) by the author or other creator of the computer software; and
941 (B) to the specifications of a specific purchaser;
942 (ii) computer software designed and developed by the author or other creator of the
943 computer software to the specifications of a specific purchaser if the computer software is sold
944 to a person other than the purchaser; or
945 (iii) except as provided in Subsection [93] (94)(c), prewritten computer software or a
946 prewritten portion of prewritten computer software:
947 (A) that is modified or enhanced to any degree; and
948 (B) if the modification or enhancement described in Subsection [93] (94)(b)(iii)(A) is
949 designed and developed to the specifications of a specific purchaser.

950 (c) "Prewritten computer software" does not include a modification or enhancement
951 described in Subsection [93] (94)(b)(iii) if the charges for the modification or enhancement
952 are:
953 (i) reasonable; and
954 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
955 invoice or other statement of price provided to the purchaser at the time of sale or later, as
956 demonstrated by:
957 (A) the books and records the seller keeps at the time of the transaction in the regular

958 course of business, including books and records the seller keeps at the time of the transaction in
959 the regular course of business for nontax purposes;

960 (B) a preponderance of the facts and circumstances at the time of the transaction; and
961 (C) the understanding of all of the parties to the transaction.

962 [94] (95) (a) "Private communications service" means a telecommunications service:
963 (i) that entitles a customer to exclusive or priority use of one or more communications

964 channels between or among termination points; and

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

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

969 (i) an extension line;

970 (ii) a station;

971 (iii) switching capacity; or

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

974 [95] (96) (a) Except as provided in Subsection [95] (96)(b), "product transferred
975 electronically" means a product transferred electronically that would be subject to a tax under
976 this chapter if that product was transferred in a manner other than electronically.

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

978 (i) an ancillary service;

979 (ii) computer software; or

980 (iii) a telecommunications service.

981 [96] (97) (a) "Prosthetic device" means a device that is worn on or in the body to:

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

983 (ii) prevent or correct a physical deformity or physical malfunction; or

984 (iii) support a weak or deformed portion of the body.

985 (b) "Prosthetic device" includes:

986 (i) parts used in the repairs or renovation of a prosthetic device;

987 (ii) replacement parts for a prosthetic device;

988 (iii) a dental prosthesis; or

989 (iv) a hearing aid.

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

991 (i) corrective eyeglasses; or

992 (ii) contact lenses.

993 [97] (98) (a) "Protective equipment" means an item:

994 (i) for human wear; and

995 (ii) that is:

996 (A) designed as protection:

997 (I) to the wearer against injury or disease; or

998 (II) against damage or injury of other persons or property; and

999 (B) not suitable for general use.

1000 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1001 commission shall make rules:

1002 (i) listing the items that constitute "protective equipment"; and

1003 (ii) that are consistent with the list of items that constitute "protective equipment"

1004 under the agreement.

1005 [98] (99) (a) For purposes of Subsection 59-12-104(41), "publication" means any

1006 written or printed matter, other than a photocopy:

1007 (i) regardless of:

1008 (A) characteristics;

1009 (B) copyright;

1010 (C) form;

1011 (D) format;

1012 (E) method of reproduction; or

1013 (F) source; and

1014 (ii) made available in printed or electronic format.

1015 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1016 commission may by rule define the term "photocopy."

1017 [99] (100) (a) "Purchase price" and "sales price" mean the total amount of

1018 consideration:

1019 (i) valued in money; and

1020 (ii) for which tangible personal property, a product transferred electronically, or
1021 services are:

1022 (A) sold;

1023 (B) leased; or

1024 (C) rented.

1025 (b) "Purchase price" and "sales price" include:

1026 (i) the seller's cost of the tangible personal property, a product transferred
1027 electronically, or services sold;

1028 (ii) expenses of the seller, including:

1029 (A) the cost of materials used;

1030 (B) a labor cost;

1031 (C) a service cost;

1032 (D) interest;

1033 (E) a loss;

1034 (F) the cost of transportation to the seller; or

1035 (G) a tax imposed on the seller;

1036 (iii) a charge by the seller for any service necessary to complete the sale; or

1037 (iv) consideration a seller receives from a person other than the purchaser if:

1038 (A) (I) the seller actually receives consideration from a person other than the purchaser;

1039 and

1040 (II) the consideration described in Subsection [99] (100)(b)(iv)(A)(I) is directly

1041 related to a price reduction or discount on the sale;

1042 (B) the seller has an obligation to pass the price reduction or discount through to the
1043 purchaser;

1044 (C) the amount of the consideration attributable to the sale is fixed and determinable by
1045 the seller at the time of the sale to the purchaser; and

1046 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
1047 seller to claim a price reduction or discount; and

1048 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
1049 coupon, or other documentation with the understanding that the person other than the seller
1050 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1051 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1052 organization allowed a price reduction or discount, except that a preferred customer card that is
1053 available to any patron of a seller does not constitute membership in a group or organization
1054 allowed a price reduction or discount; or

1055 (III) the price reduction or discount is identified as a third party price reduction or
1056 discount on the:

1057 (Aa) invoice the purchaser receives; or

1058 (Bb) certificate, coupon, or other documentation the purchaser presents.

1059 (c) "Purchase price" and "sales price" do not include:

1060 (i) a discount:

1061 (A) in a form including:

1062 (I) cash;

1063 (II) term; or

1064 (III) coupon;

1065 (B) that is allowed by a seller;

1066 (C) taken by a purchaser on a sale; and

1067 (D) that is not reimbursed by a third party; or

1068 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
1069 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
1070 sale or later, as demonstrated by the books and records the seller keeps at the time of the
1071 transaction in the regular course of business, including books and records the seller keeps at the
1072 time of the transaction in the regular course of business for nontax purposes, by a
1073 preponderance of the facts and circumstances at the time of the transaction, and by the
1074 understanding of all of the parties to the transaction:

1075 (A) the following from credit extended on the sale of tangible personal property or
1076 services:

1077 (I) a carrying charge;

1078 (II) a financing charge; or

1079 (III) an interest charge;

1080 (B) a delivery charge;

1081 (C) an installation charge;

1082 (D) a manufacturer rebate on a motor vehicle; or
1083 (E) a tax or fee legally imposed directly on the consumer.

1084 [§100] (101) "Purchaser" means a person to whom:
1085 (a) a sale of tangible personal property is made;
1086 (b) a product is transferred electronically; or
1087 (c) a service is furnished.

1088 [§101] (102) "Qualifying enterprise data center" means an establishment that will:
1089 (a) own and operate a data center facility that will house a group of networked server
1090 computers in one physical location in order to centralize the dissemination, management, and
1091 storage of data and information;
1092 (b) be located in the state;
1093 (c) be a new operation constructed on or after July 1, 2016;
1094 (d) consist of one or more buildings that total 150,000 or more square feet;
1095 (e) be owned or leased by:
1096 (i) the establishment; or
1097 (ii) a person under common ownership, as defined in Section 59-7-101, of the
1098 establishment; and
1099 (f) be located on one or more parcels of land that are owned or leased by:
1100 (i) the establishment; or
1101 (ii) a person under common ownership, as defined in Section 59-7-101, of the
1102 establishment.

1103 [§102] (103) "Regularly rented" means:
1104 (a) rented to a guest for value three or more times during a calendar year; or
1105 (b) advertised or held out to the public as a place that is regularly rented to guests for
1106 value.

1107 [§103] (104) "Rental" means the same as that term is defined in Subsection (59).

1108 [§104] (105) (a) Except as provided in Subsection [§104] (105)(b), "repairs or
1109 renovations of tangible personal property" means:
1110 (i) a repair or renovation of tangible personal property that is not permanently attached
1111 to real property; or
1112 (ii) attaching tangible personal property or a product transferred electronically to other

1113 tangible personal property or detaching tangible personal property or a product transferred
1114 electronically from other tangible personal property if:

1115 (A) the other tangible personal property to which the tangible personal property or
1116 product transferred electronically is attached or from which the tangible personal property or
1117 product transferred electronically is detached is not permanently attached to real property; and

1118 (B) the attachment of tangible personal property or a product transferred electronically
1119 to other tangible personal property or detachment of tangible personal property or a product
1120 transferred electronically from other tangible personal property is made in conjunction with a
1121 repair or replacement of tangible personal property or a product transferred electronically.

1122 (b) "Repairs or renovations of tangible personal property" does not include:

1123 (i) attaching prewritten computer software to other tangible personal property if the
1124 other tangible personal property to which the prewritten computer software is attached is not
1125 permanently attached to real property; or

1126 (ii) detaching prewritten computer software from other tangible personal property if the
1127 other tangible personal property from which the prewritten computer software is detached is
1128 not permanently attached to real property.

1129 ~~[105]~~ (106) "Research and development" means the process of inquiry or
1130 experimentation aimed at the discovery of facts, devices, technologies, or applications and the
1131 process of preparing those devices, technologies, or applications for marketing.

1132 ~~[106]~~ (107) (a) "Residential telecommunications services" means a
1133 telecommunications service or an ancillary service that is provided to an individual for personal
1134 use:

1135 (i) at a residential address; or

1136 (ii) at an institution, including a nursing home or a school, if the telecommunications
1137 service or ancillary service is provided to and paid for by the individual residing at the
1138 institution rather than the institution.

1139 (b) For purposes of Subsection ~~[106]~~ (107)(a)(i), a residential address includes an:

1140 (i) apartment; or

1141 (ii) other individual dwelling unit.

1142 ~~[107]~~ (108) "Residential use" means the use in or around a home, apartment building,
1143 sleeping quarters, and similar facilities or accommodations.

1144 [§108] (109) (a) "Retailer" means any person engaged in a regularly organized
1145 business in tangible personal property or any other taxable transaction under Subsection
1146 59-12-103(1), and who is selling to the user or consumer and not for resale.
1147 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1148 engaged in the business of selling to users or consumers within the state.
1149 [§109] (110) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
1150 other than:
1151 (a) resale;
1152 (b) sublease; or
1153 (c) subrent.
1154 [§110] (111) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1155 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1156 Subsection 59-12-103(1), for consideration.
1157 (b) "Sale" includes:
1158 (i) installment and credit sales;
1159 (ii) any closed transaction constituting a sale;
1160 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1161 chapter;
1162 (iv) any transaction if the possession of property is transferred but the seller retains the
1163 title as security for the payment of the price; and
1164 (v) any transaction under which right to possession, operation, or use of any article of
1165 tangible personal property is granted under a lease or contract and the transfer of possession
1166 would be taxable if an outright sale were made.
1167 [§111] (112) "Sale at retail" means the same as that term is defined in Subsection
1168 [§109] (110).
1169 [§112] (113) "Sale-leaseback transaction" means a transaction by which title to
1170 tangible personal property or a product transferred electronically that is subject to a tax under
1171 this chapter is transferred:
1172 (a) by a purchaser-lessee;
1173 (b) to a lessor;
1174 (c) for consideration; and

1175 (d) if:

1176 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1177 of the tangible personal property or product transferred electronically;

1178 (ii) the sale of the tangible personal property or product transferred electronically to the
1179 lessor is intended as a form of financing:

1180 (A) for the tangible personal property or product transferred electronically; and

1181 (B) to the purchaser-lessee; and

1182 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1183 is required to:

1184 (A) capitalize the tangible personal property or product transferred electronically for
1185 financial reporting purposes; and

1186 (B) account for the lease payments as payments made under a financing arrangement.

1187 ~~[113]~~ (114) "Sales price" means the same as that term is defined in Subsection ~~[99]~~
1188 (100).

1189 ~~[114]~~ (115) (a) "Sales relating to schools" means the following sales by, amounts
1190 paid to, or amounts charged by a school:

1191 (i) sales that are directly related to the school's educational functions or activities
1192 including:

1193 (A) the sale of:

1194 (I) textbooks;

1195 (II) textbook fees;

1196 (III) laboratory fees;

1197 (IV) laboratory supplies; or

1198 (V) safety equipment;

1199 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
1200 that:

1201 (I) a student is specifically required to wear as a condition of participation in a
1202 school-related event or school-related activity; and

1203 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1204 place of ordinary clothing;

1205 (C) sales of the following if the net or gross revenues generated by the sales are

1206 deposited into a school district fund or school fund dedicated to school meals:

1207 (I) food and food ingredients; or

1208 (II) prepared food; or

1209 (D) transportation charges for official school activities; or

1210 (ii) amounts paid to or amounts charged by a school for admission to a school-related

1211 event or school-related activity.

1212 (b) "Sales relating to schools" does not include:

1213 (i) bookstore sales of items that are not educational materials or supplies;

1214 (ii) except as provided in Subsection [(114)] (115)(a)(i)(B):

1215 (A) clothing;

1216 (B) clothing accessories or equipment;

1217 (C) protective equipment; or

1218 (D) sports or recreational equipment; or

1219 (iii) amounts paid to or amounts charged by a school for admission to a school-related

1220 event or school-related activity if the amounts paid or charged are passed through to a person:

1221 (A) other than a:

1222 (I) school;

1223 (II) nonprofit organization authorized by a school board or a governing body of a

1224 private school to organize and direct a competitive secondary school activity; or

1225 (III) nonprofit association authorized by a school board or a governing body of a

1226 private school to organize and direct a competitive secondary school activity; and

1227 (B) that is required to collect sales and use taxes under this chapter.

1228 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1229 commission may make rules defining the term "passed through."

1230 [(115)] (116) For purposes of this section and Section [59-12-104](#), "school":

1231 (a) means:

1232 (i) an elementary school or a secondary school that:

1233 (A) is a:

1234 (I) public school; or

1235 (II) private school; and

1236 (B) provides instruction for one or more grades kindergarten through 12; or

1237 (ii) a public school district; and

1238 (b) includes the Electronic High School as defined in Section 53E-10-601.

1239 [116] (117) "Seller" means a person that makes a sale, lease, or rental of:

1240 (a) tangible personal property;

1241 (b) a product transferred electronically; or

1242 (c) a service.

1243 [117] (118) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

1244 (i) used primarily in the process of:

1245 (A) (I) manufacturing a semiconductor;

1246 (II) fabricating a semiconductor; or

1247 (III) research or development of a:

1248 (Aa) semiconductor; or

1249 (Bb) semiconductor manufacturing process; or

1250 (B) maintaining an environment suitable for a semiconductor; or

1251 (ii) consumed 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.

1258 (b) "Semiconductor fabricating, processing, research, or development materials"

1259 includes:

1260 (i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection [117] (118)(a); or

1261 (ii) a chemical, catalyst, or other material used to:

1262 (A) produce or induce in a semiconductor a:

1263 (I) chemical change; or

1264 (II) physical change;

1268 (B) remove impurities from a semiconductor; or
1269 (C) improve the marketable condition of a semiconductor.

1270 [~~118~~] (119) "Senior citizen center" means a facility having the primary purpose of
1271 providing services to the aged as defined in Section 62A-3-101.

1272 [~~119~~] (120) (a) Subject to Subsections [~~119~~] (120)(b) and (c), "short-term lodging
1273 consumable" means tangible personal property that:

1274 (i) a business that provides accommodations and services described in Subsection
1275 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
1276 to a purchaser;

1277 (ii) is intended to be consumed by the purchaser; and

1278 (iii) is:

1279 (A) included in the purchase price of the accommodations and services; and

1280 (B) not separately stated on an invoice, bill of sale, or other similar document provided
1281 to the purchaser.

1282 (b) "Short-term lodging consumable" includes:

1283 (i) a beverage;

1284 (ii) a brush or comb;

1285 (iii) a cosmetic;

1286 (iv) a hair care product;

1287 (v) lotion;

1288 (vi) a magazine;

1289 (vii) makeup;

1290 (viii) a meal;

1291 (ix) mouthwash;

1292 (x) nail polish remover;

1293 (xi) a newspaper;

1294 (xii) a notepad;

1295 (xiii) a pen;

1296 (xiv) a pencil;

1297 (xv) a razor;

1298 (xvi) saline solution;

1299 (xvii) a sewing kit;
1300 (xviii) shaving cream;
1301 (xix) a shoe shine kit;
1302 (xx) a shower cap;
1303 (xxi) a snack item;
1304 (xxii) soap;
1305 (xxiii) toilet paper;
1306 (xxiv) a toothbrush;
1307 (xxv) toothpaste; or
1308 (xxvi) an item similar to Subsections [(119)] (120)(b)(i) through (xxv) as the
1309 commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah
1310 Administrative Rulemaking Act.

1311 (c) "Short-term lodging consumable" does not include:
1312 (i) tangible personal property that is cleaned or washed to allow the tangible personal
1313 property to be reused; or
1314 (ii) a product transferred electronically.
1315 [(120)] (121) "Simplified electronic return" means the electronic return:
1316 (a) described in Section 318(C) of the agreement; and
1317 (b) approved by the governing board of the agreement.
1318 [(121)] (122) "Solar energy" means the sun used as the sole source of energy for
1319 producing electricity.
1320 [(122)] (123) (a) "Sports or recreational equipment" means an item:
1321 (i) designed for human use; and
1322 (ii) that is:
1323 (A) worn in conjunction with:
1324 (I) an athletic activity; or
1325 (II) a recreational activity; and
1326 (B) not suitable for general use.
1327 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1328 commission shall make rules:
1329 (i) listing the items that constitute "sports or recreational equipment"; and

1330 (ii) that are consistent with the list of items that constitute "sports or recreational
1331 equipment" under the agreement.

1332 [+] (124) "State" means the state of Utah, its departments, and agencies.

1333 [124] (125) "Storage" means any keeping or retention of tangible personal property or
1334 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
1335 except sale in the regular course of business.

1336 [125] (126) (a) Except as provided in Subsection [125] (126)(d) or (e), "tangible
1337 personal property" means personal property that:

1338 (i) may be:

1339 (A) seen;

1340 (B) weighed;

1341 (C) measured

1342 (D) felt; or

1343 (E) touched; or

1344 (ii) is in any manner perceptible to the senses.

1345 (b) "Tangible personal property" includes:

1346 (i) electricity;

1347 (ii) water;

1348 (iii) gas;

1349 (iv) steam; or

1350 (v) prewritten computer software, regardless of the manner in which the prewritten
1351 computer software is transferred.

1352 (c) "Tangible personal property" includes the following regardless of whether the item
1353 is attached to real property:

1354 (i) a dishwasher;

1355 (ii) a dryer;

1356 (iii) a freezer;

1357 (iv) a microwave;

1358 (v) a refrigerator;

1359 (vi) a stove;

1360 (vii) a wash

1361 (viii) an item similar to Subsections [125] (126)(c)(i) through (vii) as determined by
1362 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1363 Rulemaking Act.

1364 (d) "Tangible personal property" does not include a product that is transferred
1365 electronically.

1366 (e) "Tangible personal property" does not include the following if attached to real
1367 property, regardless of whether the attachment to real property is only through a line that
1368 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1369 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1370 Rulemaking Act:

- 1371 (i) a hot water heater;
- 1372 (ii) a water filtration system; or
- 1373 (iii) a water softener system.

1374 [126] (127) (a) "Telecommunications enabling or facilitating equipment, machinery,
1375 or software" means an item listed in Subsection [126] (127)(b) if that item is purchased or
1376 leased primarily to enable or facilitate one or more of the following to function:

- 1377 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1378 (ii) telecommunications transmission equipment, machinery, or software.

1379 (b) The following apply to Subsection [126] (127)(a):

- 1380 (i) a pole;
- 1381 (ii) software;
- 1382 (iii) a supplementary power supply;
- 1383 (iv) temperature or environmental equipment or machinery;
- 1384 (v) test equipment;
- 1385 (vi) a tower; or

1386 (vii) equipment, machinery, or software that functions similarly to an item listed in
1387 Subsections [126] (127)(b)(i) through (vi) as determined by the commission by rule made in
1388 accordance with Subsection [126] (127)(c).

1389 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1390 commission may by rule define what constitutes equipment, machinery, or software that
1391 functions similarly to an item listed in Subsections [126] (127)(b)(i) through (vi).

1392 [§127] (128) "Telecommunications equipment, machinery, or software required for
1393 911 service" means equipment, machinery, or software that is required to comply with 47
1394 C.F.R. Sec. 20.18.

1395 [§128] (129) "Telecommunications maintenance or repair equipment, machinery, or
1396 software" means equipment, machinery, or software purchased or leased primarily to maintain
1397 or repair one or more of the following, regardless of whether the equipment, machinery, or
1398 software is purchased or leased as a spare part or as an upgrade or modification to one or more
1399 of the following:

1400 (a) telecommunications enabling or facilitating equipment, machinery, or software;
1401 (b) telecommunications switching or routing equipment, machinery, or software; or
1402 (c) telecommunications transmission equipment, machinery, or software.

1403 [§129] (130) (a) "Telecommunications service" means the electronic conveyance,
1404 routing, or transmission of audio, data, video, voice, or any other information or signal to a
1405 point, or among or between points.

1406 (b) "Telecommunications service" includes:

1407 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1408 processing application is used to act:

1409 (A) on the code, form, or protocol of the content;

1410 (B) for the purpose of electronic conveyance, routing, or transmission; and

1411 (C) regardless of whether the service:

1412 (I) is referred to as voice over Internet protocol service; or

1413 (II) is classified by the Federal Communications Commission as enhanced or value

1414 added;

1415 (ii) an 800 service;

1416 (iii) a 900 service;

1417 (iv) a fixed wireless service;

1418 (v) a mobile wireless service;

1419 (vi) a postpaid calling service;

1420 (vii) a prepaid calling service;

1421 (viii) a prepaid wireless calling service; or

1422 (ix) a private communications service.

1423 (c) "Telecommunications service" does not include:
1424 (i) advertising, including directory advertising;
1425 (ii) an ancillary service;
1426 (iii) a billing and collection service provided to a third party;
1427 (iv) a data processing and information service if:
1428 (A) the data processing and information service allows data to be:
1429 (I) (Aa) acquired;
1430 (Bb) generated;
1431 (Cc) processed;
1432 (Dd) retrieved; or
1433 (Ee) stored; and
1434 (II) delivered by an electronic transmission to a purchaser; and
1435 (B) the purchaser's primary purpose for the underlying transaction is the processed data
1436 or information;
1437 (v) installation or maintenance of the following on a customer's premises:
1438 (A) equipment; or
1439 (B) wiring;
1440 (vi) Internet access service;
1441 (vii) a paging service;
1442 (viii) a product transferred electronically, including:
1443 (A) music;
1444 (B) reading material;
1445 (C) a ring tone;
1446 (D) software; or
1447 (E) video;
1448 (ix) a radio and television audio and video programming service:
1449 (A) regardless of the medium; and
1450 (B) including:
1451 (I) furnishing conveyance, routing, or transmission of a television audio and video
1452 programming service by a programming service provider;
1453 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or

1454 (III) audio and video programming services delivered by a commercial mobile radio
1455 service provider as defined in 47 C.F.R. Sec. 20.3;

1456 (x) a value-added nonvoice data service; or
1457 (xi) tangible personal property.

1458 [§130] (131) (a) "Telecommunications service provider" means a person that:
1459 (i) owns, controls, operates, or manages a telecommunications service; and
1460 (ii) engages in an activity described in Subsection [§130] (131)(a)(i) for the shared use
1461 with or resale to any person of the telecommunications service.

1462 (b) A person described in Subsection [¶130] (131)(a) is a telecommunications service
1463 provider whether or not the Public Service Commission of Utah regulates:

1464 (i) that person; or

1465 (ii) the telecommunications service that the person owns, controls, operates, or
1466 manages.

1467 [§131] (132) (a) "Telecommunications switching or routing equipment, machinery, or
1468 software" means an item listed in Subsection [§131] (132)(b) if that item is purchased or
1469 leased primarily for switching or routing:

1470 (i) an ancillary service;

1471 (ii) data communications;

1472 (iii) voice communications; or

1473 (iv) telecommunications service.

1474 (b) The following apply to Subsection [131] 132(a):

1475 (i) a bridge;

1476 (ii) a computer;

1477 (iii) a cross connect;

1478 (iv) a modem;

1479 (v) a multiplexer;

1480 (vi) plug in circuit

1481 (vii) a router;

1482 (viii) software

1483 (ix) a switch; o

1484 (x) equipment, n.

1485 Subsections [~~(131)~~] (132)(b)(i) through (ix) as determined by the commission by rule made in
1486 accordance with Subsection [~~(131)~~] (132)(c).

1487 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1488 commission may by rule define what constitutes equipment, machinery, or software that
1489 functions similarly to an item listed in Subsections [~~(131)~~] (132)(b)(i) through (ix).

1490 [~~(132)~~] (133) (a) "Telecommunications transmission equipment, machinery, or
1491 software" means an item listed in Subsection [~~(132)~~] (133)(b) if that item is purchased or
1492 leased primarily for sending, receiving, or transporting:

1493 (i) an ancillary service;
1494 (ii) data communications;
1495 (iii) voice communications; or
1496 (iv) telecommunications service.

1497 (b) The following apply to Subsection [~~(132)~~] (133)(a):

1498 (i) an amplifier;
1499 (ii) a cable;
1500 (iii) a closure;
1501 (iv) a conduit;
1502 (v) a controller;
1503 (vi) a duplexer;
1504 (vii) a filter;
1505 (viii) an input device;
1506 (ix) an input/output device;
1507 (x) an insulator;
1508 (xi) microwave machinery or equipment;
1509 (xii) an oscillator;
1510 (xiii) an output device;
1511 (xiv) a pedestal;
1512 (xv) a power converter;
1513 (xvi) a power supply;
1514 (xvii) a radio channel;
1515 (xviii) a radio receiver;

1516 (xix) a radio transmitter;
1517 (xx) a repeater;
1518 (xxi) software;
1519 (xxii) a terminal;
1520 (xxiii) a timing unit;
1521 (xxiv) a transformer;
1522 (xxv) a wire; or
1523 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
1524 Subsections [(132)] (133)(b)(i) through (xxv) as determined by the commission by rule made in
1525 accordance with Subsection [(132)] (133)(c).

1526 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1527 commission may by rule define what constitutes equipment, machinery, or software that
1528 functions similarly to an item listed in Subsections [(132)] (133)(b)(i) through (xxv).

1529 [133] (134) (a) "Textbook for a higher education course" means a textbook or other
1530 printed material that is required for a course:

1531 (i) offered by an institution of higher education; and
1532 (ii) that the purchaser of the textbook or other printed material attends or will attend.

1533 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1534 [134] (135) "Tobacco" means:

1535 (a) a cigarette;

1536 (b) a cigar;

1537 (c) chewing

1538 (d) pipe tobacco; or

1520 (c) any other item the

1539 (b) any other item that contains tobacco.

1540 [153] 156 "Unassisted amusement device" means an amusement device, skill
1541 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
1542 operate the amusement device, skill device, or ride device.

1543 [136] (137) (a) "Use" means the exercise of any right or power over tangible personal
1544 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
1545 incident to the ownership or the leasing of that tangible personal property, product transferred
1546 electronically, or service.

1547 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1548 property, a product transferred electronically, or a service in the regular course of business and
1549 held for resale.

1550 [~~137~~] (138) "Value-added nonvoice data service" means a service:

1551 (a) that otherwise meets the definition of a telecommunications service except that a
1552 computer processing application is used to act primarily for a purpose other than conveyance,
1553 routing, or transmission; and

1554 (b) with respect to which a computer processing application is used to act on data or
1555 information:

1556 (i) code;

1557 (ii) content;

1558 (iii) form; or

1559 (iv) protocol.

1560 [~~138~~] (139) (a) Subject to Subsection [~~138~~] (139)(b), "vehicle" means the following
1561 that are required to be titled, registered, or titled and registered:

1562 (i) an aircraft as defined in Section 72-10-102;

1563 (ii) a vehicle as defined in Section 41-1a-102;

1564 (iii) an off-highway vehicle as defined in Section 41-22-2; or

1565 (iv) a vessel as defined in Section 41-1a-102.

1566 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

1567 (i) a vehicle described in Subsection [~~138~~] (139)(a); or

1568 (ii) (A) a locomotive;

1569 (B) a freight car;

1570 (C) railroad work equipment; or

1571 (D) other railroad rolling stock.

1572 [~~139~~] (140) "Vehicle dealer" means a person engaged in the business of buying,
1573 selling, or exchanging a vehicle as defined in Subsection [~~138~~] (139).

1574 [~~140~~] (141) (a) "Vertical service" means an ancillary service that:

1575 (i) is offered in connection with one or more telecommunications services; and

1576 (ii) offers an advanced calling feature that allows a customer to:

1577 (A) identify a caller; and

1578 (B) manage multiple calls and call connections.
1579 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
1580 conference bridging service.

1581 [~~(141)~~] (142) (a) "Voice mail service" means an ancillary service that enables a
1582 customer to receive, send, or store a recorded message.

1583 (b) "Voice mail service" does not include a vertical service that a customer is required
1584 to have in order to utilize a voice mail service.

1585 [~~(142)~~] (143) (a) Except as provided in Subsection [~~(142)~~] (143)(b), "waste energy
1586 facility" means a facility that generates electricity:

1587 (i) using as the primary source of energy waste materials that would be placed in a
1588 landfill or refuse pit if it were not used to generate electricity, including:

1589 (A) tires;
1590 (B) waste coal;
1591 (C) oil shale; or
1592 (D) municipal solid waste; and
1593 (ii) in amounts greater than actually required for the operation of the facility.

1594 (b) "Waste energy facility" does not include a facility that incinerates:

1595 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
1596 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1597 [~~(143)~~] (144) "Watercraft" means a vessel as defined in Section [73-18-2](#).

1598 [~~(144)~~] (145) "Wind energy" means wind used as the sole source of energy to produce
1599 electricity.

1600 [~~(145)~~] (146) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
1601 geographic location by the United States Postal Service.

1602 Section 2. Section **59-12-104** is amended to read:

1603 **59-12-104. Exemptions.**

1604 Exemptions from the taxes imposed by this chapter are as follows:

1605 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
1606 under Chapter 13, Motor and Special Fuel Tax Act;

1607 (2) subject to Section [59-12-104.6](#), sales to the state, its institutions, and its political
1608 subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

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

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

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

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

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

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

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

(i) food and food ingredients; or

(ii) prepared food;

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

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

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

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:

(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American Industry Classification System of the federal Executive Office of the

1640 President, Office of Management and Budget; and

1641 (II) for:

1642 (Aa) installation in an aircraft, including services relating to the installation of parts or

1643 equipment in the aircraft;

1644 (Bb) renovation of an aircraft; or

1645 (Cc) repair of an aircraft; or

1646 (B) for installation in an aircraft operated by a common carrier in interstate or foreign

1647 commerce; or

1648 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an

1649 aircraft operated by a common carrier in interstate or foreign commerce; and

1650 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,

1651 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a

1652 refund:

1653 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

1654 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

1655 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for

1656 the sale prior to filing for the refund;

1657 (iv) for sales and use taxes paid under this chapter on the sale;

1658 (v) in accordance with Section 59-1-1410; and

1659 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if

1660 the person files for the refund on or before September 30, 2011;

1661 (6) sales of commercials, motion picture films, prerecorded audio program tapes or

1662 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture

1663 exhibitor, distributor, or commercial television or radio broadcaster;

1664 (7) (a) except as provided in Subsection [688] (85) and subject to Subsection (7)(b),

1665 sales of cleaning or washing of tangible personal property if the cleaning or washing of the

1666 tangible personal property is not assisted cleaning or washing of tangible personal property;

1667 (b) if a seller that sells at the same business location assisted cleaning or washing of

1668 tangible personal property and cleaning or washing of tangible personal property that is not

1669 assisted cleaning or washing of tangible personal property, the exemption described in

1670 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning

1671 or washing of the tangible personal property; and

1672 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,

1673 Utah Administrative Rulemaking Act, the commission may make rules:

1674 (i) governing the circumstances under which sales are at the same business location;

1675 and

1676 (ii) establishing the procedures and requirements for a seller to separately account for

1677 sales of assisted cleaning or washing of tangible personal property;

1678 (8) sales made to or by religious or charitable institutions in the conduct of their regular

1679 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are

1680 fulfilled;

1681 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of

1682 this state if the vehicle is:

1683 (a) not registered in this state; and

1684 (b) (i) not used in this state; or

1685 (ii) used in this state:

1686 (A) if the vehicle is not used to conduct business, for a time period that does not

1687 exceed the longer of:

1688 (I) 30 days in any calendar year; or

1689 (II) the time period necessary to transport the vehicle to the borders of this state; or

1690 (B) if the vehicle is used to conduct business, for the time period necessary to transport

1691 the vehicle to the borders of this state;

1692 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

1693 (i) the item is intended for human use; and

1694 (ii) (A) a prescription was issued for the item; or

1695 (B) the item was purchased by a hospital or other medical facility; and

1696 (b) (i) Subsection (10)(a) applies to:

1697 (A) a drug;

1698 (B) a syringe; or

1699 (C) a stoma supply; and

1700 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1701 commission may by rule define the terms:

(A) "syringe"; or
(B) "stoma supply";
(11) purchases or leases exempt under Section 19-12-201;
(12) (a) sales of an item described in Subsection (12)(c) served by:
(i) the following if the item described in Subsection (12)(c) is not available to the general public:
(A) a church; or
(B) a charitable institution; or
(ii) an institution of higher education if:
(A) the item described in Subsection (12)(c) is not available to the general public; or
(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or
(b) sales of an item described in Subsection (12)(c) provided for a patient by:
(i) a medical facility; or
(ii) a nursing facility; and
(c) Subsections (12)(a) and (b) apply to:
(i) food and food ingredients;
(ii) prepared food; or
(iii) alcoholic beverages;
(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:
(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and
(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;
(b) this Subsection (13) does not apply if:
(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;
(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

1764 (b) an establishment, as the commission defines that term in accordance with Title
1765 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

1766 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
1767 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
1768 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
1769 2002 North American Industry Classification System of the federal Executive Office of the
1770 President, Office of Management and Budget;

1771 (ii) is located in the state; and

1772 (iii) uses or consumes the machinery, equipment, normal operating repair or
1773 replacement parts, or materials in:

1774 (A) the production process to produce an item sold as tangible personal property, as the
1775 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
1776 Administrative Rulemaking Act;

1777 (B) research and development, as the commission may define that phrase in accordance
1778 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1779 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
1780 produced from mining;

1781 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
1782 mining; or

1783 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

1784 (c) an establishment, as the commission defines that term in accordance with Title 63G,
1785 Chapter 3, Utah Administrative Rulemaking Act, that:

1786 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
1787 American Industry Classification System of the federal Executive Office of the President,
1788 Office of Management and Budget;

1789 (ii) is located in the state; and

1790 (iii) uses or consumes the machinery, equipment, normal operating repair or
1791 replacement parts, or materials in the operation of the web search portal;

1792 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

1793 (i) tooling;

1794 (ii) special tooling;

1795 (iii) support equipment;

1796 (iv) special test equipment; or

1797 (v) parts used in the repairs or renovations of tooling or equipment described in

1798 Subsections (15)(a)(i) through (iv); and

1799 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

1800 (i) the tooling, equipment, or parts are used or consumed exclusively in the

1801 performance of any aerospace or electronics industry contract with the United States

1802 government or any subcontract under that contract; and

1803 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),

1804 title to the tooling, equipment, or parts is vested in the United States government as evidenced

1805 by:

1806 (A) a government identification tag placed on the tooling, equipment, or parts; or

1807 (B) listing on a government-approved property record if placing a government

1808 identification tag on the tooling, equipment, or parts is impractical;

1809 (16) sales of newspapers or newspaper subscriptions;

1810 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a

1811 product transferred electronically traded in as full or part payment of the purchase price, except

1812 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,

1813 trade-ins are limited to other vehicles only, and the tax is based upon:

1814 (i) the bill of sale or other written evidence of value of the vehicle being sold and the

1815 vehicle being traded in; or

1816 (ii) in the absence of a bill of sale or other written evidence of value, the then existing

1817 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the

1818 commission; and

1819 (b) Subsection (17)(a) does not apply to the following items of tangible personal

1820 property or products transferred electronically traded in as full or part payment of the purchase

1821 price:

1822 (i) money;

1823 (ii) electricity;

1824 (iii) water;

1825 (iv) gas; or

1826 (v) steam;

1827 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property

1828 or a product transferred electronically used or consumed primarily and directly in farming

1829 operations, regardless of whether the tangible personal property or product transferred

1830 electronically:

1831 (A) becomes part of real estate; or

1832 (B) is installed by a:

1833 (I) farmer;

1834 (II) contractor; or

1835 (III) subcontractor; or

1836 (ii) sales of parts used in the repairs or renovations of tangible personal property or a

1837 product transferred electronically if the tangible personal property or product transferred

1838 electronically is exempt under Subsection (18)(a)(i); and

1839 (b) amounts paid or charged for the following are subject to the taxes imposed by this

1840 chapter:

1841 (i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or

1842 supplies if used in a manner that is incidental to farming; and

1843 (B) tangible personal property that is considered to be used in a manner that is

1844 incidental to farming includes:

1845 (I) hand tools; or

1846 (II) maintenance and janitorial equipment and supplies;

1847 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product

1848 transferred electronically if the tangible personal property or product transferred electronically

1849 is used in an activity other than farming; and

1850 (B) tangible personal property or a product transferred electronically that is considered

1851 to be used in an activity other than farming includes:

1852 (I) office equipment and supplies; or

1853 (II) equipment and supplies used in:

1854 (Aa) the sale or distribution of farm products;

1855 (Bb) research; or

1856 (Cc) transportation; or

- (iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;
- (19) sales of hay;
- (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:
 - (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;
 - (b) an employee of the producer described in Subsection (20)(a); or
 - (c) a member of the immediate family of the producer described in Subsection (20)(a);
- (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;
- (23) a product stored in the state for resale;
- (24) (a) purchases of a product if:
 - (i) the product is:
 - (A) purchased outside of this state;
 - (B) brought into this state:
 - (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
 - (II) by a nonresident person who is not living or working in this state at the time of the purchase;
 - (C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
 - (D) not used in conducting business in this state; and
 - (ii) for:
 - (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;
 - (B) a boat, the boat is registered outside of this state; or

1888 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
1889 outside of this state;

1890 (b) the exemption provided for in Subsection (24)(a) does not apply to:

1891 (i) a lease or rental of a product; or

1892 (ii) a sale of a vehicle exempt under Subsection (33); and

1893 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
1894 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
1895 following:

1896 (i) conducting business in this state if that phrase has the same meaning in this
1897 Subsection (24) as in Subsection (63);

1898 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
1899 as in Subsection (63); or

1900 (iii) a purpose for which a product is designed if that phrase has the same meaning in
1901 this Subsection (24) as in Subsection (63);

1902 (25) a product purchased for resale in the regular course of business, either in its
1903 original form or as an ingredient or component part of a manufactured or compounded product;

1904 (26) a product upon which a sales or use tax was paid to some other state, or one of its
1905 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
1906 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
1907 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
1908 Act;

1909 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
1910 person for use in compounding a service taxable under the subsections;

1911 (28) purchases made in accordance with the special supplemental nutrition program for
1912 women, infants, and children established in 42 U.S.C. Sec. 1786;

1913 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
1914 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
1915 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
1916 the President, Office of Management and Budget;

1917 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
1918 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

1919 (a) not registered in this state; and
1920 (b) (i) not used in this state; or
1921 (ii) used in this state:
1922 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
1923 time period that does not exceed the longer of:
1924 (I) 30 days in any calendar year; or
1925 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
1926 the borders of this state; or
1927 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
1928 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
1929 state;
1930 (31) sales of aircraft manufactured in Utah;
1931 (32) amounts paid for the purchase of telecommunications service for purposes of
1932 providing telecommunications service;
1933 (33) sales, leases, or uses of the following:
1934 (a) a vehicle by an authorized carrier; or
1935 (b) tangible personal property that is installed on a vehicle:
1936 (i) sold or leased to or used by an authorized carrier; and
1937 (ii) before the vehicle is placed in service for the first time;
1938 (34) (a) 45% of the sales price of any new manufactured home; and
1939 (b) 100% of the sales price of any used manufactured home;
1940 (35) sales relating to schools and fundraising sales;
1941 (36) sales or rentals of durable medical equipment if:
1942 (a) a person presents a prescription for the durable medical equipment; and
1943 (b) the durable medical equipment is used for home use only;
1944 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
1945 Section [72-11-102](#); and
1946 (b) the commission shall by rule determine the method for calculating sales exempt
1947 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
1948 (38) sales to a ski resort of:
1949 (a) snowmaking equipment;

- (b) ski slope grooming equipment;
- (c) passenger ropeways as defined in Section 72-11-102; or
- (d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

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

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

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

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

- (i) governing the circumstances under which sales are at the same business location; and
- (ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

- (i) a governmental entity; or
- (ii) an entity within the state system of public education, including:

- (A) a school; or
- (B) the State Board of Education; or

(b) sales of publications by a governmental entity;

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

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

- (i) an area agency on aging; or

- (ii) a senior citizen center owned by a county, city, or town; or
- (b) sales made by a senior citizen center that contracts with an area agency on aging;
- (44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:
 - (a) actually come into contact with a semiconductor; or
 - (b) ultimately become incorporated into real property;
- (45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection [59-12-103](#)(1)(i) to the extent the amount is exempt under Section [59-12-104.2](#);
- (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section [41-3-306](#) for the event period specified on the temporary sports event registration certificate;
- (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission; and
 - (b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;
- (48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;
- (49) sales of water in a:
 - (a) pipe;
 - (b) conduit;
 - (c) ditch; or
 - (d) reservoir;
- (50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;
- (51) (a) sales of an item described in Subsection (51)(b) if the item:

- (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
- (ii) has a gold, silver, or platinum content of 50% or more; and
- (b) Subsection (51)(a) applies to a gold, silver, or platinum:
 - (i) ingot;
 - (ii) bar;
 - (iii) medallion; or
 - (iv) decorative coin;
- (52) amounts paid on a sale-leaseback transaction;
- (53) sales of a prosthetic device:
 - (a) for use on or in a human; and
 - (b) (i) for which a prescription is required; or
 - (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:
 - (i) a motion picture;
 - (ii) a television program;
 - (iii) a movie made for television;
 - (iv) a music video;
 - (v) a commercial;
 - (vi) a documentary; or
 - (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or
- (b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:
 - (i) a live musical performance;
 - (ii) a live news program; or
 - (iii) a live sporting event;
- (c) the following establishments listed in the 1997 North American Industry

2043 Classification System of the federal Executive Office of the President, Office of Management
2044 and Budget, apply to Subsections (54)(a) and (b):
2045 (i) NAICS Code 512110; or
2046 (ii) NAICS Code 51219; and
2047 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2048 commission may by rule:
2049 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
2050 or
2051 (ii) define:
2052 (A) "commercial distribution";
2053 (B) "live musical performance";
2054 (C) "live news program"; or
2055 (D) "live sporting event";
2056 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
2057 on or before June 30, 2027, of tangible personal property that:
2058 (i) is leased or purchased for or by a facility that:
2059 (A) is an alternative energy electricity production facility;
2060 (B) is located in the state; and
2061 (C) (I) becomes operational on or after July 1, 2004; or
2062 (II) has its generation capacity increased by one or more megawatts on or after July 1,
2063 2004, as a result of the use of the tangible personal property;
2064 (ii) has an economic life of five or more years; and
2065 (iii) is used to make the facility or the increase in capacity of the facility described in
2066 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
2067 transmission grid including:
2068 (A) a wind turbine;
2069 (B) generating equipment;
2070 (C) a control and monitoring system;
2071 (D) a power line;
2072 (E) substation equipment;
2073 (F) lighting;

(G) fencing;

(H) pipes; or

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

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

(i) tangible personal property used in construction of:

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

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

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

and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

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

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

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

(A) is a waste energy production facility;

(B) is located in the state; and

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

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

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

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

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

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

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

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

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

and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

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

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

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

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

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

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

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

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

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

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

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or
(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
(ii) contracted services required for construction and routine maintenance activities;

and

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

(A) the facility described in Subsection (57)(a)(i) is operational; or
(B) the increased capacity described in Subsection (57)(a)(i) is operational;

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

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

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

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

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

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

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

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

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

(59) purchases:

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

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

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

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

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

(ii) for:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(65) sales:

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

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

(i) clearly identified; and

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

(66) sales of construction materials:

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

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

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

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

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

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

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(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

(B) in the state; and

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

(b) normal operating repair or replacement parts:

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

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

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

(a) for a sale:

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

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

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

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

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

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

(ii) the machinery or equipment:

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

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

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

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

(B) subject to taxation under this chapter; and

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

(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) amounts paid or charged for a purchase or lease made by a qualifying enterprise

2356 data center of machinery, equipment, or normal operating repair or replacement parts, if the

2357 machinery, equipment, or normal operating repair or replacement parts:

2358 (a) are used in the operation of the establishment; and

2359 (b) have an economic life of one or more years;

2360 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a

2361 vehicle that includes cleaning or washing of the interior of the vehicle;

2362 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal

2363 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used

2364 or consumed:

2365 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined

2366 in Section [63M-4-701](#) located in the state;

2367 (b) if the machinery, equipment, normal operating repair or replacement parts,

2368 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

2369 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is

2370 added to gasoline or diesel fuel;

2371 (ii) research and development;

2372 (iii) transporting, storing, or managing raw materials, work in process, finished

2373 products, and waste materials produced from refining gasoline or diesel fuel, or adding

2374 blendstock to gasoline or diesel fuel;

2375 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in

2376 refining; or

2377 (v) preventing, controlling, or reducing pollutants from refining; and

2378 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office

2379 of Energy Development under Subsection [63M-4-702\(2\)](#);

2380 (87) amounts paid to or charged by a proprietor for accommodations and services, as

2381 defined in Section [63H-1-205](#), if the proprietor is subject to the MIDA accommodations tax

2382 imposed under Section [63H-1-205](#); [and]

2383 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal

2384 operating repair or replacement parts, or materials, except for office equipment or office
2385 supplies, by an establishment, as the commission defines that term in accordance with Title
2386 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

2387 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
2388 American Industry Classification System of the federal Executive Office of the President,
2389 Office of Management and Budget;

2390 (b) is located in this state; and

2391 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
2392 materials in the operation of the establishment[.];

2393 (89) sales of a passenger rail car manufactured or assembled in the state; and

2394 (90) amounts paid or charged for construction materials used in the construction of a
2395 new or expanding passenger rail car manufacturing facility in the state, if the construction
2396 materials are:

2397 (a) clearly identified;

2398 (b) segregated; and

2399 (c) installed or converted to real property.

2400 Section 3. **Effective date.**

2401 This bill takes effect on July 1, 2019.