

1 **SALES AND USE TAX EXEMPTION AMENDMENTS**

2 2020 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Kirk A. Cullimore**

5 House Sponsor: Mike Schultz

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the sales and use tax exemption related to certain data centers.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ modifies the definition of a qualifying data center for purposes of the Sales and Use
13 Tax Act; and
14 ▶ provides a sales and use tax exemption for an occupant of a qualifying data center
15 for the purchase of certain machinery, equipment, or parts.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 This bill provides a special effective date.

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **59-12-102**, as last amended by Laws of Utah 2019, Chapters 325, 481, and 486

23 **59-12-104**, as last amended by Laws of Utah 2019, Chapters 136 and 486

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

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

27 **59-12-102. Definitions.**



28 As used in this chapter:

29 (1) "800 service" means a telecommunications service that:

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

31 (b) is typically marketed:

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

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

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

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

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

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

38 Federal Communications Commission.

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

40 (i) a subscriber purchases;

41 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
42 the subscriber's:

43 (A) prerecorded announcement; or

44 (B) live service; and

45 (iii) is typically marketed:

46 (A) under the name 900 service; or

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

48 Communications Commission.

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

50 (i) a collection service a seller of a telecommunications service provides to a
51 subscriber; or

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

53 (A) a product; or

54 (B) a service.

55 (3) (a) "Admission or user fees" includes season passes.

56 (b) "Admission or user fees" does not include annual membership dues to private
57 organizations.

58 (4) "Affiliate" or "affiliated person" means a person that, with respect to another

59 person:

60 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
61 person; or

62 (b) is related to the other person because a third person, or a group of third persons who
63 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,
64 whether direct or indirect, in the related persons.

65 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
66 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
67 Agreement after November 12, 2002.

68 (6) "Agreement combined tax rate" means the sum of the tax rates:

69 (a) listed under Subsection (7); and

70 (b) that are imposed within a local taxing jurisdiction.

71 (7) "Agreement sales and use tax" means a tax imposed under:

72 (a) Subsection 59-12-103(2)(a)(i)(A);

73 (b) Subsection 59-12-103(2)(b)(i);

74 (c) Subsection 59-12-103(2)(c)(i);

75 (d) Subsection 59-12-103(2)(d)(i)(A)(I);

76 (e) Section 59-12-204;

77 (f) Section 59-12-401;

78 (g) Section 59-12-402;

79 (h) Section 59-12-402.1;

80 (i) Section 59-12-703;

81 (j) Section 59-12-802;

82 (k) Section 59-12-804;

83 (l) Section 59-12-1102;

84 (m) Section 59-12-1302;

85 (n) Section 59-12-1402;

86 (o) Section 59-12-1802;

87 (p) Section 59-12-2003;

88 (q) Section 59-12-2103;

89 (r) Section 59-12-2213;

- 90 (s) Section 59-12-2214;
- 91 (t) Section 59-12-2215;
- 92 (u) Section 59-12-2216;
- 93 (v) Section 59-12-2217;
- 94 (w) Section 59-12-2218;
- 95 (x) Section 59-12-2219; or
- 96 (y) Section 59-12-2220.
- 97 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 98 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 99 (a) except for:
- 100 (i) an airline as defined in Section 59-2-102; or
- 101 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 102 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 103 state, of an airline; and
- 104 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 105 whether the business entity performs the following in this state:
- 106 (i) check, diagnose, overhaul, and repair:
- 107 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 108 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 109 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 110 engine;
- 111 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 112 aircraft:
- 113 (A) an inspection;
- 114 (B) a repair, including a structural repair or modification;
- 115 (C) changing landing gear; and
- 116 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 117 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 118 completely apply new paint to the fixed wing turbine powered aircraft; and
- 119 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 120 results in a change in the fixed wing turbine powered aircraft's certification requirements by the

121 authority that certifies the fixed wing turbine powered aircraft.

122 (10) "Alcoholic beverage" means a beverage that:

123 (a) is suitable for human consumption; and

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

125 (11) "Alternative energy" means:

126 (a) biomass energy;

127 (b) geothermal energy;

128 (c) hydroelectric energy;

129 (d) solar energy;

130 (e) wind energy; or

131 (f) energy that is derived from:

132 (i) coal-to-liquids;

133 (ii) nuclear fuel;

134 (iii) oil-impregnated diatomaceous earth;

135 (iv) oil sands;

136 (v) oil shale;

137 (vi) petroleum coke; or

138 (vii) waste heat from:

139 (A) an industrial facility; or

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

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

142 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production
143 facility" means a facility that:

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

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

146 (b) A facility is an alternative energy electricity production facility regardless of
147 whether the facility is:

148 (i) connected to an electric grid; or

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

150 (13) (a) "Ancillary service" means a service associated with, or incidental to, the
151 provision of telecommunications service.

152 (b) "Ancillary service" includes:

153 (i) a conference bridging service;

154 (ii) a detailed communications billing service;

155 (iii) directory assistance;

156 (iv) a vertical service; or

157 (v) a voice mail service.

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

159 [62A-3-101](#).

160 (15) "Assisted amusement device" means an amusement device, skill device, or ride
161 device that is started and stopped by an individual:

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

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

166 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or
167 washing of tangible personal property if the cleaning or washing labor is primarily performed
168 by an individual:

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

171 (b) at the direction of the seller of the cleaning or washing of the tangible personal
172 property.

173 (17) "Authorized carrier" means:

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

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

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

182 (18) (a) Except as provided in Subsection (18)(b), "biomass energy" means any of the

- 183 following that is used as the primary source of energy to produce fuel or electricity:
- 184 (i) material from a plant or tree; or
- 185 (ii) other organic matter that is available on a renewable basis, including:
- 186 (A) slash and brush from forests and woodlands;
- 187 (B) animal waste;
- 188 (C) waste vegetable oil;
- 189 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
- 190 wastewater residuals, or through the conversion of a waste material through a nonincineration,
- 191 thermal conversion process;
- 192 (E) aquatic plants; and
- 193 (F) agricultural products.
- 194 (b) "Biomass energy" does not include:
- 195 (i) black liquor; or
- 196 (ii) treated woods.
- 197 (19) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 198 property, products, or services if the tangible personal property, products, or services are:
- 199 (i) distinct and identifiable; and
- 200 (ii) sold for one nonitemized price.
- 201 (b) "Bundled transaction" does not include:
- 202 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 203 the basis of the selection by the purchaser of the items of tangible personal property included in
- 204 the transaction;
- 205 (ii) the sale of real property;
- 206 (iii) the sale of services to real property;
- 207 (iv) the retail sale of tangible personal property and a service if:
- 208 (A) the tangible personal property:
- 209 (I) is essential to the use of the service; and
- 210 (II) is provided exclusively in connection with the service; and
- 211 (B) the service is the true object of the transaction;
- 212 (v) the retail sale of two services if:
- 213 (A) one service is provided that is essential to the use or receipt of a second service;

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

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

216 (vi) a transaction that includes tangible personal property or a product subject to
217 taxation under this chapter and tangible personal property or a product that is not subject to
218 taxation under this chapter if the:

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

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

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

225 (A) that retail sale includes:

226 (I) food and food ingredients;

227 (II) a drug;

228 (III) durable medical equipment;

229 (IV) mobility enhancing equipment;

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

231 (VI) a prosthetic device; or

232 (VII) a medical supply; and

233 (B) subject to Subsection (19)(f):

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

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

238 (c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a
239 service that is distinct and identifiable does not include:

240 (A) packaging that:

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

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

244 (B) tangible personal property, a product, or a service provided free of charge with the

245 purchase of another item of tangible personal property, a product, or a service; or

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

248 (ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a
249 product, or a service is provided free of charge with the purchase of another item of tangible
250 personal property, a product, or a service if the sales price of the purchased item of tangible
251 personal property, product, or service does not vary depending on the inclusion of the tangible
252 personal property, product, or service provided free of charge.

253 (d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price
254 does not include a price that is separately identified by tangible personal property, product, or
255 service on the following, regardless of whether the following is in paper format or electronic
256 format:

257 (A) a binding sales document; or

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

259 (ii) For purposes of Subsection (19)(d)(i), a binding sales document or another
260 supporting sales-related document that is available to a purchaser includes:

261 (A) a bill of sale;

262 (B) a contract;

263 (C) an invoice;

264 (D) a lease agreement;

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

266 (F) a price list;

267 (G) a rate card;

268 (H) a receipt; or

269 (I) a service agreement.

270 (e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal
271 property or a product subject to taxation under this chapter is de minimis if:

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

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

276 (ii) For purposes of Subsection (19)(b)(vi), a seller:
277 (A) shall use the seller's purchase price or the seller's sales price to determine if the
278 purchase price or sales price of the tangible personal property or product subject to taxation
279 under this chapter is de minimis; and
280 (B) may not use a combination of the seller's purchase price and the seller's sales price
281 to determine if the purchase price or sales price of the tangible personal property or product
282 subject to taxation under this chapter is de minimis.
283 (iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service
284 contract to determine if the sales price of tangible personal property or a product is de minimis.
285 (f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of
286 the seller's purchase price and the seller's sales price to determine if tangible personal property
287 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
288 price of that retail sale.
289 (20) "Certified automated system" means software certified by the governing board of
290 the agreement that:
291 (a) calculates the agreement sales and use tax imposed within a local taxing
292 jurisdiction:
293 (i) on a transaction; and
294 (ii) in the states that are members of the agreement;
295 (b) determines the amount of agreement sales and use tax to remit to a state that is a
296 member of the agreement; and
297 (c) maintains a record of the transaction described in Subsection (20)(a)(i).
298 (21) "Certified service provider" means an agent certified:
299 (a) by the governing board of the agreement; and
300 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax,
301 as outlined in the contract between the governing board of the agreement and the certified
302 service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the
303 seller's own purchases.
304 (22) (a) Subject to Subsection (22)(b), "clothing" means all human wearing apparel
305 suitable for general use.
306 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

307 commission shall make rules:

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

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

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

312 (24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
313 fuels that does not constitute industrial use under Subsection (57) or residential use under
314 Subsection (111).

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

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

320 (ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3,
321 Utah Administrative Rulemaking Act, the commission may make rules defining what
322 constitutes a person's place of employment.

323 (c) "Common carrier" does not include a person that provides transportation network
324 services, as defined in Section [13-51-102](#).

325 (26) "Component part" includes:

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

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

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

331 (d) feed, seeds, and seedlings.

332 (27) "Computer" means an electronic device that accepts information:

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

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

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

336 (28) "Computer software" means a set of coded instructions designed to cause:

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

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

339 (29) "Computer software maintenance contract" means a contract that obligates a seller
340 of computer software to provide a customer with:

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

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

343 (c) a combination of Subsections (29)(a) and (b).

344 (30) (a) "Conference bridging service" means an ancillary service that links two or
345 more participants of an audio conference call or video conference call.

346 (b) "Conference bridging service" may include providing a telephone number as part of
347 the ancillary service described in Subsection (30)(a).

348 (c) "Conference bridging service" does not include a telecommunications service used
349 to reach the ancillary service described in Subsection (30)(a).

350 (31) "Construction materials" means any tangible personal property that will be
351 converted into real property.

352 (32) "Delivered electronically" means delivered to a purchaser by means other than
353 tangible storage media.

354 (33) (a) "Delivery charge" means a charge:

355 (i) by a seller of:

356 (A) tangible personal property;

357 (B) a product transferred electronically; or

358 (C) a service; and

359 (ii) for preparation and delivery of the tangible personal property, product transferred
360 electronically, or services described in Subsection (33)(a)(i) to a location designated by the
361 purchaser.

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

363 (i) transportation;

364 (ii) shipping;

365 (iii) postage;

366 (iv) handling;

367 (v) crating; or

368 (vi) packing.

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

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

372 (a) is intended to supplement the diet;

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

374 (i) a vitamin;

375 (ii) a mineral;

376 (iii) an herb or other botanical;

377 (iv) an amino acid;

378 (v) a dietary substance for use by humans to supplement the diet by increasing the total
379 dietary intake; or

380 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
381 described in Subsections (35)(b)(i) through (v);

382 (c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:

383 (A) tablet form;

384 (B) capsule form;

385 (C) powder form;

386 (D) softgel form;

387 (E) gelcap form; or

388 (F) liquid form; or

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

391 (A) as conventional food; and

392 (B) for use as a sole item of:

393 (I) a meal; or

394 (II) the diet; and

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

396 (i) identifiable by the "Supplemental Facts" box found on the label; and

397 (ii) as required by 21 C.F.R. Sec. 101.36.

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

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

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

403 (38) "Digital book" means a work that is generally recognized in the ordinary and usual
404 sense as a book.

405 (39) (a) "Direct mail" means printed material delivered or distributed by United States
406 mail or other delivery service:

407 (i) to:

408 (A) a mass audience; or

409 (B) addressees on a mailing list provided:

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

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

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

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

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

417 (40) "Directory assistance" means an ancillary service of providing:

418 (a) address information; or

419 (b) telephone number information.

420 (41) (a) "Disposable home medical equipment or supplies" means medical equipment
421 or supplies that:

422 (i) cannot withstand repeated use; and

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

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

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

426 (C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or

427 (D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).

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

429 (i) a drug;

430 (ii) durable medical equipment;

- 431 (iii) a hearing aid;
- 432 (iv) a hearing aid accessory;
- 433 (v) mobility enhancing equipment; or
- 434 (vi) tangible personal property used to correct impaired vision, including:
- 435 (A) eyeglasses; or
- 436 (B) contact lenses.
- 437 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 438 commission may by rule define what constitutes medical equipment or supplies.
- 439 (42) "Drilling equipment manufacturer" means a facility:
- 440 (a) located in the state;
- 441 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 442 consist of manufacturing component parts of drilling equipment;
- 443 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 444 manufacturing process; and
- 445 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 446 manufacturing process.
- 447 (43) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 448 compound, substance, or preparation that is:
- 449 (i) recognized in:
- 450 (A) the official United States Pharmacopoeia;
- 451 (B) the official Homeopathic Pharmacopoeia of the United States;
- 452 (C) the official National Formulary; or
- 453 (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);
- 454 (ii) intended for use in the:
- 455 (A) diagnosis of disease;
- 456 (B) cure of disease;
- 457 (C) mitigation of disease;
- 458 (D) treatment of disease; or
- 459 (E) prevention of disease; or
- 460 (iii) intended to affect:
- 461 (A) the structure of the body; or

462 (B) any function of the body.

463 (b) "Drug" does not include:

464 (i) food and food ingredients;

465 (ii) a dietary supplement;

466 (iii) an alcoholic beverage; or

467 (iv) a prosthetic device.

468 (44) (a) Except as provided in Subsection (44)(c), "durable medical equipment" means
469 equipment that:

470 (i) can withstand repeated use;

471 (ii) is primarily and customarily used to serve a medical purpose;

472 (iii) generally is not useful to a person in the absence of illness or injury; and

473 (iv) is not worn in or on the body.

474 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
475 equipment described in Subsection (44)(a).

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

477 (45) "Electronic" means:

478 (a) relating to technology; and

479 (b) having:

480 (i) electrical capabilities;

481 (ii) digital capabilities;

482 (iii) magnetic capabilities;

483 (iv) wireless capabilities;

484 (v) optical capabilities;

485 (vi) electromagnetic capabilities; or

486 (vii) capabilities similar to Subsections (45)(b)(i) through (vi).

487 (46) "Electronic financial payment service" means an establishment:

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

491 (b) that performs electronic financial payment services.

492 (47) "Employee" means the same as that term is defined in Section [59-10-401](#).

- 493 (48) "Fixed guideway" means a public transit facility that uses and occupies:
494 (a) rail for the use of public transit; or
495 (b) a separate right-of-way for the use of public transit.
- 496 (49) "Fixed wing turbine powered aircraft" means an aircraft that:
497 (a) is powered by turbine engines;
498 (b) operates on jet fuel; and
499 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 500 (50) "Fixed wireless service" means a telecommunications service that provides radio
501 communication between fixed points.
- 502 (51) (a) "Food and food ingredients" means substances:
503 (i) regardless of whether the substances are in:
504 (A) liquid form;
505 (B) concentrated form;
506 (C) solid form;
507 (D) frozen form;
508 (E) dried form; or
509 (F) dehydrated form; and
510 (ii) that are:
511 (A) sold for:
512 (I) ingestion by humans; or
513 (II) chewing by humans; and
514 (B) consumed for the substance's:
515 (I) taste; or
516 (II) nutritional value.
- 517 (b) "Food and food ingredients" includes an item described in Subsection (95)(b)(iii).
518 (c) "Food and food ingredients" does not include:
519 (i) an alcoholic beverage;
520 (ii) tobacco; or
521 (iii) prepared food.
- 522 (52) (a) "Fundraising sales" means sales:
523 (i) (A) made by a school; or

524 (B) made by a school student;
525 (ii) that are for the purpose of raising funds for the school to purchase equipment,
526 materials, or provide transportation; and
527 (iii) that are part of an officially sanctioned school activity.

528 (b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity"
529 means a school activity:

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

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

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

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

538 (54) "Governing board of the agreement" means the governing board of the agreement
539 that is:

540 (a) authorized to administer the agreement; and

541 (b) established in accordance with the agreement.

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

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

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

547 (iii) the legislative branch of the state, including the House of Representatives, the
548 Senate, the Legislative Printing Office, the Office of Legislative Research and General
549 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
550 Analyst;

551 (iv) the National Guard;

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

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

554 (b) "Governmental entity" does not include the state systems of public and higher

555 education, including:

556 (i) a school;

557 (ii) the State Board of Education;

558 (iii) the State Board of Regents; or

559 (iv) an institution of higher education described in Section [53B-1-102](#).

560 (56) "Hydroelectric energy" means water used as the sole source of energy to produce
561 electricity.

562 (57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
563 other fuels:

564 (a) in mining or extraction of minerals;

565 (b) in agricultural operations to produce an agricultural product up to the time of
566 harvest or placing the agricultural product into a storage facility, including:

567 (i) commercial greenhouses;

568 (ii) irrigation pumps;

569 (iii) farm machinery;

570 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered
571 under Title 41, Chapter 1a, Part 2, Registration; and

572 (v) other farming activities;

573 (c) in manufacturing tangible personal property at an establishment described in:

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

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

579 (d) by a scrap recycler if:

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

583 (A) iron;

584 (B) steel;

585 (C) nonferrous metal;

586 (D) paper;
587 (E) glass;
588 (F) plastic;
589 (G) textile; or
590 (H) rubber; and
591 (ii) the new products under Subsection (57)(d)(i) would otherwise be made with
592 nonrecycled materials; or

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

595 (58) (a) Except as provided in Subsection (58)(b), "installation charge" means a charge
596 for installing:

597 (i) tangible personal property; or
598 (ii) a product transferred electronically.
599 (b) "Installation charge" does not include a charge for:

600 (i) repairs or renovations of:
601 (A) tangible personal property; or
602 (B) a product transferred electronically; or
603 (ii) attaching tangible personal property or a product transferred electronically:
604 (A) to other tangible personal property; and
605 (B) as part of a manufacturing or fabrication process.

606 (59) "Institution of higher education" means an institution of higher education listed in
607 Section 53B-2-101.

608 (60) (a) "Lease" or "rental" means a transfer of possession or control of tangible
609 personal property or a product transferred electronically for:

610 (i) (A) a fixed term; or
611 (B) an indeterminate term; and
612 (ii) consideration.

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

- 617 (c) "Lease" or "rental" does not include:
- 618 (i) a transfer of possession or control of property under a security agreement or
- 619 deferred payment plan that requires the transfer of title upon completion of the required
- 620 payments;
- 621 (ii) a transfer of possession or control of property under an agreement that requires the
- 622 transfer of title:
- 623 (A) upon completion of required payments; and
- 624 (B) if the payment of an option price does not exceed the greater of:
- 625 (I) \$100; or
- 626 (II) 1% of the total required payments; or
- 627 (iii) providing tangible personal property along with an operator for a fixed period of
- 628 time or an indeterminate period of time if the operator is necessary for equipment to perform as
- 629 designed.
- 630 (d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to
- 631 perform as designed if the operator's duties exceed the:
- 632 (i) set-up of tangible personal property;
- 633 (ii) maintenance of tangible personal property; or
- 634 (iii) inspection of tangible personal property.
- 635 (61) "Life science establishment" means an establishment in this state that is classified
- 636 under the following NAICS codes of the 2007 North American Industry Classification System
- 637 of the federal Executive Office of the President, Office of Management and Budget:
- 638 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 639 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
- 640 Manufacturing; or
- 641 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 642 (62) "Life science research and development facility" means a facility owned, leased,
- 643 or rented by a life science establishment if research and development is performed in 51% or
- 644 more of the total area of the facility.
- 645 (63) "Load and leave" means delivery to a purchaser by use of a tangible storage media
- 646 if the tangible storage media is not physically transferred to the purchaser.
- 647 (64) "Local taxing jurisdiction" means a:

- 648 (a) county that is authorized to impose an agreement sales and use tax;
- 649 (b) city that is authorized to impose an agreement sales and use tax; or
- 650 (c) town that is authorized to impose an agreement sales and use tax.
- 651 (65) "Manufactured home" means the same as that term is defined in Section
- 652 [15A-1-302](#).
- 653 (66) "Manufacturing facility" means:
- 654 (a) an establishment described in:
- 655 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
- 656 the federal Executive Office of the President, Office of Management and Budget; or
- 657 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
- 658 American Industry Classification System of the federal Executive Office of the President,
- 659 Office of Management and Budget;
- 660 (b) a scrap recycler if:
- 661 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 662 one or more of the following items into prepared grades of processed materials for use in new
- 663 products:
- 664 (A) iron;
- 665 (B) steel;
- 666 (C) nonferrous metal;
- 667 (D) paper;
- 668 (E) glass;
- 669 (F) plastic;
- 670 (G) textile; or
- 671 (H) rubber; and
- 672 (ii) the new products under Subsection (66)(b)(i) would otherwise be made with
- 673 nonrecycled materials; or
- 674 (c) a cogeneration facility as defined in Section [54-2-1](#) if the cogeneration facility is
- 675 placed in service on or after May 1, 2006.
- 676 (67) (a) "Marketplace" means a physical or electronic place, platform, or forum where
- 677 tangible personal property, a product transferred electronically, or a service is offered for sale.
- 678 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a

679 dedicated sales software application.

680 (68) (a) "Marketplace facilitator" means a person, including an affiliate of the person,
681 that enters into a contract, an agreement, or otherwise with sellers, for consideration, to
682 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or
683 controls and that directly or indirectly:

684 (i) does any of the following:

685 (A) lists, makes available, or advertises tangible personal property, a product
686 transferred electronically, or a service for sale by a marketplace seller on a marketplace that the
687 person owns, operates, or controls;

688 (B) facilitates the sale of a marketplace seller's tangible personal property, product
689 transferred electronically, or service by transmitting or otherwise communicating an offer or
690 acceptance of a retail sale between the marketplace seller and a purchaser using the
691 marketplace;

692 (C) owns, rents, licenses, makes available, or operates any electronic or physical
693 infrastructure or any property, process, method, copyright, trademark, or patent that connects a
694 marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal
695 property, a product transferred electronically, or a service;

696 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible
697 personal property, a product transferred electronically, or a service, regardless of ownership or
698 control of the tangible personal property, the product transferred electronically, or the service
699 that is the subject of the retail sale;

700 (E) provides software development or research and development activities related to
701 any activity described in this Subsection (68)(a)(i), if the software development or research and
702 development activity is directly related to the person's marketplace;

703 (F) provides or offers fulfillment or storage services for a marketplace seller;

704 (G) sets prices for the sale of tangible personal property, a product transferred
705 electronically, or a service by a marketplace seller;

706 (H) provides or offers customer service to a marketplace seller or a marketplace seller's
707 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal
708 property, a product transferred electronically, or a service sold by a marketplace seller on the
709 person's marketplace; or

- 710 (I) brands or otherwise identifies sales as those of the person; and
711 (ii) does any of the following:
- 712 (A) collects the sales price or purchase price of a retail sale of tangible personal
713 property, a product transferred electronically, or a service;
- 714 (B) provides payment processing services for a retail sale of tangible personal property,
715 a product transferred electronically, or a service;
- 716 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing
717 fee, a fee for inserting or making available tangible personal property, a product transferred
718 electronically, or a service on the person's marketplace, or other consideration for the
719 facilitation of a retail sale of tangible personal property, a product transferred electronically, or
720 a service, regardless of ownership or control of the tangible personal property, the product
721 transferred electronically, or the service that is the subject of the retail sale;
- 722 (D) through terms and conditions, an agreement, or another arrangement with a third
723 person, collects payment from a purchase for a retail sale of tangible personal property, a
724 product transferred electronically, or a service and transmits that payment to the marketplace
725 seller, regardless of whether the third person receives compensation or other consideration in
726 exchange for the service; or
- 727 (E) provides a virtual currency for a purchaser to use to purchase tangible personal
728 property, a product transferred electronically, or service offered for sale.
- 729 (b) "Marketplace facilitator" does not include a person that only provides payment
730 processing services.
- 731 (69) "Marketplace seller" means a seller that makes one or more retail sales through a
732 marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the
733 seller is required to be registered to collect and remit the tax under this part.
- 734 (70) "Member of the immediate family of the producer" means a person who is related
735 to a producer described in Subsection [59-12-104\(20\)\(a\)](#) as a:
- 736 (a) child or stepchild, regardless of whether the child or stepchild is:
- 737 (i) an adopted child or adopted stepchild; or
738 (ii) a foster child or foster stepchild;
- 739 (b) grandchild or stepgrandchild;
- 740 (c) grandparent or stepgrandparent;

- 741 (d) nephew or stepnephew;
- 742 (e) niece or stepniece;
- 743 (f) parent or stepparent;
- 744 (g) sibling or stepsibling;
- 745 (h) spouse;
- 746 (i) person who is the spouse of a person described in Subsections (70)(a) through (g);

747 or

- 748 (j) person similar to a person described in Subsections (70)(a) through (i) as
- 749 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 750 Administrative Rulemaking Act.

751 (71) "Mobile home" means the same as that term is defined in Section [15A-1-302](#).

752 (72) "Mobile telecommunications service" means the same as that term is defined in

753 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

754 (73) (a) "Mobile wireless service" means a telecommunications service, regardless of

755 the technology used, if:

- 756 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 757 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 758 (iii) the origination point described in Subsection (73)(a)(i) and the termination point
- 759 described in Subsection (73)(a)(ii) are not fixed.

760 (b) "Mobile wireless service" includes a telecommunications service that is provided

761 by a commercial mobile radio service provider.

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

763 commission may by rule define "commercial mobile radio service provider."

764 (74) (a) Except as provided in Subsection (74)(c), "mobility enhancing equipment"

765 means equipment that is:

- 766 (i) primarily and customarily used to provide or increase the ability to move from one
- 767 place to another;
- 768 (ii) appropriate for use in a:
 - 769 (A) home; or
 - 770 (B) motor vehicle; and
 - 771 (iii) not generally used by persons with normal mobility.

772 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
773 the equipment described in Subsection (74)(a).

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

775 (i) a motor vehicle;

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

778 (iii) durable medical equipment; or

779 (iv) a prosthetic device.

780 (75) "Model 1 seller" means a seller registered under the agreement that has selected a
781 certified service provider as the seller's agent to perform the seller's sales and use tax functions
782 for agreement sales and use taxes, as outlined in the contract between the governing board of
783 the agreement and the certified service provider, other than the seller's obligation under Section
784 [59-12-124](#) to remit a tax on the seller's own purchases.

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

786 (a) except as provided in Subsection (76)(b), has selected a certified automated system
787 to perform the seller's sales tax functions for agreement sales and use taxes; and

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

789 (i) collected by the seller; and

790 (ii) to the appropriate local taxing jurisdiction.

791 (77) (a) Subject to Subsection (77)(b), "model 3 seller" means a seller registered under
792 the agreement that has:

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

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

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

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

797 (B) due to each local taxing jurisdiction; and

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

799 (b) For purposes of Subsection (77)(a), "model 3 seller" includes an affiliated group of
800 sellers using the same proprietary system.

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

- 803 (79) "Modular home" means a modular unit as defined in Section [15A-1-302](#).
- 804 (80) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).
- 805 (81) "Oil sands" means impregnated bituminous sands that:
- 806 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
- 807 other hydrocarbons, or otherwise treated;
- 808 (b) yield mixtures of liquid hydrocarbon; and
- 809 (c) require further processing other than mechanical blending before becoming finished
- 810 petroleum products.
- 811 (82) "Oil shale" means a group of fine black to dark brown shales containing kerogen
- 812 material that yields petroleum upon heating and distillation.
- 813 (83) "Optional computer software maintenance contract" means a computer software
- 814 maintenance contract that a customer is not obligated to purchase as a condition to the retail
- 815 sale of computer software.
- 816 (84) (a) "Other fuels" means products that burn independently to produce heat or
- 817 energy.
- 818 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
- 819 personal property.
- 820 (85) (a) "Paging service" means a telecommunications service that provides
- 821 transmission of a coded radio signal for the purpose of activating a specific pager.
- 822 (b) For purposes of Subsection (85)(a), the transmission of a coded radio signal
- 823 includes a transmission by message or sound.
- 824 (86) "Pawnbroker" means the same as that term is defined in Section [13-32a-102](#).
- 825 (87) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).
- 826 (88) (a) "Permanently attached to real property" means that for tangible personal
- 827 property attached to real property:
- 828 (i) the attachment of the tangible personal property to the real property:
- 829 (A) is essential to the use of the tangible personal property; and
- 830 (B) suggests that the tangible personal property will remain attached to the real
- 831 property in the same place over the useful life of the tangible personal property; or
- 832 (ii) if the tangible personal property is detached from the real property, the detachment
- 833 would:

- 834 (A) cause substantial damage to the tangible personal property; or
- 835 (B) require substantial alteration or repair of the real property to which the tangible
- 836 personal property is attached.
- 837 (b) "Permanently attached to real property" includes:
- 838 (i) the attachment of an accessory to the tangible personal property if the accessory is:
- 839 (A) essential to the operation of the tangible personal property; and
- 840 (B) attached only to facilitate the operation of the tangible personal property;
- 841 (ii) a temporary detachment of tangible personal property from real property for a
- 842 repair or renovation if the repair or renovation is performed where the tangible personal
- 843 property and real property are located; or
- 844 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
- 845 Subsection (88)(c)(iii) or (iv).
- 846 (c) "Permanently attached to real property" does not include:
- 847 (i) the attachment of portable or movable tangible personal property to real property if
- 848 that portable or movable tangible personal property is attached to real property only for:
- 849 (A) convenience;
- 850 (B) stability; or
- 851 (C) for an obvious temporary purpose;
- 852 (ii) the detachment of tangible personal property from real property except for the
- 853 detachment described in Subsection (88)(b)(ii);
- 854 (iii) an attachment of the following tangible personal property to real property if the
- 855 attachment to real property is only through a line that supplies water, electricity, gas,
- 856 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 857 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 858 (A) a computer;
- 859 (B) a telephone;
- 860 (C) a television; or
- 861 (D) tangible personal property similar to Subsections (88)(c)(iii)(A) through (C) as
- 862 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 863 Administrative Rulemaking Act; or
- 864 (iv) an item listed in Subsection (129)(c).

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

869 (90) "Place of primary use":

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

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

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

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

877 (91) (a) "Postpaid calling service" means a telecommunications service a person
878 obtains by making a payment on a call-by-call basis:

879 (i) through the use of a:

880 (A) bank card;

881 (B) credit card;

882 (C) debit card; or

883 (D) travel card; or

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

886 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
887 service, that would be a prepaid wireless calling service if the service were exclusively a
888 telecommunications service.

889 (92) "Postproduction" means an activity related to the finishing or duplication of a
890 medium described in Subsection [59-12-104\(54\)\(a\)](#).

891 (93) "Prepaid calling service" means a telecommunications service:

892 (a) that allows a purchaser access to telecommunications service that is exclusively
893 telecommunications service;

894 (b) that:

895 (i) is paid for in advance; and

- 896 (ii) enables the origination of a call using an:
- 897 (A) access number; or
- 898 (B) authorization code;
- 899 (c) that is dialed:
- 900 (i) manually; or
- 901 (ii) electronically; and
- 902 (d) sold in predetermined units or dollars that decline:
- 903 (i) by a known amount; and
- 904 (ii) with use.
- 905 (94) "Prepaid wireless calling service" means a telecommunications service:
- 906 (a) that provides the right to utilize:
- 907 (i) mobile wireless service; and
- 908 (ii) other service that is not a telecommunications service, including:
- 909 (A) the download of a product transferred electronically;
- 910 (B) a content service; or
- 911 (C) an ancillary service;
- 912 (b) that:
- 913 (i) is paid for in advance; and
- 914 (ii) enables the origination of a call using an:
- 915 (A) access number; or
- 916 (B) authorization code;
- 917 (c) that is dialed:
- 918 (i) manually; or
- 919 (ii) electronically; and
- 920 (d) sold in predetermined units or dollars that decline:
- 921 (i) by a known amount; and
- 922 (ii) with use.
- 923 (95) (a) "Prepared food" means:
- 924 (i) food:
- 925 (A) sold in a heated state; or
- 926 (B) heated by a seller;

927 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
928 item; or

929 (iii) except as provided in Subsection (95)(c), food sold with an eating utensil provided
930 by the seller, including a:

931 (A) plate;

932 (B) knife;

933 (C) fork;

934 (D) spoon;

935 (E) glass;

936 (F) cup;

937 (G) napkin; or

938 (H) straw.

939 (b) "Prepared food" does not include:

940 (i) food that a seller only:

941 (A) cuts;

942 (B) repackages; or

943 (C) pasteurizes; or

944 (ii) (A) the following:

945 (I) raw egg;

946 (II) raw fish;

947 (III) raw meat;

948 (IV) raw poultry; or

949 (V) a food containing an item described in Subsections (95)(b)(ii)(A)(I) through (IV);

950 and

951 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
952 Food and Drug Administration's Food Code that a consumer cook the items described in
953 Subsection (95)(b)(ii)(A) to prevent food borne illness; or

954 (iii) the following if sold without eating utensils provided by the seller:

955 (A) food and food ingredients sold by a seller if the seller's proper primary
956 classification under the 2002 North American Industry Classification System of the federal
957 Executive Office of the President, Office of Management and Budget, is manufacturing in

958 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla

959 Manufacturing;

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

961 (I) by weight or volume; and

962 (II) as a single item; or

963 (C) a bakery item, including:

964 (I) a bagel;

965 (II) a bar;

966 (III) a biscuit;

967 (IV) bread;

968 (V) a bun;

969 (VI) a cake;

970 (VII) a cookie;

971 (VIII) a croissant;

972 (IX) a danish;

973 (X) a donut;

974 (XI) a muffin;

975 (XII) a pastry;

976 (XIII) a pie;

977 (XIV) a roll;

978 (XV) a tart;

979 (XVI) a torte; or

980 (XVII) a tortilla.

981 (c) An eating utensil provided by the seller does not include the following used to

982 transport the food:

983 (i) a container; or

984 (ii) packaging.

985 (96) "Prescription" means an order, formula, or recipe that is issued:

986 (a) (i) orally;

987 (ii) in writing;

988 (iii) electronically; or

989 (iv) by any other manner of transmission; and

990 (b) by a licensed practitioner authorized by the laws of a state.

991 (97) (a) Except as provided in Subsection (97)(b)(ii) or (iii), "prewritten computer
992 software" means computer software that is not designed and developed:

993 (i) by the author or other creator of the computer software; and

994 (ii) to the specifications of a specific purchaser.

995 (b) "Prewritten computer software" includes:

996 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
997 software is not designed and developed:

998 (A) by the author or other creator of the computer software; and

999 (B) to the specifications of a specific purchaser;

1000 (ii) computer software designed and developed by the author or other creator of the
1001 computer software to the specifications of a specific purchaser if the computer software is sold
1002 to a person other than the purchaser; or

1003 (iii) except as provided in Subsection (97)(c), prewritten computer software or a
1004 prewritten portion of prewritten computer software:

1005 (A) that is modified or enhanced to any degree; and

1006 (B) if the modification or enhancement described in Subsection (97)(b)(iii)(A) is
1007 designed and developed to the specifications of a specific purchaser.

1008 (c) "Prewritten computer software" does not include a modification or enhancement
1009 described in Subsection (97)(b)(iii) if the charges for the modification or enhancement are:

1010 (i) reasonable; and

1011 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
1012 invoice or other statement of price provided to the purchaser at the time of sale or later, as
1013 demonstrated by:

1014 (A) the books and records the seller keeps at the time of the transaction in the regular
1015 course of business, including books and records the seller keeps at the time of the transaction in
1016 the regular course of business for nontax purposes;

1017 (B) a preponderance of the facts and circumstances at the time of the transaction; and

1018 (C) the understanding of all of the parties to the transaction.

1019 (98) (a) "Private communications service" means a telecommunications service:

1020 (i) that entitles a customer to exclusive or priority use of one or more communications
1021 channels between or among termination points; and

1022 (ii) regardless of the manner in which the one or more communications channels are
1023 connected.

1024 (b) "Private communications service" includes the following provided in connection
1025 with the use of one or more communications channels:

1026 (i) an extension line;

1027 (ii) a station;

1028 (iii) switching capacity; or

1029 (iv) another associated service that is provided in connection with the use of one or
1030 more communications channels as defined in Section [59-12-215](#).

1031 (99) (a) Except as provided in Subsection (99)(b), "product transferred electronically"
1032 means a product transferred electronically that would be subject to a tax under this chapter if
1033 that product was transferred in a manner other than electronically.

1034 (b) "Product transferred electronically" does not include:

1035 (i) an ancillary service;

1036 (ii) computer software; or

1037 (iii) a telecommunications service.

1038 (100) (a) "Prosthetic device" means a device that is worn on or in the body to:

1039 (i) artificially replace a missing portion of the body;

1040 (ii) prevent or correct a physical deformity or physical malfunction; or

1041 (iii) support a weak or deformed portion of the body.

1042 (b) "Prosthetic device" includes:

1043 (i) parts used in the repairs or renovation of a prosthetic device;

1044 (ii) replacement parts for a prosthetic device;

1045 (iii) a dental prosthesis; or

1046 (iv) a hearing aid.

1047 (c) "Prosthetic device" does not include:

1048 (i) corrective eyeglasses; or

1049 (ii) contact lenses.

1050 (101) (a) "Protective equipment" means an item:

- 1051 (i) for human wear; and
- 1052 (ii) that is:
 - 1053 (A) designed as protection:
 - 1054 (I) to the wearer against injury or disease; or
 - 1055 (II) against damage or injury of other persons or property; and
 - 1056 (B) not suitable for general use.
 - 1057 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 - 1058 commission shall make rules:
 - 1059 (i) listing the items that constitute "protective equipment"; and
 - 1060 (ii) that are consistent with the list of items that constitute "protective equipment"
 - 1061 under the agreement.
 - 1062 (102) (a) For purposes of Subsection [59-12-104\(41\)](#), "publication" means any written
 - 1063 or printed matter, other than a photocopy:
 - 1064 (i) regardless of:
 - 1065 (A) characteristics;
 - 1066 (B) copyright;
 - 1067 (C) form;
 - 1068 (D) format;
 - 1069 (E) method of reproduction; or
 - 1070 (F) source; and
 - 1071 (ii) made available in printed or electronic format.
 - 1072 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 - 1073 commission may by rule define the term "photocopy."
 - 1074 (103) (a) "Purchase price" and "sales price" mean the total amount of consideration:
 - 1075 (i) valued in money; and
 - 1076 (ii) for which tangible personal property, a product transferred electronically, or
 - 1077 services are:
 - 1078 (A) sold;
 - 1079 (B) leased; or
 - 1080 (C) rented.
 - 1081 (b) "Purchase price" and "sales price" include:

- 1082 (i) the seller's cost of the tangible personal property, a product transferred
- 1083 electronically, or services sold;
- 1084 (ii) expenses of the seller, including:
- 1085 (A) the cost of materials used;
- 1086 (B) a labor cost;
- 1087 (C) a service cost;
- 1088 (D) interest;
- 1089 (E) a loss;
- 1090 (F) the cost of transportation to the seller; or
- 1091 (G) a tax imposed on the seller;
- 1092 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1093 (iv) consideration a seller receives from a person other than the purchaser if:
- 1094 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 1095 and
- 1096 (II) the consideration described in Subsection (103)(b)(iv)(A)(I) is directly related to a
- 1097 price reduction or discount on the sale;
- 1098 (B) the seller has an obligation to pass the price reduction or discount through to the
- 1099 purchaser;
- 1100 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 1101 the seller at the time of the sale to the purchaser; and
- 1102 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 1103 seller to claim a price reduction or discount; and
- 1104 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 1105 coupon, or other documentation with the understanding that the person other than the seller
- 1106 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 1107 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 1108 organization allowed a price reduction or discount, except that a preferred customer card that is
- 1109 available to any patron of a seller does not constitute membership in a group or organization
- 1110 allowed a price reduction or discount; or
- 1111 (III) the price reduction or discount is identified as a third party price reduction or
- 1112 discount on the:

- 1113 (Aa) invoice the purchaser receives; or
- 1114 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 1115 (c) "Purchase price" and "sales price" do not include:
- 1116 (i) a discount:
- 1117 (A) in a form including:
- 1118 (I) cash;
- 1119 (II) term; or
- 1120 (III) coupon;
- 1121 (B) that is allowed by a seller;
- 1122 (C) taken by a purchaser on a sale; and
- 1123 (D) that is not reimbursed by a third party; or
- 1124 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
- 1125 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
- 1126 sale or later, as demonstrated by the books and records the seller keeps at the time of the
- 1127 transaction in the regular course of business, including books and records the seller keeps at the
- 1128 time of the transaction in the regular course of business for nontax purposes, by a
- 1129 preponderance of the facts and circumstances at the time of the transaction, and by the
- 1130 understanding of all of the parties to the transaction:
- 1131 (A) the following from credit extended on the sale of tangible personal property or
- 1132 services:
- 1133 (I) a carrying charge;
- 1134 (II) a financing charge; or
- 1135 (III) an interest charge;
- 1136 (B) a delivery charge;
- 1137 (C) an installation charge;
- 1138 (D) a manufacturer rebate on a motor vehicle; or
- 1139 (E) a tax or fee legally imposed directly on the consumer.
- 1140 (104) "Purchaser" means a person to whom:
- 1141 (a) a sale of tangible personal property is made;
- 1142 (b) a product is transferred electronically; or
- 1143 (c) a service is furnished.

1144 (105) "Qualifying [~~enterprise~~] data center" means [~~an establishment that will: (a) own~~
1145 ~~and operate~~] a data center facility that [~~will house~~]:

1146 (a) houses a group of networked server computers in one physical location in order to
1147 [~~centralize the dissemination, management, and storage of~~] disseminate, manage, and store data
1148 and information;

1149 (b) [~~be~~] is located in the state;

1150 (c) [~~be~~] is a new operation constructed on or after July 1, 2016;

1151 (d) [~~consist~~] consists of one or more buildings that total 150,000 or more square feet;

1152 (e) [~~be~~] is owned or leased by:

1153 (i) the [~~establishment~~] operator of the data center facility; or

1154 (ii) a person under common ownership, as defined in Section 59-7-101, of the
1155 [~~establishment~~] operator of the data center facility; and

1156 (f) [~~be~~] is located on one or more parcels of land that are owned or leased by:

1157 (i) the [~~establishment~~] operator of the data center facility; or

1158 (ii) a person under common ownership, as defined in Section 59-7-101, of the
1159 [~~establishment~~] operator of the data center facility.

1160 (106) "Regularly rented" means:

1161 (a) rented to a guest for value three or more times during a calendar year; or

1162 (b) advertised or held out to the public as a place that is regularly rented to guests for
1163 value.

1164 (107) "Rental" means the same as that term is defined in Subsection (60).

1165 (108) (a) Except as provided in Subsection (108)(b), "repairs or renovations of tangible
1166 personal property" means:

1167 (i) a repair or renovation of tangible personal property that is not permanently attached
1168 to real property; or

1169 (ii) attaching tangible personal property or a product transferred electronically to other
1170 tangible personal property or detaching tangible personal property or a product transferred
1171 electronically from other tangible personal property if:

1172 (A) the other tangible personal property to which the tangible personal property or
1173 product transferred electronically is attached or from which the tangible personal property or
1174 product transferred electronically is detached is not permanently attached to real property; and

1175 (B) the attachment of tangible personal property or a product transferred electronically
1176 to other tangible personal property or detachment of tangible personal property or a product
1177 transferred electronically from other tangible personal property is made in conjunction with a
1178 repair or replacement of tangible personal property or a product transferred electronically.

1179 (b) "Repairs or renovations of tangible personal property" does not include:

1180 (i) attaching prewritten computer software to other tangible personal property if the
1181 other tangible personal property to which the prewritten computer software is attached is not
1182 permanently attached to real property; or

1183 (ii) detaching prewritten computer software from other tangible personal property if the
1184 other tangible personal property from which the prewritten computer software is detached is
1185 not permanently attached to real property.

1186 (109) "Research and development" means the process of inquiry or experimentation
1187 aimed at the discovery of facts, devices, technologies, or applications and the process of
1188 preparing those devices, technologies, or applications for marketing.

1189 (110) (a) "Residential telecommunications services" means a telecommunications
1190 service or an ancillary service that is provided to an individual for personal use:

1191 (i) at a residential address; or

1192 (ii) at an institution, including a nursing home or a school, if the telecommunications
1193 service or ancillary service is provided to and paid for by the individual residing at the
1194 institution rather than the institution.

1195 (b) For purposes of Subsection (110)(a)(i), a residential address includes an:

1196 (i) apartment; or

1197 (ii) other individual dwelling unit.

1198 (111) "Residential use" means the use in or around a home, apartment building,
1199 sleeping quarters, and similar facilities or accommodations.

1200 (112) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1201 than:

1202 (a) resale;

1203 (b) sublease; or

1204 (c) subrent.

1205 (113) (a) "Retailer" means any person, unless prohibited by the Constitution of the

1206 United States or federal law, that is engaged in a regularly organized business in tangible
1207 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is
1208 selling to the user or consumer and not for resale.

1209 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1210 engaged in the business of selling to users or consumers within the state.

1211 (114) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1212 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1213 Subsection 59-12-103(1), for consideration.

1214 (b) "Sale" includes:

1215 (i) installment and credit sales;

1216 (ii) any closed transaction constituting a sale;

1217 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1218 chapter;

1219 (iv) any transaction if the possession of property is transferred but the seller retains the
1220 title as security for the payment of the price; and

1221 (v) any transaction under which right to possession, operation, or use of any article of
1222 tangible personal property is granted under a lease or contract and the transfer of possession
1223 would be taxable if an outright sale were made.

1224 (115) "Sale at retail" means the same as that term is defined in Subsection (112).

1225 (116) "Sale-leaseback transaction" means a transaction by which title to tangible
1226 personal property or a product transferred electronically that is subject to a tax under this
1227 chapter is transferred:

1228 (a) by a purchaser-lessee;

1229 (b) to a lessor;

1230 (c) for consideration; and

1231 (d) if:

1232 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1233 of the tangible personal property or product transferred electronically;

1234 (ii) the sale of the tangible personal property or product transferred electronically to the
1235 lessor is intended as a form of financing:

1236 (A) for the tangible personal property or product transferred electronically; and

- 1237 (B) to the purchaser-lessee; and
- 1238 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
- 1239 is required to:
- 1240 (A) capitalize the tangible personal property or product transferred electronically for
- 1241 financial reporting purposes; and
- 1242 (B) account for the lease payments as payments made under a financing arrangement.
- 1243 (117) "Sales price" means the same as that term is defined in Subsection (103).
- 1244 (118) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
- 1245 amounts charged by a school:
- 1246 (i) sales that are directly related to the school's educational functions or activities
- 1247 including:
- 1248 (A) the sale of:
- 1249 (I) textbooks;
- 1250 (II) textbook fees;
- 1251 (III) laboratory fees;
- 1252 (IV) laboratory supplies; or
- 1253 (V) safety equipment;
- 1254 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 1255 that:
- 1256 (I) a student is specifically required to wear as a condition of participation in a
- 1257 school-related event or school-related activity; and
- 1258 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 1259 place of ordinary clothing;
- 1260 (C) sales of the following if the net or gross revenues generated by the sales are
- 1261 deposited into a school district fund or school fund dedicated to school meals:
- 1262 (I) food and food ingredients; or
- 1263 (II) prepared food; or
- 1264 (D) transportation charges for official school activities; or
- 1265 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 1266 event or school-related activity.
- 1267 (b) "Sales relating to schools" does not include:

- 1268 (i) bookstore sales of items that are not educational materials or supplies;
- 1269 (ii) except as provided in Subsection (118)(a)(i)(B):
- 1270 (A) clothing;
- 1271 (B) clothing accessories or equipment;
- 1272 (C) protective equipment; or
- 1273 (D) sports or recreational equipment; or
- 1274 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1275 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1276 (A) other than a:
- 1277 (I) school;
- 1278 (II) nonprofit organization authorized by a school board or a governing body of a
- 1279 private school to organize and direct a competitive secondary school activity; or
- 1280 (III) nonprofit association authorized by a school board or a governing body of a
- 1281 private school to organize and direct a competitive secondary school activity; and
- 1282 (B) that is required to collect sales and use taxes under this chapter.
- 1283 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1284 commission may make rules defining the term "passed through."
- 1285 (119) For purposes of this section and Section [59-12-104](#), "school" means:
- 1286 (a) an elementary school or a secondary school that:
- 1287 (i) is a:
- 1288 (A) public school; or
- 1289 (B) private school; and
- 1290 (ii) provides instruction for one or more grades kindergarten through 12; or
- 1291 (b) a public school district.
- 1292 (120) (a) "Seller" means a person that makes a sale, lease, or rental of:
- 1293 (i) tangible personal property;
- 1294 (ii) a product transferred electronically; or
- 1295 (iii) a service.
- 1296 (b) "Seller" includes a marketplace facilitator.
- 1297 (121) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1298 means tangible personal property or a product transferred electronically if the tangible personal

- 1299 property or product transferred electronically is:
- 1300 (i) used primarily in the process of:
- 1301 (A) (I) manufacturing a semiconductor;
- 1302 (II) fabricating a semiconductor; or
- 1303 (III) research or development of a:
- 1304 (Aa) semiconductor; or
- 1305 (Bb) semiconductor manufacturing process; or
- 1306 (B) maintaining an environment suitable for a semiconductor; or
- 1307 (ii) consumed primarily in the process of:
- 1308 (A) (I) manufacturing a semiconductor;
- 1309 (II) fabricating a semiconductor; or
- 1310 (III) research or development of a:
- 1311 (Aa) semiconductor; or
- 1312 (Bb) semiconductor manufacturing process; or
- 1313 (B) maintaining an environment suitable for a semiconductor.
- 1314 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1315 includes:
- 1316 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1317 transferred electronically described in Subsection (121)(a); or
- 1318 (ii) a chemical, catalyst, or other material used to:
- 1319 (A) produce or induce in a semiconductor a:
- 1320 (I) chemical change; or
- 1321 (II) physical change;
- 1322 (B) remove impurities from a semiconductor; or
- 1323 (C) improve the marketable condition of a semiconductor.
- 1324 (122) "Senior citizen center" means a facility having the primary purpose of providing
- 1325 services to the aged as defined in Section [62A-3-101](#).
- 1326 (123) (a) Subject to Subsections (123)(b) and (c), "short-term lodging consumable"
- 1327 means tangible personal property that:
- 1328 (i) a business that provides accommodations and services described in Subsection
- 1329 [59-12-103\(1\)\(i\)](#) purchases as part of a transaction to provide the accommodations and services

- 1330 to a purchaser;
- 1331 (ii) is intended to be consumed by the purchaser; and
- 1332 (iii) is:
- 1333 (A) included in the purchase price of the accommodations and services; and
- 1334 (B) not separately stated on an invoice, bill of sale, or other similar document provided
- 1335 to the purchaser.
- 1336 (b) "Short-term lodging consumable" includes:
- 1337 (i) a beverage;
- 1338 (ii) a brush or comb;
- 1339 (iii) a cosmetic;
- 1340 (iv) a hair care product;
- 1341 (v) lotion;
- 1342 (vi) a magazine;
- 1343 (vii) makeup;
- 1344 (viii) a meal;
- 1345 (ix) mouthwash;
- 1346 (x) nail polish remover;
- 1347 (xi) a newspaper;
- 1348 (xii) a notepad;
- 1349 (xiii) a pen;
- 1350 (xiv) a pencil;
- 1351 (xv) a razor;
- 1352 (xvi) saline solution;
- 1353 (xvii) a sewing kit;
- 1354 (xviii) shaving cream;
- 1355 (xix) a shoe shine kit;
- 1356 (xx) a shower cap;
- 1357 (xxi) a snack item;
- 1358 (xxii) soap;
- 1359 (xxiii) toilet paper;
- 1360 (xxiv) a toothbrush;

1361 (xxv) toothpaste; or
1362 (xxvi) an item similar to Subsections (123)(b)(i) through (xxv) as the commission may
1363 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1364 Rulemaking Act.

1365 (c) "Short-term lodging consumable" does not include:
1366 (i) tangible personal property that is cleaned or washed to allow the tangible personal
1367 property to be reused; or
1368 (ii) a product transferred electronically.

1369 (124) "Simplified electronic return" means the electronic return:

1370 (a) described in Section 318(C) of the agreement; and
1371 (b) approved by the governing board of the agreement.

1372 (125) "Solar energy" means the sun used as the sole source of energy for producing
1373 electricity.

1374 (126) (a) "Sports or recreational equipment" means an item:

1375 (i) designed for human use; and
1376 (ii) that is:

1377 (A) worn in conjunction with:

1378 (I) an athletic activity; or
1379 (II) a recreational activity; and
1380 (B) not suitable for general use.

1381 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1382 commission shall make rules:

1383 (i) listing the items that constitute "sports or recreational equipment"; and
1384 (ii) that are consistent with the list of items that constitute "sports or recreational
1385 equipment" under the agreement.

1386 (127) "State" means the state of Utah, its departments, and agencies.

1387 (128) "Storage" means any keeping or retention of tangible personal property or any
1388 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
1389 sale in the regular course of business.

1390 (129) (a) Except as provided in Subsection (129)(d) or (e), "tangible personal property"
1391 means personal property that:

- 1392 (i) may be:
- 1393 (A) seen;
- 1394 (B) weighed;
- 1395 (C) measured;
- 1396 (D) felt; or
- 1397 (E) touched; or
- 1398 (ii) is in any manner perceptible to the senses.
- 1399 (b) "Tangible personal property" includes:
- 1400 (i) electricity;
- 1401 (ii) water;
- 1402 (iii) gas;
- 1403 (iv) steam; or
- 1404 (v) prewritten computer software, regardless of the manner in which the prewritten
- 1405 computer software is transferred.
- 1406 (c) "Tangible personal property" includes the following regardless of whether the item
- 1407 is attached to real property:
- 1408 (i) a dishwasher;
- 1409 (ii) a dryer;
- 1410 (iii) a freezer;
- 1411 (iv) a microwave;
- 1412 (v) a refrigerator;
- 1413 (vi) a stove;
- 1414 (vii) a washer; or
- 1415 (viii) an item similar to Subsections (129)(c)(i) through (vii) as determined by the
- 1416 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1417 Rulemaking Act.
- 1418 (d) "Tangible personal property" does not include a product that is transferred
- 1419 electronically.
- 1420 (e) "Tangible personal property" does not include the following if attached to real
- 1421 property, regardless of whether the attachment to real property is only through a line that
- 1422 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the

1423 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1424 Rulemaking Act:

1425 (i) a hot water heater;

1426 (ii) a water filtration system; or

1427 (iii) a water softener system.

1428 (130) (a) "Telecommunications enabling or facilitating equipment, machinery, or
1429 software" means an item listed in Subsection (130)(b) if that item is purchased or leased
1430 primarily to enable or facilitate one or more of the following to function:

1431 (i) telecommunications switching or routing equipment, machinery, or software; or

1432 (ii) telecommunications transmission equipment, machinery, or software.

1433 (b) The following apply to Subsection (130)(a):

1434 (i) a pole;

1435 (ii) software;

1436 (iii) a supplementary power supply;

1437 (iv) temperature or environmental equipment or machinery;

1438 (v) test equipment;

1439 (vi) a tower; or

1440 (vii) equipment, machinery, or software that functions similarly to an item listed in
1441 Subsections (130)(b)(i) through (vi) as determined by the commission by rule made in
1442 accordance with Subsection (130)(c).

1443 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1444 commission may by rule define what constitutes equipment, machinery, or software that
1445 functions similarly to an item listed in Subsections (130)(b)(i) through (vi).

1446 (131) "Telecommunications equipment, machinery, or software required for 911
1447 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
1448 Sec. 20.18.

1449 (132) "Telecommunications maintenance or repair equipment, machinery, or software"
1450 means equipment, machinery, or software purchased or leased primarily to maintain or repair
1451 one or more of the following, regardless of whether the equipment, machinery, or software is
1452 purchased or leased as a spare part or as an upgrade or modification to one or more of the
1453 following:

- 1454 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1455 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1456 (c) telecommunications transmission equipment, machinery, or software.

1457 (133) (a) "Telecommunications service" means the electronic conveyance, routing, or
1458 transmission of audio, data, video, voice, or any other information or signal to a point, or
1459 among or between points.

1460 (b) "Telecommunications service" includes:

1461 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1462 processing application is used to act:

1463 (A) on the code, form, or protocol of the content;

1464 (B) for the purpose of electronic conveyance, routing, or transmission; and

1465 (C) regardless of whether the service:

1466 (I) is referred to as voice over Internet protocol service; or

1467 (II) is classified by the Federal Communications Commission as enhanced or value
1468 added;

1469 (ii) an 800 service;

1470 (iii) a 900 service;

1471 (iv) a fixed wireless service;

1472 (v) a mobile wireless service;

1473 (vi) a postpaid calling service;

1474 (vii) a prepaid calling service;

1475 (viii) a prepaid wireless calling service; or

1476 (ix) a private communications service.

1477 (c) "Telecommunications service" does not include:

1478 (i) advertising, including directory advertising;

1479 (ii) an ancillary service;

1480 (iii) a billing and collection service provided to a third party;

1481 (iv) a data processing and information service if:

1482 (A) the data processing and information service allows data to be:

1483 (I) (Aa) acquired;

1484 (Bb) generated;

- 1485 (Cc) processed;
- 1486 (Dd) retrieved; or
- 1487 (Ee) stored; and
- 1488 (II) delivered by an electronic transmission to a purchaser; and
- 1489 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1490 or information;
- 1491 (v) installation or maintenance of the following on a customer's premises:
- 1492 (A) equipment; or
- 1493 (B) wiring;
- 1494 (vi) Internet access service;
- 1495 (vii) a paging service;
- 1496 (viii) a product transferred electronically, including:
- 1497 (A) music;
- 1498 (B) reading material;
- 1499 (C) a ring tone;
- 1500 (D) software; or
- 1501 (E) video;
- 1502 (ix) a radio and television audio and video programming service:
- 1503 (A) regardless of the medium; and
- 1504 (B) including:
- 1505 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 1506 programming service by a programming service provider;
- 1507 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1508 (III) audio and video programming services delivered by a commercial mobile radio
- 1509 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1510 (x) a value-added nonvoice data service; or
- 1511 (xi) tangible personal property.
- 1512 (134) (a) "Telecommunications service provider" means a person that:
- 1513 (i) owns, controls, operates, or manages a telecommunications service; and
- 1514 (ii) engages in an activity described in Subsection (134)(a)(i) for the shared use with or
- 1515 resale to any person of the telecommunications service.

1516 (b) A person described in Subsection (134)(a) is a telecommunications service provider
1517 whether or not the Public Service Commission of Utah regulates:

1518 (i) that person; or

1519 (ii) the telecommunications service that the person owns, controls, operates, or
1520 manages.

1521 (135) (a) "Telecommunications switching or routing equipment, machinery, or
1522 software" means an item listed in Subsection (135)(b) if that item is purchased or leased
1523 primarily for switching or routing:

1524 (i) an ancillary service;

1525 (ii) data communications;

1526 (iii) voice communications; or

1527 (iv) telecommunications service.

1528 (b) The following apply to Subsection (135)(a):

1529 (i) a bridge;

1530 (ii) a computer;

1531 (iii) a cross connect;

1532 (iv) a modem;

1533 (v) a multiplexer;

1534 (vi) plug in circuitry;

1535 (vii) a router;

1536 (viii) software;

1537 (ix) a switch; or

1538 (x) equipment, machinery, or software that functions similarly to an item listed in
1539 Subsections (135)(b)(i) through (ix) as determined by the commission by rule made in
1540 accordance with Subsection (135)(c).

1541 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1542 commission may by rule define what constitutes equipment, machinery, or software that
1543 functions similarly to an item listed in Subsections (135)(b)(i) through (ix).

1544 (136) (a) "Telecommunications transmission equipment, machinery, or software"
1545 means an item listed in Subsection (136)(b) if that item is purchased or leased primarily for
1546 sending, receiving, or transporting:

- 1547 (i) an ancillary service;
- 1548 (ii) data communications;
- 1549 (iii) voice communications; or
- 1550 (iv) telecommunications service.
- 1551 (b) The following apply to Subsection (136)(a):
- 1552 (i) an amplifier;
- 1553 (ii) a cable;
- 1554 (iii) a closure;
- 1555 (iv) a conduit;
- 1556 (v) a controller;
- 1557 (vi) a duplexer;
- 1558 (vii) a filter;
- 1559 (viii) an input device;
- 1560 (ix) an input/output device;
- 1561 (x) an insulator;
- 1562 (xi) microwave machinery or equipment;
- 1563 (xii) an oscillator;
- 1564 (xiii) an output device;
- 1565 (xiv) a pedestal;
- 1566 (xv) a power converter;
- 1567 (xvi) a power supply;
- 1568 (xvii) a radio channel;
- 1569 (xviii) a radio receiver;
- 1570 (xix) a radio transmitter;
- 1571 (xx) a repeater;
- 1572 (xxi) software;
- 1573 (xxii) a terminal;
- 1574 (xxiii) a timing unit;
- 1575 (xxiv) a transformer;
- 1576 (xxv) a wire; or
- 1577 (xxvi) equipment, machinery, or software that functions similarly to an item listed in

1578 Subsections (136)(b)(i) through (xxv) as determined by the commission by rule made in
1579 accordance with Subsection (136)(c).

1580 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1581 commission may by rule define what constitutes equipment, machinery, or software that
1582 functions similarly to an item listed in Subsections (136)(b)(i) through (xxv).

1583 (137) (a) "Textbook for a higher education course" means a textbook or other printed
1584 material that is required for a course:

- 1585 (i) offered by an institution of higher education; and
- 1586 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1587 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1588 (138) "Tobacco" means:

- 1589 (a) a cigarette;
- 1590 (b) a cigar;
- 1591 (c) chewing tobacco;
- 1592 (d) pipe tobacco; or
- 1593 (e) any other item that contains tobacco.

1594 (139) "Unassisted amusement device" means an amusement device, skill device, or
1595 ride device that is started and stopped by the purchaser or renter of the right to use or operate
1596 the amusement device, skill device, or ride device.

1597 (140) (a) "Use" means the exercise of any right or power over tangible personal
1598 property, a product transferred electronically, or a service under Subsection [59-12-103\(1\)](#),
1599 incident to the ownership or the leasing of that tangible personal property, product transferred
1600 electronically, or service.

1601 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1602 property, a product transferred electronically, or a service in the regular course of business and
1603 held for resale.

1604 (141) "Value-added nonvoice data service" means a service:

1605 (a) that otherwise meets the definition of a telecommunications service except that a
1606 computer processing application is used to act primarily for a purpose other than conveyance,
1607 routing, or transmission; and

1608 (b) with respect to which a computer processing application is used to act on data or

1609 information:

- 1610 (i) code;
- 1611 (ii) content;
- 1612 (iii) form; or
- 1613 (iv) protocol.

1614 (142) (a) Subject to Subsection (142)(b), "vehicle" means the following that are
1615 required to be titled, registered, or titled and registered:

- 1616 (i) an aircraft as defined in Section 72-10-102;
- 1617 (ii) a vehicle as defined in Section 41-1a-102;
- 1618 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1619 (iv) a vessel as defined in Section 41-1a-102.

1620 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1621 (i) a vehicle described in Subsection (142)(a); or
- 1622 (ii) (A) a locomotive;
- 1623 (B) a freight car;
- 1624 (C) railroad work equipment; or
- 1625 (D) other railroad rolling stock.

1626 (143) "Vehicle dealer" means a person engaged in the business of buying, selling, or
1627 exchanging a vehicle as defined in Subsection (142).

1628 (144) (a) "Vertical service" means an ancillary service that:

- 1629 (i) is offered in connection with one or more telecommunications services; and
- 1630 (ii) offers an advanced calling feature that allows a customer to:
 - 1631 (A) identify a caller; and
 - 1632 (B) manage multiple calls and call connections.

1633 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
1634 conference bridging service.

1635 (145) (a) "Voice mail service" means an ancillary service that enables a customer to
1636 receive, send, or store a recorded message.

1637 (b) "Voice mail service" does not include a vertical service that a customer is required
1638 to have in order to utilize a voice mail service.

1639 (146) (a) Except as provided in Subsection (146)(b), "waste energy facility" means a

1640 facility that generates electricity:

1641 (i) using as the primary source of energy waste materials that would be placed in a
1642 landfill or refuse pit if it were not used to generate electricity, including:

1643 (A) tires;

1644 (B) waste coal;

1645 (C) oil shale; or

1646 (D) municipal solid waste; and

1647 (ii) in amounts greater than actually required for the operation of the facility.

1648 (b) "Waste energy facility" does not include a facility that incinerates:

1649 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

1650 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1651 (147) "Watercraft" means a vessel as defined in Section [73-18-2](#).

1652 (148) "Wind energy" means wind used as the sole source of energy to produce
1653 electricity.

1654 (149) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
1655 location by the United States Postal Service.

1656 Section 2. Section **59-12-104** is amended to read:

1657 **59-12-104. Exemptions.**

1658 Exemptions from the taxes imposed by this chapter are as follows:

1659 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
1660 under Chapter 13, Motor and Special Fuel Tax Act;

1661 (2) subject to Section [59-12-104.6](#), sales to the state, its institutions, and its political
1662 subdivisions; however, this exemption does not apply to sales of:

1663 (a) construction materials except:

1664 (i) construction materials purchased by or on behalf of institutions of the public
1665 education system as defined in Utah Constitution, Article X, Section 2, provided the
1666 construction materials are clearly identified and segregated and installed or converted to real
1667 property which is owned by institutions of the public education system; and

1668 (ii) construction materials purchased by the state, its institutions, or its political
1669 subdivisions which are installed or converted to real property by employees of the state, its
1670 institutions, or its political subdivisions; or

1671 (b) tangible personal property in connection with the construction, operation,
1672 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
1673 providing additional project capacity, as defined in Section 11-13-103;

1674 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

1675 (i) the proceeds of each sale do not exceed \$1; and

1676 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
1677 the cost of the item described in Subsection (3)(b) as goods consumed; and

1678 (b) Subsection (3)(a) applies to:

1679 (i) food and food ingredients; or

1680 (ii) prepared food;

1681 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

1682 (i) alcoholic beverages;

1683 (ii) food and food ingredients; or

1684 (iii) prepared food;

1685 (b) sales of tangible personal property or a product transferred electronically:

1686 (i) to a passenger;

1687 (ii) by a commercial airline carrier; and

1688 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or

1689 (c) services related to Subsection (4)(a) or (b);

1690 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
1691 and equipment:

1692 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
1693 North American Industry Classification System of the federal Executive Office of the
1694 President, Office of Management and Budget; and

1695 (II) for:

1696 (Aa) installation in an aircraft, including services relating to the installation of parts or
1697 equipment in the aircraft;

1698 (Bb) renovation of an aircraft; or

1699 (Cc) repair of an aircraft; or

1700 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
1701 commerce; or

- 1702 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
1703 aircraft operated by a common carrier in interstate or foreign commerce; and
- 1704 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
1705 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
1706 refund:
- 1707 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;
1708 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
1709 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
1710 the sale prior to filing for the refund;
- 1711 (iv) for sales and use taxes paid under this chapter on the sale;
1712 (v) in accordance with Section 59-1-1410; and
1713 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
1714 the person files for the refund on or before September 30, 2011;
- 1715 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
1716 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
1717 exhibitor, distributor, or commercial television or radio broadcaster;
- 1718 (7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of
1719 cleaning or washing of tangible personal property if the cleaning or washing of the tangible
1720 personal property is not assisted cleaning or washing of tangible personal property;
- 1721 (b) if a seller that sells at the same business location assisted cleaning or washing of
1722 tangible personal property and cleaning or washing of tangible personal property that is not
1723 assisted cleaning or washing of tangible personal property, the exemption described in
1724 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
1725 or washing of the tangible personal property; and
- 1726 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
1727 Utah Administrative Rulemaking Act, the commission may make rules:
- 1728 (i) governing the circumstances under which sales are at the same business location;
1729 and
- 1730 (ii) establishing the procedures and requirements for a seller to separately account for
1731 sales of assisted cleaning or washing of tangible personal property;
- 1732 (8) sales made to or by religious or charitable institutions in the conduct of their regular

1733 religious or charitable functions and activities, if the requirements of Section [59-12-104.1](#) are
1734 fulfilled;

1735 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
1736 this state if the vehicle is:

1737 (a) not registered in this state; and
1738 (b) (i) not used in this state; or
1739 (ii) used in this state:

1740 (A) if the vehicle is not used to conduct business, for a time period that does not
1741 exceed the longer of:

1742 (I) 30 days in any calendar year; or
1743 (II) the time period necessary to transport the vehicle to the borders of this state; or
1744 (B) if the vehicle is used to conduct business, for the time period necessary to transport
1745 the vehicle to the borders of this state;

1746 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

1747 (i) the item is intended for human use; and
1748 (ii) (A) a prescription was issued for the item; or
1749 (B) the item was purchased by a hospital or other medical facility; and

1750 (b) (i) Subsection (10)(a) applies to:

1751 (A) a drug;
1752 (B) a syringe; or
1753 (C) a stoma supply; and
1754 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1755 commission may by rule define the terms:

1756 (A) "syringe"; or
1757 (B) "stoma supply";

1758 (11) purchases or leases exempt under Section [19-12-201](#);

1759 (12) (a) sales of an item described in Subsection (12)(c) served by:

1760 (i) the following if the item described in Subsection (12)(c) is not available to the
1761 general public:

1762 (A) a church; or
1763 (B) a charitable institution; or

- 1764 (ii) an institution of higher education if:
- 1765 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 1766 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 1767 offered by the institution of higher education; or
- 1768 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 1769 (i) a medical facility; or
- 1770 (ii) a nursing facility; and
- 1771 (c) Subsections (12)(a) and (b) apply to:
- 1772 (i) food and food ingredients;
- 1773 (ii) prepared food; or
- 1774 (iii) alcoholic beverages;
- 1775 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 1776 or a product transferred electronically by a person:
- 1777 (i) regardless of the number of transactions involving the sale of that tangible personal
- 1778 property or product transferred electronically by that person; and
- 1779 (ii) not regularly engaged in the business of selling that type of tangible personal
- 1780 property or product transferred electronically;
- 1781 (b) this Subsection (13) does not apply if:
- 1782 (i) the sale is one of a series of sales of a character to indicate that the person is
- 1783 regularly engaged in the business of selling that type of tangible personal property or product
- 1784 transferred electronically;
- 1785 (ii) the person holds that person out as regularly engaged in the business of selling that
- 1786 type of tangible personal property or product transferred electronically;
- 1787 (iii) the person sells an item of tangible personal property or product transferred
- 1788 electronically that the person purchased as a sale that is exempt under Subsection (25); or
- 1789 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
- 1790 this state in which case the tax is based upon:
- 1791 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
- 1792 sold; or
- 1793 (B) in the absence of a bill of sale or other written evidence of value, the fair market
- 1794 value of the vehicle or vessel being sold at the time of the sale as determined by the

1795 commission; and

1796 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1797 commission shall make rules establishing the circumstances under which:

1798 (i) a person is regularly engaged in the business of selling a type of tangible personal
1799 property or product transferred electronically;

1800 (ii) a sale of tangible personal property or a product transferred electronically is one of
1801 a series of sales of a character to indicate that a person is regularly engaged in the business of
1802 selling that type of tangible personal property or product transferred electronically; or

1803 (iii) a person holds that person out as regularly engaged in the business of selling a type
1804 of tangible personal property or product transferred electronically;

1805 (14) amounts paid or charged for a purchase or lease of machinery, equipment, normal
1806 operating repair or replacement parts, or materials, except for office equipment or office
1807 supplies, by:

1808 (a) a manufacturing facility that:

1809 (i) is located in the state; and

1810 (ii) uses or consumes the machinery, equipment, normal operating repair or
1811 replacement parts, or materials:

1812 (A) in the manufacturing process to manufacture an item sold as tangible personal
1813 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
1814 Utah Administrative Rulemaking Act; or

1815 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
1816 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
1817 Administrative Rulemaking Act;

1818 (b) an establishment, as the commission defines that term in accordance with Title
1819 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

1820 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
1821 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
1822 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
1823 2002 North American Industry Classification System of the federal Executive Office of the
1824 President, Office of Management and Budget;

1825 (ii) is located in the state; and

1826 (iii) uses or consumes the machinery, equipment, normal operating repair or
1827 replacement parts, or materials in:

1828 (A) the production process to produce an item sold as tangible personal property, as the
1829 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
1830 Administrative Rulemaking Act;

1831 (B) research and development, as the commission may define that phrase in accordance
1832 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1833 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
1834 produced from mining;

1835 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
1836 mining; or

1837 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

1838 (c) an establishment, as the commission defines that term in accordance with Title 63G,
1839 Chapter 3, Utah Administrative Rulemaking Act, that:

1840 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
1841 American Industry Classification System of the federal Executive Office of the President,
1842 Office of Management and Budget;

1843 (ii) is located in the state; and

1844 (iii) uses or consumes the machinery, equipment, normal operating repair or
1845 replacement parts, or materials in the operation of the web search portal;

1846 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

1847 (i) tooling;

1848 (ii) special tooling;

1849 (iii) support equipment;

1850 (iv) special test equipment; or

1851 (v) parts used in the repairs or renovations of tooling or equipment described in
1852 Subsections (15)(a)(i) through (iv); and

1853 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

1854 (i) the tooling, equipment, or parts are used or consumed exclusively in the
1855 performance of any aerospace or electronics industry contract with the United States
1856 government or any subcontract under that contract; and

1857 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
1858 title to the tooling, equipment, or parts is vested in the United States government as evidenced
1859 by:

1860 (A) a government identification tag placed on the tooling, equipment, or parts; or

1861 (B) listing on a government-approved property record if placing a government
1862 identification tag on the tooling, equipment, or parts is impractical;

1863 (16) sales of newspapers or newspaper subscriptions;

1864 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
1865 product transferred electronically traded in as full or part payment of the purchase price, except
1866 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
1867 trade-ins are limited to other vehicles only, and the tax is based upon:

1868 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
1869 vehicle being traded in; or

1870 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
1871 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
1872 commission; and

1873 (b) Subsection (17)(a) does not apply to the following items of tangible personal
1874 property or products transferred electronically traded in as full or part payment of the purchase
1875 price:

1876 (i) money;

1877 (ii) electricity;

1878 (iii) water;

1879 (iv) gas; or

1880 (v) steam;

1881 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
1882 or a product transferred electronically used or consumed primarily and directly in farming
1883 operations, regardless of whether the tangible personal property or product transferred
1884 electronically:

1885 (A) becomes part of real estate; or

1886 (B) is installed by a:

1887 (I) farmer;

1888 (II) contractor; or
1889 (III) subcontractor; or
1890 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
1891 product transferred electronically if the tangible personal property or product transferred
1892 electronically is exempt under Subsection (18)(a)(i); and
1893 (b) amounts paid or charged for the following are subject to the taxes imposed by this
1894 chapter:
1895 (i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or
1896 supplies if used in a manner that is incidental to farming; and
1897 (B) tangible personal property that is considered to be used in a manner that is
1898 incidental to farming includes:
1899 (I) hand tools; or
1900 (II) maintenance and janitorial equipment and supplies;
1901 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
1902 transferred electronically if the tangible personal property or product transferred electronically
1903 is used in an activity other than farming; and
1904 (B) tangible personal property or a product transferred electronically that is considered
1905 to be used in an activity other than farming includes:
1906 (I) office equipment and supplies; or
1907 (II) equipment and supplies used in:
1908 (Aa) the sale or distribution of farm products;
1909 (Bb) research; or
1910 (Cc) transportation; or
1911 (iii) a vehicle required to be registered by the laws of this state during the period
1912 ending two years after the date of the vehicle's purchase;
1913 (19) sales of hay;
1914 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
1915 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
1916 garden, farm, or other agricultural produce is sold by:
1917 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
1918 agricultural produce;

- 1919 (b) an employee of the producer described in Subsection (20)(a); or
1920 (c) a member of the immediate family of the producer described in Subsection (20)(a);
1921 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
1922 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 1923 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
1924 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
1925 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
1926 manufacturer, processor, wholesaler, or retailer;
- 1927 (23) a product stored in the state for resale;
- 1928 (24) (a) purchases of a product if:
- 1929 (i) the product is:
- 1930 (A) purchased outside of this state;
- 1931 (B) brought into this state:
- 1932 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
1933 (II) by a nonresident person who is not living or working in this state at the time of the
1934 purchase;
- 1935 (C) used for the personal use or enjoyment of the nonresident person described in
1936 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
- 1937 (D) not used in conducting business in this state; and
- 1938 (ii) for:
- 1939 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
1940 the product for a purpose for which the product is designed occurs outside of this state;
- 1941 (B) a boat, the boat is registered outside of this state; or
- 1942 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
1943 outside of this state;
- 1944 (b) the exemption provided for in Subsection (24)(a) does not apply to:
- 1945 (i) a lease or rental of a product; or
- 1946 (ii) a sale of a vehicle exempt under Subsection (33); and
- 1947 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
1948 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
1949 following:

- 1950 (i) conducting business in this state if that phrase has the same meaning in this
1951 Subsection (24) as in Subsection (63);
- 1952 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
1953 as in Subsection (63); or
- 1954 (iii) a purpose for which a product is designed if that phrase has the same meaning in
1955 this Subsection (24) as in Subsection (63);
- 1956 (25) a product purchased for resale in the regular course of business, either in its
1957 original form or as an ingredient or component part of a manufactured or compounded product;
- 1958 (26) a product upon which a sales or use tax was paid to some other state, or one of its
1959 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
1960 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
1961 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
1962 Act;
- 1963 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
1964 person for use in compounding a service taxable under the subsections;
- 1965 (28) purchases made in accordance with the special supplemental nutrition program for
1966 women, infants, and children established in 42 U.S.C. Sec. 1786;
- 1967 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
1968 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
1969 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
1970 the President, Office of Management and Budget;
- 1971 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
1972 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
- 1973 (a) not registered in this state; and
- 1974 (b) (i) not used in this state; or
- 1975 (ii) used in this state:
- 1976 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
1977 time period that does not exceed the longer of:
- 1978 (I) 30 days in any calendar year; or
- 1979 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
1980 the borders of this state; or

1981 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
1982 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
1983 state;

1984 (31) sales of aircraft manufactured in Utah;

1985 (32) amounts paid for the purchase of telecommunications service for purposes of
1986 providing telecommunications service;

1987 (33) sales, leases, or uses of the following:

1988 (a) a vehicle by an authorized carrier; or

1989 (b) tangible personal property that is installed on a vehicle:

1990 (i) sold or leased to or used by an authorized carrier; and

1991 (ii) before the vehicle is placed in service for the first time;

1992 (34) (a) 45% of the sales price of any new manufactured home; and

1993 (b) 100% of the sales price of any used manufactured home;

1994 (35) sales relating to schools and fundraising sales;

1995 (36) sales or rentals of durable medical equipment if:

1996 (a) a person presents a prescription for the durable medical equipment; and

1997 (b) the durable medical equipment is used for home use only;

1998 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
1999 Section [72-11-102](#); and

2000 (b) the commission shall by rule determine the method for calculating sales exempt
2001 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

2002 (38) sales to a ski resort of:

2003 (a) snowmaking equipment;

2004 (b) ski slope grooming equipment;

2005 (c) passenger ropeways as defined in Section [72-11-102](#); or

2006 (d) parts used in the repairs or renovations of equipment or passenger ropeways
2007 described in Subsections (38)(a) through (c);

2008 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

2009 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
2010 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
2011 [59-12-102](#);

2012 (b) if a seller that sells or rents at the same business location the right to use or operate
2013 for amusement, entertainment, or recreation one or more unassisted amusement devices and
2014 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
2015 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
2016 amusement, entertainment, or recreation for the assisted amusement devices; and

2017 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
2018 Utah Administrative Rulemaking Act, the commission may make rules:

2019 (i) governing the circumstances under which sales are at the same business location;
2020 and

2021 (ii) establishing the procedures and requirements for a seller to separately account for
2022 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
2023 assisted amusement devices;

2024 (41) (a) sales of photocopies by:

2025 (i) a governmental entity; or

2026 (ii) an entity within the state system of public education, including:

2027 (A) a school; or

2028 (B) the State Board of Education; or

2029 (b) sales of publications by a governmental entity;

2030 (42) amounts paid for admission to an athletic event at an institution of higher
2031 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
2032 20 U.S.C. Sec. 1681 et seq.;

2033 (43) (a) sales made to or by:

2034 (i) an area agency on aging; or

2035 (ii) a senior citizen center owned by a county, city, or town; or

2036 (b) sales made by a senior citizen center that contracts with an area agency on aging;

2037 (44) sales or leases of semiconductor fabricating, processing, research, or development
2038 materials regardless of whether the semiconductor fabricating, processing, research, or
2039 development materials:

2040 (a) actually come into contact with a semiconductor; or

2041 (b) ultimately become incorporated into real property;

2042 (45) an amount paid by or charged to a purchaser for accommodations and services

2043 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
2044 59-12-104.2;

2045 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
2046 sports event registration certificate in accordance with Section 41-3-306 for the event period
2047 specified on the temporary sports event registration certificate;

2048 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
2049 adopted by the Public Service Commission only for purchase of electricity produced from a
2050 new alternative energy source built after January 1, 2016, as designated in the tariff by the
2051 Public Service Commission; and

2052 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
2053 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
2054 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
2055 customer would have paid absent the tariff;

2056 (48) sales or rentals of mobility enhancing equipment if a person presents a
2057 prescription for the mobility enhancing equipment;

2058 (49) sales of water in a:

2059 (a) pipe;

2060 (b) conduit;

2061 (c) ditch; or

2062 (d) reservoir;

2063 (50) sales of currency or coins that constitute legal tender of a state, the United States,
2064 or a foreign nation;

2065 (51) (a) sales of an item described in Subsection (51)(b) if the item:

2066 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and

2067 (ii) has a gold, silver, or platinum content of 50% or more; and

2068 (b) Subsection (51)(a) applies to a gold, silver, or platinum:

2069 (i) ingot;

2070 (ii) bar;

2071 (iii) medallion; or

2072 (iv) decorative coin;

2073 (52) amounts paid on a sale-leaseback transaction;

2074 (53) sales of a prosthetic device:
2075 (a) for use on or in a human; and
2076 (b) (i) for which a prescription is required; or
2077 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
2078 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
2079 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
2080 or equipment is primarily used in the production or postproduction of the following media for
2081 commercial distribution:
2082 (i) a motion picture;
2083 (ii) a television program;
2084 (iii) a movie made for television;
2085 (iv) a music video;
2086 (v) a commercial;
2087 (vi) a documentary; or
2088 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
2089 commission by administrative rule made in accordance with Subsection (54)(d); or
2090 (b) purchases, leases, or rentals of machinery or equipment by an establishment
2091 described in Subsection (54)(c) that is used for the production or postproduction of the
2092 following are subject to the taxes imposed by this chapter:
2093 (i) a live musical performance;
2094 (ii) a live news program; or
2095 (iii) a live sporting event;
2096 (c) the following establishments listed in the 1997 North American Industry
2097 Classification System of the federal Executive Office of the President, Office of Management
2098 and Budget, apply to Subsections (54)(a) and (b):
2099 (i) NAICS Code 512110; or
2100 (ii) NAICS Code 51219; and
2101 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2102 commission may by rule:
2103 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
2104 or

- 2105 (ii) define:
- 2106 (A) "commercial distribution";
- 2107 (B) "live musical performance";
- 2108 (C) "live news program"; or
- 2109 (D) "live sporting event";
- 2110 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
- 2111 on or before June 30, 2027, of tangible personal property that:
- 2112 (i) is leased or purchased for or by a facility that:
- 2113 (A) is an alternative energy electricity production facility;
- 2114 (B) is located in the state; and
- 2115 (C) (I) becomes operational on or after July 1, 2004; or
- 2116 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 2117 2004, as a result of the use of the tangible personal property;
- 2118 (ii) has an economic life of five or more years; and
- 2119 (iii) is used to make the facility or the increase in capacity of the facility described in
- 2120 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
- 2121 transmission grid including:
- 2122 (A) a wind turbine;
- 2123 (B) generating equipment;
- 2124 (C) a control and monitoring system;
- 2125 (D) a power line;
- 2126 (E) substation equipment;
- 2127 (F) lighting;
- 2128 (G) fencing;
- 2129 (H) pipes; or
- 2130 (I) other equipment used for locating a power line or pole; and
- 2131 (b) this Subsection (55) does not apply to:
- 2132 (i) tangible personal property used in construction of:
- 2133 (A) a new alternative energy electricity production facility; or
- 2134 (B) the increase in the capacity of an alternative energy electricity production facility;
- 2135 (ii) contracted services required for construction and routine maintenance activities;

2136 and

2137 (iii) unless the tangible personal property is used or acquired for an increase in capacity
2138 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
2139 acquired after:

2140 (A) the alternative energy electricity production facility described in Subsection
2141 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

2142 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
2143 in Subsection (55)(a)(iii);

2144 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
2145 on or before June 30, 2027, of tangible personal property that:

2146 (i) is leased or purchased for or by a facility that:

2147 (A) is a waste energy production facility;

2148 (B) is located in the state; and

2149 (C) (I) becomes operational on or after July 1, 2004; or

2150 (II) has its generation capacity increased by one or more megawatts on or after July 1,
2151 2004, as a result of the use of the tangible personal property;

2152 (ii) has an economic life of five or more years; and

2153 (iii) is used to make the facility or the increase in capacity of the facility described in
2154 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
2155 transmission grid including:

2156 (A) generating equipment;

2157 (B) a control and monitoring system;

2158 (C) a power line;

2159 (D) substation equipment;

2160 (E) lighting;

2161 (F) fencing;

2162 (G) pipes; or

2163 (H) other equipment used for locating a power line or pole; and

2164 (b) this Subsection (56) does not apply to:

2165 (i) tangible personal property used in construction of:

2166 (A) a new waste energy facility; or

2167 (B) the increase in the capacity of a waste energy facility;
2168 (ii) contracted services required for construction and routine maintenance activities;
2169 and
2170 (iii) unless the tangible personal property is used or acquired for an increase in capacity
2171 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
2172 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
2173 described in Subsection (56)(a)(iii); or
2174 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
2175 in Subsection (56)(a)(iii);
2176 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
2177 or before June 30, 2027, of tangible personal property that:
2178 (i) is leased or purchased for or by a facility that:
2179 (A) is located in the state;
2180 (B) produces fuel from alternative energy, including:
2181 (I) methanol; or
2182 (II) ethanol; and
2183 (C) (I) becomes operational on or after July 1, 2004; or
2184 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
2185 a result of the installation of the tangible personal property;
2186 (ii) has an economic life of five or more years; and
2187 (iii) is installed on the facility described in Subsection (57)(a)(i);
2188 (b) this Subsection (57) does not apply to:
2189 (i) tangible personal property used in construction of:
2190 (A) a new facility described in Subsection (57)(a)(i); or
2191 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
2192 (ii) contracted services required for construction and routine maintenance activities;
2193 and
2194 (iii) unless the tangible personal property is used or acquired for an increase in capacity
2195 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
2196 (A) the facility described in Subsection (57)(a)(i) is operational; or
2197 (B) the increased capacity described in Subsection (57)(a)(i) is operational;

2198 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
2199 product transferred electronically to a person within this state if that tangible personal property
2200 or product transferred electronically is subsequently shipped outside the state and incorporated
2201 pursuant to contract into and becomes a part of real property located outside of this state;

2202 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
2203 state or political entity to which the tangible personal property is shipped imposes a sales, use,
2204 gross receipts, or other similar transaction excise tax on the transaction against which the other
2205 state or political entity allows a credit for sales and use taxes imposed by this chapter; and

2206 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
2207 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
2208 refund:

2209 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

2210 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
2211 which the sale is made;

2212 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
2213 sale prior to filing for the refund;

2214 (iv) for sales and use taxes paid under this chapter on the sale;

2215 (v) in accordance with Section 59-1-1410; and

2216 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
2217 the person files for the refund on or before June 30, 2011;

2218 (59) purchases:

2219 (a) of one or more of the following items in printed or electronic format:

2220 (i) a list containing information that includes one or more:

2221 (A) names; or

2222 (B) addresses; or

2223 (ii) a database containing information that includes one or more:

2224 (A) names; or

2225 (B) addresses; and

2226 (b) used to send direct mail;

2227 (60) redemptions or repurchases of a product by a person if that product was:

2228 (a) delivered to a pawnbroker as part of a pawn transaction; and

2229 (b) redeemed or repurchased within the time period established in a written agreement
2230 between the person and the pawnbroker for redeeming or repurchasing the product;

2231 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

2232 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;

2233 and

2234 (ii) has a useful economic life of one or more years; and

2235 (b) the following apply to Subsection (61)(a):

2236 (i) telecommunications enabling or facilitating equipment, machinery, or software;

2237 (ii) telecommunications equipment, machinery, or software required for 911 service;

2238 (iii) telecommunications maintenance or repair equipment, machinery, or software;

2239 (iv) telecommunications switching or routing equipment, machinery, or software; or

2240 (v) telecommunications transmission equipment, machinery, or software;

2241 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
2242 personal property or a product transferred electronically that are used in the research and
2243 development of alternative energy technology; and

2244 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2245 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
2246 purchases of tangible personal property or a product transferred electronically that are used in
2247 the research and development of alternative energy technology;

2248 (63) (a) purchases of tangible personal property or a product transferred electronically
2249 if:

2250 (i) the tangible personal property or product transferred electronically is:

2251 (A) purchased outside of this state;

2252 (B) brought into this state at any time after the purchase described in Subsection

2253 (63)(a)(i)(A); and

2254 (C) used in conducting business in this state; and

2255 (ii) for:

2256 (A) tangible personal property or a product transferred electronically other than the
2257 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
2258 for a purpose for which the property is designed occurs outside of this state; or

2259 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

2260 outside of this state;

2261 (b) the exemption provided for in Subsection (63)(a) does not apply to:

2262 (i) a lease or rental of tangible personal property or a product transferred electronically;

2263 or

2264 (ii) a sale of a vehicle exempt under Subsection (33); and

2265 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
2266 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
2267 following:

2268 (i) conducting business in this state if that phrase has the same meaning in this
2269 Subsection (63) as in Subsection (24);

2270 (ii) the first use of tangible personal property or a product transferred electronically if
2271 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

2272 (iii) a purpose for which tangible personal property or a product transferred
2273 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
2274 Subsection (24);

2275 (64) sales of disposable home medical equipment or supplies if:

2276 (a) a person presents a prescription for the disposable home medical equipment or
2277 supplies;

2278 (b) the disposable home medical equipment or supplies are used exclusively by the
2279 person to whom the prescription described in Subsection (64)(a) is issued; and

2280 (c) the disposable home medical equipment and supplies are listed as eligible for
2281 payment under:

2282 (i) Title XVIII, federal Social Security Act; or

2283 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

2284 (65) sales:

2285 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
2286 District Act; or

2287 (b) of tangible personal property to a subcontractor of a public transit district, if the
2288 tangible personal property is:

2289 (i) clearly identified; and

2290 (ii) installed or converted to real property owned by the public transit district;

- 2291 (66) sales of construction materials:
- 2292 (a) purchased on or after July 1, 2010;
- 2293 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 2294 (i) located within a county of the first class; and
- 2295 (ii) that has a United States customs office on its premises; and
- 2296 (c) if the construction materials are:
- 2297 (i) clearly identified;
- 2298 (ii) segregated; and
- 2299 (iii) installed or converted to real property:
- 2300 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 2301 (B) located at the international airport described in Subsection (66)(b);
- 2302 (67) sales of construction materials:
- 2303 (a) purchased on or after July 1, 2008;
- 2304 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 2305 (i) located within a county of the second class; and
- 2306 (ii) that is owned or operated by a city in which an airline as defined in Section
- 2307 [59-2-102](#) is headquartered; and
- 2308 (c) if the construction materials are:
- 2309 (i) clearly identified;
- 2310 (ii) segregated; and
- 2311 (iii) installed or converted to real property:
- 2312 (A) owned or operated by the new airport described in Subsection (67)(b);
- 2313 (B) located at the new airport described in Subsection (67)(b); and
- 2314 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 2315 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 2316 (69) purchases and sales described in Section [63H-4-111](#);
- 2317 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 2318 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 2319 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 2320 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 2321 powered aircraft; or

2322 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
2323 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
2324 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
2325 lists a state or country other than this state as the location of registry of the fixed wing turbine
2326 powered aircraft;

2327 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

2328 (a) to a person admitted to an institution of higher education; and

2329 (b) by a seller, other than a bookstore owned by an institution of higher education, if
2330 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
2331 textbook for a higher education course;

2332 (72) a license fee or tax a municipality imposes in accordance with Subsection
2333 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
2334 level of municipal services;

2335 (73) amounts paid or charged for construction materials used in the construction of a
2336 new or expanding life science research and development facility in the state, if the construction
2337 materials are:

2338 (a) clearly identified;

2339 (b) segregated; and

2340 (c) installed or converted to real property;

2341 (74) amounts paid or charged for:

2342 (a) a purchase or lease of machinery and equipment that:

2343 (i) are used in performing qualified research:

2344 (A) as defined in Section 41(d), Internal Revenue Code; and

2345 (B) in the state; and

2346 (ii) have an economic life of three or more years; and

2347 (b) normal operating repair or replacement parts:

2348 (i) for the machinery and equipment described in Subsection (74)(a); and

2349 (ii) that have an economic life of three or more years;

2350 (75) a sale or lease of tangible personal property used in the preparation of prepared
2351 food if:

2352 (a) for a sale:

- 2353 (i) the ownership of the seller and the ownership of the purchaser are identical; and
2354 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
2355 tangible personal property prior to making the sale; or
- 2356 (b) for a lease:
- 2357 (i) the ownership of the lessor and the ownership of the lessee are identical; and
2358 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
2359 personal property prior to making the lease;
- 2360 (76) (a) purchases of machinery or equipment if:
- 2361 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
2362 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
2363 System of the federal Executive Office of the President, Office of Management and Budget;
- 2364 (ii) the machinery or equipment:
- 2365 (A) has an economic life of three or more years; and
2366 (B) is used by one or more persons who pay admission or user fees described in
2367 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
2368 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- 2369 (A) amounts paid or charged as admission or user fees described in Subsection
2370 59-12-103(1)(f); and
2371 (B) subject to taxation under this chapter; and
2372 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2373 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
2374 previous calendar quarter is:
- 2375 (i) amounts paid or charged as admission or user fees described in Subsection
2376 59-12-103(1)(f); and
2377 (ii) subject to taxation under this chapter;
- 2378 (77) purchases of a short-term lodging consumable by a business that provides
2379 accommodations and services described in Subsection 59-12-103(1)(i);
- 2380 (78) amounts paid or charged to access a database:
- 2381 (a) if the primary purpose for accessing the database is to view or retrieve information
2382 from the database; and
2383 (b) not including amounts paid or charged for a:

- 2384 (i) digital audiowork;
- 2385 (ii) digital audio-visual work; or
- 2386 (iii) digital book;
- 2387 (79) amounts paid or charged for a purchase or lease made by an electronic financial
- 2388 payment service, of:
- 2389 (a) machinery and equipment that:
- 2390 (i) are used in the operation of the electronic financial payment service; and
- 2391 (ii) have an economic life of three or more years; and
- 2392 (b) normal operating repair or replacement parts that:
- 2393 (i) are used in the operation of the electronic financial payment service; and
- 2394 (ii) have an economic life of three or more years;
- 2395 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section [54-15-102](#);
- 2396 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
- 2397 product transferred electronically if the tangible personal property or product transferred
- 2398 electronically:
- 2399 (a) is stored, used, or consumed in the state; and
- 2400 (b) is temporarily brought into the state from another state:
- 2401 (i) during a disaster period as defined in Section [53-2a-1202](#);
- 2402 (ii) by an out-of-state business as defined in Section [53-2a-1202](#);
- 2403 (iii) for a declared state disaster or emergency as defined in Section [53-2a-1202](#); and
- 2404 (iv) for disaster- or emergency-related work as defined in Section [53-2a-1202](#);
- 2405 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
- 2406 in Section [39-9-102](#), made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
- 2407 Recreation Program;
- 2408 (83) amounts paid or charged for a purchase or lease of molten magnesium;
- 2409 (84) amounts paid or charged for a purchase or lease made by a qualifying ~~enterprise~~
- 2410 data center or an occupant of a qualifying data center of machinery, equipment, or normal
- 2411 operating repair or replacement parts, if the machinery, equipment, or normal operating repair
- 2412 or replacement parts:
- 2413 (a) are used in ~~[the operation of the establishment; and]~~;
- 2414 (i) the operation of the qualifying data center; or

- 2415 (ii) the occupant's operations in the qualifying data center; and
2416 (b) have an economic life of one or more years;
2417 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
2418 vehicle that includes cleaning or washing of the interior of the vehicle;
2419 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal
2420 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used
2421 or consumed:
2422 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
2423 in Section [63M-4-701](#) located in the state;
2424 (b) if the machinery, equipment, normal operating repair or replacement parts,
2425 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:
2426 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
2427 added to gasoline or diesel fuel;
2428 (ii) research and development;
2429 (iii) transporting, storing, or managing raw materials, work in process, finished
2430 products, and waste materials produced from refining gasoline or diesel fuel, or adding
2431 blendstock to gasoline or diesel fuel;
2432 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
2433 refining; or
2434 (v) preventing, controlling, or reducing pollutants from refining; and
2435 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office
2436 of Energy Development under Subsection [63M-4-702\(2\)](#);
2437 (87) amounts paid to or charged by a proprietor for accommodations and services, as
2438 defined in Section [63H-1-205](#), if the proprietor is subject to the MIDA accommodations tax
2439 imposed under Section [63H-1-205](#);
2440 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal
2441 operating repair or replacement parts, or materials, except for office equipment or office
2442 supplies, by an establishment, as the commission defines that term in accordance with Title
2443 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
2444 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
2445 American Industry Classification System of the federal Executive Office of the President,

2446 Office of Management and Budget;
2447 (b) is located in this state; and
2448 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
2449 materials in the operation of the establishment; and
2450 (89) amounts paid or charged for an item exempt under Section [59-12-104.10](#).
2451 Section 3. **Effective date.**
2452 This bill takes effect on July 1, 2020.