

Representative Stephen G. Handy proposes the following substitute bill:

ENERGY STORAGE AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen G. Handy

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends tax provisions and creates a pilot grant program related to the purchase of energy storage equipment.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates a sales and use tax exemption for the purchase of energy storage equipment;
- ▶ extends the deadline for sales and use tax exemptions for certain electricity facilities;
- ▶ creates a pilot grant program for the purchase of energy storage assets; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates to the Office of Energy Development - Energy Storage Asset Pilot Grant Program, as a one-time appropriation:

- ▶ from the General Fund, one-time, \$500,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:



26 AMENDS:

27 **59-12-102**, as last amended by Laws of Utah 2021, Chapters 64, 367, 414 and last
28 amended by Coordination Clause, Laws of Utah 2021, Chapter 367

29 **59-12-104**, as last amended by Laws of Utah 2021, Chapters 280 and 367

30 **63I-1-279**, as last amended by Laws of Utah 2021, Chapter 280

31 **79-6-401**, as renumbered and amended by Laws of Utah 2021, Chapter 280

32 ENACTS:

33 **79-6-403**, Utah Code Annotated 1953



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

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

37 **59-12-102. Definitions.**

38 As used in this chapter:

39 (1) "800 service" means a telecommunications service that:

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

41 (b) is typically marketed:

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

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

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

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

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

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

48 Federal Communications Commission.

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

50 (i) a subscriber purchases;

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

53 (A) prerecorded announcement; or

54 (B) live service; and

55 (iii) is typically marketed:

56 (A) under the name 900 service; or

57 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
58 Communications Commission.

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

60 (i) a collection service a seller of a telecommunications service provides to a
61 subscriber; or

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

63 (A) a product; or

64 (B) a service.

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

66 (b) "Admission or user fees" does not include:

67 (i) annual membership dues to private organizations; or

68 (ii) a lesson, including a lesson that involves as part of the lesson equipment or a
69 facility listed in Subsection 59-12-103(1)(f).

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

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

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

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

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

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

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

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

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

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

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

87 (d) Subsection 59-12-103(2)(d);

- 88 (e) Subsection 59-12-103(2)(e)(i)(A)(I);
- 89 (f) Section 59-12-204;
- 90 (g) Section 59-12-401;
- 91 (h) Section 59-12-402;
- 92 (i) Section 59-12-402.1;
- 93 (j) Section 59-12-703;
- 94 (k) Section 59-12-802;
- 95 (l) Section 59-12-804;
- 96 (m) Section 59-12-1102;
- 97 (n) Section 59-12-1302;
- 98 (o) Section 59-12-1402;
- 99 (p) Section 59-12-1802;
- 100 (q) Section 59-12-2003;
- 101 (r) Section 59-12-2103;
- 102 (s) Section 59-12-2213;
- 103 (t) Section 59-12-2214;
- 104 (u) Section 59-12-2215;
- 105 (v) Section 59-12-2216;
- 106 (w) Section 59-12-2217;
- 107 (x) Section 59-12-2218;
- 108 (y) Section 59-12-2219; or
- 109 (z) Section 59-12-2220.
- 110 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 111 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 112 (a) except for:
- 113 (i) an airline as defined in Section 59-2-102; or
- 114 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 115 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 116 state, of an airline; and
- 117 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 118 whether the business entity performs the following in this state:

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

- 150 (vi) petroleum coke; or
- 151 (vii) waste heat from:
- 152 (A) an industrial facility; or
- 153 (B) a power station in which an electric generator is driven through a process in which
- 154 water is heated, turns into steam, and spins a steam turbine.
- 155 (12) (a) [~~Subject to Subsection (12)(b), "alternative]~~ "Alternative energy electricity
- 156 production facility" means a facility that:
- 157 (i) uses alternative energy to produce electricity; and
- 158 (ii) has a production capacity of two megawatts or greater.
- 159 (b) A facility is an alternative energy electricity production facility regardless of
- 160 whether the facility is:
- 161 (i) connected to an electric grid; or
- 162 (ii) located on the premises of an electricity consumer.
- 163 (13) (a) "Ancillary service" means a service associated with, or incidental to, the
- 164 provision of telecommunications service.
- 165 (b) "Ancillary service" includes:
- 166 (i) a conference bridging service;
- 167 (ii) a detailed communications billing service;
- 168 (iii) directory assistance;
- 169 (iv) a vertical service; or
- 170 (v) a voice mail service.
- 171 (14) "Area agency on aging" means the same as that term is defined in Section
- 172 [62A-3-101](#).
- 173 (15) "Assisted amusement device" means an amusement device, skill device, or ride
- 174 device that is started and stopped by an individual:
- 175 (a) who is not the purchaser or renter of the right to use or operate the amusement
- 176 device, skill device, or ride device; and
- 177 (b) at the direction of the seller of the right to use the amusement device, skill device,
- 178 or ride device.
- 179 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or
- 180 washing of tangible personal property if the cleaning or washing labor is primarily performed

181 by an individual:

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

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

186 (17) "Authorized carrier" means:

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

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

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

195 (18) (a) [~~Except as provided in Subsection (18)(b), "biomass"~~] "Biomass energy" means
196 any of the following that is used as the primary source of energy to produce fuel or electricity:

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

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

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

200 (B) animal waste;

201 (C) waste vegetable oil;

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

205 (E) aquatic plants; and

206 (F) agricultural products.

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

208 (i) black liquor; or

209 (ii) treated woods.

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

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

243 (V) an over-the-counter drug;
244 (VI) a prosthetic device; or
245 (VII) a medical supply; and
246 (B) subject to Subsection (19)(f):
247 (I) the seller's purchase price of the tangible personal property subject to taxation under
248 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
249 (II) the seller's sales price of the tangible personal property subject to taxation under
250 this chapter is 50% or less of the seller's total sales price of that retail sale.
251 (c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a
252 service that is distinct and identifiable does not include:
253 (A) packaging that:
254 (I) accompanies the sale of the tangible personal property, product, or service; and
255 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
256 service;
257 (B) tangible personal property, a product, or a service provided free of charge with the
258 purchase of another item of tangible personal property, a product, or a service; or
259 (C) an item of tangible personal property, a product, or a service included in the
260 definition of "purchase price."
261 (ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a
262 product, or a service is provided free of charge with the purchase of another item of tangible
263 personal property, a product, or a service if the sales price of the purchased item of tangible
264 personal property, product, or service does not vary depending on the inclusion of the tangible
265 personal property, product, or service provided free of charge.
266 (d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price
267 does not include a price that is separately identified by tangible personal property, product, or
268 service on the following, regardless of whether the following is in paper format or electronic
269 format:
270 (A) a binding sales document; or
271 (B) another supporting sales-related document that is available to a purchaser.
272 (ii) For purposes of Subsection (19)(d)(i), a binding sales document or another
273 supporting sales-related document that is available to a purchaser includes:

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

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

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

289 (ii) For purposes of Subsection (19)(b)(vi), a seller:

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

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

296 (iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service
297 contract to determine if the sales price of tangible personal property or a product is de minimis.

298 (f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of
299 the seller's purchase price and the seller's sales price to determine if tangible personal property
300 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
301 price of that retail sale.

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

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

305 jurisdiction:

306 (i) on a transaction; and

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

308 (b) determines the amount of agreement sales and use tax to remit to a state that is a

309 member of the agreement; and

310 (c) maintains a record of the transaction described in Subsection (20)(a)(i).

311 (21) "Certified service provider" means an agent certified:

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

313 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax,

314 as outlined in the contract between the governing board of the agreement and the certified

315 service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the

316 seller's own purchases.

317 (22) (a) [~~Subject to Subsection (22)(b), "clothing"~~] "Clothing" means all human

318 wearing apparel suitable for general use.

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

320 commission shall make rules:

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

322 (ii) that are consistent with the list of items that constitute "clothing" under the

323 agreement.

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

325 (24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other

326 fuels that does not constitute industrial use under Subsection [~~(57)~~] (59) or residential use

327 under Subsection [~~(112)~~] (114).

328 (25) (a) "Common carrier" means a person engaged in or transacting the business of

329 transporting passengers, freight, merchandise, or other property for hire within this state.

330 (b) (i) "Common carrier" does not include a person that, at the time the person is

331 traveling to or from that person's place of employment, transports a passenger to or from the

332 passenger's place of employment.

333 (ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3,

334 Utah Administrative Rulemaking Act, the commission may make rules defining what

335 constitutes a person's place of employment.

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

338 (26) "Component part" includes:

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

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

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

344 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 367 (33) (a) "Delivery charge" means a charge:
368 (i) by a seller of:
369 (A) tangible personal property;
370 (B) a product transferred electronically; or
371 (C) a service; and
372 (ii) for preparation and delivery of the tangible personal property, product transferred
373 electronically, or services described in Subsection (33)(a)(i) to a location designated by the
374 purchaser.
- 375 (b) "Delivery charge" includes a charge for the following:
376 (i) transportation;
377 (ii) shipping;
378 (iii) postage;
379 (iv) handling;
380 (v) crating; or
381 (vi) packing.
- 382 (34) "Detailed telecommunications billing service" means an ancillary service of
383 separately stating information pertaining to individual calls on a customer's billing statement.
- 384 (35) "Dietary supplement" means a product, other than tobacco, that:
385 (a) is intended to supplement the diet;
386 (b) contains one or more of the following dietary ingredients:
387 (i) a vitamin;
388 (ii) a mineral;
389 (iii) an herb or other botanical;
390 (iv) an amino acid;
391 (v) a dietary substance for use by humans to supplement the diet by increasing the total
392 dietary intake; or
393 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
394 described in Subsections (35)(b)(i) through (v);
395 (c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:
396 (A) tablet form;
397 (B) capsule form;

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

429 single address.

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

431 (a) address information; or

432 (b) telephone number information.

433 (41) (a) "Disposable home medical equipment or supplies" means medical equipment
434 or supplies that:

435 (i) cannot withstand repeated use; and

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

437 (A) a health care facility as defined in Section [26-21-2](#);

438 (B) a health care provider as defined in Section [78B-3-403](#);

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

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

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

442 (i) a drug;

443 (ii) durable medical equipment;

444 (iii) a hearing aid;

445 (iv) a hearing aid accessory;

446 (v) mobility enhancing equipment; or

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

448 (A) eyeglasses; or

449 (B) contact lenses.

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

452 (42) "Drilling equipment manufacturer" means a facility:

453 (a) located in the state;

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

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

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

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

462 (i) recognized in:

463 (A) the official United States Pharmacopoeia;

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

465 (C) the official National Formulary; or

466 (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);

467 (ii) intended for use in the:

468 (A) diagnosis of disease;

469 (B) cure of disease;

470 (C) mitigation of disease;

471 (D) treatment of disease; or

472 (E) prevention of disease; or

473 (iii) intended to affect:

474 (A) the structure of the body; or

475 (B) any function of the body.

476 (b) "Drug" does not include:

477 (i) food and food ingredients;

478 (ii) a dietary supplement;

479 (iii) an alcoholic beverage; or

480 (iv) a prosthetic device.

481 (44) (a) [~~Except as provided in Subsection (44)(c), "durable"~~] "Durable medical
482 equipment" means equipment that:

483 (i) can withstand repeated use;

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

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

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

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

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

490 (45) "Electricity storage equipment" means equipment designed to store previously

491 produced electricity for use at a later time.

492 (46) (a) "Electricity storage facility" means a facility that:

493 (i) stores electricity in a battery; and

494 (ii) has a storage capacity of two megawatts or greater.

495 (b) A facility is an electricity storage facility regardless of whether the facility is:

496 (i) connected to an electric grid;

497 (ii) part of an alternative energy electricity production facility or other electricity

498 production facility; or

499 (iii) located on the premises of an electricity consumer.

500 ~~[(45)]~~ (47) "Electronic" means:

501 (a) relating to technology; and

502 (b) having:

503 (i) electrical capabilities;

504 (ii) digital capabilities;

505 (iii) magnetic capabilities;

506 (iv) wireless capabilities;

507 (v) optical capabilities;

508 (vi) electromagnetic capabilities; or

509 (vii) capabilities similar to Subsections ~~[(45)]~~ (47)(b)(i) through (vi).

510 ~~[(46)]~~ (48) "Electronic financial payment service" means an establishment:

511 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and

512 Clearinghouse Activities, of the 2012 North American Industry Classification System of the

513 federal Executive Office of the President, Office of Management and Budget; and

514 (b) that performs electronic financial payment services.

515 ~~[(47)]~~ (49) "Employee" means the same as that term is defined in Section 59-10-401.

516 ~~[(48)]~~ (50) "Fixed guideway" means a public transit facility that uses and occupies:

517 (a) rail for the use of public transit; or

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

519 ~~[(49)]~~ (51) "Fixed wing turbine powered aircraft" means an aircraft that:

520 (a) is powered by turbine engines;

521 (b) operates on jet fuel; and

- 522 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 523 [~~(50)~~] (52) "Fixed wireless service" means a telecommunications service that provides
- 524 radio communication between fixed points.
- 525 [~~(51)~~] (53) (a) "Food and food ingredients" means substances:
- 526 (i) regardless of whether the substances are in:
- 527 (A) liquid form;
- 528 (B) concentrated form;
- 529 (C) solid form;
- 530 (D) frozen form;
- 531 (E) dried form; or
- 532 (F) dehydrated form; and
- 533 (ii) that are:
- 534 (A) sold for:
- 535 (I) ingestion by humans; or
- 536 (II) chewing by humans; and
- 537 (B) consumed for the substance's:
- 538 (I) taste; or
- 539 (II) nutritional value.
- 540 (b) "Food and food ingredients" includes an item described in Subsection [~~(96)~~]
- 541 (98)(b)(iii).
- 542 (c) "Food and food ingredients" does not include:
- 543 (i) an alcoholic beverage;
- 544 (ii) tobacco; or
- 545 (iii) prepared food.
- 546 [~~(52)~~] (54) (a) "Fundraising sales" means sales:
- 547 (i) (A) made by a school; or
- 548 (B) made by a school student;
- 549 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 550 materials, or provide transportation; and
- 551 (iii) that are part of an officially sanctioned school activity.
- 552 (b) For purposes of Subsection [~~(52)~~] (54)(a)(iii), "officially sanctioned school activity"

553 means a school activity:

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

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

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

560 [~~53~~] (55) "Geothermal energy" means energy contained in heat that continuously
561 flows outward from the earth that is used as the sole source of energy to produce electricity.

562 [~~54~~] (56) "Governing board of the agreement" means the governing board of the
563 agreement that is:

564 (a) authorized to administer the agreement; and

565 (b) established in accordance with the agreement.

566 [~~55~~] (57) (a) For purposes of Subsection 59-12-104(41), "governmental entity"
567 means:

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

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

572 (iii) the legislative branch of the state, including the House of Representatives, the
573 Senate, the Legislative Printing Office, the Office of Legislative Research and General
574 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
575 Analyst;

576 (iv) the National Guard;

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

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

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

581 (i) a school;

582 (ii) the State Board of Education;

583 (iii) the Utah Board of Higher Education; or

584 (iv) an institution of higher education described in Section 53B-1-102.
585 [~~56~~] (58) "Hydroelectric energy" means water used as the sole source of energy to
586 produce electricity.
587 [~~57~~] (59) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
588 or other fuels:
589 (a) in mining or extraction of minerals;
590 (b) in agricultural operations to produce an agricultural product up to the time of
591 harvest or placing the agricultural product into a storage facility, including:
592 (i) commercial greenhouses;
593 (ii) irrigation pumps;
594 (iii) farm machinery;
595 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
596 under Title 41, Chapter 1a, Part 2, Registration; and
597 (v) other farming activities;
598 (c) in manufacturing tangible personal property at an establishment described in:
599 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
600 the federal Executive Office of the President, Office of Management and Budget; or
601 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
602 American Industry Classification System of the federal Executive Office of the President,
603 Office of Management and Budget;
604 (d) by a scrap recycler if:
605 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
606 one or more of the following items into prepared grades of processed materials for use in new
607 products:
608 (A) iron;
609 (B) steel;
610 (C) nonferrous metal;
611 (D) paper;
612 (E) glass;
613 (F) plastic;
614 (G) textile; or

615 (H) rubber; and
616 (ii) the new products under Subsection ~~[(57)]~~ (59)(d)(i) would otherwise be made with
617 nonrecycled materials; or

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

620 ~~[(58)]~~ (60) (a) ~~[Except as provided in Subsection (58)(b), "installation]~~ "Installation
621 charge" means a charge for installing:

622 (i) tangible personal property; or

623 (ii) a product transferred electronically.

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

625 (i) repairs or renovations of:

626 (A) tangible personal property; or

627 (B) a product transferred electronically; or

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

629 (A) to other tangible personal property; and

630 (B) as part of a manufacturing or fabrication process.

631 ~~[(59)]~~ (61) "Institution of higher education" means an institution of higher education
632 listed in Section 53B-2-101.

633 ~~[(60)]~~ (62) (a) "Lease" or "rental" means a transfer of possession or control of tangible
634 personal property or a product transferred electronically for:

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

636 (B) an indeterminate term; and

637 (ii) consideration.

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

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

643 (i) a transfer of possession or control of property under a security agreement or
644 deferred payment plan that requires the transfer of title upon completion of the required
645 payments;

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

648 (A) upon completion of required payments; and

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

650 (I) \$100; or

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

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

655 (d) For purposes of Subsection [~~60~~] (62)(c)(iii), an operator is necessary for
656 equipment to perform as designed if the operator's duties exceed the:

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

658 (ii) maintenance of tangible personal property; or

659 (iii) inspection of tangible personal property.

660 [~~61~~] (63) "Lesson" means a fixed period of time for the duration of which a trained
661 instructor:

662 (a) is present with a student in person or by video; and

663 (b) actively instructs the student, including by providing observation or feedback.

664 [~~62~~] (64) "Life science establishment" means an establishment in this state that is
665 classified under the following NAICS codes of the 2007 North American Industry
666 Classification System of the federal Executive Office of the President, Office of Management
667 and Budget:

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

669 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
670 Manufacturing; or

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

672 [~~63~~] (65) "Life science research and development facility" means a facility owned,
673 leased, or rented by a life science establishment if research and development is performed in
674 51% or more of the total area of the facility.

675 [~~64~~] (66) "Load and leave" means delivery to a purchaser by use of a tangible storage
676 media if the tangible storage media is not physically transferred to the purchaser.

677 [~~(65)~~] (67) "Local taxing jurisdiction" means a:

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

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

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

681 [~~(66)~~] (68) "Manufactured home" means the same as that term is defined in Section
682 15A-1-302.

683 [~~(67)~~] (69) "Manufacturing facility" means:

684 (a) an establishment described in:

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

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

690 (b) a scrap recycler if:

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

694 (A) iron;

695 (B) steel;

696 (C) nonferrous metal;

697 (D) paper;

698 (E) glass;

699 (F) plastic;

700 (G) textile; or

701 (H) rubber; and

702 (ii) the new products under Subsection [~~(67)~~] (69)(b)(i) would otherwise be made with
703 nonrecycled materials; or

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

706 [~~(68)~~] (70) (a) "Marketplace" means a physical or electronic place, platform, or forum
707 where tangible personal property, a product transferred electronically, or a service is offered for

708 sale.

709 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a
710 dedicated sales software application.

711 ~~[(69)]~~ (71) (a) "Marketplace facilitator" means a person, including an affiliate of the
712 person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to
713 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or
714 controls and that directly or indirectly:

715 (i) does any of the following:

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

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

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

727 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible
728 personal property, a product transferred electronically, or a service, regardless of ownership or
729 control of the tangible personal property, the product transferred electronically, or the service
730 that is the subject of the retail sale;

731 (E) provides software development or research and development activities related to
732 any activity described in this Subsection ~~[(69)]~~ (71)(a)(i), if the software development or
733 research and development activity is directly related to the person's marketplace;

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

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

737 (H) provides or offers customer service to a marketplace seller or a marketplace seller's
738 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal

739 property, a product transferred electronically, or a service sold by a marketplace seller on the
740 person's marketplace; or

741 (I) brands or otherwise identifies sales as those of the person; and

742 (ii) does any of the following:

743 (A) collects the sales price or purchase price of a retail sale of tangible personal
744 property, a product transferred electronically, or a service;

745 (B) provides payment processing services for a retail sale of tangible personal property,
746 a product transferred electronically, or a service;

747 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing
748 fee, a fee for inserting or making available tangible personal property, a product transferred
749 electronically, or a service on the person's marketplace, or other consideration for the
750 facilitation of a retail sale of tangible personal property, a product transferred electronically, or
751 a service, regardless of ownership or control of the tangible personal property, the product
752 transferred electronically, or the service that is the subject of the retail sale;

753 (D) through terms and conditions, an agreement, or another arrangement with a third
754 person, collects payment from a purchase for a retail sale of tangible personal property, a
755 product transferred electronically, or a service and transmits that payment to the marketplace
756 seller, regardless of whether the third person receives compensation or other consideration in
757 exchange for the service; or

758 (E) provides a virtual currency for a purchaser to use to purchase tangible personal
759 property, a product transferred electronically, or service offered for sale.

760 (b) "Marketplace facilitator" does not include:

761 (i) a person that only provides payment processing services; or

762 (ii) a person described in Subsection [~~(69)~~] (71)(a) to the extent the person is
763 facilitating a sale for a seller that is a restaurant as defined in Section 59-12-602.

764 [~~(70)~~] (72) "Marketplace seller" means a seller that makes one or more retail sales
765 through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of
766 whether the seller is required to be registered to collect and remit the tax under this part.

767 [~~(71)~~] (73) "Member of the immediate family of the producer" means a person who is
768 related to a producer described in Subsection 59-12-104(20)(a) as a:

769 (a) child or stepchild, regardless of whether the child or stepchild is:

- 770 (i) an adopted child or adopted stepchild; or
- 771 (ii) a foster child or foster stepchild;
- 772 (b) grandchild or stepgrandchild;
- 773 (c) grandparent or stepgrandparent;
- 774 (d) nephew or stepnephew;
- 775 (e) niece or stepniece;
- 776 (f) parent or stepparent;
- 777 (g) sibling or stepsibling;
- 778 (h) spouse;
- 779 (i) person who is the spouse of a person described in Subsections ~~[(71)]~~ (73)(a) through
- 780 (g); or
- 781 (j) person similar to a person described in Subsections ~~[(71)]~~ (73)(a) through (i) as
- 782 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 783 Administrative Rulemaking Act.
- 784 ~~[(72)]~~ (74) "Mobile home" means the same as that term is defined in Section
- 785 [15A-1-302](#).
- 786 ~~[(73)]~~ (75) "Mobile telecommunications service" means the same as that term is
- 787 defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 788 ~~[(74)]~~ (76) (a) "Mobile wireless service" means a telecommunications service,
- 789 regardless of the technology used, if:
- 790 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 791 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 792 (iii) the origination point described in Subsection ~~[(74)]~~ (76)(a)(i) and the termination
- 793 point described in Subsection ~~[(74)]~~ (76)(a)(ii) are not fixed.
- 794 (b) "Mobile wireless service" includes a telecommunications service that is provided
- 795 by a commercial mobile radio service provider.
- 796 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 797 commission may by rule define "commercial mobile radio service provider."
- 798 ~~[(75)]~~ (77) (a) ~~[Except as provided in Subsection (75)(c), "mobility]~~ "Mobility
- 799 enhancing equipment" means equipment that is:
- 800 (i) primarily and customarily used to provide or increase the ability to move from one

801 place to another;

802 (ii) appropriate for use in a:

803 (A) home; or

804 (B) motor vehicle; and

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

806 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
807 the equipment described in Subsection ~~[(75)]~~ (77)(a).

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

809 (i) a motor vehicle;

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

812 (iii) durable medical equipment; or

813 (iv) a prosthetic device.

814 ~~[(76)]~~ (78) "Model 1 seller" means a seller registered under the agreement that has
815 selected a certified service provider as the seller's agent to perform the seller's sales and use tax
816 functions for agreement sales and use taxes, as outlined in the contract between the governing
817 board of the agreement and the certified service provider, other than the seller's obligation
818 under Section 59-12-124 to remit a tax on the seller's own purchases.

819 ~~[(77)]~~ (79) "Model 2 seller" means a seller registered under the agreement that:

820 (a) except as provided in Subsection ~~[(77)]~~ (79)(b), has selected a certified automated
821 system to perform the seller's sales tax functions for agreement sales and use taxes; and

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

823 (i) collected by the seller; and

824 (ii) to the appropriate local taxing jurisdiction.

825 ~~[(78)]~~ (80) (a) ~~[Subject to Subsection (78)(b), "model"]~~ "Model 3 seller" means a seller
826 registered under the agreement that has:

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

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

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

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

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

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

833 (b) For purposes of Subsection [~~(78)~~] (80)(a), "model 3 seller" includes an affiliated
834 group of sellers using the same proprietary system.

835 [~~(79)~~] (81) "Model 4 seller" means a seller that is registered under the agreement and is
836 not a model 1 seller, model 2 seller, or model 3 seller.

837 [~~(80)~~] (82) "Modular home" means a modular unit as defined in Section 15A-1-302.

838 [~~(81)~~] (83) "Motor vehicle" means the same as that term is defined in Section
839 41-1a-102.

840 [~~(82)~~] (84) "Oil sands" means impregnated bituminous sands that:

841 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
842 other hydrocarbons, or otherwise treated;

843 (b) yield mixtures of liquid hydrocarbon; and

844 (c) require further processing other than mechanical blending before becoming finished
845 petroleum products.

846 [~~(83)~~] (85) "Oil shale" means a group of fine black to dark brown shales containing
847 kerogen material that yields petroleum upon heating and distillation.

848 [~~(84)~~] (86) "Optional computer software maintenance contract" means a computer
849 software maintenance contract that a customer is not obligated to purchase as a condition to the
850 retail sale of computer software.

851 [~~(85)~~] (87) (a) "Other fuels" means products that burn independently to produce heat or
852 energy.

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

855 [~~(86)~~] (88) (a) "Paging service" means a telecommunications service that provides
856 transmission of a coded radio signal for the purpose of activating a specific pager.

857 (b) For purposes of Subsection [~~(86)~~] (88)(a), the transmission of a coded radio signal
858 includes a transmission by message or sound.

859 [~~(87)~~] (89) "Pawn transaction" means the same as that term is defined in Section
860 13-32a-102.

861 [~~(88)~~] (90) "Pawnbroker" means the same as that term is defined in Section
862 13-32a-102.

863 [~~(89)~~] (91) (a) "Permanently attached to real property" means that for tangible personal
864 property attached to real property:

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

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

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

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

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

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

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

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

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

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

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

881 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
882 Subsection [~~(89)~~] (91)(c)(iii) or (iv).

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

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

886 (A) convenience;

887 (B) stability; or

888 (C) for an obvious temporary purpose;

889 (ii) the detachment of tangible personal property from real property except for the
890 detachment described in Subsection [~~(89)~~] (91)(b)(ii);

891 (iii) an attachment of the following tangible personal property to real property if the
892 attachment to real property is only through a line that supplies water, electricity, gas,
893 telecommunications, cable, or supplies a similar item as determined by the commission by rule

894 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

895 (A) a computer;

896 (B) a telephone;

897 (C) a television; or

898 (D) tangible personal property similar to Subsections [~~(89)~~] (91)(c)(iii)(A) through (C)

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

900 Administrative Rulemaking Act; or

901 (iv) an item listed in Subsection [~~(130)~~] (132)(c).

902 [~~(90)~~] (92) "Person" includes any individual, firm, partnership, joint venture,

903 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,

904 city, municipality, district, or other local governmental entity of the state, or any group or

905 combination acting as a unit.

906 [~~(91)~~] (93) "Place of primary use":

907 (a) for telecommunications service other than mobile telecommunications service,

908 means the street address representative of where the customer's use of the telecommunications

909 service primarily occurs, which shall be:

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

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

912 (b) for mobile telecommunications service, means the same as that term is defined in

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

914 [~~(92)~~] (94) (a) "Postpaid calling service" means a telecommunications service a person

915 obtains by making a payment on a call-by-call basis:

916 (i) through the use of a:

917 (A) bank card;

918 (B) credit card;

919 (C) debit card; or

920 (D) travel card; or

921 (ii) by a charge made to a telephone number that is not associated with the origination

922 or termination of the telecommunications service.

923 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling

924 service, that would be a prepaid wireless calling service if the service were exclusively a

925 telecommunications service.

926 [~~(93)~~] (95) "Postproduction" means an activity related to the finishing or duplication of
927 a medium described in Subsection 59-12-104(54)(a).

928 [~~(94)~~] (96) "Prepaid calling service" means a telecommunications service:

929 (a) that allows a purchaser access to telecommunications service that is exclusively
930 telecommunications service;

931 (b) that:

932 (i) is paid for in advance; and

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

934 (A) access number; or

935 (B) authorization code;

936 (c) that is dialed:

937 (i) manually; or

938 (ii) electronically; and

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

940 (i) by a known amount; and

941 (ii) with use.

942 [~~(95)~~] (97) "Prepaid wireless calling service" means a telecommunications service:

943 (a) that provides the right to utilize:

944 (i) mobile wireless service; and

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

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

947 (B) a content service; or

948 (C) an ancillary service;

949 (b) that:

950 (i) is paid for in advance; and

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

952 (A) access number; or

953 (B) authorization code;

954 (c) that is dialed:

955 (i) manually; or

- 956 (ii) electronically; and
- 957 (d) sold in predetermined units or dollars that decline:
- 958 (i) by a known amount; and
- 959 (ii) with use.
- 960 [~~96~~] (98) (a) "Prepared food" means:
- 961 (i) food:
- 962 (A) sold in a heated state; or
- 963 (B) heated by a seller;
- 964 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 965 item; or
- 966 (iii) except as provided in Subsection [~~96~~] (98)(c), food sold with an eating utensil
- 967 provided by the seller, including a:
- 968 (A) plate;
- 969 (B) knife;
- 970 (C) fork;
- 971 (D) spoon;
- 972 (E) glass;
- 973 (F) cup;
- 974 (G) napkin; or
- 975 (H) straw.
- 976 (b) "Prepared food" does not include:
- 977 (i) food that a seller only:
- 978 (A) cuts;
- 979 (B) repackages; or
- 980 (C) pasteurizes; or
- 981 (ii) (A) the following:
- 982 (I) raw egg;
- 983 (II) raw fish;
- 984 (III) raw meat;
- 985 (IV) raw poultry; or
- 986 (V) a food containing an item described in Subsections [~~96~~] (98)(b)(ii)(A)(I) through

987 (IV); and

988 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
989 Food and Drug Administration's Food Code that a consumer cook the items described in
990 Subsection [~~96~~] (98)(b)(ii)(A) to prevent food borne illness; or

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

992 (A) food and food ingredients sold by a seller if the seller's proper primary
993 classification under the 2002 North American Industry Classification System of the federal
994 Executive Office of the President, Office of Management and Budget, is manufacturing in
995 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
996 Manufacturing;

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

998 (I) by weight or volume; and

999 (II) as a single item; or

1000 (C) a bakery item, including:

1001 (I) a bagel;

1002 (II) a bar;

1003 (III) a biscuit;

1004 (IV) bread;

1005 (V) a bun;

1006 (VI) a cake;

1007 (VII) a cookie;

1008 (VIII) a croissant;

1009 (IX) a danish;

1010 (X) a donut;

1011 (XI) a muffin;

1012 (XII) a pastry;

1013 (XIII) a pie;

1014 (XIV) a roll;

1015 (XV) a tart;

1016 (XVI) a torte; or

1017 (XVII) a tortilla.

1018 (c) An eating utensil provided by the seller does not include the following used to
1019 transport the food:

- 1020 (i) a container; or
- 1021 (ii) packaging.

1022 ~~[(97)]~~ (99) "Prescription" means an order, formula, or recipe that is issued:

- 1023 (a) (i) orally;
- 1024 (ii) in writing;
- 1025 (iii) electronically; or
- 1026 (iv) by any other manner of transmission; and
- 1027 (b) by a licensed practitioner authorized by the laws of a state.

1028 ~~[(98)]~~ (100) (a) ~~[Except as provided in Subsection (98)(b)(ii) or (iii), "prewritten]~~

1029 "Prewritten computer software" means computer software that is not designed and developed:

- 1030 (i) by the author or other creator of the computer software; and
- 1031 (ii) to the specifications of a specific purchaser.

1032 (b) "Prewritten computer software" includes:

1033 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
1034 software is not designed and developed:

1035 (A) by the author or other creator of the computer software; and

1036 (B) to the specifications of a specific purchaser;

1037 (ii) computer software designed and developed by the author or other creator of the
1038 computer software to the specifications of a specific purchaser if the computer software is sold
1039 to a person other than the purchaser; or

1040 (iii) except as provided in Subsection ~~[(98)]~~ (100)(c), prewritten computer software or
1041 a prewritten portion of prewritten computer software:

1042 (A) that is modified or enhanced to any degree; and

1043 (B) if the modification or enhancement described in Subsection ~~[(98)]~~ (100)(b)(iii)(A)
1044 is designed and developed to the specifications of a specific purchaser.

1045 (c) "Prewritten computer software" does not include a modification or enhancement
1046 described in Subsection ~~[(98)]~~ (100)(b)(iii) if the charges for the modification or enhancement
1047 are:

- 1048 (i) reasonable; and

1049 (ii) subject to Subsections [59-12-103\(2\)\(f\)\(ii\)](#) and [\(2\)\(g\)\(i\)](#), separately stated on the
1050 invoice or other statement of price provided to the purchaser at the time of sale or later, as
1051 demonstrated by:

1052 (A) the books and records the seller keeps at the time of the transaction in the regular
1053 course of business, including books and records the seller keeps at the time of the transaction in
1054 the regular course of business for nontax purposes;

1055 (B) a preponderance of the facts and circumstances at the time of the transaction; and

1056 (C) the understanding of all of the parties to the transaction.

1057 ~~[(99)]~~ [\(101\)](#) (a) "Private communications service" means a telecommunications
1058 service:

1059 (i) that entitles a customer to exclusive or priority use of one or more communications
1060 channels between or among termination points; and

1061 (ii) regardless of the manner in which the one or more communications channels are
1062 connected.

1063 (b) "Private communications service" includes the following provided in connection
1064 with the use of one or more communications channels:

1065 (i) an extension line;

1066 (ii) a station;

1067 (iii) switching capacity; or

1068 (iv) another associated service that is provided in connection with the use of one or
1069 more communications channels as defined in Section [59-12-215](#).

1070 ~~[(100)]~~ [\(102\)](#) (a) ~~[Except as provided in Subsection [\(100\)\(b\)](#), "product]~~ "Product
1071 transferred electronically" means a product transferred electronically that would be subject to a
1072 tax under this chapter if that product was transferred in a manner other than electronically.

1073 (b) "Product transferred electronically" does not include:

1074 (i) an ancillary service;

1075 (ii) computer software; or

1076 (iii) a telecommunications service.

1077 ~~[(101)]~~ [\(103\)](#) (a) "Prosthetic device" means a device that is worn on or in the body to:

1078 (i) artificially replace a missing portion of the body;

1079 (ii) prevent or correct a physical deformity or physical malfunction; or

- 1080 (iii) support a weak or deformed portion of the body.
- 1081 (b) "Prosthetic device" includes:
- 1082 (i) parts used in the repairs or renovation of a prosthetic device;
- 1083 (ii) replacement parts for a prosthetic device;
- 1084 (iii) a dental prosthesis; or
- 1085 (iv) a hearing aid.
- 1086 (c) "Prosthetic device" does not include:
- 1087 (i) corrective eyeglasses; or
- 1088 (ii) contact lenses.
- 1089 [~~102~~] (104) (a) "Protective equipment" means an item:
- 1090 (i) for human wear; and
- 1091 (ii) that is:
- 1092 (A) designed as protection:
- 1093 (I) to the wearer against injury or disease; or
- 1094 (II) against damage or injury of other persons or property; and
- 1095 (B) not suitable for general use.
- 1096 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1097 commission shall make rules:
- 1098 (i) listing the items that constitute "protective equipment"; and
- 1099 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1100 under the agreement.
- 1101 [~~103~~] (105) (a) For purposes of Subsection 59-12-104(41), "publication" means any
- 1102 written or printed matter, other than a photocopy:
- 1103 (i) regardless of:
- 1104 (A) characteristics;
- 1105 (B) copyright;
- 1106 (C) form;
- 1107 (D) format;
- 1108 (E) method of reproduction; or
- 1109 (F) source; and
- 1110 (ii) made available in printed or electronic format.

1111 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1112 commission may by rule define the term "photocopy."

1113 [~~(104)~~] (106) (a) "Purchase price" and "sales price" mean the total amount of
1114 consideration:

1115 (i) valued in money; and

1116 (ii) for which tangible personal property, a product transferred electronically, or
1117 services are:

1118 (A) sold;

1119 (B) leased; or

1120 (C) rented.

1121 (b) "Purchase price" and "sales price" include:

1122 (i) the seller's cost of the tangible personal property, a product transferred
1123 electronically, or services sold;

1124 (ii) expenses of the seller, including:

1125 (A) the cost of materials used;

1126 (B) a labor cost;

1127 (C) a service cost;

1128 (D) interest;

1129 (E) a loss;

1130 (F) the cost of transportation to the seller; or

1131 (G) a tax imposed on the seller;

1132 (iii) a charge by the seller for any service necessary to complete the sale; or

1133 (iv) consideration a seller receives from a person other than the purchaser if:

1134 (A) (I) the seller actually receives consideration from a person other than the purchaser;

1135 and

1136 (II) the consideration described in Subsection [~~(104)~~] (106)(b)(iv)(A)(I) is directly
1137 related to a price reduction or discount on the sale;

1138 (B) the seller has an obligation to pass the price reduction or discount through to the
1139 purchaser;

1140 (C) the amount of the consideration attributable to the sale is fixed and determinable by
1141 the seller at the time of the sale to the purchaser; and

1142 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
1143 seller to claim a price reduction or discount; and

1144 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
1145 coupon, or other documentation with the understanding that the person other than the seller
1146 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1147 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1148 organization allowed a price reduction or discount, except that a preferred customer card that is
1149 available to any patron of a seller does not constitute membership in a group or organization
1150 allowed a price reduction or discount; or

1151 (III) the price reduction or discount is identified as a third party price reduction or
1152 discount on the:

1153 (Aa) invoice the purchaser receives; or

1154 (Bb) certificate, coupon, or other documentation the purchaser presents.

1155 (c) "Purchase price" and "sales price" do not include:

1156 (i) a discount:

1157 (A) in a form including:

1158 (I) cash;

1159 (II) term; or

1160 (III) coupon;

1161 (B) that is allowed by a seller;

1162 (C) taken by a purchaser on a sale; and

1163 (D) that is not reimbursed by a third party; or

1164 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if separately
1165 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
1166 sale or later, as demonstrated by the books and records the seller keeps at the time of the
1167 transaction in the regular course of business, including books and records the seller keeps at the
1168 time of the transaction in the regular course of business for nontax purposes, by a
1169 preponderance of the facts and circumstances at the time of the transaction, and by the
1170 understanding of all of the parties to the transaction:

1171 (A) the following from credit extended on the sale of tangible personal property or
1172 services:

- 1173 (I) a carrying charge;
- 1174 (II) a financing charge; or
- 1175 (III) an interest charge;
- 1176 (B) a delivery charge;
- 1177 (C) an installation charge;
- 1178 (D) a manufacturer rebate on a motor vehicle; or
- 1179 (E) a tax or fee legally imposed directly on the consumer.
- 1180 ~~[(105)]~~ (107) "Purchaser" means a person to whom:
- 1181 (a) a sale of tangible personal property is made;
- 1182 (b) a product is transferred electronically; or
- 1183 (c) a service is furnished.
- 1184 ~~[(106)]~~ (108) "Qualifying data center" means a data center facility that:
- 1185 (a) houses a group of networked server computers in one physical location in order to
- 1186 disseminate, manage, and store data and information;
- 1187 (b) is located in the state;
- 1188 (c) is a new operation constructed on or after July 1, 2016;
- 1189 (d) consists of one or more buildings that total 150,000 or more square feet;
- 1190 (e) is owned or leased by:
- 1191 (i) the operator of the data center facility; or
- 1192 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
- 1193 of the data center facility; and
- 1194 (f) is located on one or more parcels of land that are owned or leased by:
- 1195 (i) the operator of the data center facility; or
- 1196 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
- 1197 of the data center facility.
- 1198 ~~[(107)]~~ (109) "Regularly rented" means:
- 1199 (a) rented to a guest for value three or more times during a calendar year; or
- 1200 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1201 value.
- 1202 ~~[(108)]~~ (110) "Rental" means the same as that term is defined in Subsection ~~[(60)]~~ (62).
- 1203 ~~[(109)]~~ (111) (a) ~~[Except as provided in Subsection (109)(b), "repairs"]~~ "Repairs" or

1204 renovations of tangible personal property" means:

1205 (i) a repair or renovation of tangible personal property that is not permanently attached
1206 to real property; or

1207 (ii) attaching tangible personal property or a product transferred electronically to other
1208 tangible personal property or detaching tangible personal property or a product transferred
1209 electronically from other tangible personal property if:

1210 (A) the other tangible personal property to which the tangible personal property or
1211 product transferred electronically is attached or from which the tangible personal property or
1212 product transferred electronically is detached is not permanently attached to real property; and

1213 (B) the attachment of tangible personal property or a product transferred electronically
1214 to other tangible personal property or detachment of tangible personal property or a product
1215 transferred electronically from other tangible personal property is made in conjunction with a
1216 repair or replacement of tangible personal property or a product transferred electronically.

1217 (b) "Repairs or renovations of tangible personal property" does not include:

1218 (i) attaching prewritten computer software to other tangible personal property if the
1219 other tangible personal property to which the prewritten computer software is attached is not
1220 permanently attached to real property; or

1221 (ii) detaching prewritten computer software from other tangible personal property if the
1222 other tangible personal property from which the prewritten computer software is detached is
1223 not permanently attached to real property.

1224 [~~(110)~~] (112) "Research and development" means the process of inquiry or
1225 experimentation aimed at the discovery of facts, devices, technologies, or applications and the
1226 process of preparing those devices, technologies, or applications for marketing.

1227 [~~(111)~~] (113) (a) "Residential telecommunications services" means a
1228 telecommunications service or an ancillary service that is provided to an individual for personal
1229 use:

1230 (i) at a residential address; or

1231 (ii) at an institution, including a nursing home or a school, if the telecommunications
1232 service or ancillary service is provided to and paid for by the individual residing at the
1233 institution rather than the institution.

1234 (b) For purposes of Subsection [~~(111)~~] (113)(a)(i), a residential address includes an:

1235 (i) apartment; or
1236 (ii) other individual dwelling unit.
1237 [~~(H2)~~] (114) "Residential use" means the use in or around a home, apartment building,
1238 sleeping quarters, and similar facilities or accommodations.
1239 [~~(H3)~~] (115) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
1240 other than:
1241 (a) resale;
1242 (b) sublease; or
1243 (c) subrent.
1244 [~~(H4)~~] (116) (a) "Retailer" means any person, unless prohibited by the Constitution of
1245 the United States or federal law, that is engaged in a regularly organized business in tangible
1246 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is
1247 selling to the user or consumer and not for resale.
1248 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1249 engaged in the business of selling to users or consumers within the state.
1250 [~~(H5)~~] (117) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1251 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1252 Subsection 59-12-103(1), for consideration.
1253 (b) "Sale" includes:
1254 (i) installment and credit sales;
1255 (ii) any closed transaction constituting a sale;
1256 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1257 chapter;
1258 (iv) any transaction if the possession of property is transferred but the seller retains the
1259 title as security for the payment of the price; and
1260 (v) any transaction under which right to possession, operation, or use of any article of
1261 tangible personal property is granted under a lease or contract and the transfer of possession
1262 would be taxable if an outright sale were made.
1263 [~~(H6)~~] (118) "Sale at retail" means the same as that term is defined in Subsection
1264 [~~(H3)~~] (115).
1265 [~~(H7)~~] (119) "Sale-leaseback transaction" means a transaction by which title to

1266 tangible personal property or a product transferred electronically that is subject to a tax under
1267 this chapter is transferred:

- 1268 (a) by a purchaser-lessee;
- 1269 (b) to a lessor;
- 1270 (c) for consideration; and
- 1271 (d) if:
 - 1272 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1273 of the tangible personal property or product transferred electronically;
 - 1274 (ii) the sale of the tangible personal property or product transferred electronically to the
1275 lessor is intended as a form of financing:
 - 1276 (A) for the tangible personal property or product transferred electronically; and
 - 1277 (B) to the purchaser-lessee; and
 - 1278 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1279 is required to:
 - 1280 (A) capitalize the tangible personal property or product transferred electronically for
1281 financial reporting purposes; and
 - 1282 (B) account for the lease payments as payments made under a financing arrangement.

1283 [~~(118)~~] (120) "Sales price" means the same as that term is defined in Subsection
1284 [~~(104)~~] (106).

1285 [~~(119)~~] (121) (a) "Sales relating to schools" means the following sales by, amounts
1286 paid to, or amounts charged by a school:

- 1287 (i) sales that are directly related to the school's educational functions or activities
1288 including:
 - 1289 (A) the sale of:
 - 1290 (I) textbooks;
 - 1291 (II) textbook fees;
 - 1292 (III) laboratory fees;
 - 1293 (IV) laboratory supplies; or
 - 1294 (V) safety equipment;
 - 1295 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1296 that:

- 1297 (I) a student is specifically required to wear as a condition of participation in a
 1298 school-related event or school-related activity; and
- 1299 (II) is not readily adaptable to general or continued usage to the extent that it takes the
 1300 place of ordinary clothing;
- 1301 (C) sales of the following if the net or gross revenues generated by the sales are
 1302 deposited into a school district fund or school fund dedicated to school meals:
- 1303 (I) food and food ingredients; or
 1304 (II) prepared food; or
 1305 (D) transportation charges for official school activities; or
 1306 (ii) amounts paid to or amounts charged by a school for admission to a school-related
 1307 event or school-related activity.
- 1308 (b) "Sales relating to schools" does not include:
 1309 (i) bookstore sales of items that are not educational materials or supplies;
 1310 (ii) except as provided in Subsection [~~(119)~~] (121)(a)(i)(B):
 1311 (A) clothing;
 1312 (B) clothing accessories or equipment;
 1313 (C) protective equipment; or
 1314 (D) sports or recreational equipment; or
 1315 (iii) amounts paid to or amounts charged by a school for admission to a school-related
 1316 event or school-related activity if the amounts paid or charged are passed through to a person:
 1317 (A) other than a:
 1318 (I) school;
 1319 (II) nonprofit organization authorized by a school board or a governing body of a
 1320 private school to organize and direct a competitive secondary school activity; or
 1321 (III) nonprofit association authorized by a school board or a governing body of a
 1322 private school to organize and direct a competitive secondary school activity; and
 1323 (B) that is required to collect sales and use taxes under this chapter.
- 1324 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 1325 commission may make rules defining the term "passed through."
 1326 [~~(120)~~] (122) For purposes of this section and Section 59-12-104, "school" means:
 1327 (a) an elementary school or a secondary school that:

- 1328 (i) is a:
- 1329 (A) public school; or
- 1330 (B) private school; and
- 1331 (ii) provides instruction for one or more grades kindergarten through 12; or
- 1332 (b) a public school district.
- 1333 [~~(121)~~] (123) (a) "Seller" means a person that makes a sale, lease, or rental of:
- 1334 (i) tangible personal property;
- 1335 (ii) a product transferred electronically; or
- 1336 (iii) a service.
- 1337 (b) "Seller" includes a marketplace facilitator.
- 1338 [~~(122)~~] (124) (a) "Semiconductor fabricating, processing, research, or development
- 1339 materials" means tangible personal property or a product transferred electronically if the
- 1340 tangible personal property or product transferred electronically is:
- 1341 (i) used primarily in the process of:
- 1342 (A) (I) manufacturing a semiconductor;
- 1343 (II) fabricating a semiconductor; or
- 1344 (III) research or development of a:
- 1345 (Aa) semiconductor; or
- 1346 (Bb) semiconductor manufacturing process; or
- 1347 (B) maintaining an environment suitable for a semiconductor; or
- 1348 (ii) consumed primarily in the process of:
- 1349 (A) (I) manufacturing a semiconductor;
- 1350 (II) fabricating a semiconductor; or
- 1351 (III) research or development of a:
- 1352 (Aa) semiconductor; or
- 1353 (Bb) semiconductor manufacturing process; or
- 1354 (B) maintaining an environment suitable for a semiconductor.
- 1355 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1356 includes:
- 1357 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1358 transferred electronically described in Subsection [~~(122)~~] (124)(a); or

1359 (ii) a chemical, catalyst, or other material used to:

1360 (A) produce or induce in a semiconductor a:

1361 (I) chemical change; or

1362 (II) physical change;

1363 (B) remove impurities from a semiconductor; or

1364 (C) improve the marketable condition of a semiconductor.

1365 ~~[(123)]~~ (125) "Senior citizen center" means a facility having the primary purpose of
1366 providing services to the aged as defined in Section 62A-3-101.

1367 ~~[(124)]~~ (126) (a) Subject to Subsections ~~[(124)]~~ (126)(b) and (c), "short-term lodging
1368 consumable" means tangible personal property that:

1369 (i) a business that provides accommodations and services described in Subsection
1370 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
1371 to a purchaser;

1372 (ii) is intended to be consumed by the purchaser; and

1373 (iii) is:

1374 (A) included in the purchase price of the accommodations and services; and

1375 (B) not separately stated on an invoice, bill of sale, or other similar document provided
1376 to the purchaser.

1377 (b) "Short-term lodging consumable" includes:

1378 (i) a beverage;

1379 (ii) a brush or comb;

1380 (iii) a cosmetic;

1381 (iv) a hair care product;

1382 (v) lotion;

1383 (vi) a magazine;

1384 (vii) makeup;

1385 (viii) a meal;

1386 (ix) mouthwash;

1387 (x) nail polish remover;

1388 (xi) a newspaper;

1389 (xii) a notepad;

- 1390 (xiii) a pen;
- 1391 (xiv) a pencil;
- 1392 (xv) a razor;
- 1393 (xvi) saline solution;
- 1394 (xvii) a sewing kit;
- 1395 (xviii) shaving cream;
- 1396 (xix) a shoe shine kit;
- 1397 (xx) a shower cap;
- 1398 (xxi) a snack item;
- 1399 (xxii) soap;
- 1400 (xxiii) toilet paper;
- 1401 (xxiv) a toothbrush;
- 1402 (xxv) toothpaste; or
- 1403 (xxvi) an item similar to Subsections [~~(124)~~] (126)(b)(i) through (xxv) as the
- 1404 commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah
- 1405 Administrative Rulemaking Act.
- 1406 (c) "Short-term lodging consumable" does not include:
- 1407 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 1408 property to be reused; or
- 1409 (ii) a product transferred electronically.
- 1410 [~~(125)~~] (127) "Simplified electronic return" means the electronic return:
- 1411 (a) described in Section 318(C) of the agreement; and
- 1412 (b) approved by the governing board of the agreement.
- 1413 [~~(126)~~] (128) "Solar energy" means the sun used as the sole source of energy for
- 1414 producing electricity.
- 1415 [~~(127)~~] (129) (a) "Sports or recreational equipment" means an item:
- 1416 (i) designed for human use; and
- 1417 (ii) that is:
- 1418 (A) worn in conjunction with:
- 1419 (I) an athletic activity; or
- 1420 (II) a recreational activity; and

1421 (B) not suitable for general use.

1422 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1423 commission shall make rules:

1424 (i) listing the items that constitute "sports or recreational equipment"; and

1425 (ii) that are consistent with the list of items that constitute "sports or recreational
1426 equipment" under the agreement.

1427 [~~(128)~~] (130) "State" means the state of Utah, its departments, and agencies.

1428 [~~(129)~~] (131) "Storage" means any keeping or retention of tangible personal property or
1429 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
1430 except sale in the regular course of business.

1431 [~~(130)~~] (132) (a) [~~Except as provided in Subsection (130)(d) or (e), "tangible]~~
1432 "Tangible personal property" means personal property that:

1433 (i) may be:

1434 (A) seen;

1435 (B) weighed;

1436 (C) measured;

1437 (D) felt; or

1438 (E) touched; or

1439 (ii) is in any manner perceptible to the senses.

1440 (b) "Tangible personal property" includes:

1441 (i) electricity;

1442 (ii) water;

1443 (iii) gas;

1444 (iv) steam; or

1445 (v) prewritten computer software, regardless of the manner in which the prewritten
1446 computer software is transferred.

1447 (c) "Tangible personal property" includes the following regardless of whether the item
1448 is attached to real property:

1449 (i) a dishwasher;

1450 (ii) a dryer;

1451 (iii) a freezer;

1452 (iv) a microwave;
1453 (v) a refrigerator;
1454 (vi) a stove;
1455 (vii) a washer; or
1456 (viii) an item similar to Subsections [~~(130)~~] (132)(c)(i) through (vii) as determined by
1457 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1458 Rulemaking Act.

1459 (d) "Tangible personal property" does not include a product that is transferred
1460 electronically.

1461 (e) "Tangible personal property" does not include the following if attached to real
1462 property, regardless of whether the attachment to real property is only through a line that
1463 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1464 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1465 Rulemaking Act:

- 1466 (i) a hot water heater;
- 1467 (ii) a water filtration system; or
- 1468 (iii) a water softener system.

1469 [~~(131)~~] (133) (a) "Telecommunications enabling or facilitating equipment, machinery,
1470 or software" means an item listed in Subsection [~~(131)~~] (133)(b) if that item is purchased or
1471 leased primarily to enable or facilitate one or more of the following to function:

- 1472 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1473 (ii) telecommunications transmission equipment, machinery, or software.

1474 (b) The following apply to Subsection [~~(131)~~] (133)(a):

- 1475 (i) a pole;
- 1476 (ii) software;
- 1477 (iii) a supplementary power supply;
- 1478 (iv) temperature or environmental equipment or machinery;
- 1479 (v) test equipment;
- 1480 (vi) a tower; or
- 1481 (vii) equipment, machinery, or software that functions similarly to an item listed in

1482 Subsections [~~(131)~~] (133)(b)(i) through (vi) as determined by the commission by rule made in

1483 accordance with Subsection [~~(131)~~] (133)(c).

1484 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1485 commission may by rule define what constitutes equipment, machinery, or software that
1486 functions similarly to an item listed in Subsections [~~(131)~~] (133)(b)(i) through (vi).

1487 [~~(132)~~] (134) "Telecommunications equipment, machinery, or software required for
1488 911 service" means equipment, machinery, or software that is required to comply with 47
1489 C.F.R. Sec. 20.18.

1490 [~~(133)~~] (135) "Telecommunications maintenance or repair equipment, machinery, or
1491 software" means equipment, machinery, or software purchased or leased primarily to maintain
1492 or repair one or more of the following, regardless of whether the equipment, machinery, or
1493 software is purchased or leased as a spare part or as an upgrade or modification to one or more
1494 of the following:

- 1495 (a) telecommunications enabling or facilitating equipment, machinery, or software;
1496 (b) telecommunications switching or routing equipment, machinery, or software; or
1497 (c) telecommunications transmission equipment, machinery, or software.

1498 [~~(134)~~] (136) (a) "Telecommunications service" means the electronic conveyance,
1499 routing, or transmission of audio, data, video, voice, or any other information or signal to a
1500 point, or among or between points.

1501 (b) "Telecommunications service" includes:

1502 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1503 processing application is used to act:

1504 (A) on the code, form, or protocol of the content;

1505 (B) for the purpose of electronic conveyance, routing, or transmission; and

1506 (C) regardless of whether the service:

1507 (I) is referred to as voice over Internet protocol service; or

1508 (II) is classified by the Federal Communications Commission as enhanced or value
1509 added;

1510 (ii) an 800 service;

1511 (iii) a 900 service;

1512 (iv) a fixed wireless service;

1513 (v) a mobile wireless service;

- 1514 (vi) a postpaid calling service;
- 1515 (vii) a prepaid calling service;
- 1516 (viii) a prepaid wireless calling service; or
- 1517 (ix) a private communications service.
- 1518 (c) "Telecommunications service" does not include:
- 1519 (i) advertising, including directory advertising;
- 1520 (ii) an ancillary service;
- 1521 (iii) a billing and collection service provided to a third party;
- 1522 (iv) a data processing and information service if:
- 1523 (A) the data processing and information service allows data to be:
- 1524 (I) (Aa) acquired;
- 1525 (Bb) generated;
- 1526 (Cc) processed;
- 1527 (Dd) retrieved; or
- 1528 (Ee) stored; and
- 1529 (II) delivered by an electronic transmission to a purchaser; and
- 1530 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1531 or information;
- 1532 (v) installation or maintenance of the following on a customer's premises:
- 1533 (A) equipment; or
- 1534 (B) wiring;
- 1535 (vi) Internet access service;
- 1536 (vii) a paging service;
- 1537 (viii) a product transferred electronically, including:
- 1538 (A) music;
- 1539 (B) reading material;
- 1540 (C) a ring tone;
- 1541 (D) software; or
- 1542 (E) video;
- 1543 (ix) a radio and television audio and video programming service:
- 1544 (A) regardless of the medium; and

- 1545 (B) including:
- 1546 (I) furnishing conveyance, routing, or transmission of a television audio and video
1547 programming service by a programming service provider;
- 1548 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1549 (III) audio and video programming services delivered by a commercial mobile radio
1550 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1551 (x) a value-added nonvoice data service; or
- 1552 (xi) tangible personal property.
- 1553 ~~[(135)]~~ (137) (a) "Telecommunications service provider" means a person that:
- 1554 (i) owns, controls, operates, or manages a telecommunications service; and
- 1555 (ii) engages in an activity described in Subsection ~~[(135)]~~ (137)(a)(i) for the shared use
1556 with or resale to any person of the telecommunications service.
- 1557 (b) A person described in Subsection ~~[(135)]~~ (137)(a) is a telecommunications service
1558 provider whether or not the Public Service Commission of Utah regulates:
- 1559 (i) that person; or
- 1560 (ii) the telecommunications service that the person owns, controls, operates, or
1561 manages.
- 1562 ~~[(136)]~~ (138) (a) "Telecommunications switching or routing equipment, machinery, or
1563 software" means an item listed in Subsection ~~[(136)]~~ (138)(b) if that item is purchased or
1564 leased primarily for switching or routing:
- 1565 (i) an ancillary service;
- 1566 (ii) data communications;
- 1567 (iii) voice communications; or
- 1568 (iv) telecommunications service.
- 1569 (b) The following apply to Subsection ~~[(136)]~~ (138)(a):
- 1570 (i) a bridge;
- 1571 (ii) a computer;
- 1572 (iii) a cross connect;
- 1573 (iv) a modem;
- 1574 (v) a multiplexer;
- 1575 (vi) plug in circuitry;

1576 (vii) a router;
1577 (viii) software;
1578 (ix) a switch; or
1579 (x) equipment, machinery, or software that functions similarly to an item listed in
1580 Subsections [~~(136)~~] (138)(b)(i) through (ix) as determined by the commission by rule made in
1581 accordance with Subsection [~~(136)~~] (138)(c).

1582 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1583 commission may by rule define what constitutes equipment, machinery, or software that
1584 functions similarly to an item listed in Subsections [~~(136)~~] (138)(b)(i) through (ix).

1585 [~~(137)~~] (139) (a) "Telecommunications transmission equipment, machinery, or
1586 software" means an item listed in Subsection [~~(137)~~] (139)(b) if that item is purchased or
1587 leased primarily for sending, receiving, or transporting:

- 1588 (i) an ancillary service;
- 1589 (ii) data communications;
- 1590 (iii) voice communications; or
- 1591 (iv) telecommunications service.

1592 (b) The following apply to Subsection [~~(137)~~] (139)(a):

- 1593 (i) an amplifier;
- 1594 (ii) a cable;
- 1595 (iii) a closure;
- 1596 (iv) a conduit;
- 1597 (v) a controller;
- 1598 (vi) a duplexer;
- 1599 (vii) a filter;
- 1600 (viii) an input device;
- 1601 (ix) an input/output device;
- 1602 (x) an insulator;
- 1603 (xi) microwave machinery or equipment;
- 1604 (xii) an oscillator;
- 1605 (xiii) an output device;
- 1606 (xiv) a pedestal;

- 1607 (xv) a power converter;
- 1608 (xvi) a power supply;
- 1609 (xvii) a radio channel;
- 1610 (xviii) a radio receiver;
- 1611 (xix) a radio transmitter;
- 1612 (xx) a repeater;
- 1613 (xxi) software;
- 1614 (xxii) a terminal;
- 1615 (xxiii) a timing unit;
- 1616 (xxiv) a transformer;
- 1617 (xxv) a wire; or
- 1618 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1619 Subsections [~~(137)~~] (139)(b)(i) through (xxv) as determined by the commission by rule made in
- 1620 accordance with Subsection [~~(137)~~] (139)(c).

1621 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1622 commission may by rule define what constitutes equipment, machinery, or software that

1623 functions similarly to an item listed in Subsections [~~(137)~~] (139)(b)(i) through (xxv).

1624 [~~(138)~~] (140) (a) "Textbook for a higher education course" means a textbook or other

1625 printed material that is required for a course:

- 1626 (i) offered by an institution of higher education; and
- 1627 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1628 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1629 [~~(139)~~] (141) "Tobacco" means:

- 1630 (a) a cigarette;
- 1631 (b) a cigar;
- 1632 (c) chewing tobacco;
- 1633 (d) pipe tobacco; or
- 1634 (e) any other item that contains tobacco.

1635 [~~(140)~~] (142) "Unassisted amusement device" means an amusement device, skill

1636 device, or ride device that is started and stopped by the purchaser or renter of the right to use or

1637 operate the amusement device, skill device, or ride device.

1638 ~~[(141)]~~ (143) (a) "Use" means the exercise of any right or power over tangible personal
1639 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
1640 incident to the ownership or the leasing of that tangible personal property, product transferred
1641 electronically, or service.

1642 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1643 property, a product transferred electronically, or a service in the regular course of business and
1644 held for resale.

1645 ~~[(142)]~~ (144) "Value-added nonvoice data service" means a service:

1646 (a) that otherwise meets the definition of a telecommunications service except that a
1647 computer processing application is used to act primarily for a purpose other than conveyance,
1648 routing, or transmission; and

1649 (b) with respect to which a computer processing application is used to act on data or
1650 information:

- 1651 (i) code;
- 1652 (ii) content;
- 1653 (iii) form; or
- 1654 (iv) protocol.

1655 ~~[(143)]~~ (145) (a) ~~[Subject to Subsection (143)(b), "vehicle"]~~ "Vehicle" means the
1656 following that are required to be titled, registered, or titled and registered:

- 1657 (i) an aircraft as defined in Section 72-10-102;
- 1658 (ii) a vehicle as defined in Section 41-1a-102;
- 1659 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1660 (iv) a vessel as defined in Section 41-1a-102.

1661 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1662 (i) a vehicle described in Subsection ~~[(143)]~~ (145)(a); or
- 1663 (ii) (A) a locomotive;
- 1664 (B) a freight car;
- 1665 (C) railroad work equipment; or
- 1666 (D) other railroad rolling stock.

1667 ~~[(144)]~~ (146) "Vehicle dealer" means a person engaged in the business of buying,
1668 selling, or exchanging a vehicle as defined in Subsection ~~[(143)]~~ (145).

1669 ~~[(145)]~~ (147) (a) "Vertical service" means an ancillary service that:
1670 (i) is offered in connection with one or more telecommunications services; and
1671 (ii) offers an advanced calling feature that allows a customer to:
1672 (A) identify a caller; and
1673 (B) manage multiple calls and call connections.
1674 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
1675 conference bridging service.

1676 ~~[(146)]~~ (148) (a) "Voice mail service" means an ancillary service that enables a
1677 customer to receive, send, or store a recorded message.
1678 (b) "Voice mail service" does not include a vertical service that a customer is required
1679 to have in order to utilize a voice mail service.

1680 ~~[(147)]~~ (149) (a) ~~[Except as provided in Subsection (147)(b), "waste]~~ "Waste energy
1681 facility" means a facility that generates electricity:

1682 (i) using as the primary source of energy waste materials that would be placed in a
1683 landfill or refuse pit if it were not used to generate electricity, including:

1684 (A) tires;
1685 (B) waste coal;
1686 (C) oil shale; or
1687 (D) municipal solid waste; and
1688 (ii) in amounts greater than actually required for the operation of the facility.

1689 (b) "Waste energy facility" does not include a facility that incinerates:
1690 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
1691 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1692 ~~[(148)]~~ (150) "Watercraft" means a vessel as defined in Section [73-18-2](#).

1693 ~~[(149)]~~ (151) "Wind energy" means wind used as the sole source of energy to produce
1694 electricity.

1695 ~~[(150)]~~ (152) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
1696 geographic location by the United States Postal Service.

1697 Section 2. Section **59-12-104** is amended to read:

1698 **59-12-104. Exemptions.**

1699 Exemptions from the taxes imposed by this chapter are as follows:

- 1700 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
1701 under Chapter 13, Motor and Special Fuel Tax Act;
- 1702 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
1703 subdivisions; however, this exemption does not apply to sales of:
- 1704 (a) construction materials except:
- 1705 (i) construction materials purchased by or on behalf of institutions of the public
1706 education system as defined in Utah Constitution, Article X, Section 2, provided the
1707 construction materials are clearly identified and segregated and installed or converted to real
1708 property which is owned by institutions of the public education system; and
- 1709 (ii) construction materials purchased by the state, its institutions, or its political
1710 subdivisions which are installed or converted to real property by employees of the state, its
1711 institutions, or its political subdivisions; or
- 1712 (b) tangible personal property in connection with the construction, operation,
1713 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
1714 providing additional project capacity, as defined in Section 11-13-103;
- 1715 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
- 1716 (i) the proceeds of each sale do not exceed \$1; and
- 1717 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
1718 the cost of the item described in Subsection (3)(b) as goods consumed; and
- 1719 (b) Subsection (3)(a) applies to:
- 1720 (i) food and food ingredients; or
- 1721 (ii) prepared food;
- 1722 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
- 1723 (i) alcoholic beverages;
- 1724 (ii) food and food ingredients; or
- 1725 (iii) prepared food;
- 1726 (b) sales of tangible personal property or a product transferred electronically:
- 1727 (i) to a passenger;
- 1728 (ii) by a commercial airline carrier; and
- 1729 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 1730 (c) services related to Subsection (4)(a) or (b);

1731 (5) sales of parts and equipment for installation in an aircraft operated by a common
1732 carrier in interstate or foreign commerce;

1733 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
1734 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
1735 exhibitor, distributor, or commercial television or radio broadcaster;

1736 (7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of
1737 cleaning or washing of tangible personal property if the cleaning or washing of the tangible
1738 personal property is not assisted cleaning or washing of tangible personal property;

1739 (b) if a seller that sells at the same business location assisted cleaning or washing of
1740 tangible personal property and cleaning or washing of tangible personal property that is not
1741 assisted cleaning or washing of tangible personal property, the exemption described in
1742 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
1743 or washing of the tangible personal property; and

1744 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
1745 Utah Administrative Rulemaking Act, the commission may make rules:

1746 (i) governing the circumstances under which sales are at the same business location;
1747 and

1748 (ii) establishing the procedures and requirements for a seller to separately account for
1749 sales of assisted cleaning or washing of tangible personal property;

1750 (8) sales made to or by religious or charitable institutions in the conduct of their regular
1751 religious or charitable functions and activities, if the requirements of Section [59-12-104.1](#) are
1752 fulfilled;

1753 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
1754 this state if the vehicle is:

1755 (a) not registered in this state; and

1756 (b) (i) not used in this state; or

1757 (ii) used in this state:

1758 (A) if the vehicle is not used to conduct business, for a time period that does not
1759 exceed the longer of:

1760 (I) 30 days in any calendar year; or

1761 (II) the time period necessary to transport the vehicle to the borders of this state; or

- 1762 (B) if the vehicle is used to conduct business, for the time period necessary to transport
1763 the vehicle to the borders of this state;
- 1764 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
1765 (i) the item is intended for human use; and
1766 (ii) (A) a prescription was issued for the item; or
1767 (B) the item was purchased by a hospital or other medical facility; and
1768 (b) (i) Subsection (10)(a) applies to:
1769 (A) a drug;
1770 (B) a syringe; or
1771 (C) a stoma supply; and
1772 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1773 commission may by rule define the terms:
1774 (A) "syringe"; or
1775 (B) "stoma supply";
1776 (11) purchases or leases exempt under Section [19-12-201](#);
1777 (12) (a) sales of an item described in Subsection (12)(c) served by:
1778 (i) the following if the item described in Subsection (12)(c) is not available to the
1779 general public:
1780 (A) a church; or
1781 (B) a charitable institution; or
1782 (ii) an institution of higher education if:
1783 (A) the item described in Subsection (12)(c) is not available to the general public; or
1784 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
1785 offered by the institution of higher education; or
1786 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
1787 (i) a medical facility; or
1788 (ii) a nursing facility; and
1789 (c) Subsections (12)(a) and (b) apply to:
1790 (i) food and food ingredients;
1791 (ii) prepared food; or
1792 (iii) alcoholic beverages;

1793 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
1794 or a product transferred electronically by a person:

1795 (i) regardless of the number of transactions involving the sale of that tangible personal
1796 property or product transferred electronically by that person; and

1797 (ii) not regularly engaged in the business of selling that type of tangible personal
1798 property or product transferred electronically;

1799 (b) this Subsection (13) does not apply if:

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

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

1805 (iii) the person sells an item of tangible personal property or product transferred
1806 electronically that the person purchased as a sale that is exempt under Subsection (25); or

1807 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
1808 this state in which case the tax is based upon:

1809 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
1810 sold; or

1811 (B) in the absence of a bill of sale or other written evidence of value, the fair market
1812 value of the vehicle or vessel being sold at the time of the sale as determined by the
1813 commission; and

1814 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1815 commission shall make rules establishing the circumstances under which:

1816 (i) a person is regularly engaged in the business of selling a type of tangible personal
1817 property or product transferred electronically;

1818 (ii) a sale of tangible personal property or a product transferred electronically is one of
1819 a series of sales of a character to indicate that a person is regularly engaged in the business of
1820 selling that type of tangible personal property or product transferred electronically; or

1821 (iii) a person holds that person out as regularly engaged in the business of selling a type
1822 of tangible personal property or product transferred electronically;

1823 (14) amounts paid or charged for a purchase or lease of machinery, equipment, normal

1824 operating repair or replacement parts, or materials, except for office equipment or office
1825 supplies, by:

1826 (a) a manufacturing facility that:

1827 (i) is located in the state; and

1828 (ii) uses or consumes the machinery, equipment, normal operating repair or
1829 replacement parts, or materials:

1830 (A) in the manufacturing process to manufacture an item sold as tangible personal
1831 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
1832 Utah Administrative Rulemaking Act; or

1833 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
1834 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
1835 Administrative Rulemaking Act;

1836 (b) an establishment, as the commission defines that term in accordance with Title
1837 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

1838 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
1839 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
1840 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
1841 2002 North American Industry Classification System of the federal Executive Office of the
1842 President, 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:

1846 (A) the production process to produce an item sold as tangible personal property, as the
1847 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
1848 Administrative Rulemaking Act;

1849 (B) research and development, as the commission may define that phrase in accordance
1850 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1851 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
1852 produced from mining;

1853 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
1854 mining; or

1855 (E) preventing, controlling, or reducing dust or other pollutants from mining; or
1856 (c) an establishment, as the commission defines that term in accordance with Title 63G,
1857 Chapter 3, Utah Administrative Rulemaking Act, that:
1858 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
1859 American Industry Classification System of the federal Executive Office of the President,
1860 Office of Management and Budget;
1861 (ii) is located in the state; and
1862 (iii) uses or consumes the machinery, equipment, normal operating repair or
1863 replacement parts, or materials in the operation of the web search portal;
1864 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
1865 (i) tooling;
1866 (ii) special tooling;
1867 (iii) support equipment;
1868 (iv) special test equipment; or
1869 (v) parts used in the repairs or renovations of tooling or equipment described in
1870 Subsections (15)(a)(i) through (iv); and
1871 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
1872 (i) the tooling, equipment, or parts are used or consumed exclusively in the
1873 performance of any aerospace or electronics industry contract with the United States
1874 government or any subcontract under that contract; and
1875 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
1876 title to the tooling, equipment, or parts is vested in the United States government as evidenced
1877 by:
1878 (A) a government identification tag placed on the tooling, equipment, or parts; or
1879 (B) listing on a government-approved property record if placing a government
1880 identification tag on the tooling, equipment, or parts is impractical;
1881 (16) sales of newspapers or newspaper subscriptions;
1882 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
1883 product transferred electronically traded in as full or part payment of the purchase price, except
1884 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
1885 trade-ins are limited to other vehicles only, and the tax is based upon:

1886 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
1887 vehicle being traded in; or

1888 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
1889 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
1890 commission; and

1891 (b) Subsection (17)(a) does not apply to the following items of tangible personal
1892 property or products transferred electronically traded in as full or part payment of the purchase
1893 price:

1894 (i) money;

1895 (ii) electricity;

1896 (iii) water;

1897 (iv) gas; or

1898 (v) steam;

1899 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
1900 or a product transferred electronically used or consumed primarily and directly in farming
1901 operations, regardless of whether the tangible personal property or product transferred
1902 electronically:

1903 (A) becomes part of real estate; or

1904 (B) is installed by a farmer, contractor, or subcontractor; or

1905 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
1906 product transferred electronically if the tangible personal property or product transferred
1907 electronically is exempt under Subsection (18)(a)(i); and

1908 (b) amounts paid or charged for the following are subject to the taxes imposed by this
1909 chapter:

1910 (i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or
1911 supplies if used in a manner that is incidental to farming; and

1912 (B) tangible personal property that is considered to be used in a manner that is
1913 incidental to farming includes:

1914 (I) hand tools; or

1915 (II) maintenance and janitorial equipment and supplies;

1916 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product

1917 transferred electronically if the tangible personal property or product transferred electronically
1918 is used in an activity other than farming; and

1919 (B) tangible personal property or a product transferred electronically that is considered
1920 to be used in an activity other than farming includes:

1921 (I) office equipment and supplies; or

1922 (II) equipment and supplies used in:

1923 (Aa) the sale or distribution of farm products;

1924 (Bb) research; or

1925 (Cc) transportation; or

1926 (iii) a vehicle required to be registered by the laws of this state during the period

1927 ending two years after the date of the vehicle's purchase;

1928 (19) sales of hay;

1929 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or

1930 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or

1931 garden, farm, or other agricultural produce is sold by:

1932 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other

1933 agricultural produce;

1934 (b) an employee of the producer described in Subsection (20)(a); or

1935 (c) a member of the immediate family of the producer described in Subsection (20)(a);

1936 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued

1937 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

1938 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,

1939 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,

1940 wholesaler, or retailer for use in packaging tangible personal property to be sold by that

1941 manufacturer, processor, wholesaler, or retailer;

1942 (23) a product stored in the state for resale;

1943 (24) (a) purchases of a product if:

1944 (i) the product is:

1945 (A) purchased outside of this state;

1946 (B) brought into this state:

1947 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

1948 (II) by a nonresident person who is not living or working in this state at the time of the
1949 purchase;

1950 (C) used for the personal use or enjoyment of the nonresident person described in
1951 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

1952 (D) not used in conducting business in this state; and

1953 (ii) for:

1954 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
1955 the product for a purpose for which the product is designed occurs outside of this state;

1956 (B) a boat, the boat is registered outside of this state; or

1957 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
1958 outside of this state;

1959 (b) the exemption provided for in Subsection (24)(a) does not apply to:

1960 (i) a lease or rental of a product; or

1961 (ii) a sale of a vehicle exempt under Subsection (33); and

1962 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
1963 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
1964 following:

1965 (i) conducting business in this state if that phrase has the same meaning in this
1966 Subsection (24) as in Subsection (63);

1967 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
1968 as in Subsection (63); or

1969 (iii) a purpose for which a product is designed if that phrase has the same meaning in
1970 this Subsection (24) as in Subsection (63);

1971 (25) a product purchased for resale in the regular course of business, either in its
1972 original form or as an ingredient or component part of a manufactured or compounded product;

1973 (26) a product upon which a sales or use tax was paid to some other state, or one of its
1974 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
1975 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
1976 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
1977 Act;

1978 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a

- 1979 person for use in compounding a service taxable under the subsections;
- 1980 (28) purchases made in accordance with the special supplemental nutrition program for
- 1981 women, infants, and children established in 42 U.S.C. Sec. 1786;
- 1982 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
- 1983 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
- 1984 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
- 1985 the President, Office of Management and Budget;
- 1986 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
- 1987 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
- 1988 (a) not registered in this state; and
- 1989 (b) (i) not used in this state; or
- 1990 (ii) used in this state:
- 1991 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
- 1992 time period that does not exceed the longer of:
- 1993 (I) 30 days in any calendar year; or
- 1994 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
- 1995 the borders of this state; or
- 1996 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
- 1997 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
- 1998 state;
- 1999 (31) sales of aircraft manufactured in Utah;
- 2000 (32) amounts paid for the purchase of telecommunications service for purposes of
- 2001 providing telecommunications service;
- 2002 (33) sales, leases, or uses of the following:
- 2003 (a) a vehicle by an authorized carrier; or
- 2004 (b) tangible personal property that is installed on a vehicle:
- 2005 (i) sold or leased to or used by an authorized carrier; and
- 2006 (ii) before the vehicle is placed in service for the first time;
- 2007 (34) (a) 45% of the sales price of any new manufactured home; and
- 2008 (b) 100% of the sales price of any used manufactured home;
- 2009 (35) sales relating to schools and fundraising sales;

2010 (36) sales or rentals of durable medical equipment if:
2011 (a) a person presents a prescription for the durable medical equipment; and
2012 (b) the durable medical equipment is used for home use only;
2013 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
2014 Section 72-11-102; and
2015 (b) the commission shall by rule determine the method for calculating sales exempt
2016 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
2017 (38) sales to a ski resort of:
2018 (a) snowmaking equipment;
2019 (b) ski slope grooming equipment;
2020 (c) passenger ropeways as defined in Section 72-11-102; or
2021 (d) parts used in the repairs or renovations of equipment or passenger ropeways
2022 described in Subsections (38)(a) through (c);
2023 (39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal,
2024 fuel oil, or other fuels for industrial use;
2025 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
2026 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
2027 59-12-102;
2028 (b) if a seller that sells or rents at the same business location the right to use or operate
2029 for amusement, entertainment, or recreation one or more unassisted amusement devices and
2030 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
2031 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
2032 amusement, entertainment, or recreation for the assisted amusement devices; and
2033 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
2034 Utah Administrative Rulemaking Act, the commission may make rules:
2035 (i) governing the circumstances under which sales are at the same business location;
2036 and
2037 (ii) establishing the procedures and requirements for a seller to separately account for
2038 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
2039 assisted amusement devices;
2040 (41) (a) sales of photocopies by:

- 2041 (i) a governmental entity; or
- 2042 (ii) an entity within the state system of public education, including:
 - 2043 (A) a school; or
 - 2044 (B) the State Board of Education; or
- 2045 (b) sales of publications by a governmental entity;
- 2046 (42) amounts paid for admission to an athletic event at an institution of higher
- 2047 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
- 2048 20 U.S.C. Sec. 1681 et seq.;
- 2049 (43) (a) sales made to or by:
 - 2050 (i) an area agency on aging; or
 - 2051 (ii) a senior citizen center owned by a county, city, or town; or
- 2052 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 2053 (44) sales or leases of semiconductor fabricating, processing, research, or development
- 2054 materials regardless of whether the semiconductor fabricating, processing, research, or
- 2055 development materials:
 - 2056 (a) actually come into contact with a semiconductor; or
 - 2057 (b) ultimately become incorporated into real property;
- 2058 (45) an amount paid by or charged to a purchaser for accommodations and services
- 2059 described in Subsection [59-12-103\(1\)\(i\)](#) to the extent the amount is exempt under Section
- 2060 [59-12-104.2](#);
- 2061 (46) the lease or use of a vehicle issued a temporary sports event registration certificate
- 2062 in accordance with Section [41-3-306](#) for the event period specified on the temporary sports
- 2063 event registration certificate;
- 2064 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
- 2065 adopted by the Public Service Commission only for purchase of electricity produced from a
- 2066 new alternative energy source built after January 1, 2016, as designated in the tariff by the
- 2067 Public Service Commission; and
- 2068 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
- 2069 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
- 2070 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
- 2071 customer would have paid absent the tariff;

- 2072 (48) sales or rentals of mobility enhancing equipment if a person presents a
- 2073 prescription for the mobility enhancing equipment;
- 2074 (49) sales of water in a:
- 2075 (a) pipe;
- 2076 (b) conduit;
- 2077 (c) ditch; or
- 2078 (d) reservoir;
- 2079 (50) sales of currency or coins that constitute legal tender of a state, the United States,
- 2080 or a foreign nation;
- 2081 (51) (a) sales of an item described in Subsection (51)(b) if the item:
- 2082 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
- 2083 (ii) has a gold, silver, or platinum content of 50% or more; and
- 2084 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
- 2085 (i) ingot;
- 2086 (ii) bar;
- 2087 (iii) medallion; or
- 2088 (iv) decorative coin;
- 2089 (52) amounts paid on a sale-leaseback transaction;
- 2090 (53) sales of a prosthetic device:
- 2091 (a) for use on or in a human; and
- 2092 (b) (i) for which a prescription is required; or
- 2093 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 2094 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 2095 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
- 2096 or equipment is primarily used in the production or postproduction of the following media for
- 2097 commercial distribution:
- 2098 (i) a motion picture;
- 2099 (ii) a television program;
- 2100 (iii) a movie made for television;
- 2101 (iv) a music video;
- 2102 (v) a commercial;

2103 (vi) a documentary; or

2104 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the

2105 commission by administrative rule made in accordance with Subsection (54)(d); or

2106 (b) purchases, leases, or rentals of machinery or equipment by an establishment

2107 described in Subsection (54)(c) that is used for the production or postproduction of the

2108 following are subject to the taxes imposed by this chapter:

2109 (i) a live musical performance;

2110 (ii) a live news program; or

2111 (iii) a live sporting event;

2112 (c) the following establishments listed in the 1997 North American Industry

2113 Classification System of the federal Executive Office of the President, Office of Management

2114 and Budget, apply to Subsections (54)(a) and (b):

2115 (i) NAICS Code 512110; or

2116 (ii) NAICS Code 51219; and

2117 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2118 commission may by rule:

2119 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);

2120 or

2121 (ii) define:

2122 (A) "commercial distribution";

2123 (B) "live musical performance";

2124 (C) "live news program"; or

2125 (D) "live sporting event";

2126 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but

2127 on or before June 30, [~~2027~~] 2040, of tangible personal property that:

2128 (i) is leased or purchased for or by a facility that:

2129 (A) is an alternative energy electricity production facility or an electricity storage

2130 facility;

2131 (B) is located in the state; and

2132 (C) (I) becomes operational on or after July 1, 2004; or

2133 (II) has its generation or storage capacity increased by one or more megawatts on or

2134 after July 1, 2004, as a result of the use of the tangible personal property;

2135 (ii) has an economic life of five or more years; and

2136 (iii) is used to make the facility or the increase in capacity of the facility described in

2137 Subsection (55)(a)(i) operational up to the point of interconnection with an existing

2138 transmission grid including:

2139 (A) a wind turbine;

2140 (B) generating equipment;

2141 (C) a control and monitoring system;

2142 (D) a power line;

2143 (E) substation equipment;

2144 (F) lighting;

2145 (G) fencing;

2146 (H) pipes; [~~or~~]

2147 (I) other equipment used for locating a power line or pole; or

2148 (J) electricity storage equipment; and

2149 (b) this Subsection (55) does not apply to:

2150 (i) tangible personal property used in construction of:

2151 (A) a new alternative energy electricity production facility;

2152 (B) a new electricity storage facility; or

2153 [~~(B)~~] (C) the increase in the capacity of an alternative energy electricity production

2154 facility or an electricity storage facility;

2155 (ii) contracted services required for construction and routine maintenance activities;

2156 and

2157 (iii) unless the tangible personal property is used or acquired for an increase in capacity

2158 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or

2159 acquired after:

2160 (A) the alternative energy electricity production facility or an electricity storage facility

2161 described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

2162 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described

2163 in Subsection (55)(a)(iii);

2164 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but

2165 on or before June 30, 2027, of tangible personal property that:

2166 (i) is leased or purchased for or by a facility that:

2167 (A) is a waste energy production facility;

2168 (B) is located in the state; and

2169 (C) (I) becomes operational on or after July 1, 2004; or

2170 (II) has its generation capacity increased by one or more megawatts on or after July 1,

2171 2004, as a result of the use of the tangible personal property;

2172 (ii) has an economic life of five or more years; and

2173 (iii) is used to make the facility or the increase in capacity of the facility described in

2174 Subsection (56)(a)(i) operational up to the point of interconnection with an existing

2175 transmission grid including:

2176 (A) generating equipment;

2177 (B) a control and monitoring system;

2178 (C) a power line;

2179 (D) substation equipment;

2180 (E) lighting;

2181 (F) fencing;

2182 (G) pipes; or

2183 (H) other equipment used for locating a power line or pole; and

2184 (b) this Subsection (56) does not apply to:

2185 (i) tangible personal property used in construction of:

2186 (A) a new waste energy facility; or

2187 (B) the increase in the capacity of a waste energy facility;

2188 (ii) contracted services required for construction and routine maintenance activities;

2189 and

2190 (iii) unless the tangible personal property is used or acquired for an increase in capacity

2191 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

2192 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as

2193 described in Subsection (56)(a)(iii); or

2194 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described

2195 in Subsection (56)(a)(iii);

2196 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
2197 or before June 30, 2027, of tangible personal property that:

2198 (i) is leased or purchased for or by a facility that:

2199 (A) is located in the state;

2200 (B) produces fuel from alternative energy, including:

2201 (I) methanol; or

2202 (II) ethanol; and

2203 (C) (I) becomes operational on or after July 1, 2004; or

2204 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
2205 a result of the installation of the tangible personal property;

2206 (ii) has an economic life of five or more years; and

2207 (iii) is installed on the facility described in Subsection (57)(a)(i);

2208 (b) this Subsection (57) does not apply to:

2209 (i) tangible personal property used in construction of:

2210 (A) a new facility described in Subsection (57)(a)(i); or

2211 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

2212 (ii) contracted services required for construction and routine maintenance activities;

2213 and

2214 (iii) unless the tangible personal property is used or acquired for an increase in capacity
2215 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

2216 (A) the facility described in Subsection (57)(a)(i) is operational; or

2217 (B) the increased capacity described in Subsection (57)(a)(i) is operational;

2218 (58) (a) subject to Subsection (58)(b), sales of tangible personal property or a product
2219 transferred electronically to a person within this state if that tangible personal property or

2220 product transferred electronically is subsequently shipped outside the state and incorporated
2221 pursuant to contract into and becomes a part of real property located outside of this state; and

2222 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
2223 state or political entity to which the tangible personal property is shipped imposes a sales, use,
2224 gross receipts, or other similar transaction excise tax on the transaction against which the other
2225 state or political entity allows a credit for sales and use taxes imposed by this chapter;

2226 (59) purchases:

- 2227 (a) of one or more of the following items in printed or electronic format:
- 2228 (i) a list containing information that includes one or more:
- 2229 (A) names; or
- 2230 (B) addresses; or
- 2231 (ii) a database containing information that includes one or more:
- 2232 (A) names; or
- 2233 (B) addresses; and
- 2234 (b) used to send direct mail;
- 2235 (60) redemptions or repurchases of a product by a person if that product was:
- 2236 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 2237 (b) redeemed or repurchased within the time period established in a written agreement
- 2238 between the person and the pawnbroker for redeeming or repurchasing the product;
- 2239 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
- 2240 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
- 2241 and
- 2242 (ii) has a useful economic life of one or more years; and
- 2243 (b) the following apply to Subsection (61)(a):
- 2244 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 2245 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 2246 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 2247 (iv) telecommunications switching or routing equipment, machinery, or software; or
- 2248 (v) telecommunications transmission equipment, machinery, or software;
- 2249 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
- 2250 personal property or a product transferred electronically that are used in the research and
- 2251 development of alternative energy technology; and
- 2252 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2253 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
- 2254 purchases of tangible personal property or a product transferred electronically that are used in
- 2255 the research and development of alternative energy technology;
- 2256 (63) (a) purchases of tangible personal property or a product transferred electronically
- 2257 if:

2258 (i) the tangible personal property or product transferred electronically is:
2259 (A) purchased outside of this state;
2260 (B) brought into this state at any time after the purchase described in Subsection
2261 (63)(a)(i)(A); and
2262 (C) used in conducting business in this state; and
2263 (ii) for:
2264 (A) tangible personal property or a product transferred electronically other than the
2265 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
2266 for a purpose for which the property is designed occurs outside of this state; or
2267 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
2268 outside of this state and not required to be registered in this state under Section [41-1a-202](#) or
2269 [73-18-9](#) based on residency;
2270 (b) the exemption provided for in Subsection (63)(a) does not apply to:
2271 (i) a lease or rental of tangible personal property or a product transferred electronically;
2272 or
2273 (ii) a sale of a vehicle exempt under Subsection (33); and
2274 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
2275 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
2276 following:
2277 (i) conducting business in this state if that phrase has the same meaning in this
2278 Subsection (63) as in Subsection (24);
2279 (ii) the first use of tangible personal property or a product transferred electronically if
2280 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
2281 (iii) a purpose for which tangible personal property or a product transferred
2282 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
2283 Subsection (24);
2284 (64) sales of disposable home medical equipment or supplies if:
2285 (a) a person presents a prescription for the disposable home medical equipment or
2286 supplies;
2287 (b) the disposable home medical equipment or supplies are used exclusively by the
2288 person to whom the prescription described in Subsection (64)(a) is issued; and

- 2289 (c) the disposable home medical equipment and supplies are listed as eligible for
2290 payment under:
- 2291 (i) Title XVIII, federal Social Security Act; or
2292 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
2293 (65) sales:
- 2294 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
2295 District Act; or
2296 (b) of tangible personal property to a subcontractor of a public transit district, if the
2297 tangible personal property is:
- 2298 (i) clearly identified; and
2299 (ii) installed or converted to real property owned by the public transit district;
2300 (66) sales of construction materials:
- 2301 (a) purchased on or after July 1, 2010;
2302 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 2303 (i) located within a county of the first class; and
2304 (ii) that has a United States customs office on its premises; and
2305 (c) if the construction materials are:
- 2306 (i) clearly identified;
2307 (ii) segregated; and
2308 (iii) installed or converted to real property:
- 2309 (A) owned or operated by the international airport described in Subsection (66)(b); and
2310 (B) located at the international airport described in Subsection (66)(b);
2311 (67) sales of construction materials:
- 2312 (a) purchased on or after July 1, 2008;
2313 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 2314 (i) located within a county of the second class; and
2315 (ii) that is owned or operated by a city in which an airline as defined in Section
2316 [59-2-102](#) is headquartered; and
2317 (c) if the construction materials are:
- 2318 (i) clearly identified;
2319 (ii) segregated; and

- 2320 (iii) installed or converted to real property:
- 2321 (A) owned or operated by the new airport described in Subsection (67)(b);
- 2322 (B) located at the new airport described in Subsection (67)(b); and
- 2323 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 2324 (68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a
- 2325 common carrier that is a railroad for use in a locomotive engine;
- 2326 (69) purchases and sales described in Section 63H-4-111;
- 2327 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 2328 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 2329 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 2330 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 2331 powered aircraft; or
- 2332 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 2333 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 2334 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 2335 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 2336 powered aircraft;
- 2337 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
- 2338 (a) to a person admitted to an institution of higher education; and
- 2339 (b) by a seller, other than a bookstore owned by an institution of higher education, if
- 2340 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
- 2341 textbook for a higher education course;
- 2342 (72) a license fee or tax a municipality imposes in accordance with Subsection
- 2343 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
- 2344 level of municipal services;
- 2345 (73) amounts paid or charged for construction materials used in the construction of a
- 2346 new or expanding life science research and development facility in the state, if the construction
- 2347 materials are:
- 2348 (a) clearly identified;
- 2349 (b) segregated; and
- 2350 (c) installed or converted to real property;

- 2351 (74) amounts paid or charged for:
- 2352 (a) a purchase or lease of machinery and equipment that:
- 2353 (i) are used in performing qualified research:
- 2354 (A) as defined in Section 41(d), Internal Revenue Code; and
- 2355 (B) in the state; and
- 2356 (ii) have an economic life of three or more years; and
- 2357 (b) normal operating repair or replacement parts:
- 2358 (i) for the machinery and equipment described in Subsection (74)(a); and
- 2359 (ii) that have an economic life of three or more years;
- 2360 (75) a sale or lease of tangible personal property used in the preparation of prepared
- 2361 food if:
- 2362 (a) for a sale:
- 2363 (i) the ownership of the seller and the ownership of the purchaser are identical; and
- 2364 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
- 2365 tangible personal property prior to making the sale; or
- 2366 (b) for a lease:
- 2367 (i) the ownership of the lessor and the ownership of the lessee are identical; and
- 2368 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
- 2369 personal property prior to making the lease;
- 2370 (76) (a) purchases of machinery or equipment if:
- 2371 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
- 2372 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
- 2373 System of the federal Executive Office of the President, Office of Management and Budget;
- 2374 (ii) the machinery or equipment:
- 2375 (A) has an economic life of three or more years; and
- 2376 (B) is used by one or more persons who pay admission or user fees described in
- 2377 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- 2378 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- 2379 (A) amounts paid or charged as admission or user fees described in Subsection
- 2380 59-12-103(1)(f); and
- 2381 (B) subject to taxation under this chapter; and

2382 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2383 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
2384 previous calendar quarter is:

2385 (i) amounts paid or charged as admission or user fees described in Subsection
2386 [59-12-103\(1\)\(f\)](#); and

2387 (ii) subject to taxation under this chapter;

2388 (77) purchases of a short-term lodging consumable by a business that provides
2389 accommodations and services described in Subsection [59-12-103\(1\)\(i\)](#);

2390 (78) amounts paid or charged to access a database:

2391 (a) if the primary purpose for accessing the database is to view or retrieve information
2392 from the database; and

2393 (b) not including amounts paid or charged for a:

2394 (i) digital audio work;

2395 (ii) digital audio-visual work; or

2396 (iii) digital book;

2397 (79) amounts paid or charged for a purchase or lease made by an electronic financial
2398 payment service, of:

2399 (a) machinery and equipment that:

2400 (i) are used in the operation of the electronic financial payment service; and

2401 (ii) have an economic life of three or more years; and

2402 (b) normal operating repair or replacement parts that:

2403 (i) are used in the operation of the electronic financial payment service; and

2404 (ii) have an economic life of three or more years;

2405 (80) sales of a fuel cell as defined in Section [54-15-102](#);

2406 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
2407 product transferred electronically if the tangible personal property or product transferred
2408 electronically:

2409 (a) is stored, used, or consumed in the state; and

2410 (b) is temporarily brought into the state from another state:

2411 (i) during a disaster period as defined in Section [53-2a-1202](#);

2412 (ii) by an out-of-state business as defined in Section [53-2a-1202](#);

- 2413 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
2414 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
- 2415 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
2416 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
2417 Recreation Program;
- 2418 (83) amounts paid or charged for a purchase or lease of molten magnesium;
- 2419 (84) amounts paid or charged for a purchase or lease made by a qualifying data center
2420 or an occupant of a qualifying data center of machinery, equipment, or normal operating repair
2421 or replacement parts, if the machinery, equipment, or normal operating repair or replacement
2422 parts:
- 2423 (a) are used in:
- 2424 (i) the operation of the qualifying data center; or
2425 (ii) the occupant's operations in the qualifying data center; and
- 2426 (b) have an economic life of one or more years;
- 2427 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
2428 vehicle that includes cleaning or washing of the interior of the vehicle;
- 2429 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal
2430 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used
2431 or consumed:
- 2432 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
2433 in Section 79-6-701 located in the state;
- 2434 (b) if the machinery, equipment, normal operating repair or replacement parts,
2435 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:
- 2436 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
2437 added to gasoline or diesel fuel;
- 2438 (ii) research and development;
- 2439 (iii) transporting, storing, or managing raw materials, work in process, finished
2440 products, and waste materials produced from refining gasoline or diesel fuel, or adding
2441 blendstock to gasoline or diesel fuel;
- 2442 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
2443 refining; or

2444 (v) preventing, controlling, or reducing pollutants from refining; and
2445 (c) if the person holds a valid refiner tax exemption certification as defined in Section
2446 79-6-701;

2447 (87) amounts paid to or charged by a proprietor for accommodations and services, as
2448 defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax
2449 imposed under Section 63H-1-205;

2450 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal
2451 operating repair or replacement parts, or materials, except for office equipment or office
2452 supplies, by an establishment, as the commission defines that term in accordance with Title
2453 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

2454 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
2455 American Industry Classification System of the federal Executive Office of the President,
2456 Office of Management and Budget;

2457 (b) is located in this state; and

2458 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
2459 materials in the operation of the establishment; and

2460 (89) amounts paid or charged for an item exempt under Section 59-12-104.10.

2461 Section 3. Section 63I-1-279 is amended to read:

2462 **63I-1-279. Repeal dates, Title 79.**

2463 (1) Subsection 79-2-201(2)(r), related to the Heritage Trees Advisory Committee, is
2464 repealed July 1, 2026.

2465 (2) Subsection 79-2-201(2)(s), related to the Recreational Trails Advisory Council, is
2466 repealed July 1, 2027.

2467 (3) Subsection 79-2-201(2)(t), related to the Boating Advisory Council, is repealed July
2468 1, 2024.

2469 (4) Subsection 79-2-201(2)(u), related to the Wildlife Board Nominating Committee, is
2470 repealed July 1, 2023.

2471 (5) Subsection 79-2-201(2)(v), related to regional advisory councils for the Wildlife
2472 Board, is repealed July 1, 2023.

2473 (6) Title 79, Chapter 5, Part 2, Advisory Council, which creates the Recreational Trails
2474 Advisory Council, is repealed July 1, 2027.

2475 (7) In relation to the Energy Storage Asset Pilot Grant Program, on July 1, 2025:

2476 (a) in Subsection 79-6-401(5), the language that states "79-6-403," is repealed; and

2477 (b) Section 79-6-403 is repealed.

2478 Section 4. Section 79-6-401 is amended to read:

2479 **79-6-401. Office of Energy Development -- Creation -- Director -- Purpose --**

2480 **Rulemaking regarding confidential information -- Fees -- Transition for employees.**

2481 (1) There is created an Office of Energy Development in the Department of Natural
2482 Resources.

2483 (2) (a) The energy advisor shall serve as the director of the office or, on or before June
2484 30, 2029, appoint a director of the office.

2485 (b) The director:

2486 (i) shall, if the energy advisor appoints a director under Subsection (2)(a), report to the
2487 energy advisor; and

2488 (ii) may appoint staff as funding within existing budgets allows.

2489 (c) The office may consolidate energy staff and functions existing in the state energy
2490 program.

2491 (3) The purposes of the office are to:

2492 (a) serve as the primary resource for advancing energy and mineral development in the
2493 state;

2494 (b) implement:

2495 (i) the state energy policy under Section 79-6-301; and

2496 (ii) the governor's energy and mineral development goals and objectives;

2497 (c) advance energy education, outreach, and research, including the creation of
2498 elementary, higher education, and technical college energy education programs;

2499 (d) promote energy and mineral development workforce initiatives; and

2500 (e) support collaborative research initiatives targeted at Utah-specific energy and
2501 mineral development.

2502 (4) By following the procedures and requirements of Title 63J, Chapter 5, Federal
2503 Funds Procedures Act, the office may:

2504 (a) seek federal grants or loans;

2505 (b) seek to participate in federal programs; and

2506 (c) in accordance with applicable federal program guidelines, administer federally
2507 funded state energy programs.

2508 (5) The office shall perform the duties required by Sections [11-42a-106](#), [59-5-102](#),
2509 [59-7-614.7](#), [59-10-1029](#), [79-6-403](#), Part 5, Alternative Energy Development Tax Credit Act,
2510 and Part 6, High Cost Infrastructure Development Tax Credit Act.

2511 (6) (a) For purposes of administering this section, the office may make rules, by
2512 following Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to maintain as
2513 confidential, and not as a public record, information that the office receives from any source.

2514 (b) The office shall maintain information the office receives from any source at the
2515 level of confidentiality assigned by the source.

2516 (7) The office may charge application, filing, and processing fees in amounts
2517 determined by the office in accordance with Section [63J-1-504](#) as dedicated credits for
2518 performing office duties described in this part.

2519 (8) (a) An employee of the office is an at-will employee.

2520 (b) For an employee of the office on July 1, 2021, the employee shall have the same
2521 salary and benefit options the employee had when the office was part of the office of the
2522 governor.

2523 Section 5. Section **79-6-403** is enacted to read:

2524 **79-6-403. Energy storage assets -- Pilot grant program.**

2525 (1) As used in this section:

2526 (a) "Energy storage asset" means property that stores energy generated by mechanical,
2527 thermal, or photovoltaic means for use at a later time.

2528 (b) "Office" means the Office of Energy Development created in Section [79-6-401](#).

2529 (c) "Pilot program" means the Energy Storage Asset Pilot Grant Program created in
2530 Subsection (2).

2531 (2) There is created the "Energy Storage Asset Pilot Grant Program" administered by
2532 the office.

2533 (3) Subject to legislative appropriations, the office may award a grant to an applicant to
2534 be used for the purchase of an energy storage asset.

2535 (4) The pilot program shall operate for three years, beginning on the first day of fiscal
2536 year 2023.

2537 (5) The office may not award a grant to an eligible applicant unless the applicant
2538 provides matching funds equal to the amount of the grant.

2539 (6) Consistent with this section and in accordance with Title 63G, Chapter 3, Utah
2540 Administrative Rulemaking Act, the office shall make rules establishing the eligibility and
2541 reporting criteria for an applicant to receive a grant under this part, including:

2542 (a) the form and process of submitting a grant application to the office;

2543 (b) who is eligible to apply for a grant;

2544 (c) specific categories of energy storage assets that are eligible for a grant;

2545 (d) the method and formula for determining grant amounts; and

2546 (e) reporting requirements for grant recipients.

2547 (7) Receipt of a grant through the pilot program does not preclude a grant recipient
2548 from claiming a renewable energy system tax credit.

2549 (8) The office shall provide a report on the pilot program to the Natural Resources,
2550 Agriculture, and Environment Interim Committee and the Public Utilities, Energy, and
2551 Technology Interim Committee at or before the September interim meeting in 2024.

2552 **Section 6. Appropriation.**

2553 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for
2554 the fiscal year beginning July 1, 2022, and ending June 30, 2023, the following sums of money
2555 are appropriated from resources not otherwise appropriated, or reduced from amounts
2556 previously appropriated, out of the funds or accounts indicated. These sums of money are in
2557 addition to any amounts previously appropriated for fiscal year 2023.

2558 ITEM 1

2559 To Office of Energy Development - Energy Storage Asset Pilot Grant Program

2560 From General Fund, One-time \$500,000

2561 Schedule of Programs:

2562 Energy Storage Asset Pilot Grant Program \$500,000

2563 The Legislature intends that:

2564 (1) the Office of Energy Development expend appropriations under this section for the
2565 Energy Storage Asset Pilot Grant Program described in Section [79-6-403](#) in fiscal years 2023,
2566 2024, and 2025;

2567 (2) under Section [63J-1-603](#), the appropriations provided under this section not lapse at

2568 the close of fiscal years 2023 and 2024; and

2569 (3) the use of any nonlapsing funds is limited to the Energy Storage Asset Pilot Grant

2570 Program described in Section [79-6-403](#).

2571 Section 7. **Effective date.**

2572 (1) Except as provided in Subsection (2), this bill takes effect on May 4, 2022.

2573 (2) The amendments to the following sections take effect on July 1, 2022:

2574 (a) Section [59-12-102](#); and

2575 (b) Section [59-12-104](#).