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ENERGY EFFICIENCY AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kirk A. Cullimore

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to encouraging energy efficiency and related air quality effects.

Highlighted Provisions:

This bill:

- ▶ directs the Point of the Mountain State Land Authority to research and explore establishing a research center focused on improvement of energy efficiency and air quality;
 - ▶ addresses the Clean Fuels and Vehicle Technology Program;
 - ▶ expands low-income assistance programs related to customers of an electrical corporation or gas corporation;
 - ▶ provides for a sales and use tax exemption related to an electricity storage facility;
- and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:



28 **11-59-203**, as enacted by Laws of Utah 2018, Chapter 388
 29 **19-1-403**, as last amended by Laws of Utah 2016, Chapter 369
 30 **19-1-404**, as last amended by Laws of Utah 2020, Chapter 354
 31 **54-7-13.6**, as last amended by Laws of Utah 2012, Chapter 212
 32 **59-12-102**, as last amended by Laws of Utah 2021, Chapters 64, 367, 414 and last
 33 amended by Coordination Clause, Laws of Utah 2021, Chapter 367
 34 **59-12-104**, as last amended by Laws of Utah 2021, Chapters 280 and 367

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

37 Section 1. Section **11-59-203** is amended to read:

38 **11-59-203. Authority duties and responsibilities.**

39 (1) As the authority plans, manages, and implements the development of the point of
 40 the mountain state land, the authority shall pursue development strategies and objectives
 41 designed to:

- 42 (a) maximize the creation of high-quality jobs and encourage and facilitate a highly
 43 trained workforce;
- 44 (b) ensure strategic residential and commercial growth;
- 45 (c) promote a high quality of life for residents on and surrounding the point of the
 46 mountain state land, including strategic planning to facilitate:
 - 47 (i) jobs close to where people live;
 - 48 (ii) vibrant urban centers;
 - 49 (iii) housing types that match workforce needs;
 - 50 (iv) parks, connected trails, and open space, including the preservation of natural lands
 51 to the extent practicable and consistent with the overall development plan; and
 - 52 (v) preserving and enhancing recreational opportunities;
- 53 (d) complement the development on land in the vicinity of the point of the mountain
 54 state land;
- 55 (e) improve air quality and minimize resource use; and
- 56 (f) accommodate and incorporate the planning, funding, and development of an
 57 enhanced and expanded future transit and transportation infrastructure and other investments,
 58 including:

59 (i) the acquisition of rights-of-way and property necessary to ensure transit access to
60 the point of the mountain state land; and

61 (ii) a world class mass transit infrastructure, to service the point of the mountain state
62 land and to enhance mobility and protect the environment.

63 (2) In planning the development of the point of the mountain state land, the authority
64 shall:

65 (a) consult with applicable governmental planning agencies, including:

66 (i) relevant metropolitan planning organizations; and

67 (ii) Draper City and Salt Lake County planning and governing bodies;

68 (b) research and explore the feasibility of attracting a nationally recognized research
69 center; ~~and~~

70 (c) research and explore the appropriateness of including labor training centers and a
71 higher education presence on the point of the mountain state land~~[-]; and~~

72 (d) research and explore the feasibility of establishing a research and development
73 center focused on improvement of energy efficiency and air quality.

74 Section 2. Section 19-1-403 is amended to read:

75 **19-1-403. Clean Fuels and Vehicle Technology Program -- Contents -- Loans or**
76 **grants made with fund money.**

77 (1) (a) There is created a revolving fund known as the Clean Fuels and Vehicle
78 Technology Fund.

79 (b) The fund consists of:

80 (i) appropriations to the fund;

81 (ii) other public and private contributions made under Subsection (1)(c);

82 (iii) interest earnings on cash balances; and

83 (iv) ~~all~~ money collected for loan repayments and interest on loans.

84 (c) The department may accept contributions from other public and private sources for
85 deposit into the fund.

86 (2) The department may accept federal money, including from the Infrastructure
87 Investment and Jobs Act, P.L. 117-58, toward making a loan or grant for the cost of a new
88 electric clean vehicle or refueling equipment.

89 ~~[(2)]~~ (3) (a) The department may make a loan or a grant;

90 (i) with money available in the fund for:

91 [(+) (A) the conversion of a private sector business vehicle or a government vehicle to
92 use a clean fuel, if certified by the Air Quality Board under Subsection 19-1-405(1)(a); or

93 [(+)] (B) the purchase of an OEM vehicle for use as a private sector business vehicle or
94 government vehicle[-]; and

95 (ii) with federal money available under Subsection (2) for the cost of a new electric
96 clean vehicle or refueling equipment.

97 (b) The amount of a loan for any vehicle under Subsection [(2)] (3)(a) may not exceed:

98 (i) the actual cost of the vehicle conversion;

99 (ii) the incremental cost of purchasing the OEM vehicle; or

100 (iii) the cost of purchasing the OEM vehicle if there is no documented incremental
101 cost.

102 (c) The amount of a grant for any vehicle under Subsection [(2)] (3)(a) may not exceed:

103 (i) 50% of the actual cost of the vehicle conversion for the vehicle for which a grant is
104 requested; or

105 (ii) [50%] 100% of the [incremental] cost of purchasing an OEM vehicle for the
106 vehicle for which a grant is requested.

107 (d) (i) Subject to the availability of money in the fund or the federal money described
108 in Subsection (2), the department may make a loan or grant for the purchase of vehicle
109 refueling equipment for a private sector business vehicle or a government vehicle.

110 (ii) The maximum amount loaned or granted per installation of refueling equipment
111 may not exceed the actual cost of the refueling equipment.

112 [(3)] (4) The department may:

113 (a) establish an application fee for a loan or grant [~~from the fund~~] under this section by
114 following [~~the procedures and requirements of~~] Section 63J-1-504; and

115 (b) reimburse itself for the costs incurred in administering the fund and federal money
116 described in Subsection (2) from:

117 (i) the fund; or

118 (ii) application fees established under Subsection [(3)] (4)(a).

119 [(4) (a) The fund balance may not exceed \$10,000,000.]

120 [(b) Interest on cash balances and repayment of loans in excess of the amount

121 ~~necessary to maintain the fund balance at \$10,000,000 shall be deposited in the General Fund.]~~

122 (5) (a) ~~[Loans]~~ A loan made from money in the fund or federal money described in
123 Subsection (2) shall be supported by loan documents evidencing the intent of the borrower to
124 repay the loan.

125 (b) The original loan documents described in this Subsection (5) shall be filed with the
126 Division of Finance and a copy shall be filed with the department.

127 Section 3. Section **19-1-404** is amended to read:

128 **19-1-404. Department duties -- Rulemaking -- Loan repayment.**

129 (1) The department shall:

130 (a) administer the fund created in Section 19-1-403 and the federal money described in
131 Subsection 19-1-403(2) to encourage government officials and private sector business vehicle
132 owners and operators to obtain and use clean fuel vehicles; and

133 (b) by following the procedures and requirements of Title 63G, Chapter 3, Utah
134 Administrative Rulemaking Act, make rules:

135 (i) specifying the amount of money in the fund and federal money to be dedicated
136 annually for grants;

137 (ii) limiting the number of motor vehicles per fleet operator that may be eligible for a
138 grant in a year;

139 (iii) specifying criteria the department shall consider in prioritizing and awarding loans
140 and grants;

141 (iv) specifying repayment periods;

142 (v) specifying procedures for:

143 (A) awarding loans and grants; and

144 (B) collecting loans; and

145 (vi) requiring all loan and grant applicants to:

146 (A) apply on forms provided by the department;

147 (B) agree in writing to use the clean fuel for which each vehicle is converted or
148 purchased using loan or grant proceeds for a minimum of 70% of the vehicle miles traveled
149 beginning from the time of conversion or purchase of the vehicle;

150 (C) agree in writing to notify the department if a vehicle converted or purchased using
151 loan or grant proceeds becomes inoperable through mechanical failure or accident and to

152 pursue a remedy outlined in department rules;

153 (D) provide reasonable data to the department on a vehicle converted or purchased
154 with loan or grant proceeds; and

155 (E) submit a vehicle converted or purchased with loan or grant proceeds to inspections
156 by the department as required in department rules and as necessary for administration of the
157 loan and grant program.

158 (2) (a) When developing repayment schedules for the loans, the department shall
159 consider the projected savings from use of the clean vehicle.

160 (b) A repayment schedule may not exceed 10 years.

161 (c) The department shall make a loan from the fund or federal money described in
162 Subsection 19-1-403(2) for a private sector vehicle at an interest rate equal to the annual return
163 earned in the state treasurer's Public Treasurer's Pool as determined the month immediately
164 preceding the closing date of the loan.

165 (d) The department shall make a loan from the fund or federal money described in
166 Subsection 19-1-403(2) for a government vehicle with no interest rate.

167 (3) The Division of Finance shall:

168 (a) collect and account for the loans; and

169 (b) have custody of [~~all~~] the loan documents, including [~~all~~] notes and contracts,
170 evidencing the indebtedness of the fund or federal money described in Subsection 19-1-403(2).

171 Section 4. Section **54-7-13.6** is amended to read:

172 **54-7-13.6. Low-income assistance program.**

173 (1) As used in this section [~~,"eligible"]:~~

174 (a) "Eligible customer" means an electrical corporation or a gas corporation customer:

175 [~~(a)~~] (i) that earns no more than:

176 [~~(i)~~] (A) 125% of the federal poverty level for bill payment assistance or 200% of the
177 federal poverty level for any other low-income assistance; or

178 [~~(ii)~~] (B) another percentage of the federal poverty level as determined by the
179 commission by order; and

180 [~~(b)~~] (ii) whose eligibility is certified by the Utah Department of Workforce Services.

181 (b) "Low-income assistance" means:

182 (i) bill payment assistance;

183 (ii) replacement of a natural gas appliance with a more efficient or lower emitting
184 natural gas appliance;

185 (iii) replacement of a wood burning appliance or wood burning fireplace with a natural
186 gas appliance; or

187 (iv) other energy efficient improvement to an eligible customer's residence.

188 (2) A customer's income eligibility for the program described in this section shall be
189 renewed annually.

190 (3) An eligible customer may not receive low-income assistance at more than one
191 residential location at any one time.

192 (4) Notwithstanding Section 54-3-8, the commission may approve a low-income
193 assistance program to provide [~~bill payment~~] low-income assistance to [~~low-income~~] an
194 eligible customer who is a residential [customers] customer of:

195 (a) an electrical corporation with more than 50,000 customers; or

196 (b) a gas corporation with more than 50,000 customers.

197 (5) (a) (i) Subject to Subsection (5)(a)(ii), low-income assistance program funding
198 from each rate class may be in an amount determined by the commission.

199 (ii) Low-income assistance program funding described in Subsection (5)(a)(i) may not
200 exceed 0.5% of the rate class's retail revenues.

201 (iii) A gas corporation shall use at least 55% of the low-income assistance funding in
202 the gas corporation's low-income assistance program for the purposes provided in Subsections
203 (1)(b)(ii) through (iv).

204 (iv) An electrical corporation or gas corporation may use low-income assistance
205 program funding to pay:

206 (A) administrative costs associated with the electrical corporation's or gas corporation's
207 program; or

208 (B) contractor or employee costs incurred in implementing or installing a measure
209 described in Subsections (1)(b)(ii) through (iv).

210 (b) (i) Low-income assistance program funding [~~for bill payment assistance~~] shall be
211 provided through a surcharge on the monthly bill of each Utah retail customer of the electrical
212 corporation or gas corporation providing the low-income assistance program.

213 (ii) The surcharge described in Subsection (5)(b)(i) may not be collected from

214 ~~[customers currently participating in the low-income assistance program]~~ a customer who is
215 receiving bill payment assistance.

216 (c) (i) Subject to Subsection (5)(c)(ii), the monthly surcharge described in Subsection
217 (5)(b)(i) shall be calculated as an equal percentage of revenues from all rate schedules.

218 (ii) The monthly surcharge described in Subsection (5)(b)(i) may not exceed \$50 per
219 month for any customer, adjusted periodically as the commission determines appropriate for
220 inflation.

221 (6) (a) An eligible customer shall receive low-income assistance in the form of one or
222 more of the following:

223 (i) a billing credit on the monthly electric or gas bill for the customer's residence[-];

224 (ii) replacement of a natural gas appliance with a more efficient or lower emitting
225 natural gas appliance;

226 (iii) replacement of a wood burning appliance or wood burning fireplace with a natural
227 gas appliance; or

228 (iv) other energy efficiency improvement to the eligible customer's residence.

229 (b) The ~~[amount of the billing credit]~~ allocation of low-income assistance to an eligible
230 customer, as described in Subsection (6)(a), shall be determined by the commission based on:

231 (i) the projected funding of the low-income assistance program;

232 (ii) the projected customer participation in the low-income assistance program; and

233 (iii) other factors that the commission determines relevant.

234 (c) The low-income assistance and the monthly ~~[billing credit and the monthly]~~
235 surcharge shall be adjusted concurrently with the final order in a general rate increase or
236 decrease case under Section 54-7-12 for the electrical corporation or gas corporation providing
237 the program or as determined by the commission.

238 Section 5. Section **59-12-102** is amended to read:

239 **59-12-102. Definitions.**

240 As used in this chapter:

241 (1) "800 service" means a telecommunications service that:

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

243 (b) is typically marketed:

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

245 (ii) under the name 855 toll-free calling;
246 (iii) under the name 866 toll-free calling;
247 (iv) under the name 877 toll-free calling;
248 (v) under the name 888 toll-free calling; or
249 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
250 Federal Communications Commission.

251 (2) (a) "900 service" means an inbound toll telecommunications service that:
252 (i) a subscriber purchases;
253 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
254 the subscriber's:

255 (A) prerecorded announcement; or
256 (B) live service; and
257 (iii) is typically marketed:
258 (A) under the name 900 service; or
259 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
260 Communications Commission.

261 (b) "900 service" does not include a charge for:
262 (i) a collection service a seller of a telecommunications service provides to a
263 subscriber; or
264 (ii) the following a subscriber sells to the subscriber's customer:
265 (A) a product; or
266 (B) a service.

267 (3) (a) "Admission or user fees" includes season passes.
268 (b) "Admission or user fees" does not include:
269 (i) annual membership dues to private organizations; or
270 (ii) a lesson, including a lesson that involves as part of the lesson equipment or a
271 facility listed in Subsection 59-12-103(1)(f).

272 (4) "Affiliate" or "affiliated person" means a person that, with respect to another
273 person:
274 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
275 person; or

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

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

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

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

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

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

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

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

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

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

290 (e) Subsection 59-12-103(2)(e)(i)(A)(I);

291 (f) Section 59-12-204;

292 (g) Section 59-12-401;

293 (h) Section 59-12-402;

294 (i) Section 59-12-402.1;

295 (j) Section 59-12-703;

296 (k) Section 59-12-802;

297 (l) Section 59-12-804;

298 (m) Section 59-12-1102;

299 (n) Section 59-12-1302;

300 (o) Section 59-12-1402;

301 (p) Section 59-12-1802;

302 (q) Section 59-12-2003;

303 (r) Section 59-12-2103;

304 (s) Section 59-12-2213;

305 (t) Section 59-12-2214;

306 (u) Section 59-12-2215;

- 307 (v) Section 59-12-2216;
- 308 (w) Section 59-12-2217;
- 309 (x) Section 59-12-2218;
- 310 (y) Section 59-12-2219; or
- 311 (z) Section 59-12-2220.
- 312 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 313 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 314 (a) except for:
- 315 (i) an airline as defined in Section 59-2-102; or
- 316 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 317 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 318 state, of an airline; and
- 319 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 320 whether the business entity performs the following in this state:
- 321 (i) check, diagnose, overhaul, and repair:
- 322 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 323 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 324 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 325 engine;
- 326 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 327 aircraft:
- 328 (A) an inspection;
- 329 (B) a repair, including a structural repair or modification;
- 330 (C) changing landing gear; and
- 331 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 332 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 333 completely apply new paint to the fixed wing turbine powered aircraft; and
- 334 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 335 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 336 authority that certifies the fixed wing turbine powered aircraft.
- 337 (10) "Alcoholic beverage" means a beverage that:

- 338 (a) is suitable for human consumption; and
- 339 (b) contains .5% or more alcohol by volume.
- 340 (11) "Alternative energy" means:
- 341 (a) biomass energy;
- 342 (b) geothermal energy;
- 343 (c) hydroelectric energy;
- 344 (d) solar energy;
- 345 (e) wind energy; or
- 346 (f) energy that is derived from:
- 347 (i) coal-to-liquids;
- 348 (ii) nuclear fuel;
- 349 (iii) oil-impregnated diatomaceous earth;
- 350 (iv) oil sands;
- 351 (v) oil shale;
- 352 (vi) petroleum coke; or
- 353 (vii) waste heat from:
- 354 (A) an industrial facility; or
- 355 (B) a power station in which an electric generator is driven through a process in which
- 356 water is heated, turns into steam, and spins a steam turbine.
- 357 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production
- 358 facility" means a facility that:
- 359 (i) uses alternative energy to produce electricity; and
- 360 (ii) has a production capacity of two megawatts or greater.
- 361 (b) A facility is an alternative energy electricity production facility regardless of
- 362 whether the facility is:
- 363 (i) connected to an electric grid; or
- 364 (ii) located on the premises of an electricity consumer.
- 365 (13) (a) "Ancillary service" means a service associated with, or incidental to, the
- 366 provision of telecommunications service.
- 367 (b) "Ancillary service" includes:
- 368 (i) a conference bridging service;

369 (ii) a detailed communications billing service;

370 (iii) directory assistance;

371 (iv) a vertical service; or

372 (v) a voice mail service.

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

374 [62A-3-101](#).

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

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

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

381 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or
382 washing of tangible personal property if the cleaning or washing labor is primarily performed
383 by an individual:

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

386 (b) at the direction of the seller of the cleaning or washing of the tangible personal
387 property.

388 (17) "Authorized carrier" means:

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

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

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

397 (18) (a) Except as provided in Subsection (18)(b), "biomass energy" means any of the
398 following that is used as the primary source of energy to produce fuel or electricity:

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

- 400 (ii) other organic matter that is available on a renewable basis, including:
- 401 (A) slash and brush from forests and woodlands;
- 402 (B) animal waste;
- 403 (C) waste vegetable oil;
- 404 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
- 405 wastewater residuals, or through the conversion of a waste material through a nonincineration,
- 406 thermal conversion process;
- 407 (E) aquatic plants; and
- 408 (F) agricultural products.
- 409 (b) "Biomass energy" does not include:
- 410 (i) black liquor; or
- 411 (ii) treated woods.
- 412 (19) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 413 property, products, or services if the tangible personal property, products, or services are:
- 414 (i) distinct and identifiable; and
- 415 (ii) sold for one nonitemized price.
- 416 (b) "Bundled transaction" does not include:
- 417 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 418 the basis of the selection by the purchaser of the items of tangible personal property included in
- 419 the transaction;
- 420 (ii) the sale of real property;
- 421 (iii) the sale of services to real property;
- 422 (iv) the retail sale of tangible personal property and a service if:
- 423 (A) the tangible personal property:
- 424 (I) is essential to the use of the service; and
- 425 (II) is provided exclusively in connection with the service; and
- 426 (B) the service is the true object of the transaction;
- 427 (v) the retail sale of two services if:
- 428 (A) one service is provided that is essential to the use or receipt of a second service;
- 429 (B) the first service is provided exclusively in connection with the second service; and
- 430 (C) the second service is the true object of the transaction;

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

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

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

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

440 (A) that retail sale includes:

441 (I) food and food ingredients;

442 (II) a drug;

443 (III) durable medical equipment;

444 (IV) mobility enhancing equipment;

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

446 (VI) a prosthetic device; or

447 (VII) a medical supply; and

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

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

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

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

455 (A) packaging that:

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

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

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

461 (C) an item of tangible personal property, a product, or a service included in the

462 definition of "purchase price."

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

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

472 (A) a binding sales document; or

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

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

476 (A) a bill of sale;

477 (B) a contract;

478 (C) an invoice;

479 (D) a lease agreement;

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

481 (F) a price list;

482 (G) a rate card;

483 (H) a receipt; or

484 (I) a service agreement.

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

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

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

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

492 (A) shall use the seller's purchase price or the seller's sales price to determine if the

493 purchase price or sales price of the tangible personal property or product subject to taxation
494 under this chapter is de minimis; and

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

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

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

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

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

508 (i) on a transaction; and

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

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

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

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

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

515 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax,
516 as outlined in the contract between the governing board of the agreement and the certified
517 service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the
518 seller's own purchases.

519 (22) (a) Subject to Subsection (22)(b), "clothing" means all human wearing apparel
520 suitable for general use.

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

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

- 524 (ii) that are consistent with the list of items that constitute "clothing" under the
525 agreement.
- 526 (23) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
- 527 (24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
528 fuels that does not constitute industrial use under Subsection [~~(57)~~] (58) or residential use
529 under Subsection [(+12)] (113).
- 530 (25) (a) "Common carrier" means a person engaged in or transacting the business of
531 transporting passengers, freight, merchandise, or other property for hire within this state.
- 532 (b) (i) "Common carrier" does not include a person that, at the time the person is
533 traveling to or from that person's place of employment, transports a passenger to or from the
534 passenger's place of employment.
- 535 (ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3,
536 Utah Administrative Rulemaking Act, the commission may make rules defining what
537 constitutes a person's place of employment.
- 538 (c) "Common carrier" does not include a person that provides transportation network
539 services, as defined in Section 13-51-102.
- 540 (26) "Component part" includes:
- 541 (a) poultry, dairy, and other livestock feed, and their components;
- 542 (b) baling ties and twine used in the baling of hay and straw;
- 543 (c) fuel used for providing temperature control of orchards and commercial
544 greenhouses doing a majority of their business in wholesale sales, and for providing power for
545 off-highway type farm machinery; and
- 546 (d) feed, seeds, and seedlings.
- 547 (27) "Computer" means an electronic device that accepts information:
- 548 (a) (i) in digital form; or
- 549 (ii) in a form similar to digital form; and
- 550 (b) manipulates that information for a result based on a sequence of instructions.
- 551 (28) "Computer software" means a set of coded instructions designed to cause:
- 552 (a) a computer to perform a task; or
- 553 (b) automatic data processing equipment to perform a task.
- 554 (29) "Computer software maintenance contract" means a contract that obligates a seller

555 of computer software to provide a customer with:

- 556 (a) future updates or upgrades to computer software;
557 (b) support services with respect to computer software; or
558 (c) a combination of Subsections (29)(a) and (b).

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

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

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

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

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

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

570 (i) by a seller of:

- 571 (A) tangible personal property;
572 (B) a product transferred electronically; or
573 (C) a service; and

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

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

- 578 (i) transportation;
579 (ii) shipping;
580 (iii) postage;
581 (iv) handling;
582 (v) crating; or
583 (vi) packing.

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

- 586 (35) "Dietary supplement" means a product, other than tobacco, that:
- 587 (a) is intended to supplement the diet;
- 588 (b) contains one or more of the following dietary ingredients:
- 589 (i) a vitamin;
- 590 (ii) a mineral;
- 591 (iii) an herb or other botanical;
- 592 (iv) an amino acid;
- 593 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 594 dietary intake; or
- 595 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 596 described in Subsections (35)(b)(i) through (v);
- 597 (c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:
- 598 (A) tablet form;
- 599 (B) capsule form;
- 600 (C) powder form;
- 601 (D) softgel form;
- 602 (E) gelcap form; or
- 603 (F) liquid form; or
- 604 (ii) if the product is not intended for ingestion in a form described in Subsections
- 605 (35)(c)(i)(A) through (F), is not represented:
- 606 (A) as conventional food; and
- 607 (B) for use as a sole item of:
- 608 (I) a meal; or
- 609 (II) the diet; and
- 610 (d) is required to be labeled as a dietary supplement:
- 611 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 612 (ii) as required by 21 C.F.R. Sec. 101.36.
- 613 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 614 musical, spoken, or other sounds.
- 615 (b) "Digital audio work" includes a ringtone.
- 616 (37) "Digital audio-visual work" means a series of related images which, when shown

617 in succession, imparts an impression of motion, together with accompanying sounds, if any.

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

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

622 (i) to:

623 (A) a mass audience; or

624 (B) addressees on a mailing list provided:

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

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

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

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

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

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

633 (a) address information; or

634 (b) telephone number information.

635 (41) (a) "Disposable home medical equipment or supplies" means medical equipment
636 or supplies that:

637 (i) cannot withstand repeated use; and

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

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

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

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

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

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

644 (i) a drug;

645 (ii) durable medical equipment;

646 (iii) a hearing aid;

647 (iv) a hearing aid accessory;

- 648 (v) mobility enhancing equipment; or
- 649 (vi) tangible personal property used to correct impaired vision, including:
- 650 (A) eyeglasses; or
- 651 (B) contact lenses.
- 652 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 653 commission may by rule define what constitutes medical equipment or supplies.
- 654 (42) "Drilling equipment manufacturer" means a facility:
- 655 (a) located in the state;
- 656 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 657 consist of manufacturing component parts of drilling equipment;
- 658 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 659 manufacturing process; and
- 660 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 661 manufacturing process.
- 662 (43) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 663 compound, substance, or preparation that is:
- 664 (i) recognized in:
- 665 (A) the official United States Pharmacopoeia;
- 666 (B) the official Homeopathic Pharmacopoeia of the United States;
- 667 (C) the official National Formulary; or
- 668 (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);
- 669 (ii) intended for use in the:
- 670 (A) diagnosis of disease;
- 671 (B) cure of disease;
- 672 (C) mitigation of disease;
- 673 (D) treatment of disease; or
- 674 (E) prevention of disease; or
- 675 (iii) intended to affect:
- 676 (A) the structure of the body; or
- 677 (B) any function of the body.
- 678 (b) "Drug" does not include:

- 679 (i) food and food ingredients;
- 680 (ii) a dietary supplement;
- 681 (iii) an alcoholic beverage; or
- 682 (iv) a prosthetic device.

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

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

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

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

692 (45) (a) Subject to Subsection (45)(b), "electricity storage facility" means a facility
693 that:

- 694 (i) stores electricity; and
- 695 (ii) has a storage capacity of two megawatts or greater.

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

- 697 (i) connected to an electric or transmission grid;
- 698 (ii) part of an alternative energy electricity production facility or other electricity
699 production facility; or
- 700 (iii) located on the premises of an electricity consumer.

701 [~~45~~] (46) "Electronic" means:

- 702 (a) relating to technology; and
- 703 (b) having:
 - 704 (i) electrical capabilities;
 - 705 (ii) digital capabilities;
 - 706 (iii) magnetic capabilities;
 - 707 (iv) wireless capabilities;
 - 708 (v) optical capabilities;
 - 709 (vi) electromagnetic capabilities; or

- 710 (vii) capabilities similar to Subsections [~~(45)~~] (46)(b)(i) through (vi).
- 711 [~~(46)~~] (47) "Electronic financial payment service" means an establishment:
- 712 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 713 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 714 federal Executive Office of the President, Office of Management and Budget; and
- 715 (b) that performs electronic financial payment services.
- 716 [~~(47)~~] (48) "Employee" means the same as that term is defined in Section 59-10-401.
- 717 [~~(48)~~] (49) "Fixed guideway" means a public transit facility that uses and occupies:
- 718 (a) rail for the use of public transit; or
- 719 (b) a separate right-of-way for the use of public transit.
- 720 [~~(49)~~] (50) "Fixed wing turbine powered aircraft" means an aircraft that:
- 721 (a) is powered by turbine engines;
- 722 (b) operates on jet fuel; and
- 723 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 724 [~~(50)~~] (51) "Fixed wireless service" means a telecommunications service that provides
- 725 radio communication between fixed points.
- 726 [~~(51)~~] (52) (a) "Food and food ingredients" means substances:
- 727 (i) regardless of whether the substances are in:
- 728 (A) liquid form;
- 729 (B) concentrated form;
- 730 (C) solid form;
- 731 (D) frozen form;
- 732 (E) dried form; or
- 733 (F) dehydrated form; and
- 734 (ii) that are:
- 735 (A) sold for:
- 736 (I) ingestion by humans; or
- 737 (II) chewing by humans; and
- 738 (B) consumed for the substance's:
- 739 (I) taste; or
- 740 (II) nutritional value.

741 (b) "Food and food ingredients" includes an item described in Subsection [~~(96)~~
742 (97)](b)(iii).

743 (c) "Food and food ingredients" does not include:

744 (i) an alcoholic beverage;

745 (ii) tobacco; or

746 (iii) prepared food.

747 [~~(52)~~] (53) (a) "Fundraising sales" means sales:

748 (i) (A) made by a school; or

749 (B) made by a school student;

750 (ii) that are for the purpose of raising funds for the school to purchase equipment,
751 materials, or provide transportation; and

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

753 (b) For purposes of Subsection [~~(52)~~] (53)(a)(iii), "officially sanctioned school activity"
754 means a school activity:

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

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

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

761 [~~(53)~~] (54) "Geothermal energy" means energy contained in heat that continuously
762 flows outward from the earth that is used as the sole source of energy to produce electricity.

763 [~~(54)~~] (55) "Governing board of the agreement" means the governing board of the
764 agreement that is:

765 (a) authorized to administer the agreement; and

766 (b) established in accordance with the agreement.

767 [~~(55)~~] (56) (a) For purposes of Subsection 59-12-104(41), "governmental entity"
768 means:

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

771 (ii) the judicial branch of the state, including the courts, the Judicial Council, the

772 Administrative Office of the Courts, and similar administrative units in the judicial branch;
773 (iii) the legislative branch of the state, including the House of Representatives, the
774 Senate, the Legislative Printing Office, the Office of Legislative Research and General
775 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
776 Analyst;

777 (iv) the National Guard;

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

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

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

782 (i) a school;

783 (ii) the State Board of Education;

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

785 (iv) an institution of higher education described in Section 53B-1-102.

786 [~~56~~] (57) "Hydroelectric energy" means water used as the sole source of energy to
787 produce electricity.

788 [~~57~~] (58) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
789 or other fuels:

790 (a) in mining or extraction of minerals;

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

793 (i) commercial greenhouses;

794 (ii) irrigation pumps;

795 (iii) farm machinery;

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

798 (v) other farming activities;

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

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

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

803 American Industry Classification System of the federal Executive Office of the President,
804 Office of Management and Budget;

805 (d) by a scrap recycler if:

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

809 (A) iron;

810 (B) steel;

811 (C) nonferrous metal;

812 (D) paper;

813 (E) glass;

814 (F) plastic;

815 (G) textile; or

816 (H) rubber; and

817 (ii) the new products under Subsection [~~57~~] (58)(d)(i) would otherwise be made with
818 nonrecycled materials; or

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

821 [~~58~~] (59) (a) Except as provided in Subsection [~~58~~] (59)(b), "installation charge"
822 means a charge for installing:

823 (i) tangible personal property; or

824 (ii) a product transferred electronically.

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

826 (i) repairs or renovations of:

827 (A) tangible personal property; or

828 (B) a product transferred electronically; or

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

830 (A) to other tangible personal property; and

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

832 [~~59~~] (60) "Institution of higher education" means an institution of higher education
833 listed in Section 53B-2-101.

834 [~~(60)~~] (61) (a) "Lease" or "rental" means a transfer of possession or control of tangible
835 personal property or a product transferred electronically for:

- 836 (i) (A) a fixed term; or
- 837 (B) an indeterminate term; and
- 838 (ii) consideration.

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

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

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

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

849 (A) upon completion of required payments; and

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

851 (I) \$100; or

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

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

856 (d) For purposes of Subsection [~~(60)~~] (61)(c)(iii), an operator is necessary for
857 equipment to perform as designed if the operator's duties exceed the:

- 858 (i) set-up of tangible personal property;
- 859 (ii) maintenance of tangible personal property; or
- 860 (iii) inspection of tangible personal property.

861 [~~(61)~~] (62) "Lesson" means a fixed period of time for the duration of which a trained
862 instructor:

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

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

865 ~~[(62)]~~ (63) "Life science establishment" means an establishment in this state that is
866 classified under the following NAICS codes of the 2007 North American Industry
867 Classification System of the federal Executive Office of the President, Office of Management
868 and Budget:

- 869 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 870 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
871 Manufacturing; or
- 872 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

873 ~~[(63)]~~ (64) "Life science research and development facility" means a facility owned,
874 leased, or rented by a life science establishment if research and development is performed in
875 51% or more of the total area of the facility.

876 ~~[(64)]~~ (65) "Load and leave" means delivery to a purchaser by use of a tangible storage
877 media if the tangible storage media is not physically transferred to the purchaser.

878 ~~[(65)]~~ (66) "Local taxing jurisdiction" means a:

- 879 (a) county that is authorized to impose an agreement sales and use tax;
- 880 (b) city that is authorized to impose an agreement sales and use tax; or
- 881 (c) town that is authorized to impose an agreement sales and use tax.

882 ~~[(66)]~~ (67) "Manufactured home" means the same as that term is defined in Section
883 [15A-1-302](#).

884 ~~[(67)]~~ (68) "Manufacturing facility" means:

885 (a) an establishment described in:

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

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

891 (b) a scrap recycler if:

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

895 (A) iron;

- 896 (B) steel;
- 897 (C) nonferrous metal;
- 898 (D) paper;
- 899 (E) glass;
- 900 (F) plastic;
- 901 (G) textile; or
- 902 (H) rubber; and

903 (ii) the new products under Subsection [~~(67)~~] (68)(b)(i) would otherwise be made with
904 nonrecycled materials; or

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

907 [~~(68)~~] (69) (a) "Marketplace" means a physical or electronic place, platform, or forum
908 where tangible personal property, a product transferred electronically, or a service is offered for
909 sale.

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

912 [~~(69)~~] (70) (a) "Marketplace facilitator" means a person, including an affiliate of the
913 person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to
914 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or
915 controls and that directly or indirectly:

916 (i) does any of the following:

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

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

924 (C) owns, rents, licenses, makes available, or operates any electronic or physical
925 infrastructure or any property, process, method, copyright, trademark, or patent that connects a
926 marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal

927 property, a product transferred electronically, or a service;

928 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible
929 personal property, a product transferred electronically, or a service, regardless of ownership or
930 control of the tangible personal property, the product transferred electronically, or the service
931 that is the subject of the retail sale;

932 (E) provides software development or research and development activities related to
933 any activity described in this Subsection [~~(69)~~] (70)(a)(i), if the software development or
934 research and development activity is directly related to the person's marketplace;

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

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

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

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

943 (ii) does any of the following:

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

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

948 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing
949 fee, a fee for inserting or making available tangible personal property, a product transferred
950 electronically, or a service on the person's marketplace, or other consideration for the
951 facilitation of a retail sale of tangible personal property, a product transferred electronically, or
952 a service, regardless of ownership or control of the tangible personal property, the product
953 transferred electronically, or the service that is the subject of the retail sale;

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

958 exchange for the service; or

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

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

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

963 (ii) a person described in Subsection [~~(69)~~] (70)(a) to the extent the person is
964 facilitating a sale for a seller that is a restaurant as defined in Section 59-12-602.

965 [~~(70)~~] (71) "Marketplace seller" means a seller that makes one or more retail sales
966 through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of
967 whether the seller is required to be registered to collect and remit the tax under this part.

968 [~~(71)~~] (72) "Member of the immediate family of the producer" means a person who is
969 related to a producer described in Subsection 59-12-104(20)(a) as a:

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

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

972 (ii) a foster child or foster stepchild;

973 (b) grandchild or stepgrandchild;

974 (c) grandparent or stepgrandparent;

975 (d) nephew or stepnephew;

976 (e) niece or stepniece;

977 (f) parent or stepparent;

978 (g) sibling or stepsibling;

979 (h) spouse;

980 (i) person who is the spouse of a person described in Subsections [~~(71)~~] (72)(a) through
981 (g); or

982 (j) person similar to a person described in Subsections [~~(71)~~] (72)(a) through (i) as
983 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
984 Administrative Rulemaking Act.

985 [~~(72)~~] (73) "Mobile home" means the same as that term is defined in Section
986 15A-1-302.

987 [~~(73)~~] (74) "Mobile telecommunications service" means the same as that term is
988 defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

989 [~~(74)~~] (75) (a) "Mobile wireless service" means a telecommunications service,
990 regardless of the technology used, if:

- 991 (i) the origination point of the conveyance, routing, or transmission is not fixed;
992 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
993 (iii) the origination point described in Subsection [~~(74)~~] (75)(a)(i) and the termination
994 point described in Subsection [~~(74)~~] (75)(a)(ii) are not fixed.

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

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

999 [~~(75)~~] (76) (a) Except as provided in Subsection [~~(75)~~] (76)(c), "mobility enhancing
1000 equipment" means equipment that is:

1001 (i) primarily and customarily used to provide or increase the ability to move from one
1002 place to another;

1003 (ii) appropriate for use in a:

1004 (A) home; or

1005 (B) motor vehicle; and

1006 (iii) not generally used by persons with normal mobility.

1007 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
1008 the equipment described in Subsection [~~(75)~~] (76)(a).

1009 (c) "Mobility enhancing equipment" does not include:

1010 (i) a motor vehicle;

1011 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
1012 vehicle manufacturer;

1013 (iii) durable medical equipment; or

1014 (iv) a prosthetic device.

1015 [~~(76)~~] (77) "Model 1 seller" means a seller registered under the agreement that has
1016 selected a certified service provider as the seller's agent to perform the seller's sales and use tax
1017 functions for agreement sales and use taxes, as outlined in the contract between the governing
1018 board of the agreement and the certified service provider, other than the seller's obligation
1019 under Section 59-12-124 to remit a tax on the seller's own purchases.

1020 [~~(77)~~] (78) "Model 2 seller" means a seller registered under the agreement that:

1021 (a) except as provided in Subsection [~~(77)~~] (78)(b), has selected a certified automated

1022 system to perform the seller's sales tax functions for agreement sales and use taxes; and

1023 (b) retains responsibility for remitting all of the sales tax:

1024 (i) collected by the seller; and

1025 (ii) to the appropriate local taxing jurisdiction.

1026 [~~(78)~~] (79) (a) Subject to Subsection [~~(78)~~] (79)(b), "model 3 seller" means a seller

1027 registered under the agreement that has:

1028 (i) sales in at least five states that are members of the agreement;

1029 (ii) total annual sales revenues of at least \$500,000,000;

1030 (iii) a proprietary system that calculates the amount of tax:

1031 (A) for an agreement sales and use tax; and

1032 (B) due to each local taxing jurisdiction; and

1033 (iv) entered into a performance agreement with the governing board of the agreement.

1034 (b) For purposes of Subsection [~~(78)~~] (79)(a), "model 3 seller" includes an affiliated

1035 group of sellers using the same proprietary system.

1036 [~~(79)~~] (80) "Model 4 seller" means a seller that is registered under the agreement and is

1037 not a model 1 seller, model 2 seller, or model 3 seller.

1038 [~~(80)~~] (81) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

1039 [~~(81)~~] (82) "Motor vehicle" means the same as that term is defined in Section

1040 [41-1a-102](#).

1041 [~~(82)~~] (83) "Oil sands" means impregnated bituminous sands that:

1042 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with

1043 other hydrocarbons, or otherwise treated;

1044 (b) yield mixtures of liquid hydrocarbon; and

1045 (c) require further processing other than mechanical blending before becoming finished

1046 petroleum products.

1047 [~~(83)~~] (84) "Oil shale" means a group of fine black to dark brown shales containing

1048 kerogen material that yields petroleum upon heating and distillation.

1049 [~~(84)~~] (85) "Optional computer software maintenance contract" means a computer

1050 software maintenance contract that a customer is not obligated to purchase as a condition to the

1051 retail sale of computer software.

1052 [~~(85)~~] (86) (a) "Other fuels" means products that burn independently to produce heat or
1053 energy.

1054 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
1055 personal property.

1056 [~~(86)~~] (87) (a) "Paging service" means a telecommunications service that provides
1057 transmission of a coded radio signal for the purpose of activating a specific pager.

1058 (b) For purposes of Subsection [~~(86)~~] (87)(a), the transmission of a coded radio signal
1059 includes a transmission by message or sound.

1060 [~~(87)~~] (88) "Pawn transaction" means the same as that term is defined in Section
1061 13-32a-102.

1062 [~~(88)~~] (89) "Pawnbroker" means the same as that term is defined in Section
1063 13-32a-102.

1064 [~~(89)~~] (90) (a) "Permanently attached to real property" means that for tangible personal
1065 property attached to real property:

1066 (i) the attachment of the tangible personal property to the real property:

1067 (A) is essential to the use of the tangible personal property; and

1068 (B) suggests that the tangible personal property will remain attached to the real
1069 property in the same place over the useful life of the tangible personal property; or

1070 (ii) if the tangible personal property is detached from the real property, the detachment
1071 would:

1072 (A) cause substantial damage to the tangible personal property; or

1073 (B) require substantial alteration or repair of the real property to which the tangible
1074 personal property is attached.

1075 (b) "Permanently attached to real property" includes:

1076 (i) the attachment of an accessory to the tangible personal property if the accessory is:

1077 (A) essential to the operation of the tangible personal property; and

1078 (B) attached only to facilitate the operation of the tangible personal property;

1079 (ii) a temporary detachment of tangible personal property from real property for a
1080 repair or renovation if the repair or renovation is performed where the tangible personal

1081 property and real property are located; or

1082 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
1083 Subsection [~~89~~] (90)(c)(iii) or (iv).

1084 (c) "Permanently attached to real property" does not include:

1085 (i) the attachment of portable or movable tangible personal property to real property if
1086 that portable or movable tangible personal property is attached to real property only for:

1087 (A) convenience;

1088 (B) stability; or

1089 (C) for an obvious temporary purpose;

1090 (ii) the detachment of tangible personal property from real property except for the
1091 detachment described in Subsection [~~89~~] (90)(b)(ii);

1092 (iii) an attachment of the following tangible personal property to real property if the
1093 attachment to real property is only through a line that supplies water, electricity, gas,
1094 telecommunications, cable, or supplies a similar item as determined by the commission by rule
1095 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

1096 (A) a computer;

1097 (B) a telephone;

1098 (C) a television; or

1099 (D) tangible personal property similar to Subsections [~~89~~] (90)(c)(iii)(A) through (C)
1100 as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
1101 Administrative Rulemaking Act; or

1102 (iv) an item listed in Subsection [~~130~~] (131)(c).

1103 [~~90~~] (91) "Person" includes any individual, firm, partnership, joint venture,
1104 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
1105 city, municipality, district, or other local governmental entity of the state, or any group or
1106 combination acting as a unit.

1107 [~~91~~] (92) "Place of primary use":

1108 (a) for telecommunications service other than mobile telecommunications service,
1109 means the street address representative of where the customer's use of the telecommunications
1110 service primarily occurs, which shall be:

1111 (i) the residential street address of the customer; or

1112 (ii) the primary business street address of the customer; or

1113 (b) for mobile telecommunications service, means the same as that term is defined in
1114 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1115 ~~[(92)]~~ (93) (a) "Postpaid calling service" means a telecommunications service a person
1116 obtains by making a payment on a call-by-call basis:

1117 (i) through the use of a:

1118 (A) bank card;

1119 (B) credit card;

1120 (C) debit card; or

1121 (D) travel card; or

1122 (ii) by a charge made to a telephone number that is not associated with the origination
1123 or termination of the telecommunications service.

1124 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
1125 service, that would be a prepaid wireless calling service if the service were exclusively a
1126 telecommunications service.

1127 ~~[(93)]~~ (94) "Postproduction" means an activity related to the finishing or duplication of
1128 a medium described in Subsection [59-12-104\(54\)\(a\)](#).

1129 ~~[(94)]~~ (95) "Prepaid calling service" means a telecommunications service:

1130 (a) that allows a purchaser access to telecommunications service that is exclusively
1131 telecommunications service;

1132 (b) that:

1133 (i) is paid for in advance; and

1134 (ii) enables the origination of a call using an:

1135 (A) access number; or

1136 (B) authorization code;

1137 (c) that is dialed:

1138 (i) manually; or

1139 (ii) electronically; and

1140 (d) sold in predetermined units or dollars that decline:

1141 (i) by a known amount; and

1142 (ii) with use.

1143 ~~[(95)]~~ (96) "Prepaid wireless calling service" means a telecommunications service:

- 1144 (a) that provides the right to utilize:
- 1145 (i) mobile wireless service; and
- 1146 (ii) other service that is not a telecommunications service, including:
- 1147 (A) the download of a product transferred electronically;
- 1148 (B) a content service; or
- 1149 (C) an ancillary service;
- 1150 (b) that:
- 1151 (i) is paid for in advance; and
- 1152 (ii) enables the origination of a call using an:
- 1153 (A) access number; or
- 1154 (B) authorization code;
- 1155 (c) that is dialed:
- 1156 (i) manually; or
- 1157 (ii) electronically; and
- 1158 (d) sold in predetermined units or dollars that decline:
- 1159 (i) by a known amount; and
- 1160 (ii) with use.
- 1161 [~~96~~] (97) (a) "Prepared food" means:
- 1162 (i) food:
- 1163 (A) sold in a heated state; or
- 1164 (B) heated by a seller;
- 1165 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 1166 item; or
- 1167 (iii) except as provided in Subsection [~~96~~] (97)(c), food sold with an eating utensil
- 1168 provided by the seller, including a:
- 1169 (A) plate;
- 1170 (B) knife;
- 1171 (C) fork;
- 1172 (D) spoon;
- 1173 (E) glass;
- 1174 (F) cup;

- 1175 (G) napkin; or
- 1176 (H) straw.
- 1177 (b) "Prepared food" does not include:
- 1178 (i) food that a seller only:
- 1179 (A) cuts;
- 1180 (B) repackages; or
- 1181 (C) pasteurizes; or
- 1182 (ii) (A) the following:
- 1183 (I) raw egg;
- 1184 (II) raw fish;
- 1185 (III) raw meat;
- 1186 (IV) raw poultry; or
- 1187 (V) a food containing an item described in Subsections [~~96~~] 97(b)(ii)(A)(I) through
- 1188 (IV); and
- 1189 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 1190 Food and Drug Administration's Food Code that a consumer cook the items described in
- 1191 Subsection [~~96~~] 97(b)(ii)(A) to prevent food borne illness; or
- 1192 (iii) the following if sold without eating utensils provided by the seller:
- 1193 (A) food and food ingredients sold by a seller if the seller's proper primary
- 1194 classification under the 2002 North American Industry Classification System of the federal
- 1195 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 1196 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 1197 Manufacturing;
- 1198 (B) food and food ingredients sold in an unheated state:
- 1199 (I) by weight or volume; and
- 1200 (II) as a single item; or
- 1201 (C) a bakery item, including:
- 1202 (I) a bagel;
- 1203 (II) a bar;
- 1204 (III) a biscuit;
- 1205 (IV) bread;

- 1206 (V) a bun;
- 1207 (VI) a cake;
- 1208 (VII) a cookie;
- 1209 (VIII) a croissant;
- 1210 (IX) a danish;
- 1211 (X) a donut;
- 1212 (XI) a muffin;
- 1213 (XII) a pastry;
- 1214 (XIII) a pie;
- 1215 (XIV) a roll;
- 1216 (XV) a tart;
- 1217 (XVI) a torte; or
- 1218 (XVII) a tortilla.

1219 (c) An eating utensil provided by the seller does not include the following used to
1220 transport the food:

- 1221 (i) a container; or
- 1222 (ii) packaging.

1223 [~~97~~] (98) "Prescription" means an order, formula, or recipe that is issued:

- 1224 (a) (i) orally;
- 1225 (ii) in writing;
- 1226 (iii) electronically; or
- 1227 (iv) by any other manner of transmission; and

1228 (b) by a licensed practitioner authorized by the laws of a state.

1229 [~~98~~] (99) (a) Except as provided in Subsection [~~98~~] (99)(b)(ii) or (iii), "prewritten
1230 computer software" means computer software that is not designed and developed:

- 1231 (i) by the author or other creator of the computer software; and
- 1232 (ii) to the specifications of a specific purchaser.

1233 (b) "Prewritten computer software" includes:

1234 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
1235 software is not designed and developed:

- 1236 (A) by the author or other creator of the computer software; and

- 1237 (B) to the specifications of a specific purchaser;
- 1238 (ii) computer software designed and developed by the author or other creator of the
- 1239 computer software to the specifications of a specific purchaser if the computer software is sold
- 1240 to a person other than the purchaser; or
- 1241 (iii) except as provided in Subsection [~~98~~] (99)(c), prewritten computer software or a
- 1242 prewritten portion of prewritten computer software:
- 1243 (A) that is modified or enhanced to any degree; and
- 1244 (B) if the modification or enhancement described in Subsection [~~98~~] (99)(b)(iii)(A) is
- 1245 designed and developed to the specifications of a specific purchaser.
- 1246 (c) "Prewritten computer software" does not include a modification or enhancement
- 1247 described in Subsection [~~98~~] (99)(b)(iii) if the charges for the modification or enhancement
- 1248 are:
- 1249 (i) reasonable; and
- 1250 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the
- 1251 invoice or other statement of price provided to the purchaser at the time of sale or later, as
- 1252 demonstrated by:
- 1253 (A) the books and records the seller keeps at the time of the transaction in the regular
- 1254 course of business, including books and records the seller keeps at the time of the transaction in
- 1255 the regular course of business for nontax purposes;
- 1256 (B) a preponderance of the facts and circumstances at the time of the transaction; and
- 1257 (C) the understanding of all of the parties to the transaction.
- 1258 [~~99~~] (100) (a) "Private communications service" means a telecommunications
- 1259 service:
- 1260 (i) that entitles a customer to exclusive or priority use of one or more communications
- 1261 channels between or among termination points; and
- 1262 (ii) regardless of the manner in which the one or more communications channels are
- 1263 connected.
- 1264 (b) "Private communications service" includes the following provided in connection
- 1265 with the use of one or more communications channels:
- 1266 (i) an extension line;
- 1267 (ii) a station;

1268 (iii) switching capacity; or
1269 (iv) another associated service that is provided in connection with the use of one or
1270 more communications channels as defined in Section 59-12-215.

1271 ~~[(100)]~~ (101) (a) Except as provided in Subsection ~~[(100)]~~ (101)(b), "product
1272 transferred electronically" means a product transferred electronically that would be subject to a
1273 tax under this chapter if that product was transferred in a manner other than electronically.

1274 (b) "Product transferred electronically" does not include:
1275 (i) an ancillary service;
1276 (ii) computer software; or
1277 (iii) a telecommunications service.

1278 ~~[(101)]~~ (102) (a) "Prosthetic device" means a device that is worn on or in the body to:
1279 (i) artificially replace a missing portion of the body;
1280 (ii) prevent or correct a physical deformity or physical malfunction; or
1281 (iii) support a weak or deformed portion of the body.

1282 (b) "Prosthetic device" includes:
1283 (i) parts used in the repairs or renovation of a prosthetic device;
1284 (ii) replacement parts for a prosthetic device;
1285 (iii) a dental prosthesis; or
1286 (iv) a hearing aid.

1287 (c) "Prosthetic device" does not include:
1288 (i) corrective eyeglasses; or
1289 (ii) contact lenses.

1290 ~~[(102)]~~ (103) (a) "Protective equipment" means an item:
1291 (i) for human wear; and
1292 (ii) that is:
1293 (A) designed as protection:
1294 (I) to the wearer against injury or disease; or
1295 (II) against damage or injury of other persons or property; and
1296 (B) not suitable for general use.

1297 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1298 commission shall make rules:

1299 (i) listing the items that constitute "protective equipment"; and
1300 (ii) that are consistent with the list of items that constitute "protective equipment"
1301 under the agreement.

1302 ~~[(103)]~~ (104) (a) For purposes of Subsection 59-12-104(41), "publication" means any
1303 written or printed matter, other than a photocopy:

1304 (i) regardless of:

1305 (A) characteristics;

1306 (B) copyright;

1307 (C) form;

1308 (D) format;

1309 (E) method of reproduction; or

1310 (F) source; and

1311 (ii) made available in printed or electronic format.

1312 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1313 commission may by rule define the term "photocopy."

1314 ~~[(104)]~~ (105) (a) "Purchase price" and "sales price" mean the total amount of
1315 consideration:

1316 (i) valued in money; and

1317 (ii) for which tangible personal property, a product transferred electronically, or
1318 services are:

1319 (A) sold;

1320 (B) leased; or

1321 (C) rented.

1322 (b) "Purchase price" and "sales price" include:

1323 (i) the seller's cost of the tangible personal property, a product transferred
1324 electronically, or services sold;

1325 (ii) expenses of the seller, including:

1326 (A) the cost of materials used;

1327 (B) a labor cost;

1328 (C) a service cost;

1329 (D) interest;

- 1330 (E) a loss;
- 1331 (F) the cost of transportation to the seller; or
- 1332 (G) a tax imposed on the seller;
- 1333 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1334 (iv) consideration a seller receives from a person other than the purchaser if:
 - 1335 (A) (I) the seller actually receives consideration from a person other than the purchaser;
 - 1336 and
 - 1337 (II) the consideration described in Subsection [~~(104)~~] (105)(b)(iv)(A)(I) is directly
 - 1338 related to a price reduction or discount on the sale;
 - 1339 (B) the seller has an obligation to pass the price reduction or discount through to the
 - 1340 purchaser;
 - 1341 (C) the amount of the consideration attributable to the sale is fixed and determinable by
 - 1342 the seller at the time of the sale to the purchaser; and
 - 1343 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
 - 1344 seller to claim a price reduction or discount; and
 - 1345 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
 - 1346 coupon, or other documentation with the understanding that the person other than the seller
 - 1347 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
 - 1348 (II) the purchaser identifies that purchaser to the seller as a member of a group or
 - 1349 organization allowed a price reduction or discount, except that a preferred customer card that is
 - 1350 available to any patron of a seller does not constitute membership in a group or organization
 - 1351 allowed a price reduction or discount; or
 - 1352 (III) the price reduction or discount is identified as a third party price reduction or
 - 1353 discount on the:
 - 1354 (Aa) invoice the purchaser receives; or
 - 1355 (Bb) certificate, coupon, or other documentation the purchaser presents.
 - 1356 (c) "Purchase price" and "sales price" do not include:
 - 1357 (i) a discount:
 - 1358 (A) in a form including:
 - 1359 (I) cash;
 - 1360 (II) term; or

- 1361 (III) coupon;
- 1362 (B) that is allowed by a seller;
- 1363 (C) taken by a purchaser on a sale; and
- 1364 (D) that is not reimbursed by a third party; or
- 1365 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if separately
- 1366 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
- 1367 sale or later, as demonstrated by the books and records the seller keeps at the time of the
- 1368 transaction in the regular course of business, including books and records the seller keeps at the
- 1369 time of the transaction in the regular course of business for nontax purposes, by a
- 1370 preponderance of the facts and circumstances at the time of the transaction, and by the
- 1371 understanding of all of the parties to the transaction:
- 1372 (A) the following from credit extended on the sale of tangible personal property or
- 1373 services:
- 1374 (I) a carrying charge;
- 1375 (II) a financing charge; or
- 1376 (III) an interest charge;
- 1377 (B) a delivery charge;
- 1378 (C) an installation charge;
- 1379 (D) a manufacturer rebate on a motor vehicle; or
- 1380 (E) a tax or fee legally imposed directly on the consumer.
- 1381 [~~(105)~~] (106) "Purchaser" means a person to whom:
- 1382 (a) a sale of tangible personal property is made;
- 1383 (b) a product is transferred electronically; or
- 1384 (c) a service is furnished.
- 1385 [~~(106)~~] (107) "Qualifying data center" means a data center facility that:
- 1386 (a) houses a group of networked server computers in one physical location in order to
- 1387 disseminate, manage, and store data and information;
- 1388 (b) is located in the state;
- 1389 (c) is a new operation constructed on or after July 1, 2016;
- 1390 (d) consists of one or more buildings that total 150,000 or more square feet;
- 1391 (e) is owned or leased by:

1392 (i) the operator of the data center facility; or
1393 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
1394 of the data center facility; and

1395 (f) is located on one or more parcels of land that are owned or leased by:

1396 (i) the operator of the data center facility; or
1397 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
1398 of the data center facility.

1399 ~~[(107)]~~ (108) "Regularly rented" means:

1400 (a) rented to a guest for value three or more times during a calendar year; or
1401 (b) advertised or held out to the public as a place that is regularly rented to guests for
1402 value.

1403 ~~[(108)]~~ (109) "Rental" means the same as that term is defined in Subsection ~~[(60)]~~ (61).

1404 ~~[(109)]~~ (110) (a) Except as provided in Subsection ~~[(109)]~~ (110)(b), "repairs or
1405 renovations of tangible personal property" means:

1406 (i) a repair or renovation of tangible personal property that is not permanently attached
1407 to real property; or

1408 (ii) attaching tangible personal property or a product transferred electronically to other
1409 tangible personal property or detaching tangible personal property or a product transferred
1410 electronically from other tangible personal property if:

1411 (A) the other tangible personal property to which the tangible personal property or
1412 product transferred electronically is attached or from which the tangible personal property or
1413 product transferred electronically is detached is not permanently attached to real property; and

1414 (B) the attachment of tangible personal property or a product transferred electronically
1415 to other tangible personal property or detachment of tangible personal property or a product
1416 transferred electronically from other tangible personal property is made in conjunction with a
1417 repair or replacement of tangible personal property or a product transferred electronically.

1418 (b) "Repairs or renovations of tangible personal property" does not include:

1419 (i) attaching prewritten computer software to other tangible personal property if the
1420 other tangible personal property to which the prewritten computer software is attached is not
1421 permanently attached to real property; or

1422 (ii) detaching prewritten computer software from other tangible personal property if the

1423 other tangible personal property from which the prewritten computer software is detached is
1424 not permanently attached to real property.

1425 ~~[(110)]~~ (111) "Research and development" means the process of inquiry or
1426 experimentation aimed at the discovery of facts, devices, technologies, or applications and the
1427 process of preparing those devices, technologies, or applications for marketing.

1428 ~~[(111)]~~ (112) (a) "Residential telecommunications services" means a
1429 telecommunications service or an ancillary service that is provided to an individual for personal
1430 use:

1431 (i) at a residential address; or

1432 (ii) at an institution, including a nursing home or a school, if the telecommunications
1433 service or ancillary service is provided to and paid for by the individual residing at the
1434 institution rather than the institution.

1435 (b) For purposes of Subsection ~~[(111)]~~ (112)(a)(i), a residential address includes an:

1436 (i) apartment; or

1437 (ii) other individual dwelling unit.

1438 ~~[(112)]~~ (113) "Residential use" means the use in or around a home, apartment building,
1439 sleeping quarters, and similar facilities or accommodations.

1440 ~~[(113)]~~ (114) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
1441 other than:

1442 (a) resale;

1443 (b) sublease; or

1444 (c) subrent.

1445 ~~[(114)]~~ (115) (a) "Retailer" means any person, unless prohibited by the Constitution of
1446 the United States or federal law, that is engaged in a regularly organized business in tangible
1447 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is
1448 selling to the user or consumer and not for resale.

1449 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1450 engaged in the business of selling to users or consumers within the state.

1451 ~~[(115)]~~ (116) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1452 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1453 Subsection 59-12-103(1), for consideration.

- 1454 (b) "Sale" includes:
- 1455 (i) installment and credit sales;
- 1456 (ii) any closed transaction constituting a sale;
- 1457 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
- 1458 chapter;
- 1459 (iv) any transaction if the possession of property is transferred but the seller retains the
- 1460 title as security for the payment of the price; and
- 1461 (v) any transaction under which right to possession, operation, or use of any article of
- 1462 tangible personal property is granted under a lease or contract and the transfer of possession
- 1463 would be taxable if an outright sale were made.
- 1464 [~~(H6)~~] (117) "Sale at retail" means the same as that term is defined in Subsection
- 1465 [~~(H3)~~] (114).
- 1466 [~~(H7)~~] (118) "Sale-leaseback transaction" means a transaction by which title to
- 1467 tangible personal property or a product transferred electronically that is subject to a tax under
- 1468 this chapter is transferred:
- 1469 (a) by a purchaser-lessee;
- 1470 (b) to a lessor;
- 1471 (c) for consideration; and
- 1472 (d) if:
- 1473 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
- 1474 of the tangible personal property or product transferred electronically;
- 1475 (ii) the sale of the tangible personal property or product transferred electronically to the
- 1476 lessor is intended as a form of financing:
- 1477 (A) for the tangible personal property or product transferred electronically; and
- 1478 (B) to the purchaser-lessee; and
- 1479 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
- 1480 is required to:
- 1481 (A) capitalize the tangible personal property or product transferred electronically for
- 1482 financial reporting purposes; and
- 1483 (B) account for the lease payments as payments made under a financing arrangement.
- 1484 [~~(H8)~~] (119) "Sales price" means the same as that term is defined in Subsection

- 1485 [~~(104)~~] (105).
- 1486 [~~(119)~~] (120) (a) "Sales relating to schools" means the following sales by, amounts
1487 paid to, or amounts charged by a school:
- 1488 (i) sales that are directly related to the school's educational functions or activities
1489 including:
- 1490 (A) the sale of:
- 1491 (I) textbooks;
- 1492 (II) textbook fees;
- 1493 (III) laboratory fees;
- 1494 (IV) laboratory supplies; or
- 1495 (V) safety equipment;
- 1496 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
1497 that:
- 1498 (I) a student is specifically required to wear as a condition of participation in a
1499 school-related event or school-related activity; and
- 1500 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1501 place of ordinary clothing;
- 1502 (C) sales of the following if the net or gross revenues generated by the sales are
1503 deposited into a school district fund or school fund dedicated to school meals:
- 1504 (I) food and food ingredients; or
- 1505 (II) prepared food; or
- 1506 (D) transportation charges for official school activities; or
- 1507 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1508 event or school-related activity.
- 1509 (b) "Sales relating to schools" does not include:
- 1510 (i) bookstore sales of items that are not educational materials or supplies;
- 1511 (ii) except as provided in Subsection [~~(119)~~] (120)(a)(i)(B):
- 1512 (A) clothing;
- 1513 (B) clothing accessories or equipment;
- 1514 (C) protective equipment; or
- 1515 (D) sports or recreational equipment; or

1516 (iii) amounts paid to or amounts charged by a school for admission to a school-related
1517 event or school-related activity if the amounts paid or charged are passed through to a person:

1518 (A) other than a:

1519 (I) school;

1520 (II) nonprofit organization authorized by a school board or a governing body of a
1521 private school to organize and direct a competitive secondary school activity; or

1522 (III) nonprofit association authorized by a school board or a governing body of a
1523 private school to organize and direct a competitive secondary school activity; and

1524 (B) that is required to collect sales and use taxes under this chapter.

1525 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1526 commission may make rules defining the term "passed through."

1527 [~~(120)~~] (121) For purposes of this section and Section 59-12-104, "school" means:

1528 (a) an elementary school or a secondary school that:

1529 (i) is a:

1530 (A) public school; or

1531 (B) private school; and

1532 (ii) provides instruction for one or more grades kindergarten through 12; or

1533 (b) a public school district.

1534 [~~(121)~~] (122) (a) "Seller" means a person that makes a sale, lease, or rental of:

1535 (i) tangible personal property;

1536 (ii) a product transferred electronically; or

1537 (iii) a service.

1538 (b) "Seller" includes a marketplace facilitator.

1539 [~~(122)~~] (123) (a) "Semiconductor fabricating, processing, research, or development
1540 materials" means tangible personal property or a product transferred electronically if the
1541 tangible personal property or product transferred electronically is:

1542 (i) used primarily in the process of:

1543 (A) (I) manufacturing a semiconductor;

1544 (II) fabricating a semiconductor; or

1545 (III) research or development of a:

1546 (Aa) semiconductor; or

- 1547 (Bb) semiconductor manufacturing process; or
- 1548 (B) maintaining an environment suitable for a semiconductor; or
- 1549 (ii) consumed primarily in the process of:
- 1550 (A) (I) manufacturing a semiconductor;
- 1551 (II) fabricating a semiconductor; or
- 1552 (III) research or development of a:
- 1553 (Aa) semiconductor; or
- 1554 (Bb) semiconductor manufacturing process; or
- 1555 (B) maintaining an environment suitable for a semiconductor.
- 1556 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1557 includes:
- 1558 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1559 transferred electronically described in Subsection [~~(122)~~] (123)(a); or
- 1560 (ii) a chemical, catalyst, or other material used to:
- 1561 (A) produce or induce in a semiconductor a:
- 1562 (I) chemical change; or
- 1563 (II) physical change;
- 1564 (B) remove impurities from a semiconductor; or
- 1565 (C) improve the marketable condition of a semiconductor.
- 1566 [~~(123)~~] (124) "Senior citizen center" means a facility having the primary purpose of
- 1567 providing services to the aged as defined in Section 62A-3-101.
- 1568 [~~(124)~~] (125) (a) Subject to Subsections [~~(124)~~] (125)(b) and (c), "short-term lodging
- 1569 consumable" means tangible personal property that:
- 1570 (i) a business that provides accommodations and services described in Subsection
- 1571 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
- 1572 to a purchaser;
- 1573 (ii) is intended to be consumed by the purchaser; and
- 1574 (iii) is:
- 1575 (A) included in the purchase price of the accommodations and services; and
- 1576 (B) not separately stated on an invoice, bill of sale, or other similar document provided
- 1577 to the purchaser.

- 1578 (b) "Short-term lodging consumable" includes:
- 1579 (i) a beverage;
- 1580 (ii) a brush or comb;
- 1581 (iii) a cosmetic;
- 1582 (iv) a hair care product;
- 1583 (v) lotion;
- 1584 (vi) a magazine;
- 1585 (vii) makeup;
- 1586 (viii) a meal;
- 1587 (ix) mouthwash;
- 1588 (x) nail polish remover;
- 1589 (xi) a newspaper;
- 1590 (xii) a notepad;
- 1591 (xiii) a pen;
- 1592 (xiv) a pencil;
- 1593 (xv) a razor;
- 1594 (xvi) saline solution;
- 1595 (xvii) a sewing kit;
- 1596 (xviii) shaving cream;
- 1597 (xix) a shoe shine kit;
- 1598 (xx) a shower cap;
- 1599 (xxi) a snack item;
- 1600 (xxii) soap;
- 1601 (xxiii) toilet paper;
- 1602 (xxiv) a toothbrush;
- 1603 (xxv) toothpaste; or
- 1604 (xxvi) an item similar to Subsections [~~(124)~~] (125)(b)(i) through (xxv) as the
- 1605 commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah
- 1606 Administrative Rulemaking Act.
- 1607 (c) "Short-term lodging consumable" does not include:
- 1608 (i) tangible personal property that is cleaned or washed to allow the tangible personal

1609 property to be reused; or

1610 (ii) a product transferred electronically.

1611 [~~(125)~~] (126) "Simplified electronic return" means the electronic return:

1612 (a) described in Section 318(C) of the agreement; and

1613 (b) approved by the governing board of the agreement.

1614 [~~(126)~~] (127) "Solar energy" means the sun used as the sole source of energy for
1615 producing electricity.

1616 [~~(127)~~] (128) (a) "Sports or recreational equipment" means an item:

1617 (i) designed for human use; and

1618 (ii) that is:

1619 (A) worn in conjunction with:

1620 (I) an athletic activity; or

1621 (II) a recreational activity; and

1622 (B) not suitable for general use.

1623 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1624 commission shall make rules:

1625 (i) listing the items that constitute "sports or recreational equipment"; and

1626 (ii) that are consistent with the list of items that constitute "sports or recreational
1627 equipment" under the agreement.

1628 [~~(128)~~] (129) "State" means the state of Utah, its departments, and agencies.

1629 [~~(129)~~] (130) "Storage" means any keeping or retention of tangible personal property or
1630 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
1631 except sale in the regular course of business.

1632 [~~(130)~~] (131) (a) Except as provided in Subsection [~~(130)~~] (131)(d) or (e), "tangible
1633 personal property" means personal property that:

1634 (i) may be:

1635 (A) seen;

1636 (B) weighed;

1637 (C) measured;

1638 (D) felt; or

1639 (E) touched; or

1640 (ii) is in any manner perceptible to the senses.

1641 (b) "Tangible personal property" includes:

1642 (i) electricity;

1643 (ii) water;

1644 (iii) gas;

1645 (iv) steam; or

1646 (v) prewritten computer software, regardless of the manner in which the prewritten
1647 computer software is transferred.

1648 (c) "Tangible personal property" includes the following regardless of whether the item
1649 is attached to real property:

1650 (i) a dishwasher;

1651 (ii) a dryer;

1652 (iii) a freezer;

1653 (iv) a microwave;

1654 (v) a refrigerator;

1655 (vi) a stove;

1656 (vii) a washer; or

1657 (viii) an item similar to Subsections [~~(130)~~] (131)(c)(i) through (vii) as determined by
1658 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1659 Rulemaking Act.

1660 (d) "Tangible personal property" does not include a product that is transferred
1661 electronically.

1662 (e) "Tangible personal property" does not include the following if attached to real
1663 property, regardless of whether the attachment to real property is only through a line that
1664 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1665 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1666 Rulemaking Act:

1667 (i) a hot water heater;

1668 (ii) a water filtration system; or

1669 (iii) a water softener system.

1670 [~~(131)~~] (132) (a) "Telecommunications enabling or facilitating equipment, machinery,

1671 or software" means an item listed in Subsection [~~(131)~~] (132)(b) if that item is purchased or
1672 leased primarily to enable or facilitate one or more of the following to function:

1673 (i) telecommunications switching or routing equipment, machinery, or software; or
1674 (ii) telecommunications transmission equipment, machinery, or software.

1675 (b) The following apply to Subsection [~~(131)~~] (132)(a):

1676 (i) a pole;

1677 (ii) software;

1678 (iii) a supplementary power supply;

1679 (iv) temperature or environmental equipment or machinery;

1680 (v) test equipment;

1681 (vi) a tower; or

1682 (vii) equipment, machinery, or software that functions similarly to an item listed in
1683 Subsections [~~(131)~~] (132)(b)(i) through (vi) as determined by the commission by rule made in
1684 accordance with Subsection [~~(131)~~] (132)(c).

1685 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1686 commission may by rule define what constitutes equipment, machinery, or software that
1687 functions similarly to an item listed in Subsections [~~(131)~~] (132)(b)(i) through (vi).

1688 [~~(132)~~] (133) "Telecommunications equipment, machinery, or software required for
1689 911 service" means equipment, machinery, or software that is required to comply with 47
1690 C.F.R. Sec. 20.18.

1691 [~~(133)~~] (134) "Telecommunications maintenance or repair equipment, machinery, or
1692 software" means equipment, machinery, or software purchased or leased primarily to maintain
1693 or repair one or more of the following, regardless of whether the equipment, machinery, or
1694 software is purchased or leased as a spare part or as an upgrade or modification to one or more
1695 of the following:

1696 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1697 (b) telecommunications switching or routing equipment, machinery, or software; or

1698 (c) telecommunications transmission equipment, machinery, or software.

1699 [~~(134)~~] (135) (a) "Telecommunications service" means the electronic conveyance,
1700 routing, or transmission of audio, data, video, voice, or any other information or signal to a
1701 point, or among or between points.

- 1702 (b) "Telecommunications service" includes:
- 1703 (i) an electronic conveyance, routing, or transmission with respect to which a computer
- 1704 processing application is used to act:
- 1705 (A) on the code, form, or protocol of the content;
- 1706 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 1707 (C) regardless of whether the service:
- 1708 (I) is referred to as voice over Internet protocol service; or
- 1709 (II) is classified by the Federal Communications Commission as enhanced or value
- 1710 added;
- 1711 (ii) an 800 service;
- 1712 (iii) a 900 service;
- 1713 (iv) a fixed wireless service;
- 1714 (v) a mobile wireless service;
- 1715 (vi) a postpaid calling service;
- 1716 (vii) a prepaid calling service;
- 1717 (viii) a prepaid wireless calling service; or
- 1718 (ix) a private communications service.
- 1719 (c) "Telecommunications service" does not include:
- 1720 (i) advertising, including directory advertising;
- 1721 (ii) an ancillary service;
- 1722 (iii) a billing and collection service provided to a third party;
- 1723 (iv) a data processing and information service if:
- 1724 (A) the data processing and information service allows data to be:
- 1725 (I) (Aa) acquired;
- 1726 (Bb) generated;
- 1727 (Cc) processed;
- 1728 (Dd) retrieved; or
- 1729 (Ee) stored; and
- 1730 (II) delivered by an electronic transmission to a purchaser; and
- 1731 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1732 or information;

- 1733 (v) installation or maintenance of the following on a customer's premises:
- 1734 (A) equipment; or
- 1735 (B) wiring;
- 1736 (vi) Internet access service;
- 1737 (vii) a paging service;
- 1738 (viii) a product transferred electronically, including:
- 1739 (A) music;
- 1740 (B) reading material;
- 1741 (C) a ring tone;
- 1742 (D) software; or
- 1743 (E) video;
- 1744 (ix) a radio and television audio and video programming service:
- 1745 (A) regardless of the medium; and
- 1746 (B) including:
- 1747 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 1748 programming service by a programming service provider;
- 1749 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1750 (III) audio and video programming services delivered by a commercial mobile radio
- 1751 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1752 (x) a value-added nonvoice data service; or
- 1753 (xi) tangible personal property.
- 1754 ~~[(135)]~~ (136) (a) "Telecommunications service provider" means a person that:
- 1755 (i) owns, controls, operates, or manages a telecommunications service; and
- 1756 (ii) engages in an activity described in Subsection ~~[(135)]~~ (136)(a)(i) for the shared use
- 1757 with or resale to any person of the telecommunications service.
- 1758 (b) A person described in Subsection ~~[(135)]~~ (136)(a) is a telecommunications service
- 1759 provider whether or not the Public Service Commission of Utah regulates:
- 1760 (i) that person; or
- 1761 (ii) the telecommunications service that the person owns, controls, operates, or
- 1762 manages.
- 1763 ~~[(136)]~~ (137) (a) "Telecommunications switching or routing equipment, machinery, or

1764 software" means an item listed in Subsection [~~(136)~~] (137)(b) if that item is purchased or
1765 leased primarily for switching or routing:

- 1766 (i) an ancillary service;
- 1767 (ii) data communications;
- 1768 (iii) voice communications; or
- 1769 (iv) telecommunications service.

1770 (b) The following apply to Subsection [~~(136)~~] (137)(a):

- 1771 (i) a bridge;
- 1772 (ii) a computer;
- 1773 (iii) a cross connect;
- 1774 (iv) a modem;
- 1775 (v) a multiplexer;
- 1776 (vi) plug in circuitry;
- 1777 (vii) a router;
- 1778 (viii) software;
- 1779 (ix) a switch; or

1780 (x) equipment, machinery, or software that functions similarly to an item listed in
1781 Subsections [~~(136)~~] (137)(b)(i) through (ix) as determined by the commission by rule made in
1782 accordance with Subsection [~~(136)~~] (137)(c).

1783 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1784 commission may by rule define what constitutes equipment, machinery, or software that
1785 functions similarly to an item listed in Subsections [~~(136)~~] (137)(b)(i) through (ix).

1786 [~~(137)~~] (138) (a) "Telecommunications transmission equipment, machinery, or
1787 software" means an item listed in Subsection [~~(137)~~] (138)(b) if that item is purchased or
1788 leased primarily for sending, receiving, or transporting:

- 1789 (i) an ancillary service;
- 1790 (ii) data communications;
- 1791 (iii) voice communications; or
- 1792 (iv) telecommunications service.

1793 (b) The following apply to Subsection [~~(137)~~] (138)(a):

- 1794 (i) an amplifier;

- 1795 (ii) a cable;
- 1796 (iii) a closure;
- 1797 (iv) a conduit;
- 1798 (v) a controller;
- 1799 (vi) a duplexer;
- 1800 (vii) a filter;
- 1801 (viii) an input device;
- 1802 (ix) an input/output device;
- 1803 (x) an insulator;
- 1804 (xi) microwave machinery or equipment;
- 1805 (xii) an oscillator;
- 1806 (xiii) an output device;
- 1807 (xiv) a pedestal;
- 1808 (xv) a power converter;
- 1809 (xvi) a power supply;
- 1810 (xvii) a radio channel;
- 1811 (xviii) a radio receiver;
- 1812 (xix) a radio transmitter;
- 1813 (xx) a repeater;
- 1814 (xxi) software;
- 1815 (xxii) a terminal;
- 1816 (xxiii) a timing unit;
- 1817 (xxiv) a transformer;
- 1818 (xxv) a wire; or
- 1819 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1820 Subsections [~~(137)~~] (138)(b)(i) through (xxv) as determined by the commission by rule made in
- 1821 accordance with Subsection [~~(137)~~] (138)(c).
- 1822 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1823 commission may by rule define what constitutes equipment, machinery, or software that
- 1824 functions similarly to an item listed in Subsections [~~(137)~~] (138)(b)(i) through (xxv).
- 1825 [~~(138)~~] (139) (a) "Textbook for a higher education course" means a textbook or other

1826 printed material that is required for a course:

- 1827 (i) offered by an institution of higher education; and
- 1828 (ii) that the purchaser of the textbook or other printed material attends or will attend.

1829 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1830 [~~(139)~~] (140) "Tobacco" means:

- 1831 (a) a cigarette;
- 1832 (b) a cigar;
- 1833 (c) chewing tobacco;
- 1834 (d) pipe tobacco; or
- 1835 (e) any other item that contains tobacco.

1836 [~~(140)~~] (141) "Unassisted amusement device" means an amusement device, skill
1837 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
1838 operate the amusement device, skill device, or ride device.

1839 [~~(141)~~] (142) (a) "Use" means the exercise of any right or power over tangible personal
1840 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
1841 incident to the ownership or the leasing of that tangible personal property, product transferred
1842 electronically, or service.

1843 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1844 property, a product transferred electronically, or a service in the regular course of business and
1845 held for resale.

1846 [~~(142)~~] (143) "Value-added nonvoice data service" means a service:

1847 (a) that otherwise meets the definition of a telecommunications service except that a
1848 computer processing application is used to act primarily for a purpose other than conveyance,
1849 routing, or transmission; and

1850 (b) with respect to which a computer processing application is used to act on data or
1851 information:

- 1852 (i) code;
- 1853 (ii) content;
- 1854 (iii) form; or
- 1855 (iv) protocol.

1856 [~~(143)~~] (144) (a) Subject to Subsection [~~(143)~~] (144)(b), "vehicle" means the following

- 1857 that are required to be titled, registered, or titled and registered:
- 1858 (i) an aircraft as defined in Section 72-10-102;
- 1859 (ii) a vehicle as defined in Section 41-1a-102;
- 1860 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1861 (iv) a vessel as defined in Section 41-1a-102.
- 1862 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 1863 (i) a vehicle described in Subsection ~~[(143)]~~ (144)(a); or
- 1864 (ii) (A) a locomotive;
- 1865 (B) a freight car;
- 1866 (C) railroad work equipment; or
- 1867 (D) other railroad rolling stock.
- 1868 ~~[(144)]~~ (145) "Vehicle dealer" means a person engaged in the business of buying,
- 1869 selling, or exchanging a vehicle as defined in Subsection ~~[(143)]~~ (144).
- 1870 ~~[(145)]~~ (146) (a) "Vertical service" means an ancillary service that:
- 1871 (i) is offered in connection with one or more telecommunications services; and
- 1872 (ii) offers an advanced calling feature that allows a customer to:
- 1873 (A) identify a caller; and
- 1874 (B) manage multiple calls and call connections.
- 1875 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 1876 conference bridging service.
- 1877 ~~[(146)]~~ (147) (a) "Voice mail service" means an ancillary service that enables a
- 1878 customer to receive, send, or store a recorded message.
- 1879 (b) "Voice mail service" does not include a vertical service that a customer is required
- 1880 to have in order to utilize a voice mail service.
- 1881 ~~[(147)]~~ (148) (a) Except as provided in Subsection ~~[(147)]~~ (148)(b), "waste energy
- 1882 facility" means a facility that generates electricity:
- 1883 (i) using as the primary source of energy waste materials that would be placed in a
- 1884 landfill or refuse pit if it were not used to generate electricity, including:
- 1885 (A) tires;
- 1886 (B) waste coal;
- 1887 (C) oil shale; or

1888 (D) municipal solid waste; and
1889 (ii) in amounts greater than actually required for the operation of the facility.
1890 (b) "Waste energy facility" does not include a facility that incinerates:
1891 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
1892 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
1893 [~~(148)~~] (149) "Watercraft" means a vessel as defined in Section 73-18-2.
1894 [~~(149)~~] (150) "Wind energy" means wind used as the sole source of energy to produce
1895 electricity.
1896 [~~(150)~~] (151) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
1897 geographic location by the United States Postal Service.
1898 Section 6. Section 59-12-104 is amended to read:
1899 **59-12-104. Exemptions.**
1900 Exemptions from the taxes imposed by this chapter are as follows:
1901 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
1902 under Chapter 13, Motor and Special Fuel Tax Act;
1903 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
1904 subdivisions; however, this exemption does not apply to sales of:
1905 (a) construction materials except:
1906 (i) construction materials purchased by or on behalf of institutions of the public
1907 education system as defined in Utah Constitution, Article X, Section 2, provided the
1908 construction materials are clearly identified and segregated and installed or converted to real
1909 property which is owned by institutions of the public education system; and
1910 (ii) construction materials purchased by the state, its institutions, or its political
1911 subdivisions which are installed or converted to real property by employees of the state, its
1912 institutions, or its political subdivisions; or
1913 (b) tangible personal property in connection with the construction, operation,
1914 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
1915 providing additional project capacity, as defined in Section 11-13-103;
1916 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
1917 (i) the proceeds of each sale do not exceed \$1; and
1918 (ii) the seller or operator of the vending machine reports an amount equal to 150% of

- 1919 the cost of the item described in Subsection (3)(b) as goods consumed; and
- 1920 (b) Subsection (3)(a) applies to:
- 1921 (i) food and food ingredients; or
- 1922 (ii) prepared food;
- 1923 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
- 1924 (i) alcoholic beverages;
- 1925 (ii) food and food ingredients; or
- 1926 (iii) prepared food;
- 1927 (b) sales of tangible personal property or a product transferred electronically:
- 1928 (i) to a passenger;
- 1929 (ii) by a commercial airline carrier; and
- 1930 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 1931 (c) services related to Subsection (4)(a) or (b);
- 1932 (5) sales of parts and equipment for installation in an aircraft operated by a common
- 1933 carrier in interstate or foreign commerce;
- 1934 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
- 1935 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
- 1936 exhibitor, distributor, or commercial television or radio broadcaster;
- 1937 (7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of
- 1938 cleaning or washing of tangible personal property if the cleaning or washing of the tangible
- 1939 personal property is not assisted cleaning or washing of tangible personal property;
- 1940 (b) if a seller that sells at the same business location assisted cleaning or washing of
- 1941 tangible personal property and cleaning or washing of tangible personal property that is not
- 1942 assisted cleaning or washing of tangible personal property, the exemption described in
- 1943 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
- 1944 or washing of the tangible personal property; and
- 1945 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
- 1946 Utah Administrative Rulemaking Act, the commission may make rules:
- 1947 (i) governing the circumstances under which sales are at the same business location;
- 1948 and
- 1949 (ii) establishing the procedures and requirements for a seller to separately account for

1950 sales of assisted cleaning or washing of tangible personal property;

1951 (8) sales made to or by religious or charitable institutions in the conduct of their regular

1952 religious or charitable functions and activities, if the requirements of Section [59-12-104.1](#) are

1953 fulfilled;

1954 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of

1955 this state if the vehicle is:

1956 (a) not registered in this state; and

1957 (b) (i) not used in this state; or

1958 (ii) used in this state:

1959 (A) if the vehicle is not used to conduct business, for a time period that does not

1960 exceed the longer of:

1961 (I) 30 days in any calendar year; or

1962 (II) the time period necessary to transport the vehicle to the borders of this state; or

1963 (B) if the vehicle is used to conduct business, for the time period necessary to transport

1964 the vehicle to the borders of this state;

1965 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

1966 (i) the item is intended for human use; and

1967 (ii) (A) a prescription was issued for the item; or

1968 (B) the item was purchased by a hospital or other medical facility; and

1969 (b) (i) Subsection (10)(a) applies to:

1970 (A) a drug;

1971 (B) a syringe; or

1972 (C) a stoma supply; and

1973 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1974 commission may by rule define the terms:

1975 (A) "syringe"; or

1976 (B) "stoma supply";

1977 (11) purchases or leases exempt under Section [19-12-201](#);

1978 (12) (a) sales of an item described in Subsection (12)(c) served by:

1979 (i) the following if the item described in Subsection (12)(c) is not available to the

1980 general public:

- 1981 (A) a church; or
- 1982 (B) a charitable institution; or
- 1983 (ii) an institution of higher education if:
- 1984 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 1985 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 1986 offered by the institution of higher education; or
- 1987 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 1988 (i) a medical facility; or
- 1989 (ii) a nursing facility; and
- 1990 (c) Subsections (12)(a) and (b) apply to:
- 1991 (i) food and food ingredients;
- 1992 (ii) prepared food; or
- 1993 (iii) alcoholic beverages;
- 1994 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 1995 or a product transferred electronically by a person:
- 1996 (i) regardless of the number of transactions involving the sale of that tangible personal
- 1997 property or product transferred electronically by that person; and
- 1998 (ii) not regularly engaged in the business of selling that type of tangible personal
- 1999 property or product transferred electronically;
- 2000 (b) this Subsection (13) does not apply if:
- 2001 (i) the sale is one of a series of sales of a character to indicate that the person is
- 2002 regularly engaged in the business of selling that type of tangible personal property or product
- 2003 transferred electronically;
- 2004 (ii) the person holds that person out as regularly engaged in the business of selling that
- 2005 type of tangible personal property or product transferred electronically;
- 2006 (iii) the person sells an item of tangible personal property or product transferred
- 2007 electronically that the person purchased as a sale that is exempt under Subsection (25); or
- 2008 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
- 2009 this state in which case the tax is based upon:
- 2010 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
- 2011 sold; or

2012 (B) in the absence of a bill of sale or other written evidence of value, the fair market
2013 value of the vehicle or vessel being sold at the time of the sale as determined by the
2014 commission; and

2015 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2016 commission shall make rules establishing the circumstances under which:

2017 (i) a person is regularly engaged in the business of selling a type of tangible personal
2018 property or product transferred electronically;

2019 (ii) a sale of tangible personal property or a product transferred electronically is one of
2020 a series of sales of a character to indicate that a person is regularly engaged in the business of
2021 selling that type of tangible personal property or product transferred electronically; or

2022 (iii) a person holds that person out as regularly engaged in the business of selling a type
2023 of tangible personal property or product transferred electronically;

2024 (14) amounts paid or charged for a purchase or lease of machinery, equipment, normal
2025 operating repair or replacement parts, or materials, except for office equipment or office
2026 supplies, by:

2027 (a) a manufacturing facility that:

2028 (i) is located in the state; and

2029 (ii) uses or consumes the machinery, equipment, normal operating repair or
2030 replacement parts, or materials:

2031 (A) in the manufacturing process to manufacture an item sold as tangible personal
2032 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
2033 Utah Administrative Rulemaking Act; or

2034 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
2035 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
2036 Administrative Rulemaking Act;

2037 (b) an establishment, as the commission defines that term in accordance with Title
2038 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

2039 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
2040 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
2041 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
2042 2002 North American Industry Classification System of the federal Executive Office of the

2043 President, Office of Management and Budget;

2044 (ii) is located in the state; and

2045 (iii) uses or consumes the machinery, equipment, normal operating repair or

2046 replacement parts, or materials in:

2047 (A) the production process to produce an item sold as tangible personal property, as the

2048 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah

2049 Administrative Rulemaking Act;

2050 (B) research and development, as the commission may define that phrase in accordance

2051 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2052 (C) transporting, storing, or managing tailings, overburden, or similar waste materials

2053 produced from mining;

2054 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in

2055 mining; or

2056 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

2057 (c) an establishment, as the commission defines that term in accordance with Title 63G,

2058 Chapter 3, Utah Administrative Rulemaking Act, that:

2059 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North

2060 American Industry Classification System of the federal Executive Office of the President,

2061 Office of Management and Budget;

2062 (ii) is located in the state; and

2063 (iii) uses or consumes the machinery, equipment, normal operating repair or

2064 replacement parts, or materials in the operation of the web search portal;

2065 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

2066 (i) tooling;

2067 (ii) special tooling;

2068 (iii) support equipment;

2069 (iv) special test equipment; or

2070 (v) parts used in the repairs or renovations of tooling or equipment described in

2071 Subsections (15)(a)(i) through (iv); and

2072 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

2073 (i) the tooling, equipment, or parts are used or consumed exclusively in the

2074 performance of any aerospace or electronics industry contract with the United States
2075 government or any subcontract under that contract; and
2076 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
2077 title to the tooling, equipment, or parts is vested in the United States government as evidenced
2078 by:
2079 (A) a government identification tag placed on the tooling, equipment, or parts; or
2080 (B) listing on a government-approved property record if placing a government
2081 identification tag on the tooling, equipment, or parts is impractical;
2082 (16) sales of newspapers or newspaper subscriptions;
2083 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
2084 product transferred electronically traded in as full or part payment of the purchase price, except
2085 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
2086 trade-ins are limited to other vehicles only, and the tax is based upon:
2087 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
2088 vehicle being traded in; or
2089 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
2090 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
2091 commission; and
2092 (b) Subsection (17)(a) does not apply to the following items of tangible personal
2093 property or products transferred electronically traded in as full or part payment of the purchase
2094 price:
2095 (i) money;
2096 (ii) electricity;
2097 (iii) water;
2098 (iv) gas; or
2099 (v) steam;
2100 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
2101 or a product transferred electronically used or consumed primarily and directly in farming
2102 operations, regardless of whether the tangible personal property or product transferred
2103 electronically:
2104 (A) becomes part of real estate; or

2105 (B) is installed by a farmer, contractor, or subcontractor; or
2106 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
2107 product transferred electronically if the tangible personal property or product transferred
2108 electronically is exempt under Subsection (18)(a)(i); and
2109 (b) amounts paid or charged for the following are subject to the taxes imposed by this
2110 chapter:
2111 (i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or
2112 supplies if used in a manner that is incidental to farming; and
2113 (B) tangible personal property that is considered to be used in a manner that is
2114 incidental to farming includes:
2115 (I) hand tools; or
2116 (II) maintenance and janitorial equipment and supplies;
2117 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
2118 transferred electronically if the tangible personal property or product transferred electronically
2119 is used in an activity other than farming; and
2120 (B) tangible personal property or a product transferred electronically that is considered
2121 to be used in an activity other than farming includes:
2122 (I) office equipment and supplies; or
2123 (II) equipment and supplies used in:
2124 (Aa) the sale or distribution of farm products;
2125 (Bb) research; or
2126 (Cc) transportation; or
2127 (iii) a vehicle required to be registered by the laws of this state during the period
2128 ending two years after the date of the vehicle's purchase;
2129 (19) sales of hay;
2130 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
2131 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
2132 garden, farm, or other agricultural produce is sold by:
2133 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
2134 agricultural produce;
2135 (b) an employee of the producer described in Subsection (20)(a); or

2136 (c) a member of the immediate family of the producer described in Subsection (20)(a);
2137 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
2138 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

2139 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
2140 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
2141 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
2142 manufacturer, processor, wholesaler, or retailer;

2143 (23) a product stored in the state for resale;

2144 (24) (a) purchases of a product if:

2145 (i) the product is:

2146 (A) purchased outside of this state;

2147 (B) brought into this state:

2148 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

2149 (II) by a nonresident person who is not living or working in this state at the time of the
2150 purchase;

2151 (C) used for the personal use or enjoyment of the nonresident person described in
2152 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

2153 (D) not used in conducting business in this state; and

2154 (ii) for:

2155 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
2156 the product for a purpose for which the product is designed occurs outside of this state;

2157 (B) a boat, the boat is registered outside of this state; or

2158 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
2159 outside of this state;

2160 (b) the exemption provided for in Subsection (24)(a) does not apply to:

2161 (i) a lease or rental of a product; or

2162 (ii) a sale of a vehicle exempt under Subsection (33); and

2163 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
2164 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
2165 following:

2166 (i) conducting business in this state if that phrase has the same meaning in this

- 2167 Subsection (24) as in Subsection (63);
- 2168 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
- 2169 as in Subsection (63); or
- 2170 (iii) a purpose for which a product is designed if that phrase has the same meaning in
- 2171 this Subsection (24) as in Subsection (63);
- 2172 (25) a product purchased for resale in the regular course of business, either in its
- 2173 original form or as an ingredient or component part of a manufactured or compounded product;
- 2174 (26) a product upon which a sales or use tax was paid to some other state, or one of its
- 2175 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
- 2176 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
- 2177 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
- 2178 Act;
- 2179 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
- 2180 person for use in compounding a service taxable under the subsections;
- 2181 (28) purchases made in accordance with the special supplemental nutrition program for
- 2182 women, infants, and children established in 42 U.S.C. Sec. 1786;
- 2183 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
- 2184 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
- 2185 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
- 2186 the President, Office of Management and Budget;
- 2187 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
- 2188 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
- 2189 (a) not registered in this state; and
- 2190 (b) (i) not used in this state; or
- 2191 (ii) used in this state:
- 2192 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
- 2193 time period that does not exceed the longer of:
- 2194 (I) 30 days in any calendar year; or
- 2195 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
- 2196 the borders of this state; or
- 2197 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time

2198 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
2199 state;

2200 (31) sales of aircraft manufactured in Utah;

2201 (32) amounts paid for the purchase of telecommunications service for purposes of
2202 providing telecommunications service;

2203 (33) sales, leases, or uses of the following:

2204 (a) a vehicle by an authorized carrier; or

2205 (b) tangible personal property that is installed on a vehicle:

2206 (i) sold or leased to or used by an authorized carrier; and

2207 (ii) before the vehicle is placed in service for the first time;

2208 (34) (a) 45% of the sales price of any new manufactured home; and

2209 (b) 100% of the sales price of any used manufactured home;

2210 (35) sales relating to schools and fundraising sales;

2211 (36) sales or rentals of durable medical equipment if:

2212 (a) a person presents a prescription for the durable medical equipment; and

2213 (b) the durable medical equipment is used for home use only;

2214 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
2215 Section [72-11-102](#); and

2216 (b) the commission shall by rule determine the method for calculating sales exempt
2217 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

2218 (38) sales to a ski resort of:

2219 (a) snowmaking equipment;

2220 (b) ski slope grooming equipment;

2221 (c) passenger ropeways as defined in Section [72-11-102](#); or

2222 (d) parts used in the repairs or renovations of equipment or passenger ropeways
2223 described in Subsections (38)(a) through (c);

2224 (39) subject to Subsection [59-12-103\(2\)\(j\)](#), sales of natural gas, electricity, heat, coal,
2225 fuel oil, or other fuels for industrial use;

2226 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
2227 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
2228 [59-12-102](#);

2229 (b) if a seller that sells or rents at the same business location the right to use or operate
2230 for amusement, entertainment, or recreation one or more unassisted amusement devices and
2231 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
2232 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
2233 amusement, entertainment, or recreation for the assisted amusement devices; and

2234 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
2235 Utah Administrative Rulemaking Act, the commission may make rules:

2236 (i) governing the circumstances under which sales are at the same business location;
2237 and

2238 (ii) establishing the procedures and requirements for a seller to separately account for
2239 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
2240 assisted amusement devices;

2241 (41) (a) sales of photocopies by:

2242 (i) a governmental entity; or

2243 (ii) an entity within the state system of public education, including:

2244 (A) a school; or

2245 (B) the State Board of Education; or

2246 (b) sales of publications by a governmental entity;

2247 (42) amounts paid for admission to an athletic event at an institution of higher
2248 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
2249 20 U.S.C. Sec. 1681 et seq.;

2250 (43) (a) sales made to or by:

2251 (i) an area agency on aging; or

2252 (ii) a senior citizen center owned by a county, city, or town; or

2253 (b) sales made by a senior citizen center that contracts with an area agency on aging;

2254 (44) sales or leases of semiconductor fabricating, processing, research, or development
2255 materials regardless of whether the semiconductor fabricating, processing, research, or
2256 development materials:

2257 (a) actually come into contact with a semiconductor; or

2258 (b) ultimately become incorporated into real property;

2259 (45) an amount paid by or charged to a purchaser for accommodations and services

2260 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
2261 59-12-104.2;

2262 (46) the lease or use of a vehicle issued a temporary sports event registration certificate
2263 in accordance with Section 41-3-306 for the event period specified on the temporary sports
2264 event registration certificate;

2265 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
2266 adopted by the Public Service Commission only for purchase of electricity produced from a
2267 new alternative energy source built after January 1, 2016, as designated in the tariff by the
2268 Public Service Commission; and

2269 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
2270 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
2271 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
2272 customer would have paid absent the tariff;

2273 (48) sales or rentals of mobility enhancing equipment if a person presents a
2274 prescription for the mobility enhancing equipment;

2275 (49) sales of water in a:

2276 (a) pipe;

2277 (b) conduit;

2278 (c) ditch; or

2279 (d) reservoir;

2280 (50) sales of currency or coins that constitute legal tender of a state, the United States,
2281 or a foreign nation;

2282 (51) (a) sales of an item described in Subsection (51)(b) if the item:

2283 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and

2284 (ii) has a gold, silver, or platinum content of 50% or more; and

2285 (b) Subsection (51)(a) applies to a gold, silver, or platinum:

2286 (i) ingot;

2287 (ii) bar;

2288 (iii) medallion; or

2289 (iv) decorative coin;

2290 (52) amounts paid on a sale-leaseback transaction;

2291 (53) sales of a prosthetic device:
2292 (a) for use on or in a human; and
2293 (b) (i) for which a prescription is required; or
2294 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
2295 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
2296 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
2297 or equipment is primarily used in the production or postproduction of the following media for
2298 commercial distribution:
2299 (i) a motion picture;
2300 (ii) a television program;
2301 (iii) a movie made for television;
2302 (iv) a music video;
2303 (v) a commercial;
2304 (vi) a documentary; or
2305 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
2306 commission by administrative rule made in accordance with Subsection (54)(d); or
2307 (b) purchases, leases, or rentals of machinery or equipment by an establishment
2308 described in Subsection (54)(c) that is used for the production or postproduction of the
2309 following are subject to the taxes imposed by this chapter:
2310 (i) a live musical performance;
2311 (ii) a live news program; or
2312 (iii) a live sporting event;
2313 (c) the following establishments listed in the 1997 North American Industry
2314 Classification System of the federal Executive Office of the President, Office of Management
2315 and Budget, apply to Subsections (54)(a) and (b):
2316 (i) NAICS Code 512110; or
2317 (ii) NAICS Code 51219; and
2318 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2319 commission may by rule:
2320 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
2321 or

- 2322 (ii) define:
- 2323 (A) "commercial distribution";
- 2324 (B) "live musical performance";
- 2325 (C) "live news program"; or
- 2326 (D) "live sporting event";
- 2327 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
- 2328 on or before June 30, 2027, of tangible personal property that:
- 2329 (i) is leased or purchased for or by a facility that:
- 2330 (A) is an alternative energy electricity production facility;
- 2331 (B) is located in the state; and
- 2332 (C) (I) becomes operational on or after July 1, 2004; or
- 2333 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 2334 2004, as a result of the use of the tangible personal property;
- 2335 (ii) has an economic life of five or more years; and
- 2336 (iii) is used to make the facility or the increase in capacity of the facility described in
- 2337 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
- 2338 transmission grid including:
- 2339 (A) a wind turbine;
- 2340 (B) generating equipment;
- 2341 (C) a control and monitoring system;
- 2342 (D) a power line;
- 2343 (E) substation equipment;
- 2344 (F) lighting;
- 2345 (G) fencing;
- 2346 (H) pipes; [~~or~~]
- 2347 (I) other equipment used for locating a power line or pole; [~~and~~] or
- 2348 (J) electricity storage equipment; and
- 2349 (b) this Subsection (55) does not apply to:
- 2350 (i) tangible personal property used in construction of:
- 2351 (A) a new alternative energy electricity production facility; or
- 2352 (B) the increase in the capacity of an alternative energy electricity production facility;

- 2353 (ii) contracted services required for construction and routine maintenance activities;
2354 and
- 2355 (iii) unless the tangible personal property is used or acquired for an increase in capacity
2356 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
2357 acquired after:
- 2358 (A) the alternative energy electricity production facility described in Subsection
2359 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
- 2360 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
2361 in Subsection (55)(a)(iii);
- 2362 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
2363 on or before June 30, 2027, of tangible personal property that:
- 2364 (i) is leased or purchased for or by a facility that:
- 2365 (A) is a waste energy production facility;
- 2366 (B) is located in the state; and
- 2367 (C) (I) becomes operational on or after July 1, 2004; or
- 2368 (II) has its generation capacity increased by one or more megawatts on or after July 1,
2369 2004, as a result of the use of the tangible personal property;
- 2370 (ii) has an economic life of five or more years; and
- 2371 (iii) is used to make the facility or the increase in capacity of the facility described in
2372 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
2373 transmission grid including:
- 2374 (A) generating equipment;
- 2375 (B) a control and monitoring system;
- 2376 (C) a power line;
- 2377 (D) substation equipment;
- 2378 (E) lighting;
- 2379 (F) fencing;
- 2380 (G) pipes; or
- 2381 (H) other equipment used for locating a power line or pole; and
- 2382 (b) this Subsection (56) does not apply to:
- 2383 (i) tangible personal property used in construction of:

2384 (A) a new waste energy facility; or
2385 (B) the increase in the capacity of a waste energy facility;
2386 (ii) contracted services required for construction and routine maintenance activities;
2387 and
2388 (iii) unless the tangible personal property is used or acquired for an increase in capacity
2389 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
2390 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
2391 described in Subsection (56)(a)(iii); or
2392 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
2393 in Subsection (56)(a)(iii);
2394 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
2395 or before June 30, 2027, of tangible personal property that:
2396 (i) is leased or purchased for or by a facility that:
2397 (A) is located in the state;
2398 (B) produces fuel from alternative energy, including:
2399 (I) methanol; or
2400 (II) ethanol; and
2401 (C) (I) becomes operational on or after July 1, 2004; or
2402 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
2403 a result of the installation of the tangible personal property;
2404 (ii) has an economic life of five or more years; and
2405 (iii) is installed on the facility described in Subsection (57)(a)(i);
2406 (b) this Subsection (57) does not apply to:
2407 (i) tangible personal property used in construction of:
2408 (A) a new facility described in Subsection (57)(a)(i); or
2409 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
2410 (ii) contracted services required for construction and routine maintenance activities;
2411 and
2412 (iii) unless the tangible personal property is used or acquired for an increase in capacity
2413 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
2414 (A) the facility described in Subsection (57)(a)(i) is operational; or

- 2415 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
- 2416 (58) (a) subject to Subsection (58)(b), sales of tangible personal property or a product
- 2417 transferred electronically to a person within this state if that tangible personal property or
- 2418 product transferred electronically is subsequently shipped outside the state and incorporated
- 2419 pursuant to contract into and becomes a part of real property located outside of this state; and
- 2420 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
- 2421 state or political entity to which the tangible personal property is shipped imposes a sales, use,
- 2422 gross receipts, or other similar transaction excise tax on the transaction against which the other
- 2423 state or political entity allows a credit for sales and use taxes imposed by this chapter;
- 2424 (59) purchases:
- 2425 (a) of one or more of the following items in printed or electronic format:
- 2426 (i) a list containing information that includes one or more:
- 2427 (A) names; or
- 2428 (B) addresses; or
- 2429 (ii) a database containing information that includes one or more:
- 2430 (A) names; or
- 2431 (B) addresses; and
- 2432 (b) used to send direct mail;
- 2433 (60) redemptions or repurchases of a product by a person if that product was:
- 2434 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 2435 (b) redeemed or repurchased within the time period established in a written agreement
- 2436 between the person and the pawnbroker for redeeming or repurchasing the product;
- 2437 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
- 2438 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
- 2439 and
- 2440 (ii) has a useful economic life of one or more years; and
- 2441 (b) the following apply to Subsection (61)(a):
- 2442 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 2443 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 2444 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 2445 (iv) telecommunications switching or routing equipment, machinery, or software; or

2446 (v) telecommunications transmission equipment, machinery, or software;
2447 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
2448 personal property or a product transferred electronically that are used in the research and
2449 development of alternative energy technology; and

2450 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2451 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
2452 purchases of tangible personal property or a product transferred electronically that are used in
2453 the research and development of alternative energy technology;

2454 (63) (a) purchases of tangible personal property or a product transferred electronically
2455 if:

2456 (i) the tangible personal property or product transferred electronically is:

2457 (A) purchased outside of this state;

2458 (B) brought into this state at any time after the purchase described in Subsection
2459 (63)(a)(i)(A); and

2460 (C) used in conducting business in this state; and

2461 (ii) for:

2462 (A) tangible personal property or a product transferred electronically other than the
2463 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
2464 for a purpose for which the property is designed occurs outside of this state; or

2465 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
2466 outside of this state and not required to be registered in this state under Section [41-1a-202](#) or
2467 [73-18-9](#) based on residency;

2468 (b) the exemption provided for in Subsection (63)(a) does not apply to:

2469 (i) a lease or rental of tangible personal property or a product transferred electronically;
2470 or

2471 (ii) a sale of a vehicle exempt under Subsection (33); and

2472 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
2473 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
2474 following:

2475 (i) conducting business in this state if that phrase has the same meaning in this
2476 Subsection (63) as in Subsection (24);

2477 (ii) the first use of tangible personal property or a product transferred electronically if
2478 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

2479 (iii) a purpose for which tangible personal property or a product transferred
2480 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
2481 Subsection (24);

2482 (64) sales of disposable home medical equipment or supplies if:

2483 (a) a person presents a prescription for the disposable home medical equipment or
2484 supplies;

2485 (b) the disposable home medical equipment or supplies are used exclusively by the
2486 person to whom the prescription described in Subsection (64)(a) is issued; and

2487 (c) the disposable home medical equipment and supplies are listed as eligible for
2488 payment under:

2489 (i) Title XVIII, federal Social Security Act; or

2490 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

2491 (65) sales:

2492 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
2493 District Act; or

2494 (b) of tangible personal property to a subcontractor of a public transit district, if the
2495 tangible personal property is:

2496 (i) clearly identified; and

2497 (ii) installed or converted to real property owned by the public transit district;

2498 (66) sales of construction materials:

2499 (a) purchased on or after July 1, 2010;

2500 (b) purchased by, on behalf of, or for the benefit of an international airport:

2501 (i) located within a county of the first class; and

2502 (ii) that has a United States customs office on its premises; and

2503 (c) if the construction materials are:

2504 (i) clearly identified;

2505 (ii) segregated; and

2506 (iii) installed or converted to real property:

2507 (A) owned or operated by the international airport described in Subsection (66)(b); and

2508 (B) located at the international airport described in Subsection (66)(b);
2509 (67) sales of construction materials:
2510 (a) purchased on or after July 1, 2008;
2511 (b) purchased by, on behalf of, or for the benefit of a new airport:
2512 (i) located within a county of the second class; and
2513 (ii) that is owned or operated by a city in which an airline as defined in Section
2514 [59-2-102](#) is headquartered; and
2515 (c) if the construction materials are:
2516 (i) clearly identified;
2517 (ii) segregated; and
2518 (iii) installed or converted to real property:
2519 (A) owned or operated by the new airport described in Subsection (67)(b);
2520 (B) located at the new airport described in Subsection (67)(b); and
2521 (C) as part of the construction of the new airport described in Subsection (67)(b);
2522 (68) except for the tax imposed by Subsection [59-12-103\(2\)\(d\)](#), sales of fuel to a
2523 common carrier that is a railroad for use in a locomotive engine;
2524 (69) purchases and sales described in Section [63H-4-111](#);
2525 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
2526 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
2527 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
2528 lists a state or country other than this state as the location of registry of the fixed wing turbine
2529 powered aircraft; or
2530 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
2531 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
2532 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
2533 lists a state or country other than this state as the location of registry of the fixed wing turbine
2534 powered aircraft;
2535 (71) subject to Section [59-12-104.4](#), sales of a textbook for a higher education course:
2536 (a) to a person admitted to an institution of higher education; and
2537 (b) by a seller, other than a bookstore owned by an institution of higher education, if
2538 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a

- 2539 textbook for a higher education course;
- 2540 (72) a license fee or tax a municipality imposes in accordance with Subsection
- 2541 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
- 2542 level of municipal services;
- 2543 (73) amounts paid or charged for construction materials used in the construction of a
- 2544 new or expanding life science research and development facility in the state, if the construction
- 2545 materials are:
- 2546 (a) clearly identified;
- 2547 (b) segregated; and
- 2548 (c) installed or converted to real property;
- 2549 (74) amounts paid or charged for:
- 2550 (a) a purchase or lease of machinery and equipment that:
- 2551 (i) are used in performing qualified research:
- 2552 (A) as defined in Section 41(d), Internal Revenue Code; and
- 2553 (B) in the state; and
- 2554 (ii) have an economic life of three or more years; and
- 2555 (b) normal operating repair or replacement parts:
- 2556 (i) for the machinery and equipment described in Subsection (74)(a); and
- 2557 (ii) that have an economic life of three or more years;
- 2558 (75) a sale or lease of tangible personal property used in the preparation of prepared
- 2559 food if:
- 2560 (a) for a sale:
- 2561 (i) the ownership of the seller and the ownership of the purchaser are identical; and
- 2562 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
- 2563 tangible personal property prior to making the sale; or
- 2564 (b) for a lease:
- 2565 (i) the ownership of the lessor and the ownership of the lessee are identical; and
- 2566 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
- 2567 personal property prior to making the lease;
- 2568 (76) (a) purchases of machinery or equipment if:
- 2569 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,

2570 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
2571 System of the federal Executive Office of the President, Office of Management and Budget;
2572 (ii) the machinery or equipment:
2573 (A) has an economic life of three or more years; and
2574 (B) is used by one or more persons who pay admission or user fees described in
2575 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
2576 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
2577 (A) amounts paid or charged as admission or user fees described in Subsection
2578 59-12-103(1)(f); and
2579 (B) subject to taxation under this chapter; and
2580 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2581 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
2582 previous calendar quarter is:
2583 (i) amounts paid or charged as admission or user fees described in Subsection
2584 59-12-103(1)(f); and
2585 (ii) subject to taxation under this chapter;
2586 (77) purchases of a short-term lodging consumable by a business that provides
2587 accommodations and services described in Subsection 59-12-103(1)(i);
2588 (78) amounts paid or charged to access a database:
2589 (a) if the primary purpose for accessing the database is to view or retrieve information
2590 from the database; and
2591 (b) not including amounts paid or charged for a:
2592 (i) digital audio work;
2593 (ii) digital audio-visual work; or
2594 (iii) digital book;
2595 (79) amounts paid or charged for a purchase or lease made by an electronic financial
2596 payment service, of:
2597 (a) machinery and equipment that:
2598 (i) are used in the operation of the electronic financial payment service; and
2599 (ii) have an economic life of three or more years; and
2600 (b) normal operating repair or replacement parts that:

- 2601 (i) are used in the operation of the electronic financial payment service; and
2602 (ii) have an economic life of three or more years;
2603 (80) sales of a fuel cell as defined in Section 54-15-102;
2604 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
2605 product transferred electronically if the tangible personal property or product transferred
2606 electronically:
2607 (a) is stored, used, or consumed in the state; and
2608 (b) is temporarily brought into the state from another state:
2609 (i) during a disaster period as defined in Section 53-2a-1202;
2610 (ii) by an out-of-state business as defined in Section 53-2a-1202;
2611 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
2612 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
2613 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
2614 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
2615 Recreation Program;
2616 (83) amounts paid or charged for a purchase or lease of molten magnesium;
2617 (84) amounts paid or charged for a purchase or lease made by a qualifying data center
2618 or an occupant of a qualifying data center of machinery, equipment, or normal operating repair
2619 or replacement parts, if the machinery, equipment, or normal operating repair or replacement
2620 parts:
2621 (a) are used in:
2622 (i) the operation of the qualifying data center; or
2623 (ii) the occupant's operations in the qualifying data center; and
2624 (b) have an economic life of one or more years;
2625 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
2626 vehicle that includes cleaning or washing of the interior of the vehicle;
2627 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal
2628 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used
2629 or consumed:
2630 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
2631 in Section 79-6-701 located in the state;

2632 (b) if the machinery, equipment, normal operating repair or replacement parts,
2633 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:
2634 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
2635 added to gasoline or diesel fuel;
2636 (ii) research and development;
2637 (iii) transporting, storing, or managing raw materials, work in process, finished
2638 products, and waste materials produced from refining gasoline or diesel fuel, or adding
2639 blendstock to gasoline or diesel fuel;
2640 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
2641 refining; or
2642 (v) preventing, controlling, or reducing pollutants from refining; and
2643 (c) if the person holds a valid refiner tax exemption certification as defined in Section
2644 [79-6-701](#);
2645 (87) amounts paid to or charged by a proprietor for accommodations and services, as
2646 defined in Section [63H-1-205](#), if the proprietor is subject to the MIDA accommodations tax
2647 imposed under Section [63H-1-205](#);
2648 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal
2649 operating repair or replacement parts, or materials, except for office equipment or office
2650 supplies, by an establishment, as the commission defines that term in accordance with Title
2651 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
2652 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
2653 American Industry Classification System of the federal Executive Office of the President,
2654 Office of Management and Budget;
2655 (b) is located in this state; and
2656 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
2657 materials in the operation of the establishment; ~~and~~
2658 (89) amounts paid or charged for an item exempt under Section [59-12-104.10](#)~~[-];~~ and
2659 (90) (a) leases of seven or more years or purchases made on or after July 1, 2022, but
2660 on or before June 30, 2040, of tangible personal property that:
2661 (i) is leased or purchased for or by a facility that is:
2662 (A) an electricity storage facility;

2663 (B) located in the state; and
2664 (C) (I) becomes operational on or after July 1, 2022; or
2665 (II) has the facility's storage capacity increased by one or more megawatts on or after
2666 July 1, 2022, as a result of the use of the tangible personal property;
2667 (ii) has an economic life of five or more years; and
2668 (iii) is used to make the facility or the increase in capacity of the facility described in
2669 Subsection (90)(a)(i) operational up to the point of interconnection with an existing
2670 transmission grid or electricity storage equipment; and
2671 (b) this Subsection (90) does not apply to:
2672 (i) tangible personal property used in construction of:
2673 (A) an electricity storage facility; or
2674 (B) the increase in the capacity of an electricity storage facility;
2675 (ii) contracted services required for construction and routine maintenance activities;
2676 and
2677 (iii) unless the tangible personal property is used or acquired for an increase in capacity
2678 of the facility described in Subsection (90)(a)(i)(C)(II), tangible personal property used or
2679 acquired after:
2680 (A) the electricity storage facility described in Subsection (90)(a)(i) is operational as
2681 described in Subsection (90)(a)(iii); or
2682 (B) the increased capacity described in Subsection (90)(a)(i) is operational as described
2683 in Subsection (90)(a)(iii).
2684 **Section 7. Effective date.**
2685 This bill takes effect on July 1, 2022.