

**SALES AND USE TAX EXEMPTION AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stuart C. Reid**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends a sales and use tax exemption for certain manufacturing, processing, producing, operating, or research and development activities.

**Highlighted Provisions:**

This bill:

- ▶ amends a definition;
- ▶ repeals a requirement related to the economic life of certain machinery, equipment, or repair or replacement parts for purposes of a sales and use tax exemption for certain manufacturing, processing, producing, operating, or research and development activities;
- ▶ repeals obsolete language; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill takes effect on July 1, 2014.

**Utah Code Sections Affected:**

AMENDS:

**59-12-102** (Effective 07/01/14), as last amended by Laws of Utah 2013, Chapters 229, 234, 266, and 441



28 **59-12-104**, as last amended by Laws of Utah 2013, Chapters 82, 223, 229, 234, and 441

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

31 Section 1. Section **59-12-102 (Effective 07/01/14)** is amended to read:

32 **59-12-102 (Effective 07/01/14). Definitions.**

33 As used in this chapter:

34 (1) "800 service" means a telecommunications service that:

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

36 (b) is typically marketed:

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

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

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

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

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

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

43 Federal Communications Commission.

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

45 (i) a subscriber purchases;

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

47 the subscriber's:

48 (A) prerecorded announcement; or

49 (B) live service; and

50 (iii) is typically marketed:

51 (A) under the name 900 service; or

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

53 Communications Commission.

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

55 (i) a collection service a seller of a telecommunications service provides to a

56 subscriber; or

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

58 (A) a product; or

- 59 (B) a service.
- 60 (3) (a) "Admission or user fees" includes season passes.
- 61 (b) "Admission or user fees" does not include annual membership dues to private
- 62 organizations.
- 63 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 64 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 65 Agreement after November 12, 2002.
- 66 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 67 (a) listed under Subsection (6); and
- 68 (b) that are imposed within a local taxing jurisdiction.
- 69 (6) "Agreement sales and use tax" means a tax imposed under:
- 70 (a) Subsection 59-12-103(2)(a)(i)(A);
- 71 (b) Subsection 59-12-103(2)(b)(i);
- 72 (c) Subsection 59-12-103(2)(c)(i);
- 73 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 74 (e) Section 59-12-204;
- 75 (f) Section 59-12-401;
- 76 (g) Section 59-12-402;
- 77 (h) Section 59-12-703;
- 78 (i) Section 59-12-802;
- 79 (j) Section 59-12-804;
- 80 (k) Section 59-12-1102;
- 81 (l) Section 59-12-1302;
- 82 (m) Section 59-12-1402;
- 83 (n) Section 59-12-1802;
- 84 (o) Section 59-12-2003;
- 85 (p) Section 59-12-2103;
- 86 (q) Section 59-12-2213;
- 87 (r) Section 59-12-2214;
- 88 (s) Section 59-12-2215;
- 89 (t) Section 59-12-2216;

- 90 (u) Section 59-12-2217; or
- 91 (v) Section 59-12-2218.
- 92 (7) "Aircraft" is as defined in Section 72-10-102.
- 93 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 94 (a) except for:
- 95 (i) an airline as defined in Section 59-2-102; or
- 96 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 97 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 98 state, of an airline; and
- 99 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 100 whether the business entity performs the following in this state:
- 101 (i) check, diagnose, overhaul, and repair:
- 102 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 103 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 104 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 105 engine;
- 106 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 107 aircraft:
- 108 (A) an inspection;
- 109 (B) a repair, including a structural repair or modification;
- 110 (C) changing landing gear; and
- 111 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 112 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 113 completely apply new paint to the fixed wing turbine powered aircraft; and
- 114 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 115 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 116 authority that certifies the fixed wing turbine powered aircraft.
- 117 (9) "Alcoholic beverage" means a beverage that:
- 118 (a) is suitable for human consumption; and
- 119 (b) contains .5% or more alcohol by volume.
- 120 (10) "Alternative energy" means:

- 121 (a) biomass energy;
- 122 (b) geothermal energy;
- 123 (c) hydroelectric energy;
- 124 (d) solar energy;
- 125 (e) wind energy; or
- 126 (f) energy that is derived from:
  - 127 (i) coal-to-liquids;
  - 128 (ii) nuclear fuel;
  - 129 (iii) oil-impregnated diatomaceous earth;
  - 130 (iv) oil sands;
  - 131 (v) oil shale; or
  - 132 (vi) petroleum coke.
- 133 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 134 facility" means a facility that:
  - 135 (i) uses alternative energy to produce electricity; and
  - 136 (ii) has a production capacity of two megawatts or greater.
- 137 (b) A facility is an alternative energy electricity production facility regardless of
- 138 whether the facility is:
  - 139 (i) connected to an electric grid; or
  - 140 (ii) located on the premises of an electricity consumer.
- 141 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
- 142 provision of telecommunications service.
  - 143 (b) "Ancillary service" includes:
    - 144 (i) a conference bridging service;
    - 145 (ii) a detailed communications billing service;
    - 146 (iii) directory assistance;
    - 147 (iv) a vertical service; or
    - 148 (v) a voice mail service.
- 149 (13) "Area agency on aging" is as defined in Section [62A-3-101](#).
- 150 (14) "Assisted amusement device" means an amusement device, skill device, or ride
- 151 device that is started and stopped by an individual:

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

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

156 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or  
157 washing of tangible personal property if the cleaning or washing labor is primarily performed  
158 by an individual:

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

161 (b) at the direction of the seller of the cleaning or washing of the tangible personal  
162 property.

163 (16) "Authorized carrier" means:

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

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

169 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling  
170 stock, the holder of a certificate issued by the United States Surface Transportation Board.

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

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

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

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

176 (B) animal waste;

177 (C) methane produced:

178 (I) at landfills; or

179 (II) as a byproduct of the treatment of wastewater residuals;

180 (D) aquatic plants; and

181 (E) agricultural products.

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

- 183 (i) black liquor;
- 184 (ii) treated woods; or
- 185 (iii) biomass from municipal solid waste other than methane produced:
- 186 (A) at landfills; or
- 187 (B) as a byproduct of the treatment of wastewater residuals.
- 188 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 189 property, products, or services if the tangible personal property, products, or services are:
- 190 (i) distinct and identifiable; and
- 191 (ii) sold for one nonitemized price.
- 192 (b) "Bundled transaction" does not include:
- 193 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 194 the basis of the selection by the purchaser of the items of tangible personal property included in
- 195 the transaction;
- 196 (ii) the sale of real property;
- 197 (iii) the sale of services to real property;
- 198 (iv) the retail sale of tangible personal property and a service if:
- 199 (A) the tangible personal property:
- 200 (I) is essential to the use of the service; and
- 201 (II) is provided exclusively in connection with the service; and
- 202 (B) the service is the true object of the transaction;
- 203 (v) the retail sale of two services if:
- 204 (A) one service is provided that is essential to the use or receipt of a second service;
- 205 (B) the first service is provided exclusively in connection with the second service; and
- 206 (C) the second service is the true object of the transaction;
- 207 (vi) a transaction that includes tangible personal property or a product subject to
- 208 taxation under this chapter and tangible personal property or a product that is not subject to
- 209 taxation under this chapter if the:
- 210 (A) seller's purchase price of the tangible personal property or product subject to
- 211 taxation under this chapter is de minimis; or
- 212 (B) seller's sales price of the tangible personal property or product subject to taxation
- 213 under this chapter is de minimis; and

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

216 (A) that retail sale includes:

217 (I) food and food ingredients;

218 (II) a drug;

219 (III) durable medical equipment;

220 (IV) mobility enhancing equipment;

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

222 (VI) a prosthetic device; or

223 (VII) a medical supply; and

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

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

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

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

231 (A) packaging that:

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

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

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

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

239 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a  
240 product, or a service is provided free of charge with the purchase of another item of tangible  
241 personal property, a product, or a service if the sales price of the purchased item of tangible  
242 personal property, product, or service does not vary depending on the inclusion of the tangible  
243 personal property, product, or service provided free of charge.

244 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price

245 does not include a price that is separately identified by tangible personal property, product, or  
246 service on the following, regardless of whether the following is in paper format or electronic  
247 format:

248 (A) a binding sales document; or

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

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

252 (A) a bill of sale;

253 (B) a contract;

254 (C) an invoice;

255 (D) a lease agreement;

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

257 (F) a price list;

258 (G) a rate card;

259 (H) a receipt; or

260 (I) a service agreement.

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

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

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

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

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

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

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

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

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

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

284 (i) on a transaction; and

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

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

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

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

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

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

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

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

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

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

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

302 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other  
303 fuels that does not constitute industrial use under Subsection (55) or residential use under  
304 Subsection (105).

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

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

310 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,  
311 Utah Administrative Rulemaking Act, the commission may make rules defining what  
312 constitutes a person's place of employment.

313 (25) "Component part" includes:

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

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

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

319 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

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

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

331 (c) a combination of Subsections (28)(a) and (b).

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

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

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

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

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

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

343 (i) by a seller of:

344 (A) tangible personal property;

345 (B) a product transferred electronically; or

346 (C) services; and

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

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

351 (i) transportation;

352 (ii) shipping;

353 (iii) postage;

354 (iv) handling;

355 (v) crating; or

356 (vi) packing.

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

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

360 (a) is intended to supplement the diet;

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

362 (i) a vitamin;

363 (ii) a mineral;

364 (iii) an herb or other botanical;

365 (iv) an amino acid;

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

368 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient

- 369 described in Subsections (34)(b)(i) through (v);
- 370 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
- 371 (A) tablet form;
- 372 (B) capsule form;
- 373 (C) powder form;
- 374 (D) softgel form;
- 375 (E) gelcap form; or
- 376 (F) liquid form; or
- 377 (ii) if the product is not intended for ingestion in a form described in Subsections
- 378 (34)(c)(i)(A) through (F), is not represented:
- 379 (A) as conventional food; and
- 380 (B) for use as a sole item of:
- 381 (I) a meal; or
- 382 (II) the diet; and
- 383 (d) is required to be labeled as a dietary supplement:
- 384 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 385 (ii) as required by 21 C.F.R. Sec. 101.36.
- 386 (35) (a) "Digital audio work" means a work that results from the fixation of a series of
- 387 musical, spoken, or other sounds.
- 388 (b) "Digital audio work" includes a ringtone.
- 389 (36) "Digital audio-visual work" means a series of related images which, when shown
- 390 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 391 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
- 392 sense as a book.
- 393 (38) (a) "Direct mail" means printed material delivered or distributed by United States
- 394 mail or other delivery service:
- 395 (i) to:
- 396 (A) a mass audience; or
- 397 (B) addressees on a mailing list provided:
- 398 (I) by a purchaser of the mailing list; or
- 399 (II) at the discretion of the purchaser of the mailing list; and

- 400 (ii) if the cost of the printed material is not billed directly to the recipients.
- 401 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 402 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 403 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 404 single address.
- 405 (39) "Directory assistance" means an ancillary service of providing:
- 406 (a) address information; or
- 407 (b) telephone number information.
- 408 (40) (a) "Disposable home medical equipment or supplies" means medical equipment
- 409 or supplies that:
- 410 (i) cannot withstand repeated use; and
- 411 (ii) are purchased by, for, or on behalf of a person other than:
- 412 (A) a health care facility as defined in Section 26-21-2;
- 413 (B) a health care provider as defined in Section 78B-3-403;
- 414 (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or
- 415 (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).
- 416 (b) "Disposable home medical equipment or supplies" does not include:
- 417 (i) a drug;
- 418 (ii) durable medical equipment;
- 419 (iii) a hearing aid;
- 420 (iv) a hearing aid accessory;
- 421 (v) mobility enhancing equipment; or
- 422 (vi) tangible personal property used to correct impaired vision, including:
- 423 (A) eyeglasses; or
- 424 (B) contact lenses.
- 425 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 426 commission may by rule define what constitutes medical equipment or supplies.
- 427 (41) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 428 compound, substance, or preparation that is:
- 429 (i) recognized in:
- 430 (A) the official United States Pharmacopoeia;

- 431 (B) the official Homeopathic Pharmacopoeia of the United States;
- 432 (C) the official National Formulary; or
- 433 (D) a supplement to a publication listed in Subsections (41)(a)(i)(A) through (C);
- 434 (ii) intended for use in the:
  - 435 (A) diagnosis of disease;
  - 436 (B) cure of disease;
  - 437 (C) mitigation of disease;
  - 438 (D) treatment of disease; or
  - 439 (E) prevention of disease; or
- 440 (iii) intended to affect:
  - 441 (A) the structure of the body; or
  - 442 (B) any function of the body.
- 443 (b) "Drug" does not include:
  - 444 (i) food and food ingredients;
  - 445 (ii) a dietary supplement;
  - 446 (iii) an alcoholic beverage; or
  - 447 (iv) a prosthetic device.
- 448 (42) (a) Except as provided in Subsection (42)(c), "durable medical equipment" means
- 449 equipment that:
  - 450 (i) can withstand repeated use;
  - 451 (ii) is primarily and customarily used to serve a medical purpose;
  - 452 (iii) generally is not useful to a person in the absence of illness or injury; and
  - 453 (iv) is not worn in or on the body.
- 454 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 455 equipment described in Subsection (42)(a).
- 456 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 457 (43) "Electronic" means:
  - 458 (a) relating to technology; and
  - 459 (b) having:
    - 460 (i) electrical capabilities;
    - 461 (ii) digital capabilities;

- 462 (iii) magnetic capabilities;
- 463 (iv) wireless capabilities;
- 464 (v) optical capabilities;
- 465 (vi) electromagnetic capabilities; or
- 466 (vii) capabilities similar to Subsections (43)(b)(i) through (vi).
- 467 (44) "Electronic financial payment service" means an establishment:
- 468 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 469 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 470 federal Executive Office of the President, Office of Management and Budget; and
- 471 (b) that performs electronic financial payment services.
- 472 (45) "Employee" is as defined in Section 59-10-401.
- 473 (46) "Fixed guideway" means a public transit facility that uses and occupies:
- 474 (a) rail for the use of public transit; or
- 475 (b) a separate right-of-way for the use of public transit.
- 476 (47) "Fixed wing turbine powered aircraft" means an aircraft that:
- 477 (a) is powered by turbine engines;
- 478 (b) operates on jet fuel; and
- 479 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 480 (48) "Fixed wireless service" means a telecommunications service that provides radio
- 481 communication between fixed points.
- 482 (49) (a) "Food and food ingredients" means substances:
- 483 (i) regardless of whether the substances are in:
- 484 (A) liquid form;
- 485 (B) concentrated form;
- 486 (C) solid form;
- 487 (D) frozen form;
- 488 (E) dried form; or
- 489 (F) dehydrated form; and
- 490 (ii) that are:
- 491 (A) sold for:
- 492 (I) ingestion by humans; or

- 493 (II) chewing by humans; and
- 494 (B) consumed for the substance's:
- 495 (I) taste; or
- 496 (II) nutritional value.
- 497 (b) "Food and food ingredients" includes an item described in Subsection (90)(b)(iii).
- 498 (c) "Food and food ingredients" does not include:
- 499 (i) an alcoholic beverage;
- 500 (ii) tobacco; or
- 501 (iii) prepared food.
- 502 (50) (a) "Fundraising sales" means sales:
- 503 (i) (A) made by a school; or
- 504 (B) made by a school student;
- 505 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 506 materials, or provide transportation; and
- 507 (iii) that are part of an officially sanctioned school activity.
- 508 (b) For purposes of Subsection (50)(a)(iii), "officially sanctioned school activity"
- 509 means a school activity:
- 510 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 511 district governing the authorization and supervision of fundraising activities;
- 512 (ii) that does not directly or indirectly compensate an individual teacher or other
- 513 educational personnel by direct payment, commissions, or payment in kind; and
- 514 (iii) the net or gross revenues from which are deposited in a dedicated account
- 515 controlled by the school or school district.
- 516 (51) "Geothermal energy" means energy contained in heat that continuously flows
- 517 outward from the earth that is used as the sole source of energy to produce electricity.
- 518 (52) "Governing board of the agreement" means the governing board of the agreement
- 519 that is:
- 520 (a) authorized to administer the agreement; and
- 521 (b) established in accordance with the agreement.
- 522 (53) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
- 523 (i) the executive branch of the state, including all departments, institutions, boards,

- 524 divisions, bureaus, offices, commissions, and committees;
- 525 (ii) the judicial branch of the state, including the courts, the Judicial Council, the  
526 Office of the Court Administrator, and similar administrative units in the judicial branch;
- 527 (iii) the legislative branch of the state, including the House of Representatives, the  
528 Senate, the Legislative Printing Office, the Office of Legislative Research and General  
529 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal  
530 Analyst;
- 531 (iv) the National Guard;
- 532 (v) an independent entity as defined in Section [63E-1-102](#); or
- 533 (vi) a political subdivision as defined in Section [17B-1-102](#).
- 534 (b) "Governmental entity" does not include the state systems of public and higher  
535 education, including:
- 536 (i) a college campus of the Utah College of Applied Technology;
- 537 (ii) a school;
- 538 (iii) the State Board of Education;
- 539 (iv) the State Board of Regents; or
- 540 (v) an institution of higher education.
- 541 (54) "Hydroelectric energy" means water used as the sole source of energy to produce  
542 electricity.
- 543 (55) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or  
544 other fuels:
- 545 (a) in mining or extraction of minerals;
- 546 (b) in agricultural operations to produce an agricultural product up to the time of  
547 harvest or placing the agricultural product into a storage facility, including:
- 548 (i) commercial greenhouses;
- 549 (ii) irrigation pumps;
- 550 (iii) farm machinery;
- 551 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered  
552 under Title 41, Chapter 1a, Part 2, Registration; and
- 553 (v) other farming activities;
- 554 (c) in manufacturing tangible personal property at an establishment described in SIC

555 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal  
556 Executive Office of the President, Office of Management and Budget;

557 (d) by a scrap recycler if:

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

561 (A) iron;

562 (B) steel;

563 (C) nonferrous metal;

564 (D) paper;

565 (E) glass;

566 (F) plastic;

567 (G) textile; or

568 (H) rubber; and

569 (ii) the new products under Subsection (55)(d)(i) would otherwise be made with  
570 nonrecycled materials; or

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

573 (56) (a) Except as provided in Subsection (56)(b), "installation charge" means a charge  
574 for installing:

575 (i) tangible personal property; or

576 (ii) a product transferred electronically.

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

578 (i) repairs or renovations of:

579 (A) tangible personal property; or

580 (B) a product transferred electronically; or

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

582 (A) to other tangible personal property; and

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

584 (57) "Institution of higher education" means an institution of higher education listed in  
585 Section 53B-2-101.

586 (58) (a) "Lease" or "rental" means a transfer of possession or control of tangible  
587 personal property or a product transferred electronically for:

- 588 (i) (A) a fixed term; or
- 589 (B) an indeterminate term; and
- 590 (ii) consideration.

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

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

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

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

601 (A) upon completion of required payments; and

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

603 (I) \$100; or

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

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

608 (d) For purposes of Subsection (58)(c)(iii), an operator is necessary for equipment to  
609 perform as designed if the operator's duties exceed the:

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

611 (ii) maintenance of tangible personal property; or

612 (iii) inspection of tangible personal property.

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

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

617 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus  
618 Manufacturing; or

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

620 (60) "Life science research and development facility" means a facility owned, leased,  
621 or rented by a life science establishment if research and development is performed in 51% or  
622 more of the total area of the facility.

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

625 (62) "Local taxing jurisdiction" means a:

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

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

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

629 (63) "Manufactured home" is as defined in Section 15A-1-302.

630 (64) [~~For purposes of Section 59-12-104, "manufacturing]~~ "Manufacturing facility"  
631 means:

632 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard  
633 Industrial Classification Manual of the federal Executive Office of the President, Office of  
634 Management and Budget;

635 (b) a scrap recycler if:

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

639 (A) iron;

640 (B) steel;

641 (C) nonferrous metal;

642 (D) paper;

643 (E) glass;

644 (F) plastic;

645 (G) textile; or

646 (H) rubber; and

647 (ii) the new products under Subsection (64)(b)(i) would otherwise be made with

648 nonrecycled materials; or

649 (c) a cogeneration facility as defined in Section [54-2-1](#) if the cogeneration facility is  
650 placed in service on or after May 1, 2006.

651 (65) "Member of the immediate family of the producer" means a person who is related  
652 to a producer described in Subsection [59-12-104](#)(20)(a) as a:

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

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

655 (ii) a foster child or foster stepchild;

656 (b) grandchild or stepgrandchild;

657 (c) grandparent or stepgrandparent;

658 (d) nephew or stepnephew;

659 (e) niece or stepniece;

660 (f) parent or stepparent;

661 (g) sibling or stepsibling;

662 (h) spouse;

663 (i) person who is the spouse of a person described in Subsections (65)(a) through (g);

664 or

665 (j) person similar to a person described in Subsections (65)(a) through (i) as  
666 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
667 Administrative Rulemaking Act.

668 (66) "Mobile home" is as defined in Section [15A-1-302](#).

669 (67) "Mobile telecommunications service" is as defined in the Mobile  
670 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

671 (68) (a) "Mobile wireless service" means a telecommunications service, regardless of  
672 the technology used, if:

673 (i) the origination point of the conveyance, routing, or transmission is not fixed;

674 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

675 (iii) the origination point described in Subsection (68)(a)(i) and the termination point  
676 described in Subsection (68)(a)(ii) are not fixed.

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

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

681 (69) (a) Except as provided in Subsection (69)(c), "mobility enhancing equipment"  
682 means equipment that is:

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

685 (ii) appropriate for use in a:

686 (A) home; or

687 (B) motor vehicle; and

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

689 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of  
690 the equipment described in Subsection (69)(a).

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

692 (i) a motor vehicle;

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

695 (iii) durable medical equipment; or

696 (iv) a prosthetic device.

697 (70) "Model 1 seller" means a seller registered under the agreement that has selected a  
698 certified service provider as the seller's agent to perform all of the seller's sales and use tax  
699 functions for agreement sales and use taxes other than the seller's obligation under Section  
700 [59-12-124](#) to remit a tax on the seller's own purchases.

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

702 (a) except as provided in Subsection (71)(b), has selected a certified automated system  
703 to perform the seller's sales tax functions for agreement sales and use taxes; and

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

705 (i) collected by the seller; and

706 (ii) to the appropriate local taxing jurisdiction.

707 (72) (a) Subject to Subsection (72)(b), "model 3 seller" means a seller registered under  
708 the agreement that has:

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

- 710 (ii) total annual sales revenues of at least \$500,000,000;
- 711 (iii) a proprietary system that calculates the amount of tax:
- 712 (A) for an agreement sales and use tax; and
- 713 (B) due to each local taxing jurisdiction; and
- 714 (iv) entered into a performance agreement with the governing board of the agreement.
- 715 (b) For purposes of Subsection (72)(a), "model 3 seller" includes an affiliated group of
- 716 sellers using the same proprietary system.
- 717 (73) "Model 4 seller" means a seller that is registered under the agreement and is not a
- 718 model 1 seller, model 2 seller, or model 3 seller.
- 719 (74) "Modular home" means a modular unit as defined in Section [15A-1-302](#).
- 720 (75) "Motor vehicle" is as defined in Section [41-1a-102](#).
- 721 (76) "Oil sands" means impregnated bituminous sands that:
- 722 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
- 723 other hydrocarbons, or otherwise treated;
- 724 (b) yield mixtures of liquid hydrocarbon; and
- 725 (c) require further processing other than mechanical blending before becoming finished
- 726 petroleum products.
- 727 (77) "Oil shale" means a group of fine black to dark brown shales containing kerogen
- 728 material that yields petroleum upon heating and distillation.
- 729 (78) "Optional computer software maintenance contract" means a computer software
- 730 maintenance contract that a customer is not obligated to purchase as a condition to the retail
- 731 sale of computer software.
- 732 (79) (a) "Other fuels" means products that burn independently to produce heat or
- 733 energy.
- 734 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
- 735 personal property.
- 736 (80) (a) "Paging service" means a telecommunications service that provides
- 737 transmission of a coded radio signal for the purpose of activating a specific pager.
- 738 (b) For purposes of Subsection (80)(a), the transmission of a coded radio signal
- 739 includes a transmission by message or sound.
- 740 (81) "Pawnbroker" is as defined in Section [13-32a-102](#).

- 741 (82) "Pawn transaction" is as defined in Section [13-32a-102](#).
- 742 (83) (a) "Permanently attached to real property" means that for tangible personal  
743 property attached to real property:
- 744 (i) the attachment of the tangible personal property to the real property:
- 745 (A) is essential to the use of the tangible personal property; and
- 746 (B) suggests that the tangible personal property will remain attached to the real  
747 property in the same place over the useful life of the tangible personal property; or
- 748 (ii) if the tangible personal property is detached from the real property, the detachment  
749 would:
- 750 (A) cause substantial damage to the tangible personal property; or
- 751 (B) require substantial alteration or repair of the real property to which the tangible  
752 personal property is attached.
- 753 (b) "Permanently attached to real property" includes:
- 754 (i) the attachment of an accessory to the tangible personal property if the accessory is:
- 755 (A) essential to the operation of the tangible personal property; and
- 756 (B) attached only to facilitate the operation of the tangible personal property;
- 757 (ii) a temporary detachment of tangible personal property from real property for a  
758 repair or renovation if the repair or renovation is performed where the tangible personal  
759 property and real property are located; or
- 760 (iii) property attached to oil, gas, or water pipelines, except for the property listed in  
761 Subsection (83)(c)(iii) or (iv).
- 762 (c) "Permanently attached to real property" does not include:
- 763 (i) the attachment of portable or movable tangible personal property to real property if  
764 that portable or movable tangible personal property is attached to real property only for:
- 765 (A) convenience;
- 766 (B) stability; or
- 767 (C) for an obvious temporary purpose;
- 768 (ii) the detachment of tangible personal property from real property except for the  
769 detachment described in Subsection (83)(b)(ii);
- 770 (iii) an attachment of the following tangible personal property to real property if the  
771 attachment to real property is only through a line that supplies water, electricity, gas,

772 telecommunications, cable, or supplies a similar item as determined by the commission by rule  
773 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

774 (A) a computer;

775 (B) a telephone;

776 (C) a television; or

777 (D) tangible personal property similar to Subsections (83)(c)(iii)(A) through (C) as  
778 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
779 Administrative Rulemaking Act; or

780 (iv) an item listed in Subsection (123)(c).

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

785 (85) "Place of primary use":

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

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

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

791 (b) for mobile telecommunications service, is as defined in the Mobile  
792 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

793 (86) (a) "Postpaid calling service" means a telecommunications service a person  
794 obtains by making a payment on a call-by-call basis:

795 (i) through the use of a:

796 (A) bank card;

797 (B) credit card;

798 (C) debit card; or

799 (D) travel card; or

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

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

803 service, that would be a prepaid wireless calling service if the service were exclusively a  
804 telecommunications service.

805 (87) "Postproduction" means an activity related to the finishing or duplication of a  
806 medium described in Subsection 59-12-104(54)(a).

807 (88) "Prepaid calling service" means a telecommunications service:

808 (a) that allows a purchaser access to telecommunications service that is exclusively  
809 telecommunications service;

810 (b) that:

811 (i) is paid for in advance; and

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

813 (A) access number; or

814 (B) authorization code;

815 (c) that is dialed:

816 (i) manually; or

817 (ii) electronically; and

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

819 (i) by a known amount; and

820 (ii) with use.

821 (89) "Prepaid wireless calling service" means a telecommunications service:

822 (a) that provides the right to utilize:

823 (i) mobile wireless service; and

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

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

826 (B) a content service; or

827 (C) an ancillary service;

828 (b) that:

829 (i) is paid for in advance; and

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

831 (A) access number; or

832 (B) authorization code;

833 (c) that is dialed:

- 834 (i) manually; or
- 835 (ii) electronically; and
- 836 (d) sold in predetermined units or dollars that decline:
- 837 (i) by a known amount; and
- 838 (ii) with use.
- 839 (90) (a) "Prepared food" means:
- 840 (i) food:
- 841 (A) sold in a heated state; or
- 842 (B) heated by a seller;
- 843 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 844 item; or
- 845 (iii) except as provided in Subsection (90)(c), food sold with an eating utensil provided
- 846 by the seller, including a:
- 847 (A) plate;
- 848 (B) knife;
- 849 (C) fork;
- 850 (D) spoon;
- 851 (E) glass;
- 852 (F) cup;
- 853 (G) napkin; or
- 854 (H) straw.
- 855 (b) "Prepared food" does not include:
- 856 (i) food that a seller only:
- 857 (A) cuts;
- 858 (B) repackages; or
- 859 (C) pasteurizes; or
- 860 (ii) (A) the following:
- 861 (I) raw egg;
- 862 (II) raw fish;
- 863 (III) raw meat;
- 864 (IV) raw poultry; or

865 (V) a food containing an item described in Subsections (90)(b)(ii)(A)(I) through (IV);  
866 and

867 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the  
868 Food and Drug Administration's Food Code that a consumer cook the items described in  
869 Subsection (90)(b)(ii)(A) to prevent food borne illness; or

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

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

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

877 (I) by weight or volume; and

878 (II) as a single item; or

879 (C) a bakery item, including:

880 (I) a bagel;

881 (II) a bar;

882 (III) a biscuit;

883 (IV) bread;

884 (V) a bun;

885 (VI) a cake;

886 (VII) a cookie;

887 (VIII) a croissant;

888 (IX) a danish;

889 (X) a donut;

890 (XI) a muffin;

891 (XII) a pastry;

892 (XIII) a pie;

893 (XIV) a roll;

894 (XV) a tart;

895 (XVI) a torte; or

896 (XVII) a tortilla.

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

899 (i) a container; or

900 (ii) packaging.

901 (91) "Prescription" means an order, formula, or recipe that is issued:

902 (a) (i) orally;

903 (ii) in writing;

904 (iii) electronically; or

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

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

907 (92) (a) Except as provided in Subsection (92)(b)(ii) or (iii), "prewritten computer  
908 software" means computer software that is not designed and developed:

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

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

911 (b) "Prewritten computer software" includes:

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

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

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

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

919 (iii) except as provided in Subsection (92)(c), prewritten computer software or a  
920 prewritten portion of prewritten computer software:

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

922 (B) if the modification or enhancement described in Subsection (92)(b)(iii)(A) is  
923 designed and developed to the specifications of a specific purchaser.

924 (c) "Prewritten computer software" does not include a modification or enhancement  
925 described in Subsection (92)(b)(iii) if the charges for the modification or enhancement are:

926 (i) reasonable; and

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

930 (A) the books and records the seller keeps at the time of the transaction in the regular  
931 course of business, including books and records the seller keeps at the time of the transaction in  
932 the regular course of business for nontax purposes;

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

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

935 (93) (a) "Private communication service" means a telecommunications service:

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

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

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

942 (i) an extension line;

943 (ii) a station;

944 (iii) switching capacity; or

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

947 (94) (a) Except as provided in Subsection (94)(b), "product transferred electronically"  
948 means a product transferred electronically that would be subject to a tax under this chapter if  
949 that product was transferred in a manner other than electronically.

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

951 (i) an ancillary service;

952 (ii) computer software; or

953 (iii) a telecommunications service.

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

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

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

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

- 958 (b) "Prosthetic device" includes:
- 959 (i) parts used in the repairs or renovation of a prosthetic device;
- 960 (ii) replacement parts for a prosthetic device;
- 961 (iii) a dental prosthesis; or
- 962 (iv) a hearing aid.
- 963 (c) "Prosthetic device" does not include:
- 964 (i) corrective eyeglasses; or
- 965 (ii) contact lenses.
- 966 (96) (a) "Protective equipment" means an item:
- 967 (i) for human wear; and
- 968 (ii) that is:
- 969 (A) designed as protection:
- 970 (I) to the wearer against injury or disease; or
- 971 (II) against damage or injury of other persons or property; and
- 972 (B) not suitable for general use.
- 973 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 974 commission shall make rules:
- 975 (i) listing the items that constitute "protective equipment"; and
- 976 (ii) that are consistent with the list of items that constitute "protective equipment"
- 977 under the agreement.
- 978 (97) (a) For purposes of Subsection [59-12-104\(41\)](#), "publication" means any written or
- 979 printed matter, other than a photocopy:
- 980 (i) regardless of:
- 981 (A) characteristics;
- 982 (B) copyright;
- 983 (C) form;
- 984 (D) format;
- 985 (E) method of reproduction; or
- 986 (F) source; and
- 987 (ii) made available in printed or electronic format.
- 988 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

989 commission may by rule define the term "photocopy."  
990 (98) (a) "Purchase price" and "sales price" mean the total amount of consideration:  
991 (i) valued in money; and  
992 (ii) for which tangible personal property, a product transferred electronically, or  
993 services are:  
994 (A) sold;  
995 (B) leased; or  
996 (C) rented.  
997 (b) "Purchase price" and "sales price" include:  
998 (i) the seller's cost of the tangible personal property, a product transferred  
999 electronically, or services sold;  
1000 (ii) expenses of the seller, including:  
1001 (A) the cost of materials used;  
1002 (B) a labor cost;  
1003 (C) a service cost;  
1004 (D) interest;  
1005 (E) a loss;  
1006 (F) the cost of transportation to the seller; or  
1007 (G) a tax imposed on the seller;  
1008 (iii) a charge by the seller for any service necessary to complete the sale; or  
1009 (iv) consideration a seller receives from a person other than the purchaser if:  
1010 (A) (I) the seller actually receives consideration from a person other than the purchaser;  
1011 and  
1012 (II) the consideration described in Subsection (98)(b)(iv)(A)(I) is directly related to a  
1013 price reduction or discount on the sale;  
1014 (B) the seller has an obligation to pass the price reduction or discount through to the  
1015 purchaser;  
1016 (C) the amount of the consideration attributable to the sale is fixed and determinable by  
1017 the seller at the time of the sale to the purchaser; and  
1018 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the  
1019 seller to claim a price reduction or discount; and

1020 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,  
1021 coupon, or other documentation with the understanding that the person other than the seller  
1022 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1023 (II) the purchaser identifies that purchaser to the seller as a member of a group or  
1024 organization allowed a price reduction or discount, except that a preferred customer card that is  
1025 available to any patron of a seller does not constitute membership in a group or organization  
1026 allowed a price reduction or discount; or

1027 (III) the price reduction or discount is identified as a third party price reduction or  
1028 discount on the:

1029 (Aa) invoice the purchaser receives; or

1030 (Bb) certificate, coupon, or other documentation the purchaser presents.

1031 (c) "Purchase price" and "sales price" do not include:

1032 (i) a discount:

1033 (A) in a form including:

1034 (I) cash;

1035 (II) term; or

1036 (III) coupon;

1037 (B) that is allowed by a seller;

1038 (C) taken by a purchaser on a sale; and

1039 (D) that is not reimbursed by a third party; or

1040 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately  
1041 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of  
1042 sale or later, as demonstrated by the books and records the seller keeps at the time of the  
1043 transaction in the regular course of business, including books and records the seller keeps at the  
1044 time of the transaction in the regular course of business for nontax purposes, by a  
1045 preponderance of the facts and circumstances at the time of the transaction, and by the  
1046 understanding of all of the parties to the transaction:

1047 (A) the following from credit extended on the sale of tangible personal property or  
1048 services:

1049 (I) a carrying charge;

1050 (II) a financing charge; or

- 1051 (III) an interest charge;
- 1052 (B) a delivery charge;
- 1053 (C) an installation charge;
- 1054 (D) a manufacturer rebate on a motor vehicle; or
- 1055 (E) a tax or fee legally imposed directly on the consumer.
- 1056 (99) "Purchaser" means a person to whom:
- 1057 (a) a sale of tangible personal property is made;
- 1058 (b) a product is transferred electronically; or
- 1059 (c) a service is furnished.
- 1060 (100) "Regularly rented" means:
- 1061 (a) rented to a guest for value three or more times during a calendar year; or
- 1062 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1063 value.
- 1064 (101) "Rental" is as defined in Subsection (58).
- 1065 (102) (a) Except as provided in Subsection (102)(b), "repairs or renovations of tangible
- 1066 personal property" means:
- 1067 (i) a repair or renovation of tangible personal property that is not permanently attached
- 1068 to real property; or
- 1069 (ii) attaching tangible personal property or a product transferred electronically to other
- 1070 tangible personal property or detaching tangible personal property or a product transferred
- 1071 electronically from other tangible personal property if:
- 1072 (A) the other tangible personal property to which the tangible personal property or
- 1073 product transferred electronically is attached or from which the tangible personal property or
- 1074 product transferred electronically is detached is not permanently attached to real property; and
- 1075 (B) the attachment of tangible personal property or a product transferred electronically
- 1076 to other tangible personal property or detachment of tangible personal property or a product
- 1077 transferred electronically from other tangible personal property is made in conjunction with a
- 1078 repair or replacement of tangible personal property or a product transferred electronically.
- 1079 (b) "Repairs or renovations of tangible personal property" does not include:
- 1080 (i) attaching prewritten computer software to other tangible personal property if the
- 1081 other tangible personal property to which the prewritten computer software is attached is not

1082 permanently attached to real property; or

1083 (ii) detaching prewritten computer software from other tangible personal property if the  
1084 other tangible personal property from which the prewritten computer software is detached is  
1085 not permanently attached to real property.

1086 (103) "Research and development" means the process of inquiry or experimentation  
1087 aimed at the discovery of facts, devices, technologies, or applications and the process of  
1088 preparing those devices, technologies, or applications for marketing.

1089 (104) (a) "Residential telecommunications services" means a telecommunications  
1090 service or an ancillary service that is provided to an individual for personal use:

1091 (i) at a residential address; or

1092 (ii) at an institution, including a nursing home or a school, if the telecommunications  
1093 service or ancillary service is provided to and paid for by the individual residing at the  
1094 institution rather than the institution.

1095 (b) For purposes of Subsection (104)(a)(i), a residential address includes an:

1096 (i) apartment; or

1097 (ii) other individual dwelling unit.

1098 (105) "Residential use" means the use in or around a home, apartment building,  
1099 sleeping quarters, and similar facilities or accommodations.

1100 (106) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
1101 than:

1102 (a) resale;

1103 (b) sublease; or

1104 (c) subrent.

1105 (107) (a) "Retailer" means any person engaged in a regularly organized business in  
1106 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and  
1107 who is selling to the user or consumer and not for resale.

1108 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
1109 engaged in the business of selling to users or consumers within the state.

1110 (108) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
1111 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
1112 Subsection 59-12-103(1), for consideration.

- 1113 (b) "Sale" includes:
- 1114 (i) installment and credit sales;
- 1115 (ii) any closed transaction constituting a sale;
- 1116 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
- 1117 chapter;
- 1118 (iv) any transaction if the possession of property is transferred but the seller retains the
- 1119 title as security for the payment of the price; and
- 1120 (v) any transaction under which right to possession, operation, or use of any article of
- 1121 tangible personal property is granted under a lease or contract and the transfer of possession
- 1122 would be taxable if an outright sale were made.
- 1123 (109) "Sale at retail" is as defined in Subsection (106).
- 1124 (110) "Sale-leaseback transaction" means a transaction by which title to tangible
- 1125 personal property or a product transferred electronically that is subject to a tax under this
- 1126 chapter is transferred:
- 1127 (a) by a purchaser-lessee;
- 1128 (b) to a lessor;
- 1129 (c) for consideration; and
- 1130 (d) if:
- 1131 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
- 1132 of the tangible personal property or product transferred electronically;
- 1133 (ii) the sale of the tangible personal property or product transferred electronically to the
- 1134 lessor is intended as a form of financing:
- 1135 (A) for the tangible personal property or product transferred electronically; and
- 1136 (B) to the purchaser-lessee; and
- 1137 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
- 1138 is required to:
- 1139 (A) capitalize the tangible personal property or product transferred electronically for
- 1140 financial reporting purposes; and
- 1141 (B) account for the lease payments as payments made under a financing arrangement.
- 1142 (111) "Sales price" is as defined in Subsection (98).
- 1143 (112) (a) "Sales relating to schools" means the following sales by, amounts paid to, or

1144 amounts charged by a school:

1145       (i) sales that are directly related to the school's educational functions or activities

1146 including:

1147       (A) the sale of:

1148           (I) textbooks;

1149           (II) textbook fees;

1150           (III) laboratory fees;

1151           (IV) laboratory supplies; or

1152           (V) safety equipment;

1153       (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1154 that:

1155       (I) a student is specifically required to wear as a condition of participation in a

1156 school-related event or school-related activity; and

1157       (II) is not readily adaptable to general or continued usage to the extent that it takes the

1158 place of ordinary clothing;

1159       (C) sales of the following if the net or gross revenues generated by the sales are

1160 deposited into a school district fund or school fund dedicated to school meals:

1161           (I) food and food ingredients; or

1162           (II) prepared food; or

1163           (D) transportation charges for official school activities; or

1164       (ii) amounts paid to or amounts charged by a school for admission to a school-related

1165 event or school-related activity.

1166       (b) "Sales relating to schools" does not include:

1167           (i) bookstore sales of items that are not educational materials or supplies;

1168           (ii) except as provided in Subsection (112)(a)(i)(B):

1169               (A) clothing;

1170               (B) clothing accessories or equipment;

1171               (C) protective equipment; or

1172               (D) sports or recreational equipment; or

1173       (iii) amounts paid to or amounts charged by a school for admission to a school-related

1174 event or school-related activity if the amounts paid or charged are passed through to a person:

- 1175 (A) other than a:
- 1176 (I) school;
- 1177 (II) nonprofit organization authorized by a school board or a governing body of a
- 1178 private school to organize and direct a competitive secondary school activity; or
- 1179 (III) nonprofit association authorized by a school board or a governing body of a
- 1180 private school to organize and direct a competitive secondary school activity; and
- 1181 (B) that is required to collect sales and use taxes under this chapter.
- 1182 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1183 commission may make rules defining the term "passed through."
- 1184 (113) For purposes of this section and Section 59-12-104, "school":
- 1185 (a) means:
- 1186 (i) an elementary school or a secondary school that:
- 1187 (A) is a:
- 1188 (I) public school; or
- 1189 (II) private school; and
- 1190 (B) provides instruction for one or more grades kindergarten through 12; or
- 1191 (ii) a public school district; and
- 1192 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1193 (114) "Seller" means a person that makes a sale, lease, or rental of:
- 1194 (a) tangible personal property;
- 1195 (b) a product transferred electronically; or
- 1196 (c) a service.
- 1197 (115) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1198 means tangible personal property or a product transferred electronically if the tangible personal
- 1199 property or product transferred electronically is:
- 1200 (i) used primarily in the process of:
- 1201 (A) (I) manufacturing a semiconductor;
- 1202 (II) fabricating a semiconductor; or
- 1203 (III) research or development of a:
- 1204 (Aa) semiconductor; or
- 1205 (Bb) semiconductor manufacturing process; or

- 1206 (B) maintaining an environment suitable for a semiconductor; or
- 1207 (ii) consumed primarily in the process of:
- 1208 (A) (I) manufacturing a semiconductor;
- 1209 (II) fabricating a semiconductor; or
- 1210 (III) research or development of a:
- 1211 (Aa) semiconductor; or
- 1212 (Bb) semiconductor manufacturing process; or
- 1213 (B) maintaining an environment suitable for a semiconductor.
- 1214 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1215 includes:
- 1216 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1217 transferred electronically described in Subsection (115)(a); or
- 1218 (ii) a chemical, catalyst, or other material used to:
- 1219 (A) produce or induce in a semiconductor a:
- 1220 (I) chemical change; or
- 1221 (II) physical change;
- 1222 (B) remove impurities from a semiconductor; or
- 1223 (C) improve the marketable condition of a semiconductor.
- 1224 (116) "Senior citizen center" means a facility having the primary purpose of providing
- 1225 services to the aged as defined in Section [62A-3-101](#).
- 1226 (117) (a) Subject to Subsections (117)(b) and (c), "short-term lodging consumable"
- 1227 means tangible personal property that:
- 1228 (i) a business that provides accommodations and services described in Subsection
- 1229 [59-12-103](#)(1)(i) purchases as part of a transaction to provide the accommodations and services
- 1230 to a purchaser;
- 1231 (ii) is intended to be consumed by the purchaser; and
- 1232 (iii) is:
- 1233 (A) included in the purchase price of the accommodations and services; and
- 1234 (B) not separately stated on an invoice, bill of sale, or other similar document provided
- 1235 to the purchaser.
- 1236 (b) "Short-term lodging consumable" includes:

- 1237 (i) a beverage;
- 1238 (ii) a brush or comb;
- 1239 (iii) a cosmetic;
- 1240 (iv) a hair care product;
- 1241 (v) lotion;
- 1242 (vi) a magazine;
- 1243 (vii) makeup;
- 1244 (viii) a meal;
- 1245 (ix) mouthwash;
- 1246 (x) nail polish remover;
- 1247 (xi) a newspaper;
- 1248 (xii) a notepad;
- 1249 (xiii) a pen;
- 1250 (xiv) a pencil;
- 1251 (xv) a razor;
- 1252 (xvi) saline solution;
- 1253 (xvii) a sewing kit;
- 1254 (xviii) shaving cream;
- 1255 (xix) a shoe shine kit;
- 1256 (xx) a shower cap;
- 1257 (xxi) a snack item;
- 1258 (xxii) soap;
- 1259 (xxiii) toilet paper;
- 1260 (xxiv) a toothbrush;
- 1261 (xxv) toothpaste; or
- 1262 (xxvi) an item similar to Subsections (117)(b)(i) through (xxv) as the commission may
- 1263 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1264 Rulemaking Act.
- 1265 (c) "Short-term lodging consumable" does not include:
- 1266 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 1267 property to be reused; or

- 1268 (ii) a product transferred electronically.
- 1269 (118) "Simplified electronic return" means the electronic return:
- 1270 (a) described in Section 318(C) of the agreement; and
- 1271 (b) approved by the governing board of the agreement.
- 1272 (119) "Solar energy" means the sun used as the sole source of energy for producing
- 1273 electricity.
- 1274 (120) (a) "Sports or recreational equipment" means an item:
- 1275 (i) designed for human use; and
- 1276 (ii) that is:
- 1277 (A) worn in conjunction with:
- 1278 (I) an athletic activity; or
- 1279 (II) a recreational activity; and
- 1280 (B) not suitable for general use.
- 1281 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1282 commission shall make rules:
- 1283 (i) listing the items that constitute "sports or recreational equipment"; and
- 1284 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1285 equipment" under the agreement.
- 1286 (121) "State" means the state of Utah, its departments, and agencies.
- 1287 (122) "Storage" means any keeping or retention of tangible personal property or any
- 1288 other taxable transaction under Subsection [59-12-103\(1\)](#), in this state for any purpose except
- 1289 sale in the regular course of business.
- 1290 (123) (a) Except as provided in Subsection (123)(d) or (e), "tangible personal property"
- 1291 means personal property that:
- 1292 (i) may be:
- 1293 (A) seen;
- 1294 (B) weighed;
- 1295 (C) measured;
- 1296 (D) felt; or
- 1297 (E) touched; or
- 1298 (ii) is in any manner perceptible to the senses.

1299 (b) "Tangible personal property" includes:

1300 (i) electricity;

1301 (ii) water;

1302 (iii) gas;

1303 (iv) steam; or

1304 (v) prewritten computer software, regardless of the manner in which the prewritten  
1305 computer software is transferred.

1306 (c) "Tangible personal property" includes the following regardless of whether the item  
1307 is attached to real property:

1308 (i) a dishwasher;

1309 (ii) a dryer;

1310 (iii) a freezer;

1311 (iv) a microwave;

1312 (v) a refrigerator;

1313 (vi) a stove;

1314 (vii) a washer; or

1315 (viii) an item similar to Subsections (123)(c)(i) through (vii) as determined by the  
1316 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1317 Rulemaking Act.

1318 (d) "Tangible personal property" does not include a product that is transferred  
1319 electronically.

1320 (e) "Tangible personal property" does not include the following if attached to real  
1321 property, regardless of whether the attachment to real property is only through a line that  
1322 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the  
1323 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1324 Rulemaking Act:

1325 (i) a hot water heater;

1326 (ii) a water filtration system; or

1327 (iii) a water softener system.

1328 (124) (a) "Telecommunications enabling or facilitating equipment, machinery, or  
1329 software" means an item listed in Subsection (124)(b) if that item is purchased or leased

1330 primarily to enable or facilitate one or more of the following to function:

1331 (i) telecommunications switching or routing equipment, machinery, or software; or

1332 (ii) telecommunications transmission equipment, machinery, or software.

1333 (b) The following apply to Subsection (124)(a):

1334 (i) a pole;

1335 (ii) software;

1336 (iii) a supplementary power supply;

1337 (iv) temperature or environmental equipment or machinery;

1338 (v) test equipment;

1339 (vi) a tower; or

1340 (vii) equipment, machinery, or software that functions similarly to an item listed in

1341 Subsections (124)(b)(i) through (vi) as determined by the commission by rule made in

1342 accordance with Subsection (124)(c).

1343 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1344 commission may by rule define what constitutes equipment, machinery, or software that

1345 functions similarly to an item listed in Subsections (124)(b)(i) through (vi).

1346 (125) "Telecommunications equipment, machinery, or software required for 911

1347 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.

1348 Sec. 20.18.

1349 (126) "Telecommunications maintenance or repair equipment, machinery, or software"

1350 means equipment, machinery, or software purchased or leased primarily to maintain or repair

1351 one or more of the following, regardless of whether the equipment, machinery, or software is

1352 purchased or leased as a spare part or as an upgrade or modification to one or more of the

1353 following:

1354 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1355 (b) telecommunications switching or routing equipment, machinery, or software; or

1356 (c) telecommunications transmission equipment, machinery, or software.

1357 (127) (a) "Telecommunications service" means the electronic conveyance, routing, or

1358 transmission of audio, data, video, voice, or any other information or signal to a point, or

1359 among or between points.

1360 (b) "Telecommunications service" includes:

- 1361 (i) an electronic conveyance, routing, or transmission with respect to which a computer  
1362 processing application is used to act:
- 1363 (A) on the code, form, or protocol of the content;  
1364 (B) for the purpose of electronic conveyance, routing, or transmission; and  
1365 (C) regardless of whether the service:  
1366 (I) is referred to as voice over Internet protocol service; or  
1367 (II) is classified by the Federal Communications Commission as enhanced or value  
1368 added;
- 1369 (ii) an 800 service;  
1370 (iii) a 900 service;  
1371 (iv) a fixed wireless service;  
1372 (v) a mobile wireless service;  
1373 (vi) a postpaid calling service;  
1374 (vii) a prepaid calling service;  
1375 (viii) a prepaid wireless calling service; or  
1376 (ix) a private communications service.
- 1377 (c) "Telecommunications service" does not include:  
1378 (i) advertising, including directory advertising;  
1379 (ii) an ancillary service;  
1380 (iii) a billing and collection service provided to a third party;  
1381 (iv) a data processing and information service if:  
1382 (A) the data processing and information service allows data to be:  
1383 (I) (Aa) acquired;  
1384 (Bb) generated;  
1385 (Cc) processed;  
1386 (Dd) retrieved; or  
1387 (Ee) stored; and  
1388 (II) delivered by an electronic transmission to a purchaser; and  
1389 (B) the purchaser's primary purpose for the underlying transaction is the processed data  
1390 or information;  
1391 (v) installation or maintenance of the following on a customer's premises:

- 1392 (A) equipment; or
- 1393 (B) wiring;
- 1394 (vi) Internet access service;
- 1395 (vii) a paging service;
- 1396 (viii) a product transferred electronically, including:
  - 1397 (A) music;
  - 1398 (B) reading material;
  - 1399 (C) a ring tone;
  - 1400 (D) software; or
  - 1401 (E) video;
  - 1402 (ix) a radio and television audio and video programming service:
    - 1403 (A) regardless of the medium; and
    - 1404 (B) including:
      - 1405 (I) furnishing conveyance, routing, or transmission of a television audio and video
      - 1406 programming service by a programming service provider;
      - 1407 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
      - 1408 (III) audio and video programming services delivered by a commercial mobile radio
      - 1409 service provider as defined in 47 C.F.R. Sec. 20.3;
      - 1410 (x) a value-added nonvoice data service; or
      - 1411 (xi) tangible personal property.
  - 1412 (128) (a) "Telecommunications service provider" means a person that:
    - 1413 (i) owns, controls, operates, or manages a telecommunications service; and
    - 1414 (ii) engages in an activity described in Subsection (128)(a)(i) for the shared use with or
    - 1415 resale to any person of the telecommunications service.
  - 1416 (b) A person described in Subsection (128)(a) is a telecommunications service provider
  - 1417 whether or not the Public Service Commission of Utah regulates:
    - 1418 (i) that person; or
    - 1419 (ii) the telecommunications service that the person owns, controls, operates, or
    - 1420 manages.
  - 1421 (129) (a) "Telecommunications switching or routing equipment, machinery, or
  - 1422 software" means an item listed in Subsection (129)(b) if that item is purchased or leased

1423 primarily for switching or routing:

- 1424 (i) an ancillary service;
- 1425 (ii) data communications;
- 1426 (iii) voice communications; or
- 1427 (iv) telecommunications service.

1428 (b) The following apply to Subsection (129)(a):

- 1429 (i) a bridge;
- 1430 (ii) a computer;
- 1431 (iii) a cross connect;
- 1432 (iv) a modem;
- 1433 (v) a multiplexer;
- 1434 (vi) plug in circuitry;
- 1435 (vii) a router;
- 1436 (viii) software;
- 1437 (ix) a switch; or
- 1438 (x) equipment, machinery, or software that functions similarly to an item listed in

1439 Subsections (129)(b)(i) through (ix) as determined by the commission by rule made in  
1440 accordance with Subsection (129)(c).

1441 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1442 commission may by rule define what constitutes equipment, machinery, or software that  
1443 functions similarly to an item listed in Subsections (129)(b)(i) through (ix).

1444 (130) (a) "Telecommunications transmission equipment, machinery, or software"  
1445 means an item listed in Subsection (130)(b) if that item is purchased or leased primarily for  
1446 sending, receiving, or transporting:

- 1447 (i) an ancillary service;
- 1448 (ii) data communications;
- 1449 (iii) voice communications; or
- 1450 (iv) telecommunications service.

1451 (b) The following apply to Subsection (130)(a):

- 1452 (i) an amplifier;
- 1453 (ii) a cable;

- 1454 (iii) a closure;
- 1455 (iv) a conduit;
- 1456 (v) a controller;
- 1457 (vi) a duplexer;
- 1458 (vii) a filter;
- 1459 (viii) an input device;
- 1460 (ix) an input/output device;
- 1461 (x) an insulator;
- 1462 (xi) microwave machinery or equipment;
- 1463 (xii) an oscillator;
- 1464 (xiii) an output device;
- 1465 (xiv) a pedestal;
- 1466 (xv) a power converter;
- 1467 (xvi) a power supply;
- 1468 (xvii) a radio channel;
- 1469 (xviii) a radio receiver;
- 1470 (xix) a radio transmitter;
- 1471 (xx) a repeater;
- 1472 (xxi) software;
- 1473 (xxii) a terminal;
- 1474 (xxiii) a timing unit;
- 1475 (xxiv) a transformer;
- 1476 (xxv) a wire; or
- 1477 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1478 Subsections (130)(b)(i) through (xxv) as determined by the commission by rule made in
- 1479 accordance with Subsection (130)(c).

1480 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1481 commission may by rule define what constitutes equipment, machinery, or software that  
1482 functions similarly to an item listed in Subsections (130)(b)(i) through (xxv).

1483 (131) (a) "Textbook for a higher education course" means a textbook or other printed  
1484 material that is required for a course:

- 1485 (i) offered by an institution of higher education; and
- 1486 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1487 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1488 (132) "Tobacco" means:

- 1489 (a) a cigarette;
- 1490 (b) a cigar;
- 1491 (c) chewing tobacco;
- 1492 (d) pipe tobacco; or
- 1493 (e) any other item that contains tobacco.

1494 (133) "Unassisted amusement device" means an amusement device, skill device, or  
1495 ride device that is started and stopped by the purchaser or renter of the right to use or operate  
1496 the amusement device, skill device, or ride device.

1497 (134) (a) "Use" means the exercise of any right or power over tangible personal  
1498 property, a product transferred electronically, or a service under Subsection 59-12-103(1),  
1499 incident to the ownership or the leasing of that tangible personal property, product transferred  
1500 electronically, or service.

1501 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
1502 property, a product transferred electronically, or a service in the regular course of business and  
1503 held for resale.

1504 (135) "Value-added nonvoice data service" means a service:

1505 (a) that otherwise meets the definition of a telecommunications service except that a  
1506 computer processing application is used to act primarily for a purpose other than conveyance,  
1507 routing, or transmission; and

1508 (b) with respect to which a computer processing application is used to act on data or  
1509 information:

- 1510 (i) code;
- 1511 (ii) content;
- 1512 (iii) form; or
- 1513 (iv) protocol.

1514 (136) (a) Subject to Subsection (136)(b), "vehicle" means the following that are  
1515 required to be titled, registered, or titled and registered:

- 1516 (i) an aircraft as defined in Section 72-10-102;
- 1517 (ii) a vehicle as defined in Section 41-1a-102;
- 1518 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1519 (iv) a vessel as defined in Section 41-1a-102.
- 1520 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 1521 (i) a vehicle described in Subsection (136)(a); or
- 1522 (ii) (A) a locomotive;
- 1523 (B) a freight car;
- 1524 (C) railroad work equipment; or
- 1525 (D) other railroad rolling stock.
- 1526 (137) "Vehicle dealer" means a person engaged in the business of buying, selling, or
- 1527 exchanging a vehicle as defined in Subsection (136).
- 1528 (138) (a) "Vertical service" means an ancillary service that:
- 1529 (i) is offered in connection with one or more telecommunications services; and
- 1530 (ii) offers an advanced calling feature that allows a customer to:
- 1531 (A) identify a caller; and
- 1532 (B) manage multiple calls and call connections.
- 1533 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 1534 conference bridging service.
- 1535 (139) (a) "Voice mail service" means an ancillary service that enables a customer to
- 1536 receive, send, or store a recorded message.
- 1537 (b) "Voice mail service" does not include a vertical service that a customer is required
- 1538 to have in order to utilize a voice mail service.
- 1539 (140) (a) Except as provided in Subsection (140)(b), "waste energy facility" means a
- 1540 facility that generates electricity:
- 1541 (i) using as the primary source of energy waste materials that would be placed in a
- 1542 landfill or refuse pit if it were not used to generate electricity, including:
- 1543 (A) tires;
- 1544 (B) waste coal;
- 1545 (C) oil shale; or
- 1546 (D) municipal solid waste; and

- 1547 (ii) in amounts greater than actually required for the operation of the facility.
- 1548 (b) "Waste energy facility" does not include a facility that incinerates:
- 1549 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1550 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 1551 (141) "Watercraft" means a vessel as defined in Section 73-18-2.
- 1552 (142) "Wind energy" means wind used as the sole source of energy to produce
- 1553 electricity.
- 1554 (143) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
- 1555 location by the United States Postal Service.
- 1556 Section 2. Section 59-12-104 is amended to read:
- 1557 **59-12-104. Exemptions.**
- 1558 [~~The following sales and uses are exempt~~] Exemptions from the taxes imposed by this
- 1559 chapter are as follows:
- 1560 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
- 1561 under Chapter 13, Motor and Special Fuel Tax Act;
- 1562 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
- 1563 subdivisions; however, this exemption does not apply to sales of:
- 1564 (a) construction materials except:
- 1565 (i) construction materials purchased by or on behalf of institutions of the public
- 1566 education system as defined in Utah Constitution Article X, Section 2, provided the
- 1567 construction materials are clearly identified and segregated and installed or converted to real
- 1568 property which is owned by institutions of the public education system; and
- 1569 (ii) construction materials purchased by the state, its institutions, or its political
- 1570 subdivisions which are installed or converted to real property by employees of the state, its
- 1571 institutions, or its political subdivisions; or
- 1572 (b) tangible personal property in connection with the construction, operation,
- 1573 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
- 1574 providing additional project capacity, as defined in Section 11-13-103;
- 1575 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
- 1576 (i) the proceeds of each sale do not exceed \$1; and
- 1577 (ii) the seller or operator of the vending machine reports an amount equal to 150% of

- 1578 the cost of the item described in Subsection (3)(b) as goods consumed; and
- 1579 (b) Subsection (3)(a) applies to:
- 1580 (i) food and food ingredients; or
- 1581 (ii) prepared food;
- 1582 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
- 1583 (i) alcoholic beverages;
- 1584 (ii) food and food ingredients; or
- 1585 (iii) prepared food;
- 1586 (b) sales of tangible personal property or a product transferred electronically:
- 1587 (i) to a passenger;
- 1588 (ii) by a commercial airline carrier; and
- 1589 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 1590 (c) services related to Subsection (4)(a) or (b);
- 1591 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
- 1592 and equipment:
- 1593 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
- 1594 North American Industry Classification System of the federal Executive Office of the
- 1595 President, Office of Management and Budget; and
- 1596 (II) for:
- 1597 (Aa) installation in an aircraft, including services relating to the installation of parts or
- 1598 equipment in the aircraft;
- 1599 (Bb) renovation of an aircraft; or
- 1600 (Cc) repair of an aircraft; or
- 1601 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
- 1602 commerce; or
- 1603 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
- 1604 aircraft operated by a common carrier in interstate or foreign commerce; and
- 1605 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
- 1606 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
- 1607 refund:
- 1608 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

- 1609 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
- 1610 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for  
1611 the sale prior to filing for the refund;
- 1612 (iv) for sales and use taxes paid under this chapter on the sale;
- 1613 (v) in accordance with Section 59-1-1410; and
- 1614 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if  
1615 the person files for the refund on or before September 30, 2011;
- 1616 (6) sales of commercials, motion picture films, prerecorded audio program tapes or  
1617 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture  
1618 exhibitor, distributor, or commercial television or radio broadcaster;
- 1619 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal  
1620 property if the cleaning or washing of the tangible personal property is not assisted cleaning or  
1621 washing of tangible personal property;
- 1622 (b) if a seller that sells at the same business location assisted cleaning or washing of  
1623 tangible personal property and cleaning or washing of tangible personal property that is not  
1624 assisted cleaning or washing of tangible personal property, the exemption described in  
1625 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning  
1626 or washing of the tangible personal property; and
- 1627 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,  
1628 Utah Administrative Rulemaking Act, the commission may make rules:
- 1629 (i) governing the circumstances under which sales are at the same business location;  
1630 and
- 1631 (ii) establishing the procedures and requirements for a seller to separately account for  
1632 sales of assisted cleaning or washing of tangible personal property;
- 1633 (8) sales made to or by religious or charitable institutions in the conduct of their regular  
1634 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are  
1635 fulfilled;
- 1636 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of  
1637 this state if the vehicle is:
- 1638 (a) not registered in this state; and
- 1639 (b) (i) not used in this state; or

- 1640 (ii) used in this state:
- 1641 (A) if the vehicle is not used to conduct business, for a time period that does not
- 1642 exceed the longer of:
- 1643 (I) 30 days in any calendar year; or
- 1644 (II) the time period necessary to transport the vehicle to the borders of this state; or
- 1645 (B) if the vehicle is used to conduct business, for the time period necessary to transport
- 1646 the vehicle to the borders of this state;
- 1647 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
- 1648 (i) the item is intended for human use; and
- 1649 (ii) (A) a prescription was issued for the item; or
- 1650 (B) the item was purchased by a hospital or other medical facility; and
- 1651 (b) (i) Subsection (10)(a) applies to:
- 1652 (A) a drug;
- 1653 (B) a syringe; or
- 1654 (C) a stoma supply; and
- 1655 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1656 commission may by rule define the terms:
- 1657 (A) "syringe"; or
- 1658 (B) "stoma supply";
- 1659 (11) sales or use of property, materials, or services used in the construction of or
- 1660 incorporated in pollution control facilities allowed by Sections [19-2-123](#) through [19-2-127](#);
- 1661 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 1662 (i) the following if the item described in Subsection (12)(c) is not available to the
- 1663 general public:
- 1664 (A) a church; or
- 1665 (B) a charitable institution;
- 1666 (ii) an institution of higher education if:
- 1667 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 1668 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 1669 offered by the institution of higher education; or
- 1670 (b) sales of an item described in Subsection (12)(c) provided for a patient by:

- 1671 (i) a medical facility; or
- 1672 (ii) a nursing facility; and
- 1673 (c) Subsections (12)(a) and (b) apply to:
  - 1674 (i) food and food ingredients;
  - 1675 (ii) prepared food; or
  - 1676 (iii) alcoholic beverages;
- 1677 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 1678 or a product transferred electronically by a person:
  - 1679 (i) regardless of the number of transactions involving the sale of that tangible personal
  - 1680 property or product transferred electronically by that person; and
  - 1681 (ii) not regularly engaged in the business of selling that type of tangible personal
  - 1682 property or product transferred electronically;
  - 1683 (b) this Subsection (13) does not apply if:
    - 1684 (i) the sale is one of a series of sales of a character to indicate that the person is
    - 1685 regularly engaged in the business of selling that type of tangible personal property or product
    - 1686 transferred electronically;
    - 1687 (ii) the person holds that person out as regularly engaged in the business of selling that
    - 1688 type of tangible personal property or product transferred electronically;
    - 1689 (iii) the person sells an item of tangible personal property or product transferred
    - 1690 electronically that the person purchased as a sale that is exempt under Subsection (25); or
    - 1691 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
    - 1692 this state in which case the tax is based upon:
      - 1693 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
      - 1694 sold; or
      - 1695 (B) in the absence of a bill of sale or other written evidence of value, the fair market
      - 1696 value of the vehicle or vessel being sold at the time of the sale as determined by the
      - 1697 commission; and
      - 1698 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
      - 1699 commission shall make rules establishing the circumstances under which:
        - 1700 (i) a person is regularly engaged in the business of selling a type of tangible personal
        - 1701 property or product transferred electronically;

1702 (ii) a sale of tangible personal property or a product transferred electronically is one of  
1703 a series of sales of a character to indicate that a person is regularly engaged in the business of  
1704 selling that type of tangible personal property or product transferred electronically; or

1705 (iii) a person holds that person out as regularly engaged in the business of selling a type  
1706 of tangible personal property or product transferred electronically;

1707 ~~[(14)(a) except as provided in Subsection (14)(b), amounts paid or charged on or after~~  
1708 ~~July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration~~  
1709 ~~facility, of the following:]~~

1710 ~~[(i) machinery and equipment that:]~~

1711 ~~[(A) are used:]~~

1712 ~~[(I) for a manufacturing facility except for a manufacturing facility that is a scrap~~  
1713 ~~recycler described in Subsection 59-12-102(64)(b):]~~

1714 ~~[(Aa) in the manufacturing process;]~~

1715 ~~[(Bb) to manufacture an item sold as tangible personal property; and]~~

1716 ~~[(Cc) beginning on July 1, 2009, in a manufacturing facility described in this~~  
1717 ~~Subsection (14)(a)(i)(A)(I) in the state; or]~~

1718 ~~[(H) for a manufacturing facility that is a scrap recycler described in Subsection~~  
1719 ~~59-12-102(64)(b):]~~

1720 ~~[(Aa) to process an item sold as tangible personal property; and]~~

1721 ~~[(Bb) beginning on July 1, 2009, in a manufacturing facility described in this~~  
1722 ~~Subsection (14)(a)(i)(A)(H) in the state; and]~~

1723 ~~[(B) have an economic life of three or more years; and]~~

1724 ~~[(ii) normal operating repair or replacement parts that:]~~

1725 ~~[(A) have an economic life of three or more years; and]~~

1726 ~~[(B) are used:]~~

1727 ~~[(I) for a manufacturing facility except for a manufacturing facility that is a scrap~~  
1728 ~~recycler described in Subsection 59-12-102(64)(b):]~~

1729 ~~[(Aa) in the manufacturing process; and]~~

1730 ~~[(Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the~~  
1731 ~~state; or]~~

1732 ~~[(H) for a manufacturing facility that is a scrap recycler described in Subsection~~

1733 ~~59-12-102(64)(b):]~~

1734 ~~[(Aa) to process an item sold as tangible personal property; and]~~

1735 ~~[(Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the~~

1736 ~~state;]~~

1737 ~~[(b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a~~

1738 ~~manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,~~

1739 ~~of the following:]~~

1740 ~~[(i) machinery and equipment that:]~~

1741 ~~[(A) are used:]~~

1742 ~~[(f) in the manufacturing process;]~~

1743 ~~[(H) to manufacture an item sold as tangible personal property; and]~~

1744 ~~[(III) beginning on July 1, 2009, in a manufacturing facility described in this~~

1745 ~~Subsection (14)(b) in the state; and]~~

1746 ~~[(B) have an economic life of three or more years; and]~~

1747 ~~[(ii) normal operating repair or replacement parts that:]~~

1748 ~~[(A) are used:]~~

1749 ~~[(f) in the manufacturing process; and]~~

1750 ~~[(H) in a manufacturing facility described in this Subsection (14)(b) in the state; and]~~

1751 ~~[(B) have an economic life of three or more years;]~~

1752 (14) (a) amounts paid or charged for a purchase or lease:

1753 (i) by a manufacturing facility located in the state; and

1754 (ii) of:

1755 (A) machinery or equipment used to manufacture or process an item sold as tangible

1756 personal property; or

1757 (B) normal operating repair or replacement parts used to manufacture or process an

1758 item sold as tangible personal property;

1759 ~~[(c)]~~ (b) amounts paid or charged for a purchase or lease [made on or after January 1,

1760 2008;]:

1761 (i) by an establishment;

1762 (A) described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code

1763 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or

1764 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North  
 1765 American Industry Classification System of the federal Executive Office of the President,  
 1766 Office of Management and Budget[~~-, of the following:]; and~~  
 1767 (B) located in the state; and  
 1768 (ii) of:  
 1769 (i) (A) machinery [and] or equipment [that: (A) are] used[: (F) (Aa)] in the  
 1770 production process, other than the production of real property[:];<sub>2</sub> or [(Bb)] in research and  
 1771 development; [and] or  
 1772 [(H) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)  
 1773 in the state; and]  
 1774 [(B) have an economic life of three or more years; and]  
 1775 [(ii) (B) normal operating repair or replacement parts [that: (A) have an economic life  
 1776 of three or more years; and (B) are] used in[: (F) (Aa)] the production process, [except for]  
 1777 other than the production of real property[:; and (Bb) an establishment described in this  
 1778 Subsection (14)(c) in the state; or (H) (Aa)], or in research and development; [and]  
 1779 [(Bb) in an establishment described in this Subsection (14)(c) in the state;]  
 1780 [(d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010;  
 1781 but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web  
 1782 Search Portals, of the 2002 North American Industry Classification System of the federal  
 1783 Executive Office of the President, Office of Management and Budget, of the following:]  
 1784 [(A) machinery and equipment that:]  
 1785 [(F) are used in the operation of the web search portal;]  
 1786 [(H) have an economic life of three or more years; and]  
 1787 [(H) are used in a new or expanding establishment described in this Subsection (14)(d)  
 1788 in the state; and]  
 1789 [(B) normal operating repair or replacement parts that:]  
 1790 [(F) are used in the operation of the web search portal;]  
 1791 [(H) have an economic life of three or more years; and]  
 1792 [(H) are used in a new or expanding establishment described in this Subsection (14)(d)  
 1793 in the state; or]  
 1794 [(ii) (c) amounts paid or charged for a purchase or lease [made on or after July 1,

1795 2014,];

1796 (i) by an establishment;

1797 (A) described in NAICS Code 518112, Web Search Portals, of the 2002 North

1798 American Industry Classification System of the federal Executive Office of the President,

1799 Office of Management and Budget[, of the following:]; and

1800 (B) located in the state; and

1801 (ii) of:

1802 (A) machinery [~~and~~] or equipment [~~that: (f) are~~] used in the operation of the web

1803 search portal; [~~and~~] or

1804 [~~(H) have an economic life of three or more years; and~~]

1805 (B) normal operating repair or replacement parts [~~that: (f) are~~] used in the operation of

1806 the web search portal; [~~and~~]

1807 [~~(H) have an economic life of three or more years;~~]

1808 [~~(e)~~] (d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter

1809 3, Utah Administrative Rulemaking Act, the commission:

1810 (i) shall by rule define the term "establishment"; and

1811 (ii) may by rule define what constitutes:

1812 (A) processing an item sold as tangible personal property;

1813 (B) the production process, [~~except for~~] other than the production of real property; or

1814 (C) research and development; [~~or~~] and

1815 [~~(D) a new or expanding establishment described in Subsection (14)(d) in the state;~~

1816 ~~and~~]

1817 [~~(f)~~] (e) on or before October 1, [~~2011~~] 2016, and every five years after October 1,

1818 [~~2011~~] 2016, the commission shall:

1819 (i) review the exemptions described in this Subsection (14) and make

1820 recommendations to the Revenue and Taxation Interim Committee concerning whether the

1821 exemptions should be continued, modified, or repealed; and

1822 (ii) include in its report:

1823 (A) an estimate of the cost of the exemptions;

1824 (B) the purpose and effectiveness of the exemptions; and

1825 (C) the benefits of the exemptions to the state;

1826 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

1827 (i) tooling;

1828 (ii) special tooling;

1829 (iii) support equipment;

1830 (iv) special test equipment; or

1831 (v) parts used in the repairs or renovations of tooling or equipment described in

1832 Subsections (15)(a)(i) through (iv); and

1833 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

1834 (i) the tooling, equipment, or parts are used or consumed exclusively in the

1835 performance of any aerospace or electronics industry contract with the United States

1836 government or any subcontract under that contract; and

1837 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),

1838 title to the tooling, equipment, or parts is vested in the United States government as evidenced

1839 by:

1840 (A) a government identification tag placed on the tooling, equipment, or parts; or

1841 (B) listing on a government-approved property record if placing a government

1842 identification tag on the tooling, equipment, or parts is impractical;

1843 (16) sales of newspapers or newspaper subscriptions;

1844 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a

1845 product transferred electronically traded in as full or part payment of the purchase price, except

1846 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,

1847 trade-ins are limited to other vehicles only, and the tax is based upon:

1848 (i) the bill of sale or other written evidence of value of the vehicle being sold and the

1849 vehicle being traded in; or

1850 (ii) in the absence of a bill of sale or other written evidence of value, the then existing

1851 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the

1852 commission; and

1853 (b) Subsection (17)(a) does not apply to the following items of tangible personal

1854 property or products transferred electronically traded in as full or part payment of the purchase

1855 price:

1856 (i) money;

1857 (ii) electricity;  
1858 (iii) water;  
1859 (iv) gas; or  
1860 (v) steam;  
1861 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property  
1862 or a product transferred electronically used or consumed primarily and directly in farming  
1863 operations, regardless of whether the tangible personal property or product transferred  
1864 electronically:  
1865 (A) becomes part of real estate; or  
1866 (B) is installed by a:  
1867 (I) farmer;  
1868 (II) contractor; or  
1869 (III) subcontractor; or  
1870 (ii) sales of parts used in the repairs or renovations of tangible personal property or a  
1871 product transferred electronically if the tangible personal property or product transferred  
1872 electronically is exempt under Subsection (18)(a)(i); and  
1873 (b) amounts paid or charged for the following are subject to the taxes imposed by this  
1874 chapter:  
1875 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is  
1876 incidental to farming:  
1877 (I) machinery;  
1878 (II) equipment;  
1879 (III) materials; or  
1880 (IV) supplies; and  
1881 (B) tangible personal property that is considered to be used in a manner that is  
1882 incidental to farming includes:  
1883 (I) hand tools; or  
1884 (II) maintenance and janitorial equipment and supplies;  
1885 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product  
1886 transferred electronically if the tangible personal property or product transferred electronically  
1887 is used in an activity other than farming; and

1888 (B) tangible personal property or a product transferred electronically that is considered  
1889 to be used in an activity other than farming includes:  
1890 (I) office equipment and supplies; or  
1891 (II) equipment and supplies used in:  
1892 (Aa) the sale or distribution of farm products;  
1893 (Bb) research; or  
1894 (Cc) transportation; or  
1895 (iii) a vehicle required to be registered by the laws of this state during the period  
1896 ending two years after the date of the vehicle's purchase;  
1897 (19) sales of hay;  
1898 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or  
1899 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or  
1900 garden, farm, or other agricultural produce is sold by:  
1901 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other  
1902 agricultural produce;  
1903 (b) an employee of the producer described in Subsection (20)(a); or  
1904 (c) a member of the immediate family of the producer described in Subsection (20)(a);  
1905 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued  
1906 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

1907 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,  
1908 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,  
1909 wholesaler, or retailer for use in packaging tangible personal property to be sold by that  
1910 manufacturer, processor, wholesaler, or retailer;

1911 (23) a product stored in the state for resale;  
1912 (24) (a) purchases of a product if:  
1913 (i) the product is:  
1914 (A) purchased outside of this state;  
1915 (B) brought into this state:  
1916 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and  
1917 (II) by a nonresident person who is not living or working in this state at the time of the  
1918 purchase;

1919 (C) used for the personal use or enjoyment of the nonresident person described in  
1920 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and  
1921 (D) not used in conducting business in this state; and  
1922 (ii) for:  
1923 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of  
1924 the product for a purpose for which the product is designed occurs outside of this state;  
1925 (B) a boat, the boat is registered outside of this state; or  
1926 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
1927 outside of this state;  
1928 (b) the exemption provided for in Subsection (24)(a) does not apply to:  
1929 (i) a lease or rental of a product; or  
1930 (ii) a sale of a vehicle exempt under Subsection (33); and  
1931 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
1932 purposes of Subsection (24)(a), the commission may by rule define what constitutes the  
1933 following:  
1934 (i) conducting business in this state if that phrase has the same meaning in this  
1935 Subsection (24) as in Subsection (63);  
1936 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)  
1937 as in Subsection (63); or  
1938 (iii) a purpose for which a product is designed if that phrase has the same meaning in  
1939 this Subsection (24) as in Subsection (63);  
1940 (25) a product purchased for resale in this state, in the regular course of business, either  
1941 in its original form or as an ingredient or component part of a manufactured or compounded  
1942 product;  
1943 (26) a product upon which a sales or use tax was paid to some other state, or one of its  
1944 subdivisions, except that the state shall be paid any difference between the tax paid and the tax  
1945 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if  
1946 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax  
1947 Act;  
1948 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a  
1949 person for use in compounding a service taxable under the subsections;

1950 (28) purchases made in accordance with the special supplemental nutrition program for  
1951 women, infants, and children established in 42 U.S.C. Sec. 1786;

1952 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,  
1953 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens  
1954 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification  
1955 Manual of the federal Executive Office of the President, Office of Management and Budget;

1956 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State  
1957 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

1958 (a) not registered in this state; and

1959 (b) (i) not used in this state; or

1960 (ii) used in this state:

1961 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a  
1962 time period that does not exceed the longer of:

1963 (I) 30 days in any calendar year; or

1964 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to  
1965 the borders of this state; or

1966 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time  
1967 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this  
1968 state;

1969 (31) sales of aircraft manufactured in Utah;

1970 (32) amounts paid for the purchase of telecommunications service for purposes of  
1971 providing telecommunications service;

1972 (33) sales, leases, or uses of the following:

1973 (a) a vehicle by an authorized carrier; or

1974 (b) tangible personal property that is installed on a vehicle:

1975 (i) sold or leased to or used by an authorized carrier; and

1976 (ii) before the vehicle is placed in service for the first time;

1977 (34) (a) 45% of the sales price of any new manufactured home; and

1978 (b) 100% of the sales price of any used manufactured home;

1979 (35) sales relating to schools and fundraising sales;

1980 (36) sales or rentals of durable medical equipment if:

- 1981 (a) a person presents a prescription for the durable medical equipment; and  
1982 (b) the durable medical equipment is used for home use only;
- 1983 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in  
1984 Section [72-11-102](#); and  
1985 (b) the commission shall by rule determine the method for calculating sales exempt  
1986 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 1987 (38) sales to a ski resort of:  
1988 (a) snowmaking equipment;  
1989 (b) ski slope grooming equipment;  
1990 (c) passenger ropeways as defined in Section [72-11-102](#); or  
1991 (d) parts used in the repairs or renovations of equipment or passenger ropeways  
1992 described in Subsections (38)(a) through (c);
- 1993 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 1994 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for  
1995 amusement, entertainment, or recreation an unassisted amusement device as defined in Section  
1996 [59-12-102](#);
- 1997 (b) if a seller that sells or rents at the same business location the right to use or operate  
1998 for amusement, entertainment, or recreation one or more unassisted amusement devices and  
1999 one or more assisted amusement devices, the exemption described in Subsection (40)(a)  
2000 applies if the seller separately accounts for the sales or rentals of the right to use or operate for  
2001 amusement, entertainment, or recreation for the assisted amusement devices; and
- 2002 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,  
2003 Utah Administrative Rulemaking Act, the commission may make rules:
- 2004 (i) governing the circumstances under which sales are at the same business location;  
2005 and  
2006 (ii) establishing the procedures and requirements for a seller to separately account for  
2007 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for  
2008 assisted amusement devices;
- 2009 (41) (a) sales of photocopies by:  
2010 (i) a governmental entity; or  
2011 (ii) an entity within the state system of public education, including:

- 2012 (A) a school; or
- 2013 (B) the State Board of Education; or
- 2014 (b) sales of publications by a governmental entity;
- 2015 (42) amounts paid for admission to an athletic event at an institution of higher
- 2016 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
- 2017 20 U.S.C. Sec. 1681 et seq.;
- 2018 (43) (a) sales made to or by:
- 2019 (i) an area agency on aging; or
- 2020 (ii) a senior citizen center owned by a county, city, or town; or
- 2021 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 2022 (44) sales or leases of semiconductor fabricating, processing, research, or development
- 2023 materials regardless of whether the semiconductor fabricating, processing, research, or
- 2024 development materials:
- 2025 (a) actually come into contact with a semiconductor; or
- 2026 (b) ultimately become incorporated into real property;
- 2027 (45) an amount paid by or charged to a purchaser for accommodations and services
- 2028 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
- 2029 59-12-104.2;
- 2030 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
- 2031 sports event registration certificate in accordance with Section 41-3-306 for the event period
- 2032 specified on the temporary sports event registration certificate;
- 2033 (47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted
- 2034 by the Public Service Commission of Utah only for purchase of electricity produced from a
- 2035 new alternative energy source, as designated in the tariff by the Public Service Commission of
- 2036 Utah; and
- 2037 (b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a
- 2038 customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under
- 2039 the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;
- 2040 (48) sales or rentals of mobility enhancing equipment if a person presents a
- 2041 prescription for the mobility enhancing equipment;
- 2042 (49) sales of water in a:

- 2043 (a) pipe;
- 2044 (b) conduit;
- 2045 (c) ditch; or
- 2046 (d) reservoir;
- 2047 (50) sales of currency or coins that constitute legal tender of a state, the United States,
- 2048 or a foreign nation;
- 2049 (51) (a) sales of an item described in Subsection (51)(b) if the item:
  - 2050 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
  - 2051 (ii) has a gold, silver, or platinum content of 50% or more; and
- 2052 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
  - 2053 (i) ingot;
  - 2054 (ii) bar;
  - 2055 (iii) medallion; or
  - 2056 (iv) decorative coin;
- 2057 (52) amounts paid on a sale-leaseback transaction;
- 2058 (53) sales of a prosthetic device:
  - 2059 (a) for use on or in a human; and
  - 2060 (b) (i) for which a prescription is required; or
  - 2061 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 2062 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 2063 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
- 2064 or equipment is primarily used in the production or postproduction of the following media for
- 2065 commercial distribution:
  - 2066 (i) a motion picture;
  - 2067 (ii) a television program;
  - 2068 (iii) a movie made for television;
  - 2069 (iv) a music video;
  - 2070 (v) a commercial;
  - 2071 (vi) a documentary; or
  - 2072 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
  - 2073 commission by administrative rule made in accordance with Subsection (54)(d); or

2074 (b) purchases, leases, or rentals of machinery or equipment by an establishment  
2075 described in Subsection (54)(c) that is used for the production or postproduction of the  
2076 following are subject to the taxes imposed by this chapter:

- 2077 (i) a live musical performance;
- 2078 (ii) a live news program; or
- 2079 (iii) a live sporting event;

2080 (c) the following establishments listed in the 1997 North American Industry  
2081 Classification System of the federal Executive Office of the President, Office of Management  
2082 and Budget, apply to Subsections (54)(a) and (b):

- 2083 (i) NAICS Code 512110; or
- 2084 (ii) NAICS Code 51219; and

2085 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2086 commission may by rule:

2087 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);

2088 or

2089 (ii) define:

- 2090 (A) "commercial distribution";
- 2091 (B) "live musical performance";
- 2092 (C) "live news program"; or
- 2093 (D) "live sporting event";

2094 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but  
2095 on or before June 30, 2027, of tangible personal property that:

2096 (i) is leased or purchased for or by a facility that:

- 2097 (A) is an alternative energy electricity production facility;
- 2098 (B) is located in the state; and
- 2099 (C) (I) becomes operational on or after July 1, 2004; or

2100 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
2101 2004, as a result of the use of the tangible personal property;

2102 (ii) has an economic life of five or more years; and

2103 (iii) is used to make the facility or the increase in capacity of the facility described in

2104 Subsection (55)(a)(i) operational up to the point of interconnection with an existing

- 2105 transmission grid including:
- 2106 (A) a wind turbine;
  - 2107 (B) generating equipment;
  - 2108 (C) a control and monitoring system;
  - 2109 (D) a power line;
  - 2110 (E) substation equipment;
  - 2111 (F) lighting;
  - 2112 (G) fencing;
  - 2113 (H) pipes; or
  - 2114 (I) other equipment used for locating a power line or pole; and
- 2115 (b) this Subsection (55) does not apply to:
- 2116 (i) tangible personal property used in construction of:
    - 2117 (A) a new alternative energy electricity production facility; or
    - 2118 (B) the increase in the capacity of an alternative energy electricity production facility;
  - 2119 (ii) contracted services required for construction and routine maintenance activities;
- 2120 and
- 2121 (iii) unless the tangible personal property is used or acquired for an increase in capacity
  - 2122 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
  - 2123 acquired after:
    - 2124 (A) the alternative energy electricity production facility described in Subsection
    - 2125 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
    - 2126 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
    - 2127 in Subsection (55)(a)(iii);
  - 2128 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
  - 2129 on or before June 30, 2027, of tangible personal property that:
    - 2130 (i) is leased or purchased for or by a facility that:
      - 2131 (A) is a waste energy production facility;
      - 2132 (B) is located in the state; and
      - 2133 (C) (I) becomes operational on or after July 1, 2004; or
      - 2134 (II) has its generation capacity increased by one or more megawatts on or after July 1,
      - 2135 2004, as a result of the use of the tangible personal property;

- 2136 (ii) has an economic life of five or more years; and
- 2137 (iii) is used to make the facility or the increase in capacity of the facility described in
- 2138 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
- 2139 transmission grid including:
  - 2140 (A) generating equipment;
  - 2141 (B) a control and monitoring system;
  - 2142 (C) a power line;
  - 2143 (D) substation equipment;
  - 2144 (E) lighting;
  - 2145 (F) fencing;
  - 2146 (G) pipes; or
  - 2147 (H) other equipment used for locating a power line or pole; and
- 2148 (b) this Subsection (56) does not apply to:
  - 2149 (i) tangible personal property used in construction of:
    - 2150 (A) a new waste energy facility; or
    - 2151 (B) the increase in the capacity of a waste energy facility;
  - 2152 (ii) contracted services required for construction and routine maintenance activities;
- 2153 and
  - 2154 (iii) unless the tangible personal property is used or acquired for an increase in capacity
  - 2155 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
    - 2156 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
    - 2157 described in Subsection (56)(a)(iii); or
    - 2158 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
    - 2159 in Subsection (56)(a)(iii);
- 2160 (57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
- 2161 or before June 30, 2027, of tangible personal property that:
  - 2162 (i) is leased or purchased for or by a facility that:
    - 2163 (A) is located in the state;
    - 2164 (B) produces fuel from alternative energy, including:
      - 2165 (I) methanol; or
      - 2166 (II) ethanol; and

2167 (C) (I) becomes operational on or after July 1, 2004; or  
2168 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as  
2169 a result of the installation of the tangible personal property;  
2170 (ii) has an economic life of five or more years; and  
2171 (iii) is installed on the facility described in Subsection (57)(a)(i);  
2172 (b) this Subsection (57) does not apply to:  
2173 (i) tangible personal property used in construction of:  
2174 (A) a new facility described in Subsection (57)(a)(i); or  
2175 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or  
2176 (ii) contracted services required for construction and routine maintenance activities;  
2177 and  
2178 (iii) unless the tangible personal property is used or acquired for an increase in capacity  
2179 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:  
2180 (A) the facility described in Subsection (57)(a)(i) is operational; or  
2181 (B) the increased capacity described in Subsection (57)(a)(i) is operational;  
2182 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a  
2183 product transferred electronically to a person within this state if that tangible personal property  
2184 or product transferred electronically is subsequently shipped outside the state and incorporated  
2185 pursuant to contract into and becomes a part of real property located outside of this state;  
2186 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other  
2187 state or political entity to which the tangible personal property is shipped imposes a sales, use,  
2188 gross receipts, or other similar transaction excise tax on the transaction against which the other  
2189 state or political entity allows a credit for sales and use taxes imposed by this chapter; and  
2190 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,  
2191 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a  
2192 refund:  
2193 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;  
2194 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on  
2195 which the sale is made;  
2196 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the  
2197 sale prior to filing for the refund;

- 2198 (iv) for sales and use taxes paid under this chapter on the sale;
- 2199 (v) in accordance with Section 59-1-1410; and
- 2200 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
- 2201 the person files for the refund on or before June 30, 2011;
- 2202 (59) purchases:
- 2203 (a) of one or more of the following items in printed or electronic format:
- 2204 (i) a list containing information that includes one or more:
- 2205 (A) names; or
- 2206 (B) addresses; or
- 2207 (ii) a database containing information that includes one or more:
- 2208 (A) names; or
- 2209 (B) addresses; and
- 2210 (b) used to send direct mail;
- 2211 (60) redemptions or repurchases of a product by a person if that product was:
- 2212 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 2213 (b) redeemed or repurchased within the time period established in a written agreement
- 2214 between the person and the pawnbroker for redeeming or repurchasing the product;
- 2215 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
- 2216 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
- 2217 and
- 2218 (ii) has a useful economic life of one or more years; and
- 2219 (b) the following apply to Subsection (61)(a):
- 2220 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 2221 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 2222 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 2223 (iv) telecommunications switching or routing equipment, machinery, or software; or
- 2224 (v) telecommunications transmission equipment, machinery, or software;
- 2225 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
- 2226 personal property or a product transferred electronically that are used in the research and
- 2227 development of alternative energy technology; and
- 2228 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2229 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes  
2230 purchases of tangible personal property or a product transferred electronically that are used in  
2231 the research and development of alternative energy technology;

2232 (63) (a) purchases of tangible personal property or a product transferred electronically  
2233 if:

2234 (i) the tangible personal property or product transferred electronically is:

2235 (A) purchased outside of this state;

2236 (B) brought into this state at any time after the purchase described in Subsection

2237 (63)(a)(i)(A); and

2238 (C) used in conducting business in this state; and

2239 (ii) for:

2240 (A) tangible personal property or a product transferred electronically other than the

2241 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property

2242 for a purpose for which the property is designed occurs outside of this state; or

2243 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
2244 outside of this state;

2245 (b) the exemption provided for in Subsection (63)(a) does not apply to:

2246 (i) a lease or rental of tangible personal property or a product transferred electronically;

2247 or

2248 (ii) a sale of a vehicle exempt under Subsection (33); and

2249 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
2250 purposes of Subsection (63)(a), the commission may by rule define what constitutes the

2251 following:

2252 (i) conducting business in this state if that phrase has the same meaning in this

2253 Subsection (63) as in Subsection (24);

2254 (ii) the first use of tangible personal property or a product transferred electronically if

2255 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

2256 (iii) a purpose for which tangible personal property or a product transferred

2257 electronically is designed if that phrase has the same meaning in this Subsection (63) as in

2258 Subsection (24);

2259 (64) sales of disposable home medical equipment or supplies if:

- 2260 (a) a person presents a prescription for the disposable home medical equipment or
- 2261 supplies;
- 2262 (b) the disposable home medical equipment or supplies are used exclusively by the
- 2263 person to whom the prescription described in Subsection (64)(a) is issued; and
- 2264 (c) the disposable home medical equipment and supplies are listed as eligible for
- 2265 payment under:
  - 2266 (i) Title XVIII, federal Social Security Act; or
  - 2267 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- 2268 (65) sales:
  - 2269 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
  - 2270 District Act; or
  - 2271 (b) of tangible personal property to a subcontractor of a public transit district, if the
  - 2272 tangible personal property is:
    - 2273 (i) clearly identified; and
    - 2274 (ii) installed or converted to real property owned by the public transit district;
- 2275 (66) sales of construction materials:
  - 2276 (a) purchased on or after July 1, 2010;
  - 2277 (b) purchased by, on behalf of, or for the benefit of an international airport:
    - 2278 (i) located within a county of the first class; and
    - 2279 (ii) that has a United States customs office on its premises; and
  - 2280 (c) if the construction materials are:
    - 2281 (i) clearly identified;
    - 2282 (ii) segregated; and
    - 2283 (iii) installed or converted to real property:
      - 2284 (A) owned or operated by the international airport described in Subsection (66)(b); and
      - 2285 (B) located at the international airport described in Subsection (66)(b);
- 2286 (67) sales of construction materials:
  - 2287 (a) purchased on or after July 1, 2008;
  - 2288 (b) purchased by, on behalf of, or for the benefit of a new airport:
    - 2289 (i) located within a county of the second class; and
    - 2290 (ii) that is owned or operated by a city in which an airline as defined in Section

2291 59-2-102 is headquartered; and

2292 (c) if the construction materials are:

2293 (i) clearly identified;

2294 (ii) segregated; and

2295 (iii) installed or converted to real property:

2296 (A) owned or operated by the new airport described in Subsection (67)(b);

2297 (B) located at the new airport described in Subsection (67)(b); and

2298 (C) as part of the construction of the new airport described in Subsection (67)(b);

2299 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

2300 (69) purchases and sales described in Section 63H-4-111;

2301 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and

2302 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of

2303 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration

2304 lists a state or country other than this state as the location of registry of the fixed wing turbine

2305 powered aircraft; or

2306 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul

2307 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of

2308 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration

2309 lists a state or country other than this state as the location of registry of the fixed wing turbine

2310 powered aircraft;

2311 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

2312 (a) to a person admitted to an institution of higher education; and

2313 (b) by a seller, other than a bookstore owned by an institution of higher education, if

2314 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a

2315 textbook for a higher education course;

2316 (72) a license fee or tax a municipality imposes in accordance with Subsection

2317 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced

2318 level of municipal services;

2319 (73) amounts paid or charged for construction materials used in the construction of a

2320 new or expanding life science research and development facility in the state, if the construction

2321 materials are:

- 2322 (a) clearly identified;
- 2323 (b) segregated; and
- 2324 (c) installed or converted to real property;
- 2325 (74) amounts paid or charged for:
- 2326 (a) a purchase or lease of machinery and equipment that:
- 2327 (i) are used in performing qualified research:
- 2328 (A) as defined in Section 59-7-612;
- 2329 (B) in the state; and
- 2330 (C) with respect to which the purchaser pays or incurs a qualified research expense as
- 2331 defined in Section 59-7-612; and
- 2332 (ii) have an economic life of three or more years; and
- 2333 (b) normal operating repair or replacement parts:
- 2334 (i) for the machinery and equipment described in Subsection (74)(a); and
- 2335 (ii) that have an economic life of three or more years;
- 2336 (75) a sale or lease of tangible personal property used in the preparation of prepared
- 2337 food if:
- 2338 (a) for a sale:
- 2339 (i) the ownership of the seller and the ownership of the purchaser are identical; and
- 2340 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
- 2341 tangible personal property prior to making the sale; or
- 2342 (b) for a lease:
- 2343 (i) the ownership of the lessor and the ownership of the lessee are identical; and
- 2344 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
- 2345 personal property prior to making the lease;
- 2346 (76) (a) purchases of machinery or equipment if:
- 2347 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
- 2348 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
- 2349 System of the federal Executive Office of the President, Office of Management and Budget;
- 2350 (ii) the machinery or equipment:
- 2351 (A) has an economic life of three or more years; and
- 2352 (B) is used by one or more persons who pay admission or user fees described in

- 2353 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- 2354 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- 2355 (A) amounts paid or charged as admission or user fees described in Subsection
- 2356 59-12-103(1)(f); and
- 2357 (B) subject to taxation under this chapter;
- 2358 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2359 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
- 2360 previous calendar quarter is:
- 2361 (i) amounts paid or charged as admission or user fees described in Subsection
- 2362 59-12-103(1)(f); and
- 2363 (ii) subject to taxation under this chapter; and
- 2364 (c) on or before the November 2018 interim meeting, and every five years after the
- 2365 November 2018 interim meeting, the commission shall review the exemption provided in this
- 2366 Subsection (76) and report to the Revenue and Taxation Interim Committee on:
- 2367 (i) the revenue lost to the state and local taxing jurisdictions as a result of the
- 2368 exemption;
- 2369 (ii) the purpose and effectiveness of the exemption; and
- 2370 (iii) whether the exemption benefits the state;
- 2371 (77) purchases of a short-term lodging consumable by a business that provides
- 2372 accommodations and services described in Subsection 59-12-103(1)(i);
- 2373 (78) amounts paid or charged to access a database:
- 2374 (a) if the primary purpose for accessing the database is to view or retrieve information
- 2375 from the database; and
- 2376 (b) not including amounts paid or charged for a:
- 2377 (i) digital audiowork;
- 2378 (ii) digital audio-visual work; or
- 2379 (iii) digital book;
- 2380 (79) amounts paid or charged for a purchase or lease made by an electronic financial
- 2381 payment service, of:
- 2382 (a) machinery and equipment that:
- 2383 (i) are used in the operation of the electronic financial payment service; and

2384 (ii) have an economic life of three or more years; and  
2385 (b) normal operating repair or replacement parts that:  
2386 (i) are used in the operation of the electronic financial payment service; and  
2387 (ii) have an economic life of three or more years; and  
2388 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section [54-15-102](#).  
2389 Section 3. **Effective date.**  
2390 This bill takes effect on July 1, 2014.

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**Legislative Review Note**  
**as of 10-30-13 1:42 PM**

**Office of Legislative Research and General Counsel**