

Representative Susan Duckworth proposes the following substitute bill:

HYGIENE TAX ACT

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Susan Duckworth

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the sales and use tax exemptions.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ increases the general state sales and use tax rate;
- ▶ adds a sales and use tax exemption for an incontinence care item, feminine hygiene products, and diapers; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-12-102, as last amended by Laws of Utah 2017, Chapters 181, 382, and 422

59-12-103, as last amended by Laws of Utah 2017, Chapters 234, 421, and 422

59-12-104, as last amended by Laws of Utah 2017, Chapters 264, 268, and 429



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

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

59-12-102. Definitions.

As used in this chapter:

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

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

(b) is typically marketed:

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

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

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

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

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

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

Federal Communications Commission.

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

(i) a subscriber purchases;

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

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

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

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

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

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

(A) a product; or

(B) a service.

- 57 (3) (a) "Admission or user fees" includes season passes.
- 58 (b) "Admission or user fees" does not include annual membership dues to private
59 organizations.
- 60 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
61 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
62 Agreement after November 12, 2002.
- 63 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 64 (a) listed under Subsection (6); and
- 65 (b) that are imposed within a local taxing jurisdiction.
- 66 (6) "Agreement sales and use tax" means a tax imposed under:
- 67 (a) Subsection 59-12-103(2)(a)(i)(A);
- 68 (b) Subsection 59-12-103(2)(b)(i);
- 69 (c) Subsection 59-12-103(2)(c)(i);
- 70 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 71 (e) Section 59-12-204;
- 72 (f) Section 59-12-401;
- 73 (g) Section 59-12-402;
- 74 (h) Section 59-12-402.1;
- 75 (i) Section 59-12-703;
- 76 (j) Section 59-12-802;
- 77 (k) Section 59-12-804;
- 78 (l) Section 59-12-1102;
- 79 (m) Section 59-12-1302;
- 80 (n) Section 59-12-1402;
- 81 (o) Section 59-12-1802;
- 82 (p) Section 59-12-2003;
- 83 (q) Section 59-12-2103;
- 84 (r) Section 59-12-2213;
- 85 (s) Section 59-12-2214;
- 86 (t) Section 59-12-2215;
- 87 (u) Section 59-12-2216;

- 88 (v) Section 59-12-2217;
- 89 (w) Section 59-12-2218; or
- 90 (x) Section 59-12-2219.
- 91 (7) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 92 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 93 (a) except for:
- 94 (i) an airline as defined in Section 59-2-102; or
- 95 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 96 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 97 state, of an airline; and
- 98 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 99 whether the business entity performs the following in this state:
- 100 (i) check, diagnose, overhaul, and repair:
- 101 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 102 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 103 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 104 engine;
- 105 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 106 aircraft:
- 107 (A) an inspection;
- 108 (B) a repair, including a structural repair or modification;
- 109 (C) changing landing gear; and
- 110 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 111 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 112 completely apply new paint to the fixed wing turbine powered aircraft; and
- 113 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 114 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 115 authority that certifies the fixed wing turbine powered aircraft.
- 116 (9) "Alcoholic beverage" means a beverage that:
- 117 (a) is suitable for human consumption; and
- 118 (b) contains .5% or more alcohol by volume.

- 119 (10) "Alternative energy" means:
- 120 (a) biomass energy;
- 121 (b) geothermal energy;
- 122 (c) hydroelectric energy;
- 123 (d) solar energy;
- 124 (e) wind energy; or
- 125 (f) energy that is derived from:
- 126 (i) coal-to-liquids;
- 127 (ii) nuclear fuel;
- 128 (iii) oil-impregnated diatomaceous earth;
- 129 (iv) oil sands;
- 130 (v) oil shale;
- 131 (vi) petroleum coke; or
- 132 (vii) waste heat from:
- 133 (A) an industrial facility; or
- 134 (B) a power station in which an electric generator is driven through a process in which
- 135 water is heated, turns into steam, and spins a steam turbine.
- 136 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 137 facility" means a facility that:
- 138 (i) uses alternative energy to produce electricity; and
- 139 (ii) has a production capacity of two megawatts or greater.
- 140 (b) A facility is an alternative energy electricity production facility regardless of
- 141 whether the facility is:
- 142 (i) connected to an electric grid; or
- 143 (ii) located on the premises of an electricity consumer.
- 144 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
- 145 provision of telecommunications service.
- 146 (b) "Ancillary service" includes:
- 147 (i) a conference bridging service;
- 148 (ii) a detailed communications billing service;
- 149 (iii) directory assistance;

150 (iv) a vertical service; or

151 (v) a voice mail service.

152 (13) "Area agency on aging" means the same as that term is defined in Section
153 [62A-3-101](#).

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

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

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

160 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
161 washing of tangible personal property if the cleaning or washing labor is primarily performed
162 by an individual:

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

165 (b) at the direction of the seller of the cleaning or washing of the tangible personal
166 property.

167 (16) "Authorized carrier" means:

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

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

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

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

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

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

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

- 181 (B) animal waste;
- 182 (C) waste vegetable oil;
- 183 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
- 184 wastewater residuals, or through the conversion of a waste material through a nonincineration,
- 185 thermal conversion process;
- 186 (E) aquatic plants; and
- 187 (F) agricultural products.
- 188 (b) "Biomass energy" does not include:
- 189 (i) black liquor; or
- 190 (ii) treated woods.
- 191 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 192 property, products, or services if the tangible personal property, products, or services are:
- 193 (i) distinct and identifiable; and
- 194 (ii) sold for one nonitemized price.
- 195 (b) "Bundled transaction" does not include:
- 196 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 197 the basis of the selection by the purchaser of the items of tangible personal property included in
- 198 the transaction;
- 199 (ii) the sale of real property;
- 200 (iii) the sale of services to real property;
- 201 (iv) the retail sale of tangible personal property and a service if:
- 202 (A) the tangible personal property:
- 203 (I) is essential to the use of the service; and
- 204 (II) is provided exclusively in connection with the service; and
- 205 (B) the service is the true object of the transaction;
- 206 (v) the retail sale of two services if:
- 207 (A) one service is provided that is essential to the use or receipt of a second service;
- 208 (B) the first service is provided exclusively in connection with the second service; and
- 209 (C) the second service is the true object of the transaction;
- 210 (vi) a transaction that includes tangible personal property or a product subject to
- 211 taxation under this chapter and tangible personal property or a product that is not subject to

212 taxation under this chapter if the:

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

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

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

219 (A) that retail sale includes:

220 (I) food and food ingredients;

221 (II) a drug;

222 (III) durable medical equipment;

223 (IV) mobility enhancing equipment;

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

225 (VI) a prosthetic device; or

226 (VII) a medical supply; and

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

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

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

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

234 (A) packaging that:

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

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

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

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

242 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a

243 product, or a service is provided free of charge with the purchase of another item of tangible
244 personal property, a product, or a service if the sales price of the purchased item of tangible
245 personal property, product, or service does not vary depending on the inclusion of the tangible
246 personal property, product, or service provided free of charge.

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

251 (A) a binding sales document; or

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

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

255 (A) a bill of sale;

256 (B) a contract;

257 (C) an invoice;

258 (D) a lease agreement;

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

260 (F) a price list;

261 (G) a rate card;

262 (H) a receipt; or

263 (I) a service agreement.

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

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

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

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

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

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

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

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

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

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

287 (i) on a transaction; and

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

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

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

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

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

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

297 (21) (a) ~~[Subject]~~ Except as provided in Subsection (21)(b) and subject to Subsection
298 (21)(b) (c), "clothing" means all human wearing apparel suitable for general use.

299 (b) "Clothing" does not include diapers.

300 ~~(b)~~ (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
301 Act, the commission shall make rules:

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

303 (ii) that are consistent with the list of items that constitute "clothing" under the
304 agreement~~[-]~~ and this subsection (21).

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

306 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
307 fuels that does not constitute industrial use under Subsection [~~(56)~~] (58) or residential use
308 under Subsection [~~(106)~~] (108).

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

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

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

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

319 (25) "Component part" includes:

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

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

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

325 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

349 (i) by a seller of:

350 (A) tangible personal property;

351 (B) a product transferred electronically; or

352 (C) services; and

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

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

357 (i) transportation;

358 (ii) shipping;

359 (iii) postage;

360 (iv) handling;

361 (v) crating; or

362 (vi) packing.

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

365 (34) "Diaper" means an absorbent garment worn by humans who are incapable of, or
366 have difficulty, controlling their bladder or bowel movements.

- 367 [~~(34)~~] (35) "Dietary supplement" means a product, other than tobacco, that:
- 368 (a) is intended to supplement the diet;
- 369 (b) contains one or more of the following dietary ingredients:
- 370 (i) a vitamin;
- 371 (ii) a mineral;
- 372 (iii) an herb or other botanical;
- 373 (iv) an amino acid;
- 374 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 375 dietary intake; or
- 376 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 377 described in Subsections [~~(34)~~] (35)(b)(i) through (v);
- 378 (c) (i) except as provided in Subsection [~~(34)~~] (35)(c)(ii), is intended for ingestion in:
- 379 (A) tablet form;
- 380 (B) capsule form;
- 381 (C) powder form;
- 382 (D) softgel form;
- 383 (E) gelcap form; or
- 384 (F) liquid form; or
- 385 (ii) if the product is not intended for ingestion in a form described in Subsections [~~(34)~~]
- 386 (35)(c)(i)(A) through (F), is not represented:
- 387 (A) as conventional food; and
- 388 (B) for use as a sole item of:
- 389 (I) a meal; or
- 390 (II) the diet; and
- 391 (d) is required to be labeled as a dietary supplement:
- 392 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 393 (ii) as required by 21 C.F.R. Sec. 101.36.
- 394 [~~(35)~~] (36) "Digital audio-visual work" means a series of related images which, when
- 395 shown in succession, imparts an impression of motion, together with accompanying sounds, if
- 396 any.
- 397 [~~(36)~~] (37) (a) "Digital audio work" means a work that results from the fixation of a

398 series of musical, spoken, or other sounds.

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

400 [~~37~~] (38) "Digital book" means a work that is generally recognized in the ordinary
401 and usual sense as a book.

402 [~~38~~] (39) (a) "Direct mail" means printed material delivered or distributed by United
403 States mail or other delivery service:

404 (i) to:

405 (A) a mass audience; or

406 (B) addressees on a mailing list provided:

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

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

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

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

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

414 [~~39~~] (40) "Directory assistance" means an ancillary service of providing:

415 (a) address information; or

416 (b) telephone number information.

417 [~~40~~] (41) (a) "Disposable home medical equipment or supplies" means medical
418 equipment or supplies that:

419 (i) cannot withstand repeated use; and

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

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

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

423 (C) an office of a health care provider described in Subsection [~~40~~] (41)(a)(ii)(B); or

424 (D) a person similar to a person described in Subsections [~~40~~] (41)(a)(ii)(A) through

425 (C).

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

427 (i) a drug;

428 (ii) durable medical equipment;

- 429 (iii) a hearing aid;
- 430 (iv) a hearing aid accessory;
- 431 (v) mobility enhancing equipment; or
- 432 (vi) tangible personal property used to correct impaired vision, including:
- 433 (A) eyeglasses; or
- 434 (B) contact lenses.

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

437 ~~[(41)]~~ (42) "Drilling equipment manufacturer" means a facility:

- 438 (a) located in the state;
- 439 (b) with respect to which 51% or more of the manufacturing activities of the facility
440 consist of manufacturing component parts of drilling equipment;
- 441 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
442 manufacturing process; and
- 443 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
444 manufacturing process.

445 ~~[(42)]~~ (43) (a) "Drug" means a compound, substance, or preparation, or a component of
446 a compound, substance, or preparation that is:

- 447 (i) recognized in:
 - 448 (A) the official United States Pharmacopoeia;
 - 449 (B) the official Homeopathic Pharmacopoeia of the United States;
 - 450 (C) the official National Formulary; or
 - 451 (D) a supplement to a publication listed in Subsections ~~[(42)]~~ (43)(a)(i)(A) through
452 (C);
- 453 (ii) intended for use in the:
 - 454 (A) diagnosis of disease;
 - 455 (B) cure of disease;
 - 456 (C) mitigation of disease;
 - 457 (D) treatment of disease; or
 - 458 (E) prevention of disease; or
- 459 (iii) intended to affect:

460 (A) the structure of the body; or

461 (B) any function of the body.

462 (b) "Drug" does not include:

463 (i) food and food ingredients;

464 (ii) a dietary supplement;

465 (iii) an alcoholic beverage; or

466 (iv) a prosthetic device.

467 ~~[(43)]~~ (44) (a) Except as provided in Subsection ~~[(43)]~~ (44)(c), "durable medical

468 equipment" means equipment that:

469 (i) can withstand repeated use;

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

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

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

473 (b) "Durable medical equipment" includes parts used in the repair or replacement of the

474 equipment described in Subsection ~~[(43)]~~ (44)(a).

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

476 ~~[(44)]~~ (45) "Electronic" means:

477 (a) relating to technology; and

478 (b) having:

479 (i) electrical capabilities;

480 (ii) digital capabilities;

481 (iii) magnetic capabilities;

482 (iv) wireless capabilities;

483 (v) optical capabilities;

484 (vi) electromagnetic capabilities; or

485 (vii) capabilities similar to Subsections ~~[(44)]~~ (45)(b)(i) through (vi).

486 ~~[(45)]~~ (46) "Electronic financial payment service" means an establishment:

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

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

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

490 (b) that performs electronic financial payment services.

491 [~~(46)~~] (47) "Employee" means the same as that term is defined in Section 59-10-401.

492 (48) (a) "Feminine hygiene products" means:

493 (i) tampons;

494 (ii) panty liners;

495 (iii) menstrual cups;

496 (iv) sanitary napkins; and

497 (v) other similar tangible personal property designed for feminine hygiene in

498 connection with the human menstrual cycle.

499 (b) "Feminine hygiene products" does not include:

500 (i) soaps and cleaning solutions;

501 (ii) shampoo;

502 (iii) toothpaste;

503 (iv) mouthwash;

504 (v) antiperspirants; or

505 (vi) sun tan lotions and screens.

506 [~~(47)~~] (49) "Fixed guideway" means a public transit facility that uses and occupies:

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

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

509 [~~(48)~~] (50) "Fixed wing turbine powered aircraft" means an aircraft that:

510 (a) is powered by turbine engines;

511 (b) operates on jet fuel; and

512 (c) has wings that are permanently attached to the fuselage of the aircraft.

513 [~~(49)~~] (51) "Fixed wireless service" means a telecommunications service that provides

514 radio communication between fixed points.

515 [~~(50)~~] (52) (a) "Food and food ingredients" means substances:

516 (i) regardless of whether the substances are in:

517 (A) liquid form;

518 (B) concentrated form;

519 (C) solid form;

520 (D) frozen form;

521 (E) dried form; or

522 (F) dehydrated form; and
523 (ii) that are:
524 (A) sold for:
525 (I) ingestion by humans; or
526 (II) chewing by humans; and
527 (B) consumed for the substance's:
528 (I) taste; or
529 (II) nutritional value.
530 (b) "Food and food ingredients" includes an item described in Subsection [~~(91)~~]
531 (93)(b)(iii).
532 (c) "Food and food ingredients" does not include:
533 (i) an alcoholic beverage;
534 (ii) tobacco; or
535 (iii) prepared food.
536 [~~(51)~~] (53) (a) "Fundraising sales" means sales:
537 (i) (A) made by a school; or
538 (B) made by a school student;
539 (ii) that are for the purpose of raising funds for the school to purchase equipment,
540 materials, or provide transportation; and
541 (iii) that are part of an officially sanctioned school activity.
542 (b) For purposes of Subsection [~~(51)~~] (53)(a)(iii), "officially sanctioned school activity"
543 means a school activity:
544 (i) that is conducted in accordance with a formal policy adopted by the school or school
545 district governing the authorization and supervision of fundraising activities;
546 (ii) that does not directly or indirectly compensate an individual teacher or other
547 educational personnel by direct payment, commissions, or payment in kind; and
548 (iii) the net or gross revenues from which are deposited in a dedicated account
549 controlled by the school or school district.
550 [~~(52)~~] (54) "Geothermal energy" means energy contained in heat that continuously
551 flows outward from the earth that is used as the sole source of energy to produce electricity.
552 [~~(53)~~] (55) "Governing board of the agreement" means the governing board of the

553 agreement that is:

554 (a) authorized to administer the agreement; and

555 (b) established in accordance with the agreement.

556 [~~54~~] (56) (a) For purposes of Subsection 59-12-104(41), "governmental entity"

557 means:

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

560 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
561 Office of the Court Administrator, and similar administrative units in the judicial branch;

562 (iii) the legislative branch of the state, including the House of Representatives, the
563 Senate, the Legislative Printing Office, the Office of Legislative Research and General
564 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
565 Analyst;

566 (iv) the National Guard;

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

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

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

571 (i) a school;

572 (ii) the State Board of Education;

573 (iii) the State Board of Regents; or

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

575 [~~55~~] (57) "Hydroelectric energy" means water used as the sole source of energy to
576 produce electricity.

577 [~~56~~] (58) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
578 or other fuels:

579 (a) in mining or extraction of minerals;

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

582 (i) commercial greenhouses;

583 (ii) irrigation pumps;

- 584 (iii) farm machinery;
- 585 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
- 586 under Title 41, Chapter 1a, Part 2, Registration; and
- 587 (v) other farming activities;
- 588 (c) in manufacturing tangible personal property at an establishment described in SIC
- 589 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 590 Executive Office of the President, Office of Management and Budget;
- 591 (d) by a scrap recycler if:
- 592 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 593 one or more of the following items into prepared grades of processed materials for use in new
- 594 products:
- 595 (A) iron;
- 596 (B) steel;
- 597 (C) nonferrous metal;
- 598 (D) paper;
- 599 (E) glass;
- 600 (F) plastic;
- 601 (G) textile; or
- 602 (H) rubber; and
- 603 (ii) the new products under Subsection [~~(56)~~] (58)(d)(i) would otherwise be made with
- 604 nonrecycled materials; or
- 605 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
- 606 cogeneration facility as defined in Section 54-2-1.
- 607 [~~(57)~~] (59) (a) Except as provided in Subsection [~~(57)~~] (59)(b), "installation charge"
- 608 means a charge for installing:
- 609 (i) tangible personal property; or
- 610 (ii) a product transferred electronically.
- 611 (b) "Installation charge" does not include a charge for:
- 612 (i) repairs or renovations of:
- 613 (A) tangible personal property; or
- 614 (B) a product transferred electronically; or

- 615 (ii) attaching tangible personal property or a product transferred electronically:
616 (A) to other tangible personal property; and
617 (B) as part of a manufacturing or fabrication process.
- 618 [~~58~~] (60) "Institution of higher education" means an institution of higher education
619 listed in Section 53B-2-101.
- 620 [~~59~~] (61) (a) "Lease" or "rental" means a transfer of possession or control of tangible
621 personal property or a product transferred electronically for:
622 (i) (A) a fixed term; or
623 (B) an indeterminate term; and
624 (ii) consideration.
- 625 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
626 amount of consideration may be increased or decreased by reference to the amount realized
627 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
628 Code.
- 629 (c) "Lease" or "rental" does not include:
630 (i) a transfer of possession or control of property under a security agreement or
631 deferred payment plan that requires the transfer of title upon completion of the required
632 payments;
633 (ii) a transfer of possession or control of property under an agreement that requires the
634 transfer of title:
635 (A) upon completion of required payments; and
636 (B) if the payment of an option price does not exceed the greater of:
637 (I) \$100; or
638 (II) 1% of the total required payments; or
639 (iii) providing tangible personal property along with an operator for a fixed period of
640 time or an indeterminate period of time if the operator is necessary for equipment to perform as
641 designed.
- 642 (d) For purposes of Subsection [~~59~~] (61)(c)(iii), an operator is necessary for
643 equipment to perform as designed if the operator's duties exceed the:
644 (i) set-up of tangible personal property;
645 (ii) maintenance of tangible personal property; or

646 (iii) inspection of tangible personal property.

647 [~~(60)~~] (62) "Life science establishment" means an establishment in this state that is
648 classified under the following NAICS codes of the 2007 North American Industry
649 Classification System of the federal Executive Office of the President, Office of Management
650 and Budget:

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

652 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
653 Manufacturing; or

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

655 [~~(61)~~] (63) "Life science research and development facility" means a facility owned,
656 leased, or rented by a life science establishment if research and development is performed in
657 51% or more of the total area of the facility.

658 [~~(62)~~] (64) "Load and leave" means delivery to a purchaser by use of a tangible storage
659 media if the tangible storage media is not physically transferred to the purchaser.

660 [~~(63)~~] (65) "Local taxing jurisdiction" means a:

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

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

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

664 [~~(64)~~] (66) "Manufactured home" means the same as that term is defined in Section
665 [15A-1-302](#).

666 [~~(65)~~] (67) "Manufacturing facility" means:

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

670 (b) a scrap recycler if:

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

674 (A) iron;

675 (B) steel;

676 (C) nonferrous metal;

677 (D) paper;
 678 (E) glass;
 679 (F) plastic;
 680 (G) textile; or
 681 (H) rubber; and
 682 (ii) the new products under Subsection [~~(65)~~] (67)(b)(i) would otherwise be made with
 683 nonrecycled materials; or

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

686 [~~(66)~~] (68) "Member of the immediate family of the producer" means a person who is
 687 related to a producer described in Subsection 59-12-104(20)(a) as a:

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

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

690 (ii) a foster child or foster stepchild;

691 (b) grandchild or stepgrandchild;

692 (c) grandparent or stepgrandparent;

693 (d) nephew or stepnephew;

694 (e) niece or stepniece;

695 (f) parent or stepparent;

696 (g) sibling or stepsibling;

697 (h) spouse;

698 (i) person who is the spouse of a person described in Subsections [~~(66)~~] (68)(a) through
 699 (g); or

700 (j) person similar to a person described in Subsections [~~(66)~~] (68)(a) through (i) as
 701 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
 702 Administrative Rulemaking Act.

703 [~~(67)~~] (69) "Mobile home" means the same as that term is defined in Section
 704 15A-1-302.

705 [~~(68)~~] (70) "Mobile telecommunications service" [~~is as~~] means the same as that term is
 706 defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

707 [~~(69)~~] (71) (a) "Mobile wireless service" means a telecommunications service,

708 regardless of the technology used, if:

- 709 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 710 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 711 (iii) the origination point described in Subsection [~~(69)~~] (71)(a)(i) and the termination
- 712 point described in Subsection [~~(69)~~] (71)(a)(ii) are not fixed.

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

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

717 [~~(70)~~] (72) (a) Except as provided in Subsection [~~(70)~~] (72)(c), "mobility enhancing
718 equipment" means equipment that is:

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

721 (ii) appropriate for use in a:

722 (A) home; or

723 (B) motor vehicle; and

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

725 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
726 the equipment described in Subsection [~~(70)~~] (72)(a).

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

728 (i) a motor vehicle;

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

731 (iii) durable medical equipment; or

732 (iv) a prosthetic device.

733 [~~(71)~~] (73) "Model 1 seller" means a seller registered under the agreement that has
734 selected a certified service provider as the seller's agent to perform all of the seller's sales and
735 use tax functions for agreement sales and use taxes other than the seller's obligation under
736 Section 59-12-124 to remit a tax on the seller's own purchases.

737 [~~(72)~~] (74) "Model 2 seller" means a seller registered under the agreement that:

738 (a) except as provided in Subsection [~~(72)~~] (74)(b), has selected a certified automated

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

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

741 (i) collected by the seller; and

742 (ii) to the appropriate local taxing jurisdiction.

743 ~~[(73)]~~ (75) (a) Subject to Subsection ~~[(73)]~~ (75)(b), "model 3 seller" means a seller
744 registered under the agreement that has:

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

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

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

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

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

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

751 (b) For purposes of Subsection ~~[(73)]~~ (75)(a), "model 3 seller" includes an affiliated
752 group of sellers using the same proprietary system.

753 ~~[(74)]~~ (76) "Model 4 seller" means a seller that is registered under the agreement and is
754 not a model 1 seller, model 2 seller, or model 3 seller.

755 ~~[(75)]~~ (77) "Modular home" means a modular unit as defined in Section 15A-1-302.

756 ~~[(76)]~~ (78) "Motor vehicle" means the same as that term is defined in Section
757 41-1a-102.

758 ~~[(77)]~~ (79) "Oil sands" means impregnated bituminous sands that:

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

761 (b) yield mixtures of liquid hydrocarbon; and

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

764 ~~[(78)]~~ (80) "Oil shale" means a group of fine black to dark brown shales containing
765 kerogen material that yields petroleum upon heating and distillation.

766 ~~[(79)]~~ (81) "Optional computer software maintenance contract" means a computer
767 software maintenance contract that a customer is not obligated to purchase as a condition to the
768 retail sale of computer software.

769 ~~[(80)]~~ (82) (a) "Other fuels" means products that burn independently to produce heat or

770 energy.

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

773 [~~(81)~~] (83) (a) "Paging service" means a telecommunications service that provides
774 transmission of a coded radio signal for the purpose of activating a specific pager.

775 (b) For purposes of Subsection [~~(81)~~] (83)(a), the transmission of a coded radio signal
776 includes a transmission by message or sound.

777 [~~(82)~~] (84) "Pawnbroker" means the same as that term is defined in Section
778 13-32a-102.

779 [~~(83)~~] (85) "Pawn transaction" means the same as that term is defined in Section
780 13-32a-102.

781 [~~(84)~~] (86) (a) "Permanently attached to real property" means that for tangible personal
782 property attached to real property:

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

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

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

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

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

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

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

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

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

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

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

799 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
800 Subsection [~~(84)~~] (86)(c)(iii) or (iv).

- 801 (c) "Permanently attached to real property" does not include:
- 802 (i) the attachment of portable or movable tangible personal property to real property if
- 803 that portable or movable tangible personal property is attached to real property only for:
- 804 (A) convenience;
- 805 (B) stability; or
- 806 (C) for an obvious temporary purpose;
- 807 (ii) the detachment of tangible personal property from real property except for the
- 808 detachment described in Subsection ~~[(84)]~~ (86)(b)(ii);
- 809 (iii) an attachment of the following tangible personal property to real property if the
- 810 attachment to real property is only through a line that supplies water, electricity, gas,
- 811 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 812 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 813 (A) a computer;
- 814 (B) a telephone;
- 815 (C) a television; or
- 816 (D) tangible personal property similar to Subsections ~~[(84)]~~ (86)(c)(iii)(A) through (C)
- 817 as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 818 Administrative Rulemaking Act; or
- 819 (iv) an item listed in Subsection ~~[(125)]~~ (127)(c).
- 820 ~~[(85)]~~ (87) "Person" includes any individual, firm, partnership, joint venture,
- 821 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
- 822 city, municipality, district, or other local governmental entity of the state, or any group or
- 823 combination acting as a unit.
- 824 ~~[(86)]~~ (88) "Place of primary use":
- 825 (a) for telecommunications service other than mobile telecommunications service,
- 826 means the street address representative of where the customer's use of the telecommunications
- 827 service primarily occurs, which shall be:
- 828 (i) the residential street address of the customer; or
- 829 (ii) the primary business street address of the customer; or
- 830 (b) for mobile telecommunications service, ~~[is as]~~ means the same as that term is
- 831 defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

832 [~~(87)~~] (89) (a) "Postpaid calling service" means a telecommunications service a person
833 obtains by making a payment on a call-by-call basis:

834 (i) through the use of a:

835 (A) bank card;

836 (B) credit card;

837 (C) debit card; or

838 (D) travel card; or

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

841 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
842 service, that would be a prepaid wireless calling service if the service were exclusively a
843 telecommunications service.

844 [~~(88)~~] (90) "Postproduction" means an activity related to the finishing or duplication of
845 a medium described in Subsection 59-12-104(54)(a).

846 [~~(89)~~] (91) "Prepaid calling service" means a telecommunications service:

847 (a) that allows a purchaser access to telecommunications service that is exclusively
848 telecommunications service;

849 (b) that:

850 (i) is paid for in advance; and

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

852 (A) access number; or

853 (B) authorization code;

854 (c) that is dialed:

855 (i) manually; or

856 (ii) electronically; and

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

858 (i) by a known amount; and

859 (ii) with use.

860 [~~(90)~~] (92) "Prepaid wireless calling service" means a telecommunications service:

861 (a) that provides the right to utilize:

862 (i) mobile wireless service; and

- 863 (ii) other service that is not a telecommunications service, including:
- 864 (A) the download of a product transferred electronically;
- 865 (B) a content service; or
- 866 (C) an ancillary service;
- 867 (b) that:
- 868 (i) is paid for in advance; and
- 869 (ii) enables the origination of a call using an:
- 870 (A) access number; or
- 871 (B) authorization code;
- 872 (c) that is dialed:
- 873 (i) manually; or
- 874 (ii) electronically; and
- 875 (d) sold in predetermined units or dollars that decline:
- 876 (i) by a known amount; and
- 877 (ii) with use.
- 878 ~~[(91)]~~ (93) (a) "Prepared food" means:
- 879 (i) food:
- 880 (A) sold in a heated state; or
- 881 (B) heated by a seller;
- 882 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 883 item; or
- 884 (iii) except as provided in Subsection ~~[(91)]~~ (93)(c), food sold with an eating utensil
- 885 provided by the seller, including a:
- 886 (A) plate;
- 887 (B) knife;
- 888 (C) fork;
- 889 (D) spoon;
- 890 (E) glass;
- 891 (F) cup;
- 892 (G) napkin; or
- 893 (H) straw.

- 894 (b) "Prepared food" does not include:
- 895 (i) food that a seller only:
- 896 (A) cuts;
- 897 (B) repackages; or
- 898 (C) pasteurizes; or
- 899 (ii) (A) the following:
- 900 (I) raw egg;
- 901 (II) raw fish;
- 902 (III) raw meat;
- 903 (IV) raw poultry; or
- 904 (V) a food containing an item described in Subsections [~~91~~] (93)(b)(ii)(A)(I) through
- 905 (IV); and
- 906 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 907 Food and Drug Administration's Food Code that a consumer cook the items described in
- 908 Subsection [~~91~~] (93)(b)(ii)(A) to prevent food borne illness; or
- 909 (iii) the following if sold without eating utensils provided by the seller:
- 910 (A) food and food ingredients sold by a seller if the seller's proper primary
- 911 classification under the 2002 North American Industry Classification System of the federal
- 912 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 913 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 914 Manufacturing;
- 915 (B) food and food ingredients sold in an unheated state:
- 916 (I) by weight or volume; and
- 917 (II) as a single item; or
- 918 (C) a bakery item, including:
- 919 (I) a bagel;
- 920 (II) a bar;
- 921 (III) a biscuit;
- 922 (IV) bread;
- 923 (V) a bun;
- 924 (VI) a cake;

- 925 (VII) a cookie;
- 926 (VIII) a croissant;
- 927 (IX) a danish;
- 928 (X) a donut;
- 929 (XI) a muffin;
- 930 (XII) a pastry;
- 931 (XIII) a pie;
- 932 (XIV) a roll;
- 933 (XV) a tart;
- 934 (XVI) a torte; or
- 935 (XVII) a tortilla.
- 936 (c) An eating utensil provided by the seller does not include the following used to
- 937 transport the food:
 - 938 (i) a container; or
 - 939 (ii) packaging.
- 940 ~~[(92)]~~ (94) "Prescription" means an order, formula, or recipe that is issued:
 - 941 (a) (i) orally;
 - 942 (ii) in writing;
 - 943 (iii) electronically; or
 - 944 (iv) by any other manner of transmission; and
 - 945 (b) by a licensed practitioner authorized by the laws of a state.
- 946 ~~[(93)]~~ (95) (a) Except as provided in Subsection ~~[(93)]~~ (95)(b)(ii) or (iii), "prewritten
- 947 computer software" means computer software that is not designed and developed:
 - 948 (i) by the author or other creator of the computer software; and
 - 949 (ii) to the specifications of a specific purchaser.
 - 950 (b) "Prewritten computer software" includes:
 - 951 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
 - 952 software is not designed and developed:
 - 953 (A) by the author or other creator of the computer software; and
 - 954 (B) to the specifications of a specific purchaser;
 - 955 (ii) computer software designed and developed by the author or other creator of the

956 computer software to the specifications of a specific purchaser if the computer software is sold
957 to a person other than the purchaser; or

958 (iii) except as provided in Subsection [~~(93)~~] (95)(c), prewritten computer software or a
959 prewritten portion of prewritten computer software:

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

961 (B) if the modification or enhancement described in Subsection [~~(93)~~] (95)(b)(iii)(A) is
962 designed and developed to the specifications of a specific purchaser.

963 (c) "Prewritten computer software" does not include a modification or enhancement
964 described in Subsection [~~(93)~~] (95)(b)(iii) if the charges for the modification or enhancement
965 are:

966 (i) reasonable; and

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

970 (A) the books and records the seller keeps at the time of the transaction in the regular
971 course of business, including books and records the seller keeps at the time of the transaction in
972 the regular course of business for nontax purposes;

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

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

975 [~~(94)~~] (96) (a) "Private communications service" means a telecommunications service:

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

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

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

982 (i) an extension line;

983 (ii) a station;

984 (iii) switching capacity; or

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

987 [~~(95)~~] (97) (a) Except as provided in Subsection [~~(95)~~] (97)(b), "product transferred
988 electronically" means a product transferred electronically that would be subject to a tax under
989 this chapter if that product was transferred in a manner other than electronically.

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

- 991 (i) an ancillary service;
- 992 (ii) computer software; or
- 993 (iii) a telecommunications service.

994 [~~(96)~~] (98) (a) "Prosthetic device" means a device that is worn on or in the body to:

- 995 (i) artificially replace a missing portion of the body;
- 996 (ii) prevent or correct a physical deformity or physical malfunction; or
- 997 (iii) support a weak or deformed portion of the body.

998 (b) "Prosthetic device" includes:

- 999 (i) parts used in the repairs or renovation of a prosthetic device;
- 1000 (ii) replacement parts for a prosthetic device;
- 1001 (iii) a dental prosthesis; or
- 1002 (iv) a hearing aid.

1003 (c) "Prosthetic device" does not include:

- 1004 (i) corrective eyeglasses; or
- 1005 (ii) contact lenses.

1006 [~~(97)~~] (99) (a) "Protective equipment" means an item:

- 1007 (i) for human wear; and
- 1008 (ii) that is:
 - 1009 (A) designed as protection:
 - 1010 (I) to the wearer against injury or disease; or
 - 1011 (II) against damage or injury of other persons or property; and
 - 1012 (B) not suitable for general use.

1013 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1014 commission shall make rules:

- 1015 (i) listing the items that constitute "protective equipment"; and
- 1016 (ii) that are consistent with the list of items that constitute "protective equipment"
1017 under the agreement.

1018 [~~98~~] (100) (a) For purposes of Subsection 59-12-104(41), "publication" means any
1019 written or printed matter, other than a photocopy:

1020 (i) regardless of:

1021 (A) characteristics;

1022 (B) copyright;

1023 (C) form;

1024 (D) format;

1025 (E) method of reproduction; or

1026 (F) source; and

1027 (ii) made available in printed or electronic format.

1028 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1029 commission may by rule define the term "photocopy."

1030 [~~99~~] (101) (a) "Purchase price" and "sales price" mean the total amount of
1031 consideration:

1032 (i) valued in money; and

1033 (ii) for which tangible personal property, a product transferred electronically, or
1034 services are:

1035 (A) sold;

1036 (B) leased; or

1037 (C) rented.

1038 (b) "Purchase price" and "sales price" include:

1039 (i) the seller's cost of the tangible personal property, a product transferred
1040 electronically, or services sold;

1041 (ii) expenses of the seller, including:

1042 (A) the cost of materials used;

1043 (B) a labor cost;

1044 (C) a service cost;

1045 (D) interest;

1046 (E) a loss;

1047 (F) the cost of transportation to the seller; or

1048 (G) a tax imposed on the seller;

- 1049 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1050 (iv) consideration a seller receives from a person other than the purchaser if:
- 1051 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 1052 and
- 1053 (II) the consideration described in Subsection [~~(99)~~] (101)(b)(iv)(A)(I) is directly
- 1054 related to a price reduction or discount on the sale;
- 1055 (B) the seller has an obligation to pass the price reduction or discount through to the
- 1056 purchaser;
- 1057 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 1058 the seller at the time of the sale to the purchaser; and
- 1059 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 1060 seller to claim a price reduction or discount; and
- 1061 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 1062 coupon, or other documentation with the understanding that the person other than the seller
- 1063 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 1064 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 1065 organization allowed a price reduction or discount, except that a preferred customer card that is
- 1066 available to any patron of a seller does not constitute membership in a group or organization
- 1067 allowed a price reduction or discount; or
- 1068 (III) the price reduction or discount is identified as a third party price reduction or
- 1069 discount on the:
- 1070 (Aa) invoice the purchaser receives; or
- 1071 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 1072 (c) "Purchase price" and "sales price" do not include:
- 1073 (i) a discount:
- 1074 (A) in a form including:
- 1075 (I) cash;
- 1076 (II) term; or
- 1077 (III) coupon;
- 1078 (B) that is allowed by a seller;
- 1079 (C) taken by a purchaser on a sale; and

1080 (D) that is not reimbursed by a third party; or
1081 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
1082 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
1083 sale or later, as demonstrated by the books and records the seller keeps at the time of the
1084 transaction in the regular course of business, including books and records the seller keeps at the
1085 time of the transaction in the regular course of business for nontax purposes, by a
1086 preponderance of the facts and circumstances at the time of the transaction, and by the
1087 understanding of all of the parties to the transaction:

1088 (A) the following from credit extended on the sale of tangible personal property or
1089 services:

- 1090 (I) a carrying charge;
- 1091 (II) a financing charge; or
- 1092 (III) an interest charge;
- 1093 (B) a delivery charge;
- 1094 (C) an installation charge;
- 1095 (D) a manufacturer rebate on a motor vehicle; or
- 1096 (E) a tax or fee legally imposed directly on the consumer.

1097 ~~[(100)]~~ (102) "Purchaser" means a person to whom:

- 1098 (a) a sale of tangible personal property is made;
- 1099 (b) a product is transferred electronically; or
- 1100 (c) a service is furnished.

1101 ~~[(101)]~~ (103) "Qualifying enterprise data center" means an establishment that will:

- 1102 (a) own and operate a data center facility that will house a group of networked server
1103 computers in one physical location in order to centralize the dissemination, management, and
1104 storage of data and information;
- 1105 (b) be located in the state;
- 1106 (c) be a new operation constructed on or after July 1, 2016;
- 1107 (d) consist of one or more buildings that total 150,000 or more square feet;
- 1108 (e) be owned or leased by:
 - 1109 (i) the establishment; or
 - 1110 (ii) a person under common ownership, as defined in Section 59-7-101, of the

1111 establishment; and

1112 (f) be located on one or more parcels of land that are owned or leased by:

1113 (i) the establishment; or

1114 (ii) a person under common ownership, as defined in Section 59-7-101, of the

1115 establishment.

1116 [~~(102)~~] (104) "Regularly rented" means:

1117 (a) rented to a guest for value three or more times during a calendar year; or

1118 (b) advertised or held out to the public as a place that is regularly rented to guests for

1119 value.

1120 [~~(103)~~] (105) "Rental" means the same as that term is defined in Subsection [~~(59)~~] (61).

1121 [~~(104)~~] (106) (a) Except as provided in Subsection [~~(104)~~] (106)(b), "repairs or

1122 renovations of tangible personal property" means:

1123 (i) a repair or renovation of tangible personal property that is not permanently attached

1124 to real property; or

1125 (ii) attaching tangible personal property or a product transferred electronically to other

1126 tangible personal property or detaching tangible personal property or a product transferred

1127 electronically from other tangible personal property if:

1128 (A) the other tangible personal property to which the tangible personal property or

1129 product transferred electronically is attached or from which the tangible personal property or

1130 product transferred electronically is detached is not permanently attached to real property; and

1131 (B) the attachment of tangible personal property or a product transferred electronically

1132 to other tangible personal property or detachment of tangible personal property or a product

1133 transferred electronically from other tangible personal property is made in conjunction with a

1134 repair or replacement of tangible personal property or a product transferred electronically.

1135 (b) "Repairs or renovations of tangible personal property" does not include:

1136 (i) attaching prewritten computer software to other tangible personal property if the

1137 other tangible personal property to which the prewritten computer software is attached is not

1138 permanently attached to real property; or

1139 (ii) detaching prewritten computer software from other tangible personal property if the

1140 other tangible personal property from which the prewritten computer software is detached is

1141 not permanently attached to real property.

1142 ~~[(105)]~~ (107) "Research and development" means the process of inquiry or
1143 experimentation aimed at the discovery of facts, devices, technologies, or applications and the
1144 process of preparing those devices, technologies, or applications for marketing.

1145 ~~[(106)]~~ (108) (a) "Residential telecommunications services" means a
1146 telecommunications service or an ancillary service that is provided to an individual for personal
1147 use:

1148 (i) at a residential address; or

1149 (ii) at an institution, including a nursing home or a school, if the telecommunications
1150 service or ancillary service is provided to and paid for by the individual residing at the
1151 institution rather than the institution.

1152 (b) For purposes of Subsection ~~[(106)]~~ (108)(a)(i), a residential address includes an:

1153 (i) apartment; or

1154 (ii) other individual dwelling unit.

1155 ~~[(107)]~~ (109) "Residential use" means the use in or around a home, apartment building,
1156 sleeping quarters, and similar facilities or accommodations.

1157 ~~[(108)]~~ (110) (a) "Retailer" means any person engaged in a regularly organized
1158 business in tangible personal property or any other taxable transaction under Subsection
1159 [59-12-103](#)(1), and who is selling to the user or consumer and not for resale.

1160 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1161 engaged in the business of selling to users or consumers within the state.

1162 ~~[(109)]~~ (111) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
1163 other than:

1164 (a) resale;

1165 (b) sublease; or

1166 (c) subrent.

1167 ~~[(110)]~~ (112) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1168 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1169 Subsection [59-12-103](#)(1), for consideration.

1170 (b) "Sale" includes:

1171 (i) installment and credit sales;

1172 (ii) any closed transaction constituting a sale;

- 1173 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1174 chapter;
- 1175 (iv) any transaction if the possession of property is transferred but the seller retains the
1176 title as security for the payment of the price; and
- 1177 (v) any transaction under which right to possession, operation, or use of any article of
1178 tangible personal property is granted under a lease or contract and the transfer of possession
1179 would be taxable if an outright sale were made.
- 1180 [~~(H1)~~] (113) "Sale at retail" means the same as that term is defined in Subsection
1181 [~~(109)~~] (111).
- 1182 [~~(H2)~~] (114) "Sale-leaseback transaction" means a transaction by which title to
1183 tangible personal property or a product transferred electronically that is subject to a tax under
1184 this chapter is transferred:
- 1185 (a) by a purchaser-lessee;
- 1186 (b) to a lessor;
- 1187 (c) for consideration; and
- 1188 (d) if:
- 1189 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1190 of the tangible personal property or product transferred electronically;
- 1191 (ii) the sale of the tangible personal property or product transferred electronically to the
1192 lessor is intended as a form of financing:
- 1193 (A) for the tangible personal property or product transferred electronically; and
- 1194 (B) to the purchaser-lessee; and
- 1195 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1196 is required to:
- 1197 (A) capitalize the tangible personal property or product transferred electronically for
1198 financial reporting purposes; and
- 1199 (B) account for the lease payments as payments made under a financing arrangement.
- 1200 [~~(H3)~~] (115) "Sales price" means the same as that term is defined in Subsection [~~(99)~~]
1201 (101).
- 1202 [~~(H4)~~] (116) (a) "Sales relating to schools" means the following sales by, amounts
1203 paid to, or amounts charged by a school:

1204 (i) sales that are directly related to the school's educational functions or activities

1205 including:

1206 (A) the sale of:

1207 (I) textbooks;

1208 (II) textbook fees;

1209 (III) laboratory fees;

1210 (IV) laboratory supplies; or

1211 (V) safety equipment;

1212 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1213 that:

1214 (I) a student is specifically required to wear as a condition of participation in a
1215 school-related event or school-related activity; and

1216 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1217 place of ordinary clothing;

1218 (C) sales of the following if the net or gross revenues generated by the sales are
1219 deposited into a school district fund or school fund dedicated to school meals:

1220 (I) food and food ingredients; or

1221 (II) prepared food; or

1222 (D) transportation charges for official school activities; or

1223 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1224 event or school-related activity.

1225 (b) "Sales relating to schools" does not include:

1226 (i) bookstore sales of items that are not educational materials or supplies;

1227 (ii) except as provided in Subsection [~~(114)~~] (116)(a)(i)(B):

1228 (A) clothing;

1229 (B) clothing accessories or equipment;

1230 (C) protective equipment; or

1231 (D) sports or recreational equipment; or

1232 (iii) amounts paid to or amounts charged by a school for admission to a school-related
1233 event or school-related activity if the amounts paid or charged are passed through to a person:

1234 (A) other than a:

- 1235 (I) school;
- 1236 (II) nonprofit organization authorized by a school board or a governing body of a
1237 private school to organize and direct a competitive secondary school activity; or
- 1238 (III) nonprofit association authorized by a school board or a governing body of a
1239 private school to organize and direct a competitive secondary school activity; and
- 1240 (B) that is required to collect sales and use taxes under this chapter.
- 1241 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1242 commission may make rules defining the term "passed through."
- 1243 [~~(H5)~~] (117) For purposes of this section and Section 59-12-104, "school":
- 1244 (a) means:
- 1245 (i) an elementary school or a secondary school that:
- 1246 (A) is a:
- 1247 (I) public school; or
- 1248 (II) private school; and
- 1249 (B) provides instruction for one or more grades kindergarten through 12; or
- 1250 (ii) a public school district; and
- 1251 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1252 [~~(H6)~~] (118) "Seller" means a person that makes a sale, lease, or rental of:
- 1253 (a) tangible personal property;
- 1254 (b) a product transferred electronically; or
- 1255 (c) a service.
- 1256 [~~(H7)~~] (119) (a) "Semiconductor fabricating, processing, research, or development
1257 materials" means tangible personal property or a product transferred electronically if the
1258 tangible personal property or product transferred electronically is:
- 1259 (i) used primarily in the process of:
- 1260 (A) (I) manufacturing a semiconductor;
- 1261 (II) fabricating a semiconductor; or
- 1262 (III) research or development of a:
- 1263 (Aa) semiconductor; or
- 1264 (Bb) semiconductor manufacturing process; or
- 1265 (B) maintaining an environment suitable for a semiconductor; or

- 1266 (ii) consumed primarily in the process of:
- 1267 (A) (I) manufacturing a semiconductor;
- 1268 (II) fabricating a semiconductor; or
- 1269 (III) research or development of a:
- 1270 (Aa) semiconductor; or
- 1271 (Bb) semiconductor manufacturing process; or
- 1272 (B) maintaining an environment suitable for a semiconductor.
- 1273 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1274 includes:
- 1275 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1276 transferred electronically described in Subsection [~~(117)~~] (119)(a); or
- 1277 (ii) a chemical, catalyst, or other material used to:
- 1278 (A) produce or induce in a semiconductor a:
- 1279 (I) chemical change; or
- 1280 (II) physical change;
- 1281 (B) remove impurities from a semiconductor; or
- 1282 (C) improve the marketable condition of a semiconductor.
- 1283 [~~(118)~~] (120) "Senior citizen center" means a facility having the primary purpose of
- 1284 providing services to the aged as defined in Section 62A-3-101.
- 1285 [~~(119)~~] (121) (a) Subject to Subsections [~~(119)~~] (121)(b) and (c), "short-term lodging
- 1286 consumable" means tangible personal property that:
- 1287 (i) a business that provides accommodations and services described in Subsection
- 1288 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
- 1289 to a purchaser;
- 1290 (ii) is intended to be consumed by the purchaser; and
- 1291 (iii) is:
- 1292 (A) included in the purchase price of the accommodations and services; and
- 1293 (B) not separately stated on an invoice, bill of sale, or other similar document provided
- 1294 to the purchaser.
- 1295 (b) "Short-term lodging consumable" includes:
- 1296 (i) a beverage;

- 1297 (ii) a brush or comb;
- 1298 (iii) a cosmetic;
- 1299 (iv) a hair care product;
- 1300 (v) lotion;
- 1301 (vi) a magazine;
- 1302 (vii) makeup;
- 1303 (viii) a meal;
- 1304 (ix) mouthwash;
- 1305 (x) nail polish remover;
- 1306 (xi) a newspaper;
- 1307 (xii) a notepad;
- 1308 (xiii) a pen;
- 1309 (xiv) a pencil;
- 1310 (xv) a razor;
- 1311 (xvi) saline solution;
- 1312 (xvii) a sewing kit;
- 1313 (xviii) shaving cream;
- 1314 (xix) a shoe shine kit;
- 1315 (xx) a shower cap;
- 1316 (xxi) a snack item;
- 1317 (xxii) soap;
- 1318 (xxiii) toilet paper;
- 1319 (xxiv) a toothbrush;
- 1320 (xxv) toothpaste; or
- 1321 (xxvi) an item similar to Subsections [~~(119)~~] (121)(b)(i) through (xxv) as the
- 1322 commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah
- 1323 Administrative Rulemaking Act.
- 1324 (c) "Short-term lodging consumable" does not include:
- 1325 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 1326 property to be reused; or
- 1327 (ii) a product transferred electronically.

- 1328 [~~(120)~~] (122) "Simplified electronic return" means the electronic return:
1329 (a) described in Section 318(C) of the agreement; and
1330 (b) approved by the governing board of the agreement.
- 1331 [~~(121)~~] (123) "Solar energy" means the sun used as the sole source of energy for
1332 producing electricity.
- 1333 [~~(122)~~] (124) (a) "Sports or recreational equipment" means an item:
1334 (i) designed for human use; and
1335 (ii) that is:
1336 (A) worn in conjunction with:
1337 (I) an athletic activity; or
1338 (II) a recreational activity; and
1339 (B) not suitable for general use.
- 1340 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1341 commission shall make rules:
1342 (i) listing the items that constitute "sports or recreational equipment"; and
1343 (ii) that are consistent with the list of items that constitute "sports or recreational
1344 equipment" under the agreement.
- 1345 [~~(123)~~] (125) "State" means the state of Utah, [~~its~~] state departments, and state
1346 agencies.
- 1347 [~~(124)~~] (126) "Storage" means any keeping or retention of tangible personal property or
1348 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
1349 except sale in the regular course of business.
- 1350 [~~(125)~~] (127) (a) Except as provided in Subsection [~~(125)~~] (127)(d) or (e), "tangible
1351 personal property" means personal property that:
1352 (i) may be:
1353 (A) seen;
1354 (B) weighed;
1355 (C) measured;
1356 (D) felt; or
1357 (E) touched; or
1358 (ii) is in any manner perceptible to the senses.

1359 (b) "Tangible personal property" includes:

1360 (i) electricity;

1361 (ii) water;

1362 (iii) gas;

1363 (iv) steam; or

1364 (v) prewritten computer software, regardless of the manner in which the prewritten
1365 computer software is transferred.

1366 (c) "Tangible personal property" includes the following regardless of whether the item
1367 is attached to real property:

1368 (i) a dishwasher;

1369 (ii) a dryer;

1370 (iii) a freezer;

1371 (iv) a microwave;

1372 (v) a refrigerator;

1373 (vi) a stove;

1374 (vii) a washer; or

1375 (viii) an item similar to Subsections [~~(125)~~] (127)(c)(i) through (vii) as determined by
1376 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1377 Rulemaking Act.

1378 (d) "Tangible personal property" does not include a product that is transferred
1379 electronically.

1380 (e) "Tangible personal property" does not include the following if attached to real
1381 property, regardless of whether the attachment to real property is only through a line that
1382 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1383 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1384 Rulemaking Act:

1385 (i) a hot water heater;

1386 (ii) a water filtration system; or

1387 (iii) a water softener system.

1388 [~~(126)~~] (128) (a) "Telecommunications enabling or facilitating equipment, machinery,
1389 or software" means an item listed in Subsection [~~(126)~~] (128)(b) if that item is purchased or

1390 leased primarily to enable or facilitate one or more of the following to function:

1391 (i) telecommunications switching or routing equipment, machinery, or software; or

1392 (ii) telecommunications transmission equipment, machinery, or software.

1393 (b) The following apply to Subsection [~~(126)~~] (128)(a):

1394 (i) a pole;

1395 (ii) software;

1396 (iii) a supplementary power supply;

1397 (iv) temperature or environmental equipment or machinery;

1398 (v) test equipment;

1399 (vi) a tower; or

1400 (vii) equipment, machinery, or software that functions similarly to an item listed in

1401 Subsections [~~(126)~~] (128)(b)(i) through (vi) as determined by the commission by rule made in

1402 accordance with Subsection [~~(126)~~] (128)(c).

1403 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1404 commission may by rule define what constitutes equipment, machinery, or software that

1405 functions similarly to an item listed in Subsections [~~(126)~~] (128)(b)(i) through (vi).

1406 [~~(127)~~] (129) "Telecommunications equipment, machinery, or software required for

1407 911 service" means equipment, machinery, or software that is required to comply with 47

1408 C.F.R. Sec. 20.18.

1409 [~~(128)~~] (130) "Telecommunications maintenance or repair equipment, machinery, or

1410 software" means equipment, machinery, or software purchased or leased primarily to maintain

1411 or repair one or more of the following, regardless of whether the equipment, machinery, or

1412 software is purchased or leased as a spare part or as an upgrade or modification to one or more

1413 of the following:

1414 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1415 (b) telecommunications switching or routing equipment, machinery, or software; or

1416 (c) telecommunications transmission equipment, machinery, or software.

1417 [~~(129)~~] (131) (a) "Telecommunications service" means the electronic conveyance,

1418 routing, or transmission of audio, data, video, voice, or any other information or signal to a

1419 point, or among or between points.

1420 (b) "Telecommunications service" includes:

- 1421 (i) an electronic conveyance, routing, or transmission with respect to which a computer
- 1422 processing application is used to act:
- 1423 (A) on the code, form, or protocol of the content;
- 1424 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 1425 (C) regardless of whether the service:
- 1426 (I) is referred to as voice over Internet protocol service; or
- 1427 (II) is classified by the Federal Communications Commission as enhanced or value
- 1428 added;
- 1429 (ii) an 800 service;
- 1430 (iii) a 900 service;
- 1431 (iv) a fixed wireless service;
- 1432 (v) a mobile wireless service;
- 1433 (vi) a postpaid calling service;
- 1434 (vii) a prepaid calling service;
- 1435 (viii) a prepaid wireless calling service; or
- 1436 (ix) a private communications service.
- 1437 (c) "Telecommunications service" does not include:
- 1438 (i) advertising, including directory advertising;
- 1439 (ii) an ancillary service;
- 1440 (iii) a billing and collection service provided to a third party;
- 1441 (iv) a data processing and information service if:
- 1442 (A) the data processing and information service allows data to be:
- 1443 (I) (Aa) acquired;
- 1444 (Bb) generated;
- 1445 (Cc) processed;
- 1446 (Dd) retrieved; or
- 1447 (Ee) stored; and
- 1448 (II) delivered by an electronic transmission to a purchaser; and
- 1449 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1450 or information;
- 1451 (v) installation or maintenance of the following on a customer's premises:

- 1452 (A) equipment; or
- 1453 (B) wiring;
- 1454 (vi) Internet access service;
- 1455 (vii) a paging service;
- 1456 (viii) a product transferred electronically, including:
 - 1457 (A) music;
 - 1458 (B) reading material;
 - 1459 (C) a ring tone;
 - 1460 (D) software; or
 - 1461 (E) video;
 - 1462 (ix) a radio and television audio and video programming service:
 - 1463 (A) regardless of the medium; and
 - 1464 (B) including:
 - 1465 (I) furnishing conveyance, routing, or transmission of a television audio and video
 - 1466 programming service by a programming service provider;
 - 1467 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
 - 1468 (III) audio and video programming services delivered by a commercial mobile radio
 - 1469 service provider as defined in 47 C.F.R. Sec. 20.3;
 - 1470 (x) a value-added nonvoice data service; or
 - 1471 (xi) tangible personal property.
- 1472 [~~(130)~~] (132) (a) "Telecommunications service provider" means a person that:
 - 1473 (i) owns, controls, operates, or manages a telecommunications service; and
 - 1474 (ii) engages in an activity described in Subsection [~~(130)~~] (132)(a)(i) for the shared use
 - 1475 with or resale to any person of the telecommunications service.
- 1476 (b) A person described in Subsection [~~(130)~~] (132)(a) is a telecommunications service
- 1477 provider whether or not the Public Service Commission of Utah regulates:
 - 1478 (i) that person; or
 - 1479 (ii) the telecommunications service that the person owns, controls, operates, or
 - 1480 manages.
- 1481 [~~(131)~~] (133) (a) "Telecommunications switching or routing equipment, machinery, or
- 1482 software" means an item listed in Subsection [~~(131)~~] (133)(b) if that item is purchased or

1483 leased primarily for switching or routing:

- 1484 (i) an ancillary service;
- 1485 (ii) data communications;
- 1486 (iii) voice communications; or
- 1487 (iv) telecommunications service.

1488 (b) The following apply to Subsection [~~(131)~~] (133)(a):

- 1489 (i) a bridge;
- 1490 (ii) a computer;
- 1491 (iii) a cross connect;
- 1492 (iv) a modem;
- 1493 (v) a multiplexer;
- 1494 (vi) plug in circuitry;
- 1495 (vii) a router;
- 1496 (viii) software;
- 1497 (ix) a switch; or

1498 (x) equipment, machinery, or software that functions similarly to an item listed in
1499 Subsections [~~(131)~~] (133)(b)(i) through (ix) as determined by the commission by rule made in
1500 accordance with Subsection [~~(131)~~] (133)(c).

1501 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1502 commission may by rule define what constitutes equipment, machinery, or software that
1503 functions similarly to an item listed in Subsections [~~(131)~~] (133)(b)(i) through (ix).

1504 [~~(132)~~] (134) (a) "Telecommunications transmission equipment, machinery, or
1505 software" means an item listed in Subsection [~~(132)~~] (134)(b) if that item is purchased or
1506 leased primarily for sending, receiving, or transporting:

- 1507 (i) an ancillary service;
- 1508 (ii) data communications;
- 1509 (iii) voice communications; or
- 1510 (iv) telecommunications service.

1511 (b) The following apply to Subsection [~~(132)~~] (134)(a):

- 1512 (i) an amplifier;
- 1513 (ii) a cable;

- 1514 (iii) a closure;
- 1515 (iv) a conduit;
- 1516 (v) a controller;
- 1517 (vi) a duplexer;
- 1518 (vii) a filter;
- 1519 (viii) an input device;
- 1520 (ix) an input/output device;
- 1521 (x) an insulator;
- 1522 (xi) microwave machinery or equipment;
- 1523 (xii) an oscillator;
- 1524 (xiii) an output device;
- 1525 (xiv) a pedestal;
- 1526 (xv) a power converter;
- 1527 (xvi) a power supply;
- 1528 (xvii) a radio channel;
- 1529 (xviii) a radio receiver;
- 1530 (xix) a radio transmitter;
- 1531 (xx) a repeater;
- 1532 (xxi) software;
- 1533 (xxii) a terminal;
- 1534 (xxiii) a timing unit;
- 1535 (xxiv) a transformer;
- 1536 (xxv) a wire; or
- 1537 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1538 Subsections [~~(132)~~] (134)(b)(i) through (xxv) as determined by the commission by rule made in
- 1539 accordance with Subsection [~~(132)~~] (134)(c).
- 1540 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1541 commission may by rule define what constitutes equipment, machinery, or software that
- 1542 functions similarly to an item listed in Subsections [~~(132)~~] (134)(b)(i) through (xxv).
- 1543 [~~(133)~~] (135) (a) "Textbook for a higher education course" means a textbook or other
- 1544 printed material that is required for a course:

- 1545 (i) offered by an institution of higher education; and
- 1546 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1547 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1548 [~~(134)~~] (136) "Tobacco" means:

- 1549 (a) a cigarette;
- 1550 (b) a cigar;
- 1551 (c) chewing tobacco;
- 1552 (d) pipe tobacco; or
- 1553 (e) any other item that contains tobacco.

1554 [~~(135)~~] (137) "Unassisted amusement device" means an amusement device, skill
1555 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
1556 operate the amusement device, skill device, or ride device.

1557 [~~(136)~~] (138) (a) "Use" means the exercise of any right or power over tangible personal
1558 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
1559 incident to the ownership or the leasing of that tangible personal property, product transferred
1560 electronically, or service.

1561 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1562 property, a product transferred electronically, or a service in the regular course of business and
1563 held for resale.

1564 [~~(137)~~] (139) "Value-added nonvoice data service" means a service:

1565 (a) that otherwise meets the definition of a telecommunications service except that a
1566 computer processing application is used to act primarily for a purpose other than conveyance,
1567 routing, or transmission; and

1568 (b) with respect to which a computer processing application is used to act on data or
1569 information:

- 1570 (i) code;
- 1571 (ii) content;
- 1572 (iii) form; or
- 1573 (iv) protocol.

1574 [~~(138)~~] (140) (a) Subject to Subsection [~~(138)~~] (140)(b), "vehicle" means the following
1575 that are required to be titled, registered, or titled and registered:

- 1576 (i) an aircraft as defined in Section [72-10-102](#);
- 1577 (ii) a vehicle as defined in Section [41-1a-102](#);
- 1578 (iii) an off-highway vehicle as defined in Section [41-22-2](#); or
- 1579 (iv) a vessel as defined in Section [41-1a-102](#).
- 1580 (b) For purposes of Subsection [59-12-104\(33\)](#) only, "vehicle" includes:
- 1581 (i) a vehicle described in Subsection [~~(138)~~] [\(140\)](#)(a); or
- 1582 (ii) (A) a locomotive;
- 1583 (B) a freight car;
- 1584 (C) railroad work equipment; or
- 1585 (D) other railroad rolling stock.
- 1586 [~~(139)~~] [\(141\)](#) "Vehicle dealer" means a person engaged in the business of buying,
- 1587 selling, or exchanging a vehicle as defined in Subsection [~~(138)~~] [\(140\)](#).
- 1588 [~~(140)~~] [\(142\)](#) (a) "Vertical service" means an ancillary service that:
- 1589 (i) is offered in connection with one or more telecommunications services; and
- 1590 (ii) offers an advanced calling feature that allows a customer to:
- 1591 (A) identify a caller; and
- 1592 (B) manage multiple calls and call connections.
- 1593 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 1594 conference bridging service.
- 1595 [~~(141)~~] [\(143\)](#) (a) "Voice mail service" means an ancillary service that enables a
- 1596 customer to receive, send, or store a recorded message.
- 1597 (b) "Voice mail service" does not include a vertical service that a customer is required
- 1598 to have in order to utilize a voice mail service.
- 1599 [~~(142)~~] [\(144\)](#) (a) Except as provided in Subsection [~~(142)~~] [\(144\)](#)(b), "waste energy
- 1600 facility" means a facility that generates electricity:
- 1601 (i) using as the primary source of energy waste materials that would be placed in a
- 1602 landfill or refuse pit if it were not used to generate electricity, including:
- 1603 (A) tires;
- 1604 (B) waste coal;
- 1605 (C) oil shale; or
- 1606 (D) municipal solid waste; and

- 1607 (ii) in amounts greater than actually required for the operation of the facility.
- 1608 (b) "Waste energy facility" does not include a facility that incinerates:
- 1609 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1610 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 1611 [~~(143)~~] (145) "Watercraft" means a vessel as defined in Section 73-18-2.
- 1612 [~~(144)~~] (146) "Wind energy" means wind used as the sole source of energy to produce
- 1613 electricity.
- 1614 [~~(145)~~] (147) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
- 1615 geographic location by the United States Postal Service.
- 1616 Section 2. Section 59-12-103 is amended to read:
- 1617 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
- 1618 **tax revenues.**
- 1619 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
- 1620 sales price for amounts paid or charged for the following transactions:
- 1621 (a) retail sales of tangible personal property made within the state;
- 1622 (b) amounts paid for:
- 1623 (i) telecommunications service, other than mobile telecommunications service, that
- 1624 originates and terminates within the boundaries of this state;
- 1625 (ii) mobile telecommunications service that originates and terminates within the
- 1626 boundaries of one state only to the extent permitted by the Mobile Telecommunications
- 1627 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
- 1628 (iii) an ancillary service associated with a:
- 1629 (A) telecommunications service described in Subsection (1)(b)(i); or
- 1630 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
- 1631 (c) sales of the following for commercial use:
- 1632 (i) gas;
- 1633 (ii) electricity;
- 1634 (iii) heat;
- 1635 (iv) coal;
- 1636 (v) fuel oil; or
- 1637 (vi) other fuels;

- 1638 (d) sales of the following for residential use:
- 1639 (i) gas;
- 1640 (ii) electricity;
- 1641 (iii) heat;
- 1642 (iv) coal;
- 1643 (v) fuel oil; or
- 1644 (vi) other fuels;
- 1645 (e) sales of prepared food;
- 1646 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 1647 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 1648 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 1649 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 1650 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 1651 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 1652 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 1653 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 1654 exhibition, cultural, or athletic activity;
- 1655 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 1656 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 1657 (i) the tangible personal property; and
- 1658 (ii) parts used in the repairs or renovations of the tangible personal property described
- 1659 in Subsection (1)(g)(i), regardless of whether:
- 1660 (A) any parts are actually used in the repairs or renovations of that tangible personal
- 1661 property; or
- 1662 (B) the particular parts used in the repairs or renovations of that tangible personal
- 1663 property are exempt from a tax under this chapter;
- 1664 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 1665 assisted cleaning or washing of tangible personal property;
- 1666 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 1667 accommodations and services that are regularly rented for less than 30 consecutive days;
- 1668 (j) amounts paid or charged for laundry or dry cleaning services;

1669 (k) amounts paid or charged for leases or rentals of tangible personal property if within
1670 this state the tangible personal property is:

1671 (i) stored;

1672 (ii) used; or

1673 (iii) otherwise consumed;

1674 (l) amounts paid or charged for tangible personal property if within this state the
1675 tangible personal property is:

1676 (i) stored;

1677 (ii) used; or

1678 (iii) consumed; and

1679 (m) amounts paid or charged for a sale:

1680 (i) (A) of a product transferred electronically; or

1681 (B) of a repair or renovation of a product transferred electronically; and

1682 (ii) regardless of whether the sale provides:

1683 (A) a right of permanent use of the product; or

1684 (B) a right to use the product that is less than a permanent use, including a right:

1685 (I) for a definite or specified length of time; and

1686 (II) that terminates upon the occurrence of a condition.

1687 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
1688 is imposed on a transaction described in Subsection (1) equal to the sum of:

1689 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

1690 (A) [~~4.70%~~] 4.71%; and

1691 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
1692 and Use Tax Act, if the location of the transaction as determined under Sections [59-12-211](#)
1693 through [59-12-215](#) is in a county in which the state imposes the tax under Part 18, Additional
1694 State Sales and Use Tax Act; and

1695 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
1696 and Use Tax Act, if the location of the transaction as determined under Sections [59-12-211](#)
1697 through [59-12-215](#) is in a city, town, or the unincorporated area of a county in which the state
1698 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

1699 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

1700 transaction under this chapter other than this part.

1701 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
1702 on a transaction described in Subsection (1)(d) equal to the sum of:

1703 (i) a state tax imposed on the transaction at a tax rate of 2%; and

1704 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1705 transaction under this chapter other than this part.

1706 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
1707 on amounts paid or charged for food and food ingredients equal to the sum of:

1708 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
1709 a tax rate of 1.75%; and

1710 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1711 amounts paid or charged for food and food ingredients under this chapter other than this part.

1712 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
1713 tangible personal property other than food and food ingredients, a state tax and a local tax is
1714 imposed on the entire bundled transaction equal to the sum of:

1715 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

1716 (I) the tax rate described in Subsection (2)(a)(i)(A); and

1717 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
1718 Sales and Use Tax Act, if the location of the transaction as determined under Sections
1719 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
1720 Additional State Sales and Use Tax Act; and

1721 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
1722 Sales and Use Tax Act, if the location of the transaction as determined under Sections
1723 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
1724 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

1725 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
1726 described in Subsection (2)(a)(ii).

1727 (ii) If an optional computer software maintenance contract is a bundled transaction that
1728 consists of taxable and nontaxable products that are not separately itemized on an invoice or
1729 similar billing document, the purchase of the optional computer software maintenance contract
1730 is 40% taxable under this chapter and 60% nontaxable under this chapter.

1731 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
1732 transaction described in Subsection (2)(d)(i) or (ii):

1733 (A) if the sales price of the bundled transaction is attributable to tangible personal
1734 property, a product, or a service that is subject to taxation under this chapter and tangible
1735 personal property, a product, or service that is not subject to taxation under this chapter, the
1736 entire bundled transaction is subject to taxation under this chapter unless:

1737 (I) the seller is able to identify by reasonable and verifiable standards the tangible
1738 personal property, product, or service that is not subject to taxation under this chapter from the
1739 books and records the seller keeps in the seller's regular course of business; or

1740 (II) state or federal law provides otherwise; or

1741 (B) if the sales price of a bundled transaction is attributable to two or more items of
1742 tangible personal property, products, or services that are subject to taxation under this chapter
1743 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
1744 higher tax rate unless:

1745 (I) the seller is able to identify by reasonable and verifiable standards the tangible
1746 personal property, product, or service that is subject to taxation under this chapter at the lower
1747 tax rate from the books and records the seller keeps in the seller's regular course of business; or

1748 (II) state or federal law provides otherwise.

1749 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
1750 seller's regular course of business includes books and records the seller keeps in the regular
1751 course of business for nontax purposes.

1752 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
1753 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
1754 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
1755 of tangible personal property, other property, a product, or a service that is not subject to
1756 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
1757 the seller, at the time of the transaction:

1758 (A) separately states the portion of the transaction that is not subject to taxation under
1759 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

1760 (B) is able to identify by reasonable and verifiable standards, from the books and
1761 records the seller keeps in the seller's regular course of business, the portion of the transaction

1762 that is not subject to taxation under this chapter.

1763 (ii) A purchaser and a seller may correct the taxability of a transaction if:

1764 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
1765 the transaction that is not subject to taxation under this chapter was not separately stated on an
1766 invoice, bill of sale, or similar document provided to the purchaser because of an error or
1767 ignorance of the law; and

1768 (B) the seller is able to identify by reasonable and verifiable standards, from the books
1769 and records the seller keeps in the seller's regular course of business, the portion of the
1770 transaction that is not subject to taxation under this chapter.

1771 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
1772 in the seller's regular course of business includes books and records the seller keeps in the
1773 regular course of business for nontax purposes.

1774 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
1775 personal property, products, or services that are subject to taxation under this chapter at
1776 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
1777 unless the seller, at the time of the transaction:

1778 (A) separately states the items subject to taxation under this chapter at each of the
1779 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

1780 (B) is able to identify by reasonable and verifiable standards the tangible personal
1781 property, product, or service that is subject to taxation under this chapter at the lower tax rate
1782 from the books and records the seller keeps in the seller's regular course of business.

1783 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
1784 seller's regular course of business includes books and records the seller keeps in the regular
1785 course of business for nontax purposes.

1786 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
1787 rate imposed under the following shall take effect on the first day of a calendar quarter:

1788 (i) Subsection (2)(a)(i)(A);

1789 (ii) Subsection (2)(b)(i);

1790 (iii) Subsection (2)(c)(i); or

1791 (iv) Subsection (2)(d)(i)(A)(I).

1792 (h) (i) A tax rate increase takes effect on the first day of the first billing period that

- 1793 begins on or after the effective date of the tax rate increase if the billing period for the
1794 transaction begins before the effective date of a tax rate increase imposed under:
- 1795 (A) Subsection (2)(a)(i)(A);
 - 1796 (B) Subsection (2)(b)(i);
 - 1797 (C) Subsection (2)(c)(i); or
 - 1798 (D) Subsection (2)(d)(i)(A)(I).
- 1799 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
1800 statement for the billing period is rendered on or after the effective date of the repeal of the tax
1801 or the tax rate decrease imposed under:
- 1802 (A) Subsection (2)(a)(i)(A);
 - 1803 (B) Subsection (2)(b)(i);
 - 1804 (C) Subsection (2)(c)(i); or
 - 1805 (D) Subsection (2)(d)(i)(A)(I).
- 1806 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
1807 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
1808 change in a tax rate takes effect:
- 1809 (A) on the first day of a calendar quarter; and
 - 1810 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 1811 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:
- 1812 (A) Subsection (2)(a)(i)(A);
 - 1813 (B) Subsection (2)(b)(i);
 - 1814 (C) Subsection (2)(c)(i); or
 - 1815 (D) Subsection (2)(d)(i)(A)(I).
- 1816 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1817 the commission may by rule define the term "catalogue sale."
- 1818 (3) (a) The following state taxes shall be deposited into the General Fund:
- 1819 (i) the tax imposed by Subsection (2)(a)(i)(A);
 - 1820 (ii) the tax imposed by Subsection (2)(b)(i);
 - 1821 (iii) the tax imposed by Subsection (2)(c)(i); or
 - 1822 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
- 1823 (b) The following local taxes shall be distributed to a county, city, or town as provided

1824 in this chapter:

1825 (i) the tax imposed by Subsection (2)(a)(ii);

1826 (ii) the tax imposed by Subsection (2)(b)(ii);

1827 (iii) the tax imposed by Subsection (2)(c)(ii); and

1828 (iv) the tax imposed by Subsection (2)(d)(i)(B).

1829 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1830 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
1831 through (g):

1832 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1833 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

1834 (B) for the fiscal year; or

1835 (ii) \$17,500,000.

1836 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
1837 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
1838 Department of Natural Resources to:

1839 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
1840 protect sensitive plant and animal species; or

1841 (B) award grants, up to the amount authorized by the Legislature in an appropriations
1842 act, to political subdivisions of the state to implement the measures described in Subsections
1843 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

1844 (ii) Money transferred to the Department of Natural Resources under Subsection
1845 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
1846 person to list or attempt to have listed a species as threatened or endangered under the
1847 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

1848 (iii) At the end of each fiscal year:

1849 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1850 Conservation and Development Fund created in Section 73-10-24;

1851 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1852 Program Subaccount created in Section 73-10c-5; and

1853 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1854 Program Subaccount created in Section 73-10c-5.

1855 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
1856 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
1857 created in Section 4-18-106.

1858 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
1859 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
1860 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
1861 water rights.

1862 (ii) At the end of each fiscal year:

1863 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1864 Conservation and Development Fund created in Section 73-10-24;

1865 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1866 Program Subaccount created in Section 73-10c-5; and

1867 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1868 Program Subaccount created in Section 73-10c-5.

1869 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
1870 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
1871 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

1872 (ii) In addition to the uses allowed of the Water Resources Conservation and
1873 Development Fund under Section 73-10-24, the Water Resources Conservation and
1874 Development Fund may also be used to:

1875 (A) conduct hydrologic and geotechnical investigations by the Division of Water
1876 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
1877 quantifying surface and ground water resources and describing the hydrologic systems of an
1878 area in sufficient detail so as to enable local and state resource managers to plan for and
1879 accommodate growth in water use without jeopardizing the resource;

1880 (B) fund state required dam safety improvements; and

1881 (C) protect the state's interest in interstate water compact allocations, including the
1882 hiring of technical and legal staff.

1883 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1884 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
1885 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1886 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1887 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
1888 created in Section 73-10c-5 for use by the Division of Drinking Water to:

1889 (i) provide for the installation and repair of collection, treatment, storage, and
1890 distribution facilities for any public water system, as defined in Section 19-4-102;

1891 (ii) develop underground sources of water, including springs and wells; and

1892 (iii) develop surface water sources.

1893 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1894 2006, the difference between the following amounts shall be expended as provided in this
1895 Subsection (5), if that difference is greater than \$1:

1896 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
1897 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

1898 (ii) \$17,500,000.

1899 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

1900 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
1901 credits; and

1902 (B) expended by the Department of Natural Resources for watershed rehabilitation or
1903 restoration.

1904 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
1905 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
1906 created in Section 73-10-24.

1907 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
1908 remaining difference described in Subsection (5)(a) shall be:

1909 (A) transferred each fiscal year to the Division of Water Resources as dedicated
1910 credits; and

1911 (B) expended by the Division of Water Resources for cloud-seeding projects
1912 authorized by Title 73, Chapter 15, Modification of Weather.

1913 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
1914 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
1915 created in Section 73-10-24.

1916 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the

1917 remaining difference described in Subsection (5)(a) shall be deposited into the Water
1918 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
1919 Division of Water Resources for:

1920 (i) preconstruction costs:

1921 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
1922 26, Bear River Development Act; and

1923 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
1924 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

1925 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
1926 Chapter 26, Bear River Development Act;

1927 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
1928 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

1929 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
1930 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

1931 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
1932 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be
1933 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
1934 incurred for employing additional technical staff for the administration of water rights.

1935 (f) At the end of each fiscal year, any unexpended dedicated credits described in
1936 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
1937 Fund created in Section 73-10-24.

1938 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
1939 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
1940 (1) for the fiscal year shall be deposited as follows:

1941 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)
1942 shall be deposited into the Transportation Investment Fund of 2005 created by Section
1943 72-2-124;

1944 (b) for fiscal year 2017-18 only:

1945 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the
1946 Transportation Investment Fund of 2005 created by Section 72-2-124; and

1947 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the

1948 Water Infrastructure Restricted Account created by Section 73-10g-103;
1949 (c) for fiscal year 2018-19 only:
1950 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the
1951 Transportation Investment Fund of 2005 created by Section 72-2-124; and
1952 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the
1953 Water Infrastructure Restricted Account created by Section 73-10g-103;
1954 (d) for fiscal year 2019-20 only:
1955 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the
1956 Transportation Investment Fund of 2005 created by Section 72-2-124; and
1957 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the
1958 Water Infrastructure Restricted Account created by Section 73-10g-103;
1959 (e) for fiscal year 2020-21 only:
1960 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
1961 Transportation Investment Fund of 2005 created by Section 72-2-124; and
1962 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
1963 Water Infrastructure Restricted Account created by Section 73-10g-103; and
1964 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
1965 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
1966 created by Section 73-10g-103.
1967 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
1968 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
1969 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
1970 created by Section 72-2-124:
1971 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
1972 the revenues collected from the following taxes, which represents a portion of the
1973 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
1974 on vehicles and vehicle-related products:
1975 (A) the tax imposed by Subsection (2)(a)(i)(A);
1976 (B) the tax imposed by Subsection (2)(b)(i);
1977 (C) the tax imposed by Subsection (2)(c)(i); and
1978 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

1979 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
1980 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
1981 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
1982 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

1983 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
1984 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total
1985 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
1986 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
1987 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
1988 (7)(a) equal to the product of:

1989 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
1990 previous fiscal year; and

1991 (B) the total sales and use tax revenue generated by the taxes described in Subsections
1992 (7)(a)(i)(A) through (D) in the current fiscal year.

1993 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
1994 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes
1995 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of
1996 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
1997 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

1998 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
1999 from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited
2000 under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues
2001 collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the
2002 current fiscal year under Subsection (7)(a).

2003 (8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited
2004 under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall
2005 deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into
2006 the Transportation Investment Fund of 2005 created by Section [72-2-124](#).

2007 (b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
2008 Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit
2009 \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the

2010 Transportation Investment Fund of 2005 created by Section 72-2-124.

2011 (c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under
2012 Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning on or
2013 after July 1, 2018, the commission shall annually deposit into the Transportation Investment
2014 Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a)
2015 in an amount equal to 3.68% of the revenues collected from the following taxes:

2016 (A) the tax imposed by Subsection (2)(a)(i)(A);

2017 (B) the tax imposed by Subsection (2)(b)(i);

2018 (C) the tax imposed by Subsection (2)(c)(i); and

2019 (D) the tax imposed by Subsection (2)(d)(i)(A)(I).

2020 (ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually
2021 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i)
2022 by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year
2023 by the portion of the tax imposed on motor and special fuel that is sold, used, or received for
2024 sale or use in this state that exceeds 29.4 cents per gallon.

2025 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
2026 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
2027 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

2028 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),
2029 in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17
2030 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund
2031 of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on
2032 the transactions described in Subsection (1).

2033 (b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in
2034 addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance
2035 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
2036 amount of revenue described as follows:

2037 (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%
2038 tax rate on the transactions described in Subsection (1);

2039 (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05%
2040 tax rate on the transactions described in Subsection (1);

2041 (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%
2042 tax rate on the transactions described in Subsection (1);

2043 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
2044 .05% tax rate on the transactions described in Subsection (1); and

2045 (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%
2046 tax rate on the transactions described in Subsection (1).

2047 (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not
2048 deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts
2049 paid or charged for food and food ingredients, except for tax revenue generated by a bundled
2050 transaction attributable to food and food ingredients and tangible personal property other than
2051 food and food ingredients described in Subsection (2)(d).

2052 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
2053 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
2054 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
2055 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue
2056 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,
2057 created in Section 63N-2-512.

2058 (12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the
2059 Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed
2060 under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

2061 (b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of
2062 Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under
2063 Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

2064 (13) Notwithstanding Subsections (4) through (12), an amount required to be expended
2065 or deposited in accordance with Subsections (4) through (12) may not include an amount the
2066 Division of Finance deposits in accordance with Section 59-12-103.2.

2067 Section 3. Section 59-12-104 is amended to read:

2068 **59-12-104. Exemptions.**

2069 Exemptions from the taxes imposed by this chapter are as follows:

2070 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
2071 under Chapter 13, Motor and Special Fuel Tax Act;

2072 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
2073 subdivisions; however, this exemption does not apply to sales of:

2074 (a) construction materials except:

2075 (i) construction materials purchased by or on behalf of institutions of the public
2076 education system as defined in Utah Constitution, Article X, Section 2, provided the
2077 construction materials are clearly identified and segregated and installed or converted to real
2078 property which is owned by institutions of the public education system; and

2079 (ii) construction materials purchased by the state, its institutions, or its political
2080 subdivisions which are installed or converted to real property by employees of the state, its
2081 institutions, or its political subdivisions; or

2082 (b) tangible personal property in connection with the construction, operation,
2083 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
2084 providing additional project capacity, as defined in Section 11-13-103;

2085 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

2086 (i) the proceeds of each sale do not exceed \$1; and

2087 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
2088 the cost of the item described in Subsection (3)(b) as goods consumed; and

2089 (b) Subsection (3)(a) applies to:

2090 (i) food and food ingredients; or

2091 (ii) prepared food;

2092 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

2093 (i) alcoholic beverages;

2094 (ii) food and food ingredients; or

2095 (iii) prepared food;

2096 (b) sales of tangible personal property or a product transferred electronically:

2097 (i) to a passenger;

2098 (ii) by a commercial airline carrier; and

2099 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or

2100 (c) services related to Subsection (4)(a) or (b);

2101 [~~(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts~~
2102 ~~and equipment.~~]

2103 ~~[(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002~~
2104 ~~North American Industry Classification System of the federal Executive Office of the~~
2105 ~~President, Office of Management and Budget; and]~~
2106 ~~[(H) for:]~~
2107 ~~[(Aa) installation in an aircraft, including services relating to the installation of parts or~~
2108 ~~equipment in the aircraft;]~~
2109 ~~[(Bb) renovation of an aircraft; or]~~
2110 ~~[(Cc) repair of an aircraft; or]~~
2111 ~~[(B) for installation in an aircraft operated by a common carrier in interstate or foreign~~
2112 ~~commerce; or]~~
2113 ~~[(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an~~
2114 ~~aircraft operated by a common carrier in interstate or foreign commerce; and]~~
2115 ~~[(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~
2116 ~~a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a~~
2117 ~~refund:]~~
2118 ~~[(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;]~~
2119 ~~[(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;]~~
2120 ~~[(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for~~
2121 ~~the sale prior to filing for the refund;]~~
2122 ~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~
2123 ~~[(v) in accordance with Section 59-1-1410; and]~~
2124 ~~[(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,~~
2125 ~~if the person files for the refund on or before September 30, 2011;]~~
2126 (5) sales of parts and equipment for installation in an aircraft operated by a common
2127 carrier in interstate or foreign commerce;
2128 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
2129 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
2130 exhibitor, distributor, or commercial television or radio broadcaster;
2131 (7) (a) except as provided in Subsection (88) and subject to Subsection (7)(b), sales of
2132 cleaning or washing of tangible personal property if the cleaning or washing of the tangible
2133 personal property is not assisted cleaning or washing of tangible personal property;

2134 (b) if a seller that sells at the same business location assisted cleaning or washing of
2135 tangible personal property and cleaning or washing of tangible personal property that is not
2136 assisted cleaning or washing of tangible personal property, the exemption described in
2137 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
2138 or washing of the tangible personal property; and

2139 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
2140 Utah Administrative Rulemaking Act, the commission may make rules:

2141 (i) governing the circumstances under which sales are at the same business location;
2142 and

2143 (ii) establishing the procedures and requirements for a seller to separately account for
2144 sales of assisted cleaning or washing of tangible personal property;

2145 (8) sales made to or by religious or charitable institutions in the conduct of their regular
2146 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
2147 fulfilled;

2148 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
2149 this state if the vehicle is:

2150 (a) not registered in this state; and

2151 (b) (i) not used in this state; or

2152 (ii) used in this state:

2153 (A) if the vehicle is not used to conduct business, for a time period that does not
2154 exceed the longer of:

2155 (I) 30 days in any calendar year; or

2156 (II) the time period necessary to transport the vehicle to the borders of this state; or

2157 (B) if the vehicle is used to conduct business, for the time period necessary to transport
2158 the vehicle to the borders of this state;

2159 (10) (a) amounts paid for ~~[an item described in Subsection (10)(b) if]~~ the following
2160 items:

2161 (i) a bed pad or bed liner that is marketed for human incontinence care;

2162 (ii) feminine hygiene products; or

2163 (iii) diapers; or

2164 (b) amounts paid for a drug, a syringe, or a stoma supply if:

- 2165 (i) the item is intended for human use; and
- 2166 (ii) (A) a prescription was issued for the item; or
- 2167 (B) the item was purchased by a hospital or other medical facility; [~~and~~]
- 2168 [~~(b) (i) Subsection (10)(a) applies to:~~]
- 2169 [~~(A) a drug;~~]
- 2170 [~~(B) a syringe; or~~]
- 2171 [~~(C) a stoma supply; and~~]
- 2172 [~~(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
- 2173 ~~the commission may by rule define the terms:~~]
- 2174 [~~(A) "syringe"; or~~]
- 2175 [~~(B) "stoma supply";~~]
- 2176 (11) purchases or leases exempt under Section 19-12-201;
- 2177 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 2178 (i) the following if the item described in Subsection (12)(c) is not available to the
- 2179 general public:
- 2180 (A) a church; or
- 2181 (B) a charitable institution;
- 2182 (ii) an institution of higher education if:
- 2183 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 2184 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 2185 offered by the institution of higher education; or
- 2186 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 2187 (i) a medical facility; or
- 2188 (ii) a nursing facility; and
- 2189 (c) Subsections (12)(a) and (b) apply to:
- 2190 (i) food and food ingredients;
- 2191 (ii) prepared food; or
- 2192 (iii) alcoholic beverages;
- 2193 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 2194 or a product transferred electronically by a person:
- 2195 (i) regardless of the number of transactions involving the sale of that tangible personal

2196 property or product transferred electronically by that person; and
2197 (ii) not regularly engaged in the business of selling that type of tangible personal
2198 property or product transferred electronically;
2199 (b) this Subsection (13) does not apply if:
2200 (i) the sale is one of a series of sales of a character to indicate that the person is
2201 regularly engaged in the business of selling that type of tangible personal property or product
2202 transferred electronically;
2203 (ii) the person holds that person out as regularly engaged in the business of selling that
2204 type of tangible personal property or product transferred electronically;
2205 (iii) the person sells an item of tangible personal property or product transferred
2206 electronically that the person purchased as a sale that is exempt under Subsection (25); or
2207 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
2208 this state in which case the tax is based upon:
2209 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
2210 sold; or
2211 (B) in the absence of a bill of sale or other written evidence of value, the fair market
2212 value of the vehicle or vessel being sold at the time of the sale as determined by the
2213 commission; and
2214 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2215 commission shall make rules establishing the circumstances under which:
2216 (i) a person is regularly engaged in the business of selling a type of tangible personal
2217 property or product transferred electronically;
2218 (ii) a sale of tangible personal property or a product transferred electronically is one of
2219 a series of sales of a character to indicate that a person is regularly engaged in the business of
2220 selling that type of tangible personal property or product transferred electronically; or
2221 (iii) a person holds that person out as regularly engaged in the business of selling a type
2222 of tangible personal property or product transferred electronically;
2223 (14) amounts paid or charged for a purchase or lease of machinery, equipment, or
2224 normal operating repair or replacement parts with an economic life of three or more years by:
2225 (a) a manufacturing facility, except as provided in Subsection (86), that:
2226 (i) is located in the state; and

2227 (ii) uses the machinery, equipment, or normal operating repair or replacement parts:

2228 (A) in the manufacturing process to manufacture an item sold as tangible personal
2229 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
2230 Utah Administrative Rulemaking Act; or

2231 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
2232 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
2233 Administrative Rulemaking Act;

2234 (b) an establishment, as the commission defines that term in accordance with Title 63G,
2235 Chapter 3, Utah Administrative Rulemaking Act, that:

2236 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
2237 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
2238 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
2239 2002 North American Industry Classification System of the federal Executive Office of the
2240 President, Office of Management and Budget;

2241 (ii) is located in the state; and

2242 (iii) uses the machinery, equipment, or normal operating repair or replacement parts in:

2243 (A) the production process to produce an item sold as tangible personal property, as the
2244 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
2245 Administrative Rulemaking Act;

2246 (B) research and development, as the commission may define that phrase in accordance
2247 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2248 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
2249 produced from mining;

2250 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
2251 mining; or

2252 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

2253 (c) an establishment, as the commission defines that term in accordance with Title 63G,
2254 Chapter 3, Utah Administrative Rulemaking Act, that:

2255 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
2256 American Industry Classification System of the federal Executive Office of the President,
2257 Office of Management and Budget;

2258 (ii) is located in the state; and
2259 (iii) uses the machinery, equipment, or normal operating repair or replacement parts in
2260 the operation of the web search portal;
2261 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
2262 (i) tooling;
2263 (ii) special tooling;
2264 (iii) support equipment;
2265 (iv) special test equipment; or
2266 (v) parts used in the repairs or renovations of tooling or equipment described in
2267 Subsections (15)(a)(i) through (iv); and
2268 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
2269 (i) the tooling, equipment, or parts are used or consumed exclusively in the
2270 performance of any aerospace or electronics industry contract with the United States
2271 government or any subcontract under that contract; and
2272 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
2273 title to the tooling, equipment, or parts is vested in the United States government as evidenced
2274 by:
2275 (A) a government identification tag placed on the tooling, equipment, or parts; or
2276 (B) listing on a government-approved property record if placing a government
2277 identification tag on the tooling, equipment, or parts is impractical;
2278 (16) sales of newspapers or newspaper subscriptions;
2279 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
2280 product transferred electronically traded in as full or part payment of the purchase price, except
2281 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
2282 trade-ins are limited to other vehicles only, and the tax is based upon:
2283 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
2284 vehicle being traded in; or
2285 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
2286 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
2287 commission; and
2288 (b) Subsection (17)(a) does not apply to the following items of tangible personal

2289 property or products transferred electronically traded in as full or part payment of the purchase
2290 price:

2291 (i) money;

2292 (ii) electricity;

2293 (iii) water;

2294 (iv) gas; or

2295 (v) steam;

2296 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
2297 or a product transferred electronically used or consumed primarily and directly in farming
2298 operations, regardless of whether the tangible personal property or product transferred
2299 electronically:

2300 (A) becomes part of real estate; or

2301 (B) is installed by a~~[(F)]~~ farmer~~[(H)]~~,₂ contractor~~[(I)]~~,₂ or ~~[(H)]~~ subcontractor; or

2302 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
2303 product transferred electronically if the tangible personal property or product transferred
2304 electronically is exempt under Subsection (18)(a)(i); and

2305 (b) amounts paid or charged for the following are subject to the taxes imposed by this
2306 chapter:

2307 (i) (A) subject to Subsection (18)(b)(i)(B), ~~[the following]~~ machinery, equipment,
2308 materials, or supplies if used in a manner that is incidental to farming~~[(I)]~~; and

2309 ~~[(F) machinery;]~~

2310 ~~[(H) equipment;]~~

2311 ~~[(H) materials; or]~~

2312 ~~[(IV) supplies; and]~~

2313 (B) tangible personal property that is considered to be used in a manner that is
2314 incidental to farming includes:

2315 (I) hand tools; or

2316 (II) maintenance and janitorial equipment and supplies;

2317 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
2318 transferred electronically if the tangible personal property or product transferred electronically
2319 is used in an activity other than farming; and

2320 (B) tangible personal property or a product transferred electronically that is considered
2321 to be used in an activity other than farming includes:
2322 (I) office equipment and supplies; or
2323 (II) equipment and supplies used in:
2324 (Aa) the sale or distribution of farm products;
2325 (Bb) research; or
2326 (Cc) transportation; or
2327 (iii) a vehicle required to be registered by the laws of this state during the period
2328 ending two years after the date of the vehicle's purchase;
2329 (19) sales of hay;
2330 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
2331 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
2332 garden, farm, or other agricultural produce is sold by:
2333 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
2334 agricultural produce;
2335 (b) an employee of the producer described in Subsection (20)(a); or
2336 (c) a member of the immediate family of the producer described in Subsection (20)(a);
2337 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
2338 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

2339 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
2340 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
2341 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
2342 manufacturer, processor, wholesaler, or retailer;

2343 (23) a product stored in the state for resale;

2344 (24) (a) purchases of a product if:
2345 (i) the product is:
2346 (A) purchased outside of this state;
2347 (B) brought into this state:
2348 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
2349 (II) by a nonresident person who is not living or working in this state at the time of the
2350 purchase;

2351 (C) used for the personal use or enjoyment of the nonresident person described in
2352 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
2353 (D) not used in conducting business in this state; and
2354 (ii) for:
2355 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
2356 the product for a purpose for which the product is designed occurs outside of this state;
2357 (B) a boat, the boat is registered outside of this state; or
2358 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
2359 outside of this state;
2360 (b) the exemption provided for in Subsection (24)(a) does not apply to:
2361 (i) a lease or rental of a product; or
2362 (ii) a sale of a vehicle exempt under Subsection (33); and
2363 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
2364 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
2365 following:
2366 (i) conducting business in this state if that phrase has the same meaning in this
2367 Subsection (24) as in Subsection (63);
2368 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
2369 as in Subsection (63); or
2370 (iii) a purpose for which a product is designed if that phrase has the same meaning in
2371 this Subsection (24) as in Subsection (63);
2372 (25) a product purchased for resale in this state, in the regular course of business, either
2373 in its original form or as an ingredient or component part of a manufactured or compounded
2374 product;
2375 (26) a product upon which a sales or use tax was paid to some other state, or one of its
2376 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
2377 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
2378 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
2379 Act;
2380 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
2381 person for use in compounding a service taxable under the subsections;

2382 (28) purchases made in accordance with the special supplemental nutrition program for
2383 women, infants, and children established in 42 U.S.C. Sec. 1786;

2384 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
2385 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
2386 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
2387 the President, Office of Management and Budget;

2388 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
2389 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

2390 (a) not registered in this state; and

2391 (b) (i) not used in this state; or

2392 (ii) used in this state:

2393 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
2394 time period that does not exceed the longer of:

2395 (I) 30 days in any calendar year; or

2396 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
2397 the borders of this state; or

2398 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
2399 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
2400 state;

2401 (31) sales of aircraft manufactured in Utah;

2402 (32) amounts paid for the purchase of telecommunications service for purposes of
2403 providing telecommunications service;

2404 (33) sales, leases, or uses of the following:

2405 (a) a vehicle by an authorized carrier; or

2406 (b) tangible personal property that is installed on a vehicle:

2407 (i) sold or leased to or used by an authorized carrier; and

2408 (ii) before the vehicle is placed in service for the first time;

2409 (34) (a) 45% of the sales price of any new manufactured home; and

2410 (b) 100% of the sales price of any used manufactured home;

2411 (35) sales relating to schools and fundraising sales;

2412 (36) sales or rentals of durable medical equipment if:

- 2413 (a) a person presents a prescription for the durable medical equipment; and
- 2414 (b) the durable medical equipment is used for home use only;
- 2415 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 2416 Section [72-11-102](#); and
- 2417 (b) the commission shall by rule determine the method for calculating sales exempt
- 2418 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 2419 (38) sales to a ski resort of:
- 2420 (a) snowmaking equipment;
- 2421 (b) ski slope grooming equipment;
- 2422 (c) passenger ropeways as defined in Section [72-11-102](#); or
- 2423 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 2424 described in Subsections (38)(a) through (c);
- 2425 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 2426 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 2427 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 2428 [59-12-102](#);
- 2429 (b) if a seller that sells or rents at the same business location the right to use or operate
- 2430 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 2431 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 2432 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 2433 amusement, entertainment, or recreation for the assisted amusement devices; and
- 2434 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
- 2435 Utah Administrative Rulemaking Act, the commission may make rules:
- 2436 (i) governing the circumstances under which sales are at the same business location;
- 2437 and
- 2438 (ii) establishing the procedures and requirements for a seller to separately account for
- 2439 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
- 2440 assisted amusement devices;
- 2441 (41) (a) sales of photocopies by:
- 2442 (i) a governmental entity; or
- 2443 (ii) an entity within the state system of public education, including:

- 2444 (A) a school; or
- 2445 (B) the State Board of Education; or
- 2446 (b) sales of publications by a governmental entity;
- 2447 (42) amounts paid for admission to an athletic event at an institution of higher
- 2448 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
- 2449 20 U.S.C. Sec. 1681 et seq.;
- 2450 (43) (a) sales made to or by:
- 2451 (i) an area agency on aging; or
- 2452 (ii) a senior citizen center owned by a county, city, or town; or
- 2453 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 2454 (44) sales or leases of semiconductor fabricating, processing, research, or development
- 2455 materials regardless of whether the semiconductor fabricating, processing, research, or
- 2456 development materials:
- 2457 (a) actually come into contact with a semiconductor; or
- 2458 (b) ultimately become incorporated into real property;
- 2459 (45) an amount paid by or charged to a purchaser for accommodations and services
- 2460 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
- 2461 59-12-104.2;
- 2462 (46) [~~beginning on September 1, 2001,~~] the lease or use of a vehicle issued a temporary
- 2463 sports event registration certificate in accordance with Section 41-3-306 for the event period
- 2464 specified on the temporary sports event registration certificate;
- 2465 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
- 2466 adopted by the Public Service Commission only for purchase of electricity produced from a
- 2467 new alternative energy source built after January 1, 2016, as designated in the tariff by the
- 2468 Public Service Commission;
- 2469 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
- 2470 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
- 2471 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
- 2472 customer would have paid absent the tariff;
- 2473 (48) sales or rentals of mobility enhancing equipment if a person presents a
- 2474 prescription for the mobility enhancing equipment;

- 2475 (49) sales of water in a:
- 2476 (a) pipe;
- 2477 (b) conduit;
- 2478 (c) ditch; or
- 2479 (d) reservoir;
- 2480 (50) sales of currency or coins that constitute legal tender of a state, the United States,
- 2481 or a foreign nation;
- 2482 (51) (a) sales of an item described in Subsection (51)(b) if the item:
- 2483 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
- 2484 (ii) has a gold, silver, or platinum content of 50% or more; and
- 2485 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
- 2486 (i) ingot;
- 2487 (ii) bar;
- 2488 (iii) medallion; or
- 2489 (iv) decorative coin;
- 2490 (52) amounts paid on a sale-leaseback transaction;
- 2491 (53) sales of a prosthetic device:
- 2492 (a) for use on or in a human; and
- 2493 (b) (i) for which a prescription is required; or
- 2494 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 2495 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 2496 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
- 2497 or equipment is primarily used in the production or postproduction of the following media for
- 2498 commercial distribution:
- 2499 (i) a motion picture;
- 2500 (ii) a television program;
- 2501 (iii) a movie made for television;
- 2502 (iv) a music video;
- 2503 (v) a commercial;
- 2504 (vi) a documentary; or
- 2505 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the

2506 commission by administrative rule made in accordance with Subsection (54)(d); or
2507 (b) purchases, leases, or rentals of machinery or equipment by an establishment
2508 described in Subsection (54)(c) that is used for the production or postproduction of the
2509 following are subject to the taxes imposed by this chapter:

- 2510 (i) a live musical performance;
- 2511 (ii) a live news program; or
- 2512 (iii) a live sporting event;

2513 (c) the following establishments listed in the 1997 North American Industry
2514 Classification System of the federal Executive Office of the President, Office of Management
2515 and Budget, apply to Subsections (54)(a) and (b):

- 2516 (i) NAICS Code 512110; or
- 2517 (ii) NAICS Code 51219; and

2518 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2519 commission may by rule:

- 2520 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);

2521 or

- 2522 (ii) define:
 - 2523 (A) "commercial distribution";
 - 2524 (B) "live musical performance";
 - 2525 (C) "live news program"; or
 - 2526 (D) "live sporting event";

2527 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
2528 on or before June 30, 2027, of tangible personal property that:

- 2529 (i) is leased or purchased for or by a facility that:
 - 2530 (A) is an alternative energy electricity production facility;
 - 2531 (B) is located in the state; and
 - 2532 (C) (I) becomes operational on or after July 1, 2004; or
 - 2533 (II) has its generation capacity increased by one or more megawatts on or after July 1,
2534 2004, as a result of the use of the tangible personal property;
- 2535 (ii) has an economic life of five or more years; and
- 2536 (iii) is used to make the facility or the increase in capacity of the facility described in

2537 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
2538 transmission grid including:
2539 (A) a wind turbine;
2540 (B) generating equipment;
2541 (C) a control and monitoring system;
2542 (D) a power line;
2543 (E) substation equipment;
2544 (F) lighting;
2545 (G) fencing;
2546 (H) pipes; or
2547 (I) other equipment used for locating a power line or pole; and
2548 (b) this Subsection (55) does not apply to:
2549 (i) tangible personal property used in construction of:
2550 (A) a new alternative energy electricity production facility; or
2551 (B) the increase in the capacity of an alternative energy electricity production facility;
2552 (ii) contracted services required for construction and routine maintenance activities;
2553 and
2554 (iii) unless the tangible personal property is used or acquired for an increase in capacity
2555 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
2556 acquired after:
2557 (A) the alternative energy electricity production facility described in Subsection
2558 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
2559 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
2560 in Subsection (55)(a)(iii);
2561 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
2562 on or before June 30, 2027, of tangible personal property that:
2563 (i) is leased or purchased for or by a facility that:
2564 (A) is a waste energy production facility;
2565 (B) is located in the state; and
2566 (C) (I) becomes operational on or after July 1, 2004; or
2567 (II) has its generation capacity increased by one or more megawatts on or after July 1,

2568 2004, as a result of the use of the tangible personal property;
2569 (ii) has an economic life of five or more years; and
2570 (iii) is used to make the facility or the increase in capacity of the facility described in
2571 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
2572 transmission grid including:
2573 (A) generating equipment;
2574 (B) a control and monitoring system;
2575 (C) a power line;
2576 (D) substation equipment;
2577 (E) lighting;
2578 (F) fencing;
2579 (G) pipes; or
2580 (H) other equipment used for locating a power line or pole; and
2581 (b) this Subsection (56) does not apply to:
2582 (i) tangible personal property used in construction of:
2583 (A) a new waste energy facility; or
2584 (B) the increase in the capacity of a waste energy facility;
2585 (ii) contracted services required for construction and routine maintenance activities;
2586 and
2587 (iii) unless the tangible personal property is used or acquired for an increase in capacity
2588 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
2589 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
2590 described in Subsection (56)(a)(iii); or
2591 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
2592 in Subsection (56)(a)(iii);
2593 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
2594 or before June 30, 2027, of tangible personal property that:
2595 (i) is leased or purchased for or by a facility that:
2596 (A) is located in the state;
2597 (B) produces fuel from alternative energy, including[~~;~~] methanol[~~;~~] or [~~(H)~~] ethanol;
2598 and

2599 (C) (I) becomes operational on or after July 1, 2004; or
 2600 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
 2601 a result of the installation of the tangible personal property;
 2602 (ii) has an economic life of five or more years; and
 2603 (iii) is installed on the facility described in Subsection (57)(a)(i);
 2604 (b) this Subsection (57) does not apply to:
 2605 (i) tangible personal property used in construction of:
 2606 (A) a new facility described in Subsection (57)(a)(i); or
 2607 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
 2608 (ii) contracted services required for construction and routine maintenance activities;
 2609 and
 2610 (iii) unless the tangible personal property is used or acquired for an increase in capacity
 2611 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
 2612 (A) the facility described in Subsection (57)(a)(i) is operational; or
 2613 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
 2614 (58) (a) subject to Subsection (58)(b) [~~or (c)~~], sales of tangible personal property or a
 2615 product transferred electronically to a person within this state if that tangible personal property
 2616 or product transferred electronically is subsequently shipped outside the state and incorporated
 2617 pursuant to contract into and becomes a part of real property located outside of this state; and
 2618 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
 2619 state or political entity to which the tangible personal property is shipped imposes a sales, use,
 2620 gross receipts, or other similar transaction excise tax on the transaction against which the other
 2621 state or political entity allows a credit for sales and use taxes imposed by this chapter; [~~and~~
 2622 [~~(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~
 2623 ~~a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a~~
 2624 ~~refund:]~~
 2625 [~~(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;]~~
 2626 [~~(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on~~
 2627 ~~which the sale is made;]~~
 2628 [~~(iii) if the person did not claim the exemption allowed by this Subsection (58) for the~~
 2629 ~~sale prior to filing for the refund;]~~

2630 [~~(iv) for sales and use taxes paid under this chapter on the sale;~~
2631 [~~(v) in accordance with Section 59-1-1410; and~~
2632 [~~(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,~~
2633 ~~if the person files for the refund on or before June 30, 2011;~~]
2634 (59) purchases:
2635 (a) of one or more of the following items in printed or electronic format:
2636 (i) a list containing information that includes one or more[~~:(A)~~] names[~~;~~] or [~~(B)~~]
2637 addresses; or
2638 (ii) a database containing information that includes one or more[~~:(A)~~] names[~~;~~] or
2639 [~~(B)~~] addresses; and
2640 (b) used to send direct mail;
2641 (60) redemptions or repurchases of a product by a person if that product was:
2642 (a) delivered to a pawnbroker as part of a pawn transaction; and
2643 (b) redeemed or repurchased within the time period established in a written agreement
2644 between the person and the pawnbroker for redeeming or repurchasing the product;
2645 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
2646 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
2647 and
2648 (ii) has a useful economic life of one or more years; and
2649 (b) the following apply to Subsection (61)(a):
2650 (i) telecommunications enabling or facilitating equipment, machinery, or software;
2651 (ii) telecommunications equipment, machinery, or software required for 911 service;
2652 (iii) telecommunications maintenance or repair equipment, machinery, or software;
2653 (iv) telecommunications switching or routing equipment, machinery, or software; or
2654 (v) telecommunications transmission equipment, machinery, or software;
2655 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
2656 personal property or a product transferred electronically that are used in the research and
2657 development of alternative energy technology; and
2658 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2659 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
2660 purchases of tangible personal property or a product transferred electronically that are used in

2661 the research and development of alternative energy technology;

2662 (63) (a) purchases of tangible personal property or a product transferred electronically

2663 if:

2664 (i) the tangible personal property or product transferred electronically is:

2665 (A) purchased outside of this state;

2666 (B) brought into this state at any time after the purchase described in Subsection

2667 (63)(a)(i)(A); and

2668 (C) used in conducting business in this state; and

2669 (ii) for:

2670 (A) tangible personal property or a product transferred electronically other than the

2671 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property

2672 for a purpose for which the property is designed occurs outside of this state; or

2673 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

2674 outside of this state;

2675 (b) the exemption provided for in Subsection (63)(a) does not apply to:

2676 (i) a lease or rental of tangible personal property or a product transferred electronically;

2677 or

2678 (ii) a sale of a vehicle exempt under Subsection (33); and

2679 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

2680 purposes of Subsection (63)(a), the commission may by rule define what constitutes the

2681 following:

2682 (i) conducting business in this state if that phrase has the same meaning in this

2683 Subsection (63) as in Subsection (24);

2684 (ii) the first use of tangible personal property or a product transferred electronically if

2685 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

2686 (iii) a purpose for which tangible personal property or a product transferred

2687 electronically is designed if that phrase has the same meaning in this Subsection (63) as in

2688 Subsection (24);

2689 (64) sales of disposable home medical equipment or supplies if:

2690 (a) a person presents a prescription for the disposable home medical equipment or

2691 supplies;

2692 (b) the disposable home medical equipment or supplies are used exclusively by the
2693 person to whom the prescription described in Subsection (64)(a) is issued; and

2694 (c) the disposable home medical equipment and supplies are listed as eligible for
2695 payment under:

2696 (i) Title XVIII, federal Social Security Act; or

2697 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

2698 (65) sales:

2699 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit

2700 District Act; or

2701 (b) of tangible personal property to a subcontractor of a public transit district, if the

2702 tangible personal property is:

2703 (i) clearly identified; and

2704 (ii) installed or converted to real property owned by the public transit district;

2705 (66) sales of construction materials:

2706 (a) purchased on or after July 1, 2010;

2707 (b) purchased by, on behalf of, or for the benefit of an international airport:

2708 (i) located within a county of the first class; and

2709 (ii) that has a United States customs office on its premises; and

2710 (c) if the construction materials are:

2711 (i) clearly identified;

2712 (ii) segregated; and

2713 (iii) installed or converted to real property:

2714 (A) owned or operated by the international airport described in Subsection (66)(b); and

2715 (B) located at the international airport described in Subsection (66)(b);

2716 (67) sales of construction materials:

2717 (a) purchased on or after July 1, 2008;

2718 (b) purchased by, on behalf of, or for the benefit of a new airport:

2719 (i) located within a county of the second class; and

2720 (ii) that is owned or operated by a city in which an airline as defined in Section

2721 59-2-102 is headquartered; and

2722 (c) if the construction materials are:

- 2723 (i) clearly identified;
- 2724 (ii) segregated; and
- 2725 (iii) installed or converted to real property:
 - 2726 (A) owned or operated by the new airport described in Subsection (67)(b);
 - 2727 (B) located at the new airport described in Subsection (67)(b); and
 - 2728 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 2729 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 2730 (69) purchases and sales described in Section [63H-4-111](#);
- 2731 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 2732 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 2733 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 2734 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 2735 powered aircraft; or
- 2736 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 2737 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 2738 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 2739 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 2740 powered aircraft;
- 2741 (71) subject to Section [59-12-104.4](#), sales of a textbook for a higher education course:
- 2742 (a) to a person admitted to an institution of higher education; and
- 2743 (b) by a seller, other than a bookstore owned by an institution of higher education, if
- 2744 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
- 2745 textbook for a higher education course;
- 2746 (72) a license fee or tax a municipality imposes in accordance with Subsection
- 2747 [10-1-203\(5\)](#) on a purchaser from a business for which the municipality provides an enhanced
- 2748 level of municipal services;
- 2749 (73) amounts paid or charged for construction materials used in the construction of a
- 2750 new or expanding life science research and development facility in the state, if the construction
- 2751 materials are:
 - 2752 (a) clearly identified;
 - 2753 (b) segregated; and

2754 (c) installed or converted to real property;
2755 (74) amounts paid or charged for:
2756 (a) a purchase or lease of machinery and equipment that:
2757 (i) are used in performing qualified research:
2758 (A) as defined in Section 41(d), Internal Revenue Code; and
2759 (B) in the state; and
2760 (ii) have an economic life of three or more years; and
2761 (b) normal operating repair or replacement parts:
2762 (i) for the machinery and equipment described in Subsection (74)(a); and
2763 (ii) that have an economic life of three or more years;
2764 (75) a sale or lease of tangible personal property used in the preparation of prepared
2765 food if:
2766 (a) for a sale:
2767 (i) the ownership of the seller and the ownership of the purchaser are identical; and
2768 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
2769 tangible personal property prior to making the sale; or
2770 (b) for a lease:
2771 (i) the ownership of the lessor and the ownership of the lessee are identical; and
2772 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
2773 personal property prior to making the lease;
2774 (76) (a) purchases of machinery or equipment if:
2775 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
2776 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
2777 System of the federal Executive Office of the President, Office of Management and Budget;
2778 (ii) the machinery or equipment:
2779 (A) has an economic life of three or more years; and
2780 (B) is used by one or more persons who pay admission or user fees described in
2781 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
2782 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
2783 (A) amounts paid or charged as admission or user fees described in Subsection
2784 59-12-103(1)(f); and

- 2785 (B) subject to taxation under this chapter; and
- 2786 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2787 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
- 2788 previous calendar quarter is:
- 2789 (i) amounts paid or charged as admission or user fees described in Subsection
- 2790 59-12-103(1)(f); and
- 2791 (ii) subject to taxation under this chapter;
- 2792 (77) purchases of a short-term lodging consumable by a business that provides
- 2793 accommodations and services described in Subsection 59-12-103(1)(i);
- 2794 (78) amounts paid or charged to access a database:
- 2795 (a) if the primary purpose for accessing the database is to view or retrieve information
- 2796 from the database; and
- 2797 (b) not including amounts paid or charged for a:
- 2798 (i) digital audiowork;
- 2799 (ii) digital audio-visual work; or
- 2800 (iii) digital book;
- 2801 (79) amounts paid or charged for a purchase or lease made by an electronic financial
- 2802 payment service, of:
- 2803 (a) machinery and equipment that:
- 2804 (i) are used in the operation of the electronic financial payment service; and
- 2805 (ii) have an economic life of three or more years; and
- 2806 (b) normal operating repair or replacement parts that:
- 2807 (i) are used in the operation of the electronic financial payment service; and
- 2808 (ii) have an economic life of three or more years;
- 2809 (80) [~~beginning on April 1, 2013,~~] sales of a fuel cell as defined in Section 54-15-102;
- 2810 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
- 2811 product transferred electronically if the tangible personal property or product transferred
- 2812 electronically:
- 2813 (a) is stored, used, or consumed in the state; and
- 2814 (b) is temporarily brought into the state from another state:
- 2815 (i) during a disaster period as defined in Section 53-2a-1202;

2816 (ii) by an out-of-state business as defined in Section 53-2a-1202;

2817 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

2818 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

2819 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined

2820 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and

2821 Recreation Program;

2822 (83) amounts paid or charged for a purchase or lease of molten magnesium;

2823 (84) ~~[(a) except as provided in Subsection (84)(b);]~~ amounts paid or charged for a

2824 purchase or lease made by a drilling equipment manufacturer of machinery, equipment,

2825 ~~[materials, or]~~ normal operating repair or replacement parts ~~[(i), or materials, except for office~~

2826 ~~equipment or office supplies,~~ that are used or consumed exclusively in the drilling equipment

2827 manufacturer's manufacturing process; ~~[and]~~

2828 ~~[(ii) except for office:]~~

2829 ~~[(A) equipment; or]~~

2830 ~~[(B) supplies; and]~~

2831 ~~[(b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an~~

2832 ~~exemption described in Subsection (84)(a) only by filing for a refund:]~~

2833 ~~[(i) of 50% of the tax paid on the amounts paid or charged; and]~~

2834 ~~[(ii) in accordance with Section 59-1-1410;]~~

2835 (85) amounts paid or charged for a purchase or lease by a qualifying enterprise

2836 data center of machinery, equipment, or normal operating repair or replacement parts, if the

2837 machinery, equipment, or normal operating repair or replacement parts:

2838 (a) are used in the operation of the establishment; and

2839 (b) have an economic life of one or more years; ~~[and]~~

2840 (86) amounts paid or charged for a purchase or lease of machinery, equipment, or

2841 normal operating repair or replacement parts by a manufacturing facility that:

2842 (a) is an establishment, as the commission defines that term in accordance with Title

2843 63G, Chapter 3, Utah Administrative Rulemaking Act;

2844 (b) is described in NAICS Code 336111, Automobile Manufacturing, of the 2002

2845 North American Industry Classification System of the federal Executive Office of the

2846 President, Office of Management and Budget;

2847 (c) is located in the state; and

2848 (d) uses the machinery, equipment, or normal operating repair or replacement parts in
2849 the manufacturing process to manufacture an item sold as tangible personal property, as the
2850 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
2851 Administrative Rulemaking Act;

2852 (87) amounts paid or charged for a purchase or lease of equipment or normal operating
2853 repair or replacement parts with an economic life of less than three years by a manufacturing
2854 facility that:

2855 (a) is an establishment, as the commission defines that term in accordance with Title
2856 63G, Chapter 3, Utah Administrative Rulemaking Act;

2857 (b) is described in NAICS Code 325120, Industrial Gas Manufacturing, of the 2002
2858 North American Industry Classification System of the federal Executive Office of the
2859 President, Office of Management and Budget;

2860 (c) is located in the state; and

2861 (d) uses the equipment or normal operating repair or replacement parts to manufacture
2862 hydrogen;

2863 (88) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
2864 vehicle that includes cleaning or washing of the interior of the vehicle; and

2865 (89) amounts paid or charged for a purchase or lease of machinery, equipment, normal
2866 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used
2867 or consumed:

2868 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
2869 in Section [63M-4-701](#) located in the state;

2870 (b) if the machinery, equipment, normal operating repair or replacement parts,
2871 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

2872 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
2873 added to gasoline or diesel fuel;

2874 (ii) research and development;

2875 (iii) transporting, storing, or managing raw materials, work in process, finished
2876 products, and waste materials produced from refining gasoline or diesel fuel, or adding
2877 blendstock to gasoline or diesel fuel;

2878 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
2879 refining; or

2880 (v) preventing, controlling, or reducing pollutants from refining; and

2881 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office
2882 of Energy Development under Subsection [63M-4-702\(2\)](#).

2883 **Section 4. Effective date.**

2884 This bill takes effect on July 1, 2018.