

1 **EMERGENCY MANAGEMENT ACT AMENDMENTS**

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Wayne A. Harper**

5 House Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Emergency Management Act regarding out-of-state businesses
10 that provide recovery services in the state during a declared disaster or emergency.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ provides that an out-of-state business that enters the state during a declared disaster
14 or emergency to conduct work related to the disaster or emergency is exempt from:

- 15 • licensing or registration requirements as provided;
- 16 • income taxation related to an out-of-state employee as provided; and
- 17 • sales and use taxation of a transaction during a disaster period;

18 ▶ provides that any out-of-state business or out-of-state employee that remains in the
19 state after the disaster period is subject to the state's normal standards for
20 establishing presence or residency, or doing business in the state; and

21 ▶ requires any out-of-state business that enters the state for disaster- or
22 emergency-related work to provide the Division of Occupational and Professional
23 Licensing a statement about the purpose of its business in the state, upon request.

24 **Money Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 This bill provides an effective date.



28 This bill provides retrospective operation for a taxable year beginning on or after
29 January 1, 2014.

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **59-7-102**, as last amended by Laws of Utah 2012, Chapter 369

33 **59-10-104**, as last amended by Laws of Utah 2008, Chapter 389

34 **59-10-403**, as renumbered and amended by Laws of Utah 1987, Chapter 2

35 **59-12-104**, as last amended by Laws of Utah 2013, Chapters 82, 223, 229, 234, and 441

36 ENACTS:

37 **53-2a-1201**, Utah Code Annotated 1953

38 **53-2a-1202**, Utah Code Annotated 1953

39 **53-2a-1203**, Utah Code Annotated 1953

40 **53-2a-1204**, Utah Code Annotated 1953

41 **53-2a-1205**, Utah Code Annotated 1953



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

44 Section 1. Section **53-2a-1201** is enacted to read:

45 **Part 12. Facilitating Business Rapid Response to State Declared Disasters Act**

46 **53-2a-1201. Title.**

47 This part is known as the "Facilitating Business Rapid Response to State Declared
48 Disasters Act."

49 Section 2. Section **53-2a-1202** is enacted to read:

50 **53-2a-1202. Definitions.**

51 As used in this part:

52 (1) "Declared state disaster or emergency" means a declared disaster as defined in
53 Section **53-2a-602**.

54 (2) "Disaster- or emergency-related work" means repairing, renovating, installing,
55 building, rendering services, or other business activities that relate to infrastructure that has
56 been damaged, impaired, or destroyed by a declared state disaster or emergency.

57 (3) "Disaster period" means a period that begins within 10 days after the first day of a
58 declared disaster or emergency and that extends for a period of 60 calendar days after the end

59 of the declared disaster or emergency period.

60 (4) "Infrastructure" means property and equipment owned or used by communications
61 networks, electric generation systems, transmission and distribution systems, gas distribution
62 systems, water pipelines, public roads and bridges, and related support facilities that serve
63 multiple customers or citizens, including real and personal property, such as buildings, offices,
64 power and communication lines and poles, pipes, structures, and equipment.

65 (5) "Out-of-state business" means a business entity that:

66 (a) has no presence in the state and conducts no business in the state, and whose
67 services are requested by a registered business or by a state or local government for purposes of
68 performing disaster- or emergency-related work in the state; and

69 (b) has no registration or tax filings or presence sufficient to require the collection of a
70 tax in the state prior to the declared state disaster or emergency.

71 (6) "Out-of-state employee" means an employee who does not work in the state, except
72 for disaster- or emergency-related work during the disaster period.

73 (7) "Registered business" means a business entity that is currently registered to do
74 business in the state prior to the declared state disaster or emergency.

75 Section 3. Section **53-2a-1203** is enacted to read:

76 **53-2a-1203. Business and employee status during disaster period.**

77 (1) Notwithstanding any other provision, an out-of-state business that conducts
78 operations within the state for purposes of performing work or services related to a declared
79 state disaster or emergency during the disaster period:

80 (a) is not considered to have established a level of presence that would require that
81 business or its out-of-state employees to be subject to any state licensing or registration
82 requirements, including:

83 (i) unemployment insurance;

84 (ii) state or local occupational licensing fees;

85 (iii) public service commission regulation; or

86 (iv) state or local licensing or regulatory requirements; and

87 (b) is exempt from the registration requirements under Title 16, Corporations, Title 42,
88 Names, and Title 48, Partnership.

89 (2) (a) Income taxation related to an out-of-state employee or an out-of-state business

90 is as provided in:

91 (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; and

92 (ii) Title 59, Chapter 10, Individual Income Tax Act.

93 (b) Sales and use taxation of a transaction during a disaster period is as provided in

94 Title 59, Chapter 12, Sales and Use Tax Act.

95 Section 4. Section **53-2a-1204** is enacted to read:

96 **53-2a-1204. Business or employee activity after disaster period.**

97 Any out-of-state business or out-of-state employee that remains in the state after the
98 disaster period will become subject to the state's normal standards for establishing presence or
99 residency, or doing business in the state.

100 Section 5. Section **53-2a-1205** is enacted to read:

101 **53-2a-1205. Administration -- Notification and procedures.**

102 (1) Any out-of-state business that enters the state shall, upon request, provide to the
103 Division of Occupational and Professional Licensing a statement that it is in the state for
104 purposes of responding to the disaster or emergency, which statement shall include the
105 business's:

106 (a) name;

107 (b) state of domicile;

108 (c) principal business address;

109 (d) federal tax identification number;

110 (e) date of entry; and

111 (f) contact information.

112 (2) A registered business in the state shall, upon request, provide the information
113 required in Subsection (1) for any affiliate that enters the state and that is an out-of-state
114 business, including contact information for the business that is registered in the state.

115 (3) An out-of-state business or an out-of-state employee that remains in the state after
116 the disaster period shall complete state and local registration, licensing, and filing requirements
117 that establish the requisite business presence or residency in the state.

118 (4) The Division of Occupational and Professional Licensing shall:

119 (a) make rules necessary to implement Subsection (3);

120 (b) develop and provide forms or online processes; and

121 (c) maintain and make available an annual report of any designations made pursuant to
122 this section.

123 Section 6. Section **59-7-102** is amended to read:

124 **59-7-102. Exemptions.**

125 (1) Except as provided in this section, the following are exempt from a tax under this
126 chapter:

127 (a) an organization exempt under Section 501, Internal Revenue Code;

128 (b) an organization exempt under Section 528, Internal Revenue Code;

129 (c) an insurance company that is otherwise taxed on the insurance company's premiums
130 under Chapter 9, Taxation of Admitted Insurers;

131 (d) a local building authority as defined in Section [17D-2-102](#);

132 (e) a farmers' cooperative; or

133 (f) a public agency, as defined in Section [11-13-103](#), with respect to or as a result of an
134 ownership interest in:

135 (i) a project, as defined in Section [11-13-103](#); or

136 (ii) facilities providing additional project capacity, as defined in Section [11-13-103](#).

137 (2) A corporation is exempt from a tax under this chapter:

138 (a) if the corporation is an out-of-state business as defined in Section [53-2a-1202](#); and

139 (b) for income earned:

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

141 (ii) for the purpose of responding to a declared state disaster or emergency as defined
142 in Section [53-2a-1202](#).

143 [~~2~~] (3) Notwithstanding any other provision in this chapter or Chapter 8, Gross
144 Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax
145 Act, a person not otherwise subject to the tax imposed by this chapter or Chapter 8 is not
146 subject to a tax imposed by Section [59-7-104](#), [59-7-201](#), [59-7-701](#), or [59-8-104](#), because of:

147 (a) that person's ownership of tangible personal property located at the premises of a
148 printer's facility in this state with which the person has contracted for printing; or

149 (b) the activities of the person's employees or agents who are:

150 (i) located solely at the premises of a printer's facility; and

151 (ii) performing services:

152 (A) related to:
153 (I) quality control;
154 (II) distribution; or
155 (III) printing services; and
156 (B) performed by the printer's facility in this state with which the person has contracted
157 for printing.

158 ~~[(3)]~~ (4) Notwithstanding Subsection (1), an organization, company, authority, farmers'
159 cooperative, or public agency exempt from this chapter under Subsection (1) is subject to Part
160 8, Unrelated Business Income, to the extent provided in Part 8.

161 ~~[(4)]~~ (5) Notwithstanding Subsection (1)(b), to the extent the income of an
162 organization described in Subsection (1)(b) is taxable for federal tax purposes under Section
163 528, Internal Revenue Code, the organization's income is also taxable under this chapter.

164 Section 7. Section **59-10-104** is amended to read:

165 **59-10-104. Tax basis -- Tax rate -- Exemptions.**

166 (1) For taxable years beginning on or after January 1, 2008, a tax is imposed on the
167 state taxable income of a resident individual as provided in this section.

168 (2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the
169 product of:

- 170 (a) the resident individual's state taxable income for that taxable year; and
171 (b) 5%.

172 (3) This section does not apply to a resident individual exempt from taxation under
173 Section [59-10-104.1](#).

174 (4) A resident individual, including a pass-through entity taxpayer, is exempt from a
175 tax under this chapter for income earned or passed through:

- 176 (a) from an out-of-state business as defined in Section [53-2a-1202](#);
177 (b) during a disaster period as defined in Section [53-2a-1202](#); and
178 (c) as a result of the out-of-state business responding to a declared state disaster or
179 emergency as defined in Section [53-2a-1202](#).

180 Section 8. Section **59-10-403** is amended to read:

181 **59-10-403. Circumstances under which an employer is not required to deduct**
182 **and withhold a tax.**

183 (1) Notwithstanding any other provision of this chapter, an employer is not required to
 184 deduct and withhold any tax under this chapter upon a payment of wages to an employee;

185 (a) if there is in effect with respect to ~~[such]~~ the payment a withholding exemption
 186 certificate ~~[(in such form and containing such other information as the commission may~~
 187 ~~prescribe)]~~ furnished to the employer by the employee, certifying that the employee:

188 ~~[(a)]~~ (i) incurred no liability for ~~[income]~~ a tax imposed under this chapter for ~~[his]~~ the
 189 employee's immediately preceding taxable year; and

190 ~~[(b) anticipates that he will incur no liability for income]~~

191 (ii) expects that the employee will not incur liability for a tax imposed under this
 192 chapter for ~~[his]~~ the employee's current taxable year~~[-]; or~~

193 (b) if the employer:

194 (i) is an out-of-state business as defined in Section 53-2a-1202; and

195 (ii) pays the wages:

196 (A) during a disaster period as defined in Section 53-2a-1202; and

197 (B) as compensation for services performed in response to a declared state disaster or
 198 emergency as defined in Section 53-2a-1202.

199 (2) ~~[The commission shall by rule]~~ In accordance with Title 63G, Chapter 3, Utah
 200 Administrative Rulemaking Act, the commission shall provide for the coordination of ~~[the~~
 201 ~~provisions of]~~ this section with ~~[the provisions of]~~ Section 59-10-402.

202 Section 9. Section 59-12-104 is amended to read:

203 **59-12-104. Exemptions.**

204 The following sales and uses are exempt from the taxes imposed by this chapter:

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

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

209 (a) construction materials except:

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

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

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

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

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

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

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

225 (i) food and food ingredients; or

226 (ii) prepared food;

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

228 (i) alcoholic beverages;

229 (ii) food and food ingredients; or

230 (iii) prepared food;

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

232 (i) to a passenger;

233 (ii) by a commercial airline carrier; and

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

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

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

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

241 (II) for:

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

244 (Bb) renovation of an aircraft; or

245 (Cc) repair of an aircraft; or
246 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
247 commerce; or
248 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
249 aircraft operated by a common carrier in interstate or foreign commerce; and
250 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
251 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
252 refund:
253 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;
254 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
255 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
256 the sale prior to filing for the refund;
257 (iv) for sales and use taxes paid under this chapter on the sale;
258 (v) in accordance with Section 59-1-1410; and
259 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
260 the person files for the refund on or before September 30, 2011;
261 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
262 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
263 exhibitor, distributor, or commercial television or radio broadcaster;
264 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
265 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
266 washing of tangible personal property;
267 (b) if a seller that sells at the same business location assisted cleaning or washing of
268 tangible personal property and cleaning or washing of tangible personal property that is not
269 assisted cleaning or washing of tangible personal property, the exemption described in
270 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
271 or washing of the tangible personal property; and
272 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
273 Utah Administrative Rulemaking Act, the commission may make rules:
274 (i) governing the circumstances under which sales are at the same business location;
275 and

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

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

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

283 (a) not registered in this state; and

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

285 (ii) used in this state:

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

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

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

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

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

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

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

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

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

297 (A) a drug;

298 (B) a syringe; or

299 (C) a stoma supply; and

300 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
301 commission may by rule define the terms:

302 (A) "syringe"; or

303 (B) "stoma supply";

304 (11) sales or use of property, materials, or services used in the construction of or
305 incorporated in pollution control facilities allowed by Sections [19-2-123](#) through [19-2-127](#);

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

307 (i) the following if the item described in Subsection (12)(c) is not available to the
308 general public:
309 (A) a church; or
310 (B) a charitable institution;
311 (ii) an institution of higher education if:
312 (A) the item described in Subsection (12)(c) is not available to the general public; or
313 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
314 offered by the institution of higher education; or
315 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
316 (i) a medical facility; or
317 (ii) a nursing facility; and
318 (c) Subsections (12)(a) and (b) apply to:
319 (i) food and food ingredients;
320 (ii) prepared food; or
321 (iii) alcoholic beverages;
322 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
323 or a product transferred electronically by a person:
324 (i) regardless of the number of transactions involving the sale of that tangible personal
325 property or product transferred electronically by that person; and
326 (ii) not regularly engaged in the business of selling that type of tangible personal
327 property or product transferred electronically;
328 (b) this Subsection (13) does not apply if:
329 (i) the sale is one of a series of sales of a character to indicate that the person is
330 regularly engaged in the business of selling that type of tangible personal property or product
331 transferred electronically;
332 (ii) the person holds that person out as regularly engaged in the business of selling that
333 type of tangible personal property or product transferred electronically;
334 (iii) the person sells an item of tangible personal property or product transferred
335 electronically that the person purchased as a sale that is exempt under Subsection (25); or
336 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
337 this state in which case the tax is based upon:

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

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

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

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

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

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

352 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
353 July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration
354 facility, of the following:

355 (i) machinery and equipment that:

356 (A) are used:

357 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
358 recycler described in Subsection 59-12-102(64)(b):

359 (Aa) in the manufacturing process;

360 (Bb) to manufacture an item sold as tangible personal property; and

361 (Cc) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
362 (14)(a)(i)(A)(I) in the state; or

363 (II) for a manufacturing facility that is a scrap recycler described in Subsection
364 59-12-102(64)(b):

365 (Aa) to process an item sold as tangible personal property; and

366 (Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
367 (14)(a)(i)(A)(II) in the state; and

368 (B) have an economic life of three or more years; and

369 (ii) normal operating repair or replacement parts that:
370 (A) have an economic life of three or more years; and
371 (B) are used:
372 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
373 recycler described in Subsection 59-12-102(64)(b):
374 (Aa) in the manufacturing process; and
375 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the
376 state; or
377 (II) for a manufacturing facility that is a scrap recycler described in Subsection
378 59-12-102(64)(b):
379 (Aa) to process an item sold as tangible personal property; and
380 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the
381 state;
382 (b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
383 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
384 of the following:
385 (i) machinery and equipment that:
386 (A) are used:
387 (I) in the manufacturing process;
388 (II) to manufacture an item sold as tangible personal property; and
389 (III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
390 (14)(b) in the state; and
391 (B) have an economic life of three or more years; and
392 (ii) normal operating repair or replacement parts that:
393 (A) are used:
394 (I) in the manufacturing process; and
395 (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and
396 (B) have an economic life of three or more years;
397 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
398 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
399 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for

400 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
401 of the 2002 North American Industry Classification System of the federal Executive Office of
402 the President, Office of Management and Budget, of the following:

- 403 (i) machinery and equipment that:
 - 404 (A) are used:
 - 405 (I) (Aa) in the production process, other than the production of real property; or
 - 406 (Bb) in research and development; and
 - 407 (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)

408 in the state; and

- 409 (B) have an economic life of three or more years; and
- 410 (ii) normal operating repair or replacement parts that:
 - 411 (A) have an economic life of three or more years; and
 - 412 (B) are used in:
 - 413 (I) (Aa) the production process, except for the production of real property; and
 - 414 (Bb) an establishment described in this Subsection (14)(c) in the state; or
 - 415 (II) (Aa) research and development; and
 - 416 (Bb) in an establishment described in this Subsection (14)(c) in the state;
 - 417 (d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010,

418 but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web
419 Search Portals, of the 2002 North American Industry Classification System of the federal
420 Executive Office of the President, Office of Management and Budget, of the following:

- 421 (A) machinery and equipment that:
 - 422 (I) are used in the operation of the web search portal;
 - 423 (II) have an economic life of three or more years; and
 - 424 (III) are used in a new or expanding establishment described in this Subsection (14)(d)
- 425 in the state; and

- 426 (B) normal operating repair or replacement parts that:
 - 427 (I) are used in the operation of the web search portal;
 - 428 (II) have an economic life of three or more years; and
 - 429 (III) are used in a new or expanding establishment described in this Subsection (14)(d)
- 430 in the state; or

431 (ii) amounts paid or charged for a purchase or lease made on or after July 1, 2014, by
432 an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North
433 American Industry Classification System of the federal Executive Office of the President,
434 Office of Management and Budget, of the following:

435 (A) machinery and equipment that:

436 (I) are used in the operation of the web search portal; and

437 (II) have an economic life of three or more years; and

438 (B) normal operating repair or replacement parts that:

439 (I) are used in the operation of the web search portal; and

440 (II) have an economic life of three or more years;

441 (e) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,
442 Utah Administrative Rulemaking Act, the commission:

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

444 (ii) may by rule define what constitutes:

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

446 (B) the production process, except for the production of real property;

447 (C) research and development; or

448 (D) a new or expanding establishment described in Subsection (14)(d) in the state; and

449 (f) on or before October 1, 2011, and every five years after October 1, 2011, the
450 commission shall:

451 (i) review the exemptions described in this Subsection (14) and make
452 recommendations to the Revenue and Taxation Interim Committee concerning whether the
453 exemptions should be continued, modified, or repealed; and

454 (ii) include in its report:

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

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

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

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

459 (i) tooling;

460 (ii) special tooling;

461 (iii) support equipment;

462 (iv) special test equipment; or
463 (v) parts used in the repairs or renovations of tooling or equipment described in
464 Subsections (15)(a)(i) through (iv); and
465 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
466 (i) the tooling, equipment, or parts are used or consumed exclusively in the
467 performance of any aerospace or electronics industry contract with the United States
468 government or any subcontract under that contract; and
469 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
470 title to the tooling, equipment, or parts is vested in the United States government as evidenced
471 by:
472 (A) a government identification tag placed on the tooling, equipment, or parts; or
473 (B) listing on a government-approved property record if placing a government
474 identification tag on the tooling, equipment, or parts is impractical;
475 (16) sales of newspapers or newspaper subscriptions;
476 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
477 product transferred electronically traded in as full or part payment of the purchase price, except
478 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
479 trade-ins are limited to other vehicles only, and the tax is based upon:
480 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
481 vehicle being traded in; or
482 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
483 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
484 commission; and
485 (b) Subsection (17)(a) does not apply to the following items of tangible personal
486 property or products transferred electronically traded in as full or part payment of the purchase
487 price:
488 (i) money;
489 (ii) electricity;
490 (iii) water;
491 (iv) gas; or
492 (v) steam;

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

497 (A) becomes part of real estate; or

498 (B) is installed by a:

499 (I) farmer;

500 (II) contractor; or

501 (III) subcontractor; or

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

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

507 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is
508 incidental to farming:

509 (I) machinery;

510 (II) equipment;

511 (III) materials; or

512 (IV) supplies; and

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

515 (I) hand tools; or

516 (II) maintenance and janitorial equipment and supplies;

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

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

522 (I) office equipment and supplies; or

523 (II) equipment and supplies used in:

- 524 (Aa) the sale or distribution of farm products;
- 525 (Bb) research; or
- 526 (Cc) transportation; or
- 527 (iii) a vehicle required to be registered by the laws of this state during the period
- 528 ending two years after the date of the vehicle's purchase;
- 529 (19) sales of hay;
- 530 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
- 531 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
- 532 garden, farm, or other agricultural produce is sold by:
 - 533 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
 - 534 agricultural produce;
 - 535 (b) an employee of the producer described in Subsection (20)(a); or
 - 536 (c) a member of the immediate family of the producer described in Subsection (20)(a);
- 537 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
- 538 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 539 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
- 540 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
- 541 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
- 542 manufacturer, processor, wholesaler, or retailer;
- 543 (23) a product stored in the state for resale;
- 544 (24) (a) purchases of a product if:
 - 545 (i) the product is:
 - 546 (A) purchased outside of this state;
 - 547 (B) brought into this state:
 - 548 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
 - 549 (II) by a nonresident person who is not living or working in this state at the time of the
 - 550 purchase;
 - 551 (C) used for the personal use or enjoyment of the nonresident person described in
 - 552 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
 - 553 (D) not used in conducting business in this state; and
 - 554 (ii) for:

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

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

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

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

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

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

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

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

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

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

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

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

580 (27) any sale of a service described in Subsections [59-12-103](#)(1)(b), (c), and (d) to a
581 person for use in compounding a service taxable under the subsections;

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

584 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
585 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens

586 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
587 Manual of the federal Executive Office of the President, Office of Management and Budget;
588 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
589 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
590 (a) not registered in this state; and
591 (b) (i) not used in this state; or
592 (ii) used in this state:
593 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
594 time period that does not exceed the longer of:
595 (I) 30 days in any calendar year; or
596 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
597 the borders of this state; or
598 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
599 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
600 state;
601 (31) sales of aircraft manufactured in Utah;
602 (32) amounts paid for the purchase of telecommunications service for purposes of
603 providing telecommunications service;
604 (33) sales, leases, or uses of the following:
605 (a) a vehicle by an authorized carrier; or
606 (b) tangible personal property that is installed on a vehicle:
607 (i) sold or leased to or used by an authorized carrier; and
608 (ii) before the vehicle is placed in service for the first time;
609 (34) (a) 45% of the sales price of any new manufactured home; and
610 (b) 100% of the sales price of any used manufactured home;
611 (35) sales relating to schools and fundraising sales;
612 (36) sales or rentals of durable medical equipment if:
613 (a) a person presents a prescription for the durable medical equipment; and
614 (b) the durable medical equipment is used for home use only;
615 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
616 Section [72-11-102](#); and

617 (b) the commission shall by rule determine the method for calculating sales exempt
618 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
619 (38) sales to a ski resort of:
620 (a) snowmaking equipment;
621 (b) ski slope grooming equipment;
622 (c) passenger ropeways as defined in Section 72-11-102; or
623 (d) parts used in the repairs or renovations of equipment or passenger ropeways
624 described in Subsections (38)(a) through (c);
625 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
626 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
627 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
628 59-12-102;
629 (b) if a seller that sells or rents at the same business location the right to use or operate
630 for amusement, entertainment, or recreation one or more unassisted amusement devices and
631 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
632 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
633 amusement, entertainment, or recreation for the assisted amusement devices; and
634 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
635 Utah Administrative Rulemaking Act, the commission may make rules:
636 (i) governing the circumstances under which sales are at the same business location;
637 and
638 (ii) establishing the procedures and requirements for a seller to separately account for
639 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
640 assisted amusement devices;
641 (41) (a) sales of photocopies by:
642 (i) a governmental entity; or
643 (ii) an entity within the state system of public education, including:
644 (A) a school; or
645 (B) the State Board of Education; or
646 (b) sales of publications by a governmental entity;
647 (42) amounts paid for admission to an athletic event at an institution of higher

648 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
649 20 U.S.C. Sec. 1681 et seq.;

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

651 (i) an area agency on aging; or

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

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

654 (44) sales or leases of semiconductor fabricating, processing, research, or development

655 materials regardless of whether the semiconductor fabricating, processing, research, or

656 development materials:

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

658 (b) ultimately become incorporated into real property;

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

660 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section

661 59-12-104.2;

662 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary

663 sports event registration certificate in accordance with Section 41-3-306 for the event period

664 specified on the temporary sports event registration certificate;

665 (47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted

666 by the Public Service Commission of Utah only for purchase of electricity produced from a

667 new alternative energy source, as designated in the tariff by the Public Service Commission of

668 Utah; and

669 (b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a

670 customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under

671 the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

672 (48) sales or rentals of mobility enhancing equipment if a person presents a

673 prescription for the mobility enhancing equipment;

674 (49) sales of water in a:

675 (a) pipe;

676 (b) conduit;

677 (c) ditch; or

678 (d) reservoir;

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

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

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

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

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

685 (i) ingot;

686 (ii) bar;

687 (iii) medallion; or

688 (iv) decorative coin;

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

690 (53) sales of a prosthetic device:

691 (a) for use on or in a human; and

692 (b) (i) for which a prescription is required; or

693 (ii) if the prosthetic device is purchased by a hospital or other medical facility;

694 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
695 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
696 or equipment is primarily used in the production or postproduction of the following media for
697 commercial distribution:

698 (i) a motion picture;

699 (ii) a television program;

700 (iii) a movie made for television;

701 (iv) a music video;

702 (v) a commercial;

703 (vi) a documentary; or

704 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
705 commission by administrative rule made in accordance with Subsection (54)(d); or

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

709 (i) a live musical performance;

- 710 (ii) a live news program; or
- 711 (iii) a live sporting event;
- 712 (c) the following establishments listed in the 1997 North American Industry
- 713 Classification System of the federal Executive Office of the President, Office of Management
- 714 and Budget, apply to Subsections (54)(a) and (b):
- 715 (i) NAICS Code 512110; or
- 716 (ii) NAICS Code 51219; and
- 717 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 718 commission may by rule:
- 719 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
- 720 or
- 721 (ii) define:
- 722 (A) "commercial distribution";
- 723 (B) "live musical performance";
- 724 (C) "live news program"; or
- 725 (D) "live sporting event";
- 726 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
- 727 on or before June 30, 2027, of tangible personal property that:
- 728 (i) is leased or purchased for or by a facility that:
- 729 (A) is an alternative energy electricity production facility;
- 730 (B) is located in the state; and
- 731 (C) (I) becomes operational on or after July 1, 2004; or
- 732 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 733 2004, as a result of the use of the tangible personal property;
- 734 (ii) has an economic life of five or more years; and
- 735 (iii) is used to make the facility or the increase in capacity of the facility described in
- 736 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
- 737 transmission grid including:
- 738 (A) a wind turbine;
- 739 (B) generating equipment;
- 740 (C) a control and monitoring system;

741 (D) a power line;
742 (E) substation equipment;
743 (F) lighting;
744 (G) fencing;
745 (H) pipes; or
746 (I) other equipment used for locating a power line or pole; and
747 (b) this Subsection (55) does not apply to:
748 (i) tangible personal property used in construction of:
749 (A) a new alternative energy electricity production facility; or
750 (B) the increase in the capacity of an alternative energy electricity production facility;
751 (ii) contracted services required for construction and routine maintenance activities;
752 and
753 (iii) unless the tangible personal property is used or acquired for an increase in capacity
754 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
755 acquired after:
756 (A) the alternative energy electricity production facility described in Subsection
757 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
758 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
759 in Subsection (55)(a)(iii);
760 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
761 on or before June 30, 2027, of tangible personal property that:
762 (i) is leased or purchased for or by a facility that:
763 (A) is a waste energy production facility;
764 (B) is located in the state; and
765 (C) (I) becomes operational on or after July 1, 2004; or
766 (II) has its generation capacity increased by one or more megawatts on or after July 1,
767 2004, as a result of the use of the tangible personal property;
768 (ii) has an economic life of five or more years; and
769 (iii) is used to make the facility or the increase in capacity of the facility described in
770 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
771 transmission grid including:

- 772 (A) generating equipment;
- 773 (B) a control and monitoring system;
- 774 (C) a power line;
- 775 (D) substation equipment;
- 776 (E) lighting;
- 777 (F) fencing;
- 778 (G) pipes; or
- 779 (H) other equipment used for locating a power line or pole; and
- 780 (b) this Subsection (56) does not apply to:
 - 781 (i) tangible personal property used in construction of:
 - 782 (A) a new waste energy facility; or
 - 783 (B) the increase in the capacity of a waste energy facility;
 - 784 (ii) contracted services required for construction and routine maintenance activities;
 - 785 and
 - 786 (iii) unless the tangible personal property is used or acquired for an increase in capacity
 - 787 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
 - 788 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
 - 789 described in Subsection (56)(a)(iii); or
 - 790 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
 - 791 in Subsection (56)(a)(iii);
 - 792 (57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
 - 793 or before June 30, 2027, of tangible personal property that:
 - 794 (i) is leased or purchased for or by a facility that:
 - 795 (A) is located in the state;
 - 796 (B) produces fuel from alternative energy, including:
 - 797 (I) methanol; or
 - 798 (II) ethanol; and
 - 799 (C) (I) becomes operational on or after July 1, 2004; or
 - 800 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
 - 801 a result of the installation of the tangible personal property;
 - 802 (ii) has an economic life of five or more years; and

803 (iii) is installed on the facility described in Subsection (57)(a)(i);
804 (b) this Subsection (57) does not apply to:
805 (i) tangible personal property used in construction of:
806 (A) a new facility described in Subsection (57)(a)(i); or
807 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
808 (ii) contracted services required for construction and routine maintenance activities;
809 and
810 (iii) unless the tangible personal property is used or acquired for an increase in capacity
811 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
812 (A) the facility described in Subsection (57)(a)(i) is operational; or
813 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
814 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
815 product transferred electronically to a person within this state if that tangible personal property
816 or product transferred electronically is subsequently shipped outside the state and incorporated
817 pursuant to contract into and becomes a part of real property located outside of this state;
818 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
819 state or political entity to which the tangible personal property is shipped imposes a sales, use,
820 gross receipts, or other similar transaction excise tax on the transaction against which the other
821 state or political entity allows a credit for sales and use taxes imposed by this chapter; and
822 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
823 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
824 refund:
825 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;
826 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
827 which the sale is made;
828 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
829 sale prior to filing for the refund;
830 (iv) for sales and use taxes paid under this chapter on the sale;
831 (v) in accordance with Section 59-1-1410; and
832 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
833 the person files for the refund on or before June 30, 2011;

- 834 (59) purchases:
- 835 (a) of one or more of the following items in printed or electronic format:
- 836 (i) a list containing information that includes one or more:
- 837 (A) names; or
- 838 (B) addresses; or
- 839 (ii) a database containing information that includes one or more:
- 840 (A) names; or
- 841 (B) addresses; and
- 842 (b) used to send direct mail;
- 843 (60) redemptions or repurchases of a product by a person if that product was:
- 844 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 845 (b) redeemed or repurchased within the time period established in a written agreement
- 846 between the person and the pawnbroker for redeeming or repurchasing the product;
- 847 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
- 848 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
- 849 and
- 850 (ii) has a useful economic life of one or more years; and
- 851 (b) the following apply to Subsection (61)(a):
- 852 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 853 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 854 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 855 (iv) telecommunications switching or routing equipment, machinery, or software; or
- 856 (v) telecommunications transmission equipment, machinery, or software;
- 857 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
- 858 personal property or a product transferred electronically that are used in the research and
- 859 development of alternative energy technology; and
- 860 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 861 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
- 862 purchases of tangible personal property or a product transferred electronically that are used in
- 863 the research and development of alternative energy technology;
- 864 (63) (a) purchases of tangible personal property or a product transferred electronically

865 if:

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

867 (A) purchased outside of this state;

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

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

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

871 (ii) for:

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

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

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

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

876 outside of this state;

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

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

879 or

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

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

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

883 following:

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

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

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

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

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

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

890 Subsection (24);

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

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

893 supplies;

894 (b) the disposable home medical equipment or supplies are used exclusively by the

895 person to whom the prescription described in Subsection (64)(a) is issued; and

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

- 898 (i) Title XVIII, federal Social Security Act; or
- 899 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

900 (65) sales:

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

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

- 905 (i) clearly identified; and
- 906 (ii) installed or converted to real property owned by the public transit district;

907 (66) sales of construction materials:

- 908 (a) purchased on or after July 1, 2010;
- 909 (b) purchased by, on behalf of, or for the benefit of an international airport:

- 910 (i) located within a county of the first class; and
- 911 (ii) that has a United States customs office on its premises; and

912 (c) if the construction materials are:

- 913 (i) clearly identified;
- 914 (ii) segregated; and
- 915 (iii) installed or converted to real property:

- 916 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 917 (B) located at the international airport described in Subsection (66)(b);

918 (67) sales of construction materials:

- 919 (a) purchased on or after July 1, 2008;
- 920 (b) purchased by, on behalf of, or for the benefit of a new airport:

- 921 (i) located within a county of the second class; and
- 922 (ii) that is owned or operated by a city in which an airline as defined in Section

923 [59-2-102](#) is headquartered; and

924 (c) if the construction materials are:

- 925 (i) clearly identified;
- 926 (ii) segregated; and

- 927 (iii) installed or converted to real property:
- 928 (A) owned or operated by the new airport described in Subsection (67)(b);
- 929 (B) located at the new airport described in Subsection (67)(b); and
- 930 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 931 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 932 (69) purchases and sales described in Section [63H-4-111](#);
- 933 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 934 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 935 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 936 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 937 powered aircraft; or
- 938 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 939 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 940 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 941 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 942 powered aircraft;
- 943 (71) subject to Section [59-12-104.4](#), sales of a textbook for a higher education course:
- 944 (a) to a person admitted to an institution of higher education; and
- 945 (b) by a seller, other than a bookstore owned by an institution of higher education, if
- 946 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
- 947 textbook for a higher education course;
- 948 (72) a license fee or tax a municipality imposes in accordance with Subsection
- 949 [10-1-203](#)(5) on a purchaser from a business for which the municipality provides an enhanced
- 950 level of municipal services;
- 951 (73) amounts paid or charged for construction materials used in the construction of a
- 952 new or expanding life science research and development facility in the state, if the construction
- 953 materials are:
- 954 (a) clearly identified;
- 955 (b) segregated; and
- 956 (c) installed or converted to real property;
- 957 (74) amounts paid or charged for:

958 (a) a purchase or lease of machinery and equipment that:
959 (i) are used in performing qualified research:
960 (A) as defined in Section 59-7-612;
961 (B) in the state; and
962 (C) with respect to which the purchaser pays or incurs a qualified research expense as
963 defined in Section 59-7-612; and
964 (ii) have an economic life of three or more years; and
965 (b) normal operating repair or replacement parts:
966 (i) for the machinery and equipment described in Subsection (74)(a); and
967 (ii) that have an economic life of three or more years;
968 (75) a sale or lease of tangible personal property used in the preparation of prepared
969 food if:
970 (a) for a sale:
971 (i) the ownership of the seller and the ownership of the purchaser are identical; and
972 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
973 tangible personal property prior to making the sale; or
974 (b) for a lease:
975 (i) the ownership of the lessor and the ownership of the lessee are identical; and
976 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
977 personal property prior to making the lease;
978 (76) (a) purchases of machinery or equipment if:
979 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
980 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
981 System of the federal Executive Office of the President, Office of Management and Budget;
982 (ii) the machinery or equipment:
983 (A) has an economic life of three or more years; and
984 (B) is used by one or more persons who pay admission or user fees described in
985 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
986 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
987 (A) amounts paid or charged as admission or user fees described in Subsection
988 59-12-103(1)(f); and

989 (B) subject to taxation under this chapter;

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

993 (i) amounts paid or charged as admission or user fees described in Subsection
994 59-12-103(1)(f); and

995 (ii) subject to taxation under this chapter; and

996 (c) on or before the November 2018 interim meeting, and every five years after the
997 November 2018 interim meeting, the commission shall review the exemption provided in this
998 Subsection (76) and report to the Revenue and Taxation Interim Committee on:

999 (i) the revenue lost to the state and local taxing jurisdictions as a result of the
1000 exemption;

1001 (ii) the purpose and effectiveness of the exemption; and

1002 (iii) whether the exemption benefits the state;

1003 (77) purchases of a short-term lodging consumable by a business that provides
1004 accommodations and services described in Subsection 59-12-103(1)(i);

1005 (78) amounts paid or charged to access a database:

1006 (a) if the primary purpose for accessing the database is to view or retrieve information
1007 from the database; and

1008 (b) not including amounts paid or charged for a:

1009 (i) digital audiowork;

1010 (ii) digital audio-visual work; or

1011 (iii) digital book;

1012 (79) amounts paid or charged for a purchase or lease made by an electronic financial
1013 payment service, of:

1014 (a) machinery and equipment that:

1015 (i) are used in the operation of the electronic financial payment service; and

1016 (ii) have an economic life of three or more years; and

1017 (b) normal operating repair or replacement parts that:

1018 (i) are used in the operation of the electronic financial payment service; and

1019 (ii) have an economic life of three or more years; [~~and~~]

1020 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section [54-15-102](#)[-];

1021 and

1022 (81) amounts paid or charged for a purchase or lease of tangible personal property or a

1023 product transferred electronically if the tangible personal property or product transferred

1024 electronically:

1025 (a) is stored, used, or consumed in the state; and

1026 (b) is brought into the state from another state;

1027 (i) during a disaster period as defined in Section [53-2a-1202](#);

1028 (ii) by an out-of-state business as defined in Section [53-2a-1202](#);

1029 (iii) for a declared state disaster or emergency as defined in Section [53-2a-1202](#); and

1030 (iv) for disaster- or emergency-related work as defined in Section [53-2a-1202](#).

1031 Section 10. **Effective date.**

1032 (1) Except as provided in Subsection (2), this bill takes effect on May 13, 2014.

1033 (2) The actions affecting Section [59-12-104](#) take effect on July 1, 2014.

1034 Section 11. **Retrospective operation.**

1035 The actions affecting the following sections have retrospective operation for a taxable

1036 year beginning on or after January 1, 2014:

1037 (1) Section [59-7-102](#);

1038 (2) Section [59-10-104](#); and

1039 (3) Section [59-10-403](#).

Legislative Review Note

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Office of Legislative Research and General Counsel