

1 **SALES AND USE TAX EXEMPTION FOR SHORT-TERM**
2 **LODGING CONSUMABLES**

3 2013 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: J. Stuart Adams**

6 House Sponsor: Brad R. Wilson

7 Cosponsor: Curtis S. Bramble

8
9 **LONG TITLE**

10 **General Description:**

11 This bill provides a sales and use tax exemption for a short-term lodging consumable.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines terms;
- 15 ▶ provides a sales and use tax exemption for a short-term lodging consumable; and
- 16 ▶ makes technical and conforming changes.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 This bill provides effective dates.

21 **Utah Code Sections Affected:**

22 **AMENDS:**

23 **59-12-102 (Superseded 07/01/14)**, as last amended by Laws of Utah 2012, Chapters
24 255, 312, 405, and 410

25 **59-12-102 (Effective 07/01/14)**, as last amended by Laws of Utah 2012, Chapters 255,
26 312, 405, 410, and 424

27 **59-12-104**, as last amended by Laws of Utah 2012, Chapters 255, 399, 405, and 410

28

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

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 Section **59-12-102 (Superseded 07/01/14)** is amended to read:

31 **59-12-102 (Superseded 07/01/14). Definitions.**

32 As used in this chapter:

33 (1) "800 service" means a telecommunications service that:

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

35 (b) is typically marketed:

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

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

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

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

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

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

42 Federal Communications Commission.

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

44 (i) a subscriber purchases;

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

47 (A) prerecorded announcement; or

48 (B) live service; and

49 (iii) is typically marketed:

50 (A) under the name 900 service; or

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

52 Communications Commission.

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

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

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

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

85 (q) Section 59-12-2213;

86 (r) Section 59-12-2214;

87 (s) Section 59-12-2215;

88 (t) Section 59-12-2216;

89 (u) Section 59-12-2217; or

90 (v) Section 59-12-2218.

91 (7) "Aircraft" is as 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; or
 - 131 (vi) petroleum coke.

132 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
133 facility" means a facility that:

- 134 (i) uses alternative energy to produce electricity; and
 - 135 (ii) has a production capacity of 2 megawatts or greater.
- 136 (b) A facility is an alternative energy electricity production facility regardless of
137 whether the facility is:
- 138 (i) connected to an electric grid; or
 - 139 (ii) located on the premises of an electricity consumer.

140 (12) (a) "Ancillary service" means a service associated with, or incidental to, the

141 provision of telecommunications service.

142 (b) "Ancillary service" includes:

143 (i) a conference bridging service;

144 (ii) a detailed communications billing service;

145 (iii) directory assistance;

146 (iv) a vertical service; or

147 (v) a voice mail service.

148 (13) "Area agency on aging" is as defined in Section 62A-3-101.

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

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

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

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

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

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

162 (16) "Authorized carrier" means:

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

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

168 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling

169 stock, the holder of a certificate issued by the United States Surface Transportation Board.

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

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

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

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

175 (B) animal waste;

176 (C) methane produced:

177 (I) at landfills; or

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

179 (D) aquatic plants; and

180 (E) agricultural products.

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

182 (i) black liquor;

183 (ii) treated woods; or

184 (iii) biomass from municipal solid waste other than methane produced:

185 (A) at landfills; or

186 (B) as a byproduct of the treatment of wastewater residuals.

187 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
188 property, products, or services if the tangible personal property, products, or services are:

189 (i) distinct and identifiable; and

190 (ii) sold for one nonitemized price.

191 (b) "Bundled transaction" does not include:

192 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on

193 the basis of the selection by the purchaser of the items of tangible personal property included in
194 the transaction;

195 (ii) the sale of real property;

196 (iii) the sale of services to real property;

- 197 (iv) the retail sale of tangible personal property and a service if:
- 198 (A) the tangible personal property:
- 199 (I) is essential to the use of the service; and
- 200 (II) is provided exclusively in connection with the service; and
- 201 (B) the service is the true object of the transaction;
- 202 (v) the retail sale of two services if:
- 203 (A) one service is provided that is essential to the use or receipt of a second service;
- 204 (B) the first service is provided exclusively in connection with the second service; and
- 205 (C) the second service is the true object of the transaction;
- 206 (vi) a transaction that includes tangible personal property or a product subject to
- 207 taxation under this chapter and tangible personal property or a product that is not subject to
- 208 taxation under this chapter if the:
- 209 (A) seller's purchase price of the tangible personal property or product subject to
- 210 taxation under this chapter is de minimis; or
- 211 (B) seller's sales price of the tangible personal property or product subject to taxation
- 212 under this chapter is de minimis; and
- 213 (vii) the retail sale of tangible personal property that is not subject to taxation under
- 214 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 215 (A) that retail sale includes:
- 216 (I) food and food ingredients;
- 217 (II) a drug;
- 218 (III) durable medical equipment;
- 219 (IV) mobility enhancing equipment;
- 220 (V) an over-the-counter drug;
- 221 (VI) a prosthetic device; or
- 222 (VII) a medical supply; and
- 223 (B) subject to Subsection (18)(f):
- 224 (I) the seller's purchase price of the tangible personal property subject to taxation under

225 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

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

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

230 (A) packaging that:

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

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

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

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

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

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

247 (A) a binding sales document; or

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

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

251 (A) a bill of sale;

252 (B) a contract;

- 253 (C) an invoice;
- 254 (D) a lease agreement;
- 255 (E) a periodic notice of rates and services;
- 256 (F) a price list;
- 257 (G) a rate card;
- 258 (H) a receipt; or
- 259 (I) a service agreement.

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

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

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

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

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

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

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

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

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

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

283 (i) on a transaction; and
284 (ii) in the states that are members of the agreement;

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

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

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

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

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

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

297 (i) listing the items that constitute "clothing"; and
298 (ii) that are consistent with the list of items that constitute "clothing" under the
299 agreement.

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

301 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
302 fuels that does not constitute industrial use under Subsection (51) or residential use under
303 Subsection (101).

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

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

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

312 (25) "Component part" includes:

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

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

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

318 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

342 (i) by a seller of:

343 (A) tangible personal property;

344 (B) a product transferred electronically; or

345 (C) services; and

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

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

350 (i) transportation;

351 (ii) shipping;

352 (iii) postage;

353 (iv) handling;

354 (v) crating; or

355 (vi) packing.

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

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

359 (a) is intended to supplement the diet;

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

361 (i) a vitamin;

362 (ii) a mineral;

363 (iii) an herb or other botanical;

364 (iv) an amino acid;

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

367 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
368 described in Subsections (34)(b)(i) through (v);

369 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:

370 (A) tablet form;

371 (B) capsule form;

372 (C) powder form;

373 (D) softgel form;

374 (E) gelcap form; or

375 (F) liquid form; or

376 (ii) [~~notwithstanding Subsection (34)(c)(i),~~] if the product is not intended for ingestion
377 in a form described in Subsections (34)(c)(i)(A) through (F), is not represented:

378 (A) as conventional food; and

379 (B) for use as a sole item of:

380 (I) a meal; or

381 (II) the diet; and

382 (d) is required to be labeled as a dietary supplement:

383 (i) identifiable by the "Supplemental Facts" box found on the label; and

384 (ii) as required by 21 C.F.R. Sec. 101.36.

385 (35) (a) "Direct mail" means printed material delivered or distributed by United States
386 mail or other delivery service:

387 (i) to:

388 (A) a mass audience; or

389 (B) addressees on a mailing list provided:

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

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

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

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

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

397 (36) "Directory assistance" means an ancillary service of providing:

398 (a) address information; or

399 (b) telephone number information.

400 (37) (a) "Disposable home medical equipment or supplies" means medical equipment
401 or supplies that:

402 (i) cannot withstand repeated use; and

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

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

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

406 (C) an office of a health care provider described in Subsection (37)(a)(ii)(B); or

407 (D) a person similar to a person described in Subsections (37)(a)(ii)(A) through (C).

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

409 (i) a drug;

410 (ii) durable medical equipment;

411 (iii) a hearing aid;

412 (iv) a hearing aid accessory;

413 (v) mobility enhancing equipment; or

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

415 (A) eyeglasses; or

416 (B) contact lenses.

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

419 (38) (a) "Drug" means a compound, substance, or preparation, or a component of a
420 compound, substance, or preparation that is:

- 421 (i) recognized in:
- 422 (A) the official United States Pharmacopoeia;
- 423 (B) the official Homeopathic Pharmacopoeia of the United States;
- 424 (C) the official National Formulary; or
- 425 (D) a supplement to a publication listed in Subsections (38)(a)(i)(A) through (C);
- 426 (ii) intended for use in the:
- 427 (A) diagnosis of disease;
- 428 (B) cure of disease;
- 429 (C) mitigation of disease;
- 430 (D) treatment of disease; or
- 431 (E) prevention of disease; or
- 432 (iii) intended to affect:
- 433 (A) the structure of the body; or
- 434 (B) any function of the body.
- 435 (b) "Drug" does not include:
- 436 (i) food and food ingredients;
- 437 (ii) a dietary supplement;
- 438 (iii) an alcoholic beverage; or
- 439 (iv) a prosthetic device.
- 440 (39) (a) Except as provided in Subsection (39)(c), "durable medical equipment" means
- 441 equipment that:
- 442 (i) can withstand repeated use;
- 443 (ii) is primarily and customarily used to serve a medical purpose;
- 444 (iii) generally is not useful to a person in the absence of illness or injury; and
- 445 (iv) is not worn in or on the body.
- 446 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 447 equipment described in Subsection (39)(a).
- 448 (c) [~~Notwithstanding Subsection (39)(a), "durable~~] "Durable medical equipment" does

449 not include mobility enhancing equipment.

450 (40) "Electronic" means:

451 (a) relating to technology; and

452 (b) having:

453 (i) electrical capabilities;

454 (ii) digital capabilities;

455 (iii) magnetic capabilities;

456 (iv) wireless capabilities;

457 (v) optical capabilities;

458 (vi) electromagnetic capabilities; or

459 (vii) capabilities similar to Subsections (40)(b)(i) through (vi).

460 (41) "Employee" is as defined in Section 59-10-401.

461 (42) "Fixed guideway" means a public transit facility that uses and occupies:

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

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

464 (43) "Fixed wing turbine powered aircraft" means an aircraft that:

465 (a) is powered by turbine engines;

466 (b) operates on jet fuel; and

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

468 (44) "Fixed wireless service" means a telecommunications service that provides radio
469 communication between fixed points.

470 (45) (a) "Food and food ingredients" means substances:

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

472 (A) liquid form;

473 (B) concentrated form;

474 (C) solid form;

475 (D) frozen form;

476 (E) dried form; or

- 477 (F) dehydrated form; and
- 478 (ii) that are:
- 479 (A) sold for:
- 480 (I) ingestion by humans; or
- 481 (II) chewing by humans; and
- 482 (B) consumed for the substance's:
- 483 (I) taste; or
- 484 (II) nutritional value.
- 485 (b) "Food and food ingredients" includes an item described in Subsection (86)(b)(iii).
- 486 (c) "Food and food ingredients" does not include:
- 487 (i) an alcoholic beverage;
- 488 (ii) tobacco; or
- 489 (iii) prepared food.
- 490 (46) (a) "Fundraising sales" means sales:
- 491 (i) (A) made by a school; or
- 492 (B) made by a school student;
- 493 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 494 materials, or provide transportation; and
- 495 (iii) that are part of an officially sanctioned school activity.
- 496 (b) For purposes of Subsection (46)(a)(iii), "officially sanctioned school activity"
- 497 means a school activity:
- 498 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 499 district governing the authorization and supervision of fundraising activities;
- 500 (ii) that does not directly or indirectly compensate an individual teacher or other
- 501 educational personnel by direct payment, commissions, or payment in kind; and
- 502 (iii) the net or gross revenues from which are deposited in a dedicated account
- 503 controlled by the school or school district.
- 504 (47) "Geothermal energy" means energy contained in heat that continuously flows

505 outward from the earth that is used as the sole source of energy to produce electricity.

506 (48) "Governing board of the agreement" means the governing board of the agreement
507 that is:

- 508 (a) authorized to administer the agreement; and
- 509 (b) established in accordance with the agreement.

510 (49) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

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

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

515 (iii) the legislative branch of the state, including the House of Representatives, the
516 Senate, the Legislative Printing Office, the Office of Legislative Research and General
517 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
518 Analyst;

519 (iv) the National Guard;

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

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

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

524 (i) a college campus of the Utah College of Applied Technology;

525 (ii) a school;

526 (iii) the State Board of Education;

527 (iv) the State Board of Regents; or

528 (v) an institution of higher education.

529 (50) "Hydroelectric energy" means water used as the sole source of energy to produce
530 electricity.

531 (51) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
532 other fuels:

533 (a) in mining or extraction of minerals;

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

536 (i) commercial greenhouses;

537 (ii) irrigation pumps;

538 (iii) farm machinery;

539 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
540 registered under Title 41, Chapter 1a, Part 2, Registration; and

541 (v) other farming activities;

542 (c) in manufacturing tangible personal property at an establishment described in SIC
543 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
544 Executive Office of the President, Office of Management and Budget;

545 (d) by a scrap recycler if:

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

549 (A) iron;

550 (B) steel;

551 (C) nonferrous metal;

552 (D) paper;

553 (E) glass;

554 (F) plastic;

555 (G) textile; or

556 (H) rubber; and

557 (ii) the new products under Subsection (51)(d)(i) would otherwise be made with
558 nonrecycled materials; or

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

561 (52) (a) Except as provided in Subsection (52)(b), "installation charge" means a charge
562 for installing:

- 563 (i) tangible personal property; or
- 564 (ii) a product transferred electronically.

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

- 566 (i) repairs or renovations of:
 - 567 (A) tangible personal property; or
 - 568 (B) a product transferred electronically; or
- 569 (ii) attaching tangible personal property or a product transferred electronically:
 - 570 (A) to other tangible personal property; and
 - 571 (B) as part of a manufacturing or fabrication process.

572 (53) "Institution of higher education" means an institution of higher education listed in
573 Section 53B-2-101.

574 (54) (a) "Lease" or "rental" means a transfer of possession or control of tangible
575 personal property or a product transferred electronically for:

- 576 (i) (A) a fixed term; or
- 577 (B) an indeterminate term; and
- 578 (ii) consideration.

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

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

- 584 (i) a transfer of possession or control of property under a security agreement or
585 deferred payment plan that requires the transfer of title upon completion of the required
586 payments;

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

- 589 (A) upon completion of required payments; and
- 590 (B) if the payment of an option price does not exceed the greater of:
 - 591 (I) \$100; or
 - 592 (II) 1% of the total required payments; or
 - 593 (iii) providing tangible personal property along with an operator for a fixed period of
 - 594 time or an indeterminate period of time if the operator is necessary for equipment to perform as
 - 595 designed.
- 596 (d) For purposes of Subsection (54)(c)(iii), an operator is necessary for equipment to
- 597 perform as designed if the operator's duties exceed the:
 - 598 (i) set-up of tangible personal property;
 - 599 (ii) maintenance of tangible personal property; or
 - 600 (iii) inspection of tangible personal property.
- 601 (55) "Life science establishment" means an establishment in this state that is classified
- 602 under the following NAICS codes of the 2007 North American Industry Classification System
- 603 of the federal Executive Office of the President, Office of Management and Budget:
 - 604 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
 - 605 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
 - 606 Manufacturing; or
 - 607 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 608 (56) "Life science research and development facility" means a facility owned, leased,
- 609 or rented by a life science establishment if research and development is performed in 51% or
- 610 more of the total area of the facility.
- 611 (57) "Load and leave" means delivery to a purchaser by use of a tangible storage media
- 612 if the tangible storage media is not physically transferred to the purchaser.
- 613 (58) "Local taxing jurisdiction" means a:
 - 614 (a) county that is authorized to impose an agreement sales and use tax;
 - 615 (b) city that is authorized to impose an agreement sales and use tax; or
 - 616 (c) town that is authorized to impose an agreement sales and use tax.

- 617 (59) "Manufactured home" is as defined in Section 15A-1-302.
- 618 (60) For purposes of Section 59-12-104, "manufacturing facility" means:
- 619 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
620 Industrial Classification Manual of the federal Executive Office of the President, Office of
621 Management and Budget;
- 622 (b) a scrap recycler if:
- 623 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
624 one or more of the following items into prepared grades of processed materials for use in new
625 products:
- 626 (A) iron;
- 627 (B) steel;
- 628 (C) nonferrous metal;
- 629 (D) paper;
- 630 (E) glass;
- 631 (F) plastic;
- 632 (G) textile; or
- 633 (H) rubber; and
- 634 (ii) the new products under Subsection (60)(b)(i) would otherwise be made with
635 nonrecycled materials; or
- 636 (c) a cogeneration facility as defined in Section 54-2-1.
- 637 (61) "Member of the immediate family of the producer" means a person who is related
638 to a producer described in Subsection 59-12-104(20)(a) as a:
- 639 (a) child or stepchild, regardless of whether the child or stepchild is:
- 640 (i) an adopted child or adopted stepchild; or
- 641 (ii) a foster child or foster stepchild;
- 642 (b) grandchild or stepgrandchild;
- 643 (c) grandparent or stepgrandparent;
- 644 (d) nephew or stepnephew;

- 645 (e) niece or stepniece;
- 646 (f) parent or stepparent;
- 647 (g) sibling or stepsibling;
- 648 (h) spouse;
- 649 (i) person who is the spouse of a person described in Subsections (61)(a) through (g);

650 or

- 651 (j) person similar to a person described in Subsections (61)(a) through (i) as
- 652 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 653 Administrative Rulemaking Act.

654 (62) "Mobile home" is as defined in Section 15A-1-302.

655 (63) "Mobile telecommunications service" is as defined in the Mobile
656 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

657 (64) (a) "Mobile wireless service" means a telecommunications service, regardless of
658 the technology used, if:

- 659 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 660 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 661 (iii) the origination point described in Subsection (64)(a)(i) and the termination point
- 662 described in Subsection (64)(a)(ii) are not fixed.

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

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

667 (65) (a) Except as provided in Subsection (65)(c), "mobility enhancing equipment"
668 means equipment that is:

- 669 (i) primarily and customarily used to provide or increase the ability to move from one
670 place to another;

- 671 (ii) appropriate for use in a:

- 672 (A) home; or

673 (B) motor vehicle; and
674 (iii) not generally used by persons with normal mobility.
675 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
676 the equipment described in Subsection (65)(a).
677 (c) [~~Notwithstanding Subsection (65)(a), "mobility]~~ "Mobility enhancing equipment"
678 does not include:
679 (i) a motor vehicle;
680 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
681 vehicle manufacturer;
682 (iii) durable medical equipment; or
683 (iv) a prosthetic device.
684 (66) "Model 1 seller" means a seller registered under the agreement that has selected a
685 certified service provider as the seller's agent to perform all of the seller's sales and use tax
686 functions for agreement sales and use taxes other than the seller's obligation under Section
687 59-12-124 to remit a tax on the seller's own purchases.
688 (67) "Model 2 seller" means a seller registered under the agreement that:
689 (a) except as provided in Subsection (67)(b), has selected a certified automated system
690 to perform the seller's sales tax functions for agreement sales and use taxes; and
691 (b) [~~notwithstanding Subsection (67)(a),]~~ retains responsibility for remitting all of the
692 sales tax:
693 (i) collected by the seller; and
694 (ii) to the appropriate local taxing jurisdiction.
695 (68) (a) Subject to Subsection (68)(b), "model 3 seller" means a seller registered under
696 the agreement that has:
697 (i) sales in at least five states that are members of the agreement;
698 (ii) total annual sales revenues of at least \$500,000,000;
699 (iii) a proprietary system that calculates the amount of tax:
700 (A) for an agreement sales and use tax; and

- 701 (B) due to each local taxing jurisdiction; and
- 702 (iv) entered into a performance agreement with the governing board of the agreement.
- 703 (b) For purposes of Subsection (68)(a), "model 3 seller" includes an affiliated group of
- 704 sellers using the same proprietary system.
- 705 (69) "Model 4 seller" means a seller that is registered under the agreement and is not a
- 706 model 1 seller, model 2 seller, or model 3 seller.
- 707 (70) "Modular home" means a modular unit as defined in Section 15A-1-302.
- 708 (71) "Motor vehicle" is as defined in Section 41-1a-102.
- 709 (72) "Oil sands" means impregnated bituminous sands that:
- 710 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
- 711 other hydrocarbons, or otherwise treated;
- 712 (b) yield mixtures of liquid hydrocarbon; and
- 713 (c) require further processing other than mechanical blending before becoming finished
- 714 petroleum products.
- 715 (73) "Oil shale" means a group of fine black to dark brown shales containing kerogen
- 716 material that yields petroleum upon heating and distillation.
- 717 (74) "Optional computer software maintenance contract" means a computer software
- 718 maintenance contract that a customer is not obligated to purchase as a condition to the retail
- 719 sale of computer software.
- 720 (75) (a) "Other fuels" means products that burn independently to produce heat or
- 721 energy.
- 722 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
- 723 personal property.
- 724 (76) (a) "Paging service" means a telecommunications service that provides
- 725 transmission of a coded radio signal for the purpose of activating a specific pager.
- 726 (b) For purposes of Subsection (76)(a), the transmission of a coded radio signal
- 727 includes a transmission by message or sound.
- 728 (77) "Pawnbroker" is as defined in Section 13-32a-102.

- 729 (78) "Pawn transaction" is as defined in Section 13-32a-102.
- 730 (79) (a) "Permanently attached to real property" means that for tangible personal
731 property attached to real property:
- 732 (i) the attachment of the tangible personal property to the real property:
- 733 (A) is essential to the use of the tangible personal property; and
- 734 (B) suggests that the tangible personal property will remain attached to the real
735 property in the same place over the useful life of the tangible personal property; or
- 736 (ii) if the tangible personal property is detached from the real property, the detachment
737 would:
- 738 (A) cause substantial damage to the tangible personal property; or
- 739 (B) require substantial alteration or repair of the real property to which the tangible
740 personal property is attached.
- 741 (b) "Permanently attached to real property" includes:
- 742 (i) the attachment of an accessory to the tangible personal property if the accessory is:
- 743 (A) essential to the operation of the tangible personal property; and
- 744 (B) attached only to facilitate the operation of the tangible personal property;
- 745 (ii) a temporary detachment of tangible personal property from real property for a
746 repair or renovation if the repair or renovation is performed where the tangible personal
747 property and real property are located; or
- 748 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
749 Subsection (79)(c)(iii) or (iv).
- 750 (c) "Permanently attached to real property" does not include:
- 751 (i) the attachment of portable or movable tangible personal property to real property if
752 that portable or movable tangible personal property is attached to real property only for:
- 753 (A) convenience;
- 754 (B) stability; or
- 755 (C) for an obvious temporary purpose;
- 756 (ii) the detachment of tangible personal property from real property except for the

757 detachment described in Subsection (79)(b)(ii);

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

762 (A) a computer;

763 (B) a telephone;

764 (C) a television; or

765 (D) tangible personal property similar to Subsections (79)(c)(iii)(A) through (C) as
766 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
767 Administrative Rulemaking Act; or

768 (iv) an item listed in Subsection [~~(117)~~] (119)(c).

769 (80) "Person" includes any individual, firm, partnership, joint venture, association,
770 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
771 municipality, district, or other local governmental entity of the state, or any group or
772 combination acting as a unit.

773 (81) "Place of primary use":

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

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

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

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

781 (82) (a) "Postpaid calling service" means a telecommunications service a person
782 obtains by making a payment on a call-by-call basis:

783 (i) through the use of a:

784 (A) bank card;

785 (B) credit card;
786 (C) debit card; or
787 (D) travel card; or
788 (ii) by a charge made to a telephone number that is not associated with the origination
789 or termination of the telecommunications service.

790 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
791 service, that would be a prepaid wireless calling service if the service were exclusively a
792 telecommunications service.

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

795 (84) "Prepaid calling service" means a telecommunications service:

796 (a) that allows a purchaser access to telecommunications service that is exclusively
797 telecommunications service;

798 (b) that:

799 (i) is paid for in advance; and

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

801 (A) access number; or

802 (B) authorization code;

803 (c) that is dialed:

804 (i) manually; or

805 (ii) electronically; and

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

807 (i) by a known amount; and

808 (ii) with use.

809 (85) "Prepaid wireless calling service" means a telecommunications service:

810 (a) that provides the right to utilize:

811 (i) mobile wireless service; and

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

- 813 (A) the download of a product transferred electronically;
- 814 (B) a content service; or
- 815 (C) an ancillary service;
- 816 (b) that:
- 817 (i) is paid for in advance; and
- 818 (ii) enables the origination of a call using an:
 - 819 (A) access number; or
 - 820 (B) authorization code;
- 821 (c) that is dialed:
 - 822 (i) manually; or
 - 823 (ii) electronically; and
- 824 (d) sold in predetermined units or dollars that decline:
 - 825 (i) by a known amount; and
 - 826 (ii) with use.
- 827 (86) (a) "Prepared food" means:
 - 828 (i) food:
 - 829 (A) sold in a heated state; or
 - 830 (B) heated by a seller;
 - 831 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
 - 832 item; or
 - 833 (iii) except as provided in Subsection (86)(c), food sold with an eating utensil provided
 - 834 by the seller, including a:
 - 835 (A) plate;
 - 836 (B) knife;
 - 837 (C) fork;
 - 838 (D) spoon;
 - 839 (E) glass;
 - 840 (F) cup;

- 841 (G) napkin; or
- 842 (H) straw.
- 843 (b) "Prepared food" does not include:
- 844 (i) food that a seller only:
- 845 (A) cuts;
- 846 (B) repackages; or
- 847 (C) pasteurizes; or
- 848 (ii) (A) the following:
- 849 (I) raw egg;
- 850 (II) raw fish;
- 851 (III) raw meat;
- 852 (IV) raw poultry; or
- 853 (V) a food containing an item described in Subsections (86)(b)(ii)(A)(I) through (IV);
- 854 and
- 855 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 856 Food and Drug Administration's Food Code that a consumer cook the items described in
- 857 Subsection (86)(b)(ii)(A) to prevent food borne illness; or
- 858 (iii) the following if sold without eating utensils provided by the seller:
- 859 (A) food and food ingredients sold by a seller if the seller's proper primary
- 860 classification under the 2002 North American Industry Classification System of the federal
- 861 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 862 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 863 Manufacturing;
- 864 (B) food and food ingredients sold in an unheated state:
- 865 (I) by weight or volume; and
- 866 (II) as a single item; or
- 867 (C) a bakery item, including:
- 868 (I) a bagel;

- 869 (II) a bar;
- 870 (III) a biscuit;
- 871 (IV) bread;
- 872 (V) a bun;
- 873 (VI) a cake;
- 874 (VII) a cookie;
- 875 (VIII) a croissant;
- 876 (IX) a danish;
- 877 (X) a donut;
- 878 (XI) a muffin;
- 879 (XII) a pastry;
- 880 (XIII) a pie;
- 881 (XIV) a roll;
- 882 (XV) a tart;
- 883 (XVI) a torte; or
- 884 (XVII) a tortilla.

885 (c) [~~Notwithstanding Subsection (86)(a)(iii), an~~] An eating utensil provided by the
886 seller does not include the following used to transport the food:

- 887 (i) a container; or
- 888 (ii) packaging.

889 (87) "Prescription" means an order, formula, or recipe that is issued:

- 890 (a) (i) orally;
- 891 (ii) in writing;
- 892 (iii) electronically; or
- 893 (iv) by any other manner of transmission; and

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

895 (88) (a) Except as provided in Subsection (88)(b)(ii) or (iii), "prewritten computer
896 software" means computer software that is not designed and developed:

- 897 (i) by the author or other creator of the computer software; and
- 898 (ii) to the specifications of a specific purchaser.
- 899 (b) "Prewritten computer software" includes:
- 900 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 901 software is not designed and developed:
- 902 (A) by the author or other creator of the computer software; and
- 903 (B) to the specifications of a specific purchaser;
- 904 (ii) [~~notwithstanding Subsection (88)(a);~~] computer software designed and developed
- 905 by the author or other creator of the computer software to the specifications of a specific
- 906 purchaser if the computer software is sold to a person other than the purchaser; or
- 907 (iii) [~~notwithstanding Subsection (88)(a) and~~] except as provided in Subsection (88)(c),
- 908 prewritten computer software or a prewritten portion of prewritten computer software:
- 909 (A) that is modified or enhanced to any degree; and
- 910 (B) if the modification or enhancement described in Subsection (88)(b)(iii)(A) is
- 911 designed and developed to the specifications of a specific purchaser.
- 912 (c) [~~Notwithstanding Subsection (88)(b)(iii), "prewritten~~] "Prewritten computer
- 913 software" does not include a modification or enhancement described in Subsection (88)(b)(iii)
- 914 if the charges for the modification or enhancement are:
- 915 (i) reasonable; and
- 916 (ii) separately stated on the invoice or other statement of price provided to the
- 917 purchaser.
- 918 (89) (a) "Private communication service" means a telecommunications service:
- 919 (i) that entitles a customer to exclusive or priority use of one or more communications
- 920 channels between or among termination points; and
- 921 (ii) regardless of the manner in which the one or more communications channels are
- 922 connected.
- 923 (b) "Private communications service" includes the following provided in connection
- 924 with the use of one or more communications channels:

- 925 (i) an extension line;
- 926 (ii) a station;
- 927 (iii) switching capacity; or
- 928 (iv) another associated service that is provided in connection with the use of one or
- 929 more communications channels as defined in Section 59-12-215.

930 (90) (a) Except as provided in Subsection (90)(b), "product transferred electronically"
931 means a product transferred electronically that would be subject to a tax under this chapter if
932 that product was transferred in a manner other than electronically.

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

- 934 (i) an ancillary service;
- 935 (ii) computer software; or
- 936 (iii) a telecommunications service.

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

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

941 (b) "Prosthetic device" includes:

- 942 (i) parts used in the repairs or renovation of a prosthetic device;
- 943 (ii) replacement parts for a prosthetic device;
- 944 (iii) a dental prosthesis; or
- 945 (iv) a hearing aid.

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

- 947 (i) corrective eyeglasses; or
- 948 (ii) contact lenses.

949 (92) (a) "Protective equipment" means an item:

- 950 (i) for human wear; and
- 951 (ii) that is:
 - 952 (A) designed as protection:

- 953 (I) to the wearer against injury or disease; or
954 (II) against damage or injury of other persons or property; and
955 (B) not suitable for general use.
- 956 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
957 commission shall make rules:
- 958 (i) listing the items that constitute "protective equipment"; and
959 (ii) that are consistent with the list of items that constitute "protective equipment"
960 under the agreement.
- 961 (93) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
962 printed matter, other than a photocopy:
- 963 (i) regardless of:
964 (A) characteristics;
965 (B) copyright;
966 (C) form;
967 (D) format;
968 (E) method of reproduction; or
969 (F) source; and
970 (ii) made available in printed or electronic format.
- 971 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
972 commission may by rule define the term "photocopy."
- 973 (94) (a) "Purchase price" and "sales price" mean the total amount of consideration:
974 (i) valued in money; and
975 (ii) for which tangible personal property, a product transferred electronically, or
976 services are:
977 (A) sold;
978 (B) leased; or
979 (C) rented.
- 980 (b) "Purchase price" and "sales price" include:

- 981 (i) the seller’s cost of the tangible personal property, a product transferred
982 electronically, or services sold;
- 983 (ii) expenses of the seller, including:
- 984 (A) the cost of materials used;
- 985 (B) a labor cost;
- 986 (C) a service cost;
- 987 (D) interest;
- 988 (E) a loss;
- 989 (F) the cost of transportation to the seller; or
- 990 (G) a tax imposed on the seller;
- 991 (iii) a charge by the seller for any service necessary to complete the sale; or
- 992 (iv) consideration a seller receives from a person other than the purchaser if:
- 993 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 994 and
- 995 (II) the consideration described in Subsection (94)(b)(iv)(A)(I) is directly related to a
996 price reduction or discount on the sale;
- 997 (B) the seller has an obligation to pass the price reduction or discount through to the
998 purchaser;
- 999 (C) the amount of the consideration attributable to the sale is fixed and determinable by
1000 the seller at the time of the sale to the purchaser; and
- 1001 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
1002 seller to claim a price reduction or discount; and
- 1003 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
1004 coupon, or other documentation with the understanding that the person other than the seller
1005 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 1006 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1007 organization allowed a price reduction or discount, except that a preferred customer card that is
1008 available to any patron of a seller does not constitute membership in a group or organization

- 1009 allowed a price reduction or discount; or
- 1010 (III) the price reduction or discount is identified as a third party price reduction or
- 1011 discount on the:
 - 1012 (Aa) invoice the purchaser receives; or
 - 1013 (Bb) certificate, coupon, or other documentation the purchaser presents.
 - 1014 (c) "Purchase price" and "sales price" do not include:
 - 1015 (i) a discount:
 - 1016 (A) in a form including:
 - 1017 (I) cash;
 - 1018 (II) term; or
 - 1019 (III) coupon;
 - 1020 (B) that is allowed by a seller;
 - 1021 (C) taken by a purchaser on a sale; and
 - 1022 (D) that is not reimbursed by a third party; or
 - 1023 (ii) the following if separately stated on an invoice, bill of sale, or similar document
 - 1024 provided to the purchaser:
 - 1025 (A) the following from credit extended on the sale of tangible personal property or
 - 1026 services:
 - 1027 (I) a carrying charge;
 - 1028 (II) a financing charge; or
 - 1029 (III) an interest charge;
 - 1030 (B) a delivery charge;
 - 1031 (C) an installation charge;
 - 1032 (D) a manufacturer rebate on a motor vehicle; or
 - 1033 (E) a tax or fee legally imposed directly on the consumer.
 - 1034 (95) "Purchaser" means a person to whom:
 - 1035 (a) a sale of tangible personal property is made;
 - 1036 (b) a product is transferred electronically; or

- 1037 (c) a service is furnished.
- 1038 (96) "Regularly rented" means:
- 1039 (a) rented to a guest for value three or more times during a calendar year; or
- 1040 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1041 value.
- 1042 (97) "Rental" is as defined in Subsection (54).
- 1043 (98) (a) Except as provided in Subsection (98)(b), "repairs or renovations of tangible
- 1044 personal property" means:
- 1045 (i) a repair or renovation of tangible personal property that is not permanently attached
- 1046 to real property; or
- 1047 (ii) attaching tangible personal property or a product transferred electronically to other
- 1048 tangible personal property or detaching tangible personal property or a product transferred
- 1049 electronically from other tangible personal property if:
- 1050 (A) the other tangible personal property to which the tangible personal property or
- 1051 product transferred electronically is attached or from which the tangible personal property or
- 1052 product transferred electronically is detached is not permanently attached to real property; and
- 1053 (B) the attachment of tangible personal property or a product transferred electronically
- 1054 to other tangible personal property or detachment of tangible personal property or a product
- 1055 transferred electronically from other tangible personal property is made in conjunction with a
- 1056 repair or replacement of tangible personal property or a product transferred electronically.
- 1057 (b) "Repairs or renovations of tangible personal property" does not include:
- 1058 (i) attaching prewritten computer software to other tangible personal property if the
- 1059 other tangible personal property to which the prewritten computer software is attached is not
- 1060 permanently attached to real property; or
- 1061 (ii) detaching prewritten computer software from other tangible personal property if the
- 1062 other tangible personal property from which the prewritten computer software is detached is
- 1063 not permanently attached to real property.
- 1064 (99) "Research and development" means the process of inquiry or experimentation

1065 aimed at the discovery of facts, devices, technologies, or applications and the process of
1066 preparing those devices, technologies, or applications for marketing.

1067 (100) (a) "Residential telecommunications services" means a telecommunications
1068 service or an ancillary service that is provided to an individual for personal use:

1069 (i) at a residential address; or

1070 (ii) at an institution, including a nursing home or a school, if the telecommunications
1071 service or ancillary service is provided to and paid for by the individual residing at the
1072 institution rather than the institution.

1073 (b) For purposes of Subsection (100)(a)(i), a residential address includes an:

1074 (i) apartment; or

1075 (ii) other individual dwelling unit.

1076 (101) "Residential use" means the use in or around a home, apartment building,
1077 sleeping quarters, and similar facilities or accommodations.

1078 (102) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1079 than:

1080 (a) resale;

1081 (b) sublease; or

1082 (c) subrent.

1083 (103) (a) "Retailer" means any person engaged in a regularly organized business in
1084 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
1085 who is selling to the user or consumer and not for resale.

1086 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1087 engaged in the business of selling to users or consumers within the state.

1088 (104) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1089 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1090 Subsection 59-12-103(1), for consideration.

1091 (b) "Sale" includes:

1092 (i) installment and credit sales;

- 1093 (ii) any closed transaction constituting a sale;
- 1094 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
- 1095 chapter;
- 1096 (iv) any transaction if the possession of property is transferred but the seller retains the
- 1097 title as security for the payment of the price; and
- 1098 (v) any transaction under which right to possession, operation, or use of any article of
- 1099 tangible personal property is granted under a lease or contract and the transfer of possession
- 1100 would be taxable if an outright sale were made.
- 1101 (105) "Sale at retail" is as defined in Subsection (102).
- 1102 (106) "Sale-leaseback transaction" means a transaction by which title to tangible
- 1103 personal property or a product transferred electronically that is subject to a tax under this
- 1104 chapter is transferred:
- 1105 (a) by a purchaser-lessee;
- 1106 (b) to a lessor;
- 1107 (c) for consideration; and
- 1108 (d) if:
- 1109 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
- 1110 of the tangible personal property or product transferred electronically;
- 1111 (ii) the sale of the tangible personal property or product transferred electronically to the
- 1112 lessor is intended as a form of financing:
- 1113 (A) for the tangible personal property or product transferred electronically; and
- 1114 (B) to the purchaser-lessee; and
- 1115 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
- 1116 is required to:
- 1117 (A) capitalize the tangible personal property or product transferred electronically for
- 1118 financial reporting purposes; and
- 1119 (B) account for the lease payments as payments made under a financing arrangement.
- 1120 (107) "Sales price" is as defined in Subsection (94).

1121 (108) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
1122 amounts charged by a school:

1123 (i) sales that are directly related to the school's educational functions or activities
1124 including:

1125 (A) the sale of:

1126 (I) textbooks;

1127 (II) textbook fees;

1128 (III) laboratory fees;

1129 (IV) laboratory supplies; or

1130 (V) safety equipment;

1131 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1132 that:

1133 (I) a student is specifically required to wear as a condition of participation in a
1134 school-related event or school-related activity; and

1135 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1136 place of ordinary clothing;

1137 (C) sales of the following if the net or gross revenues generated by the sales are
1138 deposited into a school district fund or school fund dedicated to school meals:

1139 (I) food and food ingredients; or

1140 (II) prepared food; or

1141 (D) transportation charges for official school activities; or

1142 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1143 event or school-related activity.

1144 (b) "Sales relating to schools" does not include:

1145 (i) bookstore sales of items that are not educational materials or supplies;

1146 (ii) except as provided in Subsection (108)(a)(i)(B):

1147 (A) clothing;

1148 (B) clothing accessories or equipment;

- 1149 (C) protective equipment; or
- 1150 (D) sports or recreational equipment; or
- 1151 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1152 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1153 (A) other than a:
- 1154 (I) school;
- 1155 (II) nonprofit organization authorized by a school board or a governing body of a
- 1156 private school to organize and direct a competitive secondary school activity; or
- 1157 (III) nonprofit association authorized by a school board or a governing body of a
- 1158 private school to organize and direct a competitive secondary school activity; and
- 1159 (B) that is required to collect sales and use taxes under this chapter.
- 1160 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1161 commission may make rules defining the term "passed through."
- 1162 (109) For purposes of this section and Section 59-12-104, "school":
- 1163 (a) means:
- 1164 (i) an elementary school or a secondary school that:
- 1165 (A) is a:
- 1166 (I) public school; or
- 1167 (II) private school; and
- 1168 (B) provides instruction for one or more grades kindergarten through 12; or
- 1169 (ii) a public school district; and
- 1170 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1171 (110) "Seller" means a person that makes a sale, lease, or rental of:
- 1172 (a) tangible personal property;
- 1173 (b) a product transferred electronically; or
- 1174 (c) a service.
- 1175 (111) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1176 means tangible personal property or a product transferred electronically if the tangible personal

- 1177 property or product transferred electronically is:
- 1178 (i) used primarily in the process of:
- 1179 (A) (I) manufacturing a semiconductor;
- 1180 (II) fabricating a semiconductor; or
- 1181 (III) research or development of a:
- 1182 (Aa) semiconductor; or
- 1183 (Bb) semiconductor manufacturing process; or
- 1184 (B) maintaining an environment suitable for a semiconductor; or
- 1185 (ii) consumed primarily in the process of:
- 1186 (A) (I) manufacturing a semiconductor;
- 1187 (II) fabricating a semiconductor; or
- 1188 (III) research or development of a:
- 1189 (Aa) semiconductor; or
- 1190 (Bb) semiconductor manufacturing process; or
- 1191 (B) maintaining an environment suitable for a semiconductor.
- 1192 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1193 includes:
- 1194 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1195 transferred electronically described in Subsection (111)(a); or
- 1196 (ii) a chemical, catalyst, or other material used to:
- 1197 (A) produce or induce in a semiconductor a:
- 1198 (I) chemical change; or
- 1199 (II) physical change;
- 1200 (B) remove impurities from a semiconductor; or
- 1201 (C) improve the marketable condition of a semiconductor.
- 1202 (112) "Senior citizen center" means a facility having the primary purpose of providing
- 1203 services to the aged as defined in Section 62A-3-101.
- 1204 (113) (a) Subject to Subsections (113)(b) and (c), "short-term lodging consumable"

1205 means tangible personal property that:

1206 (i) a business that provides accommodations and services described in Subsection
1207 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
1208 to a purchaser;

1209 (ii) is intended to be consumed by the purchaser; and

1210 (iii) is:

1211 (A) included in the purchase price of the accommodations and services; and

1212 (B) not separately stated on an invoice, bill of sale, or other similar document provided
1213 to the purchaser.

1214 (b) "Short-term lodging consumable" includes:

1215 (i) a beverage;

1216 (ii) a brush or comb;

1217 (iii) a cosmetic;

1218 (iv) a hair care product;

1219 (v) lotion;

1220 (vi) a magazine;

1221 (vii) makeup;

1222 (viii) a meal;

1223 (ix) mouthwash;

1224 (x) nail polish remover;

1225 (xi) a newspaper;

1226 (xii) a notepad;

1227 (xiii) a pen;

1228 (xiv) a pencil;

1229 (xv) a razor;

1230 (xvi) saline solution;

1231 (xvii) a sewing kit;

1232 (xviii) shaving cream;

1233 (xix) a shoe shine kit;
1234 (xx) a shower cap;
1235 (xxi) a snack item;
1236 (xxii) soap;
1237 (xxiii) toilet paper;
1238 (xxiv) a toothbrush;
1239 (xxv) toothpaste; or
1240 (xxvi) an item similar to Subsections (113)(b)(i) through (xxv) as the commission may
1241 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1242 Rulemaking Act.
1243 (c) "Short-term lodging consumable" does not include:
1244 (i) tangible personal property that is cleaned or washed to allow the tangible personal
1245 property to be reused; or
1246 (ii) a product transferred electronically.
1247 [~~(H3)~~] (114) "Simplified electronic return" means the electronic return:
1248 (a) described in Section 318(C) of the agreement; and
1249 (b) approved by the governing board of the agreement.
1250 [~~(H4)~~] (115) "Solar energy" means the sun used as the sole source of energy for
1251 producing electricity.
1252 [~~(H5)~~] (116) (a) "Sports or recreational equipment" means an item:
1253 (i) designed for human use; and
1254 (ii) that is:
1255 (A) worn in conjunction with:
1256 (I) an athletic activity; or
1257 (II) a recreational activity; and
1258 (B) not suitable for general use.
1259 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1260 commission shall make rules:

1261 (i) listing the items that constitute "sports or recreational equipment"; and
1262 (ii) that are consistent with the list of items that constitute "sports or recreational
1263 equipment" under the agreement.

1264 [~~(116)~~] (117) "State" means the state of Utah, its departments, and agencies.

1265 [~~(117)~~] (118) "Storage" means any keeping or retention of tangible personal property or
1266 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
1267 except sale in the regular course of business.

1268 [~~(118)~~] (119) (a) Except as provided in Subsection [~~(118)~~] (119)(d) or (e), "tangible
1269 personal property" means personal property that:

1270 (i) may be:

1271 (A) seen;

1272 (B) weighed;

1273 (C) measured;

1274 (D) felt; or

1275 (E) touched; or

1276 (ii) is in any manner perceptible to the senses.

1277 (b) "Tangible personal property" includes:

1278 (i) electricity;

1279 (ii) water;

1280 (iii) gas;

1281 (iv) steam; or

1282 (v) prewritten computer software, regardless of the manner in which the prewritten
1283 computer software is transferred.

1284 (c) "Tangible personal property" includes the following regardless of whether the item
1285 is attached to real property:

1286 (i) a dishwasher;

1287 (ii) a dryer;

1288 (iii) a freezer;

1289 (iv) a microwave;
1290 (v) a refrigerator;
1291 (vi) a stove;
1292 (vii) a washer; or
1293 (viii) an item similar to Subsections [~~(118)~~] (119)(c)(i) through (vii) as determined by
1294 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1295 Rulemaking Act.

1296 (d) "Tangible personal property" does not include a product that is transferred
1297 electronically.

1298 (e) "Tangible personal property" does not include the following if attached to real
1299 property, regardless of whether the attachment to real property is only through a line that
1300 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1301 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1302 Rulemaking Act:

- 1303 (i) a hot water heater;
- 1304 (ii) a water filtration system; or
- 1305 (iii) a water softener system.

1306 [~~(119)~~] (120) (a) "Telecommunications enabling or facilitating equipment, machinery,
1307 or software" means an item listed in Subsection [~~(119)~~] (120)(b) if that item is purchased or
1308 leased primarily to enable or facilitate one or more of the following to function:

- 1309 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1310 (ii) telecommunications transmission equipment, machinery, or software.

1311 (b) The following apply to Subsection [~~(119)~~] (120)(a):

- 1312 (i) a pole;
- 1313 (ii) software;
- 1314 (iii) a supplementary power supply;
- 1315 (iv) temperature or environmental equipment or machinery;
- 1316 (v) test equipment;

1317 (vi) a tower; or
1318 (vii) equipment, machinery, or software that functions similarly to an item listed in
1319 Subsections ~~[(119)]~~ (120)(b)(i) through (vi) as determined by the commission by rule made in
1320 accordance with Subsection ~~[(119)]~~ (120)(c).

1321 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1322 commission may by rule define what constitutes equipment, machinery, or software that
1323 functions similarly to an item listed in Subsections ~~[(119)]~~ (120)(b)(i) through (vi).

1324 ~~[(120)]~~ (121) "Telecommunications equipment, machinery, or software required for
1325 911 service" means equipment, machinery, or software that is required to comply with 47
1326 C.F.R. Sec. 20.18.

1327 ~~[(121)]~~ (122) "Telecommunications maintenance or repair equipment, machinery, or
1328 software" means equipment, machinery, or software purchased or leased primarily to maintain
1329 or repair one or more of the following, regardless of whether the equipment, machinery, or
1330 software is purchased or leased as a spare part or as an upgrade or modification to one or more
1331 of the following:

- 1332 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1333 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1334 (c) telecommunications transmission equipment, machinery, or software.

1335 ~~[(122)]~~ (123) (a) "Telecommunications service" means the electronic conveyance,
1336 routing, or transmission of audio, data, video, voice, or any other information or signal to a
1337 point, or among or between points.

1338 (b) "Telecommunications service" includes:

1339 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1340 processing application is used to act:

- 1341 (A) on the code, form, or protocol of the content;
- 1342 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 1343 (C) regardless of whether the service:
- 1344 (I) is referred to as voice over Internet protocol service; or

1345 (II) is classified by the Federal Communications Commission as enhanced or value
1346 added;

1347 (ii) an 800 service;

1348 (iii) a 900 service;

1349 (iv) a fixed wireless service;

1350 (v) a mobile wireless service;

1351 (vi) a postpaid calling service;

1352 (vii) a prepaid calling service;

1353 (viii) a prepaid wireless calling service; or

1354 (ix) a private communications service.

1355 (c) "Telecommunications service" does not include:

1356 (i) advertising, including directory advertising;

1357 (ii) an ancillary service;

1358 (iii) a billing and collection service provided to a third party;

1359 (iv) a data processing and information service if:

1360 (A) the data processing and information service allows data to be:

1361 (I) (Aa) acquired;

1362 (Bb) generated;

1363 (Cc) processed;

1364 (Dd) retrieved; or

1365 (Ee) stored; and

1366 (II) delivered by an electronic transmission to a purchaser; and

1367 (B) the purchaser's primary purpose for the underlying transaction is the processed data
1368 or information;

1369 (v) installation or maintenance of the following on a customer's premises:

1370 (A) equipment; or

1371 (B) wiring;

1372 (vi) Internet access service;

- 1373 (vii) a paging service;
- 1374 (viii) a product transferred electronically, including:
 - 1375 (A) music;
 - 1376 (B) reading material;
 - 1377 (C) a ring tone;
 - 1378 (D) software; or
 - 1379 (E) video;
- 1380 (ix) a radio and television audio and video programming service:
 - 1381 (A) regardless of the medium; and
 - 1382 (B) including:
 - 1383 (I) furnishing conveyance, routing, or transmission of a television audio and video
 - 1384 programming service by a programming service provider;
 - 1385 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
 - 1386 (III) audio and video programming services delivered by a commercial mobile radio
 - 1387 service provider as defined in 47 C.F.R. Sec. 20.3;
 - 1388 (x) a value-added nonvoice data service; or
 - 1389 (xi) tangible personal property.
- 1390 ~~[(123)]~~ (124) (a) "Telecommunications service provider" means a person that:
 - 1391 (i) owns, controls, operates, or manages a telecommunications service; and
 - 1392 (ii) engages in an activity described in Subsection ~~[(123)]~~ (124)(a)(i) for the shared use
 - 1393 with or resale to any person of the telecommunications service.
- 1394 (b) A person described in Subsection ~~[(123)]~~ (124)(a) is a telecommunications service
- 1395 provider whether or not the Public Service Commission of Utah regulates:
 - 1396 (i) that person; or
 - 1397 (ii) the telecommunications service that the person owns, controls, operates, or
 - 1398 manages.
- 1399 ~~[(124)]~~ (125) (a) "Telecommunications switching or routing equipment, machinery, or
- 1400 software" means an item listed in Subsection ~~[(124)]~~ (125)(b) if that item is purchased or

1401 leased primarily for switching or routing:

- 1402 (i) an ancillary service;
- 1403 (ii) data communications;
- 1404 (iii) voice communications; or
- 1405 (iv) telecommunications service.

1406 (b) The following apply to Subsection [~~(124)~~] (125)(a):

- 1407 (i) a bridge;
- 1408 (ii) a computer;
- 1409 (iii) a cross connect;
- 1410 (iv) a modem;
- 1411 (v) a multiplexer;
- 1412 (vi) plug in circuitry;
- 1413 (vii) a router;
- 1414 (viii) software;
- 1415 (ix) a switch; or
- 1416 (x) equipment, machinery, or software that functions similarly to an item listed in

1417 Subsections [~~(124)~~] (125)(b)(i) through (ix) as determined by the commission by rule made in
1418 accordance with Subsection [~~(124)~~] (125)(c).

1419 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1420 commission may by rule define what constitutes equipment, machinery, or software that
1421 functions similarly to an item listed in Subsections [~~(124)~~] (125)(b)(i) through (ix).

1422 [~~(125)~~] (126) (a) "Telecommunications transmission equipment, machinery, or
1423 software" means an item listed in Subsection [~~(125)~~] (126)(b) if that item is purchased or
1424 leased primarily for sending, receiving, or transporting:

- 1425 (i) an ancillary service;
- 1426 (ii) data communications;
- 1427 (iii) voice communications; or
- 1428 (iv) telecommunications service.

- 1429 (b) The following apply to Subsection [~~(125)~~] (126)(a):
- 1430 (i) an amplifier;
- 1431 (ii) a cable;
- 1432 (iii) a closure;
- 1433 (iv) a conduit;
- 1434 (v) a controller;
- 1435 (vi) a duplexer;
- 1436 (vii) a filter;
- 1437 (viii) an input device;
- 1438 (ix) an input/output device;
- 1439 (x) an insulator;
- 1440 (xi) microwave machinery or equipment;
- 1441 (xii) an oscillator;
- 1442 (xiii) an output device;
- 1443 (xiv) a pedestal;
- 1444 (xv) a power converter;
- 1445 (xvi) a power supply;
- 1446 (xvii) a radio channel;
- 1447 (xviii) a radio receiver;
- 1448 (xix) a radio transmitter;
- 1449 (xx) a repeater;
- 1450 (xxi) software;
- 1451 (xxii) a terminal;
- 1452 (xxiii) a timing unit;
- 1453 (xxiv) a transformer;
- 1454 (xxv) a wire; or
- 1455 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1456 Subsections [~~(125)~~] (126)(b)(i) through (xxv) as determined by the commission by rule made in

1457 accordance with Subsection [~~(125)~~] (126)(c).

1458 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1459 commission may by rule define what constitutes equipment, machinery, or software that
1460 functions similarly to an item listed in Subsections [~~(125)~~] (126)(b)(i) through (xxv).

1461 [~~(126)~~] (127) (a) "Textbook for a higher education course" means a textbook or other
1462 printed material that is required for a course:

1463 (i) offered by an institution of higher education; and

1464 (ii) that the purchaser of the textbook or other printed material attends or will attend.

1465 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1466 [~~(127)~~] (128) "Tobacco" means:

1467 (a) a cigarette;

1468 (b) a cigar;

1469 (c) chewing tobacco;

1470 (d) pipe tobacco; or

1471 (e) any other item that contains tobacco.

1472 [~~(128)~~] (129) "Unassisted amusement device" means an amusement device, skill
1473 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
1474 operate the amusement device, skill device, or ride device.

1475 [~~(129)~~] (130) (a) "Use" means the exercise of any right or power over tangible personal
1476 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
1477 incident to the ownership or the leasing of that tangible personal property, product transferred
1478 electronically, or service.

1479 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1480 property, a product transferred electronically, or a service in the regular course of business and
1481 held for resale.

1482 [~~(130)~~] (131) "Value-added nonvoice data service" means a service:

1483 (a) that otherwise meets the definition of a telecommunications service except that a
1484 computer processing application is used to act primarily for a purpose other than conveyance,

1485 routing, or transmission; and

1486 (b) with respect to which a computer processing application is used to act on data or
1487 information:

- 1488 (i) code;
- 1489 (ii) content;
- 1490 (iii) form; or
- 1491 (iv) protocol.

1492 ~~[(131)]~~ (132) (a) Subject to Subsection ~~[(131)]~~ (132)(b), "vehicle" means the following
1493 that are required to be titled, registered, or titled and registered:

- 1494 (i) an aircraft as defined in Section 72-10-102;
- 1495 (ii) a vehicle as defined in Section 41-1a-102;
- 1496 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1497 (iv) a vessel as defined in Section 41-1a-102.

1498 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1499 (i) a vehicle described in Subsection ~~[(131)]~~ (132)(a); or
- 1500 (ii) (A) a locomotive;
- 1501 (B) a freight car;
- 1502 (C) railroad work equipment; or
- 1503 (D) other railroad rolling stock.

1504 ~~[(132)]~~ (133) "Vehicle dealer" means a person engaged in the business of buying,
1505 selling, or exchanging a vehicle as defined in Subsection ~~[(131)]~~ (132).

1506 ~~[(133)]~~ (134) (a) "Vertical service" means an ancillary service that:

- 1507 (i) is offered in connection with one or more telecommunications services; and
- 1508 (ii) offers an advanced calling feature that allows a customer to:
 - 1509 (A) identify a caller; and
 - 1510 (B) manage multiple calls and call connections.

1511 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
1512 conference bridging service.

1513 [~~(134)~~] (135) (a) "Voice mail service" means an ancillary service that enables a
1514 customer to receive, send, or store a recorded message.

1515 (b) "Voice mail service" does not include a vertical service that a customer is required
1516 to have in order to utilize a voice mail service.

1517 [~~(135)~~] (136) (a) Except as provided in Subsection [~~(135)~~] (136)(b), "waste energy
1518 facility" means a facility that generates electricity:

1519 (i) using as the primary source of energy waste materials that would be placed in a
1520 landfill or refuse pit if it were not used to generate electricity, including:

1521 (A) tires;

1522 (B) waste coal;

1523 (C) oil shale; or

1524 (D) municipal solid waste; and

1525 (ii) in amounts greater than actually required for the operation of the facility.

1526 (b) "Waste energy facility" does not include a facility that incinerates:

1527 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

1528 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1529 [~~(136)~~] (137) "Watercraft" means a vessel as defined in Section 73-18-2.

1530 [~~(137)~~] (138) "Wind energy" means wind used as the sole source of energy to produce
1531 electricity.

1532 [~~(138)~~] (139) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
1533 geographic location by the United States Postal Service.

1534 Section 2. Section **59-12-102 (Effective 07/01/14)** is amended to read:

1535 **59-12-102 (Effective 07/01/14). Definitions.**

1536 As used in this chapter:

1537 (1) "800 service" means a telecommunications service that:

1538 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

1539 (b) is typically marketed:

1540 (i) under the name 800 toll-free calling;

- 1541 (ii) under the name 855 toll-free calling;
- 1542 (iii) under the name 866 toll-free calling;
- 1543 (iv) under the name 877 toll-free calling;
- 1544 (v) under the name 888 toll-free calling; or
- 1545 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
- 1546 Federal Communications Commission.
- 1547 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 1548 (i) a subscriber purchases;
- 1549 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 1550 the subscriber's:
- 1551 (A) prerecorded announcement; or
- 1552 (B) live service; and
- 1553 (iii) is typically marketed:
- 1554 (A) under the name 900 service; or
- 1555 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 1556 Communications Commission.
- 1557 (b) "900 service" does not include a charge for:
- 1558 (i) a collection service a seller of a telecommunications service provides to a
- 1559 subscriber; or
- 1560 (ii) the following a subscriber sells to the subscriber's customer:
- 1561 (A) a product; or
- 1562 (B) a service.
- 1563 (3) (a) "Admission or user fees" includes season passes.
- 1564 (b) "Admission or user fees" does not include annual membership dues to private
- 1565 organizations.
- 1566 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 1567 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 1568 Agreement after November 12, 2002.

- 1569 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 1570 (a) listed under Subsection (6); and
- 1571 (b) that are imposed within a local taxing jurisdiction.
- 1572 (6) "Agreement sales and use tax" means a tax imposed under:
- 1573 (a) Subsection 59-12-103(2)(a)(i)(A);
- 1574 (b) Subsection 59-12-103(2)(b)(i);
- 1575 (c) Subsection 59-12-103(2)(c)(i);
- 1576 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 1577 (e) Section 59-12-204;
- 1578 (f) Section 59-12-401;
- 1579 (g) Section 59-12-402;
- 1580 (h) Section 59-12-703;
- 1581 (i) Section 59-12-802;
- 1582 (j) Section 59-12-804;
- 1583 (k) Section 59-12-1102;
- 1584 (l) Section 59-12-1302;
- 1585 (m) Section 59-12-1402;
- 1586 (n) Section 59-12-1802;
- 1587 (o) Section 59-12-2003;
- 1588 (p) Section 59-12-2103;
- 1589 (q) Section 59-12-2213;
- 1590 (r) Section 59-12-2214;
- 1591 (s) Section 59-12-2215;
- 1592 (t) Section 59-12-2216;
- 1593 (u) Section 59-12-2217; or
- 1594 (v) Section 59-12-2218.
- 1595 (7) "Aircraft" is as defined in Section 72-10-102.
- 1596 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

- 1597 (a) except for:
- 1598 (i) an airline as defined in Section 59-2-102; or
- 1599 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 1600 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 1601 state, of an airline; and
- 1602 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 1603 whether the business entity performs the following in this state:
- 1604 (i) check, diagnose, overhaul, and repair:
- 1605 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 1606 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 1607 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 1608 engine;
- 1609 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 1610 aircraft:
- 1611 (A) an inspection;
- 1612 (B) a repair, including a structural repair or modification;
- 1613 (C) changing landing gear; and
- 1614 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 1615 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 1616 completely apply new paint to the fixed wing turbine powered aircraft; and
- 1617 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 1618 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 1619 authority that certifies the fixed wing turbine powered aircraft.
- 1620 (9) "Alcoholic beverage" means a beverage that:
- 1621 (a) is suitable for human consumption; and
- 1622 (b) contains .5% or more alcohol by volume.
- 1623 (10) "Alternative energy" means:
- 1624 (a) biomass energy;

- 1625 (b) geothermal energy;
- 1626 (c) hydroelectric energy;
- 1627 (d) solar energy;
- 1628 (e) wind energy; or
- 1629 (f) energy that is derived from:
 - 1630 (i) coal-to-liquids;
 - 1631 (ii) nuclear fuel;
 - 1632 (iii) oil-impregnated diatomaceous earth;
 - 1633 (iv) oil sands;
 - 1634 (v) oil shale; or
 - 1635 (vi) petroleum coke.
- 1636 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 1637 facility" means a facility that:
 - 1638 (i) uses alternative energy to produce electricity; and
 - 1639 (ii) has a production capacity of 2 megawatts or greater.
- 1640 (b) A facility is an alternative energy electricity production facility regardless of
- 1641 whether the facility is:
 - 1642 (i) connected to an electric grid; or
 - 1643 (ii) located on the premises of an electricity consumer.
- 1644 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
- 1645 provision of telecommunications service.
 - 1646 (b) "Ancillary service" includes:
 - 1647 (i) a conference bridging service;
 - 1648 (ii) a detailed communications billing service;
 - 1649 (iii) directory assistance;
 - 1650 (iv) a vertical service; or
 - 1651 (v) a voice mail service.
- 1652 (13) "Area agency on aging" is as defined in Section 62A-3-101.

1653 (14) "Assisted amusement device" means an amusement device, skill device, or ride
1654 device that is started and stopped by an individual:

1655 (a) who is not the purchaser or renter of the right to use or operate the amusement
1656 device, skill device, or ride device; and

1657 (b) at the direction of the seller of the right to use the amusement device, skill device,
1658 or ride device.

1659 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
1660 washing of tangible personal property if the cleaning or washing labor is primarily performed
1661 by an individual:

1662 (a) who is not the purchaser of the cleaning or washing of the tangible personal
1663 property; and

1664 (b) at the direction of the seller of the cleaning or washing of the tangible personal
1665 property.

1666 (16) "Authorized carrier" means:

1667 (a) in the case of vehicles operated over public highways, the holder of credentials
1668 indicating that the vehicle is or will be operated pursuant to both the International Registration
1669 Plan and the International Fuel Tax Agreement;

1670 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
1671 certificate or air carrier's operating certificate; or

1672 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
1673 stock, the holder of a certificate issued by the United States Surface Transportation Board.

1674 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the
1675 following that is used as the primary source of energy to produce fuel or electricity:

1676 (i) material from a plant or tree; or

1677 (ii) other organic matter that is available on a renewable basis, including:

1678 (A) slash and brush from forests and woodlands;

1679 (B) animal waste;

1680 (C) methane produced:

- 1681 (I) at landfills; or
- 1682 (II) as a byproduct of the treatment of wastewater residuals;
- 1683 (D) aquatic plants; and
- 1684 (E) agricultural products.
- 1685 (b) "Biomass energy" does not include:
- 1686 (i) black liquor;
- 1687 (ii) treated woods; or
- 1688 (iii) biomass from municipal solid waste other than methane produced:
- 1689 (A) at landfills; or
- 1690 (B) as a byproduct of the treatment of wastewater residuals.
- 1691 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 1692 property, products, or services if the tangible personal property, products, or services are:
- 1693 (i) distinct and identifiable; and
- 1694 (ii) sold for one nonitemized price.
- 1695 (b) "Bundled transaction" does not include:
- 1696 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 1697 the basis of the selection by the purchaser of the items of tangible personal property included in
- 1698 the transaction;
- 1699 (ii) the sale of real property;
- 1700 (iii) the sale of services to real property;
- 1701 (iv) the retail sale of tangible personal property and a service if:
- 1702 (A) the tangible personal property:
- 1703 (I) is essential to the use of the service; and
- 1704 (II) is provided exclusively in connection with the service; and
- 1705 (B) the service is the true object of the transaction;
- 1706 (v) the retail sale of two services if:
- 1707 (A) one service is provided that is essential to the use or receipt of a second service;
- 1708 (B) the first service is provided exclusively in connection with the second service; and

- 1709 (C) the second service is the true object of the transaction;
- 1710 (vi) a transaction that includes tangible personal property or a product subject to
- 1711 taxation under this chapter and tangible personal property or a product that is not subject to
- 1712 taxation under this chapter if the:
- 1713 (A) seller's purchase price of the tangible personal property or product subject to
- 1714 taxation under this chapter is de minimis; or
- 1715 (B) seller's sales price of the tangible personal property or product subject to taxation
- 1716 under this chapter is de minimis; and
- 1717 (vii) the retail sale of tangible personal property that is not subject to taxation under
- 1718 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 1719 (A) that retail sale includes:
- 1720 (I) food and food ingredients;
- 1721 (II) a drug;
- 1722 (III) durable medical equipment;
- 1723 (IV) mobility enhancing equipment;
- 1724 (V) an over-the-counter drug;
- 1725 (VI) a prosthetic device; or
- 1726 (VII) a medical supply; and
- 1727 (B) subject to Subsection (18)(f):
- 1728 (I) the seller's purchase price of the tangible personal property subject to taxation under
- 1729 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 1730 (II) the seller's sales price of the tangible personal property subject to taxation under
- 1731 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 1732 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
- 1733 service that is distinct and identifiable does not include:
- 1734 (A) packaging that:
- 1735 (I) accompanies the sale of the tangible personal property, product, or service; and
- 1736 (II) is incidental or immaterial to the sale of the tangible personal property, product, or

1737 service;

1738 (B) tangible personal property, a product, or a service provided free of charge with the
1739 purchase of another item of tangible personal property, a product, or a service; or

1740 (C) an item of tangible personal property, a product, or a service included in the
1741 definition of "purchase price."

1742 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
1743 product, or a service is provided free of charge with the purchase of another item of tangible
1744 personal property, a product, or a service if the sales price of the purchased item of tangible
1745 personal property, product, or service does not vary depending on the inclusion of the tangible
1746 personal property, product, or service provided free of charge.

1747 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
1748 does not include a price that is separately identified by tangible personal property, product, or
1749 service on the following, regardless of whether the following is in paper format or electronic
1750 format:

1751 (A) a binding sales document; or

1752 (B) another supporting sales-related document that is available to a purchaser.

1753 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
1754 supporting sales-related document that is available to a purchaser includes:

1755 (A) a bill of sale;

1756 (B) a contract;

1757 (C) an invoice;

1758 (D) a lease agreement;

1759 (E) a periodic notice of rates and services;

1760 (F) a price list;

1761 (G) a rate card;

1762 (H) a receipt; or

1763 (I) a service agreement.

1764 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal

1765 property or a product subject to taxation under this chapter is de minimis if:

1766 (A) the seller's purchase price of the tangible personal property or product is 10% or
1767 less of the seller's total purchase price of the bundled transaction; or

1768 (B) the seller's sales price of the tangible personal property or product is 10% or less of
1769 the seller's total sales price of the bundled transaction.

1770 (ii) For purposes of Subsection (18)(b)(vi), a seller:

1771 (A) shall use the seller's purchase price or the seller's sales price to determine if the
1772 purchase price or sales price of the tangible personal property or product subject to taxation
1773 under this chapter is de minimis; and

1774 (B) may not use a combination of the seller's purchase price and the seller's sales price
1775 to determine if the purchase price or sales price of the tangible personal property or product
1776 subject to taxation under this chapter is de minimis.

1777 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
1778 contract to determine if the sales price of tangible personal property or a product is de minimis.

1779 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
1780 the seller's purchase price and the seller's sales price to determine if tangible personal property
1781 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
1782 price of that retail sale.

1783 (19) "Certified automated system" means software certified by the governing board of
1784 the agreement that:

1785 (a) calculates the agreement sales and use tax imposed within a local taxing
1786 jurisdiction:

1787 (i) on a transaction; and

1788 (ii) in the states that are members of the agreement;

1789 (b) determines the amount of agreement sales and use tax to remit to a state that is a
1790 member of the agreement; and

1791 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

1792 (20) "Certified service provider" means an agent certified:

1793 (a) by the governing board of the agreement; and
1794 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
1795 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
1796 own purchases.

1797 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel
1798 suitable for general use.

1799 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1800 commission shall make rules:

- 1801 (i) listing the items that constitute "clothing"; and
- 1802 (ii) that are consistent with the list of items that constitute "clothing" under the
1803 agreement.

1804 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

1805 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
1806 fuels that does not constitute industrial use under Subsection (51) or residential use under
1807 Subsection (101).

1808 (24) (a) "Common carrier" means a person engaged in or transacting the business of
1809 transporting passengers, freight, merchandise, or other property for hire within this state.

1810 (b) (i) "Common carrier" does not include a person who, at the time the person is
1811 traveling to or from that person's place of employment, transports a passenger to or from the
1812 passenger's place of employment.

1813 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
1814 Utah Administrative Rulemaking Act, the commission may make rules defining what
1815 constitutes a person's place of employment.

1816 (25) "Component part" includes:

- 1817 (a) poultry, dairy, and other livestock feed, and their components;
- 1818 (b) baling ties and twine used in the baling of hay and straw;
- 1819 (c) fuel used for providing temperature control of orchards and commercial
1820 greenhouses doing a majority of their business in wholesale sales, and for providing power for

- 1821 off-highway type farm machinery; and
- 1822 (d) feed, seeds, and seedlings.
- 1823 (26) "Computer" means an electronic device that accepts information:
- 1824 (a) (i) in digital form; or
- 1825 (ii) in a form similar to digital form; and
- 1826 (b) manipulates that information for a result based on a sequence of instructions.
- 1827 (27) "Computer software" means a set of coded instructions designed to cause:
- 1828 (a) a computer to perform a task; or
- 1829 (b) automatic data processing equipment to perform a task.
- 1830 (28) "Computer software maintenance contract" means a contract that obligates a seller
- 1831 of computer software to provide a customer with:
- 1832 (a) future updates or upgrades to computer software;
- 1833 (b) support services with respect to computer software; or
- 1834 (c) a combination of Subsections (28)(a) and (b).
- 1835 (29) (a) "Conference bridging service" means an ancillary service that links two or
- 1836 more participants of an audio conference call or video conference call.
- 1837 (b) "Conference bridging service" may include providing a telephone number as part of
- 1838 the ancillary service described in Subsection (29)(a).
- 1839 (c) "Conference bridging service" does not include a telecommunications service used
- 1840 to reach the ancillary service described in Subsection (29)(a).
- 1841 (30) "Construction materials" means any tangible personal property that will be
- 1842 converted into real property.
- 1843 (31) "Delivered electronically" means delivered to a purchaser by means other than
- 1844 tangible storage media.
- 1845 (32) (a) "Delivery charge" means a charge:
- 1846 (i) by a seller of:
- 1847 (A) tangible personal property;
- 1848 (B) a product transferred electronically; or

- 1849 (C) services; and
- 1850 (ii) for preparation and delivery of the tangible personal property, product transferred
- 1851 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
- 1852 purchaser.
- 1853 (b) "Delivery charge" includes a charge for the following:
- 1854 (i) transportation;
- 1855 (ii) shipping;
- 1856 (iii) postage;
- 1857 (iv) handling;
- 1858 (v) crating; or
- 1859 (vi) packing.
- 1860 (33) "Detailed telecommunications billing service" means an ancillary service of
- 1861 separately stating information pertaining to individual calls on a customer's billing statement.
- 1862 (34) "Dietary supplement" means a product, other than tobacco, that:
- 1863 (a) is intended to supplement the diet;
- 1864 (b) contains one or more of the following dietary ingredients:
- 1865 (i) a vitamin;
- 1866 (ii) a mineral;
- 1867 (iii) an herb or other botanical;
- 1868 (iv) an amino acid;
- 1869 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 1870 dietary intake; or
- 1871 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 1872 described in Subsections (34)(b)(i) through (v);
- 1873 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
- 1874 (A) tablet form;
- 1875 (B) capsule form;
- 1876 (C) powder form;

- 1877 (D) softgel form;
- 1878 (E) gelcap form; or
- 1879 (F) liquid form; or
- 1880 (ii) [~~notwithstanding Subsection (34)(c)(i),~~] if the product is not intended for ingestion
- 1881 in a form described in Subsections (34)(c)(i)(A) through (F), is not represented:
- 1882 (A) as conventional food; and
- 1883 (B) for use as a sole item of:
- 1884 (I) a meal; or
- 1885 (II) the diet; and
- 1886 (d) is required to be labeled as a dietary supplement:
- 1887 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 1888 (ii) as required by 21 C.F.R. Sec. 101.36.
- 1889 (35) (a) "Direct mail" means printed material delivered or distributed by United States
- 1890 mail or other delivery service:
- 1891 (i) to:
- 1892 (A) a mass audience; or
- 1893 (B) addressees on a mailing list provided:
- 1894 (I) by a purchaser of the mailing list; or
- 1895 (II) at the discretion of the purchaser of the mailing list; and
- 1896 (ii) if the cost of the printed material is not billed directly to the recipients.
- 1897 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 1898 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 1899 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 1900 single address.
- 1901 (36) "Directory assistance" means an ancillary service of providing:
- 1902 (a) address information; or
- 1903 (b) telephone number information.
- 1904 (37) (a) "Disposable home medical equipment or supplies" means medical equipment

1905 or supplies that:

- 1906 (i) cannot withstand repeated use; and
- 1907 (ii) are purchased by, for, or on behalf of a person other than:
 - 1908 (A) a health care facility as defined in Section 26-21-2;
 - 1909 (B) a health care provider as defined in Section 78B-3-403;
 - 1910 (C) an office of a health care provider described in Subsection (37)(a)(ii)(B); or
 - 1911 (D) a person similar to a person described in Subsections (37)(a)(ii)(A) through (C).

1912 (b) "Disposable home medical equipment or supplies" does not include:

- 1913 (i) a drug;
- 1914 (ii) durable medical equipment;
- 1915 (iii) a hearing aid;
- 1916 (iv) a hearing aid accessory;
- 1917 (v) mobility enhancing equipment; or
- 1918 (vi) tangible personal property used to correct impaired vision, including:
 - 1919 (A) eyeglasses; or
 - 1920 (B) contact lenses.

1921 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1922 commission may by rule define what constitutes medical equipment or supplies.

1923 (38) (a) "Drug" means a compound, substance, or preparation, or a component of a
1924 compound, substance, or preparation that is:

- 1925 (i) recognized in:
 - 1926 (A) the official United States Pharmacopoeia;
 - 1927 (B) the official Homeopathic Pharmacopoeia of the United States;
 - 1928 (C) the official National Formulary; or
 - 1929 (D) a supplement to a publication listed in Subsections (38)(a)(i)(A) through (C);
- 1930 (ii) intended for use in the:
 - 1931 (A) diagnosis of disease;
 - 1932 (B) cure of disease;

- 1933 (C) mitigation of disease;
- 1934 (D) treatment of disease; or
- 1935 (E) prevention of disease; or
- 1936 (iii) intended to affect:
- 1937 (A) the structure of the body; or
- 1938 (B) any function of the body.
- 1939 (b) "Drug" does not include:
- 1940 (i) food and food ingredients;
- 1941 (ii) a dietary supplement;
- 1942 (iii) an alcoholic beverage; or
- 1943 (iv) a prosthetic device.
- 1944 (39) (a) Except as provided in Subsection (39)(c), "durable medical equipment" means
- 1945 equipment that:
- 1946 (i) can withstand repeated use;
- 1947 (ii) is primarily and customarily used to serve a medical purpose;
- 1948 (iii) generally is not useful to a person in the absence of illness or injury; and
- 1949 (iv) is not worn in or on the body.
- 1950 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 1951 equipment described in Subsection (39)(a).
- 1952 (c) [~~Notwithstanding Subsection (39)(a), "durable"~~] "Durable medical equipment" does
- 1953 not include mobility enhancing equipment.
- 1954 (40) "Electronic" means:
- 1955 (a) relating to technology; and
- 1956 (b) having:
- 1957 (i) electrical capabilities;
- 1958 (ii) digital capabilities;
- 1959 (iii) magnetic capabilities;
- 1960 (iv) wireless capabilities;

- 1961 (v) optical capabilities;
- 1962 (vi) electromagnetic capabilities; or
- 1963 (vii) capabilities similar to Subsections (40)(b)(i) through (vi).
- 1964 (41) "Employee" is as defined in Section 59-10-401.
- 1965 (42) "Fixed guideway" means a public transit facility that uses and occupies:
- 1966 (a) rail for the use of public transit; or
- 1967 (b) a separate right-of-way for the use of public transit.
- 1968 (43) "Fixed wing turbine powered aircraft" means an aircraft that:
- 1969 (a) is powered by turbine engines;
- 1970 (b) operates on jet fuel; and
- 1971 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 1972 (44) "Fixed wireless service" means a telecommunications service that provides radio
- 1973 communication between fixed points.
- 1974 (45) (a) "Food and food ingredients" means substances:
- 1975 (i) regardless of whether the substances are in:
- 1976 (A) liquid form;
- 1977 (B) concentrated form;
- 1978 (C) solid form;
- 1979 (D) frozen form;
- 1980 (E) dried form; or
- 1981 (F) dehydrated form; and
- 1982 (ii) that are:
- 1983 (A) sold for:
- 1984 (I) ingestion by humans; or
- 1985 (II) chewing by humans; and
- 1986 (B) consumed for the substance's:
- 1987 (I) taste; or
- 1988 (II) nutritional value.

- 1989 (b) "Food and food ingredients" includes an item described in Subsection (86)(b)(iii).
- 1990 (c) "Food and food ingredients" does not include:
- 1991 (i) an alcoholic beverage;
- 1992 (ii) tobacco; or
- 1993 (iii) prepared food.
- 1994 (46) (a) "Fundraising sales" means sales:
- 1995 (i) (A) made by a school; or
- 1996 (B) made by a school student;
- 1997 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 1998 materials, or provide transportation; and
- 1999 (iii) that are part of an officially sanctioned school activity.
- 2000 (b) For purposes of Subsection (46)(a)(iii), "officially sanctioned school activity"
- 2001 means a school activity:
- 2002 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 2003 district governing the authorization and supervision of fundraising activities;
- 2004 (ii) that does not directly or indirectly compensate an individual teacher or other
- 2005 educational personnel by direct payment, commissions, or payment in kind; and
- 2006 (iii) the net or gross revenues from which are deposited in a dedicated account
- 2007 controlled by the school or school district.
- 2008 (47) "Geothermal energy" means energy contained in heat that continuously flows
- 2009 outward from the earth that is used as the sole source of energy to produce electricity.
- 2010 (48) "Governing board of the agreement" means the governing board of the agreement
- 2011 that is:
- 2012 (a) authorized to administer the agreement; and
- 2013 (b) established in accordance with the agreement.
- 2014 (49) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
- 2015 (i) the executive branch of the state, including all departments, institutions, boards,
- 2016 divisions, bureaus, offices, commissions, and committees;

2017 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
2018 Office of the Court Administrator, and similar administrative units in the judicial branch;
2019 (iii) the legislative branch of the state, including the House of Representatives, the
2020 Senate, the Legislative Printing Office, the Office of Legislative Research and General
2021 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
2022 Analyst;

2023 (iv) the National Guard;

2024 (v) an independent entity as defined in Section 63E-1-102; or

2025 (vi) a political subdivision as defined in Section 17B-1-102.

2026 (b) "Governmental entity" does not include the state systems of public and higher
2027 education, including:

2028 (i) a college campus of the Utah College of Applied Technology;

2029 (ii) a school;

2030 (iii) the State Board of Education;

2031 (iv) the State Board of Regents; or

2032 (v) an institution of higher education.

2033 (50) "Hydroelectric energy" means water used as the sole source of energy to produce
2034 electricity.

2035 (51) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
2036 other fuels:

2037 (a) in mining or extraction of minerals;

2038 (b) in agricultural operations to produce an agricultural product up to the time of
2039 harvest or placing the agricultural product into a storage facility, including:

2040 (i) commercial greenhouses;

2041 (ii) irrigation pumps;

2042 (iii) farm machinery;

2043 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
2044 registered under Title 41, Chapter 1a, Part 2, Registration; and

- 2045 (v) other farming activities;
- 2046 (c) in manufacturing tangible personal property at an establishment described in SIC
- 2047 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 2048 Executive Office of the President, Office of Management and Budget;
- 2049 (d) by a scrap recycler if:
- 2050 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 2051 one or more of the following items into prepared grades of processed materials for use in new
- 2052 products:
- 2053 (A) iron;
- 2054 (B) steel;
- 2055 (C) nonferrous metal;
- 2056 (D) paper;
- 2057 (E) glass;
- 2058 (F) plastic;
- 2059 (G) textile; or
- 2060 (H) rubber; and
- 2061 (ii) the new products under Subsection (51)(d)(i) would otherwise be made with
- 2062 nonrecycled materials; or
- 2063 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
- 2064 cogeneration facility as defined in Section 54-2-1.
- 2065 (52) (a) Except as provided in Subsection (52)(b), "installation charge" means a charge
- 2066 for installing:
- 2067 (i) tangible personal property; or
- 2068 (ii) a product transferred electronically.
- 2069 (b) "Installation charge" does not include a charge for:
- 2070 (i) repairs or renovations of:
- 2071 (A) tangible personal property; or
- 2072 (B) a product transferred electronically; or

- 2073 (ii) attaching tangible personal property or a product transferred electronically:
- 2074 (A) to other tangible personal property; and
- 2075 (B) as part of a manufacturing or fabrication process.
- 2076 (53) "Institution of higher education" means an institution of higher education listed in
- 2077 Section 53B-2-101.
- 2078 (54) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 2079 personal property or a product transferred electronically for:
- 2080 (i) (A) a fixed term; or
- 2081 (B) an indeterminate term; and
- 2082 (ii) consideration.
- 2083 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
- 2084 amount of consideration may be increased or decreased by reference to the amount realized
- 2085 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
- 2086 Code.
- 2087 (c) "Lease" or "rental" does not include:
- 2088 (i) a transfer of possession or control of property under a security agreement or
- 2089 deferred payment plan that requires the transfer of title upon completion of the required
- 2090 payments;
- 2091 (ii) a transfer of possession or control of property under an agreement that requires the
- 2092 transfer of title:
- 2093 (A) upon completion of required payments; and
- 2094 (B) if the payment of an option price does not exceed the greater of:
- 2095 (I) \$100; or
- 2096 (II) 1% of the total required payments; or
- 2097 (iii) providing tangible personal property along with an operator for a fixed period of
- 2098 time or an indeterminate period of time if the operator is necessary for equipment to perform as
- 2099 designed.
- 2100 (d) For purposes of Subsection (54)(c)(iii), an operator is necessary for equipment to

2101 perform as designed if the operator's duties exceed the:

- 2102 (i) set-up of tangible personal property;
- 2103 (ii) maintenance of tangible personal property; or
- 2104 (iii) inspection of tangible personal property.

2105 (55) "Life science establishment" means an establishment in this state that is classified
2106 under the following NAICS codes of the 2007 North American Industry Classification System
2107 of the federal Executive Office of the President, Office of Management and Budget:

- 2108 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 2109 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

2110 Manufacturing; or

- 2111 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

2112 (56) "Life science research and development facility" means a facility owned, leased,
2113 or rented by a life science establishment if research and development is performed in 51% or
2114 more of the total area of the facility.

2115 (57) "Load and leave" means delivery to a purchaser by use of a tangible storage media
2116 if the tangible storage media is not physically transferred to the purchaser.

2117 (58) "Local taxing jurisdiction" means a:

- 2118 (a) county that is authorized to impose an agreement sales and use tax;
- 2119 (b) city that is authorized to impose an agreement sales and use tax; or
- 2120 (c) town that is authorized to impose an agreement sales and use tax.

2121 (59) "Manufactured home" is as defined in Section 15A-1-302.

2122 (60) For purposes of Section 59-12-104, "manufacturing facility" means:

- 2123 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
2124 Industrial Classification Manual of the federal Executive Office of the President, Office of
2125 Management and Budget;

2126 (b) a scrap recycler if:

- 2127 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
2128 one or more of the following items into prepared grades of processed materials for use in new

- 2129 products:
- 2130 (A) iron;
 - 2131 (B) steel;
 - 2132 (C) nonferrous metal;
 - 2133 (D) paper;
 - 2134 (E) glass;
 - 2135 (F) plastic;
 - 2136 (G) textile; or
 - 2137 (H) rubber; and
- 2138 (ii) the new products under Subsection (60)(b)(i) would otherwise be made with
- 2139 nonrecycled materials; or
- 2140 (c) a cogeneration facility as defined in Section 54-2-1.
- 2141 (61) "Member of the immediate family of the producer" means a person who is related
- 2142 to a producer described in Subsection 59-12-104(20)(a) as a:
- 2143 (a) child or stepchild, regardless of whether the child or stepchild is:
 - 2144 (i) an adopted child or adopted stepchild; or
 - 2145 (ii) a foster child or foster stepchild;
 - 2146 (b) grandchild or stepgrandchild;
 - 2147 (c) grandparent or stepgrandparent;
 - 2148 (d) nephew or stepnephew;
 - 2149 (e) niece or stepniece;
 - 2150 (f) parent or stepparent;
 - 2151 (g) sibling or stepsibling;
 - 2152 (h) spouse;
 - 2153 (i) person who is the spouse of a person described in Subsections (61)(a) through (g);
- 2154 or
- 2155 (j) person similar to a person described in Subsections (61)(a) through (i) as
- 2156 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

2157 Administrative Rulemaking Act.

2158 (62) "Mobile home" is as defined in Section 15A-1-302.

2159 (63) "Mobile telecommunications service" is as defined in the Mobile

2160 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2161 (64) (a) "Mobile wireless service" means a telecommunications service, regardless of
2162 the technology used, if:

2163 (i) the origination point of the conveyance, routing, or transmission is not fixed;

2164 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

2165 (iii) the origination point described in Subsection (64)(a)(i) and the termination point
2166 described in Subsection (64)(a)(ii) are not fixed.

2167 (b) "Mobile wireless service" includes a telecommunications service that is provided
2168 by a commercial mobile radio service provider.

2169 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2170 commission may by rule define "commercial mobile radio service provider."

2171 (65) (a) Except as provided in Subsection (65)(c), "mobility enhancing equipment"
2172 means equipment that is:

2173 (i) primarily and customarily used to provide or increase the ability to move from one
2174 place to another;

2175 (ii) appropriate for use in a:

2176 (A) home; or

2177 (B) motor vehicle; and

2178 (iii) not generally used by persons with normal mobility.

2179 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
2180 the equipment described in Subsection (65)(a).

2181 (c) ~~[Notwithstanding Subsection (65)(a), "mobility]~~ "Mobility enhancing equipment"
2182 does not include:

2183 (i) a motor vehicle;

2184 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor

2185 vehicle manufacturer;

2186 (iii) durable medical equipment; or

2187 (iv) a prosthetic device.

2188 (66) "Model 1 seller" means a seller registered under the agreement that has selected a
2189 certified service provider as the seller's agent to perform all of the seller's sales and use tax
2190 functions for agreement sales and use taxes other than the seller's obligation under Section
2191 59-12-124 to remit a tax on the seller's own purchases.

2192 (67) "Model 2 seller" means a seller registered under the agreement that:

2193 (a) except as provided in Subsection (67)(b), has selected a certified automated system
2194 to perform the seller's sales tax functions for agreement sales and use taxes; and

2195 (b) [~~notwithstanding Subsection (67)(a);~~] retains responsibility for remitting all of the
2196 sales tax:

2197 (i) collected by the seller; and

2198 (ii) to the appropriate local taxing jurisdiction.

2199 (68) (a) Subject to Subsection (68)(b), "model 3 seller" means a seller registered under
2200 the agreement that has:

2201 (i) sales in at least five states that are members of the agreement;

2202 (ii) total annual sales revenues of at least \$500,000,000;

2203 (iii) a proprietary system that calculates the amount of tax:

2204 (A) for an agreement sales and use tax; and

2205 (B) due to each local taxing jurisdiction; and

2206 (iv) entered into a performance agreement with the governing board of the agreement.

2207 (b) For purposes of Subsection (68)(a), "model 3 seller" includes an affiliated group of
2208 sellers using the same proprietary system.

2209 (69) "Model 4 seller" means a seller that is registered under the agreement and is not a
2210 model 1 seller, model 2 seller, or model 3 seller.

2211 (70) "Modular home" means a modular unit as defined in Section 15A-1-302.

2212 (71) "Motor vehicle" is as defined in Section 41-1a-102.

- 2213 (72) "Oil sands" means impregnated bituminous sands that:
- 2214 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
- 2215 other hydrocarbons, or otherwise treated;
- 2216 (b) yield mixtures of liquid hydrocarbon; and
- 2217 (c) require further processing other than mechanical blending before becoming finished
- 2218 petroleum products.
- 2219 (73) "Oil shale" means a group of fine black to dark brown shales containing kerogen
- 2220 material that yields petroleum upon heating and distillation.
- 2221 (74) "Optional computer software maintenance contract" means a computer software
- 2222 maintenance contract that a customer is not obligated to purchase as a condition to the retail
- 2223 sale of computer software.
- 2224 (75) (a) "Other fuels" means products that burn independently to produce heat or
- 2225 energy.
- 2226 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
- 2227 personal property.
- 2228 (76) (a) "Paging service" means a telecommunications service that provides
- 2229 transmission of a coded radio signal for the purpose of activating a specific pager.
- 2230 (b) For purposes of Subsection (76)(a), the transmission of a coded radio signal
- 2231 includes a transmission by message or sound.
- 2232 (77) "Pawnbroker" is as defined in Section 13-32a-102.
- 2233 (78) "Pawn transaction" is as defined in Section 13-32a-102.
- 2234 (79) (a) "Permanently attached to real property" means that for tangible personal
- 2235 property attached to real property:
- 2236 (i) the attachment of the tangible personal property to the real property:
- 2237 (A) is essential to the use of the tangible personal property; and
- 2238 (B) suggests that the tangible personal property will remain attached to the real
- 2239 property in the same place over the useful life of the tangible personal property; or
- 2240 (ii) if the tangible personal property is detached from the real property, the detachment

2241 would:

2242 (A) cause substantial damage to the tangible personal property; or

2243 (B) require substantial alteration or repair of the real property to which the tangible

2244 personal property is attached.

2245 (b) "Permanently attached to real property" includes:

2246 (i) the attachment of an accessory to the tangible personal property if the accessory is:

2247 (A) essential to the operation of the tangible personal property; and

2248 (B) attached only to facilitate the operation of the tangible personal property;

2249 (ii) a temporary detachment of tangible personal property from real property for a

2250 repair or renovation if the repair or renovation is performed where the tangible personal

2251 property and real property are located; or

2252 (iii) property attached to oil, gas, or water pipelines, except for the property listed in

2253 Subsection (79)(c)(iii) or (iv).

2254 (c) "Permanently attached to real property" does not include:

2255 (i) the attachment of portable or movable tangible personal property to real property if

2256 that portable or movable tangible personal property is attached to real property only for:

2257 (A) convenience;

2258 (B) stability; or

2259 (C) for an obvious temporary purpose;

2260 (ii) the detachment of tangible personal property from real property except for the

2261 detachment described in Subsection (79)(b)(ii);

2262 (iii) an attachment of the following tangible personal property to real property if the

2263 attachment to real property is only through a line that supplies water, electricity, gas,

2264 telecommunications, cable, or supplies a similar item as determined by the commission by rule

2265 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

2266 (A) a computer;

2267 (B) a telephone;

2268 (C) a television; or

2269 (D) tangible personal property similar to Subsections (79)(c)(iii)(A) through (C) as
2270 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
2271 Administrative Rulemaking Act; or

2272 (iv) an item listed in Subsection [~~(117)~~] (119)(c).

2273 (80) "Person" includes any individual, firm, partnership, joint venture, association,
2274 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
2275 municipality, district, or other local governmental entity of the state, or any group or
2276 combination acting as a unit.

2277 (81) "Place of primary use":

2278 (a) for telecommunications service other than mobile telecommunications service,
2279 means the street address representative of where the customer's use of the telecommunications
2280 service primarily occurs, which shall be:

2281 (i) the residential street address of the customer; or

2282 (ii) the primary business street address of the customer; or

2283 (b) for mobile telecommunications service, is as defined in the Mobile
2284 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2285 (82) (a) "Postpaid calling service" means a telecommunications service a person
2286 obtains by making a payment on a call-by-call basis:

2287 (i) through the use of a:

2288 (A) bank card;

2289 (B) credit card;

2290 (C) debit card; or

2291 (D) travel card; or

2292 (ii) by a charge made to a telephone number that is not associated with the origination
2293 or termination of the telecommunications service.

2294 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
2295 service, that would be a prepaid wireless calling service if the service were exclusively a
2296 telecommunications service.

2297 (83) "Postproduction" means an activity related to the finishing or duplication of a
2298 medium described in Subsection 59-12-104(54)(a).

2299 (84) "Prepaid calling service" means a telecommunications service:

2300 (a) that allows a purchaser access to telecommunications service that is exclusively
2301 telecommunications service;

2302 (b) that:

2303 (i) is paid for in advance; and

2304 (ii) enables the origination of a call using an:

2305 (A) access number; or

2306 (B) authorization code;

2307 (c) that is dialed:

2308 (i) manually; or

2309 (ii) electronically; and

2310 (d) sold in predetermined units or dollars that decline:

2311 (i) by a known amount; and

2312 (ii) with use.

2313 (85) "Prepaid wireless calling service" means a telecommunications service:

2314 (a) that provides the right to utilize:

2315 (i) mobile wireless service; and

2316 (ii) other service that is not a telecommunications service, including:

2317 (A) the download of a product transferred electronically;

2318 (B) a content service; or

2319 (C) an ancillary service;

2320 (b) that:

2321 (i) is paid for in advance; and

2322 (ii) enables the origination of a call using an:

2323 (A) access number; or

2324 (B) authorization code;

- 2325 (c) that is dialed:
- 2326 (i) manually; or
- 2327 (ii) electronically; and
- 2328 (d) sold in predetermined units or dollars that decline:
- 2329 (i) by a known amount; and
- 2330 (ii) with use.
- 2331 (86) (a) "Prepared food" means:
- 2332 (i) food:
- 2333 (A) sold in a heated state; or
- 2334 (B) heated by a seller;
- 2335 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 2336 item; or
- 2337 (iii) except as provided in Subsection (86)(c), food sold with an eating utensil provided
- 2338 by the seller, including a:
- 2339 (A) plate;
- 2340 (B) knife;
- 2341 (C) fork;
- 2342 (D) spoon;
- 2343 (E) glass;
- 2344 (F) cup;
- 2345 (G) napkin; or
- 2346 (H) straw.
- 2347 (b) "Prepared food" does not include:
- 2348 (i) food that a seller only:
- 2349 (A) cuts;
- 2350 (B) repackages; or
- 2351 (C) pasteurizes; or
- 2352 (ii) (A) the following:

- 2353 (I) raw egg;
- 2354 (II) raw fish;
- 2355 (III) raw meat;
- 2356 (IV) raw poultry; or
- 2357 (V) a food containing an item described in Subsections (86)(b)(ii)(A)(I) through (IV);
- 2358 and
- 2359 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 2360 Food and Drug Administration's Food Code that a consumer cook the items described in
- 2361 Subsection (86)(b)(ii)(A) to prevent food borne illness; or
- 2362 (iii) the following if sold without eating utensils provided by the seller:
- 2363 (A) food and food ingredients sold by a seller if the seller's proper primary
- 2364 classification under the 2002 North American Industry Classification System of the federal
- 2365 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 2366 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 2367 Manufacturing;
- 2368 (B) food and food ingredients sold in an unheated state:
- 2369 (I) by weight or volume; and
- 2370 (II) as a single item; or
- 2371 (C) a bakery item, including:
- 2372 (I) a bagel;
- 2373 (II) a bar;
- 2374 (III) a biscuit;
- 2375 (IV) bread;
- 2376 (V) a bun;
- 2377 (VI) a cake;
- 2378 (VII) a cookie;
- 2379 (VIII) a croissant;
- 2380 (IX) a danish;

- 2381 (X) a donut;
- 2382 (XI) a muffin;
- 2383 (XII) a pastry;
- 2384 (XIII) a pie;
- 2385 (XIV) a roll;
- 2386 (XV) a tart;
- 2387 (XVI) a torte; or
- 2388 (XVII) a tortilla.
- 2389 (c) [~~Notwithstanding Subsection (86)(a)(iii), an~~] An eating utensil provided by the
- 2390 seller does not include the following used to transport the food:
 - 2391 (i) a container; or
 - 2392 (ii) packaging.
- 2393 (87) "Prescription" means an order, formula, or recipe that is issued:
 - 2394 (a) (i) orally;
 - 2395 (ii) in writing;
 - 2396 (iii) electronically; or
 - 2397 (iv) by any other manner of transmission; and
 - 2398 (b) by a licensed practitioner authorized by the laws of a state.
- 2399 (88) (a) Except as provided in Subsection (88)(b)(ii) or (iii), "prewritten computer
- 2400 software" means computer software that is not designed and developed:
 - 2401 (i) by the author or other creator of the computer software; and
 - 2402 (ii) to the specifications of a specific purchaser.
- 2403 (b) "Prewritten computer software" includes:
 - 2404 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
 - 2405 software is not designed and developed:
 - 2406 (A) by the author or other creator of the computer software; and
 - 2407 (B) to the specifications of a specific purchaser;
 - 2408 (ii) [~~notwithstanding Subsection (88)(a),~~] computer software designed and developed

2409 by the author or other creator of the computer software to the specifications of a specific
2410 purchaser if the computer software is sold to a person other than the purchaser; or

2411 (iii) ~~[notwithstanding Subsection (88)(a) and]~~ except as provided in Subsection (88)(c),
2412 prewritten computer software or a prewritten portion of prewritten computer software:

2413 (A) that is modified or enhanced to any degree; and

2414 (B) if the modification or enhancement described in Subsection (88)(b)(iii)(A) is
2415 designed and developed to the specifications of a specific purchaser.

2416 (c) ~~[Notwithstanding Subsection (88)(b)(iii), "prewritten]~~ "Prewritten computer
2417 software" does not include a modification or enhancement described in Subsection (88)(b)(iii)
2418 if the charges for the modification or enhancement are:

2419 (i) reasonable; and

2420 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
2421 invoice or other statement of price provided to the purchaser at the time of sale or later, as
2422 demonstrated by:

2423 (A) the books and records the seller keeps at the time of the transaction in the regular
2424 course of business, including books and records the seller keeps at the time of the transaction in
2425 the regular course of business for nontax purposes;

2426 (B) a preponderance of the facts and circumstances at the time of the transaction; and

2427 (C) the understanding of all of the parties to the transaction.

2428 (89) (a) "Private communication service" means a telecommunications service:

2429 (i) that entitles a customer to exclusive or priority use of one or more communications
2430 channels between or among termination points; and

2431 (ii) regardless of the manner in which the one or more communications channels are
2432 connected.

2433 (b) "Private communications service" includes the following provided in connection
2434 with the use of one or more communications channels:

2435 (i) an extension line;

2436 (ii) a station;

- 2437 (iii) switching capacity; or
- 2438 (iv) another associated service that is provided in connection with the use of one or
- 2439 more communications channels as defined in Section 59-12-215.
- 2440 (90) (a) Except as provided in Subsection (90)(b), "product transferred electronically"
- 2441 means a product transferred electronically that would be subject to a tax under this chapter if
- 2442 that product was transferred in a manner other than electronically.
- 2443 (b) "Product transferred electronically" does not include:
- 2444 (i) an ancillary service;
- 2445 (ii) computer software; or
- 2446 (iii) a telecommunications service.
- 2447 (91) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 2448 (i) artificially replace a missing portion of the body;
- 2449 (ii) prevent or correct a physical deformity or physical malfunction; or
- 2450 (iii) support a weak or deformed portion of the body.
- 2451 (b) "Prosthetic device" includes:
- 2452 (i) parts used in the repairs or renovation of a prosthetic device;
- 2453 (ii) replacement parts for a prosthetic device;
- 2454 (iii) a dental prosthesis; or
- 2455 (iv) a hearing aid.
- 2456 (c) "Prosthetic device" does not include:
- 2457 (i) corrective eyeglasses; or
- 2458 (ii) contact lenses.
- 2459 (92) (a) "Protective equipment" means an item:
- 2460 (i) for human wear; and
- 2461 (ii) that is:
- 2462 (A) designed as protection:
- 2463 (I) to the wearer against injury or disease; or
- 2464 (II) against damage or injury of other persons or property; and

2465 (B) not suitable for general use.

2466 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2467 commission shall make rules:

2468 (i) listing the items that constitute "protective equipment"; and
2469 (ii) that are consistent with the list of items that constitute "protective equipment"
2470 under the agreement.

2471 (93) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
2472 printed matter, other than a photocopy:

2473 (i) regardless of:

2474 (A) characteristics;
2475 (B) copyright;
2476 (C) form;
2477 (D) format;
2478 (E) method of reproduction; or
2479 (F) source; and

2480 (ii) made available in printed or electronic format.

2481 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2482 commission may by rule define the term "photocopy."

2483 (94) (a) "Purchase price" and "sales price" mean the total amount of consideration:

2484 (i) valued in money; and
2485 (ii) for which tangible personal property, a product transferred electronically, or
2486 services are:

2487 (A) sold;
2488 (B) leased; or
2489 (C) rented.

2490 (b) "Purchase price" and "sales price" include:

2491 (i) the seller's cost of the tangible personal property, a product transferred
2492 electronically, or services sold;

- 2493 (ii) expenses of the seller, including:
- 2494 (A) the cost of materials used;
- 2495 (B) a labor cost;
- 2496 (C) a service cost;
- 2497 (D) interest;
- 2498 (E) a loss;
- 2499 (F) the cost of transportation to the seller; or
- 2500 (G) a tax imposed on the seller;
- 2501 (iii) a charge by the seller for any service necessary to complete the sale; or
- 2502 (iv) consideration a seller receives from a person other than the purchaser if:
- 2503 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 2504 and
- 2505 (II) the consideration described in Subsection (94)(b)(iv)(A)(I) is directly related to a
- 2506 price reduction or discount on the sale;
- 2507 (B) the seller has an obligation to pass the price reduction or discount through to the
- 2508 purchaser;
- 2509 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 2510 the seller at the time of the sale to the purchaser; and
- 2511 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 2512 seller to claim a price reduction or discount; and
- 2513 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 2514 coupon, or other documentation with the understanding that the person other than the seller
- 2515 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 2516 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 2517 organization allowed a price reduction or discount, except that a preferred customer card that is
- 2518 available to any patron of a seller does not constitute membership in a group or organization
- 2519 allowed a price reduction or discount; or
- 2520 (III) the price reduction or discount is identified as a third party price reduction or

- 2521 discount on the:
- 2522 (Aa) invoice the purchaser receives; or
- 2523 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 2524 (c) "Purchase price" and "sales price" do not include:
- 2525 (i) a discount:
- 2526 (A) in a form including:
- 2527 (I) cash;
- 2528 (II) term; or
- 2529 (III) coupon;
- 2530 (B) that is allowed by a seller;
- 2531 (C) taken by a purchaser on a sale; and
- 2532 (D) that is not reimbursed by a third party; or
- 2533 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
- 2534 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
- 2535 sale or later, as demonstrated by the books and records the seller keeps at the time of the
- 2536 transaction in the regular course of business, including books and records the seller keeps at the
- 2537 time of the transaction in the regular course of business for nontax purposes, by a
- 2538 preponderance of the facts and circumstances at the time of the transaction, and by the
- 2539 understanding of all of the parties to the transaction:
- 2540 (A) the following from credit extended on the sale of tangible personal property or
- 2541 services:
- 2542 (I) a carrying charge;
- 2543 (II) a financing charge; or
- 2544 (III) an interest charge;
- 2545 (B) a delivery charge;
- 2546 (C) an installation charge;
- 2547 (D) a manufacturer rebate on a motor vehicle; or
- 2548 (E) a tax or fee legally imposed directly on the consumer.

- 2549 (95) "Purchaser" means a person to whom:
2550 (a) a sale of tangible personal property is made;
2551 (b) a product is transferred electronically; or
2552 (c) a service is furnished.
- 2553 (96) "Regularly rented" means:
2554 (a) rented to a guest for value three or more times during a calendar year; or
2555 (b) advertised or held out to the public as a place that is regularly rented to guests for
2556 value.
- 2557 (97) "Rental" is as defined in Subsection (54).
- 2558 (98) (a) Except as provided in Subsection (98)(b), "repairs or renovations of tangible
2559 personal property" means:
2560 (i) a repair or renovation of tangible personal property that is not permanently attached
2561 to real property; or
2562 (ii) attaching tangible personal property or a product transferred electronically to other
2563 tangible personal property or detaching tangible personal property or a product transferred
2564 electronically from other tangible personal property if:
2565 (A) the other tangible personal property to which the tangible personal property or
2566 product transferred electronically is attached or from which the tangible personal property or
2567 product transferred electronically is detached is not permanently attached to real property; and
2568 (B) the attachment of tangible personal property or a product transferred electronically
2569 to other tangible personal property or detachment of tangible personal property or a product
2570 transferred electronically from other tangible personal property is made in conjunction with a
2571 repair or replacement of tangible personal property or a product transferred electronically.
- 2572 (b) "Repairs or renovations of tangible personal property" does not include:
2573 (i) attaching prewritten computer software to other tangible personal property if the
2574 other tangible personal property to which the prewritten computer software is attached is not
2575 permanently attached to real property; or
2576 (ii) detaching prewritten computer software from other tangible personal property if the

2577 other tangible personal property from which the prewritten computer software is detached is
2578 not permanently attached to real property.

2579 (99) "Research and development" means the process of inquiry or experimentation
2580 aimed at the discovery of facts, devices, technologies, or applications and the process of
2581 preparing those devices, technologies, or applications for marketing.

2582 (100) (a) "Residential telecommunications services" means a telecommunications
2583 service or an ancillary service that is provided to an individual for personal use:

2584 (i) at a residential address; or

2585 (ii) at an institution, including a nursing home or a school, if the telecommunications
2586 service or ancillary service is provided to and paid for by the individual residing at the
2587 institution rather than the institution.

2588 (b) For purposes of Subsection (100)(a)(i), a residential address includes an:

2589 (i) apartment; or

2590 (ii) other individual dwelling unit.

2591 (101) "Residential use" means the use in or around a home, apartment building,
2592 sleeping quarters, and similar facilities or accommodations.

2593 (102) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
2594 than:

2595 (a) resale;

2596 (b) sublease; or

2597 (c) subrent.

2598 (103) (a) "Retailer" means any person engaged in a regularly organized business in
2599 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
2600 who is selling to the user or consumer and not for resale.

2601 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
2602 engaged in the business of selling to users or consumers within the state.

2603 (104) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
2604 otherwise, in any manner, of tangible personal property or any other taxable transaction under

2605 Subsection 59-12-103(1), for consideration.

2606 (b) "Sale" includes:

2607 (i) installment and credit sales;

2608 (ii) any closed transaction constituting a sale;

2609 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
2610 chapter;

2611 (iv) any transaction if the possession of property is transferred but the seller retains the
2612 title as security for the payment of the price; and

2613 (v) any transaction under which right to possession, operation, or use of any article of
2614 tangible personal property is granted under a lease or contract and the transfer of possession
2615 would be taxable if an outright sale were made.

2616 (105) "Sale at retail" is as defined in Subsection (102).

2617 (106) "Sale-leaseback transaction" means a transaction by which title to tangible
2618 personal property or a product transferred electronically that is subject to a tax under this
2619 chapter is transferred:

2620 (a) by a purchaser-lessee;

2621 (b) to a lessor;

2622 (c) for consideration; and

2623 (d) if:

2624 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
2625 of the tangible personal property or product transferred electronically;

2626 (ii) the sale of the tangible personal property or product transferred electronically to the
2627 lessor is intended as a form of financing:

2628 (A) for the tangible personal property or product transferred electronically; and

2629 (B) to the purchaser-lessee; and

2630 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
2631 is required to:

2632 (A) capitalize the tangible personal property or product transferred electronically for

2633 financial reporting purposes; and
2634 (B) account for the lease payments as payments made under a financing arrangement.
2635 (107) "Sales price" is as defined in Subsection (94).
2636 (108) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
2637 amounts charged by a school:
2638 (i) sales that are directly related to the school's educational functions or activities
2639 including:
2640 (A) the sale of:
2641 (I) textbooks;
2642 (II) textbook fees;
2643 (III) laboratory fees;
2644 (IV) laboratory supplies; or
2645 (V) safety equipment;
2646 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
2647 that:
2648 (I) a student is specifically required to wear as a condition of participation in a
2649 school-related event or school-related activity; and
2650 (II) is not readily adaptable to general or continued usage to the extent that it takes the
2651 place of ordinary clothing;
2652 (C) sales of the following if the net or gross revenues generated by the sales are
2653 deposited into a school district fund or school fund dedicated to school meals:
2654 (I) food and food ingredients; or
2655 (II) prepared food; or
2656 (D) transportation charges for official school activities; or
2657 (ii) amounts paid to or amounts charged by a school for admission to a school-related
2658 event or school-related activity.
2659 (b) "Sales relating to schools" does not include:
2660 (i) bookstore sales of items that are not educational materials or supplies;

- 2661 (ii) except as provided in Subsection (108)(a)(i)(B):
- 2662 (A) clothing;
- 2663 (B) clothing accessories or equipment;
- 2664 (C) protective equipment; or
- 2665 (D) sports or recreational equipment; or
- 2666 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 2667 event or school-related activity if the amounts paid or charged are passed through to a person:
- 2668 (A) other than a:
- 2669 (I) school;
- 2670 (II) nonprofit organization authorized by a school board or a governing body of a
- 2671 private school to organize and direct a competitive secondary school activity; or
- 2672 (III) nonprofit association authorized by a school board or a governing body of a
- 2673 private school to organize and direct a competitive secondary school activity; and
- 2674 (B) that is required to collect sales and use taxes under this chapter.
- 2675 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2676 commission may make rules defining the term "passed through."
- 2677 (109) For purposes of this section and Section 59-12-104, "school":
- 2678 (a) means:
- 2679 (i) an elementary school or a secondary school that:
- 2680 (A) is a:
- 2681 (I) public school; or
- 2682 (II) private school; and
- 2683 (B) provides instruction for one or more grades kindergarten through 12; or
- 2684 (ii) a public school district; and
- 2685 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 2686 (110) "Seller" means a person that makes a sale, lease, or rental of:
- 2687 (a) tangible personal property;
- 2688 (b) a product transferred electronically; or

- 2689 (c) a service.
- 2690 (111) (a) "Semiconductor fabricating, processing, research, or development materials"
- 2691 means tangible personal property or a product transferred electronically if the tangible personal
- 2692 property or product transferred electronically is:
 - 2693 (i) used primarily in the process of:
 - 2694 (A) (I) manufacturing a semiconductor;
 - 2695 (II) fabricating a semiconductor; or
 - 2696 (III) research or development of a:
 - 2697 (Aa) semiconductor; or
 - 2698 (Bb) semiconductor manufacturing process; or
 - 2699 (B) maintaining an environment suitable for a semiconductor; or
 - 2700 (ii) consumed primarily in the process of:
 - 2701 (A) (I) manufacturing a semiconductor;
 - 2702 (II) fabricating a semiconductor; or
 - 2703 (III) research or development of a:
 - 2704 (Aa) semiconductor; or
 - 2705 (Bb) semiconductor manufacturing process; or
 - 2706 (B) maintaining an environment suitable for a semiconductor.
- 2707 (b) "Semiconductor fabricating, processing, research, or development materials"
- 2708 includes:
 - 2709 (i) parts used in the repairs or renovations of tangible personal property or a product
 - 2710 transferred electronically described in Subsection (111)(a); or
 - 2711 (ii) a chemical, catalyst, or other material used to:
 - 2712 (A) produce or induce in a semiconductor a:
 - 2713 (I) chemical change; or
 - 2714 (II) physical change;
 - 2715 (B) remove impurities from a semiconductor; or
 - 2716 (C) improve the marketable condition of a semiconductor.

2717 (112) "Senior citizen center" means a facility having the primary purpose of providing
2718 services to the aged as defined in Section 62A-3-101.

2719 (113) (a) Subject to Subsections (113)(b) and (c), "short-term lodging consumable"
2720 means tangible personal property that:

2721 (i) a business that provides accommodations and services described in Subsection
2722 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
2723 to a purchaser;

2724 (ii) is intended to be consumed by the purchaser; and

2725 (iii) is:

2726 (A) included in the purchase price of the accommodations and services; and

2727 (B) not separately stated on an invoice, bill of sale, or other similar document provided
2728 to the purchaser.

2729 (b) "Short-term lodging consumable" includes:

2730 (i) a beverage;

2731 (ii) a brush or comb;

2732 (iii) a cosmetic;

2733 (iv) a hair care product;

2734 (v) lotion;

2735 (vi) a magazine;

2736 (vii) makeup;

2737 (viii) a meal;

2738 (ix) mouthwash;

2739 (x) nail polish remover;

2740 (xi) a newspaper;

2741 (xii) a notepad;

2742 (xiii) a pen;

2743 (xiv) a pencil;

2744 (xv) a razor;

- 2745 (xvi) saline solution;
- 2746 (xvii) a sewing kit;
- 2747 (xviii) shaving cream;
- 2748 (xix) a shoe shine kit;
- 2749 (xx) a shower cap;
- 2750 (xxi) a snack item;
- 2751 (xxii) soap;
- 2752 (xxiii) toilet paper;
- 2753 (xxiv) a toothbrush;
- 2754 (xxv) toothpaste; or
- 2755 (xxvi) an item similar to Subsections (113)(b)(i) through (xxv) as the commission may
- 2756 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 2757 Rulemaking Act.
- 2758 (c) "Short-term lodging consumable" does not include:
- 2759 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 2760 property to be reused; or
- 2761 (ii) a product transferred electronically.
- 2762 [~~(113)~~] (114) "Simplified electronic return" means the electronic return:
- 2763 (a) described in Section 318(C) of the agreement; and
- 2764 (b) approved by the governing board of the agreement.
- 2765 [~~(114)~~] (115) "Solar energy" means the sun used as the sole source of energy for
- 2766 producing electricity.
- 2767 [~~(115)~~] (116) (a) "Sports or recreational equipment" means an item:
- 2768 (i) designed for human use; and
- 2769 (ii) that is:
- 2770 (A) worn in conjunction with:
- 2771 (I) an athletic activity; or
- 2772 (II) a recreational activity; and

2773 (B) not suitable for general use.

2774 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2775 commission shall make rules:

2776 (i) listing the items that constitute "sports or recreational equipment"; and

2777 (ii) that are consistent with the list of items that constitute "sports or recreational
2778 equipment" under the agreement.

2779 [~~(116)~~] (117) "State" means the state of Utah, its departments, and agencies.

2780 [~~(117)~~] (118) "Storage" means any keeping or retention of tangible personal property or
2781 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
2782 except sale in the regular course of business.

2783 [~~(118)~~] (119) (a) Except as provided in Subsection [~~(118)~~] (119)(d) or (e), "tangible
2784 personal property" means personal property that:

2785 (i) may be:

2786 (A) seen;

2787 (B) weighed;

2788 (C) measured;

2789 (D) felt; or

2790 (E) touched; or

2791 (ii) is in any manner perceptible to the senses.

2792 (b) "Tangible personal property" includes:

2793 (i) electricity;

2794 (ii) water;

2795 (iii) gas;

2796 (iv) steam; or

2797 (v) prewritten computer software, regardless of the manner in which the prewritten
2798 computer software is transferred.

2799 (c) "Tangible personal property" includes the following regardless of whether the item
2800 is attached to real property:

2801 (i) a dishwasher;
2802 (ii) a dryer;
2803 (iii) a freezer;
2804 (iv) a microwave;
2805 (v) a refrigerator;
2806 (vi) a stove;
2807 (vii) a washer; or
2808 (viii) an item similar to Subsections [~~(118)~~] (119)(c)(i) through (vii) as determined by
2809 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2810 Rulemaking Act.

2811 (d) "Tangible personal property" does not include a product that is transferred
2812 electronically.

2813 (e) "Tangible personal property" does not include the following if attached to real
2814 property, regardless of whether the attachment to real property is only through a line that
2815 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
2816 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2817 Rulemaking Act:

- 2818 (i) a hot water heater;
- 2819 (ii) a water filtration system; or
- 2820 (iii) a water softener system.

2821 [~~(119)~~] (120) (a) "Telecommunications enabling or facilitating equipment, machinery,
2822 or software" means an item listed in Subsection [~~(119)~~] (120)(b) if that item is purchased or
2823 leased primarily to enable or facilitate one or more of the following to function:

- 2824 (i) telecommunications switching or routing equipment, machinery, or software; or
- 2825 (ii) telecommunications transmission equipment, machinery, or software.

2826 (b) The following apply to Subsection [~~(119)~~] (120)(a):

- 2827 (i) a pole;
- 2828 (ii) software;

2829 (iii) a supplementary power supply;
2830 (iv) temperature or environmental equipment or machinery;
2831 (v) test equipment;
2832 (vi) a tower; or
2833 (vii) equipment, machinery, or software that functions similarly to an item listed in
2834 Subsections [~~(119)~~] (120)(b)(i) through (vi) as determined by the commission by rule made in
2835 accordance with Subsection [~~(119)~~] (120)(c).

2836 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2837 commission may by rule define what constitutes equipment, machinery, or software that
2838 functions similarly to an item listed in Subsections [~~(119)~~] (120)(b)(i) through (vi).

2839 [~~(120)~~] (121) "Telecommunications equipment, machinery, or software required for
2840 911 service" means equipment, machinery, or software that is required to comply with 47
2841 C.F.R. Sec. 20.18.

2842 [~~(121)~~] (122) "Telecommunications maintenance or repair equipment, machinery, or
2843 software" means equipment, machinery, or software purchased or leased primarily to maintain
2844 or repair one or more of the following, regardless of whether the equipment, machinery, or
2845 software is purchased or leased as a spare part or as an upgrade or modification to one or more
2846 of the following:

- 2847 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 2848 (b) telecommunications switching or routing equipment, machinery, or software; or
- 2849 (c) telecommunications transmission equipment, machinery, or software.

2850 [~~(122)~~] (123) (a) "Telecommunications service" means the electronic conveyance,
2851 routing, or transmission of audio, data, video, voice, or any other information or signal to a
2852 point, or among or between points.

2853 (b) "Telecommunications service" includes:

- 2854 (i) an electronic conveyance, routing, or transmission with respect to which a computer
2855 processing application is used to act:

- 2856 (A) on the code, form, or protocol of the content;

- 2857 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 2858 (C) regardless of whether the service:
- 2859 (I) is referred to as voice over Internet protocol service; or
- 2860 (II) is classified by the Federal Communications Commission as enhanced or value
- 2861 added;
- 2862 (ii) an 800 service;
- 2863 (iii) a 900 service;
- 2864 (iv) a fixed wireless service;
- 2865 (v) a mobile wireless service;
- 2866 (vi) a postpaid calling service;
- 2867 (vii) a prepaid calling service;
- 2868 (viii) a prepaid wireless calling service; or
- 2869 (ix) a private communications service.
- 2870 (c) "Telecommunications service" does not include:
- 2871 (i) advertising, including directory advertising;
- 2872 (ii) an ancillary service;
- 2873 (iii) a billing and collection service provided to a third party;
- 2874 (iv) a data processing and information service if:
- 2875 (A) the data processing and information service allows data to be:
- 2876 (I) (Aa) acquired;
- 2877 (Bb) generated;
- 2878 (Cc) processed;
- 2879 (Dd) retrieved; or
- 2880 (Ee) stored; and
- 2881 (II) delivered by an electronic transmission to a purchaser; and
- 2882 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 2883 or information;
- 2884 (v) installation or maintenance of the following on a customer's premises:

- 2885 (A) equipment; or
- 2886 (B) wiring;
- 2887 (vi) Internet access service;
- 2888 (vii) a paging service;
- 2889 (viii) a product transferred electronically, including:
- 2890 (A) music;
- 2891 (B) reading material;
- 2892 (C) a ring tone;
- 2893 (D) software; or
- 2894 (E) video;
- 2895 (ix) a radio and television audio and video programming service:
- 2896 (A) regardless of the medium; and
- 2897 (B) including:
- 2898 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 2899 programming service by a programming service provider;
- 2900 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 2901 (III) audio and video programming services delivered by a commercial mobile radio
- 2902 service provider as defined in 47 C.F.R. Sec. 20.3;
- 2903 (x) a value-added nonvoice data service; or
- 2904 (xi) tangible personal property.
- 2905 [~~(123)~~] (124) (a) "Telecommunications service provider" means a person that:
- 2906 (i) owns, controls, operates, or manages a telecommunications service; and
- 2907 (ii) engages in an activity described in Subsection [~~(123)~~] (124)(a)(i) for the shared use
- 2908 with or resale to any person of the telecommunications service.
- 2909 (b) A person described in Subsection [~~(123)~~] (124)(a) is a telecommunications service
- 2910 provider whether or not the Public Service Commission of Utah regulates:
- 2911 (i) that person; or
- 2912 (ii) the telecommunications service that the person owns, controls, operates, or

2913 manages.

2914 ~~[(124)]~~ (125) (a) "Telecommunications switching or routing equipment, machinery, or
2915 software" means an item listed in Subsection ~~[(124)]~~ (125)(b) if that item is purchased or
2916 leased primarily for switching or routing:

- 2917 (i) an ancillary service;
- 2918 (ii) data communications;
- 2919 (iii) voice communications; or
- 2920 (iv) telecommunications service.

2921 (b) The following apply to Subsection ~~[(124)]~~ (125)(a):

- 2922 (i) a bridge;
- 2923 (ii) a computer;
- 2924 (iii) a cross connect;
- 2925 (iv) a modem;
- 2926 (v) a multiplexer;
- 2927 (vi) plug in circuitry;
- 2928 (vii) a router;
- 2929 (viii) software;
- 2930 (ix) a switch; or
- 2931 (x) equipment, machinery, or software that functions similarly to an item listed in

2932 Subsections ~~[(124)]~~ (125)(b)(i) through (ix) as determined by the commission by rule made in
2933 accordance with Subsection ~~[(124)]~~ (125)(c).

2934 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2935 commission may by rule define what constitutes equipment, machinery, or software that
2936 functions similarly to an item listed in Subsections ~~[(124)]~~ (125)(b)(i) through (ix).

2937 ~~[(125)]~~ (126) (a) "Telecommunications transmission equipment, machinery, or
2938 software" means an item listed in Subsection ~~[(125)]~~ (126)(b) if that item is purchased or
2939 leased primarily for sending, receiving, or transporting:

- 2940 (i) an ancillary service;

- 2941 (ii) data communications;
- 2942 (iii) voice communications; or
- 2943 (iv) telecommunications service.
- 2944 (b) The following apply to Subsection [~~(125)~~] (126)(a):
- 2945 (i) an amplifier;
- 2946 (ii) a cable;
- 2947 (iii) a closure;
- 2948 (iv) a conduit;
- 2949 (v) a controller;
- 2950 (vi) a duplexer;
- 2951 (vii) a filter;
- 2952 (viii) an input device;
- 2953 (ix) an input/output device;
- 2954 (x) an insulator;
- 2955 (xi) microwave machinery or equipment;
- 2956 (xii) an oscillator;
- 2957 (xiii) an output device;
- 2958 (xiv) a pedestal;
- 2959 (xv) a power converter;
- 2960 (xvi) a power supply;
- 2961 (xvii) a radio channel;
- 2962 (xviii) a radio receiver;
- 2963 (xix) a radio transmitter;
- 2964 (xx) a repeater;
- 2965 (xxi) software;
- 2966 (xxii) a terminal;
- 2967 (xxiii) a timing unit;
- 2968 (xxiv) a transformer;

2969 (xxv) a wire; or
2970 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
2971 Subsections [~~(125)~~] (126)(b)(i) through (xxv) as determined by the commission by rule made in
2972 accordance with Subsection [~~(125)~~] (126)(c).

2973 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2974 commission may by rule define what constitutes equipment, machinery, or software that
2975 functions similarly to an item listed in Subsections [~~(125)~~] (126)(b)(i) through (xxv).

2976 ~~[(126)]~~ (127) (a) "Textbook for a higher education course" means a textbook or other
2977 printed material that is required for a course:

- 2978 (i) offered by an institution of higher education; and
- 2979 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 2980 (b) "Textbook for a higher education course" includes a textbook in electronic format.

2981 ~~[(127)]~~ (128) "Tobacco" means:

- 2982 (a) a cigarette;
- 2983 (b) a cigar;
- 2984 (c) chewing tobacco;
- 2985 (d) pipe tobacco; or
- 2986 (e) any other item that contains tobacco.

2987 ~~[(128)]~~ (129) "Unassisted amusement device" means an amusement device, skill
2988 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
2989 operate the amusement device, skill device, or ride device.

2990 ~~[(129)]~~ (130) (a) "Use" means the exercise of any right or power over tangible personal
2991 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
2992 incident to the ownership or the leasing of that tangible personal property, product transferred
2993 electronically, or service.

2994 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
2995 property, a product transferred electronically, or a service in the regular course of business and
2996 held for resale.

2997 [~~(130)~~] (131) "Value-added nonvoice data service" means a service:

2998 (a) that otherwise meets the definition of a telecommunications service except that a
2999 computer processing application is used to act primarily for a purpose other than conveyance,
3000 routing, or transmission; and

3001 (b) with respect to which a computer processing application is used to act on data or
3002 information:

- 3003 (i) code;
- 3004 (ii) content;
- 3005 (iii) form; or
- 3006 (iv) protocol.

3007 [~~(131)~~] (132) (a) Subject to Subsection [~~(131)~~] (132)(b), "vehicle" means the following
3008 that are required to be titled, registered, or titled and registered:

- 3009 (i) an aircraft as defined in Section 72-10-102;
- 3010 (ii) a vehicle as defined in Section 41-1a-102;
- 3011 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 3012 (iv) a vessel as defined in Section 41-1a-102.

3013 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 3014 (i) a vehicle described in Subsection [~~(131)~~] (132)(a); or
- 3015 (ii) (A) a locomotive;
- 3016 (B) a freight car;
- 3017 (C) railroad work equipment; or
- 3018 (D) other railroad rolling stock.

3019 [~~(132)~~] (133) "Vehicle dealer" means a person engaged in the business of buying,
3020 selling, or exchanging a vehicle as defined in Subsection [~~(131)~~] (132).

3021 [~~(133)~~] (134) (a) "Vertical service" means an ancillary service that:

- 3022 (i) is offered in connection with one or more telecommunications services; and
- 3023 (ii) offers an advanced calling feature that allows a customer to:
3024 (A) identify a caller; and

3025 (B) manage multiple calls and call connections.

3026 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
3027 conference bridging service.

3028 ~~[(134)]~~ (135) (a) "Voice mail service" means an ancillary service that enables a
3029 customer to receive, send, or store a recorded message.

3030 (b) "Voice mail service" does not include a vertical service that a customer is required
3031 to have in order to utilize a voice mail service.

3032 ~~[(135)]~~ (136) (a) Except as provided in Subsection ~~[(135)]~~ (136)(b), "waste energy
3033 facility" means a facility that generates electricity:

3034 (i) using as the primary source of energy waste materials that would be placed in a
3035 landfill or refuse pit if it were not used to generate electricity, including:

3036 (A) tires;

3037 (B) waste coal;

3038 (C) oil shale; or

3039 (D) municipal solid waste; and

3040 (ii) in amounts greater than actually required for the operation of the facility.

3041 (b) "Waste energy facility" does not include a facility that incinerates:

3042 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

3043 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

3044 ~~[(136)]~~ (137) "Watercraft" means a vessel as defined in Section 73-18-2.

3045 ~~[(137)]~~ (138) "Wind energy" means wind used as the sole source of energy to produce
3046 electricity.

3047 ~~[(138)]~~ (139) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
3048 geographic location by the United States Postal Service.

3049 Section 3. Section **59-12-104** is amended to read:

3050 **59-12-104. Exemptions.**

3051 The following sales and uses are exempt from the taxes imposed by this chapter:

3052 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax

3053 under Chapter 13, Motor and Special Fuel Tax Act;

3054 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political

3055 subdivisions; however, this exemption does not apply to sales of:

3056 (a) construction materials except:

3057 (i) construction materials purchased by or on behalf of institutions of the public

3058 education system as defined in Utah Constitution Article X, Section 2, provided the

3059 construction materials are clearly identified and segregated and installed or converted to real

3060 property which is owned by institutions of the public education system; and

3061 (ii) construction materials purchased by the state, its institutions, or its political

3062 subdivisions which are installed or converted to real property by employees of the state, its

3063 institutions, or its political subdivisions; or

3064 (b) tangible personal property in connection with the construction, operation,

3065 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities

3066 providing additional project capacity, as defined in Section 11-13-103;

3067 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

3068 (i) the proceeds of each sale do not exceed \$1; and

3069 (ii) the seller or operator of the vending machine reports an amount equal to 150% of

3070 the cost of the item described in Subsection (3)(b) as goods consumed; and

3071 (b) Subsection (3)(a) applies to:

3072 (i) food and food ingredients; or

3073 (ii) prepared food;

3074 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

3075 (i) alcoholic beverages;

3076 (ii) food and food ingredients; or

3077 (iii) prepared food;

3078 (b) sales of tangible personal property or a product transferred electronically:

3079 (i) to a passenger;

3080 (ii) by a commercial airline carrier; and

3081 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
3082 (c) services related to Subsection (4)(a) or (b);
3083 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
3084 and equipment:
3085 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
3086 North American Industry Classification System of the federal Executive Office of the
3087 President, Office of Management and Budget; and
3088 (II) for:
3089 (Aa) installation in an aircraft, including services relating to the installation of parts or
3090 equipment in the aircraft;
3091 (Bb) renovation of an aircraft; or
3092 (Cc) repair of an aircraft; or
3093 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
3094 commerce; or
3095 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
3096 aircraft operated by a common carrier in interstate or foreign commerce; and
3097 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
3098 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
3099 refund:
3100 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;
3101 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
3102 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
3103 the sale prior to filing for the refund;
3104 (iv) for sales and use taxes paid under this chapter on the sale;
3105 (v) in accordance with Section 59-1-1410; and
3106 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
3107 the person files for the refund on or before September 30, 2011;
3108 (6) sales of commercials, motion picture films, prerecorded audio program tapes or

3109 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
3110 exhibitor, distributor, or commercial television or radio broadcaster;

3111 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
3112 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
3113 washing of tangible personal property;

3114 (b) if a seller that sells at the same business location assisted cleaning or washing of
3115 tangible personal property and cleaning or washing of tangible personal property that is not
3116 assisted cleaning or washing of tangible personal property, the exemption described in
3117 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
3118 or washing of the tangible personal property; and

3119 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
3120 Utah Administrative Rulemaking Act, the commission may make rules:

3121 (i) governing the circumstances under which sales are at the same business location;
3122 and

3123 (ii) establishing the procedures and requirements for a seller to separately account for
3124 sales of assisted cleaning or washing of tangible personal property;

3125 (8) sales made to or by religious or charitable institutions in the conduct of their regular
3126 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
3127 fulfilled;

3128 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
3129 this state if the vehicle is:

3130 (a) not registered in this state; and

3131 (b) (i) not used in this state; or

3132 (ii) used in this state:

3133 (A) if the vehicle is not used to conduct business, for a time period that does not
3134 exceed the longer of:

3135 (I) 30 days in any calendar year; or

3136 (II) the time period necessary to transport the vehicle to the borders of this state; or

3137 (B) if the vehicle is used to conduct business, for the time period necessary to transport
3138 the vehicle to the borders of this state;

3139 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

3140 (i) the item is intended for human use; and

3141 (ii) (A) a prescription was issued for the item; or

3142 (B) the item was purchased by a hospital or other medical facility; and

3143 (b) (i) Subsection (10)(a) applies to:

3144 (A) a drug;

3145 (B) a syringe; or

3146 (C) a stoma supply; and

3147 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3148 commission may by rule define the terms:

3149 (A) "syringe"; or

3150 (B) "stoma supply";

3151 (11) sales or use of property, materials, or services used in the construction of or
3152 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

3153 (12) (a) sales of an item described in Subsection (12)(c) served by:

3154 (i) the following if the item described in Subsection (12)(c) is not available to the
3155 general public:

3156 (A) a church; or

3157 (B) a charitable institution;

3158 (ii) an institution of higher education if:

3159 (A) the item described in Subsection (12)(c) is not available to the general public; or

3160 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
3161 offered by the institution of higher education; or

3162 (b) sales of an item described in Subsection (12)(c) provided for a patient by:

3163 (i) a medical facility; or

3164 (ii) a nursing facility; and

3165 (c) Subsections (12)(a) and (b) apply to:
3166 (i) food and food ingredients;
3167 (ii) prepared food; or
3168 (iii) alcoholic beverages;
3169 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
3170 or a product transferred electronically by a person:
3171 (i) regardless of the number of transactions involving the sale of that tangible personal
3172 property or product transferred electronically by that person; and
3173 (ii) not regularly engaged in the business of selling that type of tangible personal
3174 property or product transferred electronically;
3175 (b) this Subsection (13) does not apply if:
3176 (i) the sale is one of a series of sales of a character to indicate that the person is
3177 regularly engaged in the business of selling that type of tangible personal property or product
3178 transferred electronically;
3179 (ii) the person holds that person out as regularly engaged in the business of selling that
3180 type of tangible personal property or product transferred electronically;
3181 (iii) the person sells an item of tangible personal property or product transferred
3182 electronically that the person purchased as a sale that is exempt under Subsection (25); or
3183 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
3184 this state in which case the tax is based upon:
3185 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
3186 sold; or
3187 (B) in the absence of a bill of sale or other written evidence of value, the fair market
3188 value of the vehicle or vessel being sold at the time of the sale as determined by the
3189 commission; and
3190 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3191 commission shall make rules establishing the circumstances under which:
3192 (i) a person is regularly engaged in the business of selling a type of tangible personal

3193 property or product transferred electronically;

3194 (ii) a sale of tangible personal property or a product transferred electronically is one of
3195 a series of sales of a character to indicate that a person is regularly engaged in the business of
3196 selling that type of tangible personal property or product transferred electronically; or

3197 (iii) a person holds that person out as regularly engaged in the business of selling a type
3198 of tangible personal property or product transferred electronically;

3199 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
3200 July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration
3201 facility, of the following:

3202 (i) machinery and equipment that:

3203 (A) are used:

3204 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
3205 recycler described in Subsection 59-12-102(60)(b):

3206 (Aa) in the manufacturing process;

3207 (Bb) to manufacture an item sold as tangible personal property; and

3208 (Cc) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
3209 (14)(a)(i)(A)(I) in the state; or

3210 (II) for a manufacturing facility that is a scrap recycler described in Subsection
3211 59-12-102(60)(b):

3212 (Aa) to process an item sold as tangible personal property; and

3213 (Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
3214 (14)(a)(i)(A)(II) in the state; and

3215 (B) have an economic life of three or more years; and

3216 (ii) normal operating repair or replacement parts that:

3217 (A) have an economic life of three or more years; and

3218 (B) are used:

3219 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
3220 recycler described in Subsection 59-12-102(60)(b):

3221 (Aa) in the manufacturing process; and
3222 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the
3223 state; or
3224 (II) for a manufacturing facility that is a scrap recycler described in Subsection
3225 59-12-102(60)(b):
3226 (Aa) to process an item sold as tangible personal property; and
3227 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the
3228 state;
3229 (b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
3230 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
3231 of the following:
3232 (i) machinery and equipment that:
3233 (A) are used:
3234 (I) in the manufacturing process;
3235 (II) to manufacture an item sold as tangible personal property; and
3236 (III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
3237 (14)(b) in the state; and
3238 (B) have an economic life of three or more years; and
3239 (ii) normal operating repair or replacement parts that:
3240 (A) are used:
3241 (I) in the manufacturing process; and
3242 (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and
3243 (B) have an economic life of three or more years;
3244 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
3245 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
3246 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
3247 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
3248 of the 2002 North American Industry Classification System of the federal Executive Office of

3249 the President, Office of Management and Budget, of the following:

3250 (i) machinery and equipment that:

3251 (A) are used:

3252 (I) (Aa) in the production process, other than the production of real property; or

3253 (Bb) in research and development; and

3254 (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)

3255 in the state; and

3256 (B) have an economic life of three or more years; and

3257 (ii) normal operating repair or replacement parts that:

3258 (A) have an economic life of three or more years; and

3259 (B) are used in:

3260 (I) (Aa) the production process, except for the production of real property; and

3261 (Bb) an establishment described in this Subsection (14)(c) in the state; or

3262 (II) (Aa) research and development; and

3263 (Bb) in an establishment described in this Subsection (14)(c) in the state;

3264 (d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010,

3265 but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web

3266 Search Portals, of the 2002 North American Industry Classification System of the federal

3267 Executive Office of the President, Office of Management and Budget, of the following:

3268 (A) machinery and equipment that:

3269 (I) are used in the operation of the web search portal;

3270 (II) have an economic life of three or more years; and

3271 (III) are used in a new or expanding establishment described in this Subsection (14)(d)

3272 in the state; and

3273 (B) normal operating repair or replacement parts that:

3274 (I) are used in the operation of the web search portal;

3275 (II) have an economic life of three or more years; and

3276 (III) are used in a new or expanding establishment described in this Subsection (14)(d)

3277 in the state; or

3278 (ii) amounts paid or charged for a purchase or lease made on or after July 1, 2014, by

3279 an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North

3280 American Industry Classification System of the federal Executive Office of the President,

3281 Office of Management and Budget, of the following:

3282 (A) machinery and equipment that:

3283 (I) are used in the operation of the web search portal; and

3284 (II) have an economic life of three or more years; and

3285 (B) normal operating repair or replacement parts that:

3286 (I) are used in the operation of the web search portal; and

3287 (II) have an economic life of three or more years;

3288 (e) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,

3289 Utah Administrative Rulemaking Act, the commission:

3290 (i) shall by rule define the term "establishment"; and

3291 (ii) may by rule define what constitutes:

3292 (A) processing an item sold as tangible personal property;

3293 (B) the production process, except for the production of real property;

3294 (C) research and development; or

3295 (D) a new or expanding establishment described in Subsection (14)(d) in the state; and

3296 (f) on or before October 1, 2011, and every five years after October 1, 2011, the

3297 commission shall:

3298 (i) review the exemptions described in this Subsection (14) and make

3299 recommendations to the Revenue and Taxation Interim Committee concerning whether the

3300 exemptions should be continued, modified, or repealed; and

3301 (ii) include in its report:

3302 (A) an estimate of the cost of the exemptions;

3303 (B) the purpose and effectiveness of the exemptions; and

3304 (C) the benefits of the exemptions to the state;

3305 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
3306 (i) tooling;
3307 (ii) special tooling;
3308 (iii) support equipment;
3309 (iv) special test equipment; or
3310 (v) parts used in the repairs or renovations of tooling or equipment described in
3311 Subsections (15)(a)(i) through (iv); and
3312 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
3313 (i) the tooling, equipment, or parts are used or consumed exclusively in the
3314 performance of any aerospace or electronics industry contract with the United States
3315 government or any subcontract under that contract; and
3316 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
3317 title to the tooling, equipment, or parts is vested in the United States government as evidenced
3318 by:
3319 (A) a government identification tag placed on the tooling, equipment, or parts; or
3320 (B) listing on a government-approved property record if placing a government
3321 identification tag on the tooling, equipment, or parts is impractical;
3322 (16) sales of newspapers or newspaper subscriptions;
3323 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
3324 product transferred electronically traded in as full or part payment of the purchase price, except
3325 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
3326 trade-ins are limited to other vehicles only, and the tax is based upon:
3327 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
3328 vehicle being traded in; or
3329 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
3330 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
3331 commission; and
3332 (b) [~~notwithstanding Subsection (17)(a),~~] Subsection (17)(a) does not apply to the

3333 following items of tangible personal property or products transferred electronically traded in as
3334 full or part payment of the purchase price:

3335 (i) money;

3336 (ii) electricity;

3337 (iii) water;

3338 (iv) gas; or

3339 (v) steam;

3340 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
3341 or a product transferred electronically used or consumed primarily and directly in farming
3342 operations, regardless of whether the tangible personal property or product transferred
3343 electronically:

3344 (A) becomes part of real estate; or

3345 (B) is installed by a:

3346 (I) farmer;

3347 (II) contractor; or

3348 (III) subcontractor; or

3349 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
3350 product transferred electronically if the tangible personal property or product transferred
3351 electronically is exempt under Subsection (18)(a)(i); and

3352 (b) [~~notwithstanding Subsection (18)(a),~~] amounts paid or charged for the following
3353 are subject to the taxes imposed by this chapter:

3354 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is
3355 incidental to farming:

3356 (I) machinery;

3357 (II) equipment;

3358 (III) materials; or

3359 (IV) supplies; and

3360 (B) tangible personal property that is considered to be used in a manner that is

3361 incidental to farming includes:

3362 (I) hand tools; or

3363 (II) maintenance and janitorial equipment and supplies;

3364 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product

3365 transferred electronically if the tangible personal property or product transferred electronically

3366 is used in an activity other than farming; and

3367 (B) tangible personal property or a product transferred electronically that is considered

3368 to be used in an activity other than farming includes:

3369 (I) office equipment and supplies; or

3370 (II) equipment and supplies used in:

3371 (Aa) the sale or distribution of farm products;

3372 (Bb) research; or

3373 (Cc) transportation; or

3374 (iii) a vehicle required to be registered by the laws of this state during the period

3375 ending two years after the date of the vehicle's purchase;

3376 (19) sales of hay;

3377 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or

3378 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or

3379 garden, farm, or other agricultural produce is sold by:

3380 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other

3381 agricultural produce;

3382 (b) an employee of the producer described in Subsection (20)(a); or

3383 (c) a member of the immediate family of the producer described in Subsection (20)(a);

3384 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued

3385 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

3386 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,

3387 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,

3388 wholesaler, or retailer for use in packaging tangible personal property to be sold by that

3389 manufacturer, processor, wholesaler, or retailer;

3390 (23) a product stored in the state for resale;

3391 (24) (a) purchases of a product if:

3392 (i) the product is:

3393 (A) purchased outside of this state;

3394 (B) brought into this state:

3395 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

3396 (II) by a nonresident person who is not living or working in this state at the time of the

3397 purchase;

3398 (C) used for the personal use or enjoyment of the nonresident person described in

3399 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

3400 (D) not used in conducting business in this state; and

3401 (ii) for:

3402 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of

3403 the product for a purpose for which the product is designed occurs outside of this state;

3404 (B) a boat, the boat is registered outside of this state; or

3405 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

3406 outside of this state;

3407 (b) the exemption provided for in Subsection (24)(a) does not apply to:

3408 (i) a lease or rental of a product; or

3409 (ii) a sale of a vehicle exempt under Subsection (33); and

3410 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

3411 purposes of Subsection (24)(a), the commission may by rule define what constitutes the

3412 following:

3413 (i) conducting business in this state if that phrase has the same meaning in this

3414 Subsection (24) as in Subsection (63);

3415 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)

3416 as in Subsection (63); or

3417 (iii) a purpose for which a product is designed if that phrase has the same meaning in
3418 this Subsection (24) as in Subsection (63);

3419 (25) a product purchased for resale in this state, in the regular course of business, either
3420 in its original form or as an ingredient or component part of a manufactured or compounded
3421 product;

3422 (26) a product upon which a sales or use tax was paid to some other state, or one of its
3423 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
3424 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
3425 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
3426 Act;

3427 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
3428 person for use in compounding a service taxable under the subsections;

3429 (28) purchases made in accordance with the special supplemental nutrition program for
3430 women, infants, and children established in 42 U.S.C. Sec. 1786;

3431 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
3432 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
3433 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
3434 Manual of the federal Executive Office of the President, Office of Management and Budget;

3435 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
3436 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

3437 (a) not registered in this state; and

3438 (b) (i) not used in this state; or

3439 (ii) used in this state:

3440 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
3441 time period that does not exceed the longer of:

3442 (I) 30 days in any calendar year; or

3443 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
3444 the borders of this state; or

- 3445 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
3446 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
3447 state;
- 3448 (31) sales of aircraft manufactured in Utah;
- 3449 (32) amounts paid for the purchase of telecommunications service for purposes of
3450 providing telecommunications service;
- 3451 (33) sales, leases, or uses of the following:
- 3452 (a) a vehicle by an authorized carrier; or
- 3453 (b) tangible personal property that is installed on a vehicle:
- 3454 (i) sold or leased to or used by an authorized carrier; and
- 3455 (ii) before the vehicle is placed in service for the first time;
- 3456 (34) (a) 45% of the sales price of any new manufactured home; and
- 3457 (b) 100% of the sales price of any used manufactured home;
- 3458 (35) sales relating to schools and fundraising sales;
- 3459 (36) sales or rentals of durable medical equipment if:
- 3460 (a) a person presents a prescription for the durable medical equipment; and
- 3461 (b) the durable medical equipment is used for home use only;
- 3462 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
3463 Section 72-11-102; and
- 3464 (b) the commission shall by rule determine the method for calculating sales exempt
3465 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 3466 (38) sales to a ski resort of:
- 3467 (a) snowmaking equipment;
- 3468 (b) ski slope grooming equipment;
- 3469 (c) passenger ropeways as defined in Section 72-11-102; or
- 3470 (d) parts used in the repairs or renovations of equipment or passenger ropeways
3471 described in Subsections (38)(a) through (c);
- 3472 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

3473 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
3474 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
3475 59-12-102;

3476 (b) if a seller that sells or rents at the same business location the right to use or operate
3477 for amusement, entertainment, or recreation one or more unassisted amusement devices and
3478 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
3479 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
3480 amusement, entertainment, or recreation for the assisted amusement devices; and

3481 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
3482 Utah Administrative Rulemaking Act, the commission may make rules:

3483 (i) governing the circumstances under which sales are at the same business location;
3484 and

3485 (ii) establishing the procedures and requirements for a seller to separately account for
3486 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
3487 assisted amusement devices;

3488 (41) (a) sales of photocopies by:

3489 (i) a governmental entity; or

3490 (ii) an entity within the state system of public education, including:

3491 (A) a school; or

3492 (B) the State Board of Education; or

3493 (b) sales of publications by a governmental entity;

3494 (42) amounts paid for admission to an athletic event at an institution of higher
3495 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
3496 20 U.S.C. Sec. 1681 et seq.;

3497 (43) (a) sales made to or by:

3498 (i) an area agency on aging; or

3499 (ii) a senior citizen center owned by a county, city, or town; or

3500 (b) sales made by a senior citizen center that contracts with an area agency on aging;

3501 (44) sales or leases of semiconductor fabricating, processing, research, or development
3502 materials regardless of whether the semiconductor fabricating, processing, research, or
3503 development materials:

3504 (a) actually come into contact with a semiconductor; or

3505 (b) ultimately become incorporated into real property;

3506 (45) an amount paid by or charged to a purchaser for accommodations and services
3507 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
3508 59-12-104.2;

3509 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
3510 sports event registration certificate in accordance with Section 41-3-306 for the event period
3511 specified on the temporary sports event registration certificate;

3512 (47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted
3513 by the Public Service Commission of Utah only for purchase of electricity produced from a
3514 new alternative energy source, as designated in the tariff by the Public Service Commission of
3515 Utah; and

3516 (b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a
3517 customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under
3518 the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

3519 (48) sales or rentals of mobility enhancing equipment if a person presents a
3520 prescription for the mobility enhancing equipment;

3521 (49) sales of water in a:

3522 (a) pipe;

3523 (b) conduit;

3524 (c) ditch; or

3525 (d) reservoir;

3526 (50) sales of currency or coins that constitute legal tender of a state, the United States,
3527 or a foreign nation;

3528 (51) (a) sales of an item described in Subsection (51)(b) if the item:

- 3529 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
- 3530 (ii) has a gold, silver, or platinum content of 50% or more; and
- 3531 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
- 3532 (i) ingot;
- 3533 (ii) bar;
- 3534 (iii) medallion; or
- 3535 (iv) decorative coin;
- 3536 (52) amounts paid on a sale-leaseback transaction;
- 3537 (53) sales of a prosthetic device:
- 3538 (a) for use on or in a human; and
- 3539 (b) (i) for which a prescription is required; or
- 3540 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 3541 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 3542 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
- 3543 or equipment is primarily used in the production or postproduction of the following media for
- 3544 commercial distribution:
- 3545 (i) a motion picture;
- 3546 (ii) a television program;
- 3547 (iii) a movie made for television;
- 3548 (iv) a music video;
- 3549 (v) a commercial;
- 3550 (vi) a documentary; or
- 3551 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
- 3552 commission by administrative rule made in accordance with Subsection (54)(d); or
- 3553 (b) [~~notwithstanding Subsection (54)(a),~~] purchases, leases, or rentals of machinery or
- 3554 equipment by an establishment described in Subsection (54)(c) that is used for the production
- 3555 or postproduction of the following are subject to the taxes imposed by this chapter:
- 3556 (i) a live musical performance;

3557 (ii) a live news program; or
3558 (iii) a live sporting event;
3559 (c) the following establishments listed in the 1997 North American Industry
3560 Classification System of the federal Executive Office of the President, Office of Management
3561 and Budget, apply to Subsections (54)(a) and (b):
3562 (i) NAICS Code 512110; or
3563 (ii) NAICS Code 51219; and
3564 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3565 commission may by rule:
3566 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
3567 or
3568 (ii) define:
3569 (A) "commercial distribution";
3570 (B) "live musical performance";
3571 (C) "live news program"; or
3572 (D) "live sporting event";
3573 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
3574 on or before June 30, 2027, of tangible personal property that:
3575 (i) is leased or purchased for or by a facility that:
3576 (A) is an alternative energy electricity production facility;
3577 (B) is located in the state; and
3578 (C) (I) becomes operational on or after July 1, 2004; or
3579 (II) has its generation capacity increased by one or more megawatts on or after July 1,
3580 2004, as a result of the use of the tangible personal property;
3581 (ii) has an economic life of five or more years; and
3582 (iii) is used to make the facility or the increase in capacity of the facility described in
3583 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
3584 transmission grid including:

- 3585 (A) a wind turbine;
- 3586 (B) generating equipment;
- 3587 (C) a control and monitoring system;
- 3588 (D) a power line;
- 3589 (E) substation equipment;
- 3590 (F) lighting;
- 3591 (G) fencing;
- 3592 (H) pipes; or
- 3593 (I) other equipment used for locating a power line or pole; and
- 3594 (b) this Subsection (55) does not apply to:
 - 3595 (i) tangible personal property used in construction of:
 - 3596 (A) a new alternative energy electricity production facility; or
 - 3597 (B) the increase in the capacity of an alternative energy electricity production facility;
 - 3598 (ii) contracted services required for construction and routine maintenance activities;
- 3599 and
- 3600 (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 3601 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
- 3602 acquired after:
 - 3603 (A) the alternative energy electricity production facility described in Subsection
 - 3604 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
 - 3605 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
 - 3606 in Subsection (55)(a)(iii);
- 3607 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
- 3608 on or before June 30, 2027, of tangible personal property that:
 - 3609 (i) is leased or purchased for or by a facility that:
 - 3610 (A) is a waste energy production facility;
 - 3611 (B) is located in the state; and
 - 3612 (C) (I) becomes operational on or after July 1, 2004; or

3613 (II) has its generation capacity increased by one or more megawatts on or after July 1,
3614 2004, as a result of the use of the tangible personal property;

3615 (ii) has an economic life of five or more years; and

3616 (iii) is used to make the facility or the increase in capacity of the facility described in
3617 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
3618 transmission grid including:

3619 (A) generating equipment;

3620 (B) a control and monitoring system;

3621 (C) a power line;

3622 (D) substation equipment;

3623 (E) lighting;

3624 (F) fencing;

3625 (G) pipes; or

3626 (H) other equipment used for locating a power line or pole; and

3627 (b) this Subsection (56) does not apply to:

3628 (i) tangible personal property used in construction of:

3629 (A) a new waste energy facility; or

3630 (B) the increase in the capacity of a waste energy facility;

3631 (ii) contracted services required for construction and routine maintenance activities;

3632 and

3633 (iii) unless the tangible personal property is used or acquired for an increase in capacity
3634 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

3635 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
3636 described in Subsection (56)(a)(iii); or

3637 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
3638 in Subsection (56)(a)(iii);

3639 (57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
3640 or before June 30, 2027, of tangible personal property that:

3641 (i) is leased or purchased for or by a facility that:
3642 (A) is located in the state;
3643 (B) produces fuel from alternative energy, including:
3644 (I) methanol; or
3645 (II) ethanol; and
3646 (C) (I) becomes operational on or after July 1, 2004; or
3647 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
3648 a result of the installation of the tangible personal property;
3649 (ii) has an economic life of five or more years; and
3650 (iii) is installed on the facility described in Subsection (57)(a)(i);
3651 (b) this Subsection (57) does not apply to:
3652 (i) tangible personal property used in construction of:
3653 (A) a new facility described in Subsection (57)(a)(i); or
3654 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
3655 (ii) contracted services required for construction and routine maintenance activities;
3656 and
3657 (iii) unless the tangible personal property is used or acquired for an increase in capacity
3658 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
3659 (A) the facility described in Subsection (57)(a)(i) is operational; or
3660 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
3661 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
3662 product transferred electronically to a person within this state if that tangible personal property
3663 or product transferred electronically is subsequently shipped outside the state and incorporated
3664 pursuant to contract into and becomes a part of real property located outside of this state;
3665 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
3666 state or political entity to which the tangible personal property is shipped imposes a sales, use,
3667 gross receipts, or other similar transaction excise tax on the transaction against which the other
3668 state or political entity allows a credit for sales and use taxes imposed by this chapter; and

3669 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
3670 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
3671 refund:

3672 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

3673 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
3674 which the sale is made;

3675 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
3676 sale prior to filing for the refund;

3677 (iv) for sales and use taxes paid under this chapter on the sale;

3678 (v) in accordance with Section 59-1-1410; and

3679 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
3680 the person files for the refund on or before June 30, 2011;

3681 (59) purchases:

3682 (a) of one or more of the following items in printed or electronic format:

3683 (i) a list containing information that includes one or more:

3684 (A) names; or

3685 (B) addresses; or

3686 (ii) a database containing information that includes one or more:

3687 (A) names; or

3688 (B) addresses; and

3689 (b) used to send direct mail;

3690 (60) redemptions or repurchases of a product by a person if that product was:

3691 (a) delivered to a pawnbroker as part of a pawn transaction; and

3692 (b) redeemed or repurchased within the time period established in a written agreement
3693 between the person and the pawnbroker for redeeming or repurchasing the product;

3694 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

3695 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;

3696 and

- 3697 (ii) has a useful economic life of one or more years; and
- 3698 (b) the following apply to Subsection (61)(a):
- 3699 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 3700 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 3701 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 3702 (iv) telecommunications switching or routing equipment, machinery, or software; or
- 3703 (v) telecommunications transmission equipment, machinery, or software;
- 3704 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
- 3705 personal property or a product transferred electronically that are used in the research and
- 3706 development of alternative energy technology; and
- 3707 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3708 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
- 3709 purchases of tangible personal property or a product transferred electronically that are used in
- 3710 the research and development of alternative energy technology;
- 3711 (63) (a) purchases of tangible personal property or a product transferred electronically
- 3712 if:
- 3713 (i) the tangible personal property or product transferred electronically is:
- 3714 (A) purchased outside of this state;
- 3715 (B) brought into this state at any time after the purchase described in Subsection
- 3716 (63)(a)(i)(A); and
- 3717 (C) used in conducting business in this state; and
- 3718 (ii) for:
- 3719 (A) tangible personal property or a product transferred electronically other than the
- 3720 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
- 3721 for a purpose for which the property is designed occurs outside of this state; or
- 3722 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
- 3723 outside of this state;
- 3724 (b) the exemption provided for in Subsection (63)(a) does not apply to:

- 3725 (i) a lease or rental of tangible personal property or a product transferred electronically;
3726 or
3727 (ii) a sale of a vehicle exempt under Subsection (33); and
3728 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
3729 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
3730 following:
- 3731 (i) conducting business in this state if that phrase has the same meaning in this
3732 Subsection (63) as in Subsection (24);
 - 3733 (ii) the first use of tangible personal property or a product transferred electronically if
3734 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
 - 3735 (iii) a purpose for which tangible personal property or a product transferred
3736 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
3737 Subsection (24);
- 3738 (64) sales of disposable home medical equipment or supplies if:
- 3739 (a) a person presents a prescription for the disposable home medical equipment or
3740 supplies;
 - 3741 (b) the disposable home medical equipment or supplies are used exclusively by the
3742 person to whom the prescription described in Subsection (64)(a) is issued; and
 - 3743 (c) the disposable home medical equipment and supplies are listed as eligible for
3744 payment under:
 - 3745 (i) Title XVIII, federal Social Security Act; or
 - 3746 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- 3747 (65) sales:
- 3748 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
3749 District Act; or
 - 3750 (b) of tangible personal property to a subcontractor of a public transit district, if the
3751 tangible personal property is:
 - 3752 (i) clearly identified; and

- 3753 (ii) installed or converted to real property owned by the public transit district;
- 3754 (66) sales of construction materials:
- 3755 (a) purchased on or after July 1, 2010;
- 3756 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 3757 (i) located within a county of the first class; and
- 3758 (ii) that has a United States customs office on its premises; and
- 3759 (c) if the construction materials are:
- 3760 (i) clearly identified;
- 3761 (ii) segregated; and
- 3762 (iii) installed or converted to real property:
- 3763 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 3764 (B) located at the international airport described in Subsection (66)(b);
- 3765 (67) sales of construction materials:
- 3766 (a) purchased on or after July 1, 2008;
- 3767 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 3768 (i) located within a county of the second class; and
- 3769 (ii) that is owned or operated by a city in which an airline as defined in Section
- 3770 59-2-102 is headquartered; and
- 3771 (c) if the construction materials are:
- 3772 (i) clearly identified;
- 3773 (ii) segregated; and
- 3774 (iii) installed or converted to real property:
- 3775 (A) owned or operated by the new airport described in Subsection (67)(b);
- 3776 (B) located at the new airport described in Subsection (67)(b); and
- 3777 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 3778 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 3779 (69) purchases and sales described in Section 63H-4-111;
- 3780 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and

3781 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
3782 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
3783 lists a state or country other than this state as the location of registry of the fixed wing turbine
3784 powered aircraft; or

3785 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
3786 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
3787 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
3788 lists a state or country other than this state as the location of registry of the fixed wing turbine
3789 powered aircraft;

3790 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

3791 (a) to a person admitted to an institution of higher education; and

3792 (b) by a seller, other than a bookstore owned by an institution of higher education, if
3793 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
3794 textbook for a higher education course;

3795 (72) a license fee or tax a municipality imposes in accordance with Subsection
3796 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
3797 level of municipal services;

3798 (73) amounts paid or charged for construction materials used in the construction of a
3799 new or expanding life science research and development facility in the state, if the construction
3800 materials are:

3801 (a) clearly identified;

3802 (b) segregated; and

3803 (c) installed or converted to real property; ~~and~~

3804 (74) amounts paid or charged for:

3805 (a) a purchase or lease of machinery and equipment that:

3806 (i) are used in performing qualified research:

3807 (A) as defined in Section 59-7-612;

3808 (B) in the state; and

3809 (C) with respect to which the purchaser pays or incurs a qualified research expense as
3810 defined in Section 59-7-612; and

3811 (ii) have an economic life of three or more years; and

3812 (b) normal operating repair or replacement parts:

3813 (i) for the machinery and equipment described in Subsection (74)(a); and

3814 (ii) that have an economic life of three or more years[-]; and

3815 (75) purchases of a short-term lodging consumable by a business that provides
3816 accommodations and services described in Subsection 59-12-103(1)(i).

3817 Section 4. **Effective dates.**

3818 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2013.

3819 (2) The actions affecting Section 59-12-102 (Effective 07/01/14) take effect on July 1,
3820 2014.