

1                   **SALES AND USE TAX - COMPUTER SOFTWARE AND**  
2                   **OTHER TANGIBLE PERSONAL PROPERTY AMENDMENTS**

3                                   2012 GENERAL SESSION

4                                   STATE OF UTAH

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

6                                   Senate Sponsor: Curtis S. Bramble

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8                   **LONG TITLE**

9                   **General Description:**

10                   This bill amends provisions in the Sales and Use Tax Act related to computer software  
11 and other tangible personal property.

12                   **Highlighted Provisions:**

13                   This bill:

- 14                   ▶ defines terms;
- 15                   ▶ addresses the detachment of certain tangible personal property, including prewritten  
16 computer software, from other tangible personal property;
- 17                   ▶ addresses the sales and use taxation of certain optional computer software  
18 maintenance contracts; and
- 19                   ▶ makes technical and conforming changes.

20                   **Money Appropriated in this Bill:**

21                   None

22                   **Other Special Clauses:**

23                   This bill takes effect on July 1, 2012.

24                   **Utah Code Sections Affected:**

25                   AMENDS:

26                   **59-12-102**, as last amended by Laws of Utah 2011, Chapters 14, 285, and 314

27                   **59-12-103**, as last amended by Laws of Utah 2011, Chapters 285, 303, 342, and 441

28                   **59-12-104**, as last amended by Laws of Utah 2011, Chapters 288, 314, 370, and 391

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

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

32 **59-12-102. Definitions.**

33 As used in this chapter:

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

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

36 (b) is typically marketed:

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

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

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

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

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

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

43 Federal Communications Commission.

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

45 (i) a subscriber purchases;

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

48 (A) prerecorded announcement; or

49 (B) live service; and

50 (iii) is typically marketed:

51 (A) under the name 900 service; or

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

53 Communications Commission.

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

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

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

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

86 (q) Section 59-12-2213;

87 (r) Section 59-12-2214;

88 (s) Section 59-12-2215;

89 (t) Section 59-12-2216;

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

91 (v) Section 59-12-2218.

92 (7) "Aircraft" is as defined in Section 72-10-102.

93 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

94 (a) except for an airline as defined in Section 59-2-102 or an affiliated group as defined  
95 in Subsection 59-12-107(1)(f) of an airline; and

96 (b) that has the workers, expertise, and facilities to perform the following, regardless of  
97 whether the business entity performs the following in this state:

98 (i) check, diagnose, overhaul, and repair:

99 (A) an onboard system of a fixed wing turbine powered aircraft; and

100 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

101 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft  
102 engine;

103 (iii) perform at least the following maintenance on a fixed wing turbine powered  
104 aircraft:

105 (A) an inspection;

106 (B) a repair, including a structural repair or modification;

107 (C) changing landing gear; and

108 (D) addressing issues related to an aging fixed wing turbine powered aircraft;

109 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and  
110 completely apply new paint to the fixed wing turbine powered aircraft; and

111 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that  
112 results in a change in the fixed wing turbine powered aircraft's certification requirements by the  
113 authority that certifies the fixed wing turbine powered aircraft.

- 114 (9) "Alcoholic beverage" means a beverage that:  
115 (a) is suitable for human consumption; and  
116 (b) contains .5% or more alcohol by volume.
- 117 (10) (a) "Ancillary service" means a service associated with, or incidental to, the  
118 provision of telecommunications service.
- 119 (b) "Ancillary service" includes:  
120 (i) a conference bridging service;  
121 (ii) a detailed communications billing service;  
122 (iii) directory assistance;  
123 (iv) a vertical service; or  
124 (v) a voice mail service.
- 125 (11) "Area agency on aging" is as defined in Section 62A-3-101.
- 126 (12) "Assisted amusement device" means an amusement device, skill device, or ride  
127 device that is started and stopped by an individual:  
128 (a) who is not the purchaser or renter of the right to use or operate the amusement  
129 device, skill device, or ride device; and  
130 (b) at the direction of the seller of the right to use the amusement device, skill device,  
131 or ride device.
- 132 (13) "Assisted cleaning or washing of tangible personal property" means cleaning or  
133 washing of tangible personal property if the cleaning or washing labor is primarily performed  
134 by an individual:  
135 (a) who is not the purchaser of the cleaning or washing of the tangible personal  
136 property; and  
137 (b) at the direction of the seller of the cleaning or washing of the tangible personal  
138 property.
- 139 (14) "Authorized carrier" means:  
140 (a) in the case of vehicles operated over public highways, the holder of credentials  
141 indicating that the vehicle is or will be operated pursuant to both the International Registration

142 Plan and the International Fuel Tax Agreement;

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

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

147 (15) (a) Except as provided in Subsection (15)(b), "biomass energy" means any of the  
148 following that is used as the primary source of energy to produce fuel or electricity:

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

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

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

152 (B) animal waste;

153 (C) methane produced:

154 (I) at landfills; or

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

156 (D) aquatic plants; and

157 (E) agricultural products.

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

159 (i) black liquor;

160 (ii) treated woods; or

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

162 (A) at landfills; or

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

164 (16) (a) "Bundled transaction" means the sale of two or more items of tangible personal  
165 property, products, or services if the tangible personal property, products, or services are:

166 (i) distinct and identifiable; and

167 (ii) sold for one nonitemized price.

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

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

170 the basis of the selection by the purchaser of the items of tangible personal property included in  
171 the transaction;

172 (ii) the sale of real property;

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

174 (iv) the retail sale of tangible personal property and a service if:

175 (A) the tangible personal property:

176 (I) is essential to the use of the service; and

177 (II) is provided exclusively in connection with the service; and

178 (B) the service is the true object of the transaction;

179 (v) the retail sale of two services if:

180 (A) one service is provided that is essential to the use or receipt of a second service;

181 (B) the first service is provided exclusively in connection with the second service; and

182 (C) the second service is the true object of the transaction;

183 (vi) a transaction that includes tangible personal property or a product subject to

184 taxation under this chapter and tangible personal property or a product that is not subject to

185 taxation under this chapter if the:

186 (A) seller's purchase price of the tangible personal property or product subject to

187 taxation under this chapter is de minimis; or

188 (B) seller's sales price of the tangible personal property or product subject to taxation

189 under this chapter is de minimis; and

190 (vii) the retail sale of tangible personal property that is not subject to taxation under

191 this chapter and tangible personal property that is subject to taxation under this chapter if:

192 (A) that retail sale includes:

193 (I) food and food ingredients;

194 (II) a drug;

195 (III) durable medical equipment;

196 (IV) mobility enhancing equipment;

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

- 198 (VI) a prosthetic device; or  
199 (VII) a medical supply; and  
200 (B) subject to Subsection (16)(f):  
201 (I) the seller's purchase price of the tangible personal property subject to taxation under  
202 this chapter is 50% or less of the seller's total purchase price of that retail sale; or  
203 (II) the seller's sales price of the tangible personal property subject to taxation under  
204 this chapter is 50% or less of the seller's total sales price of that retail sale.  
205 (c) (i) For purposes of Subsection (16)(a)(i), tangible personal property, a product, or a  
206 service that is distinct and identifiable does not include:  
207 (A) packaging that:  
208 (I) accompanies the sale of the tangible personal property, product, or service; and  
209 (II) is incidental or immaterial to the sale of the tangible personal property, product, or  
210 service;  
211 (B) tangible personal property, a product, or a service provided free of charge with the  
212 purchase of another item of tangible personal property, a product, or a service; or  
213 (C) an item of tangible personal property, a product, or a service included in the  
214 definition of "purchase price."  
215 (ii) For purposes of Subsection (16)(c)(i)(B), an item of tangible personal property, a  
216 product, or a service is provided free of charge with the purchase of another item of tangible  
217 personal property, a product, or a service if the sales price of the purchased item of tangible  
218 personal property, product, or service does not vary depending on the inclusion of the tangible  
219 personal property, product, or service provided free of charge.  
220 (d) (i) For purposes of Subsection (16)(a)(ii), property sold for one nonitemized price  
221 does not include a price that is separately identified by tangible personal property, product, or  
222 service on the following, regardless of whether the following is in paper format or electronic  
223 format:  
224 (A) a binding sales document; or  
225 (B) another supporting sales-related document that is available to a purchaser.



226 (ii) For purposes of Subsection (16)(d)(i), a binding sales document or another  
227 supporting sales-related document that is available to a purchaser includes:

- 228 (A) a bill of sale;
- 229 (B) a contract;
- 230 (C) an invoice;
- 231 (D) a lease agreement;
- 232 (E) a periodic notice of rates and services;
- 233 (F) a price list;
- 234 (G) a rate card;
- 235 (H) a receipt; or
- 236 (I) a service agreement.

237 (e) (i) For purposes of Subsection (16)(b)(vi), the sales price of tangible personal  
238 property or a product subject to taxation under this chapter is de minimis if:

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

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

243 (ii) For purposes of Subsection (16)(b)(vi), a seller:

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

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

250 (iii) For purposes of Subsection (16)(b)(vi), a seller shall use the full term of a service  
251 contract to determine if the sales price of tangible personal property or a product is de minimis.

252 (f) For purposes of Subsection (16)(b)(vii)(B), a seller may not use a combination of  
253 the seller's purchase price and the seller's sales price to determine if tangible personal property

254 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales  
255 price of that retail sale.

256 (17) "Certified automated system" means software certified by the governing board of  
257 the agreement that:

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

260 (i) on a transaction; and

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

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

264 (c) maintains a record of the transaction described in Subsection (17)(a)(i).

265 (18) "Certified service provider" means an agent certified:

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

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

270 (19) (a) Subject to Subsection (19)(b), "clothing" means all human wearing apparel  
271 suitable for general use.

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

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

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

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

278 (21) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other  
279 fuels that does not constitute industrial use under Subsection [~~(48)~~] (49) or residential use  
280 under Subsection [~~(96)~~] (98).

281 (22) (a) "Common carrier" means a person engaged in or transacting the business of

282 transporting passengers, freight, merchandise, or other property for hire within this state.

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

286 (ii) For purposes of Subsection (22)(b)(i), in accordance with Title 63G, Chapter 3,  
287 Utah Administrative Rulemaking Act, the commission may make rules defining what  
288 constitutes a person's place of employment.

289 (23) "Component part" includes:

- 290 (a) poultry, dairy, and other livestock feed, and their components;
- 291 (b) baling ties and twine used in the baling of hay and straw;
- 292 (c) fuel used for providing temperature control of orchards and commercial  
293 greenhouses doing a majority of their business in wholesale sales, and for providing power for  
294 off-highway type farm machinery; and
- 295 (d) feed, seeds, and seedlings.

296 (24) "Computer" means an electronic device that accepts information:

- 297 (a) (i) in digital form; or
- 298 (ii) in a form similar to digital form; and
- 299 (b) manipulates that information for a result based on a sequence of instructions.

300 (25) "Computer software" means a set of coded instructions designed to cause:

- 301 (a) a computer to perform a task; or
- 302 (b) automatic data processing equipment to perform a task.

303 (26) "Computer software maintenance contract" means a contract that obligates a seller  
304 of computer software to provide a customer with:

- 305 (a) future updates or upgrades to computer software;
- 306 (b) support services with respect to computer software; or
- 307 (c) a combination of Subsections (26)(a) and (b).

308 [~~26~~] (27) (a) "Conference bridging service" means an ancillary service that links two  
309 or more participants of an audio conference call or video conference call.

310 (b) "Conference bridging service" may include providing a telephone number as part of  
311 the ancillary service described in Subsection [~~(26)~~] (27)(a).

312 (c) "Conference bridging service" does not include a telecommunications service used  
313 to reach the ancillary service described in Subsection [~~(26)~~] (27)(a).

314 [~~(27)~~] (28) "Construction materials" means any tangible personal property that will be  
315 converted into real property.

316 [~~(28)~~] (29) "Delivered electronically" means delivered to a purchaser by means other  
317 than tangible storage media.

318 [~~(29)~~] (30) (a) "Delivery charge" means a charge:

319 (i) by a seller of:

320 (A) tangible personal property;

321 (B) a product transferred electronically; or

322 (C) services; and

323 (ii) for preparation and delivery of the tangible personal property, product transferred  
324 electronically, or services described in Subsection [~~(29)~~] (30)(a)(i) to a location designated by  
325 the purchaser.

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

327 (i) transportation;

328 (ii) shipping;

329 (iii) postage;

330 (iv) handling;

331 (v) crating; or

332 (vi) packing.

333 [~~(30)~~] (31) "Detailed telecommunications billing service" means an ancillary service of  
334 separately stating information pertaining to individual calls on a customer's billing statement.

335 [~~(31)~~] (32) "Dietary supplement" means a product, other than tobacco, that:

336 (a) is intended to supplement the diet;

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

- 338 (i) a vitamin;
- 339 (ii) a mineral;
- 340 (iii) an herb or other botanical;
- 341 (iv) an amino acid;
- 342 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 343 dietary intake; or
- 344 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 345 described in Subsections [~~(31)~~] (32)(b)(i) through (v);
- 346 (c) (i) except as provided in Subsection [~~(31)~~] (32)(c)(ii), is intended for ingestion in:
- 347 (A) tablet form;
- 348 (B) capsule form;
- 349 (C) powder form;
- 350 (D) softgel form;
- 351 (E) gelcap form; or
- 352 (F) liquid form; or
- 353 (ii) notwithstanding Subsection [~~(31)~~] (32)(c)(i), if the product is not intended for
- 354 ingestion in a form described in Subsections [~~(31)~~] (32)(c)(i)(A) through (F), is not
- 355 represented:
- 356 (A) as conventional food; and
- 357 (B) for use as a sole item of:
- 358 (I) a meal; or
- 359 (II) the diet; and
- 360 (d) is required to be labeled as a dietary supplement:
- 361 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 362 (ii) as required by 21 C.F.R. Sec. 101.36.
- 363 [~~(32)~~] (33) (a) "Direct mail" means printed material delivered or distributed by United
- 364 States mail or other delivery service:
- 365 (i) to:

- 366 (A) a mass audience; or
- 367 (B) addressees on a mailing list provided:
- 368 (I) by a purchaser of the mailing list; or
- 369 (II) at the discretion of the purchaser of the mailing list; and
- 370 (ii) if the cost of the printed material is not billed directly to the recipients.
- 371 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 372 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 373 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 374 single address.
- 375 [~~(33)~~] (34) "Directory assistance" means an ancillary service of providing:
- 376 (a) address information; or
- 377 (b) telephone number information.
- 378 [~~(34)~~] (35) (a) "Disposable home medical equipment or supplies" means medical
- 379 equipment or supplies that:
- 380 (i) cannot withstand repeated use; and
- 381 (ii) are purchased by, for, or on behalf of a person other than:
- 382 (A) a health care facility as defined in Section 26-21-2;
- 383 (B) a health care provider as defined in Section 78B-3-403;
- 384 (C) an office of a health care provider described in Subsection [~~(34)~~] (35)(a)(ii)(B); or
- 385 (D) a person similar to a person described in Subsections [~~(34)~~] (35)(a)(ii)(A) through
- 386 (C).
- 387 (b) "Disposable home medical equipment or supplies" does not include:
- 388 (i) a drug;
- 389 (ii) durable medical equipment;
- 390 (iii) a hearing aid;
- 391 (iv) a hearing aid accessory;
- 392 (v) mobility enhancing equipment; or
- 393 (vi) tangible personal property used to correct impaired vision, including:

394 (A) eyeglasses; or  
395 (B) contact lenses.  
396 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
397 commission may by rule define what constitutes medical equipment or supplies.

398 [~~35~~] (36) (a) "Drug" means a compound, substance, or preparation, or a component of  
399 a compound, substance, or preparation that is:

- 400 (i) recognized in:  
401 (A) the official United States Pharmacopoeia;  
402 (B) the official Homeopathic Pharmacopoeia of the United States;  
403 (C) the official National Formulary; or  
404 (D) a supplement to a publication listed in Subsections [~~35~~] (36)(a)(i)(A) through  
405 (C);

- 406 (ii) intended for use in the:  
407 (A) diagnosis of disease;  
408 (B) cure of disease;  
409 (C) mitigation of disease;  
410 (D) treatment of disease; or  
411 (E) prevention of disease; or  
412 (iii) intended to affect:  
413 (A) the structure of the body; or  
414 (B) any function of the body.

- 415 (b) "Drug" does not include:  
416 (i) food and food ingredients;  
417 (ii) a dietary supplement;  
418 (iii) an alcoholic beverage; or  
419 (iv) a prosthetic device.

420 [~~36~~] (37) (a) Except as provided in Subsection [~~36~~] (37)(c), "durable medical  
421 equipment" means equipment that:

- 422 (i) can withstand repeated use;
- 423 (ii) is primarily and customarily used to serve a medical purpose;
- 424 (iii) generally is not useful to a person in the absence of illness or injury; and
- 425 (iv) is not worn in or on the body.
- 426 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 427 equipment described in Subsection [~~(36)~~] (37)(a).
- 428 (c) Notwithstanding Subsection [~~(36)~~] (37)(a), "durable medical equipment" does not
- 429 include mobility enhancing equipment.
- 430 [~~(37)~~] (38) "Electronic" means:
- 431 (a) relating to technology; and
- 432 (b) having:
- 433 (i) electrical capabilities;
- 434 (ii) digital capabilities;
- 435 (iii) magnetic capabilities;
- 436 (iv) wireless capabilities;
- 437 (v) optical capabilities;
- 438 (vi) electromagnetic capabilities; or
- 439 (vii) capabilities similar to Subsections [~~(37)~~] (38)(b)(i) through (vi).
- 440 [~~(38)~~] (39) "Employee" is as defined in Section 59-10-401.
- 441 [~~(39)~~] (40) "Fixed guideway" means a public transit facility that uses and occupies:
- 442 (a) rail for the use of public transit; or
- 443 (b) a separate right-of-way for the use of public transit.
- 444 [~~(40)~~] (41) "Fixed wing turbine powered aircraft" means an aircraft that:
- 445 (a) is powered by turbine engines;
- 446 (b) operates on jet fuel; and
- 447 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 448 [~~(41)~~] (42) "Fixed wireless service" means a telecommunications service that provides
- 449 radio communication between fixed points.



- 450            [~~(42)~~] (43) (a) "Food and food ingredients" means substances:
- 451            (i) regardless of whether the substances are in:
- 452            (A) liquid form;
- 453            (B) concentrated form;
- 454            (C) solid form;
- 455            (D) frozen form;
- 456            (E) dried form; or
- 457            (F) dehydrated form; and
- 458            (ii) that are:
- 459            (A) sold for:
- 460            (I) ingestion by humans; or
- 461            (II) chewing by humans; and
- 462            (B) consumed for the substance's:
- 463            (I) taste; or
- 464            (II) nutritional value.
- 465            (b) "Food and food ingredients" includes an item described in Subsection [~~(79)~~]
- 466            (81)(b)(iii).
- 467            (c) "Food and food ingredients" does not include:
- 468            (i) an alcoholic beverage;
- 469            (ii) tobacco; or
- 470            (iii) prepared food.
- 471            [~~(43)~~] (44) (a) "Fundraising sales" means sales:
- 472            (i) (A) made by a school; or
- 473            (B) made by a school student;
- 474            (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 475            materials, or provide transportation; and
- 476            (iii) that are part of an officially sanctioned school activity.
- 477            (b) For purposes of Subsection [~~(43)~~] (44)(a)(iii), "officially sanctioned school activity"

478 means a school activity:

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

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

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

485 [~~44~~] (45) "Geothermal energy" means energy contained in heat that continuously  
486 flows outward from the earth that is used as the sole source of energy to produce electricity.

487 [~~45~~] (46) "Governing board of the agreement" means the governing board of the  
488 agreement that is:

489 (a) authorized to administer the agreement; and

490 (b) established in accordance with the agreement.

491 [~~46~~] (47) (a) For purposes of Subsection 59-12-104(41), "governmental entity"  
492 means:

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

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

497 (iii) the legislative branch of the state, including the House of Representatives, the  
498 Senate, the Legislative Printing Office, the Office of Legislative Research and General  
499 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal  
500 Analyst;

501 (iv) the National Guard;

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

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

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

- 506 (i) a college campus of the Utah College of Applied Technology;
- 507 (ii) a school;
- 508 (iii) the State Board of Education;
- 509 (iv) the State Board of Regents; or
- 510 (v) an institution of higher education.

511 [~~47~~] (48) "Hydroelectric energy" means water used as the sole source of energy to  
512 produce electricity.

513 [~~48~~] (49) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,  
514 or other fuels:

- 515 (a) in mining or extraction of minerals;
- 516 (b) in agricultural operations to produce an agricultural product up to the time of  
517 harvest or placing the agricultural product into a storage facility, including:
  - 518 (i) commercial greenhouses;
  - 519 (ii) irrigation pumps;
  - 520 (iii) farm machinery;
  - 521 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not  
522 registered under Title 41, Chapter 1a, Part 2, Registration; and
  - 523 (v) other farming activities;

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

- 527 (d) by a scrap recycler if:
  - 528 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
529 one or more of the following items into prepared grades of processed materials for use in new  
530 products:

- 531 (A) iron;
- 532 (B) steel;
- 533 (C) nonferrous metal;

- 534 (D) paper;
- 535 (E) glass;
- 536 (F) plastic;
- 537 (G) textile; or
- 538 (H) rubber; and

539 (ii) the new products under Subsection [~~(48)~~] (49)(d)(i) would otherwise be made with  
540 nonrecycled materials; or

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

543 [~~(49)~~] (50) (a) Except as provided in Subsection [~~(49)~~] (50)(b), "installation charge"  
544 means a charge for installing:

- 545 (i) tangible personal property; or
- 546 (ii) a product transferred electronically.

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

- 548 (i) repairs or renovations of:
  - 549 (A) tangible personal property; or
  - 550 (B) a product transferred electronically; or
- 551 (ii) attaching tangible personal property or a product transferred electronically:
  - 552 (A) to other tangible personal property; and
  - 553 (B) as part of a manufacturing or fabrication process.

554 [~~(50)~~] (51) "Institution of higher education" means an institution of higher education  
555 listed in Section 53B-2-101.

556 [~~(51)~~] (52) (a) "Lease" or "rental" means a transfer of possession or control of tangible  
557 personal property or a product transferred electronically for:

- 558 (i) (A) a fixed term; or
- 559 (B) an indeterminate term; and
- 560 (ii) consideration.

561 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the

562 amount of consideration may be increased or decreased by reference to the amount realized  
563 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue  
564 Code.

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

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

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

571 (A) upon completion of required payments; and

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

573 (I) \$100; or

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

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

578 (d) For purposes of Subsection [~~(51)~~] (52)(c)(iii), an operator is necessary for  
579 equipment to perform as designed if the operator's duties exceed the:

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

581 (ii) maintenance of tangible personal property; or

582 (iii) inspection of tangible personal property.

583 [~~(52)~~] (53) "Load and leave" means delivery to a purchaser by use of a tangible storage  
584 media if the tangible storage media is not physically transferred to the purchaser.

585 [~~(53)~~] (54) "Local taxing jurisdiction" means a:

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

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

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

589 [~~(54)~~] (55) "Manufactured home" is as defined in Section 15A-1-302.

590 [~~55~~] (56) For purposes of Section 59-12-104, "manufacturing facility" means:

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

594 (b) a scrap recycler if:

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

598 (A) iron;

599 (B) steel;

600 (C) nonferrous metal;

601 (D) paper;

602 (E) glass;

603 (F) plastic;

604 (G) textile; or

605 (H) rubber; and

606 (ii) the new products under Subsection [~~55~~] (56)(b)(i) would otherwise be made with  
607 nonrecycled materials; or

608 (c) a cogeneration facility as defined in Section 54-2-1.

609 [~~56~~] (57) "Member of the immediate family of the producer" means a person who is  
610 related to a producer described in Subsection 59-12-104(20)(a) as a:

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

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

613 (ii) a foster child or foster stepchild;

614 (b) grandchild or stepgrandchild;

615 (c) grandparent or stepgrandparent;

616 (d) nephew or stepnephew;

617 (e) niece or stepniece;

- 618 (f) parent or stepparent;
- 619 (g) sibling or stepsibling;
- 620 (h) spouse;
- 621 (i) person who is the spouse of a person described in Subsections [~~56~~] 57(a) through
- 622 (g); or
- 623 (j) person similar to a person described in Subsections [~~56~~] 57(a) through (i) as
- 624 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 625 Administrative Rulemaking Act.
- 626 [~~57~~] 58 "Mobile home" is as defined in Section 15A-1-302.
- 627 [~~58~~] 59 "Mobile telecommunications service" is as defined in the Mobile
- 628 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 629 [~~59~~] 60 (a) "Mobile wireless service" means a telecommunications service,
- 630 regardless of the technology used, if:
- 631 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 632 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 633 (iii) the origination point described in Subsection [~~59~~] 60(a)(i) and the termination
- 634 point described in Subsection [~~59~~] 60(a)(ii) are not fixed.
- 635 (b) "Mobile wireless service" includes a telecommunications service that is provided
- 636 by a commercial mobile radio service provider.
- 637 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 638 commission may by rule define "commercial mobile radio service provider."
- 639 [~~60~~] 61 (a) Except as provided in Subsection [~~60~~] 61(c), "mobility enhancing
- 640 equipment" means equipment that is:
- 641 (i) primarily and customarily used to provide or increase the ability to move from one
- 642 place to another;
- 643 (ii) appropriate for use in a:
- 644 (A) home; or
- 645 (B) motor vehicle; and

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

647 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of  
648 the equipment described in Subsection ~~[(60)]~~ (61)(a).

649 (c) Notwithstanding Subsection ~~[(60)]~~ (61)(a), "mobility enhancing equipment" does  
650 not include:

651 (i) a motor vehicle;

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

654 (iii) durable medical equipment; or

655 (iv) a prosthetic device.

656 ~~[(61)]~~ (62) "Model 1 seller" means a seller registered under the agreement that has  
657 selected a certified service provider as the seller's agent to perform all of the seller's sales and  
658 use tax functions for agreement sales and use taxes other than the seller's obligation under  
659 Section 59-12-124 to remit a tax on the seller's own purchases.

660 ~~[(62)]~~ (63) "Model 2 seller" means a seller registered under the agreement that:

661 (a) except as provided in Subsection ~~[(62)]~~ (63)(b), has selected a certified automated  
662 system to perform the seller's sales tax functions for agreement sales and use taxes; and

663 (b) notwithstanding Subsection ~~[(62)]~~ (63)(a), retains responsibility for remitting all of  
664 the sales tax:

665 (i) collected by the seller; and

666 (ii) to the appropriate local taxing jurisdiction.

667 ~~[(63)]~~ (64) (a) Subject to Subsection ~~[(63)]~~ (64)(b), "model 3 seller" means a seller  
668 registered under the agreement that has:

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

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

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

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

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



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

675 (b) For purposes of Subsection ~~[(63)]~~ (64)(a), "model 3 seller" includes an affiliated  
676 group of sellers using the same proprietary system.

677 ~~[(64)]~~ (65) "Model 4 seller" means a seller that is registered under the agreement and is  
678 not a model 1 seller, model 2 seller, or model 3 seller.

679 ~~[(65)]~~ (66) "Modular home" means a modular unit as defined in Section 15A-1-302.

680 ~~[(66)]~~ (67) "Motor vehicle" is as defined in Section 41-1a-102.

681 ~~[(67)]~~ (68) "Oil shale" means a group of fine black to dark brown shales containing  
682 bituminous material that yields petroleum upon distillation.

683 (69) "Optional computer software maintenance contract" means a computer software  
684 maintenance contract that a customer is not obligated to purchase as a condition to the retail  
685 sale of computer software.

686 ~~[(68)]~~ (70) (a) "Other fuels" means products that burn independently to produce heat or  
687 energy.

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

690 ~~[(69)]~~ (71) (a) "Paging service" means a telecommunications service that provides  
691 transmission of a coded radio signal for the purpose of activating a specific pager.

692 (b) For purposes of Subsection ~~[(69)]~~ (71)(a), the transmission of a coded radio signal  
693 includes a transmission by message or sound.

694 ~~[(70)]~~ (72) "Pawnbroker" is as defined in Section 13-32a-102.

695 ~~[(71)]~~ (73) "Pawn transaction" is as defined in Section 13-32a-102.

696 ~~[(72)]~~ (74) (a) "Permanently attached to real property" means that for tangible personal  
697 property attached to real property:

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

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

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

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

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

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

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

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

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

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

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

714 (iii) property attached to oil, gas, or water pipelines, except for the property listed in  
715 Subsection [~~(72)~~] (74)(c)(iii) or (iv).

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

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

719 (A) convenience;

720 (B) stability; or

721 (C) for an obvious temporary purpose;

722 (ii) the detachment of tangible personal property from real property except for the  
723 detachment described in Subsection [~~(72)~~] (74)(b)(ii);

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

728 (A) a computer;

729 (B) a telephone;

730 (C) a television; or

731 (D) tangible personal property similar to Subsections [~~(72)~~] (74)(c)(iii)(A) through (C)

732 as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

733 Administrative Rulemaking Act; or

734 (iv) an item listed in Subsection [~~(113)~~] (115)(c).

735 [~~(73)~~] (75) "Person" includes any individual, firm, partnership, joint venture,

736 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,

737 city, municipality, district, or other local governmental entity of the state, or any group or

738 combination acting as a unit.

739 [~~(74)~~] (76) "Place of primary use":

740 (a) for telecommunications service other than mobile telecommunications service,

741 means the street address representative of where the customer's use of the telecommunications

742 service primarily occurs, which shall be:

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

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

745 (b) for mobile telecommunications service, is as defined in the Mobile

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

747 [~~(75)~~] (77) (a) "Postpaid calling service" means a telecommunications service a person

748 obtains by making a payment on a call-by-call basis:

749 (i) through the use of a:

750 (A) bank card;

751 (B) credit card;

752 (C) debit card; or

753 (D) travel card; or

754 (ii) by a charge made to a telephone number that is not associated with the origination

755 or termination of the telecommunications service.

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

757 service, that would be a prepaid wireless calling service if the service were exclusively a

758 telecommunications service.

759           ~~[(76)]~~ (78) "Postproduction" means an activity related to the finishing or duplication of  
760 a medium described in Subsection 59-12-104(54)(a).

761           ~~[(77)]~~ (79) "Prepaid calling service" means a telecommunications service:

762           (a) that allows a purchaser access to telecommunications service that is exclusively  
763 telecommunications service;

764           (b) that:

765           (i) is paid for in advance; and

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

767           (A) access number; or

768           (B) authorization code;

769           (c) that is dialed:

770           (i) manually; or

771           (ii) electronically; and

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

773           (i) by a known amount; and

774           (ii) with use.

775           ~~[(78)]~~ (80) "Prepaid wireless calling service" means a telecommunications service:

776           (a) that provides the right to utilize:

777           (i) mobile wireless service; and

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

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

780           (B) a content service; or

781           (C) an ancillary service;

782           (b) that:

783           (i) is paid for in advance; and

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

785           (A) access number; or

- 786 (B) authorization code;
- 787 (c) that is dialed:
- 788 (i) manually; or
- 789 (ii) electronically; and
- 790 (d) sold in predetermined units or dollars that decline:
- 791 (i) by a known amount; and
- 792 (ii) with use.
- 793 [~~(79)~~] (81) (a) "Prepared food" means:
- 794 (i) food:
- 795 (A) sold in a heated state; or
- 796 (B) heated by a seller;
- 797 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 798 item; or
- 799 (iii) except as provided in Subsection [~~(79)~~] (81)(c), food sold with an eating utensil
- 800 provided by the seller, including a:
- 801 (A) plate;
- 802 (B) knife;
- 803 (C) fork;
- 804 (D) spoon;
- 805 (E) glass;
- 806 (F) cup;
- 807 (G) napkin; or
- 808 (H) straw.
- 809 (b) "Prepared food" does not include:
- 810 (i) food that a seller only:
- 811 (A) cuts;
- 812 (B) repackages; or
- 813 (C) pasteurizes; or

- 814 (ii) (A) the following:
- 815 (I) raw egg;
- 816 (II) raw fish;
- 817 (III) raw meat;
- 818 (IV) raw poultry; or
- 819 (V) a food containing an item described in Subsections [~~(79)~~] (81)(b)(ii)(A)(I) through
- 820 (IV); and
- 821 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 822 Food and Drug Administration's Food Code that a consumer cook the items described in
- 823 Subsection [~~(79)~~] (81)(b)(ii)(A) to prevent food borne illness; or
- 824 (iii) the following if sold without eating utensils provided by the seller:
- 825 (A) food and food ingredients sold by a seller if the seller's proper primary
- 826 classification under the 2002 North American Industry Classification System of the federal
- 827 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 828 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 829 Manufacturing;
- 830 (B) food and food ingredients sold in an unheated state:
- 831 (I) by weight or volume; and
- 832 (II) as a single item; or
- 833 (C) a bakery item, including:
- 834 (I) a bagel;
- 835 (II) a bar;
- 836 (III) a biscuit;
- 837 (IV) bread;
- 838 (V) a bun;
- 839 (VI) a cake;
- 840 (VII) a cookie;
- 841 (VIII) a croissant;

842 (IX) a danish;

843 (X) a donut;

844 (XI) a muffin;

845 (XII) a pastry;

846 (XIII) a pie;

847 (XIV) a roll;

848 (XV) a tart;

849 (XVI) a torte; or

850 (XVII) a tortilla.

851 (c) Notwithstanding Subsection [~~(79)~~] (81)(a)(iii), an eating utensil provided by the  
852 seller does not include the following used to transport the food:

853 (i) a container; or

854 (ii) packaging.

855 [~~(80)~~] (82) "Prescription" means an order, formula, or recipe that is issued:

856 (a) (i) orally;

857 (ii) in writing;

858 (iii) electronically; or

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

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

861 [~~(81)~~] (83) (a) Except as provided in Subsection [~~(81)~~] (83)(b)(ii) or (iii), "prewritten  
862 computer software" means computer software that is not designed and developed:

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

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

865 (b) "Prewritten computer software" includes:

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

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

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

870 (ii) notwithstanding Subsection [~~(81)~~] (83)(a), computer software designed and  
871 developed by the author or other creator of the computer software to the specifications of a  
872 specific purchaser if the computer software is sold to a person other than the purchaser; or

873 (iii) notwithstanding Subsection [~~(81)~~] (83)(a) and except as provided in Subsection  
874 [~~(81)~~] (83)(c), prewritten computer software or a prewritten portion of prewritten computer  
875 software:

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

877 (B) if the modification or enhancement described in Subsection [~~(81)~~] (83)(b)(iii)(A) is  
878 designed and developed to the specifications of a specific purchaser.

879 (c) Notwithstanding Subsection [~~(81)~~] (83)(b)(iii), "prewritten computer software"  
880 does not include a modification or enhancement described in Subsection [~~(81)~~] (83)(b)(iii) if  
881 the charges for the modification or enhancement are:

882 (i) reasonable; and

883 (ii) separately stated on the invoice or other statement of price provided to the  
884 purchaser.

885 [~~(82)~~] (84) (a) "Private communication service" means a telecommunications service:

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

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

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

892 (i) an extension line;

893 (ii) a station;

894 (iii) switching capacity; or

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

897 [~~(83)~~] (85) (a) Except as provided in Subsection [~~(83)~~] (85)(b), "product transferred



898 electronically" means a product transferred electronically that would be subject to a tax under  
899 this chapter if that product was transferred in a manner other than electronically.

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

- 901 (i) an ancillary service;
- 902 (ii) computer software; or
- 903 (iii) a telecommunications service.

904 [~~84~~] (86) (a) "Prosthetic device" means a device that is worn on or in the body to:

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

908 (b) "Prosthetic device" includes:

- 909 (i) parts used in the repairs or renovation of a prosthetic device;
- 910 (ii) replacement parts for a prosthetic device;
- 911 (iii) a dental prosthesis; or
- 912 (iv) a hearing aid.

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

- 914 (i) corrective eyeglasses; or
- 915 (ii) contact lenses.

916 [~~85~~] (87) (a) "Protective equipment" means an item:

- 917 (i) for human wear; and
- 918 (ii) that is:
  - 919 (A) designed as protection:
    - 920 (I) to the wearer against injury or disease; or
    - 921 (II) against damage or injury of other persons or property; and
  - 922 (B) not suitable for general use.

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

- 925 (i) listing the items that constitute "protective equipment"; and

926 (ii) that are consistent with the list of items that constitute "protective equipment"  
927 under the agreement.

928 [~~(86)~~] (88) (a) For purposes of Subsection 59-12-104(41), "publication" means any  
929 written or printed matter, other than a photocopy:

930 (i) regardless of:

931 (A) characteristics;

932 (B) copyright;

933 (C) form;

934 (D) format;

935 (E) method of reproduction; or

936 (F) source; and

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

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

940 [~~(87)~~] (89) (a) "Purchase price" and "sales price" mean the total amount of  
941 consideration:

942 (i) valued in money; and

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

945 (A) sold;

946 (B) leased; or

947 (C) rented.

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

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

951 (ii) expenses of the seller, including:

952 (A) the cost of materials used;

953 (B) a labor cost;

- 954 (C) a service cost;
- 955 (D) interest;
- 956 (E) a loss;
- 957 (F) the cost of transportation to the seller; or
- 958 (G) a tax imposed on the seller;
- 959 (iii) a charge by the seller for any service necessary to complete the sale; or
- 960 (iv) consideration a seller receives from a person other than the purchaser if:
  - 961 (A) (I) the seller actually receives consideration from a person other than the purchaser;
  - 962 and
  - 963 (II) the consideration described in Subsection [~~(87)~~] (89)(b)(iv)(A)(I) is directly related
  - 964 to a price reduction or discount on the sale;
  - 965 (B) the seller has an obligation to pass the price reduction or discount through to the
  - 966 purchaser;
  - 967 (C) the amount of the consideration attributable to the sale is fixed and determinable by
  - 968 the seller at the time of the sale to the purchaser; and
  - 969 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
  - 970 seller to claim a price reduction or discount; and
  - 971 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
  - 972 coupon, or other documentation with the understanding that the person other than the seller
  - 973 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
  - 974 (II) the purchaser identifies that purchaser to the seller as a member of a group or
  - 975 organization allowed a price reduction or discount, except that a preferred customer card that is
  - 976 available to any patron of a seller does not constitute membership in a group or organization
  - 977 allowed a price reduction or discount; or
  - 978 (III) the price reduction or discount is identified as a third party price reduction or
  - 979 discount on the:
    - 980 (Aa) invoice the purchaser receives; or
    - 981 (Bb) certificate, coupon, or other documentation the purchaser presents.

- 982 (c) "Purchase price" and "sales price" do not include:
- 983 (i) a discount:
- 984 (A) in a form including:
- 985 (I) cash;
- 986 (II) term; or
- 987 (III) coupon;
- 988 (B) that is allowed by a seller;
- 989 (C) taken by a purchaser on a sale; and
- 990 (D) that is not reimbursed by a third party; or
- 991 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 992 provided to the purchaser:
- 993 (A) the following from credit extended on the sale of tangible personal property or
- 994 services:
- 995 (I) a carrying charge;
- 996 (II) a financing charge; or
- 997 (III) an interest charge;
- 998 (B) a delivery charge;
- 999 (C) an installation charge;
- 1000 (D) a manufacturer rebate on a motor vehicle; or
- 1001 (E) a tax or fee legally imposed directly on the consumer.
- 1002 [~~88~~] (90) "Purchaser" means a person to whom:
- 1003 (a) a sale of tangible personal property is made;
- 1004 (b) a product is transferred electronically; or
- 1005 (c) a service is furnished.
- 1006 [~~89~~] (91) "Regularly rented" means:
- 1007 (a) rented to a guest for value three or more times during a calendar year; or
- 1008 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1009 value.

1010 [~~90~~] (92) "Renewable energy" means:

1011 (a) biomass energy;

1012 (b) hydroelectric energy;

1013 (c) geothermal energy;

1014 (d) solar energy; or

1015 (e) wind energy.

1016 [~~91~~] (93) (a) "Renewable energy production facility" means a facility that:

1017 (i) uses renewable energy to produce electricity; and

1018 (ii) has a production capacity of 20 kilowatts or greater.

1019 (b) A facility is a renewable energy production facility regardless of whether the  
1020 facility is:

1021 (i) connected to an electric grid; or

1022 (ii) located on the premises of an electricity consumer.

1023 [~~92~~] (94) "Rental" is as defined in Subsection [~~51~~] (52).

1024 [~~93~~] (95) (a) Except as provided in Subsection [~~93~~] (95)(b), "repairs or renovations  
1025 of tangible personal property" means:

1026 (i) a repair or renovation of tangible personal property that is not permanently attached  
1027 to real property; or

1028 (ii) attaching tangible personal property or a product transferred electronically to other  
1029 tangible personal property or detaching tangible personal property or a product transferred  
1030 electronically from other tangible personal property if:

1031 (A) the other tangible personal property to which the tangible personal property or  
1032 product transferred electronically is attached or from which the tangible personal property or  
1033 product transferred electronically is detached is not permanently attached to real property; and

1034 (B) the attachment of tangible personal property or a product transferred electronically  
1035 to other tangible personal property or detachment of tangible personal property or a product  
1036 transferred electronically from other tangible personal property is made in conjunction with a  
1037 repair or replacement of tangible personal property or a product transferred electronically.

1038 (b) "Repairs or renovations of tangible personal property" does not include:  
1039 (i) attaching prewritten computer software to other tangible personal property if the  
1040 other tangible personal property to which the prewritten computer software is attached is not  
1041 permanently attached to real property[-]; or  
1042 (ii) detaching prewritten computer software from other tangible personal property if the  
1043 other tangible personal property from which the prewritten computer software is detached is  
1044 not permanently attached to real property.

1045 [~~94~~] (96) "Research and development" means the process of inquiry or  
1046 experimentation aimed at the discovery of facts, devices, technologies, or applications and the  
1047 process of preparing those devices, technologies, or applications for marketing.

1048 [~~95~~] (97) (a) "Residential telecommunications services" means a telecommunications  
1049 service or an ancillary service that is provided to an individual for personal use:  
1050 (i) at a residential address; or  
1051 (ii) at an institution, including a nursing home or a school, if the telecommunications  
1052 service or ancillary service is provided to and paid for by the individual residing at the  
1053 institution rather than the institution.

1054 (b) For purposes of Subsection [~~95~~] (97)(a)(i), a residential address includes an:  
1055 (i) apartment; or  
1056 (ii) other individual dwelling unit.

1057 [~~96~~] (98) "Residential use" means the use in or around a home, apartment building,  
1058 sleeping quarters, and similar facilities or accommodations.

1059 [~~97~~] (99) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose  
1060 other than:  
1061 (a) resale;  
1062 (b) sublease; or  
1063 (c) subrent.

1064 [~~98~~] (100) (a) "Retailer" means any person engaged in a regularly organized business  
1065 in tangible personal property or any other taxable transaction under Subsection 59-12-103(1),

1066 and who is selling to the user or consumer and not for resale.

1067 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
1068 engaged in the business of selling to users or consumers within the state.

1069 [~~99~~] (101) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
1070 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
1071 Subsection 59-12-103(1), for consideration.

1072 (b) "Sale" includes:

1073 (i) installment and credit sales;

1074 (ii) any closed transaction constituting a sale;

1075 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
1076 chapter;

1077 (iv) any transaction if the possession of property is transferred but the seller retains the  
1078 title as security for the payment of the price; and

1079 (v) any transaction under which right to possession, operation, or use of any article of  
1080 tangible personal property is granted under a lease or contract and the transfer of possession  
1081 would be taxable if an outright sale were made.

1082 [~~100~~] (102) "Sale at retail" is as defined in Subsection [~~97~~] (99).

1083 [~~101~~] (103) "Sale-leaseback transaction" means a transaction by which title to  
1084 tangible personal property or a product transferred electronically that is subject to a tax under  
1085 this chapter is transferred:

1086 (a) by a purchaser-lessee;

1087 (b) to a lessor;

1088 (c) for consideration; and

1089 (d) if:

1090 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase  
1091 of the tangible personal property or product transferred electronically;

1092 (ii) the sale of the tangible personal property or product transferred electronically to the  
1093 lessor is intended as a form of financing:

- 1094 (A) for the tangible personal property or product transferred electronically; and
- 1095 (B) to the purchaser-lessee; and
- 1096 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
- 1097 is required to:
  - 1098 (A) capitalize the tangible personal property or product transferred electronically for
  - 1099 financial reporting purposes; and
  - 1100 (B) account for the lease payments as payments made under a financing arrangement.
- 1101 [~~(102)~~] (104) "Sales price" is as defined in Subsection [~~(87)~~] (89).
- 1102 [~~(103)~~] (105) (a) "Sales relating to schools" means the following sales by, amounts
- 1103 paid to, or amounts charged by a school:
  - 1104 (i) sales that are directly related to the school's educational functions or activities
  - 1105 including:
    - 1106 (A) the sale of:
      - 1107 (I) textbooks;
      - 1108 (II) textbook fees;
      - 1109 (III) laboratory fees;
      - 1110 (IV) laboratory supplies; or
      - 1111 (V) safety equipment;
    - 1112 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
  - 1113 that:
    - 1114 (I) a student is specifically required to wear as a condition of participation in a
    - 1115 school-related event or school-related activity; and
    - 1116 (II) is not readily adaptable to general or continued usage to the extent that it takes the
    - 1117 place of ordinary clothing;
    - 1118 (C) sales of the following if the net or gross revenues generated by the sales are
    - 1119 deposited into a school district fund or school fund dedicated to school meals:
      - 1120 (I) food and food ingredients; or
      - 1121 (II) prepared food; or



- 1122 (D) transportation charges for official school activities; or
- 1123 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 1124 event or school-related activity.
- 1125 (b) "Sales relating to schools" does not include:
- 1126 (i) bookstore sales of items that are not educational materials or supplies;
- 1127 (ii) except as provided in Subsection [~~(103)~~] (105)(a)(i)(B):
- 1128 (A) clothing;
- 1129 (B) clothing accessories or equipment;
- 1130 (C) protective equipment; or
- 1131 (D) sports or recreational equipment; or
- 1132 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1133 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1134 (A) other than a:
- 1135 (I) school;
- 1136 (II) nonprofit organization authorized by a school board or a governing body of a
- 1137 private school to organize and direct a competitive secondary school activity; or
- 1138 (III) nonprofit association authorized by a school board or a governing body of a
- 1139 private school to organize and direct a competitive secondary school activity; and
- 1140 (B) that is required to collect sales and use taxes under this chapter.
- 1141 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1142 commission may make rules defining the term "passed through."
- 1143 [~~(104)~~] (106) For purposes of this section and Section 59-12-104, "school":
- 1144 (a) means:
- 1145 (i) an elementary school or a secondary school that:
- 1146 (A) is a:
- 1147 (I) public school; or
- 1148 (II) private school; and
- 1149 (B) provides instruction for one or more grades kindergarten through 12; or

- 1150 (ii) a public school district; and
- 1151 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1152 [~~(105)~~] (107) "Seller" means a person that makes a sale, lease, or rental of:
- 1153 (a) tangible personal property;
- 1154 (b) a product transferred electronically; or
- 1155 (c) a service.
- 1156 [~~(106)~~] (108) (a) "Semiconductor fabricating, processing, research, or development
- 1157 materials" means tangible personal property or a product transferred electronically if the
- 1158 tangible personal property or product transferred electronically is:
- 1159 (i) used primarily in the process of:
- 1160 (A) (I) manufacturing a semiconductor;
- 1161 (II) fabricating a semiconductor; or
- 1162 (III) research or development of a:
- 1163 (Aa) semiconductor; or
- 1164 (Bb) semiconductor manufacturing process; or
- 1165 (B) maintaining an environment suitable for a semiconductor; or
- 1166 (ii) consumed primarily in the process of:
- 1167 (A) (I) manufacturing a semiconductor;
- 1168 (II) fabricating a semiconductor; or
- 1169 (III) research or development of a:
- 1170 (Aa) semiconductor; or
- 1171 (Bb) semiconductor manufacturing process; or
- 1172 (B) maintaining an environment suitable for a semiconductor.
- 1173 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1174 includes:
- 1175 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1176 transferred electronically described in Subsection [~~(106)~~] (108)(a); or
- 1177 (ii) a chemical, catalyst, or other material used to:

1178 (A) produce or induce in a semiconductor a:  
1179 (I) chemical change; or  
1180 (II) physical change;  
1181 (B) remove impurities from a semiconductor; or  
1182 (C) improve the marketable condition of a semiconductor.  
1183 [~~(107)~~] (109) "Senior citizen center" means a facility having the primary purpose of  
1184 providing services to the aged as defined in Section 62A-3-101.  
1185 [~~(108)~~] (110) "Simplified electronic return" means the electronic return:  
1186 (a) described in Section 318(C) of the agreement; and  
1187 (b) approved by the governing board of the agreement.  
1188 [~~(109)~~] (111) "Solar energy" means the sun used as the sole source of energy for  
1189 producing electricity.  
1190 [~~(110)~~] (112) (a) "Sports or recreational equipment" means an item:  
1191 (i) designed for human use; and  
1192 (ii) that is:  
1193 (A) worn in conjunction with:  
1194 (I) an athletic activity; or  
1195 (II) a recreational activity; and  
1196 (B) not suitable for general use.  
1197 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1198 commission shall make rules:  
1199 (i) listing the items that constitute "sports or recreational equipment"; and  
1200 (ii) that are consistent with the list of items that constitute "sports or recreational  
1201 equipment" under the agreement.  
1202 [~~(111)~~] (113) "State" means the state of Utah, its departments, and agencies.  
1203 [~~(112)~~] (114) "Storage" means any keeping or retention of tangible personal property or  
1204 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose  
1205 except sale in the regular course of business.

1206            [~~(113)~~] (115) (a) Except as provided in Subsection [~~(113)~~] (115)(d) or (e), "tangible  
1207 personal property" means personal property that:

1208            (i) may be:

1209            (A) seen;

1210            (B) weighed;

1211            (C) measured;

1212            (D) felt; or

1213            (E) touched; or

1214            (ii) is in any manner perceptible to the senses.

1215            (b) "Tangible personal property" includes:

1216            (i) electricity;

1217            (ii) water;

1218            (iii) gas;

1219            (iv) steam; or

1220            (v) prewritten computer software, regardless of the manner in which the prewritten  
1221 computer software is transferred.

1222            (c) "Tangible personal property" includes the following regardless of whether the item  
1223 is attached to real property:

1224            (i) a dishwasher;

1225            (ii) a dryer;

1226            (iii) a freezer;

1227            (iv) a microwave;

1228            (v) a refrigerator;

1229            (vi) a stove;

1230            (vii) a washer; or

1231            (viii) an item similar to Subsections [~~(113)~~] (115)(c)(i) through (vii) as determined by  
1232 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1233 Rulemaking Act.

1234 (d) "Tangible personal property" does not include a product that is transferred  
1235 electronically.

1236 (e) "Tangible personal property" does not include the following if attached to real  
1237 property, regardless of whether the attachment to real property is only through a line that  
1238 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the  
1239 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1240 Rulemaking Act:

- 1241 (i) a hot water heater;
- 1242 (ii) a water filtration system; or
- 1243 (iii) a water softener system.

1244 [~~H4~~] (116) "Tar sands" means impregnated sands that yield mixtures of liquid  
1245 hydrocarbon and require further processing other than mechanical blending before becoming  
1246 finished petroleum products.

1247 [~~H5~~] (117) (a) "Telecommunications enabling or facilitating equipment, machinery,  
1248 or software" means an item listed in Subsection [~~H5~~] (117)(b) if that item is purchased or  
1249 leased primarily to enable or facilitate one or more of the following to function:

- 1250 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1251 (ii) telecommunications transmission equipment, machinery, or software.

1252 (b) The following apply to Subsection [~~H5~~] (117)(a):

- 1253 (i) a pole;
- 1254 (ii) software;
- 1255 (iii) a supplementary power supply;
- 1256 (iv) temperature or environmental equipment or machinery;
- 1257 (v) test equipment;
- 1258 (vi) a tower; or
- 1259 (vii) equipment, machinery, or software that functions similarly to an item listed in

1260 Subsections [~~H5~~] (117)(b)(i) through (vi) as determined by the commission by rule made in  
1261 accordance with Subsection [~~H5~~] (117)©.

1262 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1263 commission may by rule define what constitutes equipment, machinery, or software that  
1264 functions similarly to an item listed in Subsections [~~(115)~~] (117)(b)(i) through (vi).

1265 [~~(116)~~] (118) "Telecommunications equipment, machinery, or software required for  
1266 911 service" means equipment, machinery, or software that is required to comply with 47  
1267 C.F.R. Sec. 20.18.

1268 [~~(117)~~] (119) "Telecommunications maintenance or repair equipment, machinery, or  
1269 software" means equipment, machinery, or software purchased or leased primarily to maintain  
1270 or repair one or more of the following, regardless of whether the equipment, machinery, or  
1271 software is purchased or leased as a spare part or as an upgrade or modification to one or more  
1272 of the following:

- 1273 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1274 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1275 (c) telecommunications transmission equipment, machinery, or software.

1276 [~~(118)~~] (120) (a) "Telecommunications service" means the electronic conveyance,  
1277 routing, or transmission of audio, data, video, voice, or any other information or signal to a  
1278 point, or among or between points.

1279 (b) "Telecommunications service" includes:

1280 (i) an electronic conveyance, routing, or transmission with respect to which a computer  
1281 processing application is used to act:

1282 (A) on the code, form, or protocol of the content;

1283 (B) for the purpose of electronic conveyance, routing, or transmission; and

1284 (C) regardless of whether the service:

1285 (I) is referred to as voice over Internet protocol service; or

1286 (II) is classified by the Federal Communications Commission as enhanced or value  
1287 added;

1288 (ii) an 800 service;

1289 (iii) a 900 service;

- 1290 (iv) a fixed wireless service;
- 1291 (v) a mobile wireless service;
- 1292 (vi) a postpaid calling service;
- 1293 (vii) a prepaid calling service;
- 1294 (viii) a prepaid wireless calling service; or
- 1295 (ix) a private communications service.
- 1296 (c) "Telecommunications service" does not include:
- 1297 (i) advertising, including directory advertising;
- 1298 (ii) an ancillary service;
- 1299 (iii) a billing and collection service provided to a third party;
- 1300 (iv) a data processing and information service if:
- 1301 (A) the data processing and information service allows data to be:
- 1302 (I) (Aa) acquired;
- 1303 (Bb) generated;
- 1304 (Cc) processed;
- 1305 (Dd) retrieved; or
- 1306 (Ee) stored; and
- 1307 (II) delivered by an electronic transmission to a purchaser; and
- 1308 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1309 or information;
- 1310 (v) installation or maintenance of the following on a customer's premises:
- 1311 (A) equipment; or
- 1312 (B) wiring;
- 1313 (vi) Internet access service;
- 1314 (vii) a paging service;
- 1315 (viii) a product transferred electronically, including:
- 1316 (A) music;
- 1317 (B) reading material;

- 1318 (C) a ring tone;
- 1319 (D) software; or
- 1320 (E) video;
- 1321 (ix) a radio and television audio and video programming service:
- 1322 (A) regardless of the medium; and
- 1323 (B) including:
- 1324 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 1325 programming service by a programming service provider;
- 1326 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1327 (III) audio and video programming services delivered by a commercial mobile radio
- 1328 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1329 (x) a value-added nonvoice data service; or
- 1330 (xi) tangible personal property.
- 1331 [~~(119)~~] (121) (a) "Telecommunications service provider" means a person that:
- 1332 (i) owns, controls, operates, or manages a telecommunications service; and
- 1333 (ii) engages in an activity described in Subsection [~~(119)~~] (121)(a)(i) for the shared use
- 1334 with or resale to any person of the telecommunications service.
- 1335 (b) A person described in Subsection [~~(119)~~] (121)(a) is a telecommunications service
- 1336 provider whether or not the Public Service Commission of Utah regulates:
- 1337 (i) that person; or
- 1338 (ii) the telecommunications service that the person owns, controls, operates, or
- 1339 manages.
- 1340 [~~(120)~~] (122) (a) "Telecommunications switching or routing equipment, machinery, or
- 1341 software" means an item listed in Subsection [~~(120)~~] (122)(b) if that item is purchased or
- 1342 leased primarily for switching or routing:
- 1343 (i) an ancillary service;
- 1344 (ii) data communications;
- 1345 (iii) voice communications; or



- 1346 (iv) telecommunications service.
- 1347 (b) The following apply to Subsection [~~(120)~~] (122)(a):
- 1348 (i) a bridge;
- 1349 (ii) a computer;
- 1350 (iii) a cross connect;
- 1351 (iv) a modem;
- 1352 (v) a multiplexer;
- 1353 (vi) plug in circuitry;
- 1354 (vii) a router;
- 1355 (viii) software;
- 1356 (ix) a switch; or
- 1357 (x) equipment, machinery, or software that functions similarly to an item listed in
- 1358 Subsections [~~(120)~~] (122)(b)(i) through (ix) as determined by the commission by rule made in
- 1359 accordance with Subsection [~~(120)~~] (122)(c).
- 1360 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1361 commission may by rule define what constitutes equipment, machinery, or software that
- 1362 functions similarly to an item listed in Subsections [~~(120)~~] (122)(b)(i) through (ix).
- 1363 [~~(121)~~] (123) (a) "Telecommunications transmission equipment, machinery, or
- 1364 software" means an item listed in Subsection [~~(121)~~] (123)(b) if that item is purchased or
- 1365 leased primarily for sending, receiving, or transporting:
- 1366 (i) an ancillary service;
- 1367 (ii) data communications;
- 1368 (iii) voice communications; or
- 1369 (iv) telecommunications service.
- 1370 (b) The following apply to Subsection [~~(121)~~] (123)(a):
- 1371 (i) an amplifier;
- 1372 (ii) a cable;
- 1373 (iii) a closure;

- 1374 (iv) a conduit;
- 1375 (v) a controller;
- 1376 (vi) a duplexer;
- 1377 (vii) a filter;
- 1378 (viii) an input device;
- 1379 (ix) an input/output device;
- 1380 (x) an insulator;
- 1381 (xi) microwave machinery or equipment;
- 1382 (xii) an oscillator;
- 1383 (xiii) an output device;
- 1384 (xiv) a pedestal;
- 1385 (xv) a power converter;
- 1386 (xvi) a power supply;
- 1387 (xvii) a radio channel;
- 1388 (xviii) a radio receiver;
- 1389 (xix) a radio transmitter;
- 1390 (xx) a repeater;
- 1391 (xxi) software;
- 1392 (xxii) a terminal;
- 1393 (xxiii) a timing unit;
- 1394 (xxiv) a transformer;
- 1395 (xxv) a wire; or
- 1396 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1397 Subsections [~~(123)~~] (123)(b)(i) through (xxv) as determined by the commission by rule made in
- 1398 accordance with Subsection [~~(123)~~] (123)(c).
- 1399 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1400 commission may by rule define what constitutes equipment, machinery, or software that
- 1401 functions similarly to an item listed in Subsections [~~(123)~~] (123)(b)(i) through (xxv).

1402            [~~(122)~~] (124) (a) "Textbook for a higher education course" means a textbook or other  
1403 printed material that is required for a course:

- 1404            (i) offered by an institution of higher education; and
- 1405            (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1406            (b) "Textbook for a higher education course" includes a textbook in electronic format.

1407            [~~(123)~~] (125) "Tobacco" means:

- 1408            (a) a cigarette;
- 1409            (b) a cigar;
- 1410            (c) chewing tobacco;
- 1411            (d) pipe tobacco; or
- 1412            (e) any other item that contains tobacco.

1413            [~~(124)~~] (126) "Unassisted amusement device" means an amusement device, skill  
1414 device, or ride device that is started and stopped by the purchaser or renter of the right to use or  
1415 operate the amusement device, skill device, or ride device.

1416            [~~(125)~~] (127) (a) "Use" means the exercise of any right or power over tangible personal  
1417 property, a product transferred electronically, or a service under Subsection 59-12-103(1),  
1418 incident to the ownership or the leasing of that tangible personal property, product transferred  
1419 electronically, or service.

1420            (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
1421 property, a product transferred electronically, or a service in the regular course of business and  
1422 held for resale.

1423            [~~(126)~~] (128) "Value-added nonvoice data service" means a service:

1424            (a) that otherwise meets the definition of a telecommunications service except that a  
1425 computer processing application is used to act primarily for a purpose other than conveyance,  
1426 routing, or transmission; and

1427            (b) with respect to which a computer processing application is used to act on data or  
1428 information:

1429            (i) code;

1430 (ii) content;

1431 (iii) form; or

1432 (iv) protocol.

1433 ~~[(127)]~~ (129) (a) Subject to Subsection ~~[(127)]~~ (129)(b), "vehicle" means the following  
1434 that are required to be titled, registered, or titled and registered:

1435 (i) an aircraft as defined in Section 72-10-102;

1436 (ii) a vehicle as defined in Section 41-1a-102;

1437 (iii) an off-highway vehicle as defined in Section 41-22-2; or

1438 (iv) a vessel as defined in Section 41-1a-102.

1439 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

1440 (i) a vehicle described in Subsection ~~[(127)]~~ (129)(a); or

1441 (ii) (A) a locomotive;

1442 (B) a freight car;

1443 (C) railroad work equipment; or

1444 (D) other railroad rolling stock.

1445 ~~[(128)]~~ (130) "Vehicle dealer" means a person engaged in the business of buying,  
1446 selling, or exchanging a vehicle as defined in Subsection ~~[(127)]~~ (129).

1447 ~~[(129)]~~ (131) (a) "Vertical service" means an ancillary service that:

1448 (i) is offered in connection with one or more telecommunications services; and

1449 (ii) offers an advanced calling feature that allows a customer to:

1450 (A) identify a caller; and

1451 (B) manage multiple calls and call connections.

1452 (b) "Vertical service" includes an ancillary service that allows a customer to manage a  
1453 conference bridging service.

1454 ~~[(130)]~~ (132) (a) "Voice mail service" means an ancillary service that enables a  
1455 customer to receive, send, or store a recorded message.

1456 (b) "Voice mail service" does not include a vertical service that a customer is required  
1457 to have in order to utilize a voice mail service.

1458            [~~(131)~~] (133) (a) Except as provided in Subsection [~~(131)~~] (133)(b), "waste energy  
1459 facility" means a facility that generates electricity:

1460            (i) using as the primary source of energy waste materials that would be placed in a  
1461 landfill or refuse pit if it were not used to generate electricity, including:

1462            (A) tires;

1463            (B) waste coal; or

1464            (C) oil shale; and

1465            (ii) in amounts greater than actually required for the operation of the facility.

1466            (b) "Waste energy facility" does not include a facility that incinerates:

1467            (i) municipal solid waste;

1468            (ii) hospital waste as defined in 40 C.F.R. 60.51c; or

1469            (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1470            [~~(132)~~] (134) "Watercraft" means a vessel as defined in Section 73-18-2.

1471            [~~(133)~~] (135) "Wind energy" means wind used as the sole source of energy to produce  
1472 electricity.

1473            [~~(134)~~] (136) "ZIP Code" means a Zoning Improvement Plan Code assigned to a  
1474 geographic location by the United States Postal Service.

1475            Section 2. Section **59-12-103** is amended to read:

1476            **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**  
1477 **tax revenues.**

1478            (1) A tax is imposed on the purchaser as provided in this part for amounts paid or  
1479 charged for the following transactions:

1480            (a) retail sales of tangible personal property made within the state;

1481            (b) amounts paid for:

1482            (i) telecommunications service, other than mobile telecommunications service, that  
1483 originates and terminates within the boundaries of this state;

1484            (ii) mobile telecommunications service that originates and terminates within the  
1485 boundaries of one state only to the extent permitted by the Mobile Telecommunications

1486 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or  
1487 (iii) an ancillary service associated with a:  
1488 (A) telecommunications service described in Subsection (1)(b)(i); or  
1489 (B) mobile telecommunications service described in Subsection (1)(b)(ii);  
1490 (c) sales of the following for commercial use:  
1491 (i) gas;  
1492 (ii) electricity;  
1493 (iii) heat;  
1494 (iv) coal;  
1495 (v) fuel oil; or  
1496 (vi) other fuels;  
1497 (d) sales of the following for residential use:  
1498 (i) gas;  
1499 (ii) electricity;  
1500 (iii) heat;  
1501 (iv) coal;  
1502 (v) fuel oil; or  
1503 (vi) other fuels;  
1504 (e) sales of prepared food;  
1505 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or  
1506 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,  
1507 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,  
1508 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit  
1509 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf  
1510 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,  
1511 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,  
1512 horseback rides, sports activities, or any other amusement, entertainment, recreation,  
1513 exhibition, cultural, or athletic activity;

1514 (g) amounts paid or charged for services for repairs or renovations of tangible personal  
1515 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

1516 (i) the tangible personal property; and

1517 (ii) parts used in the repairs or renovations of the tangible personal property described  
1518 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations  
1519 of that tangible personal property;

1520 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for  
1521 assisted cleaning or washing of tangible personal property;

1522 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court  
1523 accommodations and services that are regularly rented for less than 30 consecutive days;

1524 (j) amounts paid or charged for laundry or dry cleaning services;

1525 (k) amounts paid or charged for leases or rentals of tangible personal property if within  
1526 this state the tangible personal property is:

1527 (i) stored;

1528 (ii) used; or

1529 (iii) otherwise consumed;

1530 (l) amounts paid or charged for tangible personal property if within this state the  
1531 tangible personal property is:

1532 (i) stored;

1533 (ii) used; or

1534 (iii) consumed; and

1535 (m) amounts paid or charged for a sale:

1536 (i) (A) of a product transferred electronically; or

1537 (B) of a repair or renovation of a product transferred electronically; and

1538 (ii) regardless of whether the sale provides:

1539 (A) a right of permanent use of the product; or

1540 (B) a right to use the product that is less than a permanent use, including a right:

1541 (I) for a definite or specified length of time; and

1542 (II) that terminates upon the occurrence of a condition.

1543 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax  
1544 is imposed on a transaction described in Subsection (1) equal to the sum of:

1545 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

1546 (A) 4.70%; and

1547 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales  
1548 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211  
1549 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional  
1550 State Sales and Use Tax Act; and

1551 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales  
1552 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211  
1553 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state  
1554 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

1555 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
1556 transaction under this chapter other than this part.

1557 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed  
1558 on a transaction described in Subsection (1)(d) equal to the sum of:

1559 (i) a state tax imposed on the transaction at a tax rate of 2%; and

1560 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
1561 transaction under this chapter other than this part.

1562 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed  
1563 on amounts paid or charged for food and food ingredients equal to the sum of:

1564 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at  
1565 a tax rate of 1.75%; and

1566 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
1567 amounts paid or charged for food and food ingredients under this chapter other than this part.

1568 (d) (i) For a bundled transaction that is attributable to food and food ingredients and  
1569 tangible personal property other than food and food ingredients, a state tax and a local tax is



1570 imposed on the entire bundled transaction equal to the sum of:

1571 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

1572 (I) the tax rate described in Subsection (2)(a)(i)(A); and

1573 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State

1574 Sales and Use Tax Act, if the location of the transaction as determined under Sections

1575 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,

1576 Additional State Sales and Use Tax Act; and

1577 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State

1578 Sales and Use Tax Act, if the location of the transaction as determined under Sections

1579 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which

1580 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

1581 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates

1582 described in Subsection (2)(a)(ii).

1583 (ii) If an optional computer software maintenance contract is a bundled transaction that

1584 consists of taxable and nontaxable products that are not separately itemized on an invoice or

1585 similar billing document, the purchase of the optional computer software maintenance contract

1586 is 40% taxable under this chapter and 60% nontaxable under this chapter.

1587 [~~(ii)~~] (iii) Subject to Subsection (2)(d)[~~(iii)~~](iv), for a bundled transaction other than a

1588 bundled transaction described in Subsection (2)(d)(i) or (ii):

1589 (A) if the sales price of the bundled transaction is attributable to tangible personal

1590 property, a product, or a service that is subject to taxation under this chapter and tangible

1591 personal property, a product, or service that is not subject to taxation under this chapter, the

1592 entire bundled transaction is subject to taxation under this chapter unless:

1593 (I) the seller is able to identify by reasonable and verifiable standards the tangible

1594 personal property, product, or service that is not subject to taxation under this chapter from the

1595 books and records the seller keeps in the seller's regular course of business; or

1596 (II) state or federal law provides otherwise; or

1597 (B) if the sales price of a bundled transaction is attributable to two or more items of

1598 tangible personal property, products, or services that are subject to taxation under this chapter  
1599 at different rates, the entire bundled transaction is subject to taxation under this chapter at the  
1600 higher tax rate unless:

1601 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
1602 personal property, product, or service that is subject to taxation under this chapter at the lower  
1603 tax rate from the books and records the seller keeps in the seller's regular course of business; or

1604 (II) state or federal law provides otherwise.

1605 [~~(iii)~~] (iv) For purposes of Subsection (2)(d)[~~(ii)~~](iii), books and records that a seller  
1606 keeps in the seller's regular course of business includes books and records the seller keeps in  
1607 the regular course of business for nontax purposes.

1608 (e) Subject to Subsections (2)(f) and (g), a tax rate repeal or tax rate change for a tax  
1609 rate imposed under the following shall take effect on the first day of a calendar quarter:

1610 (i) Subsection (2)(a)(i)(A);

1611 (ii) Subsection (2)(b)(i);

1612 (iii) Subsection (2)(c)(i); or

1613 (iv) Subsection (2)(d)(i)(A)(I).

1614 (f) (i) A tax rate increase shall take effect on the first day of the first billing period that  
1615 begins after the effective date of the tax rate increase if the billing period for the transaction  
1616 begins before the effective date of a tax rate increase imposed under:

1617 (A) Subsection (2)(a)(i)(A);

1618 (B) Subsection (2)(b)(i);

1619 (C) Subsection (2)(c)(i); or

1620 (D) Subsection (2)(d)(i)(A)(I).

1621 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last  
1622 billing period that began before the effective date of the repeal of the tax or the tax rate  
1623 decrease if the billing period for the transaction begins before the effective date of the repeal of  
1624 the tax or the tax rate decrease imposed under:

1625 (A) Subsection (2)(a)(i)(A);

1626 (B) Subsection (2)(b)(i);  
1627 (C) Subsection (2)(c)(i); or  
1628 (D) Subsection (2)(d)(i)(A)(I).  
1629 (g) (i) For a tax rate described in Subsection (2)(g)(ii), if a tax due on a catalogue sale  
1630 is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal  
1631 or change in a tax rate takes effect:  
1632 (A) on the first day of a calendar quarter; and  
1633 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.  
1634 (ii) Subsection (2)(g)(i) applies to the tax rates described in the following:  
1635 (A) Subsection (2)(a)(i)(A);  
1636 (B) Subsection (2)(b)(i);  
1637 (C) Subsection (2)(c)(i); or  
1638 (D) Subsection (2)(d)(i)(A)(I).  
1639 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
1640 the commission may by rule define the term "catalogue sale."  
1641 (3) (a) The following state taxes shall be deposited into the General Fund:  
1642 (i) the tax imposed by Subsection (2)(a)(i)(A);  
1643 (ii) the tax imposed by Subsection (2)(b)(i);  
1644 (iii) the tax imposed by Subsection (2)(c)(i); or  
1645 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).  
1646 (b) The following local taxes shall be distributed to a county, city, or town as provided  
1647 in this chapter:  
1648 (i) the tax imposed by Subsection (2)(a)(ii);  
1649 (ii) the tax imposed by Subsection (2)(b)(ii);  
1650 (iii) the tax imposed by Subsection (2)(c)(ii); and  
1651 (iv) the tax imposed by Subsection (2)(d)(i)(B).  
1652 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
1653 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)

1654 through (g):

1655 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1656 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

1657 (B) for the fiscal year; or

1658 (ii) \$17,500,000.

1659 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount

1660 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the

1661 Department of Natural Resources to:

1662 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to

1663 protect sensitive plant and animal species; or

1664 (B) award grants, up to the amount authorized by the Legislature in an appropriations

1665 act, to political subdivisions of the state to implement the measures described in Subsections

1666 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

1667 (ii) Money transferred to the Department of Natural Resources under Subsection

1668 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other

1669 person to list or attempt to have listed a species as threatened or endangered under the

1670 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

1671 (iii) At the end of each fiscal year:

1672 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources

1673 Conservation and Development Fund created in Section 73-10-24;

1674 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

1675 Program Subaccount created in Section 73-10c-5; and

1676 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

1677 Program Subaccount created in Section 73-10c-5.

1678 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in

1679 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund

1680 created in Section 4-18-6.

1681 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described

1682 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water  
1683 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of  
1684 water rights.

1685 (ii) At the end of each fiscal year:

1686 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
1687 Conservation and Development Fund created in Section 73-10-24;

1688 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
1689 Program Subaccount created in Section 73-10c-5; and

1690 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
1691 Program Subaccount created in Section 73-10c-5.

1692 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described  
1693 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development  
1694 Fund created in Section 73-10-24 for use by the Division of Water Resources.

1695 (ii) In addition to the uses allowed of the Water Resources Conservation and  
1696 Development Fund under Section 73-10-24, the Water Resources Conservation and  
1697 Development Fund may also be used to:

1698 (A) conduct hydrologic and geotechnical investigations by the Division of Water  
1699 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
1700 quantifying surface and ground water resources and describing the hydrologic systems of an  
1701 area in sufficient detail so as to enable local and state resource managers to plan for and  
1702 accommodate growth in water use without jeopardizing the resource;

1703 (B) fund state required dam safety improvements; and

1704 (C) protect the state's interest in interstate water compact allocations, including the  
1705 hiring of technical and legal staff.

1706 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
1707 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount  
1708 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1709 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described

1710 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount  
1711 created in Section 73-10c-5 for use by the Division of Drinking Water to:

- 1712 (i) provide for the installation and repair of collection, treatment, storage, and  
1713 distribution facilities for any public water system, as defined in Section 19-4-102;
- 1714 (ii) develop underground sources of water, including springs and wells; and
- 1715 (iii) develop surface water sources.

1716 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
1717 2006, the difference between the following amounts shall be expended as provided in this  
1718 Subsection (5), if that difference is greater than \$1:

- 1719 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the  
1720 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and
- 1721 (ii) \$17,500,000.

1722 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

- 1723 (A) transferred each fiscal year to the Department of Natural Resources as dedicated  
1724 credits; and
- 1725 (B) expended by the Department of Natural Resources for watershed rehabilitation or  
1726 restoration.

1727 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
1728 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund  
1729 created in Section 73-10-24.

1730 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the  
1731 remaining difference described in Subsection (5)(a) shall be:

- 1732 (A) transferred each fiscal year to the Division of Water Resources as dedicated  
1733 credits; and
- 1734 (B) expended by the Division of Water Resources for cloud-seeding projects  
1735 authorized by Title 73, Chapter 15, Modification of Weather.

1736 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
1737 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund

1738 created in Section 73-10-24.

1739 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the  
1740 remaining difference described in Subsection (5)(a) shall be deposited into the Water  
1741 Resources Conservation and Development Fund created in Section 73-10-24 for use by the  
1742 Division of Water Resources for:

1743 (i) preconstruction costs:

1744 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
1745 26, Bear River Development Act; and

1746 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project  
1747 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

1748 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,  
1749 Chapter 26, Bear River Development Act;

1750 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project  
1751 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

1752 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and  
1753 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

1754 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to  
1755 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be  
1756 transferred each year as dedicated credits to the Division of Water Rights to cover the costs  
1757 incurred for employing additional technical staff for the administration of water rights.

1758 (f) At the end of each fiscal year, any unexpended dedicated credits described in  
1759 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development  
1760 Fund created in Section 73-10-24.

1761 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
1762 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%  
1763 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in  
1764 the Transportation Fund created by Section 72-2-102.

1765 (7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies,

1766 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial  
1767 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed  
1768 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable  
1769 transactions under Subsection (1).

1770 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds  
1771 have been paid off and the highway projects completed that are intended to be paid from  
1772 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the  
1773 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of  
1774 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section  
1775 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated  
1776 by a 1/64% tax rate on the taxable transactions under Subsection (1).

1777 (8) (a) Notwithstanding Subsection (3)(a) and in addition to the amount deposited in  
1778 Subsection (7)(a), for the 2010-11 fiscal year only, the Division of Finance shall deposit into  
1779 the Centennial Highway Fund Restricted Account created by Section 72-2-118 a portion of the  
1780 taxes listed under Subsection (3)(a) equal to 1.93% of the revenues collected from the  
1781 following taxes, which represents a portion of the approximately 17% of sales and use tax  
1782 revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

- 1783 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 1784 (ii) the tax imposed by Subsection (2)(b)(i);
- 1785 (iii) the tax imposed by Subsection (2)(c)(i); and
- 1786 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

1787 (b) Notwithstanding Subsection (3)(a), in addition to the amount deposited in  
1788 Subsection (7)(a), and until Subsection (8)(c) applies, for the 2011-12 fiscal year only, the  
1789 Division of Finance shall deposit into the Centennial Highway Fund Restricted Account  
1790 created by Section 72-2-118 a portion of the taxes listed under Subsection (3)(a) equal to 8.3%  
1791 of the revenues collected from the following taxes, which represents a portion of the  
1792 approximately 17% of sales and use tax revenues generated annually by the sales and use tax  
1793 on vehicles and vehicle-related products:



- 1794 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 1795 (ii) the tax imposed by Subsection (2)(b)(i);
- 1796 (iii) the tax imposed by Subsection (2)(c)(i); and
- 1797 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

1798 (c) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under  
1799 Subsection (7)(b), and until Subsection (8)(d) or (e) applies, when the highway general  
1800 obligation bonds have been paid off and the highway projects completed that are intended to be  
1801 paid from revenues deposited in the Centennial Highway Fund Restricted Account as  
1802 determined by the Executive Appropriations Committee under Subsection 72-2-118(6)(d), the  
1803 Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by  
1804 Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to 8.3% of the  
1805 revenues collected from the following taxes, which represents a portion of the approximately  
1806 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and  
1807 vehicle-related products:

- 1808 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 1809 (ii) the tax imposed by Subsection (2)(b)(i);
- 1810 (iii) the tax imposed by Subsection (2)(c)(i); and
- 1811 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

1812 (d) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in  
1813 Subsection (7)(a), until Subsection (8)(e) applies, and subject to Subsection (8)(f), for a fiscal  
1814 year beginning on or after July 1, 2012, the Division of Finance shall deposit into the  
1815 Centennial Highway Fund Restricted Account created by Section 72-2-118:

1816 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of  
1817 the revenues collected from the following taxes, which represents a portion of the  
1818 approximately 17% of sales and use tax revenues generated annually by the sales and use tax  
1819 on vehicles and vehicle-related products:

- 1820 (A) the tax imposed by Subsection (2)(a)(i)(A);
- 1821 (B) the tax imposed by Subsection (2)(b)(I);

1822 (C) the tax imposed by Subsection (2)(c)(i); and  
1823 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus  
1824 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the  
1825 current fiscal year from the sales and use taxes described in Subsections (8)(d)(i)(A) through  
1826 (D) that exceeds the amount collected from the sales and use taxes described in Subsections  
1827 (8)(d)(i)(A) through (D) in the 2010-11 fiscal year.

1828 (e) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under  
1829 Subsection (7)(b), and subject to Subsection (8)(f), when the highway general obligation bonds  
1830 have been paid off and the highway projects completed that are intended to be paid from  
1831 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the  
1832 Executive Appropriations Committee under Subsection 72-2-118(6)(d), for a fiscal year  
1833 beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation  
1834 Investment Fund of 2005 created by Section 72-2-124:

1835 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of  
1836 the revenues collected from the following taxes, which represents a portion of the  
1837 approximately 17% of sales and use tax revenues generated annually by the sales and use tax  
1838 on vehicles and vehicle-related products:

1839 (A) the tax imposed by Subsection (2)(a)(i)(A);  
1840 (B) the tax imposed by Subsection (2)(b)(i);  
1841 (C) the tax imposed by Subsection (2)(c)(i); and  
1842 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

1843 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the  
1844 current fiscal year from the sales and use taxes described in Subsections (8)(e)(i)(A) through  
1845 (D) that exceeds the amount collected from the sales and use taxes described in Subsections  
1846 (8)(e)(i)(A) through (D) in the 2010-11 fiscal year.

1847 (f) (i) Subject to Subsections (8)(f)(ii) and (iii), in any fiscal year that the portion of the  
1848 sales and use taxes deposited under Subsection (8)(d) or (e) represents an amount that is a total  
1849 lower percentage of the sales and use taxes described in Subsections (8)(e)(i)(A) through (D)

1850 generated in the current fiscal year than the total percentage of sales and use taxes deposited in  
1851 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection  
1852 (8)(d) or (e) equal to the product of:

1853 (A) the total percentage of sales and use taxes deposited under Subsection (8)(d) or (e)  
1854 in the previous fiscal year; and

1855 (B) the total sales and use tax revenue generated by the taxes described in Subsections  
1856 (8)(e)(i)(A) through (D) in the current fiscal year.

1857 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under  
1858 Subsection (8)(d) or (e) would exceed 17% of the revenues collected from the sales and use  
1859 taxes described in Subsections (8)(e)(i)(A) through (D) in the current fiscal year, the Division  
1860 of Finance shall deposit 17% of the revenues collected from the sales and use taxes described  
1861 in Subsections (8)(e)(i)(A) through (D) for the current fiscal year under Subsection (8)(d) or  
1862 (e).

1863 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected  
1864 from the sales and use taxes described in Subsections (8)(e)(i)(A) through (D) was deposited  
1865 under Subsection (8)(d) or (e), the Division of Finance shall annually deposit 17% of the  
1866 revenues collected from the sales and use taxes described in Subsections (8)(e)(i)(A) through  
1867 (D) in the current fiscal year under Subsection (8)(d) or (e).

1868 (9) (a) Notwithstanding Subsection (3)(a) and for the fiscal year 2008-09 only, the  
1869 Division of Finance shall deposit \$55,000,000 of the revenues generated by the taxes listed  
1870 under Subsection (3)(a) into the Critical Highway Needs Fund created by Section 72-2-125.

1871 (b) Notwithstanding Subsection (3)(a) and until Subsection (9)(c) applies, for a fiscal  
1872 year beginning on or after July 1, 2009, the Division of Finance shall annually deposit  
1873 \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the  
1874 Critical Highway Needs Fund created by Section 72-2-125.

1875 (c) Notwithstanding Subsection (3)(a) and in addition to any amounts deposited under  
1876 Subsections (7) and (8), when the general obligation bonds authorized by Section 63B-16-101  
1877 have been paid off and the highway projects completed that are included in the prioritized

1878 project list under Subsection 72-2-125(4) as determined in accordance with Subsection  
1879 72-2-125(6), the Division of Finance shall annually deposit \$90,000,000 of the revenues  
1880 generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund  
1881 of 2005 created by Section 72-2-124.

1882 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
1883 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund  
1884 created by Section 9-4-1409 and expended as provided in Section 9-4-1409.

1885 (11) (a) (i) Notwithstanding Subsection (3)(a), except as provided in Subsection  
1886 (11)(a)(ii), and until Subsection (11)(b) applies, beginning on January 1, 2009, the Division of  
1887 Finance shall deposit into the Critical Highway Needs Fund created by Section 72-2-125 the  
1888 amount of tax revenue generated by a .025% tax rate on the transactions described in  
1889 Subsection (1).

1890 (ii) For purposes of Subsection (11)(a)(i), the Division of Finance may not deposit into  
1891 the Critical Highway Needs Fund any tax revenue generated by amounts paid or charged for  
1892 food and food ingredients, except for tax revenue generated by a bundled transaction  
1893 attributable to food and food ingredients and tangible personal property other than food and  
1894 food ingredients described in Subsection (2)(e).

1895 (b) (i) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b)(ii),  
1896 and in addition to any amounts deposited under Subsections (7), (9), and (10), when the general  
1897 obligation bonds authorized by Section 63B-16-101 have been paid off and the highway  
1898 projects completed that are included in the prioritized project list under Subsection 72-2-125(4)  
1899 as determined in accordance with Subsection 72-2-125(6), the Division of Finance shall  
1900 deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the  
1901 amount of tax revenue generated by a .025% tax rate on the transactions described in  
1902 Subsection (1).

1903 (ii) For purposes of Subsection (11)(b)(i), the Division of Finance may not deposit into  
1904 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or  
1905 charged for food and food ingredients, except for tax revenue generated by a bundled

1906 transaction attributable to food and food ingredients and tangible personal property other than  
1907 food and food ingredients described in Subsection (2)(e).

1908 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection  
1909 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the  
1910 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a  
1911 .025% tax rate on the transactions described in Subsection (1) to be expended to address  
1912 chokepoints in construction management.

1913 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into  
1914 the Transportation Fund any tax revenue generated by amounts paid or charged for food and  
1915 food ingredients, except for tax revenue generated by a bundled transaction attributable to food  
1916 and food ingredients and tangible personal property other than food and food ingredients  
1917 described in Subsection (2)(e).

1918 Section 3. Section **59-12-104** is amended to read:

1919 **59-12-104. Exemptions.**

1920 The following sales and uses are exempt from the taxes imposed by this chapter:

1921 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax  
1922 under Chapter 13, Motor and Special Fuel Tax Act;

1923 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political  
1924 subdivisions; however, this exemption does not apply to sales of:

1925 (a) construction materials except:

1926 (i) construction materials purchased by or on behalf of institutions of the public  
1927 education system as defined in Utah Constitution Article X, Section 2, provided the  
1928 construction materials are clearly identified and segregated and installed or converted to real  
1929 property which is owned by institutions of the public education system; and

1930 (ii) construction materials purchased by the state, its institutions, or its political  
1931 subdivisions which are installed or converted to real property by employees of the state, its  
1932 institutions, or its political subdivisions; or

1933 (b) tangible personal property in connection with the construction, operation,

1934 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities  
1935 providing additional project capacity, as defined in Section 11-13-103;

1936 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

1937 (i) the proceeds of each sale do not exceed \$1; and

1938 (ii) the seller or operator of the vending machine reports an amount equal to 150% of  
1939 the cost of the item described in Subsection (3)(b) as goods consumed; and

1940 (b) Subsection (3)(a) applies to:

1941 (i) food and food ingredients; or

1942 (ii) prepared food;

1943 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

1944 (i) alcoholic beverages;

1945 (ii) food and food ingredients; or

1946 (iii) prepared food;

1947 (b) sales of tangible personal property or a product transferred electronically:

1948 (i) to a passenger;

1949 (ii) by a commercial airline carrier; and

1950 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or

1951 (c) services related to Subsection (4)(a) or (b);

1952 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts  
1953 and equipment:

1954 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002  
1955 North American Industry Classification System of the federal Executive Office of the  
1956 President, Office of Management and Budget; and

1957 (II) for:

1958 (Aa) installation in an aircraft, including services relating to the installation of parts or  
1959 equipment in the aircraft;

1960 (Bb) renovation of an aircraft; or

1961 (Cc) repair of an aircraft; or

1962 (B) for installation in an aircraft operated by a common carrier in interstate or foreign  
1963 commerce; or

1964 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an  
1965 aircraft operated by a common carrier in interstate or foreign commerce; and

1966 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,  
1967 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a  
1968 refund:

1969 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

1970 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

1971 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for  
1972 the sale prior to filing for the refund;

1973 (iv) for sales and use taxes paid under this chapter on the sale;

1974 (v) in accordance with Section 59-1-1410; and

1975 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if  
1976 the person files for the refund on or before September 30, 2011;

1977 (6) sales of commercials, motion picture films, prerecorded audio program tapes or  
1978 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture  
1979 exhibitor, distributor, or commercial television or radio broadcaster;

1980 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal  
1981 property if the cleaning or washing of the tangible personal property is not assisted cleaning or  
1982 washing of tangible personal property;

1983 (b) if a seller that sells at the same business location assisted cleaning or washing of  
1984 tangible personal property and cleaning or washing of tangible personal property that is not  
1985 assisted cleaning or washing of tangible personal property, the exemption described in  
1986 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning  
1987 or washing of the tangible personal property; and

1988 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,  
1989 Utah Administrative Rulemaking Act, the commission may make rules:

1990 (i) governing the circumstances under which sales are at the same business location;  
1991 and  
1992 (ii) establishing the procedures and requirements for a seller to separately account for  
1993 sales of assisted cleaning or washing of tangible personal property;  
1994 (8) sales made to or by religious or charitable institutions in the conduct of their regular  
1995 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are  
1996 fulfilled;  
1997 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of  
1998 this state if the vehicle is:  
1999 (a) not registered in this state; and  
2000 (b) (i) not used in this state; or  
2001 (ii) used in this state:  
2002 (A) if the vehicle is not used to conduct business, for a time period that does not  
2003 exceed the longer of:  
2004 (I) 30 days in any calendar year; or  
2005 (II) the time period necessary to transport the vehicle to the borders of this state; or  
2006 (B) if the vehicle is used to conduct business, for the time period necessary to transport  
2007 the vehicle to the borders of this state;  
2008 (10) (a) amounts paid for an item described in Subsection (10)(b) if:  
2009 (i) the item is intended for human use; and  
2010 (ii) (A) a prescription was issued for the item; or  
2011 (B) the item was purchased by a hospital or other medical facility; and  
2012 (b) (i) Subsection (10)(a) applies to:  
2013 (A) a drug;  
2014 (B) a syringe; or  
2015 (C) a stoma supply; and  
2016 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2017 commission may by rule define the terms:



2018 (A) "syringe"; or  
2019 (B) "stoma supply";  
2020 (11) sales or use of property, materials, or services used in the construction of or  
2021 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;  
2022 (12) (a) sales of an item described in Subsection (12)(c) served by:  
2023 (i) the following if the item described in Subsection (12)(c) is not available to the  
2024 general public:  
2025 (A) a church; or  
2026 (B) a charitable institution;  
2027 (ii) an institution of higher education if:  
2028 (A) the item described in Subsection (12)(c) is not available to the general public; or  
2029 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan  
2030 offered by the institution of higher education; or  
2031 (b) sales of an item described in Subsection (12)(c) provided for a patient by:  
2032 (i) a medical facility; or  
2033 (ii) a nursing facility; and  
2034 (c) Subsections (12)(a) and (b) apply to:  
2035 (i) food and food ingredients;  
2036 (ii) prepared food; or  
2037 (iii) alcoholic beverages;  
2038 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property  
2039 or a product transferred electronically by a person:  
2040 (i) regardless of the number of transactions involving the sale of that tangible personal  
2041 property or product transferred electronically by that person; and  
2042 (ii) not regularly engaged in the business of selling that type of tangible personal  
2043 property or product transferred electronically;  
2044 (b) this Subsection (13) does not apply if:  
2045 (i) the sale is one of a series of sales of a character to indicate that the person is

2046 regularly engaged in the business of selling that type of tangible personal property or product  
2047 transferred electronically;

2048 (ii) the person holds that person out as regularly engaged in the business of selling that  
2049 type of tangible personal property or product transferred electronically;

2050 (iii) the person sells an item of tangible personal property or product transferred  
2051 electronically that the person purchased as a sale that is exempt under Subsection (25); or

2052 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of  
2053 this state in which case the tax is based upon:

2054 (A) the bill of sale or other written evidence of value of the vehicle or vessel being  
2055 sold; or

2056 (B) in the absence of a bill of sale or other written evidence of value, the fair market  
2057 value of the vehicle or vessel being sold at the time of the sale as determined by the  
2058 commission; and

2059 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2060 commission shall make rules establishing the circumstances under which:

2061 (i) a person is regularly engaged in the business of selling a type of tangible personal  
2062 property or product transferred electronically;

2063 (ii) a sale of tangible personal property or a product transferred electronically is one of  
2064 a series of sales of a character to indicate that a person is regularly engaged in the business of  
2065 selling that type of tangible personal property or product transferred electronically; or

2066 (iii) a person holds that person out as regularly engaged in the business of selling a type  
2067 of tangible personal property or product transferred electronically;

2068 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after  
2069 July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration  
2070 facility, of the following:

2071 (i) machinery and equipment that:

2072 (A) are used:

2073 (I) for a manufacturing facility except for a manufacturing facility that is a scrap

2074 recycler described in Subsection 59-12-102[~~(55)~~](56)(b):

2075           (Aa) in the manufacturing process;

2076           (Bb) to manufacture an item sold as tangible personal property; and

2077           (Cc) beginning on July 1, 2009, in a manufacturing facility described in this Subsection

2078 (14)(a)(i)(A)(I) in the state; or

2079           (II) for a manufacturing facility that is a scrap recycler described in Subsection

2080 59-12-102[~~(55)~~](56)(b):

2081           (Aa) to process an item sold as tangible personal property; and

2082           (Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection

2083 (14)(a)(i)(A)(II) in the state; and

2084           (B) have an economic life of three or more years; and

2085           (ii) normal operating repair or replacement parts that:

2086           (A) have an economic life of three or more years; and

2087           (B) are used:

2088           (I) for a manufacturing facility except for a manufacturing facility that is a scrap

2089 recycler described in Subsection 59-12-102[~~(55)~~](56)(b):

2090           (Aa) in the manufacturing process; and

2091           (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the

2092 state; or

2093           (II) for a manufacturing facility that is a scrap recycler described in Subsection

2094 59-12-102[~~(55)~~](56)(b):

2095           (Aa) to process an item sold as tangible personal property; and

2096           (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the

2097 state;

2098           (b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a

2099 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,

2100 of the following:

2101           (i) machinery and equipment that:

- 2102 (A) are used:
- 2103 (I) in the manufacturing process;
- 2104 (II) to manufacture an item sold as tangible personal property; and
- 2105 (III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
- 2106 (14)(b) in the state; and
- 2107 (B) have an economic life of three or more years; and
- 2108 (ii) normal operating repair or replacement parts that:
- 2109 (A) are used:
- 2110 (I) in the manufacturing process; and
- 2111 (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and
- 2112 (B) have an economic life of three or more years;
- 2113 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
- 2114 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
- 2115 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
- 2116 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
- 2117 of the 2002 North American Industry Classification System of the federal Executive Office of
- 2118 the President, Office of Management and Budget, of the following:
- 2119 (i) machinery and equipment that:
- 2120 (A) are used:
- 2121 (I) (Aa) in the production process, other than the production of real property; or
- 2122 (Bb) in research and development; and
- 2123 (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)
- 2124 in the state; and
- 2125 (B) have an economic life of three or more years; and
- 2126 (ii) normal operating repair or replacement parts that:
- 2127 (A) have an economic life of three or more years; and
- 2128 (B) are used in:
- 2129 (I) (Aa) the production process, except for the production of real property; and

2130 (Bb) an establishment described in this Subsection (14)(c) in the state; or  
2131 (II) (Aa) research and development; and  
2132 (Bb) in an establishment described in this Subsection (14)(c) in the state;  
2133 (d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010,  
2134 but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web  
2135 Search Portals, of the 2002 North American Industry Classification System of the federal  
2136 Executive Office of the President, Office of Management and Budget, of the following:  
2137 (A) machinery and equipment that:  
2138 (I) are used in the operation of the web search portal;  
2139 (II) have an economic life of three or more years; and  
2140 (III) are used in a new or expanding establishment described in this Subsection (14)(d)  
2141 in the state; and  
2142 (B) normal operating repair or replacement parts that:  
2143 (I) are used in the operation of the web search portal;  
2144 (II) have an economic life of three or more years; and  
2145 (III) are used in a new or expanding establishment described in this Subsection (14)(d)  
2146 in the state; or  
2147 (ii) amounts paid or charged for a purchase or lease made on or after July 1, 2014, by  
2148 an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North  
2149 American Industry Classification System of the federal Executive Office of the President,  
2150 Office of Management and Budget, of the following:  
2151 (A) machinery and equipment that:  
2152 (I) are used in the operation of the web search portal; and  
2153 (II) have an economic life of three or more years; and  
2154 (B) normal operating repair or replacement parts that:  
2155 (I) are used in the operation of the web search portal; and  
2156 (II) have an economic life of three or more years;  
2157 (e) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,

2158 Utah Administrative Rulemaking Act, the commission:  
2159 (i) shall by rule define the term "establishment"; and  
2160 (ii) may by rule define what constitutes:  
2161 (A) processing an item sold as tangible personal property;  
2162 (B) the production process, except for the production of real property;  
2163 (C) research and development; or  
2164 (D) a new or expanding establishment described in Subsection (14)(d) in the state; and  
2165 (f) on or before October 1, 2011, and every five years after October 1, 2011, the  
2166 commission shall:  
2167 (i) review the exemptions described in this Subsection (14) and make  
2168 recommendations to the Revenue and Taxation Interim Committee concerning whether the  
2169 exemptions should be continued, modified, or repealed; and  
2170 (ii) include in its report:  
2171 (A) an estimate of the cost of the exemptions;  
2172 (B) the purpose and effectiveness of the exemptions; and  
2173 (C) the benefits of the exemptions to the state;  
2174 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:  
2175 (i) tooling;  
2176 (ii) special tooling;  
2177 (iii) support equipment;  
2178 (iv) special test equipment; or  
2179 (v) parts used in the repairs or renovations of tooling or equipment described in  
2180 Subsections (15)(a)(i) through (iv); and  
2181 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:  
2182 (i) the tooling, equipment, or parts are used or consumed exclusively in the  
2183 performance of any aerospace or electronics industry contract with the United States  
2184 government or any subcontract under that contract; and  
2185 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(I),

2186 title to the tooling, equipment, or parts is vested in the United States government as evidenced  
2187 by:

2188 (A) a government identification tag placed on the tooling, equipment, or parts; or

2189 (B) listing on a government-approved property record if placing a government  
2190 identification tag on the tooling, equipment, or parts is impractical;

2191 (16) sales of newspapers or newspaper subscriptions;

2192 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a  
2193 product transferred electronically traded in as full or part payment of the purchase price, except  
2194 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,  
2195 trade-ins are limited to other vehicles only, and the tax is based upon:

2196 (i) the bill of sale or other written evidence of value of the vehicle being sold and the  
2197 vehicle being traded in; or

2198 (ii) in the absence of a bill of sale or other written evidence of value, the then existing  
2199 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the  
2200 commission; and

2201 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the  
2202 following items of tangible personal property or products transferred electronically traded in as  
2203 full or part payment of the purchase price:

2204 (i) money;

2205 (ii) electricity;

2206 (iii) water;

2207 (iv) gas; or

2208 (v) steam;

2209 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property  
2210 or a product transferred electronically used or consumed primarily and directly in farming  
2211 operations, regardless of whether the tangible personal property or product transferred  
2212 electronically:

2213 (A) becomes part of real estate; or

2214 (B) is installed by a:  
2215 (I) farmer;  
2216 (II) contractor; or  
2217 (III) subcontractor; or  
2218 (ii) sales of parts used in the repairs or renovations of tangible personal property or a  
2219 product transferred electronically if the tangible personal property or product transferred  
2220 electronically is exempt under Subsection (18)(a)(i); and  
2221 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following are  
2222 subject to the taxes imposed by this chapter:  
2223 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is  
2224 incidental to farming:  
2225 (I) machinery;  
2226 (II) equipment;  
2227 (III) materials; or  
2228 (IV) supplies; and  
2229 (B) tangible personal property that is considered to be used in a manner that is  
2230 incidental to farming includes:  
2231 (I) hand tools; or  
2232 (II) maintenance and janitorial equipment and supplies;  
2233 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product  
2234 transferred electronically if the tangible personal property or product transferred electronically  
2235 is used in an activity other than farming; and  
2236 (B) tangible personal property or a product transferred electronically that is considered  
2237 to be used in an activity other than farming includes:  
2238 (I) office equipment and supplies; or  
2239 (II) equipment and supplies used in:  
2240 (Aa) the sale or distribution of farm products;  
2241 (Bb) research; or



2242 (Cc) transportation; or  
2243 (iii) a vehicle required to be registered by the laws of this state during the period  
2244 ending two years after the date of the vehicle's purchase;  
2245 (19) sales of hay;  
2246 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or  
2247 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or  
2248 garden, farm, or other agricultural produce is sold by:  
2249 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other  
2250 agricultural produce;  
2251 (b) an employee of the producer described in Subsection (20)(a); or  
2252 (c) a member of the immediate family of the producer described in Subsection (20)(a);  
2253 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued  
2254 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;;  
2255 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,  
2256 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,  
2257 wholesaler, or retailer for use in packaging tangible personal property to be sold by that  
2258 manufacturer, processor, wholesaler, or retailer;  
2259 (23) a product stored in the state for resale;  
2260 (24) (a) purchases of a product if:  
2261 (i) the product is:  
2262 (A) purchased outside of this state;  
2263 (B) brought into this state:  
2264 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and  
2265 (II) by a nonresident person who is not living or working in this state at the time of the  
2266 purchase;  
2267 (C) used for the personal use or enjoyment of the nonresident person described in  
2268 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and  
2269 (D) not used in conducting business in this state; and

2270 (ii) for:  
2271 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of  
2272 the product for a purpose for which the product is designed occurs outside of this state;  
2273 (B) a boat, the boat is registered outside of this state; or  
2274 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
2275 outside of this state;  
2276 (b) the exemption provided for in Subsection (24)(a) does not apply to:  
2277 (i) a lease or rental of a product; or  
2278 (ii) a sale of a vehicle exempt under Subsection (33); and  
2279 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
2280 purposes of Subsection (24)(a), the commission may by rule define what constitutes the  
2281 following:  
2282 (i) conducting business in this state if that phrase has the same meaning in this  
2283 Subsection (24) as in Subsection (63);  
2284 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)  
2285 as in Subsection (63); or  
2286 (iii) a purpose for which a product is designed if that phrase has the same meaning in  
2287 this Subsection (24) as in Subsection (63);  
2288 (25) a product purchased for resale in this state, in the regular course of business, either  
2289 in its original form or as an ingredient or component part of a manufactured or compounded  
2290 product;  
2291 (26) a product upon which a sales or use tax was paid to some other state, or one of its  
2292 subdivisions, except that the state shall be paid any difference between the tax paid and the tax  
2293 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if  
2294 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax  
2295 Act;  
2296 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a  
2297 person for use in compounding a service taxable under the subsections;

2298 (28) purchases made in accordance with the special supplemental nutrition program for  
2299 women, infants, and children established in 42 U.S.C. Sec. 1786;

2300 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,  
2301 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens  
2302 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification  
2303 Manual of the federal Executive Office of the President, Office of Management and Budget;

2304 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State  
2305 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

2306 (a) not registered in this state; and

2307 (b) (i) not used in this state; or

2308 (ii) used in this state:

2309 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a  
2310 time period that does not exceed the longer of:

2311 (I) 30 days in any calendar year; or

2312 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to  
2313 the borders of this state; or

2314 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time  
2315 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this  
2316 state;

2317 (31) sales of aircraft manufactured in Utah;

2318 (32) amounts paid for the purchase of telecommunications service for purposes of  
2319 providing telecommunications service;

2320 (33) sales, leases, or uses of the following:

2321 (a) a vehicle by an authorized carrier; or

2322 (b) tangible personal property that is installed on a vehicle:

2323 (i) sold or leased to or used by an authorized carrier; and

2324 (ii) before the vehicle is placed in service for the first time;

2325 (34) (a) 45% of the sales price of any new manufactured home; and

2326 (b) 100% of the sales price of any used manufactured home;  
2327 (35) sales relating to schools and fundraising sales;  
2328 (36) sales or rentals of durable medical equipment if:  
2329 (a) a person presents a prescription for the durable medical equipment; and  
2330 (b) the durable medical equipment is used for home use only;  
2331 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in  
2332 Section 72-11-102; and  
2333 (b) the commission shall by rule determine the method for calculating sales exempt  
2334 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;  
2335 (38) sales to a ski resort of:  
2336 (a) snowmaking equipment;  
2337 (b) ski slope grooming equipment;  
2338 (c) passenger ropeways as defined in Section 72-11-102; or  
2339 (d) parts used in the repairs or renovations of equipment or passenger ropeways  
2340 described in Subsections (38)(a) through (c);  
2341 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;  
2342 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for  
2343 amusement, entertainment, or recreation an unassisted amusement device as defined in Section  
2344 59-12-102;  
2345 (b) if a seller that sells or rents at the same business location the right to use or operate  
2346 for amusement, entertainment, or recreation one or more unassisted amusement devices and  
2347 one or more assisted amusement devices, the exemption described in Subsection (40)(a)  
2348 applies if the seller separately accounts for the sales or rentals of the right to use or operate for  
2349 amusement, entertainment, or recreation for the assisted amusement devices; and  
2350 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,  
2351 Utah Administrative Rulemaking Act, the commission may make rules:  
2352 (i) governing the circumstances under which sales are at the same business location;  
2353 and

2354 (ii) establishing the procedures and requirements for a seller to separately account for  
2355 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for  
2356 assisted amusement devices;

2357 (41) (a) sales of photocopies by:

2358 (i) a governmental entity; or

2359 (ii) an entity within the state system of public education, including:

2360 (A) a school; or

2361 (B) the State Board of Education; or

2362 (b) sales of publications by a governmental entity;

2363 (42) amounts paid for admission to an athletic event at an institution of higher  
2364 education that is subject to the provisions of Title IX of the Education Amendments of 1972,  
2365 20 U.S.C. Sec. 1681 et seq.;

2366 (43) (a) sales made to or by:

2367 (i) an area agency on aging; or

2368 (ii) a senior citizen center owned by a county, city, or town; or

2369 (b) sales made by a senior citizen center that contracts with an area agency on aging;

2370 (44) sales or leases of semiconductor fabricating, processing, research, or development  
2371 materials regardless of whether the semiconductor fabricating, processing, research, or  
2372 development materials:

2373 (a) actually come into contact with a semiconductor; or

2374 (b) ultimately become incorporated into real property;

2375 (45) an amount paid by or charged to a purchaser for accommodations and services  
2376 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section  
2377 59-12-104.2;

2378 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary  
2379 sports event registration certificate in accordance with Section 41-3-306 for the event period  
2380 specified on the temporary sports event registration certificate;

2381 (47) sales or uses of electricity, if the sales or uses are:

2382 (a) made under a tariff adopted by the Public Service Commission of Utah only for  
2383 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy  
2384 source, as designated in the tariff by the Public Service Commission of Utah; and

2385 (b) for an amount of electricity that is:

2386 (i) unrelated to the amount of electricity used by the person purchasing the electricity  
2387 under the tariff described in Subsection (47)(a); and

2388 (ii) equivalent to the number of kilowatthours specified in the tariff described in  
2389 Subsection (47)(a) that may be purchased under the tariff described in Subsection (47)(a);

2390 (48) sales or rentals of mobility enhancing equipment if a person presents a  
2391 prescription for the mobility enhancing equipment;

2392 (49) sales of water in a:

2393 (a) pipe;

2394 (b) conduit;

2395 (c) ditch; or

2396 (d) reservoir;

2397 (50) sales of currency or coinage that constitute legal tender of the United States or of a  
2398 foreign nation;

2399 (51) (a) sales of an item described in Subsection (51)(b) if the item:

2400 (i) does not constitute legal tender of any nation; and

2401 (ii) has a gold, silver, or platinum content of 80% or more; and

2402 (b) Subsection (51)(a) applies to a gold, silver, or platinum:

2403 (i) ingot;

2404 (ii) bar;

2405 (iii) medallion; or

2406 (iv) decorative coin;

2407 (52) amounts paid on a sale-leaseback transaction;

2408 (53) sales of a prosthetic device:

2409 (a) for use on or in a human; and

2410 (b) (i) for which a prescription is required; or  
2411 (ii) if the prosthetic device is purchased by a hospital or other medical facility;  
2412 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of  
2413 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery  
2414 or equipment is primarily used in the production or postproduction of the following media for  
2415 commercial distribution:  
2416 (i) a motion picture;  
2417 (ii) a television program;  
2418 (iii) a movie made for television;  
2419 (iv) a music video;  
2420 (v) a commercial;  
2421 (vi) a documentary; or  
2422 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the  
2423 commission by administrative rule made in accordance with Subsection (54)(d); or  
2424 (b) notwithstanding Subsection (54)(a), purchases, leases, or rentals of machinery or  
2425 equipment by an establishment described in Subsection (54)(c) that is used for the production  
2426 or postproduction of the following are subject to the taxes imposed by this chapter:  
2427 (i) a live musical performance;  
2428 (ii) a live news program; or  
2429 (iii) a live sporting event;  
2430 (c) the following establishments listed in the 1997 North American Industry  
2431 Classification System of the federal Executive Office of the President, Office of Management  
2432 and Budget, apply to Subsections (54)(a) and (b):  
2433 (i) NAICS Code 512110; or  
2434 (ii) NAICS Code 51219; and  
2435 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2436 commission may by rule:  
2437 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);

2438 or  
2439 (ii) define:  
2440 (A) "commercial distribution";  
2441 (B) "live musical performance";  
2442 (C) "live news program"; or  
2443 (D) "live sporting event";  
2444 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but  
2445 on or before June 30, 2019, of machinery or equipment that:  
2446 (i) is leased or purchased for or by a facility that:  
2447 (A) is a renewable energy production facility;  
2448 (B) is located in the state; and  
2449 (C) (I) becomes operational on or after July 1, 2004; or  
2450 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
2451 2004, as a result of the use of the machinery or equipment;  
2452 (ii) has an economic life of five or more years; and  
2453 (iii) is used to make the facility or the increase in capacity of the facility described in  
2454 Subsection (55)(a)(i) operational up to the point of interconnection with an existing  
2455 transmission grid including:  
2456 (A) a wind turbine;  
2457 (B) generating equipment;  
2458 (C) a control and monitoring system;  
2459 (D) a power line;  
2460 (E) substation equipment;  
2461 (F) lighting;  
2462 (G) fencing;  
2463 (H) pipes; or  
2464 (I) other equipment used for locating a power line or pole; and  
2465 (b) this Subsection (55) does not apply to:



2466 (i) machinery or equipment used in construction of:  
2467 (A) a new renewable energy production facility; or  
2468 (B) the increase in the capacity of a renewable energy production facility;  
2469 (ii) contracted services required for construction and routine maintenance activities;  
2470 and  
2471 (iii) unless the machinery or equipment is used or acquired for an increase in capacity  
2472 of the facility described in Subsection (55)(a)(i)(C)(II), machinery or equipment used or  
2473 acquired after:  
2474 (A) the renewable energy production facility described in Subsection (55)(a)(i) is  
2475 operational as described in Subsection (55)(a)(iii); or  
2476 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described  
2477 in Subsection (55)(a)(iii);  
2478 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but  
2479 on or before June 30, 2019, of machinery or equipment that:  
2480 (i) is leased or purchased for or by a facility that:  
2481 (A) is a waste energy production facility;  
2482 (B) is located in the state; and  
2483 (C) (I) becomes operational on or after July 1, 2004; or  
2484 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
2485 2004, as a result of the use of the machinery or equipment;  
2486 (ii) has an economic life of five or more years; and  
2487 (iii) is used to make the facility or the increase in capacity of the facility described in  
2488 Subsection (56)(a)(i) operational up to the point of interconnection with an existing  
2489 transmission grid including:  
2490 (A) generating equipment;  
2491 (B) a control and monitoring system;  
2492 (C) a power line;  
2493 (D) substation equipment;

- 2494 (E) lighting;
- 2495 (F) fencing;
- 2496 (G) pipes; or
- 2497 (H) other equipment used for locating a power line or pole; and
- 2498 (b) this Subsection (56) does not apply to:
- 2499 (i) machinery or equipment used in construction of:
- 2500 (A) a new waste energy facility; or
- 2501 (B) the increase in the capacity of a waste energy facility;
- 2502 (ii) contracted services required for construction and routine maintenance activities;
- 2503 and
- 2504 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
- 2505 described in Subsection (56)(a)(i)(C)(II), machinery or equipment used or acquired after:
- 2506 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
- 2507 described in Subsection (56)(a)(iii); or
- 2508 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
- 2509 in Subsection (56)(a)(iii);
- 2510 (57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
- 2511 or before June 30, 2019, of machinery or equipment that:
- 2512 (i) is leased or purchased for or by a facility that:
- 2513 (A) is located in the state;
- 2514 (B) produces fuel from biomass energy including:
- 2515 (I) methanol; or
- 2516 (II) ethanol; and
- 2517 (C) (I) becomes operational on or after July 1, 2004; or
- 2518 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
- 2519 a result of the installation of the machinery or equipment;
- 2520 (ii) has an economic life of five or more years; and
- 2521 (iii) is installed on the facility described in Subsection (57)(a)(I);

- 2522 (b) this Subsection (57) does not apply to:
- 2523 (i) machinery or equipment used in construction of:
- 2524 (A) a new facility described in Subsection (57)(a)(i); or
- 2525 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
- 2526 (ii) contracted services required for construction and routine maintenance activities;
- 2527 and
- 2528 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
- 2529 described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or acquired after:
- 2530 (A) the facility described in Subsection (57)(a)(i) is operational; or
- 2531 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
- 2532 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
- 2533 product transferred electronically to a person within this state if that tangible personal property
- 2534 or product transferred electronically is subsequently shipped outside the state and incorporated
- 2535 pursuant to contract into and becomes a part of real property located outside of this state;
- 2536 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
- 2537 state or political entity to which the tangible personal property is shipped imposes a sales, use,
- 2538 gross receipts, or other similar transaction excise tax on the transaction against which the other
- 2539 state or political entity allows a credit for sales and use taxes imposed by this chapter; and
- 2540 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
- 2541 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
- 2542 refund:
- 2543 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;
- 2544 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
- 2545 which the sale is made;
- 2546 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
- 2547 sale prior to filing for the refund;
- 2548 (iv) for sales and use taxes paid under this chapter on the sale;
- 2549 (v) in accordance with Section 59-1-1410; and

2550 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if  
2551 the person files for the refund on or before June 30, 2011;

2552 (59) purchases:

2553 (a) of one or more of the following items in printed or electronic format:

2554 (i) a list containing information that includes one or more:

2555 (A) names; or

2556 (B) addresses; or

2557 (ii) a database containing information that includes one or more:

2558 (A) names; or

2559 (B) addresses; and

2560 (b) used to send direct mail;

2561 (60) redemptions or repurchases of a product by a person if that product was:

2562 (a) delivered to a pawnbroker as part of a pawn transaction; and

2563 (b) redeemed or repurchased within the time period established in a written agreement  
2564 between the person and the pawnbroker for redeeming or repurchasing the product;

2565 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

2566 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;

2567 and

2568 (ii) has a useful economic life of one or more years; and

2569 (b) the following apply to Subsection (61)(a):

2570 (i) telecommunications enabling or facilitating equipment, machinery, or software;

2571 (ii) telecommunications equipment, machinery, or software required for 911 service;

2572 (iii) telecommunications maintenance or repair equipment, machinery, or software;

2573 (iv) telecommunications switching or routing equipment, machinery, or software; or

2574 (v) telecommunications transmission equipment, machinery, or software;

2575 (62) (a) beginning on July 1, 2006, and ending on June 30, 2016, purchases of tangible  
2576 personal property or a product transferred electronically that are used in the research and  
2577 development of coal-to-liquids, oil shale, or tar sands technology; and

2578 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2579 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes  
2580 purchases of tangible personal property or a product transferred electronically that are used in  
2581 the research and development of coal-to-liquids, oil shale, and tar sands technology;

2582 (63) (a) purchases of tangible personal property or a product transferred electronically  
2583 if:

2584 (i) the tangible personal property or product transferred electronically is:

2585 (A) purchased outside of this state;

2586 (B) brought into this state at any time after the purchase described in Subsection

2587 (63)(a)(i)(A); and

2588 (C) used in conducting business in this state; and

2589 (ii) for:

2590 (A) tangible personal property or a product transferred electronically other than the  
2591 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property  
2592 for a purpose for which the property is designed occurs outside of this state; or

2593 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
2594 outside of this state;

2595 (b) the exemption provided for in Subsection (63)(a) does not apply to:

2596 (i) a lease or rental of tangible personal property or a product transferred electronically;

2597 or

2598 (ii) a sale of a vehicle exempt under Subsection (33); and

2599 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
2600 purposes of Subsection (63)(a), the commission may by rule define what constitutes the  
2601 following:

2602 (i) conducting business in this state if that phrase has the same meaning in this  
2603 Subsection (63) as in Subsection (24);

2604 (ii) the first use of tangible personal property or a product transferred electronically if  
2605 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

- 2606 (iii) a purpose for which tangible personal property or a product transferred  
2607 electronically is designed if that phrase has the same meaning in this Subsection (63) as in  
2608 Subsection (24);
- 2609 (64) sales of disposable home medical equipment or supplies if:
- 2610 (a) a person presents a prescription for the disposable home medical equipment or  
2611 supplies;
- 2612 (b) the disposable home medical equipment or supplies are used exclusively by the  
2613 person to whom the prescription described in Subsection (64)(a) is issued; and
- 2614 (c) the disposable home medical equipment and supplies are listed as eligible for  
2615 payment under:
- 2616 (i) Title XVIII, federal Social Security Act; or  
2617 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- 2618 (65) sales:
- 2619 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit  
2620 District Act; or
- 2621 (b) of tangible personal property to a subcontractor of a public transit district, if the  
2622 tangible personal property is:
- 2623 (i) clearly identified; and  
2624 (ii) installed or converted to real property owned by the public transit district;
- 2625 (66) sales of construction materials:
- 2626 (a) purchased on or after July 1, 2010;  
2627 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 2628 (i) located within a county of the first class; and  
2629 (ii) that has a United States customs office on its premises; and
- 2630 (c) if the construction materials are:
- 2631 (i) clearly identified;  
2632 (ii) segregated; and  
2633 (iii) installed or converted to real property;

- 2634 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 2635 (B) located at the international airport described in Subsection (66)(b);
- 2636 (67) sales of construction materials:
- 2637 (a) purchased on or after July 1, 2008;
- 2638 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 2639 (i) located within a county of the second class; and
- 2640 (ii) that is owned or operated by a city in which an airline as defined in Section
- 2641 59-2-102 is headquartered; and
- 2642 (c) if the construction materials are:
- 2643 (i) clearly identified;
- 2644 (ii) segregated; and
- 2645 (iii) installed or converted to real property:
- 2646 (A) owned or operated by the new airport described in Subsection (67)(b);
- 2647 (B) located at the new airport described in Subsection (67)(b); and
- 2648 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 2649 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 2650 (69) purchases and sales described in Section 63H-4-111;
- 2651 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 2652 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 2653 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 2654 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 2655 powered aircraft; or
- 2656 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 2657 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 2658 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 2659 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 2660 powered aircraft;
- 2661 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

2662 (a) to a person admitted to an institution of higher education; and  
2663 (b) by a seller, other than a bookstore owned by an institution of higher education, if  
2664 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a  
2665 textbook for a higher education course; and  
2666 (72) a license fee or tax a municipality imposes in accordance with Subsection  
2667 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced  
2668 level of municipal services.  
2669 Section 4. **Effective date.**  
2670 This bill takes effect on July 1, 2012.