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**ECONOMIC DEVELOPMENT REVISIONS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

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

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**LONG TITLE**

**General Description:**

This bill modifies the Sales and Use Tax Act.

**Highlighted Provisions:**

This bill:

- ▶ defines "qualifying enterprise data center";
  - ▶ provides certain sales and use tax exemptions for a qualifying enterprise data center;
- and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

**59-12-102**, as last amended by Laws of Utah 2015, Chapters 182, 294, and 461

**59-12-104**, as last amended by Laws of Utah 2015, Chapters 11, 294, and 353

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

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

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



28 As used in this chapter:

29 (1) "800 service" means a telecommunications service that:

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

31 (b) is typically marketed:

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

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

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

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

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

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

38 Federal Communications Commission.

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

40 (i) a subscriber purchases;

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

43 (A) prerecorded announcement; or

44 (B) live service; and

45 (iii) is typically marketed:

46 (A) under the name 900 service; or

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

48 Communications Commission.

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

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

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

53 (A) a product; or

54 (B) a service.

55 (3) (a) "Admission or user fees" includes season passes.

56 (b) "Admission or user fees" does not include annual membership dues to private  
57 organizations.

58 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on

59 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax  
60 Agreement after November 12, 2002.

61 (5) "Agreement combined tax rate" means the sum of the tax rates:

62 (a) listed under Subsection (6); and

63 (b) that are imposed within a local taxing jurisdiction.

64 (6) "Agreement sales and use tax" means a tax imposed under:

65 (a) Subsection 59-12-103(2)(a)(i)(A);

66 (b) Subsection 59-12-103(2)(b)(i);

67 (c) Subsection 59-12-103(2)(c)(i);

68 (d) Subsection 59-12-103(2)(d)(i)(A)(I);

69 (e) Section 59-12-204;

70 (f) Section 59-12-401;

71 (g) Section 59-12-402;

72 (h) Section 59-12-402.1;

73 (i) Section 59-12-703;

74 (j) Section 59-12-802;

75 (k) Section 59-12-804;

76 (l) Section 59-12-1102;

77 (m) Section 59-12-1302;

78 (n) Section 59-12-1402;

79 (o) Section 59-12-1802;

80 (p) Section 59-12-2003;

81 (q) Section 59-12-2103;

82 (r) Section 59-12-2213;

83 (s) Section 59-12-2214;

84 (t) Section 59-12-2215;

85 (u) Section 59-12-2216;

86 (v) Section 59-12-2217; or

87 (w) Section 59-12-2218.

88 (7) "Aircraft" ~~is as~~ means the same as that term is defined in Section 72-10-102.

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

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

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

152 device that is started and stopped by an individual:

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

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

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

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

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

164 (16) "Authorized carrier" means:

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

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

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

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

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

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

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

178 (B) animal waste;

179 (C) waste vegetable oil;

180 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of  
181 wastewater residuals, or through the conversion of a waste material through a nonincineration,  
182 thermal conversion process;

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

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

216 (A) that retail sale includes:

217 (I) food and food ingredients;

218 (II) a drug;

219 (III) durable medical equipment;

220 (IV) mobility enhancing equipment;

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

222 (VI) a prosthetic device; or

223 (VII) a medical supply; and

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

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

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

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

231 (A) packaging that:

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

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

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

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

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

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



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

248 (A) a binding sales document; or

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

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

252 (A) a bill of sale;

253 (B) a contract;

254 (C) an invoice;

255 (D) a lease agreement;

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

257 (F) a price list;

258 (G) a rate card;

259 (H) a receipt; or

260 (I) a service agreement.

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

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

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

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

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

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

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

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

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

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

284 (i) on a transaction; and

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

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

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

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

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

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

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

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

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

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

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

302 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other  
303 fuels that does not constitute industrial use under Subsection (56) or residential use under  
304 Subsection (106).

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

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

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

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

315 (25) "Component part" includes:

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

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

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

321 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

345 (i) by a seller of:

346 (A) tangible personal property;

347 (B) a product transferred electronically; or

348 (C) services; and

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

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

353 (i) transportation;

354 (ii) shipping;

355 (iii) postage;

356 (iv) handling;

357 (v) crating; or

358 (vi) packing.

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

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

362 (a) is intended to supplement the diet;

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

364 (i) a vitamin;

365 (ii) a mineral;

366 (iii) an herb or other botanical;

367 (iv) an amino acid;

368 (v) a dietary substance for use by humans to supplement the diet by increasing the total

369 dietary intake; or

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

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

373 (A) tablet form;

374 (B) capsule form;

375 (C) powder form;

376 (D) softgel form;

377 (E) gelcap form; or

378 (F) liquid form; or

379 (ii) if the product is not intended for ingestion in a form described in Subsections  
380 (34)(c)(i)(A) through (F), is not represented:

381 (A) as conventional food; and

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

383 (I) a meal; or

384 (II) the diet; and

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

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

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

388 (35) "Digital audio-visual work" means a series of related images which, when shown  
389 in succession, imparts an impression of motion, together with accompanying sounds, if any.

390 (36) (a) "Digital audio work" means a work that results from the fixation of a series of  
391 musical, spoken, or other sounds.

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

393 (37) "Digital book" means a work that is generally recognized in the ordinary and usual  
394 sense as a book.

395 (38) (a) "Direct mail" means printed material delivered or distributed by United States  
396 mail or other delivery service:

397 (i) to:

398 (A) a mass audience; or

399 (B) addressees on a mailing list provided:

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

431 (b) with respect to which 51% or more of the manufacturing activities of the facility  
432 consist of manufacturing component parts of drilling equipment;

433 (c) that uses pressure of 800,000 or more pounds per square inch as part of the  
434 manufacturing process; and

435 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the  
436 manufacturing process.

437 (42) (a) "Drug" means a compound, substance, or preparation, or a component of a  
438 compound, substance, or preparation that is:

439 (i) recognized in:

440 (A) the official United States Pharmacopoeia;

441 (B) the official Homeopathic Pharmacopoeia of the United States;

442 (C) the official National Formulary; or

443 (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);

444 (ii) intended for use in the:

445 (A) diagnosis of disease;

446 (B) cure of disease;

447 (C) mitigation of disease;

448 (D) treatment of disease; or

449 (E) prevention of disease; or

450 (iii) intended to affect:

451 (A) the structure of the body; or

452 (B) any function of the body.

453 (b) "Drug" does not include:

454 (i) food and food ingredients;

455 (ii) a dietary supplement;

456 (iii) an alcoholic beverage; or

457 (iv) a prosthetic device.

458 (43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means  
459 equipment that:

460 (i) can withstand repeated use;

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

- 462 (iii) generally is not useful to a person in the absence of illness or injury; and
- 463 (iv) is not worn in or on the body.
- 464 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 465 equipment described in Subsection (43)(a).
- 466 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 467 (44) "Electronic" means:
- 468 (a) relating to technology; and
- 469 (b) having:
- 470 (i) electrical capabilities;
- 471 (ii) digital capabilities;
- 472 (iii) magnetic capabilities;
- 473 (iv) wireless capabilities;
- 474 (v) optical capabilities;
- 475 (vi) electromagnetic capabilities; or
- 476 (vii) capabilities similar to Subsections (44)(b)(i) through (vi).
- 477 (45) "Electronic financial payment service" means an establishment:
- 478 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 479 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 480 federal Executive Office of the President, Office of Management and Budget; and
- 481 (b) that performs electronic financial payment services.
- 482 (46) "Employee" [~~is as~~] means the same as that term is defined in Section 59-10-401.
- 483 (47) "Fixed guideway" means a public transit facility that uses and occupies:
- 484 (a) rail for the use of public transit; or
- 485 (b) a separate right-of-way for the use of public transit.
- 486 (48) "Fixed wing turbine powered aircraft" means an aircraft that:
- 487 (a) is powered by turbine engines;
- 488 (b) operates on jet fuel; and
- 489 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 490 (49) "Fixed wireless service" means a telecommunications service that provides radio
- 491 communication between fixed points.
- 492 (50) (a) "Food and food ingredients" means substances:



- 493 (i) regardless of whether the substances are in:  
494 (A) liquid form;  
495 (B) concentrated form;  
496 (C) solid form;  
497 (D) frozen form;  
498 (E) dried form; or  
499 (F) dehydrated form; and  
500 (ii) that are:  
501 (A) sold for:  
502 (I) ingestion by humans; or  
503 (II) chewing by humans; and  
504 (B) consumed for the substance's:  
505 (I) taste; or  
506 (II) nutritional value.  
507 (b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).  
508 (c) "Food and food ingredients" does not include:  
509 (i) an alcoholic beverage;  
510 (ii) tobacco; or  
511 (iii) prepared food.  
512 (51) (a) "Fundraising sales" means sales:  
513 (i) (A) made by a school; or  
514 (B) made by a school student;  
515 (ii) that are for the purpose of raising funds for the school to purchase equipment,  
516 materials, or provide transportation; and  
517 (iii) that are part of an officially sanctioned school activity.  
518 (b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity"  
519 means a school activity:  
520 (i) that is conducted in accordance with a formal policy adopted by the school or school  
521 district governing the authorization and supervision of fundraising activities;  
522 (ii) that does not directly or indirectly compensate an individual teacher or other  
523 educational personnel by direct payment, commissions, or payment in kind; and

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

526 (52) "Geothermal energy" means energy contained in heat that continuously flows  
527 outward from the earth that is used as the sole source of energy to produce electricity.

528 (53) "Governing board of the agreement" means the governing board of the agreement  
529 that is:

530 (a) authorized to administer the agreement; and

531 (b) established in accordance with the agreement.

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

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

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

537 (iii) the legislative branch of the state, including the House of Representatives, the  
538 Senate, the Legislative Printing Office, the Office of Legislative Research and General  
539 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal  
540 Analyst;

541 (iv) the National Guard;

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

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

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

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

547 (ii) a school;

548 (iii) the State Board of Education;

549 (iv) the State Board of Regents; or

550 (v) an institution of higher education.

551 (55) "Hydroelectric energy" means water used as the sole source of energy to produce  
552 electricity.

553 (56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or  
554 other fuels:

- 555 (a) in mining or extraction of minerals;
- 556 (b) in agricultural operations to produce an agricultural product up to the time of
- 557 harvest or placing the agricultural product into a storage facility, including:
- 558 (i) commercial greenhouses;
- 559 (ii) irrigation pumps;
- 560 (iii) farm machinery;
- 561 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
- 562 under Title 41, Chapter 1a, Part 2, Registration; and
- 563 (v) other farming activities;
- 564 (c) in manufacturing tangible personal property at an establishment described in SIC
- 565 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 566 Executive Office of the President, Office of Management and Budget;
- 567 (d) by a scrap recycler if:
- 568 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 569 one or more of the following items into prepared grades of processed materials for use in new
- 570 products:
- 571 (A) iron;
- 572 (B) steel;
- 573 (C) nonferrous metal;
- 574 (D) paper;
- 575 (E) glass;
- 576 (F) plastic;
- 577 (G) textile; or
- 578 (H) rubber; and
- 579 (ii) the new products under Subsection (56)(d)(i) would otherwise be made with
- 580 nonrecycled materials; or
- 581 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
- 582 cogeneration facility as defined in Section 54-2-1.
- 583 (57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge
- 584 for installing:
- 585 (i) tangible personal property; or

- 586 (ii) a product transferred electronically.
- 587 (b) "Installation charge" does not include a charge for:
- 588 (i) repairs or renovations of:
- 589 (A) tangible personal property; or
- 590 (B) a product transferred electronically; or
- 591 (ii) attaching tangible personal property or a product transferred electronically:
- 592 (A) to other tangible personal property; and
- 593 (B) as part of a manufacturing or fabrication process.
- 594 (58) "Institution of higher education" means an institution of higher education listed in
- 595 Section [53B-2-101](#).
- 596 (59) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 597 personal property or a product transferred electronically for:
- 598 (i) (A) a fixed term; or
- 599 (B) an indeterminate term; and
- 600 (ii) consideration.
- 601 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
- 602 amount of consideration may be increased or decreased by reference to the amount realized
- 603 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
- 604 Code.
- 605 (c) "Lease" or "rental" does not include:
- 606 (i) a transfer of possession or control of property under a security agreement or
- 607 deferred payment plan that requires the transfer of title upon completion of the required
- 608 payments;
- 609 (ii) a transfer of possession or control of property under an agreement that requires the
- 610 transfer of title:
- 611 (A) upon completion of required payments; and
- 612 (B) if the payment of an option price does not exceed the greater of:
- 613 (I) \$100; or
- 614 (II) 1% of the total required payments; or
- 615 (iii) providing tangible personal property along with an operator for a fixed period of
- 616 time or an indeterminate period of time if the operator is necessary for equipment to perform as

617 designed.

618 (d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to  
619 perform as designed if the operator's duties exceed the:

- 620 (i) set-up of tangible personal property;
- 621 (ii) maintenance of tangible personal property; or
- 622 (iii) inspection of tangible personal property.

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

- 626 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 627 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus  
628 Manufacturing; or
- 629 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

630 (61) "Life science research and development facility" means a facility owned, leased,  
631 or rented by a life science establishment if research and development is performed in 51% or  
632 more of the total area of the facility.

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

635 (63) "Local taxing jurisdiction" means a:

- 636 (a) county that is authorized to impose an agreement sales and use tax;
- 637 (b) city that is authorized to impose an agreement sales and use tax; or
- 638 (c) town that is authorized to impose an agreement sales and use tax.

639 (64) "Manufactured home" [~~is as~~] means the same as that term is defined in Section  
640 [15A-1-302](#).

641 (65) "Manufacturing facility" means:

- 642 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard  
643 Industrial Classification Manual of the federal Executive Office of the President, Office of  
644 Management and Budget;
- 645 (b) a scrap recycler if:
  - 646 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
647 one or more of the following items into prepared grades of processed materials for use in new

648 products:

649 (A) iron;

650 (B) steel;

651 (C) nonferrous metal;

652 (D) paper;

653 (E) glass;

654 (F) plastic;

655 (G) textile; or

656 (H) rubber; and

657 (ii) the new products under Subsection (65)(b)(i) would otherwise be made with

658 nonrecycled materials; or

659 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is

660 placed in service on or after May 1, 2006.

661 (66) "Member of the immediate family of the producer" means a person who is related

662 to a producer described in Subsection 59-12-104(20)(a) as a:

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

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

665 (ii) a foster child or foster stepchild;

666 (b) grandchild or stepgrandchild;

667 (c) grandparent or stepgrandparent;

668 (d) nephew or stepnephew;

669 (e) niece or stepniece;

670 (f) parent or stepparent;

671 (g) sibling or stepsibling;

672 (h) spouse;

673 (i) person who is the spouse of a person described in Subsections (66)(a) through (g);

674 or

675 (j) person similar to a person described in Subsections (66)(a) through (i) as

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

677 Administrative Rulemaking Act.

678 (67) "Mobile home" [~~is as~~] means the same as that term is defined in Section

679 15A-1-302.

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

682 (69) (a) "Mobile wireless service" means a telecommunications service, regardless of  
683 the technology used, if:

- 684 (i) the origination point of the conveyance, routing, or transmission is not fixed;  
685 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or  
686 (iii) the origination point described in Subsection (69)(a)(i) and the termination point  
687 described in Subsection (69)(a)(ii) are not fixed.

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

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

692 (70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment"  
693 means equipment that is:

- 694 (i) primarily and customarily used to provide or increase the ability to move from one  
695 place to another;  
696 (ii) appropriate for use in a:  
697 (A) home; or  
698 (B) motor vehicle; and  
699 (iii) not generally used by persons with normal mobility.

700 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of  
701 the equipment described in Subsection (70)(a).

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

- 703 (i) a motor vehicle;  
704 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor  
705 vehicle manufacturer;  
706 (iii) durable medical equipment; or  
707 (iv) a prosthetic device.

708 (71) "Model 1 seller" means a seller registered under the agreement that has selected a  
709 certified service provider as the seller's agent to perform all of the seller's sales and use tax

710 functions for agreement sales and use taxes other than the seller's obligation under Section  
711 [59-12-124](#) to remit a tax on the seller's own purchases.

712 (72) "Model 2 seller" means a seller registered under the agreement that:

713 (a) except as provided in Subsection (72)(b), has selected a certified automated system  
714 to perform the seller's sales tax functions for agreement sales and use taxes; and

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

716 (i) collected by the seller; and

717 (ii) to the appropriate local taxing jurisdiction.

718 (73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under  
719 the agreement that has:

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

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

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

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

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

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

726 (b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of  
727 sellers using the same proprietary system.

728 (74) "Model 4 seller" means a seller that is registered under the agreement and is not a  
729 model 1 seller, model 2 seller, or model 3 seller.

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

731 (76) "Motor vehicle" [~~is as~~] means the same as that term is defined in Section  
732 [41-1a-102](#).

733 (77) "Oil sands" means impregnated bituminous sands that:

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

736 (b) yield mixtures of liquid hydrocarbon; and

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

739 (78) "Oil shale" means a group of fine black to dark brown shales containing kerogen  
740 material that yields petroleum upon heating and distillation.



741 (79) "Optional computer software maintenance contract" means a computer software  
742 maintenance contract that a customer is not obligated to purchase as a condition to the retail  
743 sale of computer software.

744 (80) (a) "Other fuels" means products that burn independently to produce heat or  
745 energy.

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

748 (81) (a) "Paging service" means a telecommunications service that provides  
749 transmission of a coded radio signal for the purpose of activating a specific pager.

750 (b) For purposes of Subsection (81)(a), the transmission of a coded radio signal  
751 includes a transmission by message or sound.

752 (82) "Pawnbroker" [~~is as~~] means the same as that term is defined in Section  
753 13-32a-102.

754 (83) "Pawn transaction" [~~is as~~] means the same as that term is defined in Section  
755 13-32a-102.

756 (84) (a) "Permanently attached to real property" means that for tangible personal  
757 property attached to real property:

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

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

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

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

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

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

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

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

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

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

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

772 repair or renovation if the repair or renovation is performed where the tangible personal  
773 property and real property are located; or

774 (iii) property attached to oil, gas, or water pipelines, except for the property listed in  
775 Subsection (84)(c)(iii) or (iv).

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

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

779 (A) convenience;

780 (B) stability; or

781 (C) for an obvious temporary purpose;

782 (ii) the detachment of tangible personal property from real property except for the  
783 detachment described in Subsection (84)(b)(ii);

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

788 (A) a computer;

789 (B) a telephone;

790 (C) a television; or

791 (D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as  
792 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
793 Administrative Rulemaking Act; or

794 (iv) an item listed in Subsection (124)(c).

795 (85) "Person" includes any individual, firm, partnership, joint venture, association,  
796 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,  
797 municipality, district, or other local governmental entity of the state, or any group or  
798 combination acting as a unit.

799 (86) "Place of primary use":

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

- 803 (i) the residential street address of the customer; or
- 804 (ii) the primary business street address of the customer; or
- 805 (b) for mobile telecommunications service, is as defined in the Mobile
- 806 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 807 (87) (a) "Postpaid calling service" means a telecommunications service a person
- 808 obtains by making a payment on a call-by-call basis:
- 809 (i) through the use of a:
- 810 (A) bank card;
- 811 (B) credit card;
- 812 (C) debit card; or
- 813 (D) travel card; or
- 814 (ii) by a charge made to a telephone number that is not associated with the origination
- 815 or termination of the telecommunications service.
- 816 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
- 817 service, that would be a prepaid wireless calling service if the service were exclusively a
- 818 telecommunications service.
- 819 (88) "Postproduction" means an activity related to the finishing or duplication of a
- 820 medium described in Subsection [59-12-104\(54\)\(a\)](#).
- 821 (89) "Prepaid calling service" means a telecommunications service:
- 822 (a) that allows a purchaser access to telecommunications service that is exclusively
- 823 telecommunications service;
- 824 (b) that:
- 825 (i) is paid for in advance; and
- 826 (ii) enables the origination of a call using an:
- 827 (A) access number; or
- 828 (B) authorization code;
- 829 (c) that is dialed:
- 830 (i) manually; or
- 831 (ii) electronically; and
- 832 (d) sold in predetermined units or dollars that decline:
- 833 (i) by a known amount; and

- 834 (ii) with use.
- 835 (90) "Prepaid wireless calling service" means a telecommunications service:
- 836 (a) that provides the right to utilize:
- 837 (i) mobile wireless service; and
- 838 (ii) other service that is not a telecommunications service, including:
- 839 (A) the download of a product transferred electronically;
- 840 (B) a content service; or
- 841 (C) an ancillary service;
- 842 (b) that:
- 843 (i) is paid for in advance; and
- 844 (ii) enables the origination of a call using an:
- 845 (A) access number; or
- 846 (B) authorization code;
- 847 (c) that is dialed:
- 848 (i) manually; or
- 849 (ii) electronically; and
- 850 (d) sold in predetermined units or dollars that decline:
- 851 (i) by a known amount; and
- 852 (ii) with use.
- 853 (91) (a) "Prepared food" means:
- 854 (i) food:
- 855 (A) sold in a heated state; or
- 856 (B) heated by a seller;
- 857 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 858 item; or
- 859 (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided
- 860 by the seller, including a:
- 861 (A) plate;
- 862 (B) knife;
- 863 (C) fork;
- 864 (D) spoon;

- 865 (E) glass;
- 866 (F) cup;
- 867 (G) napkin; or
- 868 (H) straw.
- 869 (b) "Prepared food" does not include:
- 870 (i) food that a seller only:
- 871 (A) cuts;
- 872 (B) repackages; or
- 873 (C) pasteurizes; or
- 874 (ii) (A) the following:
- 875 (I) raw egg;
- 876 (II) raw fish;
- 877 (III) raw meat;
- 878 (IV) raw poultry; or
- 879 (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);
- 880 and
- 881 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 882 Food and Drug Administration's Food Code that a consumer cook the items described in
- 883 Subsection (91)(b)(ii)(A) to prevent food borne illness; or
- 884 (iii) the following if sold without eating utensils provided by the seller:
- 885 (A) food and food ingredients sold by a seller if the seller's proper primary
- 886 classification under the 2002 North American Industry Classification System of the federal
- 887 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 888 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 889 Manufacturing;
- 890 (B) food and food ingredients sold in an unheated state:
- 891 (I) by weight or volume; and
- 892 (II) as a single item; or
- 893 (C) a bakery item, including:
- 894 (I) a bagel;
- 895 (II) a bar;

- 896 (III) a biscuit;
  - 897 (IV) bread;
  - 898 (V) a bun;
  - 899 (VI) a cake;
  - 900 (VII) a cookie;
  - 901 (VIII) a croissant;
  - 902 (IX) a danish;
  - 903 (X) a donut;
  - 904 (XI) a muffin;
  - 905 (XII) a pastry;
  - 906 (XIII) a pie;
  - 907 (XIV) a roll;
  - 908 (XV) a tart;
  - 909 (XVI) a torte; or
  - 910 (XVII) a tortilla.
- 911 (c) An eating utensil provided by the seller does not include the following used to
- 912 transport the food:
- 913 (i) a container; or
  - 914 (ii) packaging.
- 915 (92) "Prescription" means an order, formula, or recipe that is issued:
- 916 (a) (i) orally;
  - 917 (ii) in writing;
  - 918 (iii) electronically; or
  - 919 (iv) by any other manner of transmission; and
  - 920 (b) by a licensed practitioner authorized by the laws of a state.
- 921 (93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer
- 922 software" means computer software that is not designed and developed:
- 923 (i) by the author or other creator of the computer software; and
  - 924 (ii) to the specifications of a specific purchaser.
- 925 (b) "Prewritten computer software" includes:
- 926 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer

927 software is not designed and developed:

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

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

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

933 (iii) except as provided in Subsection (93)(c), prewritten computer software or a  
934 prewritten portion of prewritten computer software:

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

936 (B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is  
937 designed and developed to the specifications of a specific purchaser.

938 (c) "Prewritten computer software" does not include a modification or enhancement  
939 described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:

940 (i) reasonable; and

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

944 (A) the books and records the seller keeps at the time of the transaction in the regular  
945 course of business, including books and records the seller keeps at the time of the transaction in  
946 the regular course of business for nontax purposes;

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

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

949 (94) (a) "Private communications service" means a telecommunications service:

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

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

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

956 (i) an extension line;

957 (ii) a station;

958 (iii) switching capacity; or  
959 (iv) another associated service that is provided in connection with the use of one or  
960 more communications channels as defined in Section 59-12-215.

961 (95) (a) Except as provided in Subsection (95)(b), "product transferred electronically"  
962 means a product transferred electronically that would be subject to a tax under this chapter if  
963 that product was transferred in a manner other than electronically.

964 (b) "Product transferred electronically" does not include:  
965 (i) an ancillary service;  
966 (ii) computer software; or  
967 (iii) a telecommunications service.

968 (96) (a) "Prosthetic device" means a device that is worn on or in the body to:  
969 (i) artificially replace a missing portion of the body;  
970 (ii) prevent or correct a physical deformity or physical malfunction; or  
971 (iii) support a weak or deformed portion of the body.

972 (b) "Prosthetic device" includes:  
973 (i) parts used in the repairs or renovation of a prosthetic device;  
974 (ii) replacement parts for a prosthetic device;  
975 (iii) a dental prosthesis; or  
976 (iv) a hearing aid.

977 (c) "Prosthetic device" does not include:  
978 (i) corrective eyeglasses; or  
979 (ii) contact lenses.

980 (97) (a) "Protective equipment" means an item:  
981 (i) for human wear; and  
982 (ii) that is:  
983 (A) designed as protection:  
984 (I) to the wearer against injury or disease; or  
985 (II) against damage or injury of other persons or property; and  
986 (B) not suitable for general use.

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



- 989 (i) listing the items that constitute "protective equipment"; and
- 990 (ii) that are consistent with the list of items that constitute "protective equipment"
- 991 under the agreement.

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

- 994 (i) regardless of:
  - 995 (A) characteristics;
  - 996 (B) copyright;
  - 997 (C) form;
  - 998 (D) format;
  - 999 (E) method of reproduction; or
  - 1000 (F) source; and

1001 (ii) made available in printed or electronic format.

1002 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1003 commission may by rule define the term "photocopy."

1004 (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:

- 1005 (i) valued in money; and
- 1006 (ii) for which tangible personal property, a product transferred electronically, or  
1007 services are:

- 1008 (A) sold;
- 1009 (B) leased; or
- 1010 (C) rented.

1011 (b) "Purchase price" and "sales price" include:

- 1012 (i) the seller's cost of the tangible personal property, a product transferred  
1013 electronically, or services sold;
- 1014 (ii) expenses of the seller, including:
  - 1015 (A) the cost of materials used;
  - 1016 (B) a labor cost;
  - 1017 (C) a service cost;
  - 1018 (D) interest;
  - 1019 (E) a loss;

- 1020 (F) the cost of transportation to the seller; or
- 1021 (G) a tax imposed on the seller;
- 1022 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1023 (iv) consideration a seller receives from a person other than the purchaser if:
- 1024 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 1025 and
- 1026 (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a
- 1027 price reduction or discount on the sale;
- 1028 (B) the seller has an obligation to pass the price reduction or discount through to the
- 1029 purchaser;
- 1030 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 1031 the seller at the time of the sale to the purchaser; and
- 1032 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 1033 seller to claim a price reduction or discount; and
- 1034 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 1035 coupon, or other documentation with the understanding that the person other than the seller
- 1036 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 1037 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 1038 organization allowed a price reduction or discount, except that a preferred customer card that is
- 1039 available to any patron of a seller does not constitute membership in a group or organization
- 1040 allowed a price reduction or discount; or
- 1041 (III) the price reduction or discount is identified as a third party price reduction or
- 1042 discount on the:
- 1043 (Aa) invoice the purchaser receives; or
- 1044 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 1045 (c) "Purchase price" and "sales price" do not include:
- 1046 (i) a discount:
- 1047 (A) in a form including:
- 1048 (I) cash;
- 1049 (II) term; or
- 1050 (III) coupon;

- 1051 (B) that is allowed by a seller;
- 1052 (C) taken by a purchaser on a sale; and
- 1053 (D) that is not reimbursed by a third party; or
- 1054 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
- 1055 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
- 1056 sale or later, as demonstrated by the books and records the seller keeps at the time of the
- 1057 transaction in the regular course of business, including books and records the seller keeps at the
- 1058 time of the transaction in the regular course of business for nontax purposes, by a
- 1059 preponderance of the facts and circumstances at the time of the transaction, and by the
- 1060 understanding of all of the parties to the transaction:
  - 1061 (A) the following from credit extended on the sale of tangible personal property or
  - 1062 services:
    - 1063 (I) a carrying charge;
    - 1064 (II) a financing charge; or
    - 1065 (III) an interest charge;
    - 1066 (B) a delivery charge;
    - 1067 (C) an installation charge;
    - 1068 (D) a manufacturer rebate on a motor vehicle; or
    - 1069 (E) a tax or fee legally imposed directly on the consumer.
  - 1070 (100) "Purchaser" means a person to whom:
    - 1071 (a) a sale of tangible personal property is made;
    - 1072 (b) a product is transferred electronically; or
    - 1073 (c) a service is furnished.
  - 1074 (101) "Qualifying enterprise data center" means an establishment that will:
    - 1075 (a) own and operate a data center facility that will house a group of networked server
    - 1076 computers in one physical location in order to centralize the dissemination, management, and
    - 1077 storage of data and information;
      - 1078 (b) be located in the state;
      - 1079 (c) be a new operation constructed on or after January 1, 2016;
      - 1080 (d) consist of one or more buildings that total 150,000 or more square feet;
      - 1081 (e) be owned or leased by:

1082            (i) the establishment; or  
1083            (ii) a person under common ownership, as defined in Section 59-7-101, of the  
1084 establishment; and

1085            (f) be located on 50 or more acres on one or more parcels of land that are owned or  
1086 leased by:

1087            (i) the establishment; or  
1088            (ii) a person under common ownership, as defined in Section 59-7-101, of the  
1089 establishment.

1090            [~~(101)~~] (102) "Regularly rented" means:

1091            (a) rented to a guest for value three or more times during a calendar year; or  
1092            (b) advertised or held out to the public as a place that is regularly rented to guests for  
1093 value.

1094            [~~(102)~~] (103) "Rental" [~~is as~~] means the same as that term is defined in Subsection  
1095 (59).

1096            [~~(103)~~] (104) (a) Except as provided in Subsection [~~(103)~~] (104)(b), "repairs or  
1097 renovations of tangible personal property" means:

1098            (i) a repair or renovation of tangible personal property that is not permanently attached  
1099 to real property; or

1100            (ii) attaching tangible personal property or a product transferred electronically to other  
1101 tangible personal property or detaching tangible personal property or a product transferred  
1102 electronically from other tangible personal property if:

1103            (A) the other tangible personal property to which the tangible personal property or  
1104 product transferred electronically is attached or from which the tangible personal property or  
1105 product transferred electronically is detached is not permanently attached to real property; and

1106            (B) the attachment of tangible personal property or a product transferred electronically  
1107 to other tangible personal property or detachment of tangible personal property or a product  
1108 transferred electronically from other tangible personal property is made in conjunction with a  
1109 repair or replacement of tangible personal property or a product transferred electronically.

1110            (b) "Repairs or renovations of tangible personal property" does not include:

1111            (i) attaching prewritten computer software to other tangible personal property if the  
1112 other tangible personal property to which the prewritten computer software is attached is not

1113 permanently attached to real property; or

1114 (ii) detaching prewritten computer software from other tangible personal property if the  
1115 other tangible personal property from which the prewritten computer software is detached is  
1116 not permanently attached to real property.

1117 [~~(104)~~] (105) "Research and development" means the process of inquiry or  
1118 experimentation aimed at the discovery of facts, devices, technologies, or applications and the  
1119 process of preparing those devices, technologies, or applications for marketing.

1120 [~~(105)~~] (106) (a) "Residential telecommunications services" means a  
1121 telecommunications service or an ancillary service that is provided to an individual for personal  
1122 use:

1123 (i) at a residential address; or

1124 (ii) at an institution, including a nursing home or a school, if the telecommunications  
1125 service or ancillary service is provided to and paid for by the individual residing at the  
1126 institution rather than the institution.

1127 (b) For purposes of Subsection [~~(105)~~] (106)(a)(i), a residential address includes an:

1128 (i) apartment; or

1129 (ii) other individual dwelling unit.

1130 [~~(106)~~] (107) "Residential use" means the use in or around a home, apartment building,  
1131 sleeping quarters, and similar facilities or accommodations.

1132 [~~(107)~~] (108) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose  
1133 other than:

1134 (a) resale;

1135 (b) sublease; or

1136 (c) subrent.

1137 [~~(108)~~] (109) (a) "Retailer" means any person engaged in a regularly organized  
1138 business in tangible personal property or any other taxable transaction under Subsection  
1139 59-12-103(1), and who is selling to the user or consumer and not for resale.

1140 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
1141 engaged in the business of selling to users or consumers within the state.

1142 [~~(109)~~] (110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
1143 otherwise, in any manner, of tangible personal property or any other taxable transaction under

1144 Subsection ~~59-12-103~~(1), for consideration.

1145 (b) "Sale" includes:

1146 (i) installment and credit sales;

1147 (ii) any closed transaction constituting a sale;

1148 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
1149 chapter;

1150 (iv) any transaction if the possession of property is transferred but the seller retains the  
1151 title as security for the payment of the price; and

1152 (v) any transaction under which right to possession, operation, or use of any article of  
1153 tangible personal property is granted under a lease or contract and the transfer of possession  
1154 would be taxable if an outright sale were made.

1155 [~~(110)~~] (111) "Sale at retail" [~~is as~~] means the same as that term is defined in  
1156 Subsection [~~(107)~~] (108).

1157 [~~(111)~~] (112) "Sale-leaseback transaction" means a transaction by which title to  
1158 tangible personal property or a product transferred electronically that is subject to a tax under  
1159 this chapter is transferred:

1160 (a) by a purchaser-lessee;

1161 (b) to a lessor;

1162 (c) for consideration; and

1163 (d) if:

1164 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase  
1165 of the tangible personal property or product transferred electronically;

1166 (ii) the sale of the tangible personal property or product transferred electronically to the  
1167 lessor is intended as a form of financing:

1168 (A) for the tangible personal property or product transferred electronically; and

1169 (B) to the purchaser-lessee; and

1170 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee  
1171 is required to:

1172 (A) capitalize the tangible personal property or product transferred electronically for  
1173 financial reporting purposes; and

1174 (B) account for the lease payments as payments made under a financing arrangement.

1175 [~~(H2)~~] (113) "Sales price" [~~is as~~] means the same as that term is defined in Subsection  
1176 (99).

1177 [~~(H3)~~] (114) (a) "Sales relating to schools" means the following sales by, amounts  
1178 paid to, or amounts charged by a school:

1179 (i) sales that are directly related to the school's educational functions or activities  
1180 including:

1181 (A) the sale of:

1182 (I) textbooks;

1183 (II) textbook fees;

1184 (III) laboratory fees;

1185 (IV) laboratory supplies; or

1186 (V) safety equipment;

1187 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1188 that:

1189 (I) a student is specifically required to wear as a condition of participation in a  
1190 school-related event or school-related activity; and

1191 (II) is not readily adaptable to general or continued usage to the extent that it takes the  
1192 place of ordinary clothing;

1193 (C) sales of the following if the net or gross revenues generated by the sales are  
1194 deposited into a school district fund or school fund dedicated to school meals:

1195 (I) food and food ingredients; or

1196 (II) prepared food; or

1197 (D) transportation charges for official school activities; or

1198 (ii) amounts paid to or amounts charged by a school for admission to a school-related  
1199 event or school-related activity.

1200 (b) "Sales relating to schools" does not include:

1201 (i) bookstore sales of items that are not educational materials or supplies;

1202 (ii) except as provided in Subsection [~~(H3)~~] (114)(a)(i)(B):

1203 (A) clothing;

1204 (B) clothing accessories or equipment;

1205 (C) protective equipment; or

1206 (D) sports or recreational equipment; or  
 1207 (iii) amounts paid to or amounts charged by a school for admission to a school-related  
 1208 event or school-related activity if the amounts paid or charged are passed through to a person:

1209 (A) other than a:

1210 (I) school;

1211 (II) nonprofit organization authorized by a school board or a governing body of a  
 1212 private school to organize and direct a competitive secondary school activity; or

1213 (III) nonprofit association authorized by a school board or a governing body of a  
 1214 private school to organize and direct a competitive secondary school activity; and

1215 (B) that is required to collect sales and use taxes under this chapter.

1216 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
 1217 commission may make rules defining the term "passed through."

1218 [~~(114)~~] (115) For purposes of this section and Section 59-12-104, "school":

1219 (a) means:

1220 (i) an elementary school or a secondary school that:

1221 (A) is a:

1222 (I) public school; or

1223 (II) private school; and

1224 (B) provides instruction for one or more grades kindergarten through 12; or

1225 (ii) a public school district; and

1226 (b) includes the Electronic High School as defined in Section 53A-15-1002.

1227 [~~(115)~~] (116) "Seller" means a person that makes a sale, lease, or rental of:

1228 (a) tangible personal property;

1229 (b) a product transferred electronically; or

1230 (c) a service.

1231 [~~(116)~~] (117) (a) "Semiconductor fabricating, processing, research, or development  
 1232 materials" means tangible personal property or a product transferred electronically if the  
 1233 tangible personal property or product transferred electronically is:

1234 (i) used primarily in the process of:

1235 (A) (I) manufacturing a semiconductor;

1236 (II) fabricating a semiconductor; or



- 1237 (III) research or development of a:
- 1238 (Aa) semiconductor; or
- 1239 (Bb) semiconductor manufacturing process; or
- 1240 (B) maintaining an environment suitable for a semiconductor; or
- 1241 (ii) consumed primarily in the process of:
- 1242 (A) (I) manufacturing a semiconductor;
- 1243 (II) fabricating a semiconductor; or
- 1244 (III) research or development of a:
- 1245 (Aa) semiconductor; or
- 1246 (Bb) semiconductor manufacturing process; or
- 1247 (B) maintaining an environment suitable for a semiconductor.
- 1248 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1249 includes:
- 1250 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1251 transferred electronically described in Subsection [~~(116)~~] (117)(a); or
- 1252 (ii) a chemical, catalyst, or other material used to:
- 1253 (A) produce or induce in a semiconductor a:
- 1254 (I) chemical change; or
- 1255 (II) physical change;
- 1256 (B) remove impurities from a semiconductor; or
- 1257 (C) improve the marketable condition of a semiconductor.
- 1258 [~~(117)~~] (118) "Senior citizen center" means a facility having the primary purpose of
- 1259 providing services to the aged as defined in Section 62A-3-101.
- 1260 [~~(118)~~] (119) (a) Subject to Subsections [~~(118)~~] (119)(b) and (c), "short-term lodging
- 1261 consumable" means tangible personal property that:
- 1262 (i) a business that provides accommodations and services described in Subsection
- 1263 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
- 1264 to a purchaser;
- 1265 (ii) is intended to be consumed by the purchaser; and
- 1266 (iii) is:
- 1267 (A) included in the purchase price of the accommodations and services; and

1268 (B) not separately stated on an invoice, bill of sale, or other similar document provided  
1269 to the purchaser.

1270 (b) "Short-term lodging consumable" includes:

1271 (i) a beverage;

1272 (ii) a brush or comb;

1273 (iii) a cosmetic;

1274 (iv) a hair care product;

1275 (v) lotion;

1276 (vi) a magazine;

1277 (vii) makeup;

1278 (viii) a meal;

1279 (ix) mouthwash;

1280 (x) nail polish remover;

1281 (xi) a newspaper;

1282 (xii) a notepad;

1283 (xiii) a pen;

1284 (xiv) a pencil;

1285 (xv) a razor;

1286 (xvi) saline solution;

1287 (xvii) a sewing kit;

1288 (xviii) shaving cream;

1289 (xix) a shoe shine kit;

1290 (xx) a shower cap;

1291 (xxi) a snack item;

1292 (xxii) soap;

1293 (xxiii) toilet paper;

1294 (xxiv) a toothbrush;

1295 (xxv) toothpaste; or

1296 (xxvi) an item similar to Subsections [~~(118)~~] (119)(b)(i) through (xxv) as the  
1297 commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah  
1298 Administrative Rulemaking Act.

- 1299 (c) "Short-term lodging consumable" does not include:
- 1300 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 1301 property to be reused; or
- 1302 (ii) a product transferred electronically.
- 1303 [~~(119)~~] (120) "Simplified electronic return" means the electronic return:
- 1304 (a) described in Section 318(C) of the agreement; and
- 1305 (b) approved by the governing board of the agreement.
- 1306 [~~(120)~~] (121) "Solar energy" means the sun used as the sole source of energy for
- 1307 producing electricity.
- 1308 [~~(121)~~] (122) (a) "Sports or recreational equipment" means an item:
- 1309 (i) designed for human use; and
- 1310 (ii) that is:
- 1311 (A) worn in conjunction with:
- 1312 (I) an athletic activity; or
- 1313 (II) a recreational activity; and
- 1314 (B) not suitable for general use.
- 1315 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1316 commission shall make rules:
- 1317 (i) listing the items that constitute "sports or recreational equipment"; and
- 1318 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1319 equipment" under the agreement.
- 1320 [~~(122)~~] (123) "State" means the state of Utah, its departments, and agencies.
- 1321 [~~(123)~~] (124) "Storage" means any keeping or retention of tangible personal property or
- 1322 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
- 1323 except sale in the regular course of business.
- 1324 [~~(124)~~] (125) (a) Except as provided in Subsection [~~(124)~~] (125)(d) or (e), "tangible
- 1325 personal property" means personal property that:
- 1326 (i) may be:
- 1327 (A) seen;
- 1328 (B) weighed;
- 1329 (C) measured;

- 1330 (D) felt; or
- 1331 (E) touched; or
- 1332 (ii) is in any manner perceptible to the senses.
- 1333 (b) "Tangible personal property" includes:
- 1334 (i) electricity;
- 1335 (ii) water;
- 1336 (iii) gas;
- 1337 (iv) steam; or
- 1338 (v) prewritten computer software, regardless of the manner in which the prewritten
- 1339 computer software is transferred.
- 1340 (c) "Tangible personal property" includes the following regardless of whether the item
- 1341 is attached to real property:
- 1342 (i) a dishwasher;
- 1343 (ii) a dryer;
- 1344 (iii) a freezer;
- 1345 (iv) a microwave;
- 1346 (v) a refrigerator;
- 1347 (vi) a stove;
- 1348 (vii) a washer; or
- 1349 (viii) an item similar to Subsections [~~(124)~~] (125)(c)(i) through (vii) as determined by
- 1350 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1351 Rulemaking Act.
- 1352 (d) "Tangible personal property" does not include a product that is transferred
- 1353 electronically.
- 1354 (e) "Tangible personal property" does not include the following if attached to real
- 1355 property, regardless of whether the attachment to real property is only through a line that
- 1356 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
- 1357 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1358 Rulemaking Act:
- 1359 (i) a hot water heater;
- 1360 (ii) a water filtration system; or

1361 (iii) a water softener system.

1362 [~~(125)~~] (126) (a) "Telecommunications enabling or facilitating equipment, machinery,  
1363 or software" means an item listed in Subsection [~~(125)~~] (126)(b) if that item is purchased or  
1364 leased primarily to enable or facilitate one or more of the following to function:

1365 (i) telecommunications switching or routing equipment, machinery, or software; or

1366 (ii) telecommunications transmission equipment, machinery, or software.

1367 (b) The following apply to Subsection [~~(125)~~] (126)(a):

1368 (i) a pole;

1369 (ii) software;

1370 (iii) a supplementary power supply;

1371 (iv) temperature or environmental equipment or machinery;

1372 (v) test equipment;

1373 (vi) a tower; or

1374 (vii) equipment, machinery, or software that functions similarly to an item listed in  
1375 Subsections [~~(125)~~] (126)(b)(i) through (vi) as determined by the commission by rule made in  
1376 accordance with Subsection [~~(125)~~] (126)(c).

1377 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1378 commission may by rule define what constitutes equipment, machinery, or software that  
1379 functions similarly to an item listed in Subsections [~~(125)~~] (126)(b)(i) through (vi).

1380 [~~(126)~~] (127) "Telecommunications equipment, machinery, or software required for  
1381 911 service" means equipment, machinery, or software that is required to comply with 47  
1382 C.F.R. Sec. 20.18.

1383 [~~(127)~~] (128) "Telecommunications maintenance or repair equipment, machinery, or  
1384 software" means equipment, machinery, or software purchased or leased primarily to maintain  
1385 or repair one or more of the following, regardless of whether the equipment, machinery, or  
1386 software is purchased or leased as a spare part or as an upgrade or modification to one or more  
1387 of the following:

1388 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1389 (b) telecommunications switching or routing equipment, machinery, or software; or

1390 (c) telecommunications transmission equipment, machinery, or software.

1391 [~~(128)~~] (129) (a) "Telecommunications service" means the electronic conveyance,

1392 routing, or transmission of audio, data, video, voice, or any other information or signal to a  
1393 point, or among or between points.

1394 (b) "Telecommunications service" includes:

1395 (i) an electronic conveyance, routing, or transmission with respect to which a computer  
1396 processing application is used to act:

1397 (A) on the code, form, or protocol of the content;

1398 (B) for the purpose of electronic conveyance, routing, or transmission; and

1399 (C) regardless of whether the service:

1400 (I) is referred to as voice over Internet protocol service; or

1401 (II) is classified by the Federal Communications Commission as enhanced or value  
1402 added;

1403 (ii) an 800 service;

1404 (iii) a 900 service;

1405 (iv) a fixed wireless service;

1406 (v) a mobile wireless service;

1407 (vi) a postpaid calling service;

1408 (vii) a prepaid calling service;

1409 (viii) a prepaid wireless calling service; or

1410 (ix) a private communications service.

1411 (c) "Telecommunications service" does not include:

1412 (i) advertising, including directory advertising;

1413 (ii) an ancillary service;

1414 (iii) a billing and collection service provided to a third party;

1415 (iv) a data processing and information service if:

1416 (A) the data processing and information service allows data to be:

1417 (I) (Aa) acquired;

1418 (Bb) generated;

1419 (Cc) processed;

1420 (Dd) retrieved; or

1421 (Ee) stored; and

1422 (II) delivered by an electronic transmission to a purchaser; and

- 1423 (B) the purchaser's primary purpose for the underlying transaction is the processed data  
 1424 or information;
- 1425 (v) installation or maintenance of the following on a customer's premises:
- 1426 (A) equipment; or
- 1427 (B) wiring;
- 1428 (vi) Internet access service;
- 1429 (vii) a paging service;
- 1430 (viii) a product transferred electronically, including:
- 1431 (A) music;
- 1432 (B) reading material;
- 1433 (C) a ring tone;
- 1434 (D) software; or
- 1435 (E) video;
- 1436 (ix) a radio and television audio and video programming service:
- 1437 (A) regardless of the medium; and
- 1438 (B) including:
- 1439 (I) furnishing conveyance, routing, or transmission of a television audio and video  
 1440 programming service by a programming service provider;
- 1441 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1442 (III) audio and video programming services delivered by a commercial mobile radio  
 1443 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1444 (x) a value-added nonvoice data service; or
- 1445 (xi) tangible personal property.
- 1446 ~~[(129)]~~ (130) (a) "Telecommunications service provider" means a person that:
- 1447 (i) owns, controls, operates, or manages a telecommunications service; and
- 1448 (ii) engages in an activity described in Subsection ~~[(129)]~~ (130)(a)(i) for the shared use  
 1449 with or resale to any person of the telecommunications service.
- 1450 (b) A person described in Subsection ~~[(129)]~~ (130)(a) is a telecommunications service  
 1451 provider whether or not the Public Service Commission ~~[of Utah]~~ regulates:
- 1452 (i) that person; or
- 1453 (ii) the telecommunications service that the person owns, controls, operates, or

1454 manages.

1455           ~~[(130)]~~ (131) (a) "Telecommunications switching or routing equipment, machinery, or  
1456 software" means an item listed in Subsection ~~[(130)]~~ (131)(b) if that item is purchased or  
1457 leased primarily for switching or routing:

- 1458           (i) an ancillary service;
- 1459           (ii) data communications;
- 1460           (iii) voice communications; or
- 1461           (iv) telecommunications service.

1462           (b) The following apply to Subsection ~~[(130)]~~ (131)(a):

- 1463           (i) a bridge;
- 1464           (ii) a computer;
- 1465           (iii) a cross connect;
- 1466           (iv) a modem;
- 1467           (v) a multiplexer;
- 1468           (vi) plug in circuitry;
- 1469           (vii) a router;
- 1470           (viii) software;
- 1471           (ix) a switch; or

1472           (x) equipment, machinery, or software that functions similarly to an item listed in  
1473 Subsections ~~[(130)]~~ (131)(b)(i) through (ix) as determined by the commission by rule made in  
1474 accordance with Subsection ~~[(130)]~~ (131)(c).

1475           (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1476 commission may by rule define what constitutes equipment, machinery, or software that  
1477 functions similarly to an item listed in Subsections ~~[(130)]~~ (131)(b)(i) through (ix).

1478           ~~[(131)]~~ (132) (a) "Telecommunications transmission equipment, machinery, or  
1479 software" means an item listed in Subsection ~~[(131)]~~ (132)(b) if that item is purchased or  
1480 leased primarily for sending, receiving, or transporting:

- 1481           (i) an ancillary service;
- 1482           (ii) data communications;
- 1483           (iii) voice communications; or
- 1484           (iv) telecommunications service.



- 1485 (b) The following apply to Subsection [~~(131)~~] (132)(a):
- 1486 (i) an amplifier;
- 1487 (ii) a cable;
- 1488 (iii) a closure;
- 1489 (iv) a conduit;
- 1490 (v) a controller;
- 1491 (vi) a duplexer;
- 1492 (vii) a filter;
- 1493 (viii) an input device;
- 1494 (ix) an input/output device;
- 1495 (x) an insulator;
- 1496 (xi) microwave machinery or equipment;
- 1497 (xii) an oscillator;
- 1498 (xiii) an output device;
- 1499 (xiv) a pedestal;
- 1500 (xv) a power converter;
- 1501 (xvi) a power supply;
- 1502 (xvii) a radio channel;
- 1503 (xviii) a radio receiver;
- 1504 (xix) a radio transmitter;
- 1505 (xx) a repeater;
- 1506 (xxi) software;
- 1507 (xxii) a terminal;
- 1508 (xxiii) a timing unit;
- 1509 (xxiv) a transformer;
- 1510 (xxv) a wire; or
- 1511 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1512 Subsections [~~(131)~~] (132)(b)(i) through (xxv) as determined by the commission by rule made in
- 1513 accordance with Subsection [~~(131)~~] (132)(c).
- 1514 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1515 commission may by rule define what constitutes equipment, machinery, or software that

1516 functions similarly to an item listed in Subsections [~~(131)~~] (132)(b)(i) through (xxv).

1517 [~~(132)~~] (133) (a) "Textbook for a higher education course" means a textbook or other  
1518 printed material that is required for a course:

1519 (i) offered by an institution of higher education; and

1520 (ii) that the purchaser of the textbook or other printed material attends or will attend.

1521 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1522 [~~(133)~~] (134) "Tobacco" means:

1523 (a) a cigarette;

1524 (b) a cigar;

1525 (c) chewing tobacco;

1526 (d) pipe tobacco; or

1527 (e) any other item that contains tobacco.

1528 [~~(134)~~] (135) "Unassisted amusement device" means an amusement device, skill

1529 device, or ride device that is started and stopped by the purchaser or renter of the right to use or  
1530 operate the amusement device, skill device, or ride device.

1531 [~~(135)~~] (136) (a) "Use" means the exercise of any right or power over tangible personal  
1532 property, a product transferred electronically, or a service under Subsection 59-12-103(1),  
1533 incident to the ownership or the leasing of that tangible personal property, product transferred  
1534 electronically, or service.

1535 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
1536 property, a product transferred electronically, or a service in the regular course of business and  
1537 held for resale.

1538 [~~(136)~~] (137) "Value-added nonvoice data service" means a service:

1539 (a) that otherwise meets the definition of a telecommunications service except that a  
1540 computer processing application is used to act primarily for a purpose other than conveyance,  
1541 routing, or transmission; and

1542 (b) with respect to which a computer processing application is used to act on data or  
1543 information:

1544 (i) code;

1545 (ii) content;

1546 (iii) form; or

- 1547 (iv) protocol.
- 1548 [~~(137)~~] (138) (a) Subject to Subsection [~~(137)~~] (138)(b), "vehicle" means the following
- 1549 that are required to be titled, registered, or titled and registered:
- 1550 (i) an aircraft as defined in Section 72-10-102;
- 1551 (ii) a vehicle as defined in Section 41-1a-102;
- 1552 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1553 (iv) a vessel as defined in Section 41-1a-102.
- 1554 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 1555 (i) a vehicle described in Subsection [~~(137)~~] (138)(a); or
- 1556 (ii) (A) a locomotive;
- 1557 (B) a freight car;
- 1558 (C) railroad work equipment; or
- 1559 (D) other railroad rolling stock.
- 1560 [~~(138)~~] (139) "Vehicle dealer" means a person engaged in the business of buying,
- 1561 selling, or exchanging a vehicle as defined in Subsection [~~(137)~~] (138).
- 1562 [~~(139)~~] (140) (a) "Vertical service" means an ancillary service that:
- 1563 (i) is offered in connection with one or more telecommunications services; and
- 1564 (ii) offers an advanced calling feature that allows a customer to:
- 1565 (A) identify a caller; and
- 1566 (B) manage multiple calls and call connections.
- 1567 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 1568 conference bridging service.
- 1569 [~~(140)~~] (141) (a) "Voice mail service" means an ancillary service that enables a
- 1570 customer to receive, send, or store a recorded message.
- 1571 (b) "Voice mail service" does not include a vertical service that a customer is required
- 1572 to have in order to utilize a voice mail service.
- 1573 [~~(141)~~] (142) (a) Except as provided in Subsection [~~(141)~~] (142)(b), "waste energy
- 1574 facility" means a facility that generates electricity:
- 1575 (i) using as the primary source of energy waste materials that would be placed in a
- 1576 landfill or refuse pit if it were not used to generate electricity, including:
- 1577 (A) tires;

- 1578 (B) waste coal;
- 1579 (C) oil shale; or
- 1580 (D) municipal solid waste; and
- 1581 (ii) in amounts greater than actually required for the operation of the facility.
- 1582 (b) "Waste energy facility" does not include a facility that incinerates:
- 1583 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1584 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 1585 [~~(142)~~] (143) "Watercraft" means a vessel as defined in Section 73-18-2.
- 1586 [~~(143)~~] (144) "Wind energy" means wind used as the sole source of energy to produce
- 1587 electricity.
- 1588 [~~(144)~~] (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
- 1589 geographic location by the United States Postal Service.
- 1590 Section 2. Section 59-12-104 is amended to read:
- 1591 **59-12-104. Exemptions.**
- 1592 Exemptions from the taxes imposed by this chapter are as follows:
- 1593 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
- 1594 under Chapter 13, Motor and Special Fuel Tax Act;
- 1595 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
- 1596 subdivisions; however, this exemption does not apply to sales of:
- 1597 (a) construction materials except:
- 1598 (i) construction materials purchased by or on behalf of institutions of the public
- 1599 education system as defined in Utah Constitution, Article X, Section 2, provided the
- 1600 construction materials are clearly identified and segregated and installed or converted to real
- 1601 property which is owned by institutions of the public education system; and
- 1602 (ii) construction materials purchased by the state, its institutions, or its political
- 1603 subdivisions which are installed or converted to real property by employees of the state, its
- 1604 institutions, or its political subdivisions; or
- 1605 (b) tangible personal property in connection with the construction, operation,
- 1606 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
- 1607 providing additional project capacity, as defined in Section 11-13-103;
- 1608 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

- 1609 (i) the proceeds of each sale do not exceed \$1; and
- 1610 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
- 1611 the cost of the item described in Subsection (3)(b) as goods consumed; and
- 1612 (b) Subsection (3)(a) applies to:
- 1613 (i) food and food ingredients; or
- 1614 (ii) prepared food;
- 1615 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
- 1616 (i) alcoholic beverages;
- 1617 (ii) food and food ingredients; or
- 1618 (iii) prepared food;
- 1619 (b) sales of tangible personal property or a product transferred electronically:
- 1620 (i) to a passenger;
- 1621 (ii) by a commercial airline carrier; and
- 1622 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 1623 (c) services related to Subsection (4)(a) or (b);
- 1624 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
- 1625 and equipment:
- 1626 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
- 1627 North American Industry Classification System of the federal Executive Office of the
- 1628 President, Office of Management and Budget; and
- 1629 (II) for:
- 1630 (Aa) installation in an aircraft, including services relating to the installation of parts or
- 1631 equipment in the aircraft;
- 1632 (Bb) renovation of an aircraft; or
- 1633 (Cc) repair of an aircraft; or
- 1634 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
- 1635 commerce; or
- 1636 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
- 1637 aircraft operated by a common carrier in interstate or foreign commerce; and
- 1638 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
- 1639 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a

1640 refund:

1641 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

1642 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

1643 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for

1644 the sale prior to filing for the refund;

1645 (iv) for sales and use taxes paid under this chapter on the sale;

1646 (v) in accordance with Section 59-1-1410; and

1647 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if

1648 the person files for the refund on or before September 30, 2011;

1649 (6) sales of commercials, motion picture films, prerecorded audio program tapes or  
1650 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture  
1651 exhibitor, distributor, or commercial television or radio broadcaster;

1652 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal  
1653 property if the cleaning or washing of the tangible personal property is not assisted cleaning or  
1654 washing of tangible personal property;

1655 (b) if a seller that sells at the same business location assisted cleaning or washing of  
1656 tangible personal property and cleaning or washing of tangible personal property that is not  
1657 assisted cleaning or washing of tangible personal property, the exemption described in  
1658 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning  
1659 or washing of the tangible personal property; and

1660 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,  
1661 Utah Administrative Rulemaking Act, the commission may make rules:

1662 (i) governing the circumstances under which sales are at the same business location;

1663 and

1664 (ii) establishing the procedures and requirements for a seller to separately account for  
1665 sales of assisted cleaning or washing of tangible personal property;

1666 (8) sales made to or by religious or charitable institutions in the conduct of their regular  
1667 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are  
1668 fulfilled;

1669 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of  
1670 this state if the vehicle is:

- 1671 (a) not registered in this state; and
- 1672 (b) (i) not used in this state; or
- 1673 (ii) used in this state:
- 1674 (A) if the vehicle is not used to conduct business, for a time period that does not
- 1675 exceed the longer of:
- 1676 (I) 30 days in any calendar year; or
- 1677 (II) the time period necessary to transport the vehicle to the borders of this state; or
- 1678 (B) if the vehicle is used to conduct business, for the time period necessary to transport
- 1679 the vehicle to the borders of this state;
- 1680 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
- 1681 (i) the item is intended for human use; and
- 1682 (ii) (A) a prescription was issued for the item; or
- 1683 (B) the item was purchased by a hospital or other medical facility; and
- 1684 (b) (i) Subsection (10)(a) applies to:
- 1685 (A) a drug;
- 1686 (B) a syringe; or
- 1687 (C) a stoma supply; and
- 1688 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1689 commission may by rule define the terms:
- 1690 (A) "syringe"; or
- 1691 (B) "stoma supply";
- 1692 (11) purchases or leases exempt under Section [19-12-201](#);
- 1693 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 1694 (i) the following if the item described in Subsection (12)(c) is not available to the
- 1695 general public:
- 1696 (A) a church; or
- 1697 (B) a charitable institution;
- 1698 (ii) an institution of higher education if:
- 1699 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 1700 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 1701 offered by the institution of higher education; or

- 1702 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 1703 (i) a medical facility; or
- 1704 (ii) a nursing facility; and
- 1705 (c) Subsections (12)(a) and (b) apply to:
- 1706 (i) food and food ingredients;
- 1707 (ii) prepared food; or
- 1708 (iii) alcoholic beverages;
- 1709 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 1710 or a product transferred electronically by a person:
- 1711 (i) regardless of the number of transactions involving the sale of that tangible personal
- 1712 property or product transferred electronically by that person; and
- 1713 (ii) not regularly engaged in the business of selling that type of tangible personal
- 1714 property or product transferred electronically;
- 1715 (b) this Subsection (13) does not apply if:
- 1716 (i) the sale is one of a series of sales of a character to indicate that the person is
- 1717 regularly engaged in the business of selling that type of tangible personal property or product
- 1718 transferred electronically;
- 1719 (ii) the person holds that person out as regularly engaged in the business of selling that
- 1720 type of tangible personal property or product transferred electronically;
- 1721 (iii) the person sells an item of tangible personal property or product transferred
- 1722 electronically that the person purchased as a sale that is exempt under Subsection (25); or
- 1723 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
- 1724 this state in which case the tax is based upon:
- 1725 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
- 1726 sold; or
- 1727 (B) in the absence of a bill of sale or other written evidence of value, the fair market
- 1728 value of the vehicle or vessel being sold at the time of the sale as determined by the
- 1729 commission; and
- 1730 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1731 commission shall make rules establishing the circumstances under which:
- 1732 (i) a person is regularly engaged in the business of selling a type of tangible personal



1733 property or product transferred electronically;

1734       (ii) a sale of tangible personal property or a product transferred electronically is one of

1735 a series of sales of a character to indicate that a person is regularly engaged in the business of

1736 selling that type of tangible personal property or product transferred electronically; or

1737       (iii) a person holds that person out as regularly engaged in the business of selling a type

1738 of tangible personal property or product transferred electronically;

1739       (14) (a) amounts paid or charged for a purchase or lease:

1740           (i) by a manufacturing facility located in the state; and

1741           (ii) of machinery, equipment, or normal operating repair or replacement parts if the

1742 machinery, equipment, or normal operating repair or replacement parts have an economic life

1743 of three or more years and are used:

1744           (A) in the manufacturing process to manufacture an item sold as tangible personal

1745 property; or

1746           (B) for a scrap recycler, to process an item sold as tangible personal property;

1747       (b) amounts paid or charged for a purchase or lease:

1748           (i) by an establishment:

1749           (A) described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code

1750 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or

1751 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North

1752 American Industry Classification System of the federal Executive Office of the President,

1753 Office of Management and Budget; and

1754           (B) located in the state; and

1755           (ii) of machinery, equipment, or normal operating repair or replacement parts if the

1756 machinery, equipment, or normal operating repair or replacement parts have an economic life

1757 of three or more years and are used in:

1758           (A) the production process to produce an item sold as tangible personal property;

1759           (B) research and development;

1760           (C) transporting, storing, or managing tailings, overburden, or similar waste materials

1761 produced from mining;

1762           (D) developing or maintaining a road, tunnel, excavation, or similar feature used in

1763 mining; or

- 1764 (E) preventing, controlling, or reducing dust or other pollutants from mining;
- 1765 (c) amounts paid or charged for a purchase or lease:
- 1766 (i) by an establishment:
- 1767 (A) described in NAICS Code 518112, Web Search Portals, of the 2002 North
- 1768 American Industry Classification System of the federal Executive Office of the President,
- 1769 Office of Management and Budget; and
- 1770 (B) located in the state; and
- 1771 (ii) of machinery, equipment, or normal operating repair or replacement parts if the
- 1772 machinery, equipment, or normal operating repair or replacement parts:
- 1773 (A) are used in the operation of the web search portal; and
- 1774 (B) have an economic life of three or more years;
- 1775 (d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,
- 1776 Utah Administrative Rulemaking Act, the commission:
- 1777 (i) shall by rule define the term "establishment"; and
- 1778 (ii) may by rule define what constitutes:
- 1779 (A) processing an item sold as tangible personal property;
- 1780 (B) the production process, to produce an item sold as tangible personal property; or
- 1781 (C) research and development; and
- 1782 (e) on or before October 1, 2016, and every five years after October 1, 2016, the
- 1783 commission shall:
- 1784 (i) review the exemptions described in this Subsection (14) and make
- 1785 recommendations to the Revenue and Taxation Interim Committee concerning whether the
- 1786 exemptions should be continued, modified, or repealed; and
- 1787 (ii) include in its report:
- 1788 (A) an estimate of the cost of the exemptions;
- 1789 (B) the purpose and effectiveness of the exemptions; and
- 1790 (C) the benefits of the exemptions to the state;
- 1791 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
- 1792 (i) tooling;
- 1793 (ii) special tooling;
- 1794 (iii) support equipment;

1795 (iv) special test equipment; or  
1796 (v) parts used in the repairs or renovations of tooling or equipment described in  
1797 Subsections (15)(a)(i) through (iv); and  
1798 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:  
1799 (i) the tooling, equipment, or parts are used or consumed exclusively in the  
1800 performance of any aerospace or electronics industry contract with the United States  
1801 government or any subcontract under that contract; and  
1802 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),  
1803 title to the tooling, equipment, or parts is vested in the United States government as evidenced  
1804 by:  
1805 (A) a government identification tag placed on the tooling, equipment, or parts; or  
1806 (B) listing on a government-approved property record if placing a government  
1807 identification tag on the tooling, equipment, or parts is impractical;  
1808 (16) sales of newspapers or newspaper subscriptions;  
1809 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a  
1810 product transferred electronically traded in as full or part payment of the purchase price, except  
1811 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,  
1812 trade-ins are limited to other vehicles only, and the tax is based upon:  
1813 (i) the bill of sale or other written evidence of value of the vehicle being sold and the  
1814 vehicle being traded in; or  
1815 (ii) in the absence of a bill of sale or other written evidence of value, the then existing  
1816 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the  
1817 commission; and  
1818 (b) Subsection (17)(a) does not apply to the following items of tangible personal  
1819 property or products transferred electronically traded in as full or part payment of the purchase  
1820 price:  
1821 (i) money;  
1822 (ii) electricity;  
1823 (iii) water;  
1824 (iv) gas; or  
1825 (v) steam;

1826 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property  
1827 or a product transferred electronically used or consumed primarily and directly in farming  
1828 operations, regardless of whether the tangible personal property or product transferred  
1829 electronically:

1830 (A) becomes part of real estate; or

1831 (B) is installed by a:

1832 (I) farmer;

1833 (II) contractor; or

1834 (III) subcontractor; or

1835 (ii) sales of parts used in the repairs or renovations of tangible personal property or a  
1836 product transferred electronically if the tangible personal property or product transferred  
1837 electronically is exempt under Subsection (18)(a)(i); and

1838 (b) amounts paid or charged for the following are subject to the taxes imposed by this  
1839 chapter:

1840 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is  
1841 incidental to farming:

1842 (I) machinery;

1843 (II) equipment;

1844 (III) materials; or

1845 (IV) supplies; and

1846 (B) tangible personal property that is considered to be used in a manner that is  
1847 incidental to farming includes:

1848 (I) hand tools; or

1849 (II) maintenance and janitorial equipment and supplies;

1850 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product  
1851 transferred electronically if the tangible personal property or product transferred electronically  
1852 is used in an activity other than farming; and

1853 (B) tangible personal property or a product transferred electronically that is considered  
1854 to be used in an activity other than farming includes:

1855 (I) office equipment and supplies; or

1856 (II) equipment and supplies used in:

- 1857 (Aa) the sale or distribution of farm products;
- 1858 (Bb) research; or
- 1859 (Cc) transportation; or
- 1860 (iii) a vehicle required to be registered by the laws of this state during the period
- 1861 ending two years after the date of the vehicle's purchase;
- 1862 (19) sales of hay;
- 1863 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
- 1864 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
- 1865 garden, farm, or other agricultural produce is sold by:
- 1866 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
- 1867 agricultural produce;
- 1868 (b) an employee of the producer described in Subsection (20)(a); or
- 1869 (c) a member of the immediate family of the producer described in Subsection (20)(a);
- 1870 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
- 1871 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 1872 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
- 1873 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
- 1874 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
- 1875 manufacturer, processor, wholesaler, or retailer;
- 1876 (23) a product stored in the state for resale;
- 1877 (24) (a) purchases of a product if:
- 1878 (i) the product is:
- 1879 (A) purchased outside of this state;
- 1880 (B) brought into this state:
- 1881 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
- 1882 (II) by a nonresident person who is not living or working in this state at the time of the
- 1883 purchase;
- 1884 (C) used for the personal use or enjoyment of the nonresident person described in
- 1885 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
- 1886 (D) not used in conducting business in this state; and
- 1887 (ii) for:

- 1888 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of  
1889 the product for a purpose for which the product is designed occurs outside of this state;
- 1890 (B) a boat, the boat is registered outside of this state; or
- 1891 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
1892 outside of this state;
- 1893 (b) the exemption provided for in Subsection (24)(a) does not apply to:
- 1894 (i) a lease or rental of a product; or
- 1895 (ii) a sale of a vehicle exempt under Subsection (33); and
- 1896 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
1897 purposes of Subsection (24)(a), the commission may by rule define what constitutes the  
1898 following:
- 1899 (i) conducting business in this state if that phrase has the same meaning in this  
1900 Subsection (24) as in Subsection (63);
- 1901 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)  
1902 as in Subsection (63); or
- 1903 (iii) a purpose for which a product is designed if that phrase has the same meaning in  
1904 this Subsection (24) as in Subsection (63);
- 1905 (25) a product purchased for resale in this state, in the regular course of business, either  
1906 in its original form or as an ingredient or component part of a manufactured or compounded  
1907 product;
- 1908 (26) a product upon which a sales or use tax was paid to some other state, or one of its  
1909 subdivisions, except that the state shall be paid any difference between the tax paid and the tax  
1910 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if  
1911 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax  
1912 Act;
- 1913 (27) any sale of a service described in Subsections [59-12-103](#)(1)(b), (c), and (d) to a  
1914 person for use in compounding a service taxable under the subsections;
- 1915 (28) purchases made in accordance with the special supplemental nutrition program for  
1916 women, infants, and children established in 42 U.S.C. Sec. 1786;
- 1917 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other  
1918 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code

1919 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of  
1920 the President, Office of Management and Budget;

1921 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State  
1922 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:  
1923 (a) not registered in this state; and  
1924 (b) (i) not used in this state; or  
1925 (ii) used in this state:  
1926 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a  
1927 time period that does not exceed the longer of:  
1928 (I) 30 days in any calendar year; or  
1929 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to  
1930 the borders of this state; or  
1931 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time  
1932 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this  
1933 state;

1934 (31) sales of aircraft manufactured in Utah;

1935 (32) amounts paid for the purchase of telecommunications service for purposes of  
1936 providing telecommunications service;

1937 (33) sales, leases, or uses of the following:  
1938 (a) a vehicle by an authorized carrier; or  
1939 (b) tangible personal property that is installed on a vehicle:  
1940 (i) sold or leased to or used by an authorized carrier; and  
1941 (ii) before the vehicle is placed in service for the first time;

1942 (34) (a) 45% of the sales price of any new manufactured home; and  
1943 (b) 100% of the sales price of any used manufactured home;

1944 (35) sales relating to schools and fundraising sales;

1945 (36) sales or rentals of durable medical equipment if:  
1946 (a) a person presents a prescription for the durable medical equipment; and  
1947 (b) the durable medical equipment is used for home use only;

1948 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in  
1949 Section [72-11-102](#); and

1950 (b) the commission shall by rule determine the method for calculating sales exempt  
1951 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;  
1952 (38) sales to a ski resort of:  
1953 (a) snowmaking equipment;  
1954 (b) ski slope grooming equipment;  
1955 (c) passenger ropeways as defined in Section 72-11-102; or  
1956 (d) parts used in the repairs or renovations of equipment or passenger ropeways  
1957 described in Subsections (38)(a) through (c);  
1958 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;  
1959 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for  
1960 amusement, entertainment, or recreation an unassisted amusement device as defined in Section  
1961 59-12-102;  
1962 (b) if a seller that sells or rents at the same business location the right to use or operate  
1963 for amusement, entertainment, or recreation one or more unassisted amusement devices and  
1964 one or more assisted amusement devices, the exemption described in Subsection (40)(a)  
1965 applies if the seller separately accounts for the sales or rentals of the right to use or operate for  
1966 amusement, entertainment, or recreation for the assisted amusement devices; and  
1967 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,  
1968 Utah Administrative Rulemaking Act, the commission may make rules:  
1969 (i) governing the circumstances under which sales are at the same business location;  
1970 and  
1971 (ii) establishing the procedures and requirements for a seller to separately account for  
1972 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for  
1973 assisted amusement devices;  
1974 (41) (a) sales of photocopies by:  
1975 (i) a governmental entity; or  
1976 (ii) an entity within the state system of public education, including:  
1977 (A) a school; or  
1978 (B) the State Board of Education; or  
1979 (b) sales of publications by a governmental entity;  
1980 (42) amounts paid for admission to an athletic event at an institution of higher



1981 education that is subject to the provisions of Title IX of the Education Amendments of 1972,  
1982 20 U.S.C. Sec. 1681 et seq.;

1983 (43) (a) sales made to or by:  
1984 (i) an area agency on aging; or  
1985 (ii) a senior citizen center owned by a county, city, or town; or  
1986 (b) sales made by a senior citizen center that contracts with an area agency on aging;

1987 (44) sales or leases of semiconductor fabricating, processing, research, or development  
1988 materials regardless of whether the semiconductor fabricating, processing, research, or  
1989 development materials:  
1990 (a) actually come into contact with a semiconductor; or  
1991 (b) ultimately become incorporated into real property;

1992 (45) an amount paid by or charged to a purchaser for accommodations and services  
1993 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section  
1994 59-12-104.2;

1995 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary  
1996 sports event registration certificate in accordance with Section 41-3-306 for the event period  
1997 specified on the temporary sports event registration certificate;

1998 (47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted  
1999 by the Public Service Commission of Utah only for purchase of electricity produced from a  
2000 new alternative energy source, as designated in the tariff by the Public Service Commission of  
2001 Utah; and  
2002 (b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a  
2003 customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under  
2004 the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

2005 (48) sales or rentals of mobility enhancing equipment if a person presents a  
2006 prescription for the mobility enhancing equipment;

2007 (49) sales of water in a:  
2008 (a) pipe;  
2009 (b) conduit;  
2010 (c) ditch; or  
2011 (d) reservoir;

2012 (50) sales of currency or coins that constitute legal tender of a state, the United States,  
2013 or a foreign nation;

2014 (51) (a) sales of an item described in Subsection (51)(b) if the item:  
2015 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and  
2016 (ii) has a gold, silver, or platinum content of 50% or more; and

2017 (b) Subsection (51)(a) applies to a gold, silver, or platinum:  
2018 (i) ingot;  
2019 (ii) bar;  
2020 (iii) medallion; or  
2021 (iv) decorative coin;

2022 (52) amounts paid on a sale-leaseback transaction;

2023 (53) sales of a prosthetic device:  
2024 (a) for use on or in a human; and  
2025 (b) (i) for which a prescription is required; or  
2026 (ii) if the prosthetic device is purchased by a hospital or other medical facility;

2027 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of  
2028 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery  
2029 or equipment is primarily used in the production or postproduction of the following media for  
2030 commercial distribution:  
2031 (i) a motion picture;  
2032 (ii) a television program;  
2033 (iii) a movie made for television;  
2034 (iv) a music video;  
2035 (v) a commercial;  
2036 (vi) a documentary; or  
2037 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the  
2038 commission by administrative rule made in accordance with Subsection (54)(d); or

2039 (b) purchases, leases, or rentals of machinery or equipment by an establishment  
2040 described in Subsection (54)(c) that is used for the production or postproduction of the  
2041 following are subject to the taxes imposed by this chapter:  
2042 (i) a live musical performance;

- 2043 (ii) a live news program; or
- 2044 (iii) a live sporting event;
- 2045 (c) the following establishments listed in the 1997 North American Industry
- 2046 Classification System of the federal Executive Office of the President, Office of Management
- 2047 and Budget, apply to Subsections (54)(a) and (b):
- 2048 (i) NAICS Code 512110; or
- 2049 (ii) NAICS Code 51219; and
- 2050 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2051 commission may by rule:
- 2052 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
- 2053 or
- 2054 (ii) define:
- 2055 (A) "commercial distribution";
- 2056 (B) "live musical performance";
- 2057 (C) "live news program"; or
- 2058 (D) "live sporting event";
- 2059 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
- 2060 on or before June 30, 2027, of tangible personal property that:
- 2061 (i) is leased or purchased for or by a facility that:
- 2062 (A) is an alternative energy electricity production facility;
- 2063 (B) is located in the state; and
- 2064 (C) (I) becomes operational on or after July 1, 2004; or
- 2065 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 2066 2004, as a result of the use of the tangible personal property;
- 2067 (ii) has an economic life of five or more years; and
- 2068 (iii) is used to make the facility or the increase in capacity of the facility described in
- 2069 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
- 2070 transmission grid including:
- 2071 (A) a wind turbine;
- 2072 (B) generating equipment;
- 2073 (C) a control and monitoring system;

2074 (D) a power line;  
2075 (E) substation equipment;  
2076 (F) lighting;  
2077 (G) fencing;  
2078 (H) pipes; or  
2079 (I) other equipment used for locating a power line or pole; and  
2080 (b) this Subsection (55) does not apply to:  
2081 (i) tangible personal property used in construction of:  
2082 (A) a new alternative energy electricity production facility; or  
2083 (B) the increase in the capacity of an alternative energy electricity production facility;  
2084 (ii) contracted services required for construction and routine maintenance activities;  
2085 and  
2086 (iii) unless the tangible personal property is used or acquired for an increase in capacity  
2087 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or  
2088 acquired after:  
2089 (A) the alternative energy electricity production facility described in Subsection  
2090 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or  
2091 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described  
2092 in Subsection (55)(a)(iii);  
2093 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but  
2094 on or before June 30, 2027, of tangible personal property that:  
2095 (i) is leased or purchased for or by a facility that:  
2096 (A) is a waste energy production facility;  
2097 (B) is located in the state; and  
2098 (C) (I) becomes operational on or after July 1, 2004; or  
2099 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
2100 2004, as a result of the use of the tangible personal property;  
2101 (ii) has an economic life of five or more years; and  
2102 (iii) is used to make the facility or the increase in capacity of the facility described in  
2103 Subsection (56)(a)(i) operational up to the point of interconnection with an existing  
2104 transmission grid including:

- 2105 (A) generating equipment;
- 2106 (B) a control and monitoring system;
- 2107 (C) a power line;
- 2108 (D) substation equipment;
- 2109 (E) lighting;
- 2110 (F) fencing;
- 2111 (G) pipes; or
- 2112 (H) other equipment used for locating a power line or pole; and
- 2113 (b) this Subsection (56) does not apply to:
- 2114 (i) tangible personal property used in construction of:
- 2115 (A) a new waste energy facility; or
- 2116 (B) the increase in the capacity of a waste energy facility;
- 2117 (ii) contracted services required for construction and routine maintenance activities;
- 2118 and
- 2119 (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 2120 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
- 2121 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
- 2122 described in Subsection (56)(a)(iii); or
- 2123 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
- 2124 in Subsection (56)(a)(iii);
- 2125 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
- 2126 or before June 30, 2027, of tangible personal property that:
- 2127 (i) is leased or purchased for or by a facility that:
- 2128 (A) is located in the state;
- 2129 (B) produces fuel from alternative energy, including:
- 2130 (I) methanol; or
- 2131 (II) ethanol; and
- 2132 (C) (I) becomes operational on or after July 1, 2004; or
- 2133 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
- 2134 a result of the installation of the tangible personal property;
- 2135 (ii) has an economic life of five or more years; and

2136 (iii) is installed on the facility described in Subsection (57)(a)(i);  
2137 (b) this Subsection (57) does not apply to:  
2138 (i) tangible personal property used in construction of:  
2139 (A) a new facility described in Subsection (57)(a)(i); or  
2140 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or  
2141 (ii) contracted services required for construction and routine maintenance activities;  
2142 and  
2143 (iii) unless the tangible personal property is used or acquired for an increase in capacity  
2144 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:  
2145 (A) the facility described in Subsection (57)(a)(i) is operational; or  
2146 (B) the increased capacity described in Subsection (57)(a)(i) is operational;  
2147 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a  
2148 product transferred electronically to a person within this state if that tangible personal property  
2149 or product transferred electronically is subsequently shipped outside the state and incorporated  
2150 pursuant to contract into and becomes a part of real property located outside of this state;  
2151 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other  
2152 state or political entity to which the tangible personal property is shipped imposes a sales, use,  
2153 gross receipts, or other similar transaction excise tax on the transaction against which the other  
2154 state or political entity allows a credit for sales and use taxes imposed by this chapter; and  
2155 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,  
2156 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a  
2157 refund:  
2158 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;  
2159 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on  
2160 which the sale is made;  
2161 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the  
2162 sale prior to filing for the refund;  
2163 (iv) for sales and use taxes paid under this chapter on the sale;  
2164 (v) in accordance with Section 59-1-1410; and  
2165 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if  
2166 the person files for the refund on or before June 30, 2011;

- 2167 (59) purchases:
- 2168 (a) of one or more of the following items in printed or electronic format:
- 2169 (i) a list containing information that includes one or more:
- 2170 (A) names; or
- 2171 (B) addresses; or
- 2172 (ii) a database containing information that includes one or more:
- 2173 (A) names; or
- 2174 (B) addresses; and
- 2175 (b) used to send direct mail;
- 2176 (60) redemptions or repurchases of a product by a person if that product was:
- 2177 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 2178 (b) redeemed or repurchased within the time period established in a written agreement
- 2179 between the person and the pawnbroker for redeeming or repurchasing the product;
- 2180 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
- 2181 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
- 2182 and
- 2183 (ii) has a useful economic life of one or more years; and
- 2184 (b) the following apply to Subsection (61)(a):
- 2185 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 2186 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 2187 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 2188 (iv) telecommunications switching or routing equipment, machinery, or software; or
- 2189 (v) telecommunications transmission equipment, machinery, or software;
- 2190 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
- 2191 personal property or a product transferred electronically that are used in the research and
- 2192 development of alternative energy technology; and
- 2193 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2194 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
- 2195 purchases of tangible personal property or a product transferred electronically that are used in
- 2196 the research and development of alternative energy technology;
- 2197 (63) (a) purchases of tangible personal property or a product transferred electronically

2198 if:

2199 (i) the tangible personal property or product transferred electronically is:

2200 (A) purchased outside of this state;

2201 (B) brought into this state at any time after the purchase described in Subsection

2202 (63)(a)(i)(A); and

2203 (C) used in conducting business in this state; and

2204 (ii) for:

2205 (A) tangible personal property or a product transferred electronically other than the

2206 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property

2207 for a purpose for which the property is designed occurs outside of this state; or

2208 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

2209 outside of this state;

2210 (b) the exemption provided for in Subsection (63)(a) does not apply to:

2211 (i) a lease or rental of tangible personal property or a product transferred electronically;

2212 or

2213 (ii) a sale of a vehicle exempt under Subsection (33); and

2214 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

2215 purposes of Subsection (63)(a), the commission may by rule define what constitutes the

2216 following:

2217 (i) conducting business in this state if that phrase has the same meaning in this

2218 Subsection (63) as in Subsection (24);

2219 (ii) the first use of tangible personal property or a product transferred electronically if

2220 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

2221 (iii) a purpose for which tangible personal property or a product transferred

2222 electronically is designed if that phrase has the same meaning in this Subsection (63) as in

2223 Subsection (24);

2224 (64) sales of disposable home medical equipment or supplies if:

2225 (a) a person presents a prescription for the disposable home medical equipment or

2226 supplies;

2227 (b) the disposable home medical equipment or supplies are used exclusively by the

2228 person to whom the prescription described in Subsection (64)(a) is issued; and



- 2229 (c) the disposable home medical equipment and supplies are listed as eligible for
- 2230 payment under:
- 2231 (i) Title XVIII, federal Social Security Act; or
- 2232 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- 2233 (65) sales:
- 2234 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
- 2235 District Act; or
- 2236 (b) of tangible personal property to a subcontractor of a public transit district, if the
- 2237 tangible personal property is:
- 2238 (i) clearly identified; and
- 2239 (ii) installed or converted to real property owned by the public transit district;
- 2240 (66) sales of construction materials:
- 2241 (a) purchased on or after July 1, 2010;
- 2242 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 2243 (i) located within a county of the first class; and
- 2244 (ii) that has a United States customs office on its premises; and
- 2245 (c) if the construction materials are:
- 2246 (i) clearly identified;
- 2247 (ii) segregated; and
- 2248 (iii) installed or converted to real property:
- 2249 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 2250 (B) located at the international airport described in Subsection (66)(b);
- 2251 (67) sales of construction materials:
- 2252 (a) purchased on or after July 1, 2008;
- 2253 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 2254 (i) located within a county of the second class; and
- 2255 (ii) that is owned or operated by a city in which an airline as defined in Section
- 2256 [59-2-102](#) is headquartered; and
- 2257 (c) if the construction materials are:
- 2258 (i) clearly identified;
- 2259 (ii) segregated; and

- 2260 (iii) installed or converted to real property:
- 2261 (A) owned or operated by the new airport described in Subsection (67)(b);
- 2262 (B) located at the new airport described in Subsection (67)(b); and
- 2263 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 2264 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 2265 (69) purchases and sales described in Section [63H-4-111](#);
- 2266 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 2267 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 2268 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 2269 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 2270 powered aircraft; or
- 2271 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 2272 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 2273 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 2274 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 2275 powered aircraft;
- 2276 (71) subject to Section [59-12-104.4](#), sales of a textbook for a higher education course:
- 2277 (a) to a person admitted to an institution of higher education; and
- 2278 (b) by a seller, other than a bookstore owned by an institution of higher education, if
- 2279 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
- 2280 textbook for a higher education course;
- 2281 (72) a license fee or tax a municipality imposes in accordance with Subsection
- 2282 [10-1-203](#)(5) on a purchaser from a business for which the municipality provides an enhanced
- 2283 level of municipal services;
- 2284 (73) amounts paid or charged for construction materials used in the construction of a
- 2285 new or expanding life science research and development facility in the state, if the construction
- 2286 materials are:
- 2287 (a) clearly identified;
- 2288 (b) segregated; and
- 2289 (c) installed or converted to real property;
- 2290 (74) amounts paid or charged for:

- 2291 (a) a purchase or lease of machinery and equipment that:
- 2292 (i) are used in performing qualified research:
- 2293 (A) as defined in Section 41(d), Internal Revenue Code; and
- 2294 (B) in the state; and
- 2295 (ii) have an economic life of three or more years; and
- 2296 (b) normal operating repair or replacement parts:
- 2297 (i) for the machinery and equipment described in Subsection (74)(a); and
- 2298 (ii) that have an economic life of three or more years;
- 2299 (75) a sale or lease of tangible personal property used in the preparation of prepared
- 2300 food if:
- 2301 (a) for a sale:
- 2302 (i) the ownership of the seller and the ownership of the purchaser are identical; and
- 2303 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
- 2304 tangible personal property prior to making the sale; or
- 2305 (b) for a lease:
- 2306 (i) the ownership of the lessor and the ownership of the lessee are identical; and
- 2307 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
- 2308 personal property prior to making the lease;
- 2309 (76) (a) purchases of machinery or equipment if:
- 2310 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
- 2311 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
- 2312 System of the federal Executive Office of the President, Office of Management and Budget;
- 2313 (ii) the machinery or equipment:
- 2314 (A) has an economic life of three or more years; and
- 2315 (B) is used by one or more persons who pay admission or user fees described in
- 2316 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- 2317 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- 2318 (A) amounts paid or charged as admission or user fees described in Subsection
- 2319 59-12-103(1)(f); and
- 2320 (B) subject to taxation under this chapter;
- 2321 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2322 commission may make rules for verifying that 51% of a purchaser's sales revenue for the  
2323 previous calendar quarter is:

- 2324 (i) amounts paid or charged as admission or user fees described in Subsection  
2325 59-12-103(1)(f); and
- 2326 (ii) subject to taxation under this chapter; and
- 2327 (c) on or before the November 2018 interim meeting, and every five years after the  
2328 November 2018 interim meeting, the commission shall review the exemption provided in this  
2329 Subsection (76) and report to the Revenue and Taxation Interim Committee on:
  - 2330 (i) the revenue lost to the state and local taxing jurisdictions as a result of the  
2331 exemption;
  - 2332 (ii) the purpose and effectiveness of the exemption; and
  - 2333 (iii) whether the exemption benefits the state;
- 2334 (77) purchases of a short-term lodging consumable by a business that provides  
2335 accommodations and services described in Subsection 59-12-103(1)(i);
- 2336 (78) amounts paid or charged to access a database:
  - 2337 (a) if the primary purpose for accessing the database is to view or retrieve information  
2338 from the database; and
  - 2339 (b) not including amounts paid or charged for a:
    - 2340 (i) digital audiowork;
    - 2341 (ii) digital audio-visual work; or
    - 2342 (iii) digital book;
- 2343 (79) amounts paid or charged for a purchase or lease made by an electronic financial  
2344 payment service, of:
  - 2345 (a) machinery and equipment that:
    - 2346 (i) are used in the operation of the electronic financial payment service; and
    - 2347 (ii) have an economic life of three or more years; and
  - 2348 (b) normal operating repair or replacement parts that:
    - 2349 (i) are used in the operation of the electronic financial payment service; and
    - 2350 (ii) have an economic life of three or more years;
- 2351 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
- 2352 (81) amounts paid or charged for a purchase or lease of tangible personal property or a

2353 product transferred electronically if the tangible personal property or product transferred  
 2354 electronically:

2355 (a) is stored, used, or consumed in the state; and

2356 (b) is temporarily brought into the state from another state:

2357 (i) during a disaster period as defined in Section 53-2a-1202;

2358 (ii) by an out-of-state business as defined in Section 53-2a-1202;

2359 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

2360 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

2361 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined  
 2362 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and  
 2363 Recreation Program;

2364 (83) amounts paid or charged for a purchase or lease of molten magnesium; [~~and~~]

2365 (84) (a) except as provided in Subsection (84)(b), amounts paid or charged for a  
 2366 purchase or lease made by a drilling equipment manufacturer of machinery, equipment,  
 2367 materials, or normal operating repair or replacement parts:

2368 (i) that are used or consumed exclusively in the drilling equipment manufacturer's  
 2369 manufacturing process; and

2370 (ii) except for office:

2371 (A) equipment; or

2372 (B) supplies; and

2373 (b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an  
 2374 exemption described in Subsection (84)(a) only by filing for a refund:

2375 (i) of 50% of the tax paid on the amounts paid or charged; and

2376 (ii) in accordance with Section 59-1-1410[-]; and

2377 (85) amounts paid or charged for a purchase or lease made by a qualifying enterprise  
 2378 data center of machinery, equipment, or normal operating repair or replacement parts if the  
 2379 machinery, equipment, or normal operating repair or replacement parts:

2380 (a) are used in the operation of the establishment; and

2381 (b) have an economic life of three or more years.

2382 Section 3. **Effective date.**

2383 This bill takes effect on July 1, 2016.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**