

Adaptive Driving Equipment Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Christine F. Watkins

Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill enacts sales and use tax exemptions for purchases of adaptive driving equipment for motor vehicles.

Highlighted Provisions:

This bill:

- ▶ creates sales and use tax exemptions for sales of adaptive driving equipment installed in a motor vehicle.

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 2024, Chapter 274

59-12-104, as last amended by Laws of Utah 2024, Chapter 35

ENACTS:

59-12-104.11, Utah Code Annotated 1953

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

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

59-12-102 . Definitions.

As used in this chapter:

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

- (a) allows a caller to dial a toll-free number without incurring a charge for the call; and
- (b) is typically marketed:

- (i) under the name 800 toll-free calling;
- (ii) under the name 855 toll-free calling;
- (iii) under the name 866 toll-free calling;
- (iv) under the name 877 toll-free calling;
- (v) under the name 888 toll-free calling; or
- (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

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

- (i) a subscriber purchases;
- (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:
 - (A) prerecorded announcement; or
 - (B) live service; and
- (iii) is typically marketed:
 - (A) under the name 900 service; or
 - (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

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

- (i) a collection service a seller of a telecommunications service provides to a subscriber; or
- (ii) the following a subscriber sells to the subscriber's customer:
 - (A) a product; or
 - (B) a service.

(3)(a) "Adaptive driving equipment" means mobility enhancing equipment:

- (i) to be installed in a motor vehicle; and
- (ii) regardless of who provides the equipment or parts.

(b) "Adaptive driving equipment" includes:

- (i) a wheelchair or scooter lift;
- (ii) equipment to secure a wheelchair;
- (iii) a swivel seat;
- (iv) a hand or foot control; and
- (v) a steering aid.

~~[(3)]~~ (4)(a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include:

- (i) annual membership dues to private organizations; or
- (ii) a lesson, including a lesson that involves as part of the lesson equipment or a facility listed in Subsection 59-12-103(1)(f).

~~[(4)]~~ (5) "Affiliate" or "affiliated person" means a person that, with respect to another person:

- (a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or
- (b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than 5%, whether direct or indirect, in the related persons.

~~[(5)]~~ (6) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

~~[(6)]~~ (7) "Agreement combined tax rate" means the sum of the tax rates:

- (a) listed under Subsection ~~[(7)]~~ (8); and
- (b) that are imposed within a local taxing jurisdiction.

~~[(7)]~~ (8) "Agreement sales and use tax" means a tax imposed under:

- (a) Subsection 59-12-103(2)(a)(i)(A);
- (b) Subsection 59-12-103(2)(b)(i);
- (c) Subsection 59-12-103(2)(c)(i);
- (d) Subsection 59-12-103(2)(d);
- (e) Subsection 59-12-103(2)(e)(i)(A)(I);
- (f) Section 59-12-204;
- (g) Section 59-12-401;
- (h) Section 59-12-402;
- (i) Section 59-12-402.1;
- (j) Section 59-12-703;
- (k) Section 59-12-802;
- (l) Section 59-12-804;
- (m) Section 59-12-1102;
- (n) Section 59-12-1302;
- (o) Section 59-12-1402;
- (p) Section 59-12-1802;
- (q) Section 59-12-2003;
- (r) Section 59-12-2103;

- (s) Section 59-12-2213;
- (t) Section 59-12-2214;
- (u) Section 59-12-2215;
- (v) Section 59-12-2216;
- (w) Section 59-12-2217;
- (x) Section 59-12-2218;
- (y) Section 59-12-2219; or
- (z) Section 59-12-2220.

[~~(8)~~] (9) "Aircraft" means the same as that term is defined in Section 72-10-102.

[~~(9)~~] (10) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

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

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

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

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

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

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

(A) an inspection;

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

(C) changing landing gear; and

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

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

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

131 ~~[(10)]~~ (11) "Alcoholic beverage" means a beverage that:

- 132 (a) is suitable for human consumption; and
133 (b) contains .5% or more alcohol by volume.

134 ~~[(11)]~~ (12) "Alternative energy" means:

- 135 (a) biomass energy;
136 (b) geothermal energy;
137 (c) hydroelectric energy;
138 (d) solar energy;
139 (e) wind energy; or
140 (f) energy that is derived from:
141 (i) coal-to-liquids;
142 (ii) nuclear fuel;
143 (iii) oil-impregnated diatomaceous earth;
144 (iv) oil sands;
145 (v) oil shale;
146 (vi) petroleum coke; or
147 (vii) waste heat from:
148 (A) an industrial facility; or
149 (B) a power station in which an electric generator is driven through a process in
150 which water is heated, turns into steam, and spins a steam turbine.

151 ~~[(12)]~~ (13)(a) Subject to Subsection ~~[(12)(b)]~~ (13)(b), "alternative energy electricity
152 production facility" means a facility that:

- 153 (i) uses alternative energy to produce electricity; and
154 (ii) has a production capacity of two megawatts or greater.
155 (b) A facility is an alternative energy electricity production facility regardless of whether
156 the facility is:
157 (i) connected to an electric grid; or
158 (ii) located on the premises of an electricity consumer.

159 ~~[(13)]~~ (14)(a) "Ancillary service" means a service associated with, or incidental to, the
160 provision of telecommunications service.

- 161 (b) "Ancillary service" includes:
162 (i) a conference bridging service;
163 (ii) a detailed communications billing service;
164 (iii) directory assistance;

(iv) a vertical service; or

(v) a voice mail service.

~~[(14)]~~ (15) "Area agency on aging" means the same as that term is defined in Section 26B-6-101.

~~[(15)]~~ (16) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:

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

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

~~[(16)]~~ (17) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

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

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

~~[(17)]~~ (18) "Authorized carrier" means:

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

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

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

~~[(18)]~~ (19)(a) "Biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

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

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the

- 199 treatment of wastewater residuals, or through the conversion of a waste
200 material through a nonincineration, thermal conversion process;
- 201 (E) aquatic plants; and
202 (F) agricultural products.
- 203 (b) "Biomass energy" does not include:
- 204 (i) black liquor; or
205 (ii) treated woods.
- 206 ~~[(19)]~~ (20)(a) "Bundled transaction" means the sale of two or more items of tangible
207 personal property, products, or services if the tangible personal property, products, or
208 services are:
- 209 (i) distinct and identifiable; and
210 (ii) sold for one nonitemized price.
- 211 (b) "Bundled transaction" does not include:
- 212 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
213 the basis of the selection by the purchaser of the items of tangible personal
214 property included in the transaction;
- 215 (ii) the sale of real property;
- 216 (iii) the sale of services to real property;
- 217 (iv) the retail sale of tangible personal property and a service if:
- 218 (A) the tangible personal property:
- 219 (I) is essential to the use of the service; and
220 (II) is provided exclusively in connection with the service; and
221 (B) the service is the true object of the transaction;
- 222 (v) the retail sale of two services if:
- 223 (A) one service is provided that is essential to the use or receipt of a second
224 service;
- 225 (B) the first service is provided exclusively in connection with the second service;
226 and
227 (C) the second service is the true object of the transaction;
- 228 (vi) a transaction that includes tangible personal property or a product subject to
229 taxation under this chapter and tangible personal property or a product that is not
230 subject to taxation under this chapter if the:
- 231 (A) seller's purchase price of the tangible personal property or product subject to
232 taxation under this chapter is de minimis; or

- 233 (B) seller's sales price of the tangible personal property or product subject to
234 taxation under this chapter is de minimis; and
- 235 (vii) the retail sale of tangible personal property that is not subject to taxation under
236 this chapter and tangible personal property that is subject to taxation under this
237 chapter if:
- 238 (A) that retail sale includes:
- 239 (I) food and food ingredients;
- 240 (II) a drug;
- 241 (III) durable medical equipment;
- 242 (IV) mobility enhancing equipment;
- 243 (V) an over-the-counter drug;
- 244 (VI) a prosthetic device; or
- 245 (VII) a medical supply; and
- 246 (B) subject to Subsection [~~(19)(f)~~] (20)(f):
- 247 (I) the seller's purchase price of the tangible personal property subject to
248 taxation under this chapter is 50% or less of the seller's total purchase price
249 of that retail sale; or
- 250 (II) the seller's sales price of the tangible personal property subject to taxation
251 under this chapter is 50% or less of the seller's total sales price of that retail
252 sale.
- 253 (c)(i) For purposes of Subsection [~~(19)(a)(i)~~] (20)(a)(i), tangible personal property, a
254 product, or a service that is distinct and identifiable does not include:
- 255 (A) packaging that:
- 256 (I) accompanies the sale of the tangible personal property, product, or service;
257 and
- 258 (II) is incidental or immaterial to the sale of the tangible personal property,
259 product, or service;
- 260 (B) tangible personal property, a product, or a service provided free of charge with
261 the purchase of another item of tangible personal property, a product, or a
262 service; or
- 263 (C) an item of tangible personal property, a product, or a service included in the
264 definition of "purchase price."
- 265 (ii) For purposes of Subsection [~~(19)(e)(i)(B)~~] (20)(c)(i)(B), an item of tangible
266 personal property, a product, or a service is provided free of charge with the

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

(d)(i) For purposes of Subsection [(19)(a)(ii)] (20)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

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

(ii) For purposes of Subsection [(19)(d)(i)] (20)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e)(i) For purposes of Subsection [(19)(b)(vi)] (20)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

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

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

(ii) For purposes of Subsection [(19)(b)(vi)] (20)(b)(vi), a seller:

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

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal

- property or product subject to taxation under this chapter is de minimis.
- (iii) For purposes of Subsection ~~[(19)(b)(vi)]~~ (20)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.
- (f) For purposes of Subsection ~~[(19)(b)(vii)(B)]~~ (20)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.
- ~~[(20)]~~ (21) "Car sharing" means the same as that term is defined in Section 13-48a-101.
- ~~[(21)]~~ (22) "Car-sharing program" means the same as that term is defined in Section 13-48a-101.
- ~~[(22)]~~ (23) "Certified automated system" means software certified by the governing board of the agreement that:
- (a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:
- (i) on a transaction; and
- (ii) in the states that are members of the agreement;
- (b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and
- (c) maintains a record of the transaction described in Subsection ~~[(22)(a)(i)]~~ (23)(a)(i).
- ~~[(23)]~~ (24) "Certified service provider" means an agent certified:
- (a) by the governing board of the agreement; and
- (b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.
- ~~[(24)]~~ (25)(a) Subject to Subsection ~~[(24)(b)]~~ (25)(b), "clothing" means all human wearing apparel suitable for general use.
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:
- (i) listing the items that constitute "clothing"; and
- (ii) that are consistent with the list of items that constitute "clothing" under the agreement.
- ~~[(25)]~~ (26) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
- ~~[(26)]~~ (27) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other

fuels that does not constitute industrial use under Subsection ~~[(60)]~~ (61) or residential use under Subsection ~~[(115)]~~ (116).

~~[(27)]~~ (28)(a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

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

(ii) For purposes of Subsection ~~[(27)(b)(i)]~~ (28)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

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

~~[(28)]~~ (29) "Component part" includes:

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

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

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

(d) feed, seeds, and seedlings.

~~[(29)]~~ (30) "Computer" means an electronic device that accepts information:

(a)(i) in digital form; or

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

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

~~[(30)]~~ (31) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

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

~~[(31)]~~ (32) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

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

(c) a combination of Subsections ~~[(31)(a)]~~ (32)(a) and (b).

~~[(32)]~~ (33)(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection ~~[(32)(a)]~~ (33)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection ~~[(32)(a)]~~ (33)(a).

~~[(33)]~~ (34) "Construction materials" means any tangible personal property that will be converted into real property.

~~[(34)]~~ (35) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

~~[(35)]~~ (36)(a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) a service; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection ~~[(35)(a)(i)]~~ (36)(a)(i) to a location designated by the purchaser.

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

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

~~[(36)]~~ (37) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

~~[(37)]~~ (38) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

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

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

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

- 403 total dietary intake; or
- 404 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 405 described in Subsections ~~[(37)(b)(i)]~~ (38)(b)(i) through (v);
- 406 (c)(i) except as provided in Subsection ~~[(37)(e)(ii)]~~ (38)(c)(ii), is intended for
- 407 ingestion in:
- 408 (A) tablet form;
- 409 (B) capsule form;
- 410 (C) powder form;
- 411 (D) softgel form;
- 412 (E) gelcap form; or
- 413 (F) liquid form; or
- 414 (ii) if the product is not intended for ingestion in a form described in Subsections [
- 415 ~~(37)(e)(i)(A)]~~ (38)(c)(i)(A) through (F), is not represented:
- 416 (A) as conventional food; and
- 417 (B) for use as a sole item of:
- 418 (I) a meal; or
- 419 (II) the diet; and
- 420 (d) is required to be labeled as a dietary supplement:
- 421 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 422 (ii) as required by 21 C.F.R. Sec. 101.36.
- 423 ~~[(38)]~~ (39)(a) "Digital audio work" means a work that results from the fixation of a series
- 424 of musical, spoken, or other sounds.
- 425 (b) "Digital audio work" includes a ringtone.
- 426 ~~[(39)]~~ (40) "Digital audio-visual work" means a series of related images which, when shown
- 427 in succession, imparts an impression of motion, together with accompanying sounds, if
- 428 any.
- 429 ~~[(40)]~~ (41) "Digital book" means a work that is generally recognized in the ordinary and
- 430 usual sense as a book.
- 431 ~~[(41)]~~ (42)(a) "Direct mail" means printed material delivered or distributed by United
- 432 States mail or other delivery service:
- 433 (i) to:
- 434 (A) a mass audience; or
- 435 (B) addressees on a mailing list provided:
- 436 (I) by a purchaser of the mailing list; or

- 437 (II) at the discretion of the purchaser of the mailing list; and
- 438 (ii) if the cost of the printed material is not billed directly to the recipients.
- 439 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 440 purchaser to a seller of direct mail for inclusion in a package containing the printed
- 441 material.
- 442 (c) "Direct mail" does not include multiple items of printed material delivered to a single
- 443 address.
- 444 ~~[(42)]~~ (43) "Directory assistance" means an ancillary service of providing:
- 445 (a) address information; or
- 446 (b) telephone number information.
- 447 ~~[(43)]~~ (44)(a) "Disposable home medical equipment or supplies" means medical
- 448 equipment or supplies that:
- 449 (i) cannot withstand repeated use; and
- 450 (ii) are purchased by, for, or on behalf of a person other than:
- 451 (A) a health care facility as defined in Section 26B-2-201;
- 452 (B) a health care provider as defined in Section 78B-3-403;
- 453 (C) an office of a health care provider described in Subsection ~~[(43)(a)(ii)(B)]~~
- 454 (44)(a)(ii)(B); or
- 455 (D) a person similar to a person described in Subsections ~~[(43)(a)(ii)(A)]~~
- 456 (44)(a)(ii)(A) through (C).
- 457 (b) "Disposable home medical equipment or supplies" does not include:
- 458 (i) a drug;
- 459 (ii) durable medical equipment;
- 460 (iii) a hearing aid;
- 461 (iv) a hearing aid accessory;
- 462 (v) mobility enhancing equipment; or
- 463 (vi) tangible personal property used to correct impaired vision, including:
- 464 (A) eyeglasses; or
- 465 (B) contact lenses.
- 466 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 467 commission may by rule define what constitutes medical equipment or supplies.
- 468 ~~[(44)]~~ (45) "Drilling equipment manufacturer" means a facility:
- 469 (a) located in the state;
- 470 (b) with respect to which 51% or more of the manufacturing activities of the facility

- 471 consist of manufacturing component parts of drilling equipment;
472 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
473 manufacturing process; and
474 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
475 manufacturing process.

476 ~~[(45)]~~ (46)(a) "Drug" means a compound, substance, or preparation, or a component of a
477 compound, substance, or preparation that is:

478 (i) recognized in:

- 479 (A) the official United States Pharmacopoeia;
480 (B) the official Homeopathic Pharmacopoeia of the United States;
481 (C) the official National Formulary; or
482 (D) a supplement to a publication listed in Subsections ~~[(45)(a)(i)(A)]~~ (46)(a)(i)(A)
483 through (C);

484 (ii) intended for use in the:

- 485 (A) diagnosis of disease;
486 (B) cure of disease;
487 (C) mitigation of disease;
488 (D) treatment of disease; or
489 (E) prevention of disease; or

490 (iii) intended to affect:

- 491 (A) the structure of the body; or
492 (B) any function of the body.

493 (b) "Drug" does not include:

- 494 (i) food and food ingredients;
495 (ii) a dietary supplement;
496 (iii) an alcoholic beverage; or
497 (iv) a prosthetic device.

498 ~~[(46)]~~ (47)(a) "Durable medical equipment" means equipment that:

- 499 (i) can withstand repeated use;
500 (ii) is primarily and customarily used to serve a medical purpose;
501 (iii) generally is not useful to a person in the absence of illness or injury; and
502 (iv) is not worn in or on the body.

503 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
504 equipment described in Subsection ~~[(46)(a)]~~ (47)(a).

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

~~[(47)]~~ (48) "Electronic" means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections ~~[(47)(b)(i)]~~ (48)(b)(i) through (vi).

~~[(48)]~~ (49) "Electronic financial payment service" means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

~~[(49)]~~ (50) "Employee" means the same as that term is defined in Section 59-10-401.

~~[(50)]~~ (51) "Fixed guideway" means a public transit facility that uses and occupies:

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

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

~~[(51)]~~ (52) "Fixed wing turbine powered aircraft" means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

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

~~[(52)]~~ (53) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

~~[(53)]~~ (54)(a) "Food and food ingredients" means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

- 539 (F) dehydrated form; and
- 540 (ii) that are:
- 541 (A) sold for:
- 542 (I) ingestion by humans; or
- 543 (II) chewing by humans; and
- 544 (B) consumed for the substance's:
- 545 (I) taste; or
- 546 (II) nutritional value.
- 547 (b) "Food and food ingredients" includes an item described in Subsection [~~(99)~~(b)(iii)]
- 548 (100)(b)(iii).
- 549 (c) "Food and food ingredients" does not include:
- 550 (i) an alcoholic beverage;
- 551 (ii) tobacco; or
- 552 (iii) prepared food.
- 553 [~~(54)~~] (55)(a) "Fundraising sales" means sales:
- 554 (i)(A) made by a school; or
- 555 (B) made by a school student;
- 556 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 557 materials, or provide transportation; and
- 558 (iii) that are part of an officially sanctioned school activity.
- 559 (b) For purposes of Subsection [~~(54)~~(a)(iii)] (55)(a)(iii), "officially sanctioned school
- 560 activity" means a school activity:
- 561 (i) that is conducted in accordance with a formal policy adopted by the school or
- 562 school district governing the authorization and supervision of fundraising
- 563 activities;
- 564 (ii) that does not directly or indirectly compensate an individual teacher or other
- 565 educational personnel by direct payment, commissions, or payment in kind; and
- 566 (iii) the net or gross revenue from which is deposited in a dedicated account
- 567 controlled by the school or school district.
- 568 [~~(55)~~] (56) "Geothermal energy" means energy contained in heat that continuously flows
- 569 outward from the earth that is used as the sole source of energy to produce electricity.
- 570 [~~(56)~~] (57) "Governing board of the agreement" means the governing board of the
- 571 agreement that is:
- 572 (a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

~~[(57)]~~ (58)(a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

- (i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;
- (ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;
- (iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;
- (iv) the National Guard;
- (v) an independent entity as defined in Section 63E-1-102; or
- (vi) a political subdivision as defined in Section 17B-1-102.

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

- (i) a school;
- (ii) the State Board of Education;
- (iii) the Utah Board of Higher Education; or
- (iv) an institution of higher education described in Section 53B-1-102.

~~[(58)]~~ (59) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

~~[(59)]~~ (60) "Individual-owned shared vehicle" means the same as that term is defined in Section 13-48a-101.

~~[(60)]~~ (61) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

- (a) in mining or extraction of minerals;
- (b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:
 - (i) commercial greenhouses;
 - (ii) irrigation pumps;
 - (iii) farm machinery;
 - (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

- 607 (v) other farming activities;
- 608 (c) in manufacturing tangible personal property at an establishment described in:
- 609 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
- 610 the federal Executive Office of the President, Office of Management and Budget;
- 611 or
- 612 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
- 613 American Industry Classification System of the federal Executive Office of the
- 614 President, Office of Management and Budget;
- 615 (d) by a scrap recycler if:
- 616 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to
- 617 process one or more of the following items into prepared grades of processed
- 618 materials for use in new products:
- 619 (A) iron;
- 620 (B) steel;
- 621 (C) nonferrous metal;
- 622 (D) paper;
- 623 (E) glass;
- 624 (F) plastic;
- 625 (G) textile; or
- 626 (H) rubber; and
- 627 (ii) the new products under Subsection [~~(60)(d)(i)~~] (61)(d)(i) would otherwise be
- 628 made with nonrecycled materials; or
- 629 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
- 630 cogeneration facility as defined in Section 54-2-1.
- 631 [~~(61)~~] (62)(a) "Installation charge" means a charge for installing:
- 632 (i) tangible personal property; or
- 633 (ii) a product transferred electronically.
- 634 (b) "Installation charge" does not include a charge for:
- 635 (i) repairs or renovations of:
- 636 (A) tangible personal property; or
- 637 (B) a product transferred electronically; or
- 638 (ii) attaching tangible personal property or a product transferred electronically:
- 639 (A) to other tangible personal property; and
- 640 (B) as part of a manufacturing or fabrication process.

641 ~~[(62)]~~ (63) "Institution of higher education" means an institution of higher education listed
642 in Section 53B-2-101.

643 ~~[(63)]~~ (64)(a) "Lease" or "rental" means a transfer of possession or control of tangible
644 personal property or a product transferred electronically for:

645 (i)(A) a fixed term; or

646 (B) an indeterminate term; and

647 (ii) consideration.

648 (b) "Lease" or "rental" includes:

649 (i) an agreement covering a motor vehicle and trailer if the amount of consideration
650 may be increased or decreased by reference to the amount realized upon sale or
651 disposition of the property as defined in Section 7701(h)(1), Internal Revenue
652 Code; and

653 (ii) car sharing.

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

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

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

660 (A) upon completion of required payments; and

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

662 (I) \$100; or

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

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

667 (d) For purposes of Subsection ~~[(63)]~~ (64)(c)(iii), an operator is necessary for equipment
668 to perform as designed if the operator's duties exceed the:

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

670 (ii) maintenance of tangible personal property; or

671 (iii) inspection of tangible personal property.

672 ~~[(64)]~~ (65) "Lesson" means a fixed period of time for the duration of which a trained
673 instructor:

674 (a) is present with a student in person or by video; and

(b) actively instructs the student, including by providing observation or feedback.

~~[(65)]~~ (66) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

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

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

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

~~[(66)]~~ (67) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

~~[(67)]~~ (68) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

~~[(68)]~~ (69) "Local taxing jurisdiction" means a:

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

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

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

~~[(69)]~~ (70) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

~~[(70)]~~ (71) "Manufacturing facility" means:

(a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

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

(A) iron;

(B) steel;

- 709 (C) nonferrous metal;
- 710 (D) paper;
- 711 (E) glass;
- 712 (F) plastic;
- 713 (G) textile; or
- 714 (H) rubber; and
- 715 (ii) the new products under Subsection [~~(70)(b)(i)~~] (71)(b)(i) would otherwise be
- 716 made with nonrecycled materials; or
- 717 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
- 718 placed in service on or after May 1, 2006.
- 719 [~~(71)~~] (72)(a) "Marketplace" means a physical or electronic place, platform, or forum
- 720 where tangible personal property, a product transferred electronically, or a service is
- 721 offered for sale.
- 722 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated
- 723 sales software application.
- 724 [~~(72)~~] (73)(a) "Marketplace facilitator" means a person, including an affiliate of the
- 725 person, that enters into a contract, an agreement, or otherwise with sellers, for
- 726 consideration, to facilitate the sale of a seller's product through a marketplace that the
- 727 person owns, operates, or controls and that directly or indirectly:
- 728 (i) does any of the following:
- 729 (A) lists, makes available, or advertises tangible personal property, a product
- 730 transferred electronically, or a service for sale by a marketplace seller on a
- 731 marketplace that the person owns, operates, or controls;
- 732 (B) facilitates the sale of a marketplace seller's tangible personal property, product
- 733 transferred electronically, or service by transmitting or otherwise
- 734 communicating an offer or acceptance of a retail sale between the marketplace
- 735 seller and a purchaser using the marketplace;
- 736 (C) owns, rents, licenses, makes available, or operates any electronic or physical
- 737 infrastructure or any property, process, method, copyright, trademark, or patent
- 738 that connects a marketplace seller to a purchaser for the purpose of making a
- 739 retail sale of tangible personal property, a product transferred electronically, or
- 740 a service;
- 741 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of
- 742 tangible personal property, a product transferred electronically, or a service,

- 743 regardless of ownership or control of the tangible personal property, the
744 product transferred electronically, or the service that is the subject of the retail
745 sale;
- 746 (E) provides software development or research and development activities related
747 to any activity described in this Subsection [~~(72)(a)(i)~~] (73)(a)(i), if the software
748 development or research and development activity is directly related to the
749 person's marketplace;
- 750 (F) provides or offers fulfillment or storage services for a marketplace seller;
- 751 (G) sets prices for the sale of tangible personal property, a product transferred
752 electronically, or a service by a marketplace seller;
- 753 (H) provides or offers customer service to a marketplace seller or a marketplace
754 seller's purchaser or accepts or assists with taking orders, returns, or exchanges
755 of tangible personal property, a product transferred electronically, or a service
756 sold by a marketplace seller on the person's marketplace; or
- 757 (I) brands or otherwise identifies sales as those of the person; and
- 758 (ii) does any of the following:
- 759 (A) collects the sales price or purchase price of a retail sale of tangible personal
760 property, a product transferred electronically, or a service;
- 761 (B) provides payment processing services for a retail sale of tangible personal
762 property, a product transferred electronically, or a service;
- 763 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee,
764 closing fee, a fee for inserting or making available tangible personal property, a
765 product transferred electronically, or a service on the person's marketplace, or
766 other consideration for the facilitation of a retail sale of tangible personal
767 property, a product transferred electronically, or a service, regardless of
768 ownership or control of the tangible personal property, the product transferred
769 electronically, or the service that is the subject of the retail sale;
- 770 (D) through terms and conditions, an agreement, or another arrangement with a
771 third person, collects payment from a purchase for a retail sale of tangible
772 personal property, a product transferred electronically, or a service and
773 transmits that payment to the marketplace seller, regardless of whether the
774 third person receives compensation or other consideration in exchange for the
775 service; or
- 776 (E) provides a virtual currency for a purchaser to use to purchase tangible personal

- 777 property, a product transferred electronically, or service offered for sale.
- 778 (b) "Marketplace facilitator" does not include:
- 779 (i) a person that only provides payment processing services; or
- 780 (ii) a person described in Subsection [~~(72)~~(a)] (73)(a) to the extent the person is
- 781 facilitating a sale for a seller that is a restaurant as defined in Section 59-12-602.
- 782 [~~(73)~~] (74) "Marketplace seller" means a seller that makes one or more retail sales through a
- 783 marketplace that a marketplace facilitator owns, operates, or controls, regardless of
- 784 whether the seller is required to be registered to collect and remit the tax under this part.
- 785 [~~(74)~~] (75) "Member of the immediate family of the producer" means a person who is
- 786 related to a producer described in Subsection 59-12-104(20)(a) as a:
- 787 (a) child or stepchild, regardless of whether the child or stepchild is:
- 788 (i) an adopted child or adopted stepchild; or
- 789 (ii) a foster child or foster stepchild;
- 790 (b) grandchild or stepgrandchild;
- 791 (c) grandparent or stepgrandparent;
- 792 (d) nephew or stepnephew;
- 793 (e) niece or stepniece;
- 794 (f) parent or stepparent;
- 795 (g) sibling or stepsibling;
- 796 (h) spouse;
- 797 (i) person who is the spouse of a person described in Subsections [~~(74)~~(a)] (75)(a)
- 798 through (g); or
- 799 (j) person similar to a person described in Subsections [~~(74)~~(a)] (75)(a) through (i) as
- 800 determined by the commission by rule made in accordance with Title 63G, Chapter 3,
- 801 Utah Administrative Rulemaking Act.
- 802 [~~(75)~~] (76) "Mobile home" means the same as that term is defined in Section 15A-1-302.
- 803 [~~(76)~~] (77) "Mobile telecommunications service" means the same as that term is defined in
- 804 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 805 [~~(77)~~] (78)(a) "Mobile wireless service" means a telecommunications service, regardless
- 806 of the technology used, if:
- 807 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 808 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 809 (iii) the origination point described in Subsection [~~(77)~~(a)(i)] (78)(a)(i) and the
- 810 termination point described in Subsection [~~(77)~~(a)(ii)] (78)(a)(ii) are not fixed.

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

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

~~[(78)]~~ (79)(a) "Mobility enhancing equipment" means equipment that is:

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

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

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

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection ~~[(78)(a)]~~ (79)(a).

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

(i) a motor vehicle;

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

(iii) durable medical equipment; or

(iv) a prosthetic device.

~~[(79)]~~ (80) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform the seller's sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

~~[(80)]~~ (81) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection ~~[(80)(b)]~~ (81)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

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

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

~~[(81)]~~ (82)(a) Subject to Subsection ~~[(81)(b)]~~ (82)(b), "model 3 seller" means a seller registered under the agreement that has:

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

- 845 (ii) total annual sales revenue of at least \$500,000,000;
- 846 (iii) a proprietary system that calculates the amount of tax:
- 847 (A) for an agreement sales and use tax; and
- 848 (B) due to each local taxing jurisdiction; and
- 849 (iv) entered into a performance agreement with the governing board of the agreement.

850 (b) For purposes of Subsection ~~[(81)(a)]~~ (82)(a), "model 3 seller" includes an affiliated

851 group of sellers using the same proprietary system.

852 ~~[(82)]~~ (83) "Model 4 seller" means a seller that is registered under the agreement and is not a

853 model 1 seller, model 2 seller, or model 3 seller.

854 ~~[(83)]~~ (84) "Modular home" means a modular unit as defined in Section 15A-1-302.

855 ~~[(84)]~~ (85) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

856 ~~[(85)]~~ (86) "Oil sands" means impregnated bituminous sands that:

- 857 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
- 858 other hydrocarbons, or otherwise treated;
- 859 (b) yield mixtures of liquid hydrocarbon; and
- 860 (c) require further processing other than mechanical blending before becoming finished
- 861 petroleum products.

862 ~~[(86)]~~ (87) "Oil shale" means a group of fine black to dark brown shales containing kerogen

863 material that yields petroleum upon heating and distillation.

864 ~~[(87)]~~ (88) "Optional computer software maintenance contract" means a computer software

865 maintenance contract that a customer is not obligated to purchase as a condition to the

866 retail sale of computer software.

867 ~~[(88)]~~ (89)(a) "Other fuels" means products that burn independently to produce heat or

868 energy.

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

871 ~~[(89)]~~ (90)(a) "Paging service" means a telecommunications service that provides

872 transmission of a coded radio signal for the purpose of activating a specific pager.

- 873 (b) For purposes of Subsection ~~[(89)(a)]~~ (90)(a), the transmission of a coded radio signal
- 874 includes a transmission by message or sound.

875 ~~[(90)]~~ (91) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

876 ~~[(91)]~~ (92) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

877 ~~[(92)]~~ (93)(a) "Permanently attached to real property" means that for tangible personal

878 property attached to real property:

- 879 (i) the attachment of the tangible personal property to the real property:
880 (A) is essential to the use of the tangible personal property; and
881 (B) suggests that the tangible personal property will remain attached to the real
882 property in the same place over the useful life of the tangible personal
883 property; or
884 (ii) if the tangible personal property is detached from the real property, the
885 detachment would:
886 (A) cause substantial damage to the tangible personal property; or
887 (B) require substantial alteration or repair of the real property to which the
888 tangible personal property is attached.
- 889 (b) "Permanently attached to real property" includes:
890 (i) the attachment of an accessory to the tangible personal property if the accessory is:
891 (A) essential to the operation of the tangible personal property; and
892 (B) attached only to facilitate the operation of the tangible personal property;
893 (ii) a temporary detachment of tangible personal property from real property for a
894 repair or renovation if the repair or renovation is performed where the tangible
895 personal property and real property are located; or
896 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
897 Subsection ~~[(92)(e)(iii)]~~ (93)(c)(iii) or (iv).
- 898 (c) "Permanently attached to real property" does not include:
899 (i) the attachment of portable or movable tangible personal property to real property
900 if that portable or movable tangible personal property is attached to real property
901 only for:
902 (A) convenience;
903 (B) stability; or
904 (C) for an obvious temporary purpose;
905 (ii) the detachment of tangible personal property from real property except for the
906 detachment described in Subsection ~~[(92)(b)(ii)]~~ (93)(b)(ii);
907 (iii) an attachment of the following tangible personal property to real property if the
908 attachment to real property is only through a line that supplies water, electricity,
909 gas, telecommunications, cable, or supplies a similar item as determined by the
910 commission by rule made in accordance with Title 63G, Chapter 3, Utah
911 Administrative Rulemaking Act:
912 (A) a computer;

- 913 (B) a telephone;
- 914 (C) a television; or
- 915 (D) tangible personal property similar to Subsections [~~(92)(e)(iii)(A)~~]
916 (93)(c)(iii)(A) through (C) as determined by the commission by rule made in
917 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
- 918 (iv) an item listed in Subsection [~~(137)(e)~~] (138)(c).
- 919 [~~(93)~~] (94) "Person" includes any individual, firm, partnership, joint venture, association,
920 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
921 municipality, district, or other local governmental entity of the state, or any group or
922 combination acting as a unit.
- 923 [~~(94)~~] (95) "Place of primary use":
- 924 (a) for telecommunications service other than mobile telecommunications service,
925 means the street address representative of where the customer's use of the
926 telecommunications service primarily occurs, which shall be:
- 927 (i) the residential street address of the customer; or
- 928 (ii) the primary business street address of the customer; or
- 929 (b) for mobile telecommunications service, means the same as that term is defined in the
930 Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 931 [~~(95)~~] (96)(a) "Postpaid calling service" means a telecommunications service a person
932 obtains by making a payment on a call-by-call basis:
- 933 (i) through the use of a:
- 934 (A) bank card;
- 935 (B) credit card;
- 936 (C) debit card; or
- 937 (D) travel card; or
- 938 (ii) by a charge made to a telephone number that is not associated with the origination
939 or termination of the telecommunications service.
- 940 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
941 service, that would be a prepaid wireless calling service if the service were
942 exclusively a telecommunications service.
- 943 [~~(96)~~] (97) "Postproduction" means an activity related to the finishing or duplication of a
944 medium described in Subsection 59-12-104(54)(a).
- 945 [~~(97)~~] (98) "Prepaid calling service" means a telecommunications service:
- 946 (a) that allows a purchaser access to telecommunications service that is exclusively

947 telecommunications service;

948 (b) that:

949 (i) is paid for in advance; and

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

951 (A) access number; or

952 (B) authorization code;

953 (c) that is dialed:

954 (i) manually; or

955 (ii) electronically; and

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

957 (i) by a known amount; and

958 (ii) with use.

959 [(98)] (99) "Prepaid wireless calling service" means a telecommunications service:

960 (a) that provides the right to utilize:

961 (i) mobile wireless service; and

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

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

964 (B) a content service; or

965 (C) an ancillary service;

966 (b) that:

967 (i) is paid for in advance; and

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

969 (A) access number; or

970 (B) authorization code;

971 (c) that is dialed:

972 (i) manually; or

973 (ii) electronically; and

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

975 (i) by a known amount; and

976 (ii) with use.

977 [(99)] (100)(a) "Prepared food" means:

978 (i) food:

979 (A) sold in a heated state; or

980 (B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection [~~(99)(e)~~] (100)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes;

(ii)(A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections [~~(99)(b)(ii)(A)(I)~~]

(100)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection [~~(99)(b)(ii)(A)~~] (100)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

1015 (B) food and food ingredients sold in an unheated state:

1016 (I) by weight or volume; and

1017 (II) as a single item; or

1018 (C) a bakery item, including:

1019 (I) a bagel;

1020 (II) a bar;

1021 (III) a biscuit;

1022 (IV) bread;

1023 (V) a bun;

1024 (VI) a cake;

1025 (VII) a cookie;

1026 (VIII) a croissant;

1027 (IX) a danish;

1028 (X) a donut;

1029 (XI) a muffin;

1030 (XII) a pastry;

1031 (XIII) a pie;

1032 (XIV) a roll;

1033 (XV) a tart;

1034 (XVI) a torte; or

1035 (XVII) a tortilla.

1036 (c) An eating utensil provided by the seller does not include the following used to
1037 transport the food:

1038 (i) a container; or

1039 (ii) packaging.

1040 ~~[(100)]~~ (101) "Prescription" means an order, formula, or recipe that is issued:

1041 (a)(i) orally;

1042 (ii) in writing;

1043 (iii) electronically; or

1044 (iv) by any other manner of transmission; and

1045 (b) by a licensed practitioner authorized by the laws of a state.

1046 ~~[(101)]~~ (102)(a) "Prewritten computer software" means computer software that is not
1047 designed and developed:

1048 (i) by the author or other creator of the computer software; and

- 1049 (ii) to the specifications of a specific purchaser.
- 1050 (b) "Prewritten computer software" includes:
- 1051 (i) a prewritten upgrade to computer software if the prewritten upgrade to the
- 1052 computer software is not designed and developed:
- 1053 (A) by the author or other creator of the computer software; and
- 1054 (B) to the specifications of a specific purchaser;
- 1055 (ii) computer software designed and developed by the author or other creator of the
- 1056 computer software to the specifications of a specific purchaser if the computer
- 1057 software is sold to a person other than the purchaser; or
- 1058 (iii) except as provided in Subsection ~~[(101)(e)]~~ (102)(c), prewritten computer
- 1059 software or a prewritten portion of prewritten computer software:
- 1060 (A) that is modified or enhanced to any degree; and
- 1061 (B) if the modification or enhancement described in Subsection ~~[(101)(b)(iii)(A)]~~
- 1062 (102)(b)(iii)(A) is designed and developed to the specifications of a specific
- 1063 purchaser.
- 1064 (c) "Prewritten computer software" does not include a modification or enhancement
- 1065 described in Subsection ~~[(101)(b)(iii)]~~ (102)(b)(iii) if the charges for the modification
- 1066 or enhancement are:
- 1067 (i) reasonable; and
- 1068 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the
- 1069 invoice or other statement of price provided to the purchaser at the time of sale or
- 1070 later, as demonstrated by:
- 1071 (A) the books and records the seller keeps at the time of the transaction in the
- 1072 regular course of business, including books and records the seller keeps at the
- 1073 time of the transaction in the regular course of business for nontax purposes;
- 1074 (B) a preponderance of the facts and circumstances at the time of the transaction;
- 1075 and
- 1076 (C) the understanding of all of the parties to the transaction.
- 1077 ~~[(102)]~~ (103)(a) "Private communications service" means a telecommunications service:
- 1078 (i) that entitles a customer to exclusive or priority use of one or more
- 1079 communications channels between or among termination points; and
- 1080 (ii) regardless of the manner in which the one or more communications channels are
- 1081 connected.
- 1082 (b) "Private communications service" includes the following provided in connection

- 1083 with the use of one or more communications channels:
- 1084 (i) an extension line;
- 1085 (ii) a station;
- 1086 (iii) switching capacity; or
- 1087 (iv) another associated service that is provided in connection with the use of one or
- 1088 more communications channels as defined in Section 59-12-215.
- 1089 ~~[(103)]~~ (104)(a) "Product transferred electronically" means a product transferred
- 1090 electronically that would be subject to a tax under this chapter if that product was
- 1091 transferred in a manner other than electronically.
- 1092 (b) "Product transferred electronically" does not include:
- 1093 (i) an ancillary service;
- 1094 (ii) computer software; or
- 1095 (iii) a telecommunications service.
- 1096 ~~[(104)]~~ (105)(a) "Prosthetic device" means a device that is worn on or in the body to:
- 1097 (i) artificially replace a missing portion of the body;
- 1098 (ii) prevent or correct a physical deformity or physical malfunction; or
- 1099 (iii) support a weak or deformed portion of the body.
- 1100 (b) "Prosthetic device" includes:
- 1101 (i) parts used in the repairs or renovation of a prosthetic device;
- 1102 (ii) replacement parts for a prosthetic device;
- 1103 (iii) a dental prosthesis; or
- 1104 (iv) a hearing aid.
- 1105 (c) "Prosthetic device" does not include:
- 1106 (i) corrective eyeglasses; or
- 1107 (ii) contact lenses.
- 1108 ~~[(105)]~~ (106)(a) "Protective equipment" means an item:
- 1109 (i) for human wear; and
- 1110 (ii) that is:
- 1111 (A) designed as protection:
- 1112 (I) to the wearer against injury or disease; or
- 1113 (II) against damage or injury of other persons or property; and
- 1114 (B) not suitable for general use.
- 1115 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1116 commission shall make rules:

- 1117 (i) listing the items that constitute "protective equipment"; and
- 1118 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1119 under the agreement.

1120 [(106)] (107)(a) For purposes of Subsection 59-12-104(41), "publication" means any
1121 written or printed matter, other than a photocopy:

1122 (i) regardless of:

- 1123 (A) characteristics;
- 1124 (B) copyright;
- 1125 (C) form;
- 1126 (D) format;
- 1127 (E) method of reproduction; or
- 1128 (F) source; and

1129 (ii) made available in printed or electronic format.

1130 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1131 commission may by rule define the term "photocopy."

1132 [(107)] (108)(a) "Purchase price" and "sales price" mean the total amount of
1133 consideration:

1134 (i) valued in money; and

1135 (ii) for which tangible personal property, a product transferred electronically, or
1136 services are:

- 1137 (A) sold;
- 1138 (B) leased; or
- 1139 (C) rented.

1140 (b) "Purchase price" and "sales price" include:

1141 (i) the seller's cost of the tangible personal property, a product transferred
1142 electronically, or services sold;

1143 (ii) expenses of the seller, including:

- 1144 (A) the cost of materials used;
- 1145 (B) a labor cost;
- 1146 (C) a service cost;
- 1147 (D) interest;
- 1148 (E) a loss;
- 1149 (F) the cost of transportation to the seller; or
- 1150 (G) a tax imposed on the seller;

- 1151 (iii) a charge by the seller for any service necessary to complete the sale; or
1152 (iv) consideration a seller receives from a person other than the purchaser if:
1153 (A)(I) the seller actually receives consideration from a person other than the
1154 purchaser; and
1155 (II) the consideration described in Subsection [~~(107)(b)(iv)(A)(I)~~]
1156 (108)(b)(iv)(A)(I) is directly related to a price reduction or discount on the
1157 sale;
1158 (B) the seller has an obligation to pass the price reduction or discount through to
1159 the purchaser;
1160 (C) the amount of the consideration attributable to the sale is fixed and
1161 determinable by the seller at the time of the sale to the purchaser; and
1162 (D)(I)(Aa) the purchaser presents a certificate, coupon, or other
1163 documentation to the seller to claim a price reduction or discount; and
1164 (Bb) a person other than the seller authorizes, distributes, or grants the
1165 certificate, coupon, or other documentation with the understanding that
1166 the person other than the seller will reimburse any seller to whom the
1167 certificate, coupon, or other documentation is presented;
1168 (II) the purchaser identifies that purchaser to the seller as a member of a group
1169 or organization allowed a price reduction or discount, except that a
1170 preferred customer card that is available to any patron of a seller does not
1171 constitute membership in a group or organization allowed a price reduction
1172 or discount; or
1173 (III) the price reduction or discount is identified as a third party price reduction
1174 or discount on the:
1175 (Aa) invoice the purchaser receives; or
1176 (Bb) certificate, coupon, or other documentation the purchaser presents.
1177 (c) "Purchase price" and "sales price" do not include:
1178 (i) a discount:
1179 (A) in a form including:
1180 (I) cash;
1181 (II) term; or
1182 (III) coupon;
1183 (B) that is allowed by a seller;
1184 (C) taken by a purchaser on a sale; and

1185 (D) that is not reimbursed by a third party; or

1186 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if
1187 separately stated on an invoice, bill of sale, or similar document provided to the
1188 purchaser at the time of sale or later, as demonstrated by the books and records the
1189 seller keeps at the time of the transaction in the regular course of business,
1190 including books and records the seller keeps at the time of the transaction in the
1191 regular course of business for nontax purposes, by a preponderance of the facts
1192 and circumstances at the time of the transaction, and by the understanding of all of
1193 the parties to the transaction:

1194 (A) the following from credit extended on the sale of tangible personal property or
1195 services:

1196 (I) a carrying charge;

1197 (II) a financing charge; or

1198 (III) an interest charge;

1199 (B) a delivery charge;

1200 (C) an installation charge;

1201 (D) a manufacturer rebate on a motor vehicle; or

1202 (E) a tax or fee legally imposed directly on the consumer.

1203 ~~[(108)]~~ (109) "Purchaser" means a person to whom:

1204 (a) a sale of tangible personal property is made;

1205 (b) a product is transferred electronically; or

1206 (c) a service is furnished.

1207 ~~[(109)]~~ (110) "Qualifying data center" means a data center facility that:

1208 (a) houses a group of networked server computers in one physical location in order to
1209 disseminate, manage, and store data and information;

1210 (b) is located in the state;

1211 (c) is a new operation constructed on or after July 1, 2016;

1212 (d) consists of one or more buildings that total 150,000 or more square feet;

1213 (e) is owned or leased by:

1214 (i) the operator of the data center facility; or

1215 (ii) a person under common ownership, as defined in Section 59-7-101, of the
1216 operator of the data center facility; and

1217 (f) is located on one or more parcels of land that are owned or leased by:

1218 (i) the operator of the data center facility; or

- 1219 (ii) a person under common ownership, as defined in Section 59-7-101, of the
1220 operator of the data center facility.
- 1221 ~~[(110)]~~ (111) "Regularly rented" means:
- 1222 (a) rented to a guest for value three or more times during a calendar year; or
1223 (b) advertised or held out to the public as a place that is regularly rented to guests for
1224 value.
- 1225 ~~[(111)]~~ (112) "Rental" means the same as that term is defined in Subsection ~~[(63)]~~ (64).
- 1226 ~~[(112)]~~ (113)(a) "Repairs or renovations of tangible personal property" means:
- 1227 (i) a repair or renovation of tangible personal property that is not permanently
1228 attached to real property; or
- 1229 (ii) attaching tangible personal property or a product transferred electronically to
1230 other tangible personal property or detaching tangible personal property or a
1231 product transferred electronically from other tangible personal property if:
- 1232 (A) the other tangible personal property to which the tangible personal property or
1233 product transferred electronically is attached or from which the tangible
1234 personal property or product transferred electronically is detached is not
1235 permanently attached to real property; and
- 1236 (B) the attachment of tangible personal property or a product transferred
1237 electronically to other tangible personal property or detachment of tangible
1238 personal property or a product transferred electronically from other tangible
1239 personal property is made in conjunction with a repair or replacement of
1240 tangible personal property or a product transferred electronically.
- 1241 (b) "Repairs or renovations of tangible personal property" does not include:
- 1242 (i) attaching prewritten computer software to other tangible personal property if the
1243 other tangible personal property to which the prewritten computer software is
1244 attached is not permanently attached to real property; or
- 1245 (ii) detaching prewritten computer software from other tangible personal property if
1246 the other tangible personal property from which the prewritten computer software
1247 is detached is not permanently attached to real property.
- 1248 ~~[(113)]~~ (114) "Research and development" means the process of inquiry or experimentation
1249 aimed at the discovery of facts, devices, technologies, or applications and the process of
1250 preparing those devices, technologies, or applications for marketing.
- 1251 ~~[(114)]~~ (115)(a) "Residential telecommunications services" means a telecommunications
1252 service or an ancillary service that is provided to an individual for personal use:

- 1253 (i) at a residential address; or
- 1254 (ii) at an institution, including a nursing home or a school, if the telecommunications
- 1255 service or ancillary service is provided to and paid for by the individual residing at
- 1256 the institution rather than the institution.
- 1257 (b) For purposes of Subsection [~~(114)~~(a)(i)] (115)(a)(i), a residential address includes an:
- 1258 (i) apartment; or
- 1259 (ii) other individual dwelling unit.
- 1260 [~~(115)~~] (116) "Residential use" means the use in or around a home, apartment building,
- 1261 sleeping quarters, and similar facilities or accommodations.
- 1262 [~~(116)~~] (117) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
- 1263 than:
- 1264 (a) resale;
- 1265 (b) sublease; or
- 1266 (c) subrent.
- 1267 [~~(117)~~] (118)(a) "Retailer" means any person, unless prohibited by the Constitution of the
- 1268 United States or federal law, that is engaged in a regularly organized business in
- 1269 tangible personal property or any other taxable transaction under Subsection
- 1270 59-12-103(1), and who is selling to the user or consumer and not for resale.
- 1271 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
- 1272 engaged in the business of selling to users or consumers within the state.
- 1273 [~~(118)~~] (119)(a) "Sale" means any transfer of title, exchange, or barter, conditional or
- 1274 otherwise, in any manner, of tangible personal property or any other taxable
- 1275 transaction under Subsection 59-12-103(1), for consideration.
- 1276 (b) "Sale" includes:
- 1277 (i) installment and credit sales;
- 1278 (ii) any closed transaction constituting a sale;
- 1279 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
- 1280 chapter;
- 1281 (iv) any transaction if the possession of property is transferred but the seller retains
- 1282 the title as security for the payment of the price; and
- 1283 (v) any transaction under which right to possession, operation, or use of any article of
- 1284 tangible personal property is granted under a lease or contract and the transfer of
- 1285 possession would be taxable if an outright sale were made.
- 1286 [~~(119)~~] (120) "Sale at retail" means the same as that term is defined in Subsection [~~(116)~~]

- 1287 (117).
- 1288 ~~[(120)]~~ (121) "Sale-leaseback transaction" means a transaction by which title to tangible
- 1289 personal property or a product transferred electronically that is subject to a tax under this
- 1290 chapter is transferred:
- 1291 (a) by a purchaser-lessee;
- 1292 (b) to a lessor;
- 1293 (c) for consideration; and
- 1294 (d) if:
- 1295 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial
- 1296 purchase of the tangible personal property or product transferred electronically;
- 1297 (ii) the sale of the tangible personal property or product transferred electronically to
- 1298 the lessor is intended as a form of financing:
- 1299 (A) for the tangible personal property or product transferred electronically; and
- 1300 (B) to the purchaser-lessee; and
- 1301 (iii) in accordance with generally accepted accounting principles, the
- 1302 purchaser-lessee is required to:
- 1303 (A) capitalize the tangible personal property or product transferred electronically
- 1304 for financial reporting purposes; and
- 1305 (B) account for the lease payments as payments made under a financing
- 1306 arrangement.
- 1307 ~~[(121)]~~ (122) "Sales price" means the same as that term is defined in Subsection ~~[(107)]~~ (108).
- 1308 ~~[(122)]~~ (123)(a) "Sales relating to schools" means the following sales by, amounts paid
- 1309 to, or amounts charged by a school:
- 1310 (i) sales that are directly related to the school's educational functions or activities
- 1311 including:
- 1312 (A) the sale of:
- 1313 (I) textbooks;
- 1314 (II) textbook fees;
- 1315 (III) laboratory fees;
- 1316 (IV) laboratory supplies; or
- 1317 (V) safety equipment;
- 1318 (B) the sale of a uniform, protective equipment, or sports or recreational
- 1319 equipment that:
- 1320 (I) a student is specifically required to wear as a condition of participation in a

- 1321 school-related event or school-related activity; and
1322 (II) is not readily adaptable to general or continued usage to the extent that it
1323 takes the place of ordinary clothing;
- 1324 (C) sales of the following if the net or gross revenue generated by the sales is
1325 deposited into a school district fund or school fund dedicated to school meals:
1326 (I) food and food ingredients; or
1327 (II) prepared food; or
1328 (D) transportation charges for official school activities; or
- 1329 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1330 event or school-related activity.
- 1331 (b) "Sales relating to schools" does not include:
1332 (i) bookstore sales of items that are not educational materials or supplies;
1333 (ii) except as provided in Subsection [~~(122)(a)(i)(B)~~] (123)(a)(i)(B):
1334 (A) clothing;
1335 (B) clothing accessories or equipment;
1336 (C) protective equipment; or
1337 (D) sports or recreational equipment; or
- 1338 (iii) amounts paid to or amounts charged by a school for admission to a
1339 school-related event or school-related activity if the amounts paid or charged are
1340 passed through to a person:
1341 (A) other than a:
1342 (I) school;
1343 (II) nonprofit organization authorized by a school board or a governing body of
1344 a private school to organize and direct a competitive secondary school
1345 activity; or
1346 (III) nonprofit association authorized by a school board or a governing body of
1347 a private school to organize and direct a competitive secondary school
1348 activity; and
1349 (B) that is required to collect sales and use taxes under this chapter.
- 1350 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1351 commission may make rules defining the term "passed through."
- 1352 [~~(123)~~] (124) For purposes of this section and Section 59-12-104, "school" means:
1353 (a) an elementary school or a secondary school that:
1354 (i) is a:

- 1355 (A) public school; or
1356 (B) private school; and
1357 (ii) provides instruction for one or more grades kindergarten through 12; or
1358 (b) a public school district.
- 1359 [(124)] (125)(a) "Seller" means a person that makes a sale, lease, or rental of:
1360 (i) tangible personal property;
1361 (ii) a product transferred electronically; or
1362 (iii) a service.
- 1363 (b) "Seller" includes a marketplace facilitator.
- 1364 [(125)] (126)(a) "Semiconductor fabricating, processing, research, or development
1365 materials" means tangible personal property or a product transferred electronically if
1366 the tangible personal property or product transferred electronically is:
1367 (i) used primarily in the process of:
1368 (A)(I) manufacturing a semiconductor;
1369 (II) fabricating a semiconductor; or
1370 (III) research or development of a:
1371 (Aa) semiconductor; or
1372 (Bb) semiconductor manufacturing process; or
1373 (B) maintaining an environment suitable for a semiconductor; or
1374 (ii) consumed primarily in the process of:
1375 (A)(I) manufacturing a semiconductor;
1376 (II) fabricating a semiconductor; or
1377 (III) research or development of a:
1378 (Aa) semiconductor; or
1379 (Bb) semiconductor manufacturing process; or
1380 (B) maintaining an environment suitable for a semiconductor.
- 1381 (b) "Semiconductor fabricating, processing, research, or development materials"
1382 includes:
1383 (i) parts used in the repairs or renovations of tangible personal property or a product
1384 transferred electronically described in Subsection [(125)(a)] (126)(a); or
1385 (ii) a chemical, catalyst, or other material used to:
1386 (A) produce or induce in a semiconductor a:
1387 (I) chemical change; or
1388 (II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

~~[(126)]~~ (127) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 26B-6-101.

~~[(127)]~~ (128) "Shared vehicle" means the same as that term is defined in Section 13-48a-101.

~~[(128)]~~ (129) "Shared vehicle driver" means the same as that term is defined in Section 13-48a-101.

~~[(129)]~~ (130) "Shared vehicle owner" means the same as that term is defined in Section 13-48a-101.

~~[(130)]~~ (131)(a) Subject to Subsections ~~[(130)(b)]~~ (131)(b) and (c), "short-term lodging consumable" means tangible personal property that:

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

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

(iii) is:

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

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

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

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

- 1423 (xv) a razor;
- 1424 (xvi) saline solution;
- 1425 (xvii) a sewing kit;
- 1426 (xviii) shaving cream;
- 1427 (xix) a shoe shine kit;
- 1428 (xx) a shower cap;
- 1429 (xxi) a snack item;
- 1430 (xxii) soap;
- 1431 (xxiii) toilet paper;
- 1432 (xxiv) a toothbrush;
- 1433 (xxv) toothpaste; or
- 1434 (xxvi) an item similar to Subsections [~~(130)(b)(i)~~] (131)(b)(i) through (xxv) as the
- 1435 commission may provide by rule made in accordance with Title 63G, Chapter 3,
- 1436 Utah Administrative Rulemaking Act.
- 1437 (c) "Short-term lodging consumable" does not include:
- 1438 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 1439 property to be reused; or
- 1440 (ii) a product transferred electronically.
- 1441 [~~(131)~~] (132)(a) "Short-term rental" means a lease or rental for less than 30 consecutive
- 1442 days.
- 1443 (b) "Short-term rental" does not include car sharing.
- 1444 [~~(132)~~] (133) "Simplified electronic return" means the electronic return:
- 1445 (a) described in Section 318(C) of the agreement; and
- 1446 (b) approved by the governing board of the agreement.
- 1447 [~~(133)~~] (134) "Solar energy" means the sun used as the sole source of energy for producing
- 1448 electricity.
- 1449 [~~(134)~~] (135)(a) "Sports or recreational equipment" means an item:
- 1450 (i) designed for human use; and
- 1451 (ii) that is:
- 1452 (A) worn in conjunction with:
- 1453 (I) an athletic activity; or
- 1454 (II) a recreational activity; and
- 1455 (B) not suitable for general use.
- 1456 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

- 1457 commission shall make rules:
- 1458 (i) listing the items that constitute "sports or recreational equipment"; and
- 1459 (ii) that are consistent with the list of items that constitute "sports or recreational
- 1460 equipment" under the agreement.
- 1461 ~~[(135)]~~ (136) "State" means the state of Utah, its departments, and agencies.
- 1462 ~~[(136)]~~ (137) "Storage" means any keeping or retention of tangible personal property or any
- 1463 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
- 1464 except sale in the regular course of business.
- 1465 ~~[(137)]~~ (138)(a) "Tangible personal property" means personal property that:
- 1466 (i) may be:
- 1467 (A) seen;
- 1468 (B) weighed;
- 1469 (C) measured;
- 1470 (D) felt; or
- 1471 (E) touched; or
- 1472 (ii) is in any manner perceptible to the senses.
- 1473 (b) "Tangible personal property" includes:
- 1474 (i) electricity;
- 1475 (ii) water;
- 1476 (iii) gas;
- 1477 (iv) steam; or
- 1478 (v) prewritten computer software, regardless of the manner in which the prewritten
- 1479 computer software is transferred.
- 1480 (c) "Tangible personal property" includes the following regardless of whether the item is
- 1481 attached to real property:
- 1482 (i) a dishwasher;
- 1483 (ii) a dryer;
- 1484 (iii) a freezer;
- 1485 (iv) a microwave;
- 1486 (v) a refrigerator;
- 1487 (vi) a stove;
- 1488 (vii) a washer; or
- 1489 (viii) an item similar to Subsections ~~[(137)(e)(i)]~~ (138)(c)(i) through (vii) as
- 1490 determined by the commission by rule made in accordance with Title 63G,

Chapter 3, Utah Administrative Rulemaking Act.

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

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

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

~~[(138)]~~ (139)(a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection ~~[(138)(b)]~~ (139)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

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

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

(b) The following apply to Subsection ~~[(138)(a)]~~ (139)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

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

Subsections ~~[(138)(b)(i)]~~ (139)(b)(i) through (vi) as determined by the commission

by rule made in accordance with Subsection ~~[(138)(e)]~~ (139)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections ~~[(138)(b)(i)]~~ (139)(b)(i) through (vi).

~~[(139)]~~ (140) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

- 1525 ~~[(140)]~~ (141) "Telecommunications maintenance or repair equipment, machinery, or
1526 software" means equipment, machinery, or software purchased or leased primarily to
1527 maintain or repair one or more of the following, regardless of whether the equipment,
1528 machinery, or software is purchased or leased as a spare part or as an upgrade or
1529 modification to one or more of the following:
- 1530 (a) telecommunications enabling or facilitating equipment, machinery, or software;
 - 1531 (b) telecommunications switching or routing equipment, machinery, or software; or
 - 1532 (c) telecommunications transmission equipment, machinery, or software.
- 1533 ~~[(141)]~~ (142)(a) "Telecommunications service" means the electronic conveyance,
1534 routing, or transmission of audio, data, video, voice, or any other information or
1535 signal to a point, or among or between points.
- 1536 (b) "Telecommunications service" includes:
- 1537 (i) an electronic conveyance, routing, or transmission with respect to which a
1538 computer processing application is used to act:
 - 1539 (A) on the code, form, or protocol of the content;
 - 1540 (B) for the purpose of electronic conveyance, routing, or transmission; and
 - 1541 (C) regardless of whether the service:
 - 1542 (I) is referred to as voice over Internet protocol service; or
 - 1543 (II) is classified by the Federal Communications Commission as enhanced or
1544 value added;
 - 1545 (ii) an 800 service;
 - 1546 (iii) a 900 service;
 - 1547 (iv) a fixed wireless service;
 - 1548 (v) a mobile wireless service;
 - 1549 (vi) a postpaid calling service;
 - 1550 (vii) a prepaid calling service;
 - 1551 (viii) a prepaid wireless calling service; or
 - 1552 (ix) a private communications service.
- 1553 (c) "Telecommunications service" does not include:
- 1554 (i) advertising, including directory advertising;
 - 1555 (ii) an ancillary service;
 - 1556 (iii) a billing and collection service provided to a third party;
 - 1557 (iv) a data processing and information service if:
 - 1558 (A) the data processing and information service allows data to be:

- (I)(Aa) acquired;
- (Bb) generated;
- (Cc) processed;
- (Dd) retrieved; or
- (Ee) stored; and

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

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

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

- (A) equipment; or
- (B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

- (A) music;
- (B) reading material;
- (C) a ring tone;
- (D) software; or
- (E) video;

(ix) a radio and television audio and video programming service:

- (A) regardless of the medium; and
- (B) including:

- (I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;
- (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- (III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

[(142)] (143)(a) "Telecommunications service provider" means a person that:

- (i) owns, controls, operates, or manages a telecommunications service; and
- (ii) engages in an activity described in Subsection [(142)(a)(i)] (143)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection [(142)(a)] (143)(a) is a telecommunications service

provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

~~[(143)]~~ (144)(a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection ~~[(143)(b)]~~ (144)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection ~~[(143)(a)]~~ (144)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections ~~[(143)(b)(i)]~~ (144)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection ~~[(143)(c)]~~ (144)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections ~~[(143)(b)(i)]~~ (144)(b)(i) through (ix).

~~[(144)]~~ (145)(a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection ~~[(144)(b)]~~ (145)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

- 1627 (iv) telecommunications service.
- 1628 (b) The following apply to Subsection [~~(144)~~(a)] (145)(a):
- 1629 (i) an amplifier;
- 1630 (ii) a cable;
- 1631 (iii) a closure;
- 1632 (iv) a conduit;
- 1633 (v) a controller;
- 1634 (vi) a duplexer;
- 1635 (vii) a filter;
- 1636 (viii) an input device;
- 1637 (ix) an input/output device;
- 1638 (x) an insulator;
- 1639 (xi) microwave machinery or equipment;
- 1640 (xii) an oscillator;
- 1641 (xiii) an output device;
- 1642 (xiv) a pedestal;
- 1643 (xv) a power converter;
- 1644 (xvi) a power supply;
- 1645 (xvii) a radio channel;
- 1646 (xviii) a radio receiver;
- 1647 (xix) a radio transmitter;
- 1648 (xx) a repeater;
- 1649 (xxi) software;
- 1650 (xxii) a terminal;
- 1651 (xxiii) a timing unit;
- 1652 (xxiv) a transformer;
- 1653 (xxv) a wire; or
- 1654 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1655 Subsections [~~(144)~~(b)(i)] (145)(b)(i) through (xxv) as determined by the
- 1656 commission by rule made in accordance with Subsection [~~(144)~~(e)] (145)(c).
- 1657 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1658 commission may by rule define what constitutes equipment, machinery, or software
- 1659 that functions similarly to an item listed in Subsections [~~(144)~~(b)(i)] (145)(b)(i)
- 1660 through (xxv).

- 1661 ~~[(145)]~~ (146)(a) "Textbook for a higher education course" means a textbook or other
1662 printed material that is required for a course:
- 1663 (i) offered by an institution of higher education; and
1664 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1665 (b) "Textbook for a higher education course" includes a textbook in electronic format.
- 1666 ~~[(146)]~~ (147) "Tobacco" means:
- 1667 (a) a cigarette;
1668 (b) a cigar;
1669 (c) chewing tobacco;
1670 (d) pipe tobacco; or
1671 (e) any other item that contains tobacco.
- 1672 ~~[(147)]~~ (148) "Unassisted amusement device" means an amusement device, skill device, or
1673 ride device that is started and stopped by the purchaser or renter of the right to use or
1674 operate the amusement device, skill device, or ride device.
- 1675 ~~[(148)]~~ (149)(a) "Use" means the exercise of any right or power over tangible personal
1676 property, a product transferred electronically, or a service under Subsection 59-12-103
1677 (1), incident to the ownership or the leasing of that tangible personal property,
1678 product transferred electronically, or service.
- 1679 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1680 property, a product transferred electronically, or a service in the regular course of
1681 business and held for resale.
- 1682 ~~[(149)]~~ (150) "Value-added nonvoice data service" means a service:
- 1683 (a) that otherwise meets the definition of a telecommunications service except that a
1684 computer processing application is used to act primarily for a purpose other than
1685 conveyance, routing, or transmission; and
- 1686 (b) with respect to which a computer processing application is used to act on data or
1687 information:
- 1688 (i) code;
1689 (ii) content;
1690 (iii) form; or
1691 (iv) protocol.
- 1692 ~~[(150)]~~ (151)(a) Subject to Subsection ~~[(150)(b)]~~ (151)(b), "vehicle" means the following
1693 that are required to be titled, registered, or titled and registered:
- 1694 (i) an aircraft as defined in Section 72-10-102;

- 1695 (ii) a vehicle as defined in Section 41-1a-102;
- 1696 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1697 (iv) a vessel as defined in Section 41-1a-102.
- 1698 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 1699 (i) a vehicle described in Subsection ~~[(450)(a)]~~ (151)(a); or
- 1700 (ii)(A) a locomotive;
- 1701 (B) a freight car;
- 1702 (C) railroad work equipment; or
- 1703 (D) other railroad rolling stock.
- 1704 ~~[(451)]~~ (152) "Vehicle dealer" means a person engaged in the business of buying, selling, or
- 1705 exchanging a vehicle as defined in Subsection ~~[(450)]~~ (151).
- 1706 ~~[(452)]~~ (153)(a) "Vertical service" means an ancillary service that:
- 1707 (i) is offered in connection with one or more telecommunications services; and
- 1708 (ii) offers an advanced calling feature that allows a customer to:
- 1709 (A) identify a caller; and
- 1710 (B) manage multiple calls and call connections.
- 1711 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 1712 conference bridging service.
- 1713 ~~[(453)]~~ (154)(a) "Voice mail service" means an ancillary service that enables a customer
- 1714 to receive, send, or store a recorded message.
- 1715 (b) "Voice mail service" does not include a vertical service that a customer is required to
- 1716 have in order to utilize a voice mail service.
- 1717 ~~[(454)]~~ (155)(a) "Waste energy facility" means a facility that generates electricity:
- 1718 (i) using as the primary source of energy waste materials that would be placed in a
- 1719 landfill or refuse pit if it were not used to generate electricity, including:
- 1720 (A) tires;
- 1721 (B) waste coal;
- 1722 (C) oil shale; or
- 1723 (D) municipal solid waste; and
- 1724 (ii) in amounts greater than actually required for the operation of the facility.
- 1725 (b) "Waste energy facility" does not include a facility that incinerates:
- 1726 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 1727 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 1728 ~~[(455)]~~ (156) "Watercraft" means a vessel as defined in Section 73-18-2.

1729 ~~[(156)]~~ (157) "Wind energy" means wind used as the sole source of energy to produce
1730 electricity.

1731 ~~[(157)]~~ (158) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
1732 location by the United States Postal Service.

1733 Section 2. Section **59-12-104** is amended to read:

1734 **59-12-104 . Exemptions.**

1735 Exemptions from the taxes imposed by this chapter are as follows:

- 1736 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
1737 under Chapter 13, Motor and Special Fuel Tax Act;
- 1738 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
1739 subdivisions; however, this exemption does not apply to sales of:
- 1740 (a) construction materials except:
- 1741 (i) construction materials purchased by or on behalf of institutions of the public
1742 education system as defined in Utah Constitution, Article X, Section 2, provided
1743 the construction materials are clearly identified and segregated and installed or
1744 converted to real property which is owned by institutions of the public education
1745 system; and
- 1746 (ii) construction materials purchased by the state, its institutions, or its political
1747 subdivisions which are installed or converted to real property by employees of the
1748 state, its institutions, or its political subdivisions; or
- 1749 (b) tangible personal property in connection with the construction, operation,
1750 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or
1751 facilities providing additional project capacity, as defined in Section 11-13-103;
- 1752 (3)(a) sales of an item described in Subsection (3)(b) from a vending machine if:
- 1753 (i) the proceeds of each sale do not exceed \$1; and
- 1754 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
1755 the cost of the item described in Subsection (3)(b) as goods consumed; and
- 1756 (b) Subsection (3)(a) applies to:
- 1757 (i) food and food ingredients; or
- 1758 (ii) prepared food;
- 1759 (4)(a) sales of the following to a commercial airline carrier for in-flight consumption:
- 1760 (i) alcoholic beverages;
- 1761 (ii) food and food ingredients; or
- 1762 (iii) prepared food;

- 1763 (b) sales of tangible personal property or a product transferred electronically:
1764 (i) to a passenger;
1765 (ii) by a commercial airline carrier; and
1766 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
1767 (c) services related to Subsection (4)(a) or (b);
1768 (5) sales of parts and equipment for installation in an aircraft operated by a common carrier
1769 in interstate or foreign commerce;
1770 (6) sales of commercials, motion picture films, prerecorded audio program tapes or records,
1771 and prerecorded video tapes by a producer, distributor, or studio to a motion picture
1772 exhibitor, distributor, or commercial television or radio broadcaster;
1773 (7)(a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of
1774 cleaning or washing of tangible personal property if the cleaning or washing of the
1775 tangible personal property is not assisted cleaning or washing of tangible personal
1776 property;
1777 (b) if a seller that sells at the same business location assisted cleaning or washing of
1778 tangible personal property and cleaning or washing of tangible personal property that
1779 is not assisted cleaning or washing of tangible personal property, the exemption
1780 described in Subsection (7)(a) applies if the seller separately accounts for the sales of
1781 the assisted cleaning or washing of the tangible personal property; and
1782 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah
1783 Administrative Rulemaking Act, the commission may make rules:
1784 (i) governing the circumstances under which sales are at the same business location;
1785 and
1786 (ii) establishing the procedures and requirements for a seller to separately account for
1787 sales of assisted cleaning or washing of tangible personal property;
1788 (8) sales made to or by religious or charitable institutions in the conduct of their regular
1789 religious or charitable functions and activities, if the requirements of Section 59-12-104.1
1790 are fulfilled;
1791 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this
1792 state if:
1793 (a) the sale is not from the vehicle's lessor to the vehicle's lessee;
1794 (b) the vehicle is not registered in this state; and
1795 (c)(i) the vehicle is not used in this state; or
1796 (ii) the vehicle is used in this state:

- 1797 (A) if the vehicle is not used to conduct business, for a time period that does not
1798 exceed the longer of:
1799 (I) 30 days in any calendar year; or
1800 (II) the time period necessary to transport the vehicle to the borders of this
1801 state; or
1802 (B) if the vehicle is used to conduct business, for the time period necessary to
1803 transport the vehicle to the borders of this state;
1804 (10)(a) amounts paid for an item described in Subsection (10)(b) if:
1805 (i) the item is intended for human use; and
1806 (ii)(A) a prescription was issued for the item; or
1807 (B) the item was purchased by a hospital or other medical facility; and
1808 (b)(i) Subsection (10)(a) applies to:
1809 (A) a drug;
1810 (B) a syringe; or
1811 (C) a stoma supply; and
1812 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1813 the commission may by rule define the terms:
1814 (A) "syringe"; or
1815 (B) "stoma supply";
1816 (11) purchases or leases exempt under Section 19-12-201;
1817 (12)(a) sales of an item described in Subsection (12)(c) served by:
1818 (i) the following if the item described in Subsection (12)(c) is not available to the
1819 general public:
1820 (A) a church; or
1821 (B) a charitable institution; or
1822 (ii) an institution of higher education if:
1823 (A) the item described in Subsection (12)(c) is not available to the general public;
1824 or
1825 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal
1826 plan offered by the institution of higher education; or
1827 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
1828 (i) a medical facility; or
1829 (ii) a nursing facility; and
1830 (c) Subsections (12)(a) and (b) apply to:

- 1831 (i) food and food ingredients;
1832 (ii) prepared food; or
1833 (iii) alcoholic beverages;
- 1834 (13)(a) except as provided in Subsection (13)(b), the sale of tangible personal property
1835 or a product transferred electronically by a person:
- 1836 (i) regardless of the number of transactions involving the sale of that tangible
1837 personal property or product transferred electronically by that person; and
1838 (ii) not regularly engaged in the business of selling that type of tangible personal
1839 property or product transferred electronically;
- 1840 (b) this Subsection (13) does not apply if:
- 1841 (i) the sale is one of a series of sales of a character to indicate that the person is
1842 regularly engaged in the business of selling that type of tangible personal property
1843 or product transferred electronically;
- 1844 (ii) the person holds that person out as regularly engaged in the business of selling
1845 that type of tangible personal property or product transferred electronically;
- 1846 (iii) the person sells an item of tangible personal property or product transferred
1847 electronically that the person purchased as a sale that is exempt under Subsection
1848 (25); or
- 1849 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws
1850 of this state in which case the tax is based upon:
- 1851 (A) the bill of sale, lease agreement, or other written evidence of value of the
1852 vehicle or vessel being sold; or
- 1853 (B) in the absence of a bill of sale, lease agreement, or other written evidence of
1854 value, the fair market value of the vehicle or vessel being sold at the time of the
1855 sale as determined by the commission; and
- 1856 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1857 commission shall make rules establishing the circumstances under which:
- 1858 (i) a person is regularly engaged in the business of selling a type of tangible personal
1859 property or product transferred electronically;
- 1860 (ii) a sale of tangible personal property or a product transferred electronically is one
1861 of a series of sales of a character to indicate that a person is regularly engaged in
1862 the business of selling that type of tangible personal property or product
1863 transferred electronically; or
- 1864 (iii) a person holds that person out as regularly engaged in the business of selling a

1865 type of tangible personal property or product transferred electronically;

1866 (14) amounts paid or charged for a purchase or lease of machinery, equipment, normal
1867 operating repair or replacement parts, or materials, except for office equipment or office
1868 supplies, by:

1869 (a) a manufacturing facility that:

1870 (i) is located in the state; and

1871 (ii) uses or consumes the machinery, equipment, normal operating repair or
1872 replacement parts, or materials:

1873 (A) in the manufacturing process to manufacture an item sold as tangible personal
1874 property, as the commission may define that phrase in accordance with Title
1875 63G, Chapter 3, Utah Administrative Rulemaking Act; or

1876 (B) for a scrap recycler, to process an item sold as tangible personal property, as
1877 the commission may define that phrase in accordance with Title 63G, Chapter
1878 3, Utah Administrative Rulemaking Act;

1879 (b) an establishment, as the commission defines that term in accordance with Title 63G,
1880 Chapter 3, Utah Administrative Rulemaking Act, that:

1881 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
1882 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
1883 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except
1884 Fuels) Mining, of the 2002 North American Industry Classification System of the
1885 federal Executive Office of the President, Office of Management and Budget;

1886 (ii) is located in the state; and

1887 (iii) uses or consumes the machinery, equipment, normal operating repair or
1888 replacement parts, or materials in:

1889 (A) the production process to produce an item sold as tangible personal property,
1890 as the commission may define that phrase in accordance with Title 63G,
1891 Chapter 3, Utah Administrative Rulemaking Act;

1892 (B) research and development, as the commission may define that phrase in
1893 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1894 (C) transporting, storing, or managing tailings, overburden, or similar waste
1895 materials produced from mining;

1896 (D) developing or maintaining a road, tunnel, excavation, or similar feature used
1897 in mining; or

1898 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

- 1899 (c) an establishment, as the commission defines that term in accordance with Title 63G,
1900 Chapter 3, Utah Administrative Rulemaking Act, that:
- 1901 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
1902 American Industry Classification System of the federal Executive Office of the
1903 President, Office of Management and Budget;
- 1904 (ii) is located in the state; and
- 1905 (iii) uses or consumes the machinery, equipment, normal operating repair or
1906 replacement parts, or materials in the operation of the web search portal;
- 1907 (15)(a) sales of the following if the requirements of Subsection (15)(b) are met:
- 1908 (i) tooling;
- 1909 (ii) special tooling;
- 1910 (iii) support equipment;
- 1911 (iv) special test equipment; or
- 1912 (v) parts used in the repairs or renovations of tooling or equipment described in
1913 Subsections (15)(a)(i) through (iv); and
- 1914 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
- 1915 (i) the tooling, equipment, or parts are used or consumed exclusively in the
1916 performance of any aerospace or electronics industry contract with the United
1917 States government or any subcontract under that contract; and
- 1918 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
1919 title to the tooling, equipment, or parts is vested in the United States government
1920 as evidenced by:
- 1921 (A) a government identification tag placed on the tooling, equipment, or parts; or
- 1922 (B) listing on a government-approved property record if placing a government
1923 identification tag on the tooling, equipment, or parts is impractical;
- 1924 (16) sales of newspapers or newspaper subscriptions;
- 1925 (17)(a) except as provided in Subsection (17)(b), tangible personal property or a product
1926 transferred electronically traded in as full or part payment of the purchase price,
1927 except that for purposes of calculating sales or use tax upon vehicles not sold by a
1928 vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:
- 1929 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
1930 vehicle being traded in; or
- 1931 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
1932 fair market value of the vehicle being sold and the vehicle being traded in, as

1933 determined by the commission; and

1934 (b) Subsection (17)(a) does not apply to the following items of tangible personal

1935 property or products transferred electronically traded in as full or part payment of the

1936 purchase price:

1937 (i) money;

1938 (ii) electricity;

1939 (iii) water;

1940 (iv) gas; or

1941 (v) steam;

1942 (18)(a)(i) except as provided in Subsection (18)(b), sales of tangible personal

1943 property or a product transferred electronically used or consumed primarily and

1944 directly in farming operations, regardless of whether the tangible personal

1945 property or product transferred electronically:

1946 (A) becomes part of real estate; or

1947 (B) is installed by a farmer, contractor, or subcontractor; or

1948 (ii) sales of parts used in the repairs or renovations of tangible personal property or a

1949 product transferred electronically if the tangible personal property or product

1950 transferred electronically is exempt under Subsection (18)(a)(i); and

1951 (b) amounts paid or charged for the following are subject to the taxes imposed by this

1952 chapter:

1953 (i)(A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or

1954 supplies if used in a manner that is incidental to farming; and

1955 (B) tangible personal property that is considered to be used in a manner that is

1956 incidental to farming includes:

1957 (I) hand tools; or

1958 (II) maintenance and janitorial equipment and supplies;

1959 (ii)(A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product

1960 transferred electronically if the tangible personal property or product

1961 transferred electronically is used in an activity other than farming; and

1962 (B) tangible personal property or a product transferred electronically that is

1963 considered to be used in an activity other than farming includes:

1964 (I) office equipment and supplies; or

1965 (II) equipment and supplies used in:

1966 (Aa) the sale or distribution of farm products;

1967 (Bb) research; or
1968 (Cc) transportation; or
1969 (iii) a vehicle required to be registered by the laws of this state during the period
1970 ending two years after the date of the vehicle's purchase;
1971 (19) sales of hay;
1972 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden,
1973 farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
1974 garden, farm, or other agricultural produce is sold by:
1975 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
1976 agricultural produce;
1977 (b) an employee of the producer described in Subsection (20)(a); or
1978 (c) a member of the immediate family of the producer described in Subsection (20)(a);
1979 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under
1980 the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
1981 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
1982 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
1983 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
1984 manufacturer, processor, wholesaler, or retailer;
1985 (23) a product stored in the state for resale;
1986 (24)(a) purchases of a product if:
1987 (i) the product is:
1988 (A) purchased outside of this state;
1989 (B) brought into this state:
1990 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
1991 (II) by a nonresident person who is not living or working in this state at the
1992 time of the purchase;
1993 (C) used for the personal use or enjoyment of the nonresident person described in
1994 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state;
1995 and
1996 (D) not used in conducting business in this state; and
1997 (ii) for:
1998 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use
1999 of the product for a purpose for which the product is designed occurs outside of
2000 this state;

- 2001 (B) a boat, the boat is registered outside of this state; or
- 2002 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is
- 2003 registered outside of this state;
- 2004 (b) the exemption provided for in Subsection (24)(a) does not apply to:
- 2005 (i) a lease or rental of a product; or
- 2006 (ii) a sale of a vehicle exempt under Subsection (33); and
- 2007 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
- 2008 purposes of Subsection (24)(a), the commission may by rule define what constitutes
- 2009 the following:
- 2010 (i) conducting business in this state if that phrase has the same meaning in this
- 2011 Subsection (24) as in Subsection (63);
- 2012 (ii) the first use of a product if that phrase has the same meaning in this Subsection
- 2013 (24) as in Subsection (63); or
- 2014 (iii) a purpose for which a product is designed if that phrase has the same meaning in
- 2015 this Subsection (24) as in Subsection (63);
- 2016 (25) a product purchased for resale in the regular course of business, either in its original
- 2017 form or as an ingredient or component part of a manufactured or compounded product;
- 2018 (26) a product upon which a sales or use tax was paid to some other state, or one of its
- 2019 subdivisions, except that the state shall be paid any difference between the tax paid and
- 2020 the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment
- 2021 is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local
- 2022 Sales and Use Tax Act;
- 2023 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person
- 2024 for use in compounding a service taxable under the subsections;
- 2025 (28) purchases made in accordance with the special supplemental nutrition program for
- 2026 women, infants, and children established in 42 U.S.C. Sec. 1786;
- 2027 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement
- 2028 parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of
- 2029 the 1987 Standard Industrial Classification Manual of the federal Executive Office of the
- 2030 President, Office of Management and Budget;
- 2031 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
- 2032 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard
- 2033 motor is:
- 2034 (a) not registered in this state; and

- 2035 (b)(i) not used in this state; or
- 2036 (ii) used in this state:
- 2037 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for
- 2038 a time period that does not exceed the longer of:
- 2039 (I) 30 days in any calendar year; or
- 2040 (II) the time period necessary to transport the boat, boat trailer, or outboard
- 2041 motor to the borders of this state; or
- 2042 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the
- 2043 time period necessary to transport the boat, boat trailer, or outboard motor to
- 2044 the borders of this state;
- 2045 (31) sales of aircraft manufactured in Utah;
- 2046 (32) amounts paid for the purchase of telecommunications service for purposes of
- 2047 providing telecommunications service;
- 2048 (33) sales, leases, or uses of the following:
- 2049 (a) a vehicle by an authorized carrier; or
- 2050 (b) tangible personal property that is installed on a vehicle:
- 2051 (i) sold or leased to or used by an authorized carrier; and
- 2052 (ii) before the vehicle is placed in service for the first time;
- 2053 (34)(a) 45% of the sales price of any new manufactured home; and
- 2054 (b) 100% of the sales price of any used manufactured home;
- 2055 (35) sales relating to schools and fundraising sales;
- 2056 (36) sales or rentals of durable medical equipment if:
- 2057 (a) a person presents a prescription for the durable medical equipment; and
- 2058 (b) the durable medical equipment is used for home use only;
- 2059 (37)(a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 2060 Section 72-11-102; and
- 2061 (b) the commission shall by rule determine the method for calculating sales exempt
- 2062 under Subsection (37)(a) that are not separately metered and accounted for in utility
- 2063 billings;
- 2064 (38) sales to a ski resort of:
- 2065 (a) snowmaking equipment;
- 2066 (b) ski slope grooming equipment;
- 2067 (c) passenger ropeways as defined in Section 72-11-102; or
- 2068 (d) parts used in the repairs or renovations of equipment or passenger ropeways

- described in Subsections (38)(a) through (c);
- (39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- (40)(a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;
- (b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and
- (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:
- (i) governing the circumstances under which sales are at the same business location; and
- (ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;
- (41)(a) sales of photocopies by:
- (i) a governmental entity; or
- (ii) an entity within the state system of public education, including:
- (A) a school; or
- (B) the State Board of Education; or
- (b) sales of publications by a governmental entity;
- (42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;
- (43)(a) sales made to or by:
- (i) an area agency on aging; or
- (ii) a senior citizen center owned by a county, city, or town; or
- (b) sales made by a senior citizen center that contracts with an area agency on aging;
- (44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or

- 2103 development materials:
- 2104 (a) actually come into contact with a semiconductor; or
- 2105 (b) ultimately become incorporated into real property;
- 2106 (45) an amount paid by or charged to a purchaser for accommodations and services
- 2107 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under
- 2108 Section 59-12-104.2;
- 2109 (46) the lease or use of a vehicle issued a temporary sports event registration certificate in
- 2110 accordance with Section 41-3-306 for the event period specified on the temporary sports
- 2111 event registration certificate;
- 2112 (47)(a) sales or uses of electricity, if the sales or uses are made under a retail tariff
- 2113 adopted by the Public Service Commission only for purchase of electricity produced
- 2114 from a new alternative energy source built after January 1, 2016, as designated in the
- 2115 tariff by the Public Service Commission; and
- 2116 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
- 2117 only to the portion of the tariff rate a customer pays under the tariff described in
- 2118 Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection
- 2119 (47)(a) that the customer would have paid absent the tariff;
- 2120 (48) sales or rentals of mobility enhancing equipment if a person presents a prescription for
- 2121 the mobility enhancing equipment;
- 2122 (49) sales of water in a:
- 2123 (a) pipe;
- 2124 (b) conduit;
- 2125 (c) ditch; or
- 2126 (d) reservoir;
- 2127 (50) sales of currency or coins that constitute legal tender of a state, the United States, or a
- 2128 foreign nation;
- 2129 (51)(a) sales of an item described in Subsection (51)(b) if the item:
- 2130 (i) does not constitute legal tender of a state, the United States, or a foreign nation;
- 2131 and
- 2132 (ii) has a gold, silver, or platinum content of 50% or more; and
- 2133 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
- 2134 (i) ingot;
- 2135 (ii) bar;
- 2136 (iii) medallion; or

- 2137 (iv) decorative coin;
- 2138 (52) amounts paid on a sale-leaseback transaction;
- 2139 (53) sales of a prosthetic device:
- 2140 (a) for use on or in a human; and
- 2141 (b)(i) for which a prescription is required; or
- 2142 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 2143 (54)(a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 2144 machinery or equipment by an establishment described in Subsection (54)(c) if the
- 2145 machinery or equipment is primarily used in the production or postproduction of the
- 2146 following media for commercial distribution:
- 2147 (i) a motion picture;
- 2148 (ii) a television program;
- 2149 (iii) a movie made for television;
- 2150 (iv) a music video;
- 2151 (v) a commercial;
- 2152 (vi) a documentary; or
- 2153 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
- 2154 commission by administrative rule made in accordance with Subsection (54)(d); or
- 2155 (b) purchases, leases, or rentals of machinery or equipment by an establishment
- 2156 described in Subsection (54)(c) that is used for the production or postproduction of
- 2157 the following are subject to the taxes imposed by this chapter:
- 2158 (i) a live musical performance;
- 2159 (ii) a live news program; or
- 2160 (iii) a live sporting event;
- 2161 (c) the following establishments listed in the 1997 North American Industry
- 2162 Classification System of the federal Executive Office of the President, Office of
- 2163 Management and Budget, apply to Subsections (54)(a) and (b):
- 2164 (i) NAICS Code 512110; or
- 2165 (ii) NAICS Code 51219; and
- 2166 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2167 commission may by rule:
- 2168 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
- 2169 or
- 2170 (ii) define:

- 2171 (A) "commercial distribution";
2172 (B) "live musical performance";
2173 (C) "live news program"; or
2174 (D) "live sporting event";
- 2175 (55)(a) leases of seven or more years or purchases made on or after July 1, 2004, but on
2176 or before June 30, 2027, of tangible personal property that:
- 2177 (i) is leased or purchased for or by a facility that:
- 2178 (A) is an alternative energy electricity production facility;
2179 (B) is located in the state; and
2180 (C)(I) becomes operational on or after July 1, 2004; or
2181 (II) has its generation capacity increased by one or more megawatts on or after
2182 July 1, 2004, as a result of the use of the tangible personal property;
- 2183 (ii) has an economic life of five or more years; and
2184 (iii) is used to make the facility or the increase in capacity of the facility described in
2185 Subsection (55)(a)(i) operational up to the point of interconnection with an
2186 existing transmission grid including:
- 2187 (A) a wind turbine;
2188 (B) generating equipment;
2189 (C) a control and monitoring system;
2190 (D) a power line;
2191 (E) substation equipment;
2192 (F) lighting;
2193 (G) fencing;
2194 (H) pipes; or
2195 (I) other equipment used for locating a power line or pole; and
- 2196 (b) this Subsection (55) does not apply to:
- 2197 (i) tangible personal property used in construction of:
- 2198 (A) a new alternative energy electricity production facility; or
2199 (B) the increase in the capacity of an alternative energy electricity production
2200 facility;
- 2201 (ii) contracted services required for construction and routine maintenance activities;
2202 and
2203 (iii) unless the tangible personal property is used or acquired for an increase in
2204 capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal

property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

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

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C)(I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

- 2239 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
2240 described in Subsection (56)(a)(iii); or
- 2241 (B) the increased capacity described in Subsection (56)(a)(i) is operational as
2242 described in Subsection (56)(a)(iii);
- 2243 (57)(a) leases of five or more years or purchases made on or after July 1, 2004, but on or
2244 before June 30, 2027, of tangible personal property that:
- 2245 (i) is leased or purchased for or by a facility that:
- 2246 (A) is located in the state;
- 2247 (B) produces fuel from alternative energy, including:
- 2248 (I) methanol; or
- 2249 (II) ethanol; and
- 2250 (C)(I) becomes operational on or after July 1, 2004; or
- 2251 (II) has its capacity to produce fuel increase by 25% or more on or after July 1,
2252 2004, as a result of the installation of the tangible personal property;
- 2253 (ii) has an economic life of five or more years; and
- 2254 (iii) is installed on the facility described in Subsection (57)(a)(i);
- 2255 (b) this Subsection (57) does not apply to:
- 2256 (i) tangible personal property used in construction of:
- 2257 (A) a new facility described in Subsection (57)(a)(i); or
- 2258 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
- 2259 (ii) contracted services required for construction and routine maintenance activities;
2260 and
- 2261 (iii) unless the tangible personal property is used or acquired for an increase in
2262 capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used
2263 or acquired after:
- 2264 (A) the facility described in Subsection (57)(a)(i) is operational; or
- 2265 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
- 2266 (58)(a) subject to Subsection (58)(b), sales of tangible personal property or a product
2267 transferred electronically to a person within this state if that tangible personal
2268 property or product transferred electronically is subsequently shipped outside the
2269 state and incorporated pursuant to contract into and becomes a part of real property
2270 located outside of this state; and
- 2271 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
2272 state or political entity to which the tangible personal property is shipped imposes a

2273 sales, use, gross receipts, or other similar transaction excise tax on the transaction
2274 against which the other state or political entity allows a credit for sales and use taxes
2275 imposed by this chapter;

2276 (59) purchases:

2277 (a) of one or more of the following items in printed or electronic format:

2278 (i) a list containing information that includes one or more:

2279 (A) names; or

2280 (B) addresses; or

2281 (ii) a database containing information that includes one or more:

2282 (A) names; or

2283 (B) addresses; and

2284 (b) used to send direct mail;

2285 (60) redemptions or repurchases of a product by a person if that product was:

2286 (a) delivered to a pawnbroker as part of a pawn transaction; and

2287 (b) redeemed or repurchased within the time period established in a written agreement
2288 between the person and the pawnbroker for redeeming or repurchasing the product;

2289 (61)(a) purchases or leases of an item described in Subsection (61)(b) if the item:

2290 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
2291 and

2292 (ii) has a useful economic life of one or more years; and

2293 (b) the following apply to Subsection (61)(a):

2294 (i) telecommunications enabling or facilitating equipment, machinery, or software;
2295 (ii) telecommunications equipment, machinery, or software required for 911 service;
2296 (iii) telecommunications maintenance or repair equipment, machinery, or software;
2297 (iv) telecommunications switching or routing equipment, machinery, or software; or
2298 (v) telecommunications transmission equipment, machinery, or software;

2299 (62)(a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
2300 personal property or a product transferred electronically that are used in the research
2301 and development of alternative energy technology; and

2302 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2303 commission may, for purposes of Subsection (62)(a), make rules defining what
2304 constitutes purchases of tangible personal property or a product transferred
2305 electronically that are used in the research and development of alternative energy
2306 technology;

- 2307 (63)(a) purchases of tangible personal property or a product transferred electronically if:
- 2308 (i) the tangible personal property or product transferred electronically is:
- 2309 (A) purchased outside of this state;
- 2310 (B) brought into this state at any time after the purchase described in Subsection
- 2311 (63)(a)(i)(A); and
- 2312 (C) used in conducting business in this state; and
- 2313 (ii) for:
- 2314 (A) tangible personal property or a product transferred electronically other than
- 2315 the tangible personal property described in Subsection (63)(a)(ii)(B), the first
- 2316 use of the property for a purpose for which the property is designed occurs
- 2317 outside of this state; or
- 2318 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is
- 2319 registered outside of this state and not required to be registered in this state
- 2320 under Section 41-1a-202 or 73-18-9 based on residency;
- 2321 (b) the exemption provided for in Subsection (63)(a) does not apply to:
- 2322 (i) a lease or rental of tangible personal property or a product transferred
- 2323 electronically; or
- 2324 (ii) a sale of a vehicle exempt under Subsection (33); and
- 2325 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
- 2326 purposes of Subsection (63)(a), the commission may by rule define what constitutes
- 2327 the following:
- 2328 (i) conducting business in this state if that phrase has the same meaning in this
- 2329 Subsection (63) as in Subsection (24);
- 2330 (ii) the first use of tangible personal property or a product transferred electronically if
- 2331 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
- 2332 (iii) a purpose for which tangible personal property or a product transferred
- 2333 electronically is designed if that phrase has the same meaning in this Subsection
- 2334 (63) as in Subsection (24);
- 2335 (64) sales of disposable home medical equipment or supplies if:
- 2336 (a) a person presents a prescription for the disposable home medical equipment or
- 2337 supplies;
- 2338 (b) the disposable home medical equipment or supplies are used exclusively by the
- 2339 person to whom the prescription described in Subsection (64)(a) is issued; and
- 2340 (c) the disposable home medical equipment and supplies are listed as eligible for

- 2341 payment under:
- 2342 (i) Title XVIII, federal Social Security Act; or
- 2343 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- 2344 (65) sales:
- 2345 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District
- 2346 Act; or
- 2347 (b) of tangible personal property to a subcontractor of a public transit district, if the
- 2348 tangible personal property is:
- 2349 (i) clearly identified; and
- 2350 (ii) installed or converted to real property owned by the public transit district;
- 2351 (66) sales of construction materials:
- 2352 (a) purchased on or after July 1, 2010;
- 2353 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 2354 (i) located within a county of the first class; and
- 2355 (ii) that has a United States customs office on its premises; and
- 2356 (c) if the construction materials are:
- 2357 (i) clearly identified;
- 2358 (ii) segregated; and
- 2359 (iii) installed or converted to real property:
- 2360 (A) owned or operated by the international airport described in Subsection (66)(b);
- 2361 and
- 2362 (B) located at the international airport described in Subsection (66)(b);
- 2363 (67) sales of construction materials:
- 2364 (a) purchased on or after July 1, 2008;
- 2365 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 2366 (i) located within a county of the second class; and
- 2367 (ii) that is owned or operated by a city in which an airline as defined in Section
- 2368 59-2-102 is headquartered; and
- 2369 (c) if the construction materials are:
- 2370 (i) clearly identified;
- 2371 (ii) segregated; and
- 2372 (iii) installed or converted to real property:
- 2373 (A) owned or operated by the new airport described in Subsection (67)(b);
- 2374 (B) located at the new airport described in Subsection (67)(b); and

- 2375 (C) as part of the construction of the new airport described in Subsection (67)(b);
2376 (68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a common
2377 carrier that is a railroad for use in a locomotive engine;
2378 (69) purchases and sales described in Section 63H-4-111;
2379 (70)(a) sales of tangible personal property to an aircraft maintenance, repair, and
2380 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in
2381 this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered
2382 aircraft's registration lists a state or country other than this state as the location of
2383 registry of the fixed wing turbine powered aircraft; or
2384 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
2385 provider in connection with the maintenance, repair, overhaul, or refurbishment in
2386 this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered
2387 aircraft's registration lists a state or country other than this state as the location of
2388 registry of the fixed wing turbine powered aircraft;
2389 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
2390 (a) to a person admitted to an institution of higher education; and
2391 (b) by a seller, other than a bookstore owned by an institution of higher education, if
2392 51% or more of that seller's sales revenue for the previous calendar quarter are sales
2393 of a textbook for a higher education course;
2394 (72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5)
2395 on a purchaser from a business for which the municipality provides an enhanced level of
2396 municipal services;
2397 (73) amounts paid or charged for construction materials used in the construction of a new or
2398 expanding life science research and development facility in the state, if the construction
2399 materials are:
2400 (a) clearly identified;
2401 (b) segregated; and
2402 (c) installed or converted to real property;
2403 (74) amounts paid or charged for:
2404 (a) a purchase or lease of machinery and equipment that:
2405 (i) are used in performing qualified research:
2406 (A) as defined in Section 41(d), Internal Revenue Code; and
2407 (B) in the state; and
2408 (ii) have an economic life of three or more years; and

- 2409 (b) normal operating repair or replacement parts:
- 2410 (i) for the machinery and equipment described in Subsection (74)(a); and
- 2411 (ii) that have an economic life of three or more years;
- 2412 (75) a sale or lease of tangible personal property used in the preparation of prepared food if:
- 2413 (a) for a sale:
- 2414 (i) the ownership of the seller and the ownership of the purchaser are identical; and
- 2415 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
- 2416 tangible personal property prior to making the sale; or
- 2417 (b) for a lease:
- 2418 (i) the ownership of the lessor and the ownership of the lessee are identical; and
- 2419 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that
- 2420 tangible personal property prior to making the lease;
- 2421 (76)(a) purchases of machinery or equipment if:
- 2422 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
- 2423 Gambling, and Recreation Industries, of the 2012 North American Industry
- 2424 Classification System of the federal Executive Office of the President, Office of
- 2425 Management and Budget;
- 2426 (ii) the machinery or equipment:
- 2427 (A) has an economic life of three or more years; and
- 2428 (B) is used by one or more persons who pay admission or user fees described in
- 2429 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment;
- 2430 and
- 2431 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- 2432 (A) amounts paid or charged as admission or user fees described in Subsection
- 2433 59-12-103(1)(f); and
- 2434 (B) subject to taxation under this chapter; and
- 2435 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2436 commission may make rules for verifying that 51% of a purchaser's sales revenue for
- 2437 the previous calendar quarter is:
- 2438 (i) amounts paid or charged as admission or user fees described in Subsection
- 2439 59-12-103(1)(f); and
- 2440 (ii) subject to taxation under this chapter;
- 2441 (77) purchases of a short-term lodging consumable by a business that provides
- 2442 accommodations and services described in Subsection 59-12-103(1)(i);

- 2443 (78) amounts paid or charged to access a database:
- 2444 (a) if the primary purpose for accessing the database is to view or retrieve information
- 2445 from the database; and
- 2446 (b) not including amounts paid or charged for a:
- 2447 (i) digital audio work;
- 2448 (ii) digital audio-visual work; or
- 2449 (iii) digital book;
- 2450 (79) amounts paid or charged for a purchase or lease made by an electronic financial
- 2451 payment service, of:
- 2452 (a) machinery and equipment that:
- 2453 (i) are used in the operation of the electronic financial payment service; and
- 2454 (ii) have an economic life of three or more years; and
- 2455 (b) normal operating repair or replacement parts that:
- 2456 (i) are used in the operation of the electronic financial payment service; and
- 2457 (ii) have an economic life of three or more years;
- 2458 (80) sales of a fuel cell as defined in Section 54-15-102;
- 2459 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
- 2460 product transferred electronically if the tangible personal property or product transferred
- 2461 electronically:
- 2462 (a) is stored, used, or consumed in the state; and
- 2463 (b) is temporarily brought into the state from another state:
- 2464 (i) during a disaster period as defined in Section 53-2a-1202;
- 2465 (ii) by an out-of-state business as defined in Section 53-2a-1202;
- 2466 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
- 2467 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
- 2468 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined in
- 2469 Section 39A-7-102, made pursuant to Title 39A, Chapter 7, Morale, Welfare, and
- 2470 Recreation Program;
- 2471 (83) amounts paid or charged for a purchase or lease of molten magnesium;
- 2472 (84) amounts paid or charged for a purchase or lease made by a qualifying data center or an
- 2473 occupant of a qualifying data center of machinery, equipment, or normal operating
- 2474 repair or replacement parts, if the machinery, equipment, or normal operating repair or
- 2475 replacement parts:
- 2476 (a) are used in:

- 2477 (i) the operation of the qualifying data center; or
2478 (ii) the occupant's operations in the qualifying data center; and
2479 (b) have an economic life of one or more years;
- 2480 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle
2481 that includes cleaning or washing of the interior of the vehicle;
- 2482 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal
2483 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or
2484 supplies used or consumed:
- 2485 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
2486 in Section 79-6-701 located in the state;
- 2487 (b) if the machinery, equipment, normal operating repair or replacement parts, catalysts,
2488 chemicals, reagents, solutions, or supplies are used or consumed in:
- 2489 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
2490 added to gasoline or diesel fuel;
- 2491 (ii) research and development;
- 2492 (iii) transporting, storing, or managing raw materials, work in process, finished
2493 products, and waste materials produced from refining gasoline or diesel fuel, or
2494 adding blendstock to gasoline or diesel fuel;
- 2495 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
2496 refining; or
- 2497 (v) preventing, controlling, or reducing pollutants from refining; and
- 2498 (c) if the person holds a valid refiner tax exemption certification as defined in Section
2499 79-6-701;
- 2500 (87) amounts paid to or charged by a proprietor for accommodations and services, as
2501 defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations
2502 tax imposed under Section 63H-1-205;
- 2503 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal
2504 operating repair or replacement parts, or materials, except for office equipment or office
2505 supplies, by an establishment, as the commission defines that term in accordance with
2506 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
- 2507 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
2508 American Industry Classification System of the federal Executive Office of the
2509 President, Office of Management and Budget;
- 2510 (b) is located in this state; and

- 2511 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
2512 materials in the operation of the establishment;
- 2513 (89) amounts paid or charged for an item exempt under Section 59-12-104.10;
- 2514 (90) sales of a note, leaf, foil, or film, if the item:
- 2515 (a) is used as currency;
- 2516 (b) does not constitute legal tender of a state, the United States, or a foreign nation; and
- 2517 (c) has a gold, silver, or platinum metallic content of 50% or more, exclusive of any
2518 transparent polymer holder, coating, or encasement;
- 2519 (91) amounts paid or charged for admission to an indoor skydiving, rock climbing, or
2520 surfing facility, if a trained instructor:
- 2521 (a) is present with the participant, in person or by video, for the duration of the activity;
2522 and
- 2523 (b) actively instructs the participant, including providing observation or feedback;
- 2524 (92) amounts paid or charged in connection with the construction, operation, maintenance,
2525 repair, or replacement of facilities owned by or constructed for:
- 2526 (a) a distribution electrical cooperative, as defined in Section 54-2-1; or
2527 (b) a wholesale electrical cooperative, as defined in Section 54-2-1;
- 2528 (93) amounts paid by the service provider for tangible personal property, other than
2529 machinery, equipment, parts, office supplies, electricity, gas, heat, steam, or other fuels,
2530 that:
- 2531 (a) is consumed in the performance of a service that is subject to tax under Subsection
2532 59-12-103(1)(b), (f), (g), (h), (i), or (j);
- 2533 (b) has to be consumed for the service provider to provide the service described in
2534 Subsection (93)(a); and
- 2535 (c) will be consumed in the performance of the service described in Subsection (93)(a),
2536 to one or more customers, to the point that the tangible personal property disappears
2537 or cannot be used for any other purpose;
- 2538 (94) sales of rail rolling stock manufactured in Utah;
- 2539 (95) amounts paid or charged for sales of sand, gravel, rock aggregate, cement products, or
2540 construction materials between establishments, as the commission defines that term in
2541 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if:
- 2542 (a) the establishments are related directly or indirectly through 100% common
2543 ownership or control; and
- 2544 (b) each establishment is described in one of the following subsectors of the 2022 North

2545 American Industry Classification System of the federal Executive Office of the
2546 President, Office of Management and Budget:
2547 (i) NAICS Subsector 237, Heavy and Civil Engineering Construction; or
2548 (ii) NAICS Subsector 327, Nonmetallic Mineral Product Manufacturing;
2549 (96) sales of construction materials used for the construction of a qualified stadium, as
2550 defined in Section 11-70-101; [and]
2551 (97) amounts paid or charged for sales of a cannabinoid product as that term is defined in
2552 Section 4-41-102[-] ;
2553 (98) amounts paid or charged for sales of adaptive driving equipment if the adaptive driving
2554 equipment is not yet installed in a motor vehicle; and
2555 (99) amounts paid or charged for sales of adaptive driving equipment if the adaptive driving
2556 equipment is installed in a motor vehicle by a previous owner and the requirements of
2557 Section 59-12-104.11 are met.
2558 Section 3. Section **59-12-104.11** is enacted to read:
2559 **59-12-104.11 . Sales tax due for motor vehicle with adaptive driving equipment.**
2560 (1) An owner of a motor vehicle with adaptive driving equipment installed may claim the
2561 sales tax exemption described in Subsection 59-12-104(99) at the time of purchase if the
2562 owner purchases the motor vehicle from a vehicle dealer.
2563 (2) A vehicle dealer shall collect sales tax required by this chapter on the purchase price of
2564 the vehicle after subtracting the amount of the purchase price attributed to the adaptive
2565 driving equipment.
2566 (3)(a) A vehicle dealer shall state the purchase price attributed to the adaptive driving
2567 equipment on the contract of sale.
2568 (b) The vehicle dealer shall retain the contract of sale described in Subsection (3)(a) for
2569 the same period of time a vehicle dealer is required to keep books and records under
2570 Section 59-1-1406.
2571 Section 4. **Effective date.**
2572 This bill takes effect on October 1, 2025.