

1 **REVENUE AND TAXATION INTERIM COMMITTEE REPORT**

2 **AMENDMENTS**

3 2016 GENERAL SESSION

4 STATE OF UTAH

5

6 **LONG TITLE**

7 **General Description:**

8 This bill addresses reports to and by the Revenue and Taxation Interim Committee.

9 **Highlighted Provisions:**

10 This bill:

- 11 ▶ repeals certain reports to and by the Revenue and Taxation Interim Committee;
- 12 ▶ requires that certain reports be provided electronically to the committee;
- 13 ▶ addresses requirements of reports made by the Governor's Office of Economic
- 14 Development to the committee; and
- 15 ▶ makes technical and conforming changes.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **35A-5-306**, as enacted by Laws of Utah 2014, Chapter 315

23 **59-1-213**, as enacted by Laws of Utah 2004, Chapter 176

24 **59-1-304**, as last amended by Laws of Utah 2008, Chapter 382

25 **59-2-303.1**, as last amended by Laws of Utah 2010, Chapter 131

26 **59-2-1308.5**, as enacted by Laws of Utah 2011, Chapter 325

27 **59-5-102**, as last amended by Laws of Utah 2013, Chapter 310

28 **59-7-607**, as last amended by Laws of Utah 2006, Chapter 223

29 **59-7-612**, as last amended by Laws of Utah 2012, Chapter 405

30 **59-7-613**, as last amended by Laws of Utah 2011, Chapter 384

31 **59-7-614.2**, as last amended by Laws of Utah 2015, Chapter 283

- 32 **59-7-614.5**, as last amended by Laws of Utah 2015, Chapter 283
 33 **59-7-614.7**, as enacted by Laws of Utah 2012, Chapter 410
 34 **59-7-614.8**, as last amended by Laws of Utah 2015, Chapter 283
 35 **59-7-701**, as last amended by Laws of Utah 2009, Chapter 312
 36 **59-7-903**, as last amended by Laws of Utah 2015, Chapter 41
 37 **59-9-101 (Subsec (2)(c)(iv) Repealed 07/01/18)**, as last amended by Laws of Utah
 38 2011, Chapter 266
 39 **59-10-1002.1**, as last amended by Laws of Utah 2015, Chapters 30 and 41
 40 **59-10-1010**, as renumbered and amended by Laws of Utah 2006, Chapter 223
 41 **59-10-1012**, as last amended by Laws of Utah 2012, Chapter 405
 42 **59-10-1013**, as last amended by Laws of Utah 2011, Chapter 384
 43 **59-10-1029**, as enacted by Laws of Utah 2012, Chapter 410
 44 **59-10-1030**, as last amended by Laws of Utah 2015, Chapter 283
 45 **59-10-1107**, as last amended by Laws of Utah 2015, Chapter 283
 46 **59-10-1108**, as last amended by Laws of Utah 2015, Chapter 283
 47 **59-10-1304**, as last amended by Laws of Utah 2015, Chapters 30 and 41
 48 **59-12-103.1**, as last amended by Laws of Utah 2013, Chapter 150
 49 **59-12-104**, as last amended by Laws of Utah 2015, Chapters 11, 294, and 353
 50 **59-12-104.2**, as last amended by Laws of Utah 2009, Chapter 203
 51 **59-12-104.5**, as last amended by Laws of Utah 2012, Chapter 41
 52 **59-23-4**, as last amended by Laws of Utah 2010, Chapter 105
 53 **63M-4-505**, as enacted by Laws of Utah 2012, Chapter 410
 54 **63N-2-810**, as renumbered and amended by Laws of Utah 2015, Chapter 283

55 REPEALS:

- 56 **59-26-110**, as enacted by Laws of Utah 2004, Chapter 300

57

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

59 Section 1. Section **35A-5-306** is amended to read:

60 **35A-5-306. Report to the Legislature.**

61 Beginning with the 2016 interim, the department shall [~~report~~] annually provide an
 62 electronic report to the Economic Development and Workforce Services Interim Committee

63 and the Revenue and Taxation Interim Committee:

64 (1) on or before the November interim meeting; and

65 (2) on the amount of tax credits the department grants under this part.

66 Section 2. Section **59-1-213** is amended to read:

67 **59-1-213. Annual report on Internal Revenue Code changes.**

68 The commission shall annually provide an electronic report to the Revenue and
69 Taxation Interim Committee on or before the October interim meeting concerning the impacts
70 of the reliance of this title on the Internal Revenue Code, including:

71 (1) any modification to the Internal Revenue Code that is likely to have a fiscal impact
72 on state revenues:

73 (a) that became effective:

74 (i) if the commission is preparing its initial report in accordance with this section,
75 during the previous calendar year; or

76 (ii) if the commission has prepared a previous report in accordance with this section,
77 after the most recent report prepared in accordance with this section; or

78 (b) that have been enacted and will become effective prior to the end of the calendar
79 year that begins January 1 following the current report prepared in accordance with this
80 section;

81 (2) the fiscal impacts a modification described in Subsection (1) may have on state
82 revenues; and

83 (3) statutory or administrative options to:

84 (a) implement the effects on this title of a modification described in Subsection (1); or

85 (b) change this title to prevent this title from implementing a modification described in
86 Subsection (1).

87 Section 3. Section **59-1-304** is amended to read:

88 **59-1-304. Definition -- Limitations on maintaining a class action that relates to a**
89 **tax or fee -- Requirements for a person to be included as a member of a class in a class**
90 **action -- Rulemaking authority -- Limitations on recovery by members of a class --**
91 **Severability.**

92 (1) As used in this section, "tax or fee" means a tax or fee administered by the
93 commission.

94 (2) A class action that relates to a tax or fee may not be maintained in any court if a
95 claim sought by a representative party seeking to maintain the class action arises as a result of:

96 (a) a person collecting a tax or fee from the representative party if the representative
97 party is not required by law to pay the tax or fee; or

98 (b) any of the following that requires a change in the manner in which a tax or fee is
99 required to be collected or paid:

100 (i) an administrative rule made by the commission;

101 (ii) a private letter ruling issued by the commission; or

102 (iii) a decision issued by:

103 (A) the commission; or

104 (B) a court of competent jurisdiction.

105 (3) (a) A person may be included as a member of a class in a class action relating to a
106 tax or fee only if the person:

107 (i) exhausts all administrative remedies with the commission; and

108 (ii) requests in writing to be included as a member of the class.

109 (b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
110 the commission shall make rules to simplify and expedite the administrative remedies a person
111 shall exhaust as required by Subsection (3)(a).

112 (ii) The rules required by Subsection (3)(b)(i) may include rules providing for:

113 (A) expedited filing procedures and forms;

114 (B) consolidation of hearings procedures as may be reasonably needed to accommodate
115 potential inclusion of similarly situated persons; and

116 (C) the designation of test or sample cases to avoid multiple hearings.

117 ~~[(iii) The commission shall report to the Revenue and Taxation Interim Committee on
118 the status of the rules required by this Subsection (3)(b) on or before the October 2004 interim
119 meeting.]~~

120 (4) Subject to Subsection (5), in a class action brought under this section against the
121 state or its political subdivisions in which members of the class are awarded a refund or credit
122 of a tax or fee by a court of competent jurisdiction, the total amount that may be recovered by
123 members of the class may not exceed the difference between:

124 (a) the sum of:

- 125 (i) the amount of the refund or credit awarded to members of the class; and
- 126 (ii) interest as provided in Section 59-1-402; and
- 127 (b) if awarded in accordance with Subsection (5), the sum of:
 - 128 (i) reasonable costs; and
 - 129 (ii) reasonable attorney fees.
- 130 (5) (a) For purposes of Subsection (4), at the discretion of the court, the court may
- 131 award:
 - 132 (i) reasonable costs as determined by the court; and
 - 133 (ii) reasonable attorney fees determined under Subsection (5)(b).
- 134 (b) Reasonable attorney fees awarded in a class action may not exceed a reasonable
- 135 hourly rate for work actually performed:
 - 136 (i) as determined by the court; and
 - 137 (ii) taking into account all facts and circumstances that the court considers reasonable.
- 138 (6) If any provision of this section, or the application of any provision of this section to
- 139 any person or circumstance is held unconstitutional or invalid by a court of competent
- 140 jurisdiction, the remainder of the section shall be given effect without the invalid provision or
- 141 application.
- 142 Section 4. Section **59-2-303.1** is amended to read:
- 143 **59-2-303.1. Mandatory cyclical appraisals.**
- 144 (1) For purposes of this section:
- 145 (a) "Corrective action" includes:
 - 146 (i) factoring pursuant to Section 59-2-704;
 - 147 (ii) notifying the state auditor that the county failed to comply with the requirements of
 - 148 this section; or
 - 149 (iii) filing a petition for a court order requiring a county to take action.
- 150 (b) "Mass appraisal system" means a computer assisted mass appraisal system that:
 - 151 (i) a county assessor uses to value real property; and
 - 152 (ii) includes at least the following system features:
 - 153 (A) has the ability to update all parcels of real property located within the county each
 - 154 year;
 - 155 (B) can be programmed with specialized criteria;

156 (C) provides uniform and equal treatment of parcels within the same class of real
157 property throughout the county; and

158 (D) annually updates all parcels of residential real property within the county using
159 accepted valuation methodologies as determined by rule.

160 (c) "Property review date" means the date a county assessor completes a detailed
161 review of the property characteristics of a parcel of real property in accordance with Subsection
162 (3)(a).

163 (2) (a) The county assessor shall annually update property values of property as
164 provided in Section 59-2-301 based on a systematic review of current market data.

165 (b) The county assessor shall conduct the annual update described in Subsection (2)(a)
166 by using a mass appraisal system on or before the following:

167 (i) for a county of the first class, January 1, 2009;

168 (ii) for a county of the second class, January 1, 2011;

169 (iii) for a county of the third class, January 1, 2014; and

170 (iv) for a county of the fourth, fifth, or sixth class, January 1, 2015.

171 (c) The county assessor and the commission shall jointly certify that the county's mass
172 appraisal system meets the requirements:

173 (i) described in Subsection (1)(b); and

174 (ii) of the commission.

175 (3) (a) In addition to the requirements in Subsection (2), the county assessor shall
176 complete a detailed review of property characteristics for each property at least once every five
177 years.

178 (b) The county assessor shall maintain on the county's computer system, a record of the
179 last property review date for each parcel of real property located within the county assessor's
180 county.

181 (4) (a) The commission shall take corrective action if the commission determines that:

182 (i) a county assessor has not satisfactorily followed the current mass appraisal
183 standards, as provided by law;

184 (ii) the sales-assessment ratio, coefficients of dispersion, or other statistical measures
185 of appraisal performance related to the studies required by Section 59-2-704 are not within the
186 standards provided by law; or

187 (iii) the county assessor has failed to comply with the requirements of this section.

188 (b) If a county assessor fails to comply with the requirements of this section for one
189 year, the commission shall assist the county assessor in fulfilling the requirements of
190 Subsections (2) and (3).

191 (c) If a county assessor fails to comply with the requirements of this section for two
192 consecutive years, the county will lose the county's allocation of the revenue generated
193 statewide from the imposition of the multicounty assessing and collecting levy authorized in
194 Sections 59-2-1602 and 59-2-1603.

195 (d) If a county loses its allocation of the revenue generated statewide from the
196 imposition of the multicounty assessing and collecting levy described in Subsection (4)(c), the
197 revenue the county would have received shall be distributed to the Multicounty Appraisal Trust
198 created by interlocal agreement by all counties in the state.

199 (5) (a) On or before July 1, 2008, the county assessor shall prepare a five-year plan to
200 comply with the requirements of Subsections (2) and (3).

201 (b) The plan shall be available in the county assessor's office for review by the public
202 upon request.

203 (c) The plan shall be annually reviewed and revised as necessary.

204 (6) ~~[(a)]~~ A county assessor shall create, maintain, and regularly update a database
205 containing the following information that the county assessor may use to enhance the county's
206 ability to accurately appraise and assess property on an annual basis:

207 ~~[(i)]~~ (a) fee and other appraisals;

208 ~~[(ii)]~~ (b) property characteristics and features;

209 ~~[(iii)]~~ (c) property surveys;

210 ~~[(iv)]~~ (d) sales data; and

211 ~~[(v)]~~ (e) any other data or information on sales, studies, transfers, changes to property,
212 or property characteristics.

213 ~~[(b) A county assessor shall submit a report to the commission on or before September~~
214 ~~1 stating the progress of the county assessor to meet the requirements of Subsection (6)(a).]~~

215 ~~[(c) The commission shall report to the Revenue and Taxation Interim Committee on~~
216 ~~or before the October interim meeting concerning the information received from the county~~
217 ~~assessors pursuant to Subsection (6)(b).]~~

218 Section 5. Section **59-2-1308.5** is amended to read:

219 **59-2-1308.5. Equal payment agreements.**

220 (1) (a) The commission may enter into an agreement with a commercial or industrial
221 taxpayer to provide for equal, or approximately equal, property tax payments over a reasonable
222 period of years, not to exceed 20 years, if:

223 (i) the payment schedule is based on an accepted valuation methodology that
224 reasonably estimates the property's anticipated fair market value over the period of the
225 proposed equal payments;

226 (ii) the agreement includes a provision making the initial equal payment schedule
227 subject to an annual adjustment, as necessary, to account for differences between the property's
228 fair market value as of the annual lien date and the property's fair market value that formed the
229 basis of the initial equal payment schedule;

230 (iii) the commission, the taxpayer, and each affected taxing entity approve the
231 agreement; and

232 (iv) the total amount the taxpayer pays under the agreement is no less than the amount
233 the taxpayer would have paid in the absence of the agreement.

234 (b) A taxing entity may not approve an agreement under this section on behalf of
235 another taxing entity.

236 (2) (a) Subject to Subsection (2)(b), a tax lien under this chapter against the taxpayer's
237 property is not affected by a payment pursuant to an agreement under this section to the extent
238 of the difference between the amount the taxpayer would have been required to pay in the
239 absence of the agreement and the amount of the payment under the agreement.

240 (b) For purposes of enforcing a tax lien under this chapter, a taxpayer's failure to pay
241 the full amount of taxes that the taxpayer would have been required to pay in the absence of an
242 agreement under this section does not constitute a failure to pay the full amount of taxes owing:

243 (i) if the taxpayer pays the full amount of the payment owing under the agreement; and

244 (ii) unless the taxpayer:

245 (A) files for bankruptcy;

246 (B) transfers ownership of the property that is the subject of the property taxes; or

247 (C) has a change in ownership and the new owner does not assume all responsibility

248 and liability under the agreement.

249 (3) (a) The commission may revise, accelerate, or cancel an equal payment agreement
 250 under this section to the same extent and for the same reasons that the commission may revise,
 251 accelerate, or cancel an installment agreement under Section 59-1-1004.

252 (b) The commission shall give the taxpayer reasonable notice of its intent to revise or
 253 cancel an equal payment agreement under this section.

254 (4) The commission shall promulgate rules to ensure that tax revenue derived from
 255 payments pursuant to an agreement under this section do not affect the calculation of the
 256 certified tax rate under Section 59-2-924.

257 (5) ~~[(a) The]~~ If the commission or a taxing entity enters into an equal payment
 258 agreement under this section:

259 (a) the commission shall annually provide an electronic report to the Revenue and
 260 Taxation Interim Committee [an assessment of] on the effects of equal payment agreements
 261 under this section[-]; and

262 (b) the Revenue and Taxation Interim Committee shall annually review and assess the
 263 effects of equal payment agreements under this section.

264 Section 6. Section **59-5-102** is amended to read:

265 **59-5-102. Severance tax -- Rate -- Computation -- Annual exemption -- Tax credit**
 266 **-- Tax rate reduction.**

267 (1) (a) Subject to Subsection (1)(b), a person owning an interest in oil or gas produced
 268 from a well in the state, including a working interest, royalty interest, payment out of
 269 production, or any other interest, or in the proceeds of the production of oil or gas, shall pay to
 270 the state a severance tax on the basis of the value determined under Section 59-5-103.1 of the
 271 oil or gas:

272 (i) produced; and

273 (ii) (A) saved;

274 (B) sold; or

275 (C) transported from the field where the substance was produced.

276 (b) This section applies to an interest in oil or gas produced from a well in the state or
 277 in the proceeds of the production of oil or gas produced from a well in the state except for:

278 (i) an interest of the United States in oil or gas or in the proceeds of the production of
 279 oil or gas;

280 (ii) an interest of the state or a political subdivision of the state in oil or gas or in the
281 proceeds of the production of oil or gas; or

282 (iii) an interest of an Indian or Indian tribe as defined in Section 9-9-101 in oil or gas or
283 in the proceeds of the production of oil or gas produced from land under the jurisdiction of the
284 United States.

285 (2) (a) ~~[Subject to Subsection (2)(d), the]~~ The severance tax rate for oil is as follows:

286 (i) 3% of the value of the oil up to and including the first \$13 per barrel for oil; and

287 (ii) 5% of the value of the oil from \$13.01 and above per barrel for oil.

288 (b) ~~[Subject to Subsection (2)(d), the]~~ The severance tax rate for natural gas is as
289 follows:

290 (i) 3% of the value of the natural gas up to and including the first \$1.50 per MCF for
291 gas; and

292 (ii) 5% of the value of the natural gas from \$1.51 and above per MCF for gas.

293 (c) ~~[Subject to Subsection (2)(d), the]~~ The severance tax rate for natural gas liquids is
294 4% of the value of the natural gas liquids.

295 ~~[(d) (i) On or before December 15, 2004, the Office of the Legislative Fiscal Analyst
296 and the Governor's Office of Management and Budget shall prepare a revenue forecast
297 estimating the amount of revenues that:]~~

298 ~~[(A) would be generated by the taxes imposed by this part for the calendar year
299 beginning on January 1, 2004 had 2004 General Session S.B. 191 not taken effect; and]~~

300 ~~[(B) will be generated by the taxes imposed by this part for the calendar year beginning
301 on January 1, 2004:]~~

302 ~~[(ii) Effective on January 1, 2005, the tax rates described in Subsections (2)(a) through
303 (c) shall be:]~~

304 ~~[(A) increased as provided in Subsection (2)(d)(iii) if the amount of revenues estimated
305 under Subsection (2)(d)(i)(B) is less than the amount of revenues estimated under Subsection
306 (2)(d)(i)(A); or]~~

307 ~~[(B) decreased as provided in Subsection (2)(d)(iii) if the amount of revenues
308 estimated under Subsection (2)(d)(i)(B) is greater than the amount of revenues estimated under
309 Subsection (2)(d)(i)(A).]~~

310 ~~[(iii) For purposes of Subsection (2)(d)(ii):]~~

311 ~~[(A) subject to Subsection (2)(d)(iv)(B):]~~

312 ~~[(H) if an increase is required under Subsection (2)(d)(ii)(A), the total increase in the tax~~
313 ~~rates shall be by the amount necessary to generate for the calendar year beginning on January 1,~~
314 ~~2005 revenues equal to the amount by which the revenues estimated under Subsection~~
315 ~~(2)(d)(i)(A) exceed the revenues estimated under Subsection (2)(d)(i)(B); or]~~

316 ~~[(H) if a decrease is required under Subsection (2)(d)(ii)(B), the total decrease in the~~
317 ~~tax rates shall be by the amount necessary to reduce for the calendar year beginning on January~~
318 ~~1, 2005 revenues equal to the amount by which the revenues estimated under Subsection~~
319 ~~(2)(d)(i)(B) exceed the revenues estimated under Subsection (2)(d)(i)(A); and]~~

320 ~~[(B) an increase or decrease in each tax rate under Subsection (2)(d)(ii) shall be in~~
321 ~~proportion to the amount of revenues generated by each tax rate under this part for the calendar~~
322 ~~year beginning on January 1, 2003.]~~

323 ~~[(iv) (A) The commission shall calculate any tax rate increase or decrease required by~~
324 ~~Subsection (2)(d)(ii) using the best information available to the commission.]~~

325 ~~[(B) If the tax rates described in Subsections (2)(a) through (c) are increased or~~
326 ~~decreased as provided in this Subsection (2)(d), the commission shall mail a notice to each~~
327 ~~person required to file a return under this part stating the tax rate in effect on January 1, 2005~~
328 ~~as a result of the increase or decrease.]~~

329 (3) If oil or gas is shipped outside the state:

330 (a) the shipment constitutes a sale; and

331 (b) the oil or gas is subject to the tax imposed by this section.

332 (4) (a) Except as provided in Subsection (4)(b), if the oil or gas is stockpiled, the tax is
333 not imposed until the oil or gas is:

334 (i) sold;

335 (ii) transported; or

336 (iii) delivered.

337 (b) Notwithstanding Subsection (4)(a), if oil or gas is stockpiled for more than two
338 years, the oil or gas is subject to the tax imposed by this section.

339 (5) A tax is not imposed under this section upon:

340 (a) stripper wells, unless the exemption prevents the severance tax from being treated
341 as a deduction for federal tax purposes;

- 342 (b) the first 12 months of production for wildcat wells started after January 1, 1990; or
343 (c) the first six months of production for development wells started after January 1,
344 1990.
- 345 (6) (a) Subject to Subsections (6)(b) and (c), a working interest owner who pays for all
346 or part of the expenses of a recompletion or workover may claim a nonrefundable tax credit
347 equal to 20% of the amount paid.
- 348 (b) The tax credit under Subsection (6)(a) for each recompletion or workover may not
349 exceed \$30,000 per well during each calendar year.
- 350 (c) If any amount of tax credit a taxpayer is allowed under this Subsection (6) exceeds
351 the taxpayer's tax liability under this part for the calendar year for which the taxpayer claims
352 the tax credit, the amount of tax credit exceeding the taxpayer's tax liability for the calendar
353 year may be carried forward for the next three calendar years.
- 354 (7) A 50% reduction in the tax rate is imposed upon the incremental production
355 achieved from an enhanced recovery project.
- 356 (8) The taxes imposed by this section are:
- 357 (a) in addition to all other taxes provided by law; and
358 (b) delinquent, unless otherwise deferred, on June 1 next succeeding the calendar year
359 when the oil or gas is:
- 360 (i) produced; and
361 (ii) (A) saved;
362 (B) sold; or
363 (C) transported from the field.
- 364 (9) With respect to the tax imposed by this section on each owner of oil or gas or in the
365 proceeds of the production of those substances produced in the state, each owner is liable for
366 the tax in proportion to the owner's interest in the production or in the proceeds of the
367 production.
- 368 (10) The tax imposed by this section shall be reported and paid by each producer that
369 takes oil or gas in kind pursuant to agreement on behalf of the producer and on behalf of each
370 owner entitled to participate in the oil or gas sold by the producer or transported by the
371 producer from the field where the oil or gas is produced.
- 372 (11) Each producer shall deduct the tax imposed by this section from the amounts due

373 to other owners for the production or the proceeds of the production.

374 ~~[(12)(a) The Revenue and Taxation Interim Committee shall review the applicability~~
375 ~~of the tax provided for in this chapter to coal-to-liquids, oil shale, and tar sands technology on~~
376 ~~or before the October 2011 interim meeting.]~~

377 ~~[(b) The Revenue and Taxation Interim Committee shall address in its review the cost~~
378 ~~and benefit of not applying the tax provided for in this chapter to coal-to-liquids, oil shale, and~~
379 ~~tar sands technology.]~~

380 ~~[(c) The Revenue and Taxation Interim Committee shall report its findings and~~
381 ~~recommendations under this Subsection (12) to the Legislative Management Committee on or~~
382 ~~before the November 2011 interim meeting.]~~

383 Section 7. Section **59-7-607** is amended to read:

384 **59-7-607. Utah low-income housing tax credit.**

385 (1) As used in this section:

386 (a) "Allocation certificate" means:

387 (i) the certificate prescribed by the commission and issued by the Utah Housing
388 Corporation to each taxpayer that specifies the percentage of the annual federal low-income
389 housing tax credit that each taxpayer may take as an annual credit against state income tax; or

390 (ii) a copy of the allocation certificate that the housing sponsor provides to the
391 taxpayer.

392 (b) "Building" means a qualified low-income building as defined in Section 42(c),
393 Internal Revenue Code.

394 (c) "Federal low-income housing tax credit" means the tax credit under Section 42,
395 Internal Revenue Code.

396 (d) "Housing sponsor" means a corporation in the case of a C corporation, a partnership
397 in the case of a partnership, a corporation in the case of an S corporation, or a limited liability
398 company in the case of a limited liability company.

399 (e) "Qualified allocation plan" means the qualified allocation plan adopted by the Utah
400 Housing Corporation pursuant to Section 42(m), Internal Revenue Code.

401 (f) "Special low-income housing tax credit certificate" means a certificate:

402 (i) prescribed by the commission;

403 (ii) that a housing sponsor issues to a taxpayer for a taxable year; and

404 (iii) that specifies the amount of tax credit a taxpayer may claim under this section if
405 the taxpayer meets the requirements of this section.

406 (g) "Taxpayer" means a person that is allowed a tax credit in accordance with this
407 section which is the corporation in the case of a C corporation, the partners in the case of a
408 partnership, the shareholders in the case of an S corporation, and the members in the case of a
409 limited liability company.

410 (2) (a) For taxable years beginning on or after January 1, 1995, there is allowed a
411 nonrefundable tax credit against taxes otherwise due under this chapter or Chapter 8, Gross
412 Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax
413 Act, for taxpayers issued an allocation certificate.

414 (b) The tax credit shall be in an amount equal to the greater of the amount of:

415 (i) federal low-income housing tax credit to which the taxpayer is allowed during that
416 year multiplied by the percentage specified in an allocation certificate issued by the Utah
417 Housing Corporation; or

418 (ii) tax credit specified in the special low-income housing tax credit certificate that the
419 housing sponsor issues to the taxpayer as provided in Subsection (2)(c).

420 (c) For purposes of Subsection (2)(b)(ii), the tax credit is equal to the product of:

421 (i) the total amount of low-income housing tax credit under this section that:

422 (A) a housing sponsor is allowed for a building; and

423 (B) all of the taxpayers may claim with respect to the building if the taxpayers meet the
424 requirements of this section; and

425 (ii) the percentage of tax credit a taxpayer may claim:

426 (A) under this section if the taxpayer meets the requirements of this section; and

427 (B) as provided in the agreement between the taxpayer and the housing sponsor.

428 (d) (i) For the calendar year beginning on January 1, 1995, through the calendar year
429 beginning on January 1, 2015, the aggregate annual tax credit that the Utah Housing
430 Corporation may allocate for the credit period described in Section 42(f), Internal Revenue
431 Code, pursuant to this section and Section 59-10-1010 is an amount equal to the product of:

432 (A) 12.5 cents; and

433 (B) the population of Utah.

434 (ii) For purposes of this section, the population of Utah shall be determined in

435 accordance with Section 146(j), Internal Revenue Code.

436 (3) (a) By October 1, 1994, the Utah Housing Corporation shall determine criteria and
437 procedures for allocating the tax credit under this section and Section 59-10-1010 and
438 incorporate the criteria and procedures into the Utah Housing Corporation's qualified allocation
439 plan.

440 (b) The Utah Housing Corporation shall create the criteria under Subsection (3)(a)
441 based on:

442 (i) the number of affordable housing units to be created in Utah for low and moderate
443 income persons in the residential housing development of which the building is a part;

444 (ii) the level of area median income being served by the development;

445 (iii) the need for the tax credit for the economic feasibility of the development; and

446 (iv) the extended period for which the development commits to remain as affordable
447 housing.

448 (4) (a) The following may apply to the Utah Housing Corporation for a tax credit under
449 this section:

450 (i) any housing sponsor that has received an allocation of the federal low-income
451 housing tax credit; or

452 (ii) any applicant for an allocation of the federal low-income housing tax credit.

453 (b) The Utah Housing Corporation may not require fees for applications of the tax
454 credit under this section in addition to those fees required for applications for the federal
455 low-income housing tax credit.

456 (5) (a) The Utah Housing Corporation shall determine the amount of the tax credit to
457 allocate to a qualifying housing sponsor in accordance with the qualified allocation plan of the
458 Utah Housing Corporation.

459 (b) (i) The Utah Housing Corporation shall allocate the tax credit to housing sponsors
460 by issuing an allocation certificate to qualifying housing sponsors.

461 (ii) The allocation certificate under Subsection (5)(b)(i) shall specify the allowed
462 percentage of the federal low-income housing tax credit as determined by the Utah Housing
463 Corporation.

464 (c) The percentage specified in an allocation certificate may not exceed 100% of the
465 federal low-income housing tax credit.

466 (6) A housing sponsor shall provide a copy of the allocation certificate to each taxpayer
467 that is issued a special low-income housing tax credit certificate.

468 (7) (a) A housing sponsor shall provide to the commission a list of:

469 (i) the taxpayers issued a special low-income housing tax credit certificate; and

470 (ii) for each taxpayer described in Subsection (7)(a)(i), the amount of tax credit listed
471 on the special low-income housing tax credit certificate.

472 (b) A housing sponsor shall provide the list required by Subsection (7)(a):

473 (i) to the commission;

474 (ii) on a form provided by the commission; and

475 (iii) with the housing sponsor's tax return for each taxable year for which the housing
476 sponsor issues a special low-income housing tax credit certificate described in this Subsection
477 (7).

478 (8) (a) All elections made by the taxpayer pursuant to Section 42, Internal Revenue
479 Code, shall apply to this section.

480 (b) (i) If a taxpayer is required to recapture a portion of any federal low-income
481 housing tax credit, the taxpayer shall also be required to recapture a portion of any state tax
482 credits authorized by this section.

483 (ii) The state recapture amount shall be equal to the percentage of the state tax credit
484 that equals the proportion the federal recapture amount bears to the original federal low-income
485 housing tax credit amount subject to recapture.

486 (9) (a) Any tax credits returned to the Utah Housing Corporation in any year may be
487 reallocated within the same time period as provided in Section 42, Internal Revenue Code.

488 (b) Tax credits that are unallocated by the Utah Housing Corporation in any year may
489 be carried over for allocation in the subsequent year.

490 (10) (a) Amounts otherwise qualifying for the tax credit, but not allowable because the
491 tax credit exceeds the tax, may be carried back three years or may be carried forward five years
492 as a credit against the tax.

493 (b) Carryover tax credits under Subsection (10)(a) shall be applied against the tax:

494 (i) before the application of the tax credits earned in the current year; and

495 (ii) on a first-earned first-used basis.

496 (11) Any tax credit taken in this section may be subject to an annual audit by the

497 commission.

498 (12) The Utah Housing Corporation shall annually provide an [~~annual~~] electronic
499 report to the Revenue and Taxation Interim Committee which shall include at least:

500 (a) the purpose and effectiveness of the tax credits; and

501 (b) the benefits of the tax credits to the state.

502 (13) The commission may, in consultation with the Utah Housing Corporation,
503 promulgate rules to implement this section.

504 Section 8. Section **59-7-612** is amended to read:

505 **59-7-612. Tax credits for research activities conducted in the state -- Carry**
506 **forward -- Commission to report modification or repeal of certain federal provisions --**
507 **Revenue and Taxation Interim Committee study.**

508 (1) (a) A taxpayer meeting the requirements of this section may claim the following
509 nonrefundable tax credits:

510 (i) a research tax credit of 5% of the taxpayer's qualified research expenses for the
511 current taxable year that exceed the base amount provided for under Subsection (4);

512 (ii) a tax credit for a payment to a qualified organization for basic research as provided
513 in Section 41(e), Internal Revenue Code, of 5% for the current taxable year that exceed the
514 base amount provided for under Subsection (4); and

515 (iii) a tax credit equal to 7.5% of the taxpayer's qualified research expenses for the
516 current taxable year.

517 (b) Subject to Subsection (5), a taxpayer may claim a tax credit under:

518 (i) Subsection (1)(a)(i) or (1)(a)(iii), for the taxable year for which the taxpayer incurs
519 the qualified research expenses; or

520 (ii) Subsection (1)(a)(ii), for the taxable year for which the taxpayer makes the payment
521 to the qualified organization.

522 (c) The tax credits provided for in this section do not include the alternative
523 incremental credit provided for in Section 41(c)(4), Internal Revenue Code.

524 (2) For purposes of claiming a tax credit under this section, a unitary group as defined
525 in Section 59-7-101 is considered to be one taxpayer.

526 (3) Except as specifically provided for in this section:

527 (a) the tax credits authorized under Subsection (1) shall be calculated as provided in

528 Section 41, Internal Revenue Code; and

529 (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating
530 the tax credits authorized under Subsection (1).

531 (4) For purposes of this section:

532 (a) the base amount shall be calculated as provided in Sections 41(c) and 41(h),
533 Internal Revenue Code, except that:

534 (i) the base amount does not include the calculation of the alternative incremental
535 credit provided for in Section 41(c)(4), Internal Revenue Code;

536 (ii) a taxpayer's gross receipts include only those gross receipts attributable to sources
537 within this state as provided in Part 3, Allocation and Apportionment of Income - Utah
538 UDITPA Provisions; and

539 (iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating
540 the base amount, a taxpayer:

541 (A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B)
542 regardless of whether the taxpayer meets the requirements of Section 41(c)(3)(B)(i)(I) or (II);
543 and

544 (B) may not revoke an election to be treated as a start-up company under Subsection
545 (4)(a)(iii)(A);

546 (b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except
547 that the term includes only basic research conducted in this state;

548 (c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except
549 that the term includes only qualified research conducted in this state;

550 (d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal
551 Revenue Code, except that the term includes only:

552 (i) in-house research expenses incurred in this state; and

553 (ii) contract research expenses incurred in this state; and

554 (e) a tax credit provided for in this section is not terminated if a credit terminates under
555 Section 41, Internal Revenue Code.

556 (5) (a) If the amount of a tax credit claimed by a taxpayer under Subsection (1)(a)(i) or

557 (ii) exceeds the taxpayer's tax liability under this chapter for a taxable year, the amount of the

558 tax credit exceeding the tax liability:

559 (i) may be carried forward for a period that does not exceed the next 14 taxable years;

560 and

561 (ii) may not be carried back to a taxable year preceding the current taxable year.

562 (b) A taxpayer may not carry forward the tax credit allowed by Subsection (1)(a)(iii).

563 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
564 commission may make rules for purposes of this section prescribing a certification process for
565 qualified organizations to ensure that amounts paid to the qualified organizations are for basic
566 research conducted in this state.

567 (7) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the
568 commission shall provide an electronic report of the modification or repeal to the Revenue and
569 Taxation Interim Committee within 60 days after the day on which the modification or repeal
570 becomes effective.

571 (8) (a) The Revenue and Taxation Interim Committee shall review the tax credits
572 provided for in this section on or before October 1 of the year after the year in which the
573 commission reports under Subsection (7) a modification or repeal of a provision of Section 41,
574 Internal Revenue Code.

575 (b) Notwithstanding Subsection (8)(a), the Revenue and Taxation Interim Committee is
576 not required to review the tax credits provided for in this section if the only modification to a
577 provision of Section 41, Internal Revenue Code, is the extension of the termination date
578 provided for in Section 41(h), Internal Revenue Code.

579 (c) The Revenue and Taxation Interim Committee shall address in a review under this
580 section:

581 (i) the cost of the tax credits provided for in this section;

582 (ii) the purpose and effectiveness of the tax credits provided for in this section;

583 (iii) whether the tax credits provided for in this section benefit the state; and

584 (iv) whether the tax credits provided for in this section should be:

585 (A) continued;

586 (B) modified; or

587 (C) repealed.

588 (d) If the Revenue and Taxation Interim Committee reviews the tax credits provided
589 for in this section, the committee shall report its findings to the Legislative Management

590 Committee on or before the November interim meeting of the year in which the Revenue and
591 Taxation Interim Committee reviews the tax credits.

592 Section 9. Section **59-7-613** is amended to read:

593 **59-7-613. Tax credits for machinery, equipment, or both primarily used for**
594 **conducting qualified research or basic research -- Carry forward -- Commission to report**
595 **modification or repeal of certain federal provisions -- Revenue and Taxation Interim**
596 **Committee study.**

597 (1) As used in this section:

598 (a) "Basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except
599 that the term includes only basic research conducted in this state.

600 (b) "Equipment" includes:

601 (i) a computer;

602 (ii) computer equipment; and

603 (iii) computer software.

604 (c) "Purchase price":

605 (i) includes the cost of installing an item of machinery or equipment; and

606 (ii) does not include a tax imposed under Chapter 12, Sales and Use Tax Act, on an
607 item of machinery or equipment.

608 (d) "Qualified organization" is as defined in Section 41(e)(6), Internal Revenue Code.

609 (e) "Qualified research" is as defined in Section 41(d), Internal Revenue Code, except
610 that the term includes only qualified research conducted in this state.

611 (2) (a) Except as provided in Subsection (2)(c), for taxable years beginning on or after
612 January 1, 1999, but beginning before December 31, 2010, a taxpayer meeting the requirements
613 of this section may claim the following nonrefundable tax credits:

614 (i) a tax credit of 6% of the purchase price of machinery, equipment, or both:

615 (A) purchased by the taxpayer during the taxable year;

616 (B) that is subject to a tax under Chapter 12, Sales and Use Tax Act; and

617 (C) that is primarily used to conduct qualified research in this state; and

618 (ii) a tax credit of 6% of the purchase price of machinery, equipment, or both:

619 (A) purchased by the taxpayer during the taxable year;

620 (B) that is subject to a tax under Chapter 12, Sales and Use Tax Act;

621 (C) that is donated to a qualified organization; and

622 (D) that is primarily used to conduct basic research in this state.

623 (b) Subject to Subsection (5), a taxpayer may claim a tax credit under this section for
624 the taxable year for which the taxpayer purchases the machinery, equipment, or both.

625 (c) If a taxpayer qualifies for a tax credit under Subsection (2)(a) for a purchase of
626 machinery, equipment, or both, the taxpayer may not claim the tax credit or carry the tax credit
627 forward if the machinery, equipment, or both, is primarily used to conduct qualified research in
628 the state for a time period that is less than 12 consecutive months.

629 (3) For purposes of claiming a tax credit under this section, a unitary group as defined
630 in Section 59-7-101 is considered to be one taxpayer.

631 (4) Notwithstanding Section 41(h), Internal Revenue Code, a tax credit provided for in
632 this section is not terminated if a credit terminates under Section 41, Internal Revenue Code.

633 (5) If the amount of a tax credit claimed by a taxpayer under this section exceeds the
634 taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit
635 exceeding the tax liability:

636 (a) may be carried forward for a period that does not exceed the next 14 taxable years;
637 and

638 (b) may not be carried back to a taxable year preceding the current taxable year.

639 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
640 commission may make rules for purposes of this section prescribing a certification process for
641 qualified organizations to ensure that machinery, equipment, or both provided to the qualified
642 organization is to be primarily used to conduct basic research in this state.

643 (7) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the
644 commission shall provide an electronic report of the modification or repeal to the Revenue and
645 Taxation Interim Committee within 60 days after the day on which the modification or repeal
646 becomes effective.

647 (8) (a) The Revenue and Taxation Interim Committee shall review the tax credits
648 provided for in this section on or before October 1 of the year after the year in which the
649 commission reports under Subsection (7) a modification or repeal of a provision of Section 41,
650 Internal Revenue Code.

651 (b) Notwithstanding Subsection (8)(a), the Revenue and Taxation Interim Committee is

652 not required to review the tax credits provided for in this section if the only modification to a
653 provision of Section 41, Internal Revenue Code, is the extension of the termination date
654 provided for in Section 41(h), Internal Revenue Code.

655 (c) The Revenue and Taxation Interim Committee shall address in a review under this
656 section the:

657 (i) cost of the tax credits provided for in this section;

658 (ii) purpose and effectiveness of the tax credits provided for in this section;

659 (iii) whether the tax credits provided for in this section benefit the state; and

660 (iv) whether the tax credits provided for in this section should be:

661 (A) continued;

662 (B) modified; or

663 (C) repealed.

664 (d) If the Revenue and Taxation Interim Committee reviews the tax credits provided
665 for in this section, the committee shall report its findings to the Legislative Management
666 Committee on or before the November interim meeting of the year in which the Revenue and
667 Taxation Interim Committee reviews the tax credits.

668 Section 10. Section **59-7-614.2** is amended to read:

669 **59-7-614.2. Refundable economic development tax credit.**

670 (1) As used in this section:

671 (a) "Business entity" means a taxpayer that meets the definition of "business entity" as
672 defined in Section 63N-2-103.

673 (b) "Community development and renewal agency" ~~is as~~ means the same as that term
674 is defined in Section 17C-1-102.

675 (c) "Local government entity" ~~is as~~ means the same as that term is defined in Section
676 63N-2-103.

677 (d) "New incremental jobs" means the same as that term is defined in Section
678 63N-2-103.

679 (e) "New state revenues" means the same as that term is defined in Section 63N-2-103.

680 ~~(f)~~ (f) "Office" means the Governor's Office of Economic Development.

681 (2) Subject to the other provisions of this section, a business entity, local government
682 entity, or community development and renewal agency may claim a refundable tax credit for

683 economic development.

684 (3) The tax credit under this section is the amount listed as the tax credit amount on the
685 tax credit certificate that the office issues to the business entity, local government entity, or
686 community development and renewal agency for the taxable year.

687 (4) A community development and renewal agency may claim a tax credit under this
688 section only if a local government entity assigns the tax credit to the community development
689 and renewal agency in accordance with Section 63N-2-104.

690 (5) (a) In accordance with any rules prescribed by the commission under Subsection
691 (5)(b), the commission shall make a refund to the following that claim a tax credit under this
692 section:

693 (i) a local government entity;

694 (ii) a community development and renewal agency; or

695 (iii) a business entity if the amount of the tax credit exceeds the business entity's tax
696 liability for a taxable year.

697 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
698 commission may make rules providing procedures for making a refund to a business entity,
699 local government entity, or community development and renewal agency as required by
700 Subsection (5)(a).

701 (6) (a) On or before October 1, 2013, and every five years after October 1, 2013, the
702 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
703 make recommendations to the Legislative Management Committee concerning whether the tax
704 credit should be continued, modified, or repealed.

705 (b) For purposes of the study required by this Subsection (6), the office shall provide
706 the following information to the Revenue and Taxation Interim Committee by electronic
707 means:

708 (i) the amount of tax credit that the office grants to each business entity, local
709 government entity, or community development and renewal agency for each calendar year;

710 (ii) the criteria that the office uses in granting a tax credit;

711 (iii) (A) for a business entity, the new state revenues generated by the business entity
712 for the calendar year; or

713 (B) for a local government entity, regardless of whether the local government entity

714 assigns the tax credit in accordance with Section 63N-2-104, the new state revenues generated
 715 as a result of a new commercial project within the local government entity for each calendar
 716 year;

717 (iv) estimates for each of the next five calendar years of the following:

718 (A) the amount of tax credits that the office will grant;

719 (B) the amount of new state revenues that will be generated; and

720 (C) the number of new incremental jobs within the state that will be generated;

721 [~~(iv)~~] (v) the information contained in the office's latest report to the Legislature under
 722 Section 63N-2-106; and

723 [~~(v)~~] (vi) any other information that the Revenue and Taxation Interim Committee
 724 requests.

725 (c) The Revenue and Taxation Interim Committee shall ensure that its
 726 recommendations under Subsection (6)(a) include an evaluation of:

727 (i) the cost of the tax credit to the state;

728 (ii) the purpose and effectiveness of the tax credit; and

729 (iii) the extent to which the state benefits from the tax credit.

730 Section 11. Section **59-7-614.5** is amended to read:

731 **59-7-614.5. Refundable motion picture tax credit.**

732 (1) As used in this section:

733 (a) "Motion picture company" means a taxpayer that meets the definition of a motion
 734 picture company under Section 63N-8-102.

735 (b) "Office" means the Governor's Office of Economic Development.

736 (c) "State-approved production" has the same meaning as defined in Section
 737 63N-8-102.

738 (2) For taxable years beginning on or after January 1, 2009, a motion picture company
 739 may claim a refundable tax credit for a state-approved production.

740 (3) The tax credit under this section is the amount listed as the tax credit amount on the
 741 tax credit certificate that the office issues to a motion picture company under Section
 742 63N-8-103 for the taxable year.

743 (4) (a) In accordance with any rules prescribed by the commission under Subsection

744 (4)(b), the commission shall make a refund to a motion picture company that claims a tax

745 credit under this section if the amount of the tax credit exceeds the motion picture company's
746 tax liability for a taxable year.

747 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
748 commission may make rules providing procedures for making a refund to a motion picture
749 company as required by Subsection (4)(a).

750 (5) (a) On or before October 1, 2014, and every five years after October 1, 2014, the
751 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
752 make recommendations to the Legislative Management Committee concerning whether the tax
753 credit should be continued, modified, or repealed.

754 (b) For purposes of the study required by this Subsection (5), the office shall provide
755 the following information to the Revenue and Taxation Interim Committee by electronic
756 means:

757 (i) (A) the amount of tax credit that the office grants to each motion picture company
758 for each calendar year; and

759 (B) estimates of the amount of tax credit that the office will grant for each of the next
760 five calendar years;

761 (ii) the criteria that the office uses in granting the tax credit;

762 (iii) the dollars left in the state, as defined in Section 63N-8-102, by each motion
763 picture company for each calendar year;

764 (iv) the information contained in the office's latest report to the Legislature under
765 Section 63N-8-105; and

766 (v) any other information requested by the Revenue and Taxation Interim Committee.

767 (c) The Revenue and Taxation Interim Committee shall ensure that its
768 recommendations under Subsection (5)(a) include an evaluation of:

769 (i) the cost of the tax credit to the state;

770 (ii) the effectiveness of the tax credit; and

771 (iii) the extent to which the state benefits from the tax credit.

772 Section 12. Section **59-7-614.7** is amended to read:

773 **59-7-614.7. Nonrefundable alternative energy development tax credit.**

774 (1) As used in this section:

775 (a) "Alternative energy entity" is as defined in Section 63M-4-502.

- 776 (b) "Alternative energy project" is as defined in Section 63M-4-502.
- 777 (c) "Office" is as defined in Section 63M-4-401.
- 778 (2) Subject to the other provisions of this section, an alternative energy entity may
779 claim a nonrefundable tax credit for alternative energy development as provided in this section.
- 780 (3) The tax credit under this section is the amount listed as the tax credit amount on a
781 tax credit certificate that the office issues under Title 63M, Chapter 4, Part 5, Alternative
782 Energy Development Tax Credit Act, to the alternative energy entity for the taxable year.
- 783 (4) An alternative energy entity may carry forward a tax credit under this section for a
784 period that does not exceed the next seven taxable years if:
- 785 (a) the alternative energy entity is allowed to claim a tax credit under this section for a
786 taxable year; and
- 787 (b) the amount of the tax credit exceeds the alternative energy entity's tax liability
788 under this chapter for that taxable year.
- 789 (5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the
790 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
791 make recommendations to the Legislative Management Committee concerning whether the tax
792 credit should be continued, modified, or repealed.
- 793 (b) For purposes of the study required by this Subsection (5), the office shall provide
794 the following information to the Revenue and Taxation Interim Committee by electronic
795 means:
- 796 (i) the amount of tax credit that the office grants to each alternative energy entity for
797 each taxable year;
- 798 (ii) the new state revenues generated by each alternative energy project;
- 799 (iii) the information contained in the office's latest report to the Legislature under
800 Section 63M-4-505; and
- 801 (iv) any other information that the Revenue and Taxation Interim Committee requests.
- 802 (c) The Revenue and Taxation Interim Committee shall ensure that its
803 recommendations under Subsection (5)(a) include an evaluation of:
- 804 (i) the cost of the tax credit to the state;
- 805 (ii) the purpose and effectiveness of the tax credit; and
- 806 (iii) the extent to which the state benefits from the tax credit.

807 Section 13. Section **59-7-614.8** is amended to read:

808 **59-7-614.8. Nonrefundable alternative energy manufacturing tax credit.**

809 (1) As used in this section:

810 (a) "Alternative energy entity" [~~is as~~] means the same as that term is defined in Section
811 63N-2-702.

812 (b) "Alternative energy manufacturing project" [~~is as~~] means the same as that term is
813 defined in Section 63N-2-702.

814 (c) "New incremental job within the state" means the same as that term is defined in
815 Section 63N-2-702.

816 (d) "New state revenues" means the same as that term is defined in Section 63N-2-702.

817 [~~(e)~~] (e) "Office" means the Governor's Office of Economic Development.

818 (2) Subject to the other provisions of this section, an alternative energy entity may
819 claim a nonrefundable tax credit for alternative energy manufacturing as provided in this
820 section.

821 (3) The tax credit under this section is the amount listed as the tax credit amount on a
822 tax credit certificate that the office issues under Title 63N, Chapter 2, Part 7, Alternative
823 Energy Manufacturing Tax Credit Act, to the alternative energy entity for the taxable year.

824 (4) An alternative energy entity may carry forward a tax credit under this section for a
825 period that does not exceed the next seven taxable years if:

826 (a) the alternative energy entity is allowed to claim a tax credit under this section for a
827 taxable year; and

828 (b) the amount of the tax credit exceeds the alternative energy entity's tax liability
829 under this chapter for that taxable year.

830 (5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the
831 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
832 make recommendations to the Legislative Management Committee concerning whether the tax
833 credit should be continued, modified, or repealed.

834 (b) For purposes of the study required by this Subsection (5), the office shall provide
835 the following information to the Revenue and Taxation Interim Committee by electronic
836 means:

837 (i) the amount of tax credit that the office grants to each alternative energy entity for

838 each taxable year;

839 (ii) the new state revenues generated by each alternative energy manufacturing project;

840 (iii) estimates for each of the next five calendar years of the following:

841 (A) the amount of tax credits that the office will grant;

842 (B) the amount of new state revenues that will be generated; and

843 (C) the number of new incremental jobs within the state that will be generated;

844 [~~(iii)~~] (iv) the information contained in the office's latest report to the Legislature under

845 Section 63N-2-705; and

846 [~~(iv)~~] (v) any other information that the Revenue and Taxation Interim Committee

847 requests.

848 (c) The Revenue and Taxation Interim Committee shall ensure that its

849 recommendations under Subsection (5)(a) include an evaluation of:

- 850 (i) the cost of the tax credit to the state;
- 851 (ii) the purpose and effectiveness of the tax credit; and
- 852 (iii) the extent to which the state benefits from the tax credit.

853 Section 14. Section **59-7-701** is amended to read:

854 **59-7-701. Taxation of S corporations.**

855 (1) Except as provided in Section 59-7-102 and subject to the other provisions of this

856 part, beginning on July 1, 1994, and ending on the last day of the taxable year that begins on or

857 after January 1, 2012, but begins on or before December 31, 2012, an S corporation is subject

858 to taxation in the same manner as that S corporation is taxed under Subchapter S - Tax

859 Treatment of S Corporations and Their Shareholders, Sec. 1361 et seq., Internal Revenue Code.

860 (2) An S corporation is taxed at the tax rate provided in Section 59-7-104.

861 (3) The business income and nonbusiness income of an S corporation is subject to Part

862 3, Allocation and Apportionment of Income - Utah UDITPA Provisions.

863 (4) An S corporation having income derived from or connected with Utah sources shall

864 make a return in accordance with Section 59-10-507.

865 (5) An S corporation shall make payments of estimated tax as required by Section

866 59-7-504.

867 (6) An S corporation is subject to Chapter 10, Part 14, Pass-Through Entities and

868 Pass-Through Entity Taxpayers Act.

869 (7) A pass-through entity taxpayer as defined in Section 59-10-1402 of an S
870 corporation is subject to Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity
871 Taxpayers Act.

872 (8) Provisions under this chapter governing the following apply to an S corporation:

873 (a) an assessment;

874 (b) a penalty;

875 (c) a refund; or

876 (d) a record required for an S corporation.

877 ~~[(9) (a) During the 2011 interim, the Revenue and Taxation Interim Committee shall~~
878 ~~study the fiscal impacts of:]~~

879 ~~[(i) the enactment of Laws of Utah 2009, Chapter 312; and]~~

880 ~~[(ii) the taxation of S corporations under this part.]~~

881 ~~[(b) On or before November 30, 2011, the Revenue and Taxation Interim Committee~~
882 ~~shall report its findings and recommendations on the study to the Executive Appropriations~~
883 ~~Committee.]~~

884 Section 15. Section **59-7-903** is amended to read:

885 **59-7-903. Removal of tax credit from tax return -- Prohibition on claiming or**
886 **carrying forward a tax credit -- Commission publishing requirements.**

887 (1) Subject to Subsection (2), the commission shall remove a tax credit from a tax
888 return and a person filing a tax return may not claim or carry forward the tax credit if:

889 (a) the total amount of tax credit claimed or carried forward by all persons who file a
890 tax return is less than \$10,000 per taxable year for three consecutive taxable years; and

891 (b) less than 10 persons per year for the three consecutive taxable years described in
892 Subsection (1)(a) file a tax return claiming or carrying forward the tax credit.

893 (2) If the commission determines the requirements of Subsection (1) are met, the
894 commission shall remove a tax credit from a tax return and a person filing a tax return may not
895 claim or carry forward the tax credit beginning two taxable years after the January 1
896 immediately following the date the commission determines the requirements of Subsection (1)
897 are met.

898 (3) The commission shall, on or before the November interim meeting of the year after
899 the taxable year in which the commission determines the requirements of Subsection (1) are

900 met, report to the Revenue and Taxation Interim Committee by electronic means that, in
901 accordance with this section:

902 (a) the commission is required to remove a tax credit from a return on which the tax
903 credit appears; and

904 (b) a person filing a tax return may not claim or carry forward the tax credit.

905 (4) (a) Within a 30-day period after making the report required by Subsection (3), the
906 commission shall publish a list in accordance with Subsection (4)(b) stating each tax credit that
907 the commission will remove from a return on which the tax credit appears.

908 (b) The list shall:

909 (i) be published on:

910 (A) the commission's website; and

911 (B) the public legal notice website in accordance with Section 45-1-101;

912 (ii) include a statement that:

913 (A) the commission is required to remove the tax credit from each return on which the
914 tax credit appears; and

915 (B) the tax credit may not be claimed or carried forward on a return;

916 (iii) state the taxable year for which the removal described in Subsection (4)(a) takes
917 effect; and

918 (iv) remain available for viewing and searching until the commission publishes a new
919 list in accordance with this Subsection (4).

920 Section 16. Section **59-9-101 (Subsec (2)(c)(iv) Repealed 07/01/18)** is amended to
921 read:

922 **59-9-101 (Subsec (2)(c)(iv) Repealed 07/01/18). Tax basis -- Rates -- Exemptions --**
923 **Rate reductions.**

924 (1) (a) Except as provided in Subsection (1)(b), (1)(d), or (5), an admitted insurer shall
925 pay to the commission on or before March 31 in each year, a tax of 2-1/4% of the total
926 premiums received by it during the preceding calendar year from insurance covering property
927 or risks located in this state.

928 (b) This Subsection (1) does not apply to:

929 (i) workers' compensation insurance, assessed under Subsection (2);

930 (ii) title insurance premiums taxed under Subsection (3);

- 931 (iii) annuity considerations;
- 932 (iv) insurance premiums paid by an institution within the state system of higher
933 education as specified in Section 53B-1-102; and
- 934 (v) ocean marine insurance.
- 935 (c) The taxable premium under this Subsection (1) shall be reduced by:
- 936 (i) the premiums returned or credited to policyholders on direct business subject to tax
937 in this state;
- 938 (ii) the premiums received for reinsurance of property or risks located in this state; and
- 939 (iii) the dividends, including premium reduction benefits maturing within the year:
- 940 (A) paid or credited to policyholders in this state; or
- 941 (B) applied in abatement or reduction of premiums due during the preceding calendar
942 year.
- 943 (d) (i) For purposes of this Subsection (1)(d):
- 944 (A) "Utah variable life insurance premium" means an insurance premium paid:
- 945 (I) by:
- 946 (Aa) a corporation; or
- 947 (Bb) a trust established or funded by a corporation; and
- 948 (II) for variable life insurance covering risks located within the state.
- 949 (B) "Variable life insurance" means an insurance policy that provides for life
950 insurance, the amount or duration of which varies according to the investment experience of
951 one or more separate accounts that are established and maintained by the insurer pursuant to
952 Title 31A, Insurance Code.
- 953 (ii) Notwithstanding Subsection (1)(a), beginning on January 1, 2006, the tax on that
954 portion of the total premiums subject to a tax under Subsection (1)(a) that is a Utah variable
955 life insurance premium shall be calculated as follows:
- 956 (A) 2-1/4% of the first \$100,000 of Utah variable life insurance premiums:
- 957 (I) paid for each variable life insurance policy; and
- 958 (II) received by the admitted insurer in the preceding calendar year; and
- 959 (B) 0.08% of the Utah variable life insurance premiums that exceed \$100,000:
- 960 (I) paid for the policy described in Subsection (1)(d)(ii)(A); and
- 961 (II) received by the admitted insurer in the preceding calendar year.

962 ~~[(iii)(A) On or before October 1, 2009, and every three years after October 1, 2009, the~~
963 ~~Revenue and Taxation Interim Committee shall study the rate reduction contained in this~~
964 ~~Subsection (1)(d).]~~

965 ~~[(B) As part of the study required by Subsection (1)(d)(iii)(A) the Revenue and~~
966 ~~Taxation Interim Committee shall:]~~

967 ~~[(F) hear testimony from the commission and industry representatives;]~~

968 ~~[(H) make recommendations concerning whether the rate reduction should be~~
969 ~~continued, modified, or repealed; and]~~

970 ~~[(HH) make findings regarding:]~~

971 ~~[(Aa) the cost of the rate reduction;]~~

972 ~~[(Bb) the purpose and effectiveness of the rate reduction; and]~~

973 ~~[(Cc) any benefits of the rate reduction to the state.]~~

974 (2) (a) An admitted insurer writing workers' compensation insurance in this state,
975 including the Workers' Compensation Fund created under Title 31A, Chapter 33, Workers'
976 Compensation Fund, shall pay to the tax commission, on or before March 31 in each year, a
977 premium assessment on the basis of the total workers' compensation premium income received
978 by the insurer from workers' compensation insurance in this state during the preceding calendar
979 year as follows:

980 (i) on or before December 31, 2010, an amount of equal to or greater than 1%, but
981 equal to or less than 5.75% of the total workers' compensation premium income described in
982 this Subsection (2);

983 (ii) on and after January 1, 2011, but on or before December 31, 2017, an amount of
984 equal to or greater than 1%, but equal to or less than 4.25% of the total workers' compensation
985 premium income described in this Subsection (2); and

986 (iii) on and after January 1, 2018, an amount equal to 1.25% of the total workers'
987 compensation premium income described in this Subsection (2).

988 (b) Total workers' compensation premium income means the net written premium as
989 calculated before any premium reduction for any insured employer's deductible, retention, or
990 reimbursement amounts and also those amounts equivalent to premiums as provided in Section
991 34A-2-202.

992 (c) The percentage of premium assessment applicable for a calendar year shall be

993 determined by the Labor Commission under Subsection (2)(d). The total premium income
994 shall be reduced in the same manner as provided in Subsections (1)(c)(i) and (1)(c)(ii), but not
995 as provided in Subsection (1)(c)(iii). The commission shall promptly remit from the premium
996 assessment collected under this Subsection (2):

997 (i) income to the state treasurer for credit to the Employers' Reinsurance Fund created
998 under Subsection 34A-2-702(1) as follows:

999 (A) on or before December 31, 2009, an amount of up to 5% of the total workers'
1000 compensation premium income;

1001 (B) on and after January 1, 2010, but on or before December 31, 2010, an amount of up
1002 to 4.5% of the total workers' compensation premium income;

1003 (C) on and after January 1, 2011, but on or before December 31, 2017, an amount of up
1004 to 3% of the total workers' compensation premium income; and

1005 (D) on and after January 1, 2018, 0% of the total workers' compensation premium
1006 income;

1007 (ii) an amount equal to 0.25% of the total workers' compensation premium income to
1008 the state treasurer for credit to the Workplace Safety Account created by Section 34A-2-701;

1009 (iii) an amount of up to 0.5% and any remaining assessed percentage of the total
1010 workers' compensation premium income to the state treasurer for credit to the Uninsured
1011 Employers' Fund created under Section 34A-2-704; and

1012 (iv) beginning on January 1, 2010, 0.5% of the total workers' compensation premium
1013 income to the state treasurer for credit to the Industrial Accident Restricted Account created in
1014 Section 34A-2-705.

1015 (d) (i) The Labor Commission shall determine the amount of the premium assessment
1016 for each year on or before each October 15 of the preceding year. The Labor Commission shall
1017 make this determination following a public hearing. The determination shall be based upon the
1018 recommendations of a qualified actuary.

1019 (ii) The actuary shall recommend a premium assessment rate sufficient to provide
1020 payments of benefits and expenses from the Employers' Reinsurance Fund and to project a
1021 funded condition with assets greater than liabilities by no later than June 30, 2025.

1022 (iii) The actuary shall recommend a premium assessment rate sufficient to provide
1023 payments of benefits and expenses from the Uninsured Employers' Fund and to maintain it at a

1024 funded condition with assets equal to or greater than liabilities.

1025 (iv) At the end of each fiscal year the minimum approximate assets in the Employers'
1026 Reinsurance Fund shall be \$5,000,000 which amount shall be adjusted each year beginning in
1027 1990 by multiplying by the ratio that the total workers' compensation premium income for the
1028 preceding calendar year bears to the total workers' compensation premium income for the
1029 calendar year 1988.

1030 (v) The requirements of Subsection (2)(d)(iv) cease when the future annual
1031 disbursements from the Employers' Reinsurance Fund are projected to be less than the
1032 calculations of the corresponding future minimum required assets. The Labor Commission
1033 shall, after a public hearing, determine if the future annual disbursements are less than the
1034 corresponding future minimum required assets from projections provided by the actuary.

1035 (vi) At the end of each fiscal year the minimum approximate assets in the Uninsured
1036 Employers' Fund shall be \$2,000,000, which amount shall be adjusted each year beginning in
1037 1990 by multiplying by the ratio that the total workers' compensation premium income for the
1038 preceding calendar year bears to the total workers' compensation premium income for the
1039 calendar year 1988.

1040 (e) A premium assessment that is to be transferred into the General Fund may be
1041 collected on premiums received from Utah public agencies.

1042 (3) An admitted insurer writing title insurance in this state shall pay to the commission,
1043 on or before March 31 in each year, a tax of .45% of the total premium received by either the
1044 insurer or by its agents during the preceding calendar year from title insurance concerning
1045 property located in this state. In calculating this tax, "premium" includes the charges made to
1046 an insured under or to an applicant for a policy or contract of title insurance for:

1047 (a) the assumption by the title insurer of the risks assumed by the issuance of the policy
1048 or contract of title insurance; and

1049 (b) abstracting title, title searching, examining title, or determining the insurability of
1050 title, and every other activity, exclusive of escrow, settlement, or closing charges, whether
1051 denominated premium or otherwise, made by a title insurer, an agent of a title insurer, a title
1052 insurance producer, or any of them.

1053 (4) Beginning July 1, 1986, a former county mutual and a former mutual benefit
1054 association shall pay the premium tax or assessment due under this chapter. Premiums

1055 received after July 1, 1986, shall be considered in determining the tax or assessment.

1056 (5) The following insurers are not subject to the premium tax on health care insurance
1057 that would otherwise be applicable under Subsection (1):

1058 (a) an insurer licensed under Title 31A, Chapter 5, Domestic Stock and Mutual
1059 Insurance Corporations;

1060 (b) an insurer licensed under Title 31A, Chapter 7, Nonprofit Health Service Insurance
1061 Corporations;

1062 (c) an insurer licensed under Title 31A, Chapter 8, Health Maintenance Organizations
1063 and Limited Health Plans;

1064 (d) an insurer licensed under Title 31A, Chapter 9, Insurance Fraternal;

1065 (e) an insurer licensed under Title 31A, Chapter 11, Motor Clubs;

1066 (f) an insurer licensed under Title 31A, Chapter 13, Employee Welfare Funds and
1067 Plans; and

1068 (g) an insurer licensed under Title 31A, Chapter 14, Foreign Insurers.

1069 (6) An insurer issuing multiple policies to an insured may not artificially allocate the
1070 premiums among the policies for purposes of reducing the aggregate premium tax or
1071 assessment applicable to the policies.

1072 (7) The retaliatory provisions of Title 31A, Chapter 3, Department Funding, Fees, and
1073 Taxes, apply to the tax or assessment imposed under this chapter.

1074 Section 17. Section **59-10-1002.1** is amended to read:

1075 **59-10-1002.1. Removal of tax credit from tax return and prohibition on claiming**
1076 **or carrying forward a tax credit -- Conditions for removal and prohibition on claiming or**
1077 **carrying forward a tax credit -- Commission publishing requirements.**

1078 (1) As used in this section, "tax return" means a tax return filed in accordance with this
1079 chapter.

1080 (2) Except as provided in Subsection (4), beginning two taxable years after the
1081 requirements of Subsection (3) are met:

1082 (a) the commission shall remove a tax credit allowed under this part from each tax
1083 return on which the tax credit appears; and

1084 (b) a claimant, estate, or trust filing a tax return may not claim or carry forward the tax
1085 credit.

1086 (3) Except as provided in Subsection (4), the commission shall remove a tax credit
1087 allowed under this part from a tax return and a claimant, estate, or trust filing a tax return may
1088 not claim or carry forward the tax credit as provided in Subsection (2) if:

1089 (a) the total amount of the tax credit claimed or carried forward by all claimants,
1090 estates, or trusts filing tax returns is less than \$10,000 per year for three consecutive taxable
1091 years beginning on or after January 1, 2002; and

1092 (b) less than 10 claimants, estates, and trusts per year for the three consecutive taxable
1093 years described in Subsection (3)(a), file a tax return claiming or carrying forward the tax
1094 credit.

1095 (4) This section does not apply to a tax credit under Section 59-10-1027.

1096 (5) The commission shall, on or before the November interim meeting of the year after
1097 the taxable year in which the requirements of Subsection (3) are met, report to the Revenue and
1098 Taxation Interim Committee by electronic means that in accordance with this section:

1099 (a) the commission is required to remove a tax credit from each tax return on which the
1100 tax credit appears; and

1101 (b) a claimant, estate, or trust filing a tax return may not claim or carry forward the tax
1102 credit.

1103 (6) (a) Within a 30-day period after making the report required by Subsection (5), the
1104 commission shall publish a list in accordance with Subsection (6)(b) stating each tax credit that
1105 the commission will remove from a return on which the tax credit appears.

1106 (b) The list shall:

1107 (i) be published on:

1108 (A) the commission's website; and

1109 (B) the public legal notice website in accordance with Section 45-1-101;

1110 (ii) include a statement that:

1111 (A) the commission is required to remove the tax credit from each return on which the
1112 tax credit appears; and

1113 (B) the tax credit may not be claimed or carried forward on a return;

1114 (iii) state the taxable year for which the removal described in Subsection (6)(a) takes
1115 effect; and

1116 (iv) remain available for viewing and searching until the commission publishes a new

1117 list in accordance with this Subsection (6).

1118 Section 18. Section **59-10-1010** is amended to read:

1119 **59-10-1010. Utah low-income housing tax credit.**

1120 (1) As used in this section:

1121 (a) "Allocation certificate" means:

1122 (i) the certificate prescribed by the commission and issued by the Utah Housing

1123 Corporation to each claimant, estate, or trust that specifies the percentage of the annual federal

1124 low-income housing credit that each claimant, estate, or trust may take as an annual tax credit

1125 against a tax imposed by this chapter; or

1126 (ii) a copy of the allocation certificate that the housing sponsor provides to the

1127 claimant, estate, or trust.

1128 (b) "Building" means a qualified low-income building as defined in Section 42(c),

1129 Internal Revenue Code.

1130 (c) "Federal low-income housing credit" means the low-income housing credit under

1131 Section 42, Internal Revenue Code.

1132 (d) "Housing sponsor" means a corporation in the case of a C corporation, a partnership

1133 in the case of a partnership, a corporation in the case of an S corporation, or a limited liability

1134 company in the case of a limited liability company.

1135 (e) "Qualified allocation plan" means the qualified allocation plan adopted by the Utah

1136 Housing Corporation pursuant to Section 42(m), Internal Revenue Code.

1137 (f) "Special low-income housing tax credit certificate" means a certificate:

1138 (i) prescribed by the commission;

1139 (ii) that a housing sponsor issues to a claimant, estate, or trust for a taxable year; and

1140 (iii) that specifies the amount of a tax credit a claimant, estate, or trust may claim under

1141 this section if the claimant, estate, or trust meets the requirements of this section.

1142 (2) (a) For taxable years beginning on or after January 1, 1995, there is allowed a

1143 nonrefundable tax credit against taxes otherwise due under this chapter for a claimant, estate,

1144 or trust issued an allocation certificate.

1145 (b) The tax credit shall be in an amount equal to the greater of the amount of:

1146 (i) federal low-income housing credit to which the claimant, estate, or trust is allowed

1147 during that year multiplied by the percentage specified in an allocation certificate issued by the

1148 Utah Housing Corporation; or

1149 (ii) tax credit specified in the special low-income housing tax credit certificate that the

1150 housing sponsor issues to the claimant, estate, or trust as provided in Subsection (2)(c).

1151 (c) For purposes of Subsection (2)(b)(ii), the tax credit is equal to the product of:

1152 (i) the total amount of low-income housing tax credit under this section that:

1153 (A) a housing sponsor is allowed for a building; and

1154 (B) all of the claimants, estates, and trusts may claim with respect to the building if the

1155 claimants, estates, and trusts meet the requirements of this section; and

1156 (ii) the percentage of tax credit a claimant, estate, or trust may claim:

1157 (A) under this section if the claimant, estate, or trust meets the requirements of this

1158 section; and

1159 (B) as provided in the agreement between the claimant, estate, or trust and the housing

1160 sponsor.

1161 (d) (i) For the calendar year beginning on January 1, 1995, through the calendar year

1162 beginning on January 1, 2015, the aggregate annual tax credit that the Utah Housing

1163 Corporation may allocate for the credit period described in Section 42(f), Internal Revenue

1164 Code, pursuant to this section and Section 59-7-607 is an amount equal to the product of:

1165 (A) 12.5 cents; and

1166 (B) the population of Utah.

1167 (ii) For purposes of this section, the population of Utah shall be determined in

1168 accordance with Section 146(j), Internal Revenue Code.

1169 (3) (a) By October 1, 1994, the Utah Housing Corporation shall determine criteria and

1170 procedures for allocating the tax credit under this section and Section 59-7-607 and incorporate

1171 the criteria and procedures into the Utah Housing Corporation's qualified allocation plan.

1172 (b) The Utah Housing Corporation shall create the criteria under Subsection (3)(a)

1173 based on:

1174 (i) the number of affordable housing units to be created in Utah for low and moderate

1175 income persons in the residential housing development of which the building is a part;

1176 (ii) the level of area median income being served by the development;

1177 (iii) the need for the tax credit for the economic feasibility of the development; and

1178 (iv) the extended period for which the development commits to remain as affordable

1179 housing.

1180 (4) (a) The following may apply to the Utah Housing Corporation for a tax credit under
1181 this section:

1182 (i) any housing sponsor that is a claimant, estate, or trust if that housing sponsor has
1183 received an allocation of the federal low-income housing credit; or

1184 (ii) any applicant for an allocation of the federal low-income housing credit if that
1185 applicant is a claimant, estate, or trust.

1186 (b) The Utah Housing Corporation may not require fees for applications of the tax
1187 credit under this section in addition to those fees required for applications for the federal
1188 low-income housing credit.

1189 (5) (a) The Utah Housing Corporation shall determine the amount of the tax credit to
1190 allocate to a qualifying housing sponsor in accordance with the qualified allocation plan of the
1191 Utah Housing Corporation.

1192 (b) (i) The Utah Housing Corporation shall allocate the tax credit to housing sponsors
1193 by issuing an allocation certificate to qualifying housing sponsors.

1194 (ii) The allocation certificate under Subsection (5)(b)(i) shall specify the allowed
1195 percentage of the federal low-income housing credit as determined by the Utah Housing
1196 Corporation.

1197 (c) The percentage specified in an allocation certificate may not exceed 100% of the
1198 federal low-income housing credit.

1199 (6) A housing sponsor shall provide a copy of the allocation certificate to each
1200 claimant, estate, or trust that is issued a special low-income housing tax credit certificate.

1201 (7) (a) A housing sponsor shall provide to the commission a list of:

1202 (i) the claimants, estates, and trusts issued a special low-income housing tax credit
1203 certificate; and

1204 (ii) for each claimant, estate, or trust described in Subsection (7)(a)(i), the amount of
1205 tax credit listed on the special low-income housing tax credit certificate.

1206 (b) A housing sponsor shall provide the list required by Subsection (7)(a):

1207 (i) to the commission;

1208 (ii) on a form provided by the commission; and

1209 (iii) with the housing sponsor's tax return for each taxable year for which the housing

1210 sponsor issues a special low-income housing tax credit certificate described in this Subsection
1211 (7).

1212 (8) (a) All elections made by the claimant, estate, or trust pursuant to Section 42,
1213 Internal Revenue Code, shall apply to this section.

1214 (b) (i) If a claimant, estate, or trust is required to recapture a portion of any federal
1215 low-income housing credit, the claimant, estate, or trust shall also be required to recapture a
1216 portion of any state tax credits authorized by this section.

1217 (ii) The state recapture amount shall be equal to the percentage of the state tax credit
1218 that equals the proportion the federal recapture amount bears to the original federal low-income
1219 housing credit amount subject to recapture.

1220 (9) (a) Any tax credits returned to the Utah Housing Corporation in any year may be
1221 reallocated within the same time period as provided in Section 42, Internal Revenue Code.

1222 (b) Tax credits that are unallocated by the Utah Housing Corporation in any year may
1223 be carried over for allocation in the subsequent year.

1224 (10) (a) Amounts otherwise qualifying for the tax credit, but not allowable because the
1225 tax credit exceeds the tax, may be carried back three years or may be carried forward five years
1226 as a tax credit.

1227 (b) Carryover tax credits under Subsection (10)(a) shall be applied against the tax:

1228 (i) before the application of the tax credits earned in the current year; and

1229 (ii) on a first-earned first-used basis.

1230 (11) Any tax credit taken in this section may be subject to an annual audit by the
1231 commission.

1232 (12) The Utah Housing Corporation shall annually provide an [~~annual~~] electronic
1233 report to the Revenue and Taxation Interim Committee which shall include at least:

1234 (a) the purpose and effectiveness of the tax credits; and

1235 (b) the benefits of the tax credits to the state.

1236 (13) The commission may, in consultation with the Utah Housing Corporation,
1237 promulgate rules to implement this section.

1238 Section 19. Section **59-10-1012** is amended to read:

1239 **59-10-1012. Tax credits for research activities conducted in the state -- Carry**

1240 **forward -- Commission to report modification or repeal of certain federal provisions --**

1241 **Revenue and Taxation Interim Committee study.**

1242 (1) (a) A claimant, estate, or trust meeting the requirements of this section may claim
1243 the following nonrefundable tax credits:

1244 (i) a research tax credit of 5% of the claimant's, estate's, or trust's qualified research
1245 expenses for the current taxable year that exceed the base amount provided for under
1246 Subsection (3);

1247 (ii) a tax credit for a payment to a qualified organization for basic research as provided
1248 in Section 41(e), Internal Revenue Code of 5% for the current taxable year that exceed the base
1249 amount provided for under Subsection (3); and

1250 (iii) a tax credit equal to 7.5% of the claimant's, estate's, or trust's qualified research
1251 expenses for the current taxable year.

1252 (b) Subject to Subsection (4), a claimant, estate, or trust may claim a tax credit under:

1253 (i) Subsection (1)(a)(i) or (1)(a)(iii), for the taxable year for which the claimant, estate,
1254 or trust incurs the qualified research expenses; or

1255 (ii) Subsection (1)(a)(ii), for the taxable year for which the claimant, estate, or trust
1256 makes the payment to the qualified organization.

1257 (c) The tax credits provided for in this section do not include the alternative
1258 incremental credit provided for in Section 41(c)(4), Internal Revenue Code.

1259 (2) Except as specifically provided for in this section:

1260 (a) the tax credits authorized under Subsection (1) shall be calculated as provided in
1261 Section 41, Internal Revenue Code; and

1262 (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating
1263 the tax credits authorized under Subsection (1).

1264 (3) For purposes of this section:

1265 (a) the base amount shall be calculated as provided in Sections 41(c) and 41(h),
1266 Internal Revenue Code, except that:

1267 (i) the base amount does not include the calculation of the alternative incremental
1268 credit provided for in Section 41(c)(4), Internal Revenue Code;

1269 (ii) a claimant's, estate's, or trust's gross receipts include only those gross receipts
1270 attributable to sources within this state as provided in Section 59-10-118; and

1271 (iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating

1272 the base amount, a claimant, estate, or trust:

1273 (A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B),
1274 Internal Revenue Code, regardless of whether the claimant, estate, or trust meets the
1275 requirements of Section 41(c)(3)(B)(i)(I) or (II), Internal Revenue Code; and

1276 (B) may not revoke an election to be treated as a start-up company under Subsection
1277 (3)(a)(iii)(A);

1278 (b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except
1279 that the term includes only basic research conducted in this state;

1280 (c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except
1281 that the term includes only qualified research conducted in this state;

1282 (d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal
1283 Revenue Code, except that the term includes only:

1284 (i) in-house research expenses incurred in this state; and

1285 (ii) contract research expenses incurred in this state; and

1286 (e) a tax credit provided for in this section is not terminated if a credit terminates under
1287 Section 41, Internal Revenue Code.

1288 (4) (a) If the amount of a tax credit claimed by a claimant, estate, or trust under
1289 Subsection (1)(a)(i) or (ii) exceeds the claimant's, estate's, or trust's tax liability under this
1290 chapter for a taxable year, the amount of the tax credit exceeding the tax liability:

1291 (i) may be carried forward for a period that does not exceed the next 14 taxable years;

1292 and

1293 (ii) may not be carried back to a taxable year preceding the current taxable year.

1294 (b) A claimant, estate, or trust may not carry forward the tax credit allowed by
1295 Subsection (1)(a)(iii).

1296 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1297 commission may make rules for purposes of this section prescribing a certification process for
1298 qualified organizations to ensure that amounts paid to the qualified organizations are for basic
1299 research conducted in this state.

1300 (6) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the
1301 commission shall report the modification or repeal by electronic means to the Revenue and
1302 Taxation Interim Committee within 60 days after the day on which the modification or repeal

1303 becomes effective.

1304 (7) (a) The Revenue and Taxation Interim Committee shall review the tax credits
1305 provided for in this section on or before October 1 of the year after the year in which the
1306 commission reports under Subsection (6) a modification or repeal of a provision of Section 41,
1307 Internal Revenue Code.

1308 (b) Notwithstanding Subsection (7)(a), the Revenue and Taxation Interim Committee is
1309 not required to review the tax credits provided for in this section if the only modification to a
1310 provision of Section 41, Internal Revenue Code, is the extension of the termination date
1311 provided for in Section 41(h), Internal Revenue Code.

1312 (c) The Revenue and Taxation Interim Committee shall address in a review under this
1313 section:

- 1314 (i) the cost of the tax credits provided for in this section;
- 1315 (ii) the purpose and effectiveness of the tax credits provided for in this section;
- 1316 (iii) whether the tax credits provided for in this section benefit the state; and
- 1317 (iv) whether the tax credits provided for in this section should be:
 - 1318 (A) continued;
 - 1319 (B) modified; or
 - 1320 (C) repealed.

1321 (d) If the Revenue and Taxation Interim Committee reviews the tax credits provided
1322 for in this section, the committee shall report its findings to the Legislative Management
1323 Committee on or before the November interim meeting of the year in which the Revenue and
1324 Taxation Interim Committee reviews the tax credits.

1325 Section 20. Section **59-10-1013** is amended to read:

1326 **59-10-1013. Tax credits for machinery, equipment, or both primarily used for**
1327 **conducting qualified research or basic research -- Carry forward -- Commission to report**
1328 **modification or repeal of certain federal provisions -- Revenue and Taxation Interim**
1329 **Committee study.**

1330 (1) As used in this section:

1331 (a) "Basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except
1332 that the term includes only basic research conducted in this state.

1333 (b) "Equipment" includes:

- 1334 (i) a computer;
- 1335 (ii) computer equipment; and
- 1336 (iii) computer software.
- 1337 (c) "Purchase price":
- 1338 (i) includes the cost of installing an item of machinery or equipment; and
- 1339 (ii) does not include a tax imposed under Chapter 12, Sales and Use Tax Act, on an
- 1340 item of machinery or equipment.
- 1341 (d) "Qualified organization" is as defined in Section 41(e)(6), Internal Revenue Code.
- 1342 (e) "Qualified research" is as defined in Section 41(d), Internal Revenue Code, except
- 1343 that the term includes only qualified research conducted in this state.
- 1344 (2) (a) Except as provided in Subsection (2)(c), for taxable years beginning on or after
- 1345 January 1, 1999, but beginning before December 31, 2010, a claimant, estate, or trust meeting
- 1346 the requirements of this section may claim the following nonrefundable tax credits:
- 1347 (i) a tax credit of 6% of the purchase price of machinery, equipment, or both:
- 1348 (A) purchased by the claimant, estate, or trust during the taxable year;
- 1349 (B) that is subject to a tax under Chapter 12, Sales and Use Tax Act; and
- 1350 (C) that is primarily used to conduct qualified research in this state; and
- 1351 (ii) a tax credit of 6% of the purchase price paid by the claimant, estate, or trust for
- 1352 machinery, equipment, or both:
- 1353 (A) purchased by the claimant, estate, or trust during the taxable year;
- 1354 (B) that is subject to a tax under Chapter 12, Sales and Use Tax Act;
- 1355 (C) that is donated to a qualified organization; and
- 1356 (D) that is primarily used to conduct basic research in this state.
- 1357 (b) Subject to Subsection (4), a claimant, estate, or trust may claim a tax credit under
- 1358 this section for the taxable year for which the claimant, estate, or trust purchases the machinery,
- 1359 equipment, or both.
- 1360 (c) If a claimant, estate, or trust qualifies for a tax credit under Subsection (2)(a) for a
- 1361 purchase of machinery, equipment, or both, the claimant, estate, or trust may not claim the tax
- 1362 credit or carry the tax credit forward if the machinery, equipment, or both, is primarily used to
- 1363 conduct qualified research in the state for a time period that is less than 12 consecutive months.
- 1364 (3) Notwithstanding Section 41(h), Internal Revenue Code, a tax credit provided for in

1365 this section is not terminated if a credit terminates under Section 41, Internal Revenue Code.

1366 (4) If the amount of a tax credit claimed by a claimant, estate, or trust under this section
1367 exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the
1368 amount of the tax credit exceeding the tax liability:

1369 (a) may be carried forward for a period that does not exceed the next 14 taxable years;
1370 and

1371 (b) may not be carried back to a taxable year preceding the current taxable year.

1372 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1373 commission may make rules for purposes of this section prescribing a certification process for
1374 qualified organizations to ensure that machinery, equipment, or both provided to the qualified
1375 organization is to be primarily used to conduct basic research in this state.

1376 (6) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the
1377 commission shall report the modification or repeal by electronic means to the Revenue and
1378 Taxation Interim Committee within 60 days after the day on which the modification or repeal
1379 becomes effective.

1380 (7) (a) The Revenue and Taxation Interim Committee shall review the tax credits
1381 provided for in this section on or before October 1 of the year after the year in which the
1382 commission reports under Subsection (6) a modification or repeal of a provision of Section 41,
1383 Internal Revenue Code.

1384 (b) Notwithstanding Subsection (7)(a), the Revenue and Taxation Interim Committee is
1385 not required to review the tax credits provided for in this section if the only modification to a
1386 provision of Section 41, Internal Revenue Code, is the extension of the termination date
1387 provided for in Section 41(h), Internal Revenue Code.

1388 (c) The Revenue and Taxation Interim Committee shall address in a review under this
1389 section the:

1390 (i) cost of the tax credits provided for in this section;

1391 (ii) purpose and effectiveness of the tax credits provided for in this section;

1392 (iii) whether the tax credits provided for in this section benefit the state; and

1393 (iv) whether the tax credits provided for in this section should be:

1394 (A) continued;

1395 (B) modified; or

1396 (C) repealed.

1397 (d) If the Revenue and Taxation Interim Committee reviews the tax credits provided
1398 for in this section, the committee shall report its findings to the Legislative Management
1399 Committee on or before the November interim meeting of the year in which the Revenue and
1400 Taxation Interim Committee reviews the tax credits.

1401 Section 21. Section **59-10-1029** is amended to read:

1402 **59-10-1029. Nonrefundable alternative energy development tax credit.**

1403 (1) As used in this section:

1404 (a) "Alternative energy entity" is as defined in Section 63M-4-502.

1405 (b) "Alternative energy project" is as defined in Section 63M-4-502.

1406 (c) "Office" is as defined in Section 63M-4-401.

1407 (2) Subject to the other provisions of this section, an alternative energy entity may
1408 claim a nonrefundable tax credit for alternative energy development as provided in this section.

1409 (3) The tax credit under this section is the amount listed as the tax credit amount on a
1410 tax credit certificate that the office issues under Title 63M, Chapter 4, Part 5, Alternative
1411 Energy Development Tax Credit Act, to the alternative energy entity for the taxable year.

1412 (4) An alternative energy entity may carry forward a tax credit under this section for a
1413 period that does not exceed the next seven taxable years if:

1414 (a) the alternative energy entity is allowed to claim a tax credit under this section for a
1415 taxable year; and

1416 (b) the amount of the tax credit exceeds the alternative energy entity's tax liability
1417 under this chapter for that taxable year.

1418 (5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the
1419 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
1420 make recommendations to the Legislative Management Committee concerning whether the tax
1421 credit should be continued, modified, or repealed.

1422 (b) For purposes of the study required by this Subsection (5), the office shall provide
1423 the following information to the Revenue and Taxation Interim Committee by electronic
1424 means:

1425 (i) the amount of tax credit that the office grants to each alternative energy entity for
1426 each taxable year;

- 1427 (ii) the new state revenues generated by each alternative energy project;
- 1428 (iii) the information contained in the office's latest report to the Legislature under
- 1429 Section 63M-4-505; and
- 1430 (iv) any other information that the Revenue and Taxation Interim Committee requests.
- 1431 (c) The Revenue and Taxation Interim Committee shall ensure that its
- 1432 recommendations under Subsection (5)(a) include an evaluation of:
- 1433 (i) the cost of the tax credit to the state;
- 1434 (ii) the purpose and effectiveness of the tax credit; and
- 1435 (iii) the extent to which the state benefits from the tax credit.
- 1436 Section 22. Section **59-10-1030** is amended to read:
- 1437 **59-10-1030. Nonrefundable alternative energy manufacturing tax credit.**
- 1438 (1) As used in this section:
- 1439 (a) "Alternative energy entity" [~~is as~~] means the same as that term is defined in Section
- 1440 63N-2-702.
- 1441 (b) "Alternative energy manufacturing project" [~~is as~~] means the same as that term is
- 1442 defined in Section 63N-2-702.
- 1443 (c) "New incremental job with the state" means the same as that term is defined in
- 1444 Section 63N-2-702.
- 1445 (d) "New state revenues" means the same as that term is defined in Section 63N-2-702.
- 1446 [~~(c)~~] (e) "Office" means the Governor's Office of Economic Development.
- 1447 (2) Subject to the other provisions of this section, an alternative energy entity may
- 1448 claim a nonrefundable tax credit for alternative energy manufacturing as provided in this
- 1449 section.
- 1450 (3) The tax credit under this section is the amount listed as the tax credit amount on a
- 1451 tax credit certificate that the office issues under Title 63N, Chapter 2, Part 7, Alternative
- 1452 Energy Manufacturing Tax Credit Act, to the alternative energy entity for the taxable year.
- 1453 (4) An alternative energy entity may carry forward a tax credit under this section for a
- 1454 period that does not exceed the next seven taxable years if:
- 1455 (a) the alternative energy entity is allowed to claim a tax credit under this section for a
- 1456 taxable year; and
- 1457 (b) the amount of the tax credit exceeds the alternative energy entity's tax liability

1458 under this chapter for that taxable year.

1459 (5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the
1460 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
1461 make recommendations to the Legislative Management Committee concerning whether the tax
1462 credit should be continued, modified, or repealed.

1463 (b) For purposes of the study required by this Subsection (5), the office shall provide
1464 the following information to the Revenue and Taxation Interim Committee by electronic
1465 means:

1466 (i) the amount of tax credit that the office grants to each alternative energy entity for
1467 each taxable year;

1468 (ii) the new state revenues generated by each alternative energy manufacturing project;

1469 (iii) estimates for each of the next five calendar years of the following:

1470 (A) the amount of tax credits that the office will grant;

1471 (B) the amount of new state revenues that will be generated; and

1472 (C) the number of new incremental jobs within the state that will be generated;

1473 [~~(iii)~~] (iv) the information contained in the office's latest report to the Legislature under
1474 Section 63N-2-705; and

1475 [~~(iv)~~] (v) any other information that the Revenue and Taxation Interim Committee
1476 requests.

1477 (c) The Revenue and Taxation Interim Committee shall ensure that its
1478 recommendations under Subsection (5)(a) include an evaluation of:

1479 (i) the cost of the tax credit to the state;

1480 (ii) the purpose and effectiveness of the tax credit; and

1481 (iii) the extent to which the state benefits from the tax credit.

1482 Section 23. Section **59-10-1107** is amended to read:

1483 **59-10-1107. Refundable economic development tax credit.**

1484 (1) As used in this section:

1485 (a) "Business entity" means a claimant, estate, or trust that meets the definition of
1486 "business entity" as defined in Section 63N-2-103.

1487 (b) "New incremental jobs" means the same as the term is defined in Section
1488 63N-2-103.

1489 (c) "New state revenues" means the same as the term is defined in Section 63N-2-103.

1490 [~~(b)~~] (d) "Office" means the Governor's Office of Economic Development.

1491 (2) Subject to the other provisions of this section, a business entity may claim a
1492 refundable tax credit for economic development.

1493 (3) The tax credit under this section is the amount listed as the tax credit amount on the
1494 tax credit certificate that the office issues to the business entity for the taxable year.

1495 (4) (a) In accordance with any rules prescribed by the commission under Subsection
1496 (4)(b), the commission shall make a refund to a business entity that claims a tax credit under
1497 this section if the amount of the tax credit exceeds the business entity's tax liability for a
1498 taxable year.

1499 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1500 commission may make rules providing procedures for making a refund to a business entity as
1501 required by Subsection (4)(a).

1502 (5) (a) On or before October 1, 2013, and every five years after October 1, 2013, the
1503 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
1504 make recommendations to the Legislative Management Committee concerning whether the tax
1505 credit should be continued, modified, or repealed.

1506 (b) For purposes of the study required by this Subsection (5), the office shall provide
1507 the following information to the Revenue and Taxation Interim Committee by electronic
1508 means:

1509 (i) the amount of tax credit the office grants to each taxpayer for each calendar year;

1510 (ii) the criteria the office uses in granting a tax credit;

1511 (iii) the new state revenues generated by each taxpayer for each calendar year;

1512 (iv) estimates for each of the next five calendar years of the following:

1513 (A) the amount of tax credits that the office will grant;

1514 (B) the amount of new state revenues that will be generated; and

1515 (C) the number of new incremental jobs within the state that will be generated;

1516 [~~(iv)~~] (v) the information contained in the office's latest report to the Legislature under
1517 Section 63N-2-106; and

1518 [~~(v)~~] (vi) any other information that the Revenue and Taxation Interim Committee
1519 requests.

1520 (c) The Revenue and Taxation Interim Committee shall ensure that its
1521 recommendations under Subsection (5)(a) include an evaluation of:

- 1522 (i) the cost of the tax credit to the state;
1523 (ii) the purpose and effectiveness of the tax credit; and
1524 (iii) the extent to which the state benefits from the tax credit.

1525 Section 24. Section **59-10-1108** is amended to read:

1526 **59-10-1108. Refundable motion picture tax credit.**

1527 (1) As used in this section:

1528 (a) "Motion picture company" means a claimant, estate, or trust that meets the
1529 definition of a motion picture company under Section 63N-8-102.

1530 (b) "Office" means the Governor's Office of Economic Development.

1531 (c) "State-approved production" has the same meaning as defined in Section
1532 63N-8-102.

1533 (2) For taxable years beginning on or after January 1, 2009, a motion picture company
1534 may claim a refundable tax credit for a state-approved production.

1535 (3) The tax credit under this section is the amount listed as the tax credit amount on the
1536 tax credit certificate that the office issues to a motion picture company under Section
1537 63N-8-103 for the taxable year.

1538 (4) (a) In accordance with any rules prescribed by the commission under Subsection
1539 (4)(b), the commission shall make a refund to a motion picture company that claims a tax
1540 credit under this section if the amount of the tax credit exceeds the motion picture company's
1541 tax liability for the taxable year.

1542 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1543 commission may make rules providing procedures for making a refund to a motion picture
1544 company as required by Subsection (4)(a).

1545 (5) (a) On or before October 1, 2014, and every five years after October 1, 2014, the
1546 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
1547 make recommendations to the Legislative Management Committee concerning whether the tax
1548 credit should be continued, modified, or repealed.

1549 (b) For purposes of the study required by this Subsection (5), the office shall provide
1550 the following information to the Revenue and Taxation Interim Committee by electronic

1551 means:

1552 (i) (A) the amount of tax credit the office grants to each taxpayer for each calendar
1553 year; and

1554 (B) estimates of the amount of tax credit that the office will grant for each of the next
1555 five calendar years;

1556 (ii) the criteria the office uses in granting a tax credit;

1557 (iii) the dollars left in the state, as defined in Section 63N-8-102, by each motion
1558 picture company for each calendar year;

1559 (iv) the information contained in the office's latest report to the Legislature under
1560 Section 63N-8-105; and

1561 (v) any other information requested by the Revenue and Taxation Interim Committee.

1562 (c) The Revenue and Taxation Interim Committee shall ensure that its
1563 recommendations under Subsection (5)(a) include an evaluation of:

1564 (i) the cost of the tax credit to the state;

1565 (ii) the effectiveness of the tax credit; and

1566 (iii) the extent to which the state benefits from the tax credit.

1567 Section 25. Section **59-10-1304** is amended to read:

1568 **59-10-1304. Removal of designation and prohibitions on collection for certain**
1569 **contributions on income tax return -- Conditions for removal and prohibitions on**
1570 **collection -- Commission publication requirements.**

1571 (1) (a) If a contribution or combination of contributions described in Subsection (1)(b)
1572 generate less than \$30,000 per year for three consecutive years, the commission shall remove
1573 the designation for the contribution from the individual income tax return and may not collect
1574 the contribution from a resident or nonresident individual beginning two taxable years after the
1575 three-year period for which the contribution generates less than \$30,000 per year.

1576 (b) The following contributions apply to Subsection (1)(a):

1577 (i) the contribution provided for in Section 59-10-1306;

1578 (ii) the sum of the contributions provided for in Subsection 59-10-1307(1);

1579 (iii) the contribution provided for in Section 59-10-1308;

1580 (iv) the contribution provided for in Section 59-10-1310;

1581 (v) the contribution provided for in Section 59-10-1315;

- 1582 (vi) the sum of the contributions provided for in:
1583 (A) Section 59-10-1316; and
1584 (B) Section 59-10-1317; or
1585 (vii) the contribution provided for in Section 59-10-1318.
- 1586 (2) If the commission removes the designation for a contribution under Subsection (1),
1587 the commission shall report to the Revenue and Taxation Interim Committee by electronic
1588 means that the commission removed the designation on or before the November interim
1589 meeting of the year in which the commission determines to remove the designation.
- 1590 (3) (a) Within a 30-day period after making the report required by Subsection (2), the
1591 commission shall publish a list in accordance with Subsection (3)(b) stating each contribution
1592 that the commission will remove from the individual income tax return.
- 1593 (b) The list shall:
- 1594 (i) be published on:
- 1595 (A) the commission's website; and
1596 (B) the public legal notice website in accordance with Section 45-1-101;
- 1597 (ii) include a statement that the commission:
- 1598 (A) is required to remove the contribution from the individual income tax return; and
1599 (B) may not collect the contribution;
- 1600 (iii) state the taxable year for which the removal described in Subsection (3)(a) takes
1601 effect; and
- 1602 (iv) remain available for viewing and searching until the commission publishes a new
1603 list in accordance with this Subsection (3).
- 1604 Section 26. Section **59-12-103.1** is amended to read:
- 1605 **59-12-103.1. Action by Supreme Court of the United States authorizing or action**
1606 **by Congress permitting a state to require certain sellers to collect a sales or use tax --**
1607 **Collection of tax by commission -- Commission report to Revenue and Taxation Interim**
1608 **Committee -- Revenue and Taxation Interim Committee study -- Division of Finance**
1609 **requirement to make certain deposits.**
- 1610 (1) Except as provided in Section 59-12-107.1, a seller shall remit a tax to the
1611 commission as provided in Section 59-12-107 if:
- 1612 (a) the Supreme Court of the United States issues a decision authorizing a state to

1613 require the following sellers to collect a sales or use tax:

1614 (i) a seller that does not meet one or more of the criteria described in Subsection
1615 59-12-107(2)(a); or

1616 (ii) a seller that is not a seller required to pay or collect and remit sales and use taxes
1617 under Subsection 59-12-107(2)(b); or

1618 (b) Congress permits the state to require the following sellers to collect a sales or use
1619 tax:

1620 (i) a seller that does not meet one or more of the criteria described in Subsection
1621 59-12-107(2)(a); or

1622 (ii) a seller that is not a seller required to pay or collect and remit sales and use taxes
1623 under Subsection 59-12-107(2)(b).

1624 (2) The commission shall:

1625 (a) collect the tax described in Subsection (1) from the seller:

1626 (i) to the extent:

1627 (A) authorized by the Supreme Court of the United States; or

1628 (B) permitted by Congress; and

1629 (ii) beginning on the first day of a calendar quarter as prescribed by the Revenue and
1630 Taxation Interim Committee; and

1631 (b) make a report to the Revenue and Taxation Interim Committee by electronic
1632 means:

1633 (i) regarding the actions taken by:

1634 (A) the Supreme Court of the United States; or

1635 (B) Congress; and

1636 (ii) (A) stating the amount of state revenue collected at the time of the report, if any;
1637 and

1638 (B) estimating the state sales and use tax rate reduction that would offset the amount of
1639 state revenue estimated to be collected for the current fiscal year and the next fiscal year; and

1640 [~~(iii) (A) at~~] (c) report to the Revenue and Taxation Interim Committee at:

1641 (i) the Revenue and Taxation Interim Committee meeting immediately following the
1642 day on which the actions of the Supreme Court of the United States or Congress become
1643 effective; and

1644 ~~(B)~~ (ii) any other meeting of the Revenue and Taxation Interim Committee as
1645 requested by the chairs of the committee.

1646 (3) The Revenue and Taxation Interim Committee shall after ~~hearing~~ receiving the
1647 commission's ~~report~~ reports under ~~Subsection~~ Subsections (2)(b) and (c):

1648 (a) review the actions taken by:

1649 (i) the Supreme Court of the United States; or

1650 (ii) Congress;

1651 (b) direct the commission regarding the day on which the commission is required to
1652 collect the tax described in Subsection (1); and

1653 (c) make recommendations to the Legislative Management Committee:

1654 (i) regarding whether as a result of the actions of the Supreme Court of the United
1655 States or Congress any provisions of this chapter should be amended or repealed; and

1656 (ii) within a one-year period after the day on which the commission makes a report
1657 under Subsection (2)~~(b)~~(c).

1658 (4) The Division of Finance shall deposit a portion of the revenue collected under this
1659 section into the Remote Sales Restricted Account as required by Section 59-12-103.2.

1660 Section 27. Section **59-12-104** is amended to read:

1661 **59-12-104. Exemptions.**

1662 Exemptions from the taxes imposed by this chapter are as follows:

1663 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
1664 under Chapter 13, Motor and Special Fuel Tax Act;

1665 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
1666 subdivisions; however, this exemption does not apply to sales of:

1667 (a) construction materials except:

1668 (i) construction materials purchased by or on behalf of institutions of the public
1669 education system as defined in Utah Constitution Article X, Section 2, provided the
1670 construction materials are clearly identified and segregated and installed or converted to real
1671 property which is owned by institutions of the public education system; and

1672 (ii) construction materials purchased by the state, its institutions, or its political
1673 subdivisions which are installed or converted to real property by employees of the state, its
1674 institutions, or its political subdivisions; or

1675 (b) tangible personal property in connection with the construction, operation,
1676 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
1677 providing additional project capacity, as defined in Section 11-13-103;

1678 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

1679 (i) the proceeds of each sale do not exceed \$1; and

1680 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
1681 the cost of the item described in Subsection (3)(b) as goods consumed; and

1682 (b) Subsection (3)(a) applies to:

1683 (i) food and food ingredients; or

1684 (ii) prepared food;

1685 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

1686 (i) alcoholic beverages;

1687 (ii) food and food ingredients; or

1688 (iii) prepared food;

1689 (b) sales of tangible personal property or a product transferred electronically:

1690 (i) to a passenger;

1691 (ii) by a commercial airline carrier; and

1692 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or

1693 (c) services related to Subsection (4)(a) or (b);

1694 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
1695 and equipment:

1696 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
1697 North American Industry Classification System of the federal Executive Office of the
1698 President, Office of Management and Budget; and

1699 (II) for:

1700 (Aa) installation in an aircraft, including services relating to the installation of parts or
1701 equipment in the aircraft;

1702 (Bb) renovation of an aircraft; or

1703 (Cc) repair of an aircraft; or

1704 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
1705 commerce; or

- 1706 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
1707 aircraft operated by a common carrier in interstate or foreign commerce; and
- 1708 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
1709 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
1710 refund:
- 1711 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;
1712 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
1713 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
1714 the sale prior to filing for the refund;
- 1715 (iv) for sales and use taxes paid under this chapter on the sale;
1716 (v) in accordance with Section 59-1-1410; and
1717 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
1718 the person files for the refund on or before September 30, 2011;
- 1719 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
1720 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
1721 exhibitor, distributor, or commercial television or radio broadcaster;
- 1722 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
1723 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
1724 washing of tangible personal property;
- 1725 (b) if a seller that sells at the same business location assisted cleaning or washing of
1726 tangible personal property and cleaning or washing of tangible personal property that is not
1727 assisted cleaning or washing of tangible personal property, the exemption described in
1728 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
1729 or washing of the tangible personal property; and
- 1730 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
1731 Utah Administrative Rulemaking Act, the commission may make rules:
- 1732 (i) governing the circumstances under which sales are at the same business location;
1733 and
- 1734 (ii) establishing the procedures and requirements for a seller to separately account for
1735 sales of assisted cleaning or washing of tangible personal property;
- 1736 (8) sales made to or by religious or charitable institutions in the conduct of their regular

1737 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
1738 fulfilled;

1739 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
1740 this state if the vehicle is:

1741 (a) not registered in this state; and

1742 (b) (i) not used in this state; or

1743 (ii) used in this state:

1744 (A) if the vehicle is not used to conduct business, for a time period that does not
1745 exceed the longer of:

1746 (I) 30 days in any calendar year; or

1747 (II) the time period necessary to transport the vehicle to the borders of this state; or

1748 (B) if the vehicle is used to conduct business, for the time period necessary to transport
1749 the vehicle to the borders of this state;

1750 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

1751 (i) the item is intended for human use; and

1752 (ii) (A) a prescription was issued for the item; or

1753 (B) the item was purchased by a hospital or other medical facility; and

1754 (b) (i) Subsection (10)(a) applies to:

1755 (A) a drug;

1756 (B) a syringe; or

1757 (C) a stoma supply; and

1758 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1759 commission may by rule define the terms:

1760 (A) "syringe"; or

1761 (B) "stoma supply";

1762 (11) purchases or leases exempt under Section 19-12-201;

1763 (12) (a) sales of an item described in Subsection (12)(c) served by:

1764 (i) the following if the item described in Subsection (12)(c) is not available to the
1765 general public:

1766 (A) a church; or

1767 (B) a charitable institution;

- 1768 (ii) an institution of higher education if:
- 1769 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 1770 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 1771 offered by the institution of higher education; or
- 1772 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 1773 (i) a medical facility; or
- 1774 (ii) a nursing facility; and
- 1775 (c) Subsections (12)(a) and (b) apply to:
- 1776 (i) food and food ingredients;
- 1777 (ii) prepared food; or
- 1778 (iii) alcoholic beverages;
- 1779 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 1780 or a product transferred electronically by a person:
- 1781 (i) regardless of the number of transactions involving the sale of that tangible personal
- 1782 property or product transferred electronically by that person; and
- 1783 (ii) not regularly engaged in the business of selling that type of tangible personal
- 1784 property or product transferred electronically;
- 1785 (b) this Subsection (13) does not apply if:
- 1786 (i) the sale is one of a series of sales of a character to indicate that the person is
- 1787 regularly engaged in the business of selling that type of tangible personal property or product
- 1788 transferred electronically;
- 1789 (ii) the person holds that person out as regularly engaged in the business of selling that
- 1790 type of tangible personal property or product transferred electronically;
- 1791 (iii) the person sells an item of tangible personal property or product transferred
- 1792 electronically that the person purchased as a sale that is exempt under Subsection (25); or
- 1793 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
- 1794 this state in which case the tax is based upon:
- 1795 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
- 1796 sold; or
- 1797 (B) in the absence of a bill of sale or other written evidence of value, the fair market
- 1798 value of the vehicle or vessel being sold at the time of the sale as determined by the

1799 commission; and

1800 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1801 commission shall make rules establishing the circumstances under which:

1802 (i) a person is regularly engaged in the business of selling a type of tangible personal
1803 property or product transferred electronically;

1804 (ii) a sale of tangible personal property or a product transferred electronically is one of
1805 a series of sales of a character to indicate that a person is regularly engaged in the business of
1806 selling that type of tangible personal property or product transferred electronically; or

1807 (iii) a person holds that person out as regularly engaged in the business of selling a type
1808 of tangible personal property or product transferred electronically;

1809 (14) (a) amounts paid or charged for a purchase or lease:

1810 (i) by a manufacturing facility located in the state; and

1811 (ii) of machinery, equipment, or normal operating repair or replacement parts if the
1812 machinery, equipment, or normal operating repair or replacement parts have an economic life
1813 of three or more years and are used:

1814 (A) in the manufacturing process to manufacture an item sold as tangible personal
1815 property; or

1816 (B) for a scrap recycler, to process an item sold as tangible personal property;

1817 (b) amounts paid or charged for a purchase or lease:

1818 (i) by an establishment:

1819 (A) described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code
1820 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or
1821 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North
1822 American Industry Classification System of the federal Executive Office of the President,
1823 Office of Management and Budget; and

1824 (B) located in the state; and

1825 (ii) of machinery, equipment, or normal operating repair or replacement parts if the
1826 machinery, equipment, or normal operating repair or replacement parts have an economic life
1827 of three or more years and are used in:

1828 (A) the production process to produce an item sold as tangible personal property;

1829 (B) research and development;

1830 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
 1831 produced from mining;

1832 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
 1833 mining; or

1834 (E) preventing, controlling, or reducing dust or other pollutants from mining;

1835 (c) amounts paid or charged for a purchase or lease:

1836 (i) by an establishment:

1837 (A) described in NAICS Code 518112, Web Search Portals, of the 2002 North
 1838 American Industry Classification System of the federal Executive Office of the President,
 1839 Office of Management and Budget; and

1840 (B) located in the state; and

1841 (ii) of machinery, equipment, or normal operating repair or replacement parts if the
 1842 machinery, equipment, or normal operating repair or replacement parts:

1843 (A) are used in the operation of the web search portal; and

1844 (B) have an economic life of three or more years; and

1845 (d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,
 1846 Utah Administrative Rulemaking Act, the commission:

1847 (i) shall by rule define the term "establishment"; and

1848 (ii) may by rule define what constitutes:

1849 (A) processing an item sold as tangible personal property;

1850 (B) the production process, to produce an item sold as tangible personal property; or

1851 (C) research and development; [~~and~~]

1852 [~~(e) on or before October 1, 2016, and every five years after October 1, 2016, the~~
 1853 ~~commission shall:~~]

1854 [~~(i) review the exemptions described in this Subsection (14) and make~~
 1855 ~~recommendations to the Revenue and Taxation Interim Committee concerning whether the~~
 1856 ~~exemptions should be continued, modified, or repealed; and]~~

1857 [~~(ii) include in its report:~~]

1858 [~~(A) an estimate of the cost of the exemptions;]~~

1859 [~~(B) the purpose and effectiveness of the exemptions; and]~~

1860 [~~(C) the benefits of the exemptions to the state;]~~

- 1861 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
- 1862 (i) tooling;
- 1863 (ii) special tooling;
- 1864 (iii) support equipment;
- 1865 (iv) special test equipment; or
- 1866 (v) parts used in the repairs or renovations of tooling or equipment described in
- 1867 Subsections (15)(a)(i) through (iv); and
- 1868 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
- 1869 (i) the tooling, equipment, or parts are used or consumed exclusively in the
- 1870 performance of any aerospace or electronics industry contract with the United States
- 1871 government or any subcontract under that contract; and
- 1872 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
- 1873 title to the tooling, equipment, or parts is vested in the United States government as evidenced
- 1874 by:
- 1875 (A) a government identification tag placed on the tooling, equipment, or parts; or
- 1876 (B) listing on a government-approved property record if placing a government
- 1877 identification tag on the tooling, equipment, or parts is impractical;
- 1878 (16) sales of newspapers or newspaper subscriptions;
- 1879 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
- 1880 product transferred electronically traded in as full or part payment of the purchase price, except
- 1881 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
- 1882 trade-ins are limited to other vehicles only, and the tax is based upon:
- 1883 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
- 1884 vehicle being traded in; or
- 1885 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
- 1886 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
- 1887 commission; and
- 1888 (b) Subsection (17)(a) does not apply to the following items of tangible personal
- 1889 property or products transferred electronically traded in as full or part payment of the purchase
- 1890 price:
- 1891 (i) money;

1892 (ii) electricity;

1893 (iii) water;

1894 (iv) gas; or

1895 (v) steam;

1896 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property

1897 or a product transferred electronically used or consumed primarily and directly in farming

1898 operations, regardless of whether the tangible personal property or product transferred

1899 electronically:

1900 (A) becomes part of real estate; or

1901 (B) is installed by a:

1902 (I) farmer;

1903 (II) contractor; or

1904 (III) subcontractor; or

1905 (ii) sales of parts used in the repairs or renovations of tangible personal property or a

1906 product transferred electronically if the tangible personal property or product transferred

1907 electronically is exempt under Subsection (18)(a)(i); and

1908 (b) amounts paid or charged for the following are subject to the taxes imposed by this

1909 chapter:

1910 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is

1911 incidental to farming:

1912 (I) machinery;

1913 (II) equipment;

1914 (III) materials; or

1915 (IV) supplies; and

1916 (B) tangible personal property that is considered to be used in a manner that is

1917 incidental to farming includes:

1918 (I) hand tools; or

1919 (II) maintenance and janitorial equipment and supplies;

1920 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product

1921 transferred electronically if the tangible personal property or product transferred electronically

1922 is used in an activity other than farming; and

1923 (B) tangible personal property or a product transferred electronically that is considered
1924 to be used in an activity other than farming includes:

1925 (I) office equipment and supplies; or
1926 (II) equipment and supplies used in:

1927 (Aa) the sale or distribution of farm products;
1928 (Bb) research; or
1929 (Cc) transportation; or
1930 (iii) a vehicle required to be registered by the laws of this state during the period
1931 ending two years after the date of the vehicle's purchase;

1932 (19) sales of hay;
1933 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
1934 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
1935 garden, farm, or other agricultural produce is sold by:

1936 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
1937 agricultural produce;
1938 (b) an employee of the producer described in Subsection (20)(a); or
1939 (c) a member of the immediate family of the producer described in Subsection (20)(a);

1940 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
1941 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

1942 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
1943 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
1944 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
1945 manufacturer, processor, wholesaler, or retailer;

1946 (23) a product stored in the state for resale;
1947 (24) (a) purchases of a product if:

1948 (i) the product is:

1949 (A) purchased outside of this state;
1950 (B) brought into this state:

1951 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
1952 (II) by a nonresident person who is not living or working in this state at the time of the
1953 purchase;

1954 (C) used for the personal use or enjoyment of the nonresident person described in
1955 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
1956 (D) not used in conducting business in this state; and
1957 (ii) for:
1958 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
1959 the product for a purpose for which the product is designed occurs outside of this state;
1960 (B) a boat, the boat is registered outside of this state; or
1961 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
1962 outside of this state;
1963 (b) the exemption provided for in Subsection (24)(a) does not apply to:
1964 (i) a lease or rental of a product; or
1965 (ii) a sale of a vehicle exempt under Subsection (33); and
1966 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
1967 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
1968 following:
1969 (i) conducting business in this state if that phrase has the same meaning in this
1970 Subsection (24) as in Subsection (63);
1971 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
1972 as in Subsection (63); or
1973 (iii) a purpose for which a product is designed if that phrase has the same meaning in
1974 this Subsection (24) as in Subsection (63);
1975 (25) a product purchased for resale in this state, in the regular course of business, either
1976 in its original form or as an ingredient or component part of a manufactured or compounded
1977 product;
1978 (26) a product upon which a sales or use tax was paid to some other state, or one of its
1979 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
1980 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
1981 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
1982 Act;
1983 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
1984 person for use in compounding a service taxable under the subsections;

- 1985 (28) purchases made in accordance with the special supplemental nutrition program for
1986 women, infants, and children established in 42 U.S.C. Sec. 1786;
- 1987 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
1988 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
1989 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
1990 the President, Office of Management and Budget;
- 1991 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
1992 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
1993 (a) not registered in this state; and
1994 (b) (i) not used in this state; or
1995 (ii) used in this state:
1996 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
1997 time period that does not exceed the longer of:
1998 (I) 30 days in any calendar year; or
1999 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
2000 the borders of this state; or
2001 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
2002 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
2003 state;
- 2004 (31) sales of aircraft manufactured in Utah;
- 2005 (32) amounts paid for the purchase of telecommunications service for purposes of
2006 providing telecommunications service;
- 2007 (33) sales, leases, or uses of the following:
2008 (a) a vehicle by an authorized carrier; or
2009 (b) tangible personal property that is installed on a vehicle:
2010 (i) sold or leased to or used by an authorized carrier; and
2011 (ii) before the vehicle is placed in service for the first time;
- 2012 (34) (a) 45% of the sales price of any new manufactured home; and
2013 (b) 100% of the sales price of any used manufactured home;
- 2014 (35) sales relating to schools and fundraising sales;
- 2015 (36) sales or rentals of durable medical equipment if:

- 2016 (a) a person presents a prescription for the durable medical equipment; and
2017 (b) the durable medical equipment is used for home use only;
- 2018 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
2019 Section 72-11-102; and
- 2020 (b) the commission shall by rule determine the method for calculating sales exempt
2021 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 2022 (38) sales to a ski resort of:
- 2023 (a) snowmaking equipment;
- 2024 (b) ski slope grooming equipment;
- 2025 (c) passenger ropeways as defined in Section 72-11-102; or
- 2026 (d) parts used in the repairs or renovations of equipment or passenger ropeways
2027 described in Subsections (38)(a) through (c);
- 2028 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 2029 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
2030 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
2031 59-12-102;
- 2032 (b) if a seller that sells or rents at the same business location the right to use or operate
2033 for amusement, entertainment, or recreation one or more unassisted amusement devices and
2034 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
2035 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
2036 amusement, entertainment, or recreation for the assisted amusement devices; and
- 2037 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
2038 Utah Administrative Rulemaking Act, the commission may make rules:
- 2039 (i) governing the circumstances under which sales are at the same business location;
2040 and
- 2041 (ii) establishing the procedures and requirements for a seller to separately account for
2042 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
2043 assisted amusement devices;
- 2044 (41) (a) sales of photocopies by:
- 2045 (i) a governmental entity; or
- 2046 (ii) an entity within the state system of public education, including:

- 2047 (A) a school; or
- 2048 (B) the State Board of Education; or
- 2049 (b) sales of publications by a governmental entity;
- 2050 (42) amounts paid for admission to an athletic event at an institution of higher
- 2051 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
- 2052 20 U.S.C. Sec. 1681 et seq.;
- 2053 (43) (a) sales made to or by:
- 2054 (i) an area agency on aging; or
- 2055 (ii) a senior citizen center owned by a county, city, or town; or
- 2056 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 2057 (44) sales or leases of semiconductor fabricating, processing, research, or development
- 2058 materials regardless of whether the semiconductor fabricating, processing, research, or
- 2059 development materials:
- 2060 (a) actually come into contact with a semiconductor; or
- 2061 (b) ultimately become incorporated into real property;
- 2062 (45) an amount paid by or charged to a purchaser for accommodations and services
- 2063 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
- 2064 59-12-104.2;
- 2065 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
- 2066 sports event registration certificate in accordance with Section 41-3-306 for the event period
- 2067 specified on the temporary sports event registration certificate;
- 2068 (47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted
- 2069 by the Public Service Commission of Utah only for purchase of electricity produced from a
- 2070 new alternative energy source, as designated in the tariff by the Public Service Commission of
- 2071 Utah; and
- 2072 (b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a
- 2073 customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under
- 2074 the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;
- 2075 (48) sales or rentals of mobility enhancing equipment if a person presents a
- 2076 prescription for the mobility enhancing equipment;
- 2077 (49) sales of water in a:

- 2078 (a) pipe;
- 2079 (b) conduit;
- 2080 (c) ditch; or
- 2081 (d) reservoir;
- 2082 (50) sales of currency or coins that constitute legal tender of a state, the United States,
- 2083 or a foreign nation;
- 2084 (51) (a) sales of an item described in Subsection (51)(b) if the item:
- 2085 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
- 2086 (ii) has a gold, silver, or platinum content of 50% or more; and
- 2087 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
- 2088 (i) ingot;
- 2089 (ii) bar;
- 2090 (iii) medallion; or
- 2091 (iv) decorative coin;
- 2092 (52) amounts paid on a sale-leaseback transaction;
- 2093 (53) sales of a prosthetic device:
- 2094 (a) for use on or in a human; and
- 2095 (b) (i) for which a prescription is required; or
- 2096 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 2097 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 2098 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
- 2099 or equipment is primarily used in the production or postproduction of the following media for
- 2100 commercial distribution:
- 2101 (i) a motion picture;
- 2102 (ii) a television program;
- 2103 (iii) a movie made for television;
- 2104 (iv) a music video;
- 2105 (v) a commercial;
- 2106 (vi) a documentary; or
- 2107 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
- 2108 commission by administrative rule made in accordance with Subsection (54)(d); or

2109 (b) purchases, leases, or rentals of machinery or equipment by an establishment
2110 described in Subsection (54)(c) that is used for the production or postproduction of the
2111 following are subject to the taxes imposed by this chapter:

- 2112 (i) a live musical performance;
- 2113 (ii) a live news program; or
- 2114 (iii) a live sporting event;

2115 (c) the following establishments listed in the 1997 North American Industry
2116 Classification System of the federal Executive Office of the President, Office of Management
2117 and Budget, apply to Subsections (54)(a) and (b):

- 2118 (i) NAICS Code 512110; or
- 2119 (ii) NAICS Code 51219; and
- 2120 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2121 commission may by rule:

- 2122 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);

2123 or

- 2124 (ii) define:

- 2125 (A) "commercial distribution";
- 2126 (B) "live musical performance";
- 2127 (C) "live news program"; or
- 2128 (D) "live sporting event";

2129 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
2130 on or before June 30, 2027, of tangible personal property that:

- 2131 (i) is leased or purchased for or by a facility that:

- 2132 (A) is an alternative energy electricity production facility;
- 2133 (B) is located in the state; and
- 2134 (C) (I) becomes operational on or after July 1, 2004; or
- 2135 (II) has its generation capacity increased by one or more megawatts on or after July 1,
2136 2004, as a result of the use of the tangible personal property;
- 2137 (ii) has an economic life of five or more years; and
- 2138 (iii) is used to make the facility or the increase in capacity of the facility described in
2139 Subsection (55)(a)(i) operational up to the point of interconnection with an existing

2140 transmission grid including:

2141 (A) a wind turbine;

2142 (B) generating equipment;

2143 (C) a control and monitoring system;

2144 (D) a power line;

2145 (E) substation equipment;

2146 (F) lighting;

2147 (G) fencing;

2148 (H) pipes; or

2149 (I) other equipment used for locating a power line or pole; and

2150 (b) this Subsection (55) does not apply to:

2151 (i) tangible personal property used in construction of:

2152 (A) a new alternative energy electricity production facility; or

2153 (B) the increase in the capacity of an alternative energy electricity production facility;

2154 (ii) contracted services required for construction and routine maintenance activities;

2155 and

2156 (iii) unless the tangible personal property is used or acquired for an increase in capacity

2157 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or

2158 acquired after:

2159 (A) the alternative energy electricity production facility described in Subsection

2160 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

2161 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described

2162 in Subsection (55)(a)(iii);

2163 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but

2164 on or before June 30, 2027, of tangible personal property that:

2165 (i) is leased or purchased for or by a facility that:

2166 (A) is a waste energy production facility;

2167 (B) is located in the state; and

2168 (C) (I) becomes operational on or after July 1, 2004; or

2169 (II) has its generation capacity increased by one or more megawatts on or after July 1,

2170 2004, as a result of the use of the tangible personal property;

- 2171 (ii) has an economic life of five or more years; and
2172 (iii) is used to make the facility or the increase in capacity of the facility described in
2173 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
2174 transmission grid including:
- 2175 (A) generating equipment;
 - 2176 (B) a control and monitoring system;
 - 2177 (C) a power line;
 - 2178 (D) substation equipment;
 - 2179 (E) lighting;
 - 2180 (F) fencing;
 - 2181 (G) pipes; or
 - 2182 (H) other equipment used for locating a power line or pole; and
- 2183 (b) this Subsection (56) does not apply to:
- 2184 (i) tangible personal property used in construction of:
 - 2185 (A) a new waste energy facility; or
 - 2186 (B) the increase in the capacity of a waste energy facility;
 - 2187 (ii) contracted services required for construction and routine maintenance activities;
- 2188 and
- 2189 (iii) unless the tangible personal property is used or acquired for an increase in capacity
2190 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
 - 2191 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
2192 described in Subsection (56)(a)(iii); or
 - 2193 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
2194 in Subsection (56)(a)(iii);
- 2195 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
2196 or before June 30, 2027, of tangible personal property that:
- 2197 (i) is leased or purchased for or by a facility that:
 - 2198 (A) is located in the state;
 - 2199 (B) produces fuel from alternative energy, including:
 - 2200 (I) methanol; or
 - 2201 (II) ethanol; and

2202 (C) (I) becomes operational on or after July 1, 2004; or
2203 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
2204 a result of the installation of the tangible personal property;
2205 (ii) has an economic life of five or more years; and
2206 (iii) is installed on the facility described in Subsection (57)(a)(i);
2207 (b) this Subsection (57) does not apply to:
2208 (i) tangible personal property used in construction of:
2209 (A) a new facility described in Subsection (57)(a)(i); or
2210 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
2211 (ii) contracted services required for construction and routine maintenance activities;
2212 and
2213 (iii) unless the tangible personal property is used or acquired for an increase in capacity
2214 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
2215 (A) the facility described in Subsection (57)(a)(i) is operational; or
2216 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
2217 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
2218 product transferred electronically to a person within this state if that tangible personal property
2219 or product transferred electronically is subsequently shipped outside the state and incorporated
2220 pursuant to contract into and becomes a part of real property located outside of this state;
2221 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
2222 state or political entity to which the tangible personal property is shipped imposes a sales, use,
2223 gross receipts, or other similar transaction excise tax on the transaction against which the other
2224 state or political entity allows a credit for sales and use taxes imposed by this chapter; and
2225 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
2226 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
2227 refund:
2228 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;
2229 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
2230 which the sale is made;
2231 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
2232 sale prior to filing for the refund;

- 2233 (iv) for sales and use taxes paid under this chapter on the sale;
- 2234 (v) in accordance with Section 59-1-1410; and
- 2235 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
- 2236 the person files for the refund on or before June 30, 2011;
- 2237 (59) purchases:
- 2238 (a) of one or more of the following items in printed or electronic format:
- 2239 (i) a list containing information that includes one or more:
- 2240 (A) names; or
- 2241 (B) addresses; or
- 2242 (ii) a database containing information that includes one or more:
- 2243 (A) names; or
- 2244 (B) addresses; and
- 2245 (b) used to send direct mail;
- 2246 (60) redemptions or repurchases of a product by a person if that product was:
- 2247 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 2248 (b) redeemed or repurchased within the time period established in a written agreement
- 2249 between the person and the pawnbroker for redeeming or repurchasing the product;
- 2250 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
- 2251 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
- 2252 and
- 2253 (ii) has a useful economic life of one or more years; and
- 2254 (b) the following apply to Subsection (61)(a):
- 2255 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 2256 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 2257 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 2258 (iv) telecommunications switching or routing equipment, machinery, or software; or
- 2259 (v) telecommunications transmission equipment, machinery, or software;
- 2260 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
- 2261 personal property or a product transferred electronically that are used in the research and
- 2262 development of alternative energy technology; and
- 2263 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2264 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
2265 purchases of tangible personal property or a product transferred electronically that are used in
2266 the research and development of alternative energy technology;

2267 (63) (a) purchases of tangible personal property or a product transferred electronically
2268 if:

2269 (i) the tangible personal property or product transferred electronically is:
2270 (A) purchased outside of this state;
2271 (B) brought into this state at any time after the purchase described in Subsection
2272 (63)(a)(i)(A); and
2273 (C) used in conducting business in this state; and
2274 (ii) for:
2275 (A) tangible personal property or a product transferred electronically other than the
2276 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
2277 for a purpose for which the property is designed occurs outside of this state; or
2278 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
2279 outside of this state;

2280 (b) the exemption provided for in Subsection (63)(a) does not apply to:
2281 (i) a lease or rental of tangible personal property or a product transferred electronically;
2282 or
2283 (ii) a sale of a vehicle exempt under Subsection (33); and
2284 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
2285 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
2286 following:
2287 (i) conducting business in this state if that phrase has the same meaning in this
2288 Subsection (63) as in Subsection (24);
2289 (ii) the first use of tangible personal property or a product transferred electronically if
2290 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
2291 (iii) a purpose for which tangible personal property or a product transferred
2292 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
2293 Subsection (24);
2294 (64) sales of disposable home medical equipment or supplies if:

- 2295 (a) a person presents a prescription for the disposable home medical equipment or
2296 supplies;
- 2297 (b) the disposable home medical equipment or supplies are used exclusively by the
2298 person to whom the prescription described in Subsection (64)(a) is issued; and
- 2299 (c) the disposable home medical equipment and supplies are listed as eligible for
2300 payment under:
- 2301 (i) Title XVIII, federal Social Security Act; or
- 2302 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- 2303 (65) sales:
- 2304 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
2305 District Act; or
- 2306 (b) of tangible personal property to a subcontractor of a public transit district, if the
2307 tangible personal property is:
- 2308 (i) clearly identified; and
- 2309 (ii) installed or converted to real property owned by the public transit district;
- 2310 (66) sales of construction materials:
- 2311 (a) purchased on or after July 1, 2010;
- 2312 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 2313 (i) located within a county of the first class; and
- 2314 (ii) that has a United States customs office on its premises; and
- 2315 (c) if the construction materials are:
- 2316 (i) clearly identified;
- 2317 (ii) segregated; and
- 2318 (iii) installed or converted to real property:
- 2319 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 2320 (B) located at the international airport described in Subsection (66)(b);
- 2321 (67) sales of construction materials:
- 2322 (a) purchased on or after July 1, 2008;
- 2323 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 2324 (i) located within a county of the second class; and
- 2325 (ii) that is owned or operated by a city in which an airline as defined in Section

2326 59-2-102 is headquartered; and

2327 (c) if the construction materials are:

2328 (i) clearly identified;

2329 (ii) segregated; and

2330 (iii) installed or converted to real property:

2331 (A) owned or operated by the new airport described in Subsection (67)(b);

2332 (B) located at the new airport described in Subsection (67)(b); and

2333 (C) as part of the construction of the new airport described in Subsection (67)(b);

2334 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

2335 (69) purchases and sales described in Section 63H-4-111;

2336 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and

2337 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of

2338 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration

2339 lists a state or country other than this state as the location of registry of the fixed wing turbine

2340 powered aircraft; or

2341 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul

2342 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of

2343 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration

2344 lists a state or country other than this state as the location of registry of the fixed wing turbine

2345 powered aircraft;

2346 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

2347 (a) to a person admitted to an institution of higher education; and

2348 (b) by a seller, other than a bookstore owned by an institution of higher education, if

2349 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a

2350 textbook for a higher education course;

2351 (72) a license fee or tax a municipality imposes in accordance with Subsection

2352 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced

2353 level of municipal services;

2354 (73) amounts paid or charged for construction materials used in the construction of a

2355 new or expanding life science research and development facility in the state, if the construction

2356 materials are:

- 2357 (a) clearly identified;
- 2358 (b) segregated; and
- 2359 (c) installed or converted to real property;
- 2360 (74) amounts paid or charged for:
- 2361 (a) a purchase or lease of machinery and equipment that:
- 2362 (i) are used in performing qualified research:
- 2363 (A) as defined in Section 41(d), Internal Revenue Code; and
- 2364 (B) in the state; and
- 2365 (ii) have an economic life of three or more years; and
- 2366 (b) normal operating repair or replacement parts:
- 2367 (i) for the machinery and equipment described in Subsection (74)(a); and
- 2368 (ii) that have an economic life of three or more years;
- 2369 (75) a sale or lease of tangible personal property used in the preparation of prepared
- 2370 food if:
- 2371 (a) for a sale:
- 2372 (i) the ownership of the seller and the ownership of the purchaser are identical; and
- 2373 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
- 2374 tangible personal property prior to making the sale; or
- 2375 (b) for a lease:
- 2376 (i) the ownership of the lessor and the ownership of the lessee are identical; and
- 2377 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
- 2378 personal property prior to making the lease;
- 2379 (76) (a) purchases of machinery or equipment if:
- 2380 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
- 2381 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
- 2382 System of the federal Executive Office of the President, Office of Management and Budget;
- 2383 (ii) the machinery or equipment:
- 2384 (A) has an economic life of three or more years; and
- 2385 (B) is used by one or more persons who pay admission or user fees described in
- 2386 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- 2387 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

2388 (A) amounts paid or charged as admission or user fees described in Subsection
2389 59-12-103(1)(f); and

2390 (B) subject to taxation under this chapter; and

2391 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2392 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
2393 previous calendar quarter is:

2394 (i) amounts paid or charged as admission or user fees described in Subsection
2395 59-12-103(1)(f); and

2396 (ii) subject to taxation under this chapter; [~~and~~]

2397 [~~(c) on or before the November 2018 interim meeting, and every five years after the~~
2398 ~~November 2018 interim meeting, the commission shall review the exemption provided in this~~
2399 ~~Subsection (76) and report to the Revenue and Taxation Interim Committee on:]~~

2400 [~~(f) the revenue lost to the state and local taxing jurisdictions as a result of the~~
2401 ~~exemption;]~~

2402 [~~(ii) the purpose and effectiveness of the exemption; and]~~

2403 [~~(iii) whether the exemption benefits the state;]~~

2404 (77) purchases of a short-term lodging consumable by a business that provides
2405 accommodations and services described in Subsection 59-12-103(1)(i);

2406 (78) amounts paid or charged to access a database:

2407 (a) if the primary purpose for accessing the database is to view or retrieve information
2408 from the database; and

2409 (b) not including amounts paid or charged for a:

2410 (i) digital audiowork;

2411 (ii) digital audio-visual work; or

2412 (iii) digital book;

2413 (79) amounts paid or charged for a purchase or lease made by an electronic financial
2414 payment service, of:

2415 (a) machinery and equipment that:

2416 (i) are used in the operation of the electronic financial payment service; and

2417 (ii) have an economic life of three or more years; and

2418 (b) normal operating repair or replacement parts that:

2419 (i) are used in the operation of the electronic financial payment service; and
2420 (ii) have an economic life of three or more years;
2421 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
2422 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
2423 product transferred electronically if the tangible personal property or product transferred
2424 electronically:
2425 (a) is stored, used, or consumed in the state; and
2426 (b) is temporarily brought into the state from another state:
2427 (i) during a disaster period as defined in Section 53-2a-1202;
2428 (ii) by an out-of-state business as defined in Section 53-2a-1202;
2429 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
2430 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
2431 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
2432 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
2433 Recreation Program;
2434 (83) amounts paid or charged for a purchase or lease of molten magnesium; and
2435 (84) (a) except as provided in Subsection (84)(b), amounts paid or charged for a
2436 purchase or lease made by a drilling equipment manufacturer of machinery, equipment,
2437 materials, or normal operating repair or replacement parts:
2438 (i) that are used or consumed exclusively in the drilling equipment manufacturer's
2439 manufacturing process; and
2440 (ii) except for office:
2441 (A) equipment; or
2442 (B) supplies; and
2443 (b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an
2444 exemption described in Subsection (84)(a) only by filing for a refund:
2445 (i) of 50% of the tax paid on the amounts paid or charged; and
2446 (ii) in accordance with Section 59-1-1410.
2447 Section 28. Section **59-12-104.2** is amended to read:
2448 **59-12-104.2. Exemption for accommodations and services taxed by the Navajo**
2449 **Nation.**

- 2450 (1) As used in this section "tribal taxing area" means the geographical area that:
2451 (a) is subject to the taxing authority of the Navajo Nation; and
2452 (b) consists of:
2453 (i) notwithstanding the issuance of a patent, all land:
2454 (A) within the limits of an Indian reservation under the jurisdiction of the federal
2455 government; and
2456 (B) including any rights-of-way running through the reservation; and
2457 (ii) all Indian allotments the Indian titles to which have not been extinguished,
2458 including any rights-of-way running through an Indian allotment.
- 2459 (2) (a) Beginning July 1, 2001, amounts paid by or charged to a purchaser for
2460 accommodations and services described in Subsection 59-12-103(1)(i) are exempt from the tax
2461 imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I) to the extent permitted under
2462 Subsection (2)(b) if:
2463 (i) the accommodations and services described in Subsection 59-12-103(1)(i) are
2464 provided within:
2465 (A) the state; and
2466 (B) a tribal taxing area;
2467 (ii) the Navajo Nation imposes and collects a tax on the amounts paid by or charged to
2468 the purchaser for the accommodations and services described in Subsection 59-12-103(1)(i);
2469 (iii) the Navajo Nation imposes the tax described in Subsection (2)(a)(ii) without
2470 regard to whether or not the purchaser that pays or is charged for the accommodations and
2471 services is an enrolled member of the Navajo Nation; and
2472 (iv) the requirements of Subsection (4) are met.
- 2473 (b) If but for Subsection (2)(a) the amounts paid by or charged to a purchaser for
2474 accommodations and services described in Subsection (2)(a) are subject to a tax imposed by
2475 Subsection 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I):
2476 (i) the seller shall collect and pay to the state the difference described in Subsection (3)
2477 if that difference is greater than \$0; and
2478 (ii) a person may not require the state to provide a refund, a credit, or similar tax relief
2479 if the difference described in Subsection (3) is equal to or less than \$0.
- 2480 (3) The difference described in Subsection (2)(b) is equal to the difference between:

2481 (a) the amount of tax imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I)
 2482 on the amounts paid by or charged to a purchaser for accommodations and services described
 2483 in Subsection 59-12-103(1)(i); less

2484 (b) the tax imposed and collected by the Navajo Nation on the amounts paid by or
 2485 charged to a purchaser for the accommodations and services described in Subsection
 2486 59-12-103(1)(i).

2487 (4) (a) If, on or after July 1, 2001, the Navajo Nation changes the tax rate of a tax
 2488 imposed on amounts paid by or charged to a purchaser for accommodations and services
 2489 described in Subsection 59-12-103(1)(i), any change in the amount of the exemption under
 2490 Subsection (2) as a result of the change in the tax rate is not effective until the first day of the
 2491 calendar quarter after a 90-day period beginning on the date the commission receives notice
 2492 meeting the requirements of Subsection (4)(b) from the Navajo Nation.

2493 (b) The notice described in Subsection (4)(a) shall state:

2494 (i) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
 2495 amounts paid by or charged to a purchaser for accommodations and services described in
 2496 Subsection 59-12-103(1)(i);

2497 (ii) the effective date of the rate change on the tax described in Subsection (4)(b)(i);
 2498 and

2499 (iii) the new rate of the tax described in Subsection (4)(b)(i).

2500 [~~(5) Beginning with the 2006 interim, the Revenue and Taxation Interim Committee;~~]

2501 [~~(a) shall review the exemption provided for in this section one or more times every~~
 2502 ~~five years;~~]

2503 [~~(b) shall determine on or before the November interim meeting of the year in which~~
 2504 ~~the Revenue and Taxation Interim Committee reviews the exemption provided for in this~~
 2505 ~~section whether the exemption should be;~~]

2506 [(i) continued;]

2507 [(ii) modified; or]

2508 [(iii) repealed; and]

2509 [(c) may review any other issue related to the exemption provided for in this section as
 2510 determined by the Revenue and Taxation Interim Committee.]

2511 Section 29. Section **59-12-104.5** is amended to read:

2512 **59-12-104.5. Revenue and Taxation Interim Committee review of sales and use**
2513 **taxes.**

2514 The Revenue and Taxation Interim Committee shall:

2515 (1) review Subsection 59-12-104(28) before October 1 of the year after the year in
2516 which Congress permits a state to participate in the special supplemental nutrition program
2517 under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on
2518 purchases of food under that program; and

2519 (2) review Subsection 59-12-104(21) before October 1 of the year after the year in
2520 which Congress permits a state to participate in the SNAP as defined in Section 35A-1-102,
2521 even if state or local sales taxes are collected within the state on purchases of food under that
2522 program[~~;~~and].

2523 [~~(3) review Subsection 59-12-104(62) before the October 2011 interim meeting.~~]

2524 Section 30. Section **59-23-4** is amended to read:

2525 **59-23-4. Brine shrimp royalty -- Royalty rate -- Commission to prepare billing**
2526 **statement -- Deposit of revenue.**

2527 (1) A person shall pay for each tax year a brine shrimp royalty of 3.75 cents multiplied
2528 by the total number of pounds of unprocessed brine shrimp eggs that the person harvests within
2529 the state during the tax year.

2530 (2) (a) A person that harvests unprocessed brine shrimp eggs shall report to the
2531 Department of Natural Resources the total number of pounds of unprocessed brine shrimp eggs
2532 harvested by that person for that tax year on or before the February 15 immediately following
2533 the last day of that tax year.

2534 (b) The Department of Natural Resources shall provide the following information to
2535 the commission on or before the March 1 immediately following the last day of a tax year:

2536 (i) the total number of pounds of unprocessed brine shrimp eggs harvested for that tax
2537 year; and

2538 (ii) for each person that harvested unprocessed brine shrimp eggs for that tax year:

2539 (A) the total number of pounds of unprocessed brine shrimp eggs harvested by that
2540 person for that tax year; and

2541 (B) a current billing address for that person; and

2542 (iii) any additional information required by the commission.

2543 (c) (i) The commission shall prepare and mail a billing statement to each person that
2544 harvested unprocessed brine shrimp eggs in a tax year by the March 30 immediately following
2545 the last day of a tax year.

2546 (ii) The billing statement under Subsection (2)(c)(i) shall specify:

2547 (A) the total number of pounds of unprocessed brine shrimp eggs harvested by that
2548 person for that tax year;

2549 (B) the brine shrimp royalty that the person owes; and

2550 (C) the date that the brine shrimp royalty payment is due as provided in Section
2551 59-23-5.

2552 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2553 commission may make rules prescribing the information required under Subsection (2)(b)(iii).

2554 (3) Revenue generated by the brine shrimp royalty shall be deposited in the Species
2555 Protection Account created in Section 79-2-303.

2556 [~~(4) Beginning with the 2004 interim, the Revenue and Taxation Interim Committee:]~~

2557 [~~(a) shall review the brine shrimp royalty imposed under this section at least every five~~
2558 ~~years;]~~

2559 [~~(b) shall determine on or before the November interim meeting of the year in which~~
2560 ~~the Revenue and Taxation Interim Committee reviews the brine shrimp royalty imposed under~~
2561 ~~this section whether the brine shrimp royalty should be continued, modified, or repealed; and]~~

2562 [~~(c) may review any other issue related to the brine shrimp royalty imposed under this~~
2563 ~~part.]~~

2564 Section 31. Section **63M-4-505** is amended to read:

2565 **63M-4-505. Report to the Legislature.**

2566 The office shall annually provide an electronic report [~~annually~~] to the Public Utilities
2567 and Technology Interim Committee and the Revenue and Taxation Interim Committee
2568 describing:

2569 (1) its success in attracting alternative energy projects to the state and the resulting
2570 increase in new state revenues under this part;

2571 (2) the amount of tax credits the office has granted or will grant and the time period
2572 during which the tax credits have been or will be granted; and

2573 (3) the economic impact on the state by comparing new state revenues to tax credits

2574 that have been or will be granted under this part.

2575 Section 32. Section **63N-2-810** is amended to read:

2576 **63N-2-810. Reports on tax credit certificates -- Study by legislative committees.**

2577 (1) The office shall include the following information in the annual written report
2578 described in Section 63N-1-301:

2579 (a) the total amount listed on tax credit certificates the office issues under this part;

2580 (b) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax
2581 credit applicants under this part; and

2582 (c) the economic impact on the state related to providing tax credits under this part.

2583 (2) (a) On or before November 1, 2016, and every five years after November 1, 2016,
2584 the Revenue and Taxation Interim Committee shall:

2585 (i) study the tax credits allowed under Sections 59-7-614.6, 59-10-1025, and
2586 59-10-1109; and

2587 (ii) make recommendations concerning whether the tax credits should be continued,
2588 modified, or repealed.

2589 (b) The study under Subsection (2)(a) shall include an evaluation of:

2590 (i) the cost of the tax credits under Sections 59-7-614.6, 59-10-1025, and 59-10-1109;

2591 (ii) the purposes and effectiveness of the tax credits; and

2592 (iii) the extent to which the state benefits from the tax credits.

2593 (c) For purposes of the study required by this Subsection (2), the office shall provide
2594 the following information to the Revenue and Taxation Interim Committee by electronic
2595 means:

2596 (i) the amount of tax credits that the office grants to each eligible business entity for
2597 each taxable year;

2598 (ii) the amount of eligible new state tax revenues generated by each eligible product or
2599 project;

2600 (iii) estimates for each of the next five calendar years of the following:

2601 (A) the amount of tax credits that the office will grant;

2602 (B) the amount of eligible new state tax revenues that will be generated; and

2603 (C) the number of new incremental jobs within the state that will be generated;

2604 (iv) the information contained in the office's latest report to the Legislature under

2605 Section 63N-2-705; and

2606 (v) any other information that the Revenue and Taxation Interim Committee requests.

2607 Section 33. **Repealer.**

2608 This bill repeals:

2609 Section **59-26-110, Revenue and Taxation Interim Committee study.**