

**REPORTING OF CERTAIN TRANSACTIONS
EXEMPT FROM SALES AND USE TAXES**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Julie Fisher

Senate Sponsor: Curtis S. Bramble

LONG TITLE

Committee Note:

The Revenue and Taxation Interim Committee recommended this bill.

General Description:

This bill amends the Penalties, Interest, and Confidentiality of Information part and the Sales and Use Tax Act relating to reporting requirements for certain transactions exempt from sales and use taxes.

Highlighted Provisions:

This bill:

- ▶ repeals the requirement for an owner or purchaser to report transactions exempt from state and local sales and use taxes with respect to:
 - exemptions for certain machinery, equipment, or parts; and
 - the exemption relating to semiconductors;
- ▶ repeals penalty provisions relating to the transaction reporting requirements that are repealed;
- ▶ repeals the requirement that the State Tax Commission provide to the Legislature the total amount of sales or uses:
 - exempt under the exemption relating to semiconductors; and
 - reported to the commission in accordance with the transaction reporting requirements that are repealed;



- 28 ▶ requires the State Tax Commission to estimate the cost of the exemptions for
- 29 certain machinery, equipment, or parts for purposes of reviewing the exemptions
- 30 and reporting to the Revenue and Taxation Interim Committee; and
- 31 ▶ makes technical changes.

32 **Monies Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 This bill takes effect on July 1, 2009.

36 **Utah Code Sections Affected:**

37 AMENDS:

- 38 **59-1-401**, as last amended by Laws of Utah 2008, Chapter 382
- 39 **59-1-403**, as last amended by Laws of Utah 2008, Chapters 3, 382, and 384
- 40 **59-12-104**, as last amended by Laws of Utah 2008, Second Special Session, Chapter 2
- 41 **62A-11-328**, as last amended by Laws of Utah 2007, Chapter 250

42 REPEALS:

- 43 **59-12-105**, as last amended by Laws of Utah 2008, Chapter 384



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

46 Section 1. Section **59-1-401** is amended to read:

47 **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**
48 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**
49 **interest.**

50 (1) As used in this section:

51 (a) (i) "Nonqualifying obligation" means a charge, fee, payment, or tax administered by
52 the commission.

53 (ii) "Nonqualifying obligation" does not include:

54 (A) beginning on the phase I activation date, a phase I obligation; or

55 (B) beginning on the phase II activation date, a phase II obligation.

56 (b) "Phase I activation date" means the earlier of:

57 (i) the day on which the commission's GenTax system is activated to administer all
58 phase I obligations; or

- 59 (ii) May 1, 2008.
- 60 (c) "Phase I obligation" means:
- 61 (i) a fee under Section 19-6-808;
- 62 (ii) a tax under Chapter 10, Part 1, Determination and Reporting of Tax Liability and
- 63 Information;
- 64 (iii) a tax under Chapter 10, Part 2, Trusts and Estates;
- 65 (iv) a tax under Chapter 10, Part 12, Single Rate Individual Income Tax Act; or
- 66 (v) a tax under Chapter 12, Sales and Use Tax Act.
- 67 (d) "Phase II activation date" means the earlier of:
- 68 (i) the day on which the commission's GenTax system is activated to administer all
- 69 phase II obligations; or
- 70 (ii) May 4, 2009.
- 71 (e) (i) "Phase II obligation" means:
- 72 (A) a payment under Chapter 6, Mineral Production Tax Withholding;
- 73 (B) a tax under Chapter 7, Corporate Franchise and Income Taxes;
- 74 (C) a payment under Chapter 10, Part 4, Withholding of Tax; or
- 75 (D) a tax paid on a return filed in accordance with Section 59-10-507.
- 76 (ii) "Phase II obligation" does not include a payment of estimated tax under Section
- 77 59-7-504.
- 78 (2) (a) The due date for filing a return is:
- 79 (i) if the person filing the return is not allowed by law an extension of time for filing
- 80 the return, the day on which the return is due as provided by law; or
- 81 (ii) if the person filing the return is allowed by law an extension of time for filing the
- 82 return, the last day of that extension of time.
- 83 (b) (i) A penalty in the amount described in Subsection (2)(b)(ii) is imposed if:
- 84 (A) a person is required to file a return with respect to a nonqualifying obligation; and
- 85 (B) the person described in Subsection (2)(b)(i)(A) files the return after the due date
- 86 described in Subsection (2)(a).
- 87 (ii) For purposes of Subsection (2)(b)(i), the penalty is an amount equal to the greater
- 88 of:
- 89 (A) \$20; or

90 (B) 10% of the unpaid nonqualifying obligation due on the return.
91 (c) (i) A penalty in the amount described in Subsection (2)(c)(ii) is imposed if a person:
92 (A) (I) is required to file a return:
93 (Aa) on or after the phase I activation date; and
94 (Bb) with respect to a phase I obligation; and
95 (II) files the return after the due date described in Subsection (2)(a); or
96 (B) (I) is required to file a return:
97 (Aa) on or after the phase II activation date; and
98 (Bb) with respect to a phase II obligation; and
99 (II) files the return after the due date described in Subsection (2)(a).
100 (ii) For purposes of Subsection (2)(c)(i), the penalty is an amount equal to the greater
101 of:
102 (A) \$20; or
103 (B) (I) 2% of the unpaid phase I obligation or phase II obligation due on the return if
104 the return is filed no later than five days after the due date described in Subsection (2)(a);
105 (II) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
106 return is filed more than five days after the due date but no later than 15 days after the due date
107 described in Subsection (2)(a); or
108 (III) 10% of the unpaid phase I obligation or phase II obligation due on the return if the
109 return is filed more than 15 days after the due date described in Subsection (2)(a).
110 (d) This Subsection (2) does not apply to:
111 (i) an amended return; or
112 (ii) a return with no tax due.
113 (3) (a) If a person fails to pay a tax, fee, or charge due, the person is subject to a penalty
114 as provided in this Subsection (3).
115 (b) (i) A penalty in the amount described in Subsection (3)(b)(ii) is imposed if:
116 (A) a person files a return with respect to a nonqualifying obligation on or before the
117 due date for filing a return described in Subsection (2)(a), but fails to pay the nonqualifying
118 obligation due on the return on or before that due date;
119 (B) a person:
120 (I) is subject to a penalty under Subsection (2)(b); and

121 (II) fails to pay a nonqualifying obligation due on a return within a 90-day period after
122 the due date for filing a return described in Subsection (2)(a);

123 (C) a person:

124 (I) is mailed a notice of deficiency; and

125 (II) within a 30-day period after the day on which the notice of deficiency described in
126 Subsection (3)(b)(i)(C)(I) is mailed:

127 (Aa) does not file a petition for redetermination or a request for agency action; and

128 (Bb) fails to pay a nonqualifying obligation due on a return;

129 (D) (I) the commission:

130 (Aa) issues an order constituting final agency action resulting from a timely filed
131 petition for redetermination or a timely filed request for agency action; or

132 (Bb) is considered to have denied a request for reconsideration under Subsection
133 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed
134 request for agency action; and

135 (II) a person fails to pay a nonqualifying obligation due on a return within a 30-day
136 period after the date the commission:

137 (Aa) issues the order constituting final agency action described in Subsection
138 (3)(b)(i)(D)(I)(Aa); or

139 (Bb) is considered to have denied the request for reconsideration described in
140 Subsection (3)(b)(i)(D)(I)(Bb); or

141 (E) a person fails to pay a nonqualifying obligation within a 30-day period after the
142 date of a final judicial decision resulting from a timely filed petition for judicial review.

143 (ii) For purposes of Subsection (3)(b)(i), the penalty is an amount equal to the greater
144 of:

145 (A) \$20; or

146 (B) 10% of the unpaid nonqualifying obligation due on the return.

147 (c) (i) This Subsection (3)(c) applies to a penalty:

148 (A) imposed on or after the phase I activation date with respect to a phase I obligation;

149 or

150 (B) imposed on or after the phase II activation date with respect to a phase II

151 obligation.

152 (ii) (A) The penalty described in Subsection (3)(c)(ii)(B) applies if a person:
153 (I) with respect to a phase I obligation:
154 (Aa) files a return on or before the due date for filing a return described in Subsection
155 (2)(a); and
156 (Bb) fails to pay the phase I obligation due on the return on or before the due date
157 described in Subsection (2)(a); or
158 (II) with respect to a phase II obligation:
159 (Aa) files a return on or before the due date for filing a return described in Subsection
160 (2)(a); and
161 (Bb) fails to pay the phase II obligation due on the return on or before the due date
162 described in Subsection (2)(a).
163 (B) For purposes of Subsection (3)(c)(ii)(A), the penalty is an amount equal to the
164 greater of:
165 (I) \$20; or
166 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
167 the phase I obligation or phase II obligation due on the return is paid no later than five days
168 after the due date for filing a return described in Subsection (2)(a);
169 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
170 phase I obligation or phase II obligation due on the return is paid more than five days after the
171 due date for filing a return described in Subsection (2)(a) but no later than 15 days after that
172 due date; or
173 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if the
174 phase I obligation or phase II obligation due on the return is paid more than 15 days after the
175 due date for filing a return described in Subsection (2)(a).
176 (iii) (A) A person is subject to a penalty as provided in Subsection (3)(c)(iii)(B) if the
177 person:
178 (I) is subject to a penalty under Subsection (2)(c); and
179 (II) fails to pay a phase I obligation or phase II obligation due on a return within a
180 90-day period after the due date for filing a return described in Subsection (2)(a).
181 (B) For purposes of Subsection (3)(c)(iii)(A), the penalty is an amount equal to the
182 greater of:

183 (I) \$20; or
184 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
185 the phase I obligation or phase II obligation due on the return is paid no later than five days
186 after the last day of the 90-day period described in Subsection (3)(c)(iii)(A)(II);
187 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
188 phase I obligation or phase II obligation due on the return is paid more than five days after the
189 last day of the 90-day period described in Subsection (3)(c)(iii)(A)(II) but no later than 15 days
190 after the last day of the 90-day period described in Subsection (3)(c)(iii)(A)(II); or
191 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if the
192 phase I obligation or phase II obligation due on the return is paid more than 15 days after the
193 last day of the 90-day period described in Subsection (3)(c)(iii)(A)(II).
194 (iv) (A) A person is subject to a penalty as provided in Subsection (3)(c)(iv)(B) if the
195 person:
196 (I) is mailed a notice of deficiency; and
197 (II) within a 30-day period after the day on which the notice of deficiency described in
198 Subsection (3)(c)(iv)(A)(I) is mailed:
199 (Aa) does not file a petition for redetermination or a request for agency action; and
200 (Bb) fails to pay a phase I obligation or phase II obligation due on a return.
201 (B) For purposes of Subsection (3)(c)(iv)(A), the penalty is an amount equal to the
202 greater of:
203 (I) \$20; or
204 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
205 the phase I obligation or phase II obligation due on the return is paid no later than five days
206 after the last day of the 30-day period described in Subsection (3)(c)(iv)(A)(II);
207 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
208 phase I obligation or phase II obligation due on the return is paid more than five days after the
209 last day of the 30-day period described in Subsection (3)(c)(iv)(A)(II) but no later than 15 days
210 after the last day of the 30-day period described in Subsection (3)(c)(iv)(A)(II); or
211 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if the
212 phase I obligation or phase II obligation due on the return is paid more than 15 days after the
213 last day of the 30-day period described in Subsection (3)(c)(iv)(A)(II).

214 (v) (A) A person is subject to a penalty as provided in Subsection (3)(c)(v)(B) if:

215 (I) the commission:

216 (Aa) issues an order constituting final agency action resulting from a timely filed
217 petition for redetermination or a timely filed request for agency action; or

218 (Bb) is considered to have denied a request for reconsideration under Subsection
219 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed
220 request for agency action; and

221 (II) the person fails to pay a phase I obligation or phase II obligation due on a return
222 within a 30-day period after the date the commission:

223 (Aa) issues the order constituting final agency action described in Subsection
224 (3)(c)(v)(A)(I)(Aa); or

225 (Bb) is considered to have denied the request for reconsideration described in
226 Subsection (3)(c)(v)(A)(I)(Bb).

227 (B) For purposes of Subsection (3)(c)(v)(A), the penalty is an amount equal to the
228 greater of:

229 (I) \$20; or

230 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
231 the phase I obligation or phase II obligation due on the return is paid no later than five days
232 after the last day of the 30-day period described in Subsection (3)(c)(v)(A)(II);

233 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
234 phase I obligation or phase II obligation due on the return is paid more than five days after the
235 last day of the 30-day period described in Subsection (3)(c)(v)(A)(II) but no later than 15 days
236 after the last day of the 30-day period described in Subsection (3)(c)(v)(A)(II); or

237 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if the
238 phase I obligation or phase II obligation due on the return is paid more than 15 days after the
239 last day of the 30-day period described in Subsection (3)(c)(v)(A)(II).

240 (vi) (A) A person is subject to a penalty as provided in Subsection (3)(c)(vi)(B) if
241 within a 30-day period after the date of a final judicial decision resulting from a timely filed
242 petition for judicial review, the person fails to pay a phase I obligation or phase II obligation.

243 (B) For purposes of Subsection (3)(c)(vi)(A), the penalty is an amount equal to the
244 greater of:

245 (I) \$20; or

246 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
247 the phase I obligation or phase II obligation due on the return is paid no later than five days
248 after the last day of the 30-day period described in Subsection (3)(c)(vi)(A);

249 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
250 phase I obligation or phase II obligation due on the return is paid more than five days after the
251 last day of the 30-day period described in Subsection (3)(c)(vi)(A) but no later than 15 days
252 after the last day of the 30-day period described in Subsection (3)(c)(vi)(A); or

253 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if the
254 phase I obligation or phase II obligation due on the return is paid more than 15 days after the
255 last day of the 30-day period described in Subsection (3)(c)(vi)(A).

256 (4) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or
257 quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there
258 shall be added a penalty in an amount determined by applying the interest rate provided under
259 Section 59-1-402 plus four percentage points to the amount of the underpayment for the period
260 of the underpayment.

261 (b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the
262 excess of the required installment over the amount, if any, of the installment paid on or before
263 the due date for the installment.

264 (ii) The period of the underpayment shall run from the due date for the installment to
265 whichever of the following dates is the earlier:

266 (A) the original due date of the tax return, without extensions, for the taxable year; or

267 (B) with respect to any portion of the underpayment, the date on which that portion is
268 paid.

269 (iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited
270 against unpaid required installments in the order in which the installments are required to be
271 paid.

272 (5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a
273 person allowed by law an extension of time for filing a corporate franchise or income tax return
274 under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return
275 under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in

276 Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not
277 including the extension of time, the person fails to pay:

278 (i) for a person filing a corporate franchise or income tax return under Chapter 7,
279 Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b); or

280 (ii) for a person filing an individual income tax return under Chapter 10, Individual
281 Income Tax Act, the payment required by Subsection 59-10-516(2).

282 (b) For purposes of Subsection (5)(a), the penalty per month during the period of the
283 extension of time for filing the return is an amount equal to 2% of the unpaid tax due on the
284 return.

285 (6) If a person does not file a return within an extension of time allowed by Section
286 59-7-505 or 59-10-516, the person:

287 (a) is not subject to a penalty in the amount described in Subsection (5)(b); and

288 (b) is subject to a penalty in an amount equal to the sum of:

289 (i) a late file penalty in an amount equal to the greater of:

290 (A) \$20; or

291 (B) 10% of the unpaid tax due on the return; and

292 (ii) a late pay penalty in an amount equal to the greater of:

293 (A) \$20; or

294 (B) 10% of the unpaid tax due on the return.

295 (7) (a) Additional penalties for underpayments of tax are as provided in this Subsection
296 (7)(a).

297 (i) Except as provided in Subsection (7)(c), if any underpayment of tax is due to
298 negligence, the penalty is 10% of the underpayment.

299 (ii) Except as provided in Subsection (7)(d), if any underpayment of tax is due to
300 intentional disregard of law or rule, the penalty is 15% of the underpayment.

301 (iii) For intent to evade the tax, the penalty is the greater of \$500 per period or 50% of
302 the tax due.

303 (iv) If the underpayment is due to fraud with intent to evade the tax, the penalty is the
304 greater of \$500 per period or 100% of the underpayment.

305 (b) If the commission determines that a person is liable for a penalty imposed under
306 Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the taxpayer of the proposed

307 penalty.

308 (i) The notice of proposed penalty shall:

309 (A) set forth the basis of the assessment; and

310 (B) be mailed by certified mail, postage prepaid, to the person's last-known address.

311 (ii) Upon receipt of the notice of proposed penalty, the person against whom the
312 penalty is proposed may:

313 (A) pay the amount of the proposed penalty at the place and time stated in the notice;

314 or

315 (B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).

316 (iii) Any person against whom a penalty has been proposed in accordance with this
317 Subsection (7) may contest the proposed penalty by filing a petition for an adjudicative
318 proceeding with the commission.

319 (iv) (A) If the commission determines that a person is liable for a penalty under this
320 Subsection (7), the commission shall assess the penalty and give notice and demand for
321 payment.

322 (B) The notice and demand for payment described in Subsection (7)(b)(iv)(A) shall be
323 mailed by certified mail, postage prepaid, to the person's last-known address.

324 (c) A seller that voluntarily collects a tax under Subsection 59-12-107(1)(b) is not
325 subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

326 (i) a court of competent jurisdiction issues a final unappealable judgment or order
327 determining that:

328 (A) the seller meets one or more of the criteria described in Subsection
329 59-12-107(1)(a); and

330 (B) the commission or a county, city, or town may require the seller to collect a tax
331 under Subsection 59-12-103(2)(a) or (b); or

332 (ii) the commission issues a final unappealable administrative order determining that:

333 (A) the seller meets one or more of the criteria described in Subsection
334 59-12-107(1)(a); and

335 (B) the commission or a county, city, or town may require the seller to collect a tax
336 under Subsection 59-12-103(2)(a) or (b).

337 (d) A seller that voluntarily collects a tax under Subsection 59-12-107(1)(b) is not

338 subject to the penalty under Subsection (7)(a)(ii) if:

339 (i) (A) a court of competent jurisdiction issues a final unappealable judgment or order
340 determining that:

341 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(1)(a);
342 and

343 (II) the commission or a county, city, or town may require the seller to collect a tax
344 under Subsection 59-12-103(2)(a) or (b); or

345 (B) the commission issues a final unappealable administrative order determining that:

346 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(1)(a);
347 and

348 (II) the commission or a county, city, or town may require the seller to collect a tax
349 under Subsection 59-12-103(2)(a) or (b); and

350 (ii) the seller's intentional disregard of law or rule is warranted by existing law or by a
351 nonfrivolous argument for the extension, modification, or reversal of existing law or the
352 establishment of new law.

353 (8) [~~Except as provided in Section 59-12-105, the~~] The penalty for failure to file an
354 information return, information report, or a complete supporting schedule is \$50 for each
355 information return, information report, or supporting schedule up to a maximum of \$1,000.

356 (9) If any taxpayer, in furtherance of a frivolous position, has a prima facie intent to
357 delay or impede administration of the tax law and files a purported return that fails to contain
358 information from which the correctness of reported tax liability can be determined or that
359 clearly indicates that the tax liability shown must be substantially incorrect, the penalty is \$500.

360 (10) (a) A seller that fails to remit a tax, fee, or charge monthly as required by
361 Subsection 59-12-108(1)(a)(ii):

362 (i) is subject to a penalty described in Subsection (2); and

363 (ii) may not retain the percentage of sales and use taxes that would otherwise be
364 allowable under Subsection 59-12-108(2).

365 (b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as
366 required by Subsection 59-12-108(1)(a)(ii)(B):

367 (i) is subject to a penalty described in Subsection (2); and

368 (ii) may not retain the percentage of sales and use taxes that would otherwise be

369 allowable under Subsection 59-12-108(2).

370 (11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:

371 (i) commits an act described in Subsection (11)(b) with respect to one or more of the
372 following documents:

373 (A) a return;

374 (B) an affidavit;

375 (C) a claim; or

376 (D) a document similar to Subsections (11)(a)(i)(A) through (C);

377 (ii) knows or has reason to believe that the document described in Subsection (11)(a)(i)
378 will be used in connection with any material matter administered by the commission; and

379 (iii) knows that the document described in Subsection (11)(a)(i), if used in connection
380 with any material matter administered by the commission, would result in an understatement of
381 another person's liability for a tax, fee, or charge administered by the commission.

382 (b) The following acts apply to Subsection (11)(a)(i):

383 (i) preparing any portion of a document described in Subsection (11)(a)(i);

384 (ii) presenting any portion of a document described in Subsection (11)(a)(i);

385 (iii) procuring any portion of a document described in Subsection (11)(a)(i);

386 (iv) advising in the preparation or presentation of any portion of a document described
387 in Subsection (11)(a)(i);

388 (v) aiding in the preparation or presentation of any portion of a document described in
389 Subsection (11)(a)(i);

390 (vi) assisting in the preparation or presentation of any portion of a document described
391 in Subsection (11)(a)(i); or

392 (vii) counseling in the preparation or presentation of any portion of a document
393 described in Subsection (11)(a)(i).

394 (c) For purposes of Subsection (11)(a), the penalty:

395 (i) shall be imposed by the commission;

396 (ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which
397 the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and

398 (iii) is in addition to any other penalty provided by law.

399 (d) The commission may seek a court order to enjoin a person from engaging in

400 conduct that is subject to a penalty under this Subsection (11).

401 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
402 commission may make rules prescribing the documents that are similar to Subsections
403 (11)(a)(i)(A) through (C).

404 (12) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as
405 provided in Subsections (12)(b) through (e).

406 (b) (i) Any person who is required by this title or any laws the commission administers
407 or regulates to register with or obtain a license or permit from the commission, who operates
408 without having registered or secured a license or permit, or who operates when the registration,
409 license, or permit is expired or not current, is guilty of a class B misdemeanor.

410 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the
411 penalty may not:

412 (A) be less than \$500; or

413 (B) exceed \$1,000.

414 (c) (i) Any person who, with intent to evade any tax or requirement of this title or any
415 lawful requirement of the commission, fails to make, render, sign, or verify any return or to
416 supply any information within the time required by law, or who makes, renders, signs, or
417 verifies any false or fraudulent return or statement, or who supplies any false or fraudulent
418 information, is guilty of a third degree felony.

419 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(c)(i), the
420 penalty may not:

421 (A) be less than \$1,000; or

422 (B) exceed \$5,000.

423 (d) (i) Any person who intentionally or willfully attempts to evade or defeat any tax or
424 the payment of a tax is, in addition to other penalties provided by law, guilty of a second degree
425 felony.

426 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the
427 penalty may not:

428 (A) be less than \$1,500; or

429 (B) exceed \$25,000.

430 (e) (i) A person is guilty of a second degree felony if that person commits an act:

431 (A) described in Subsection (12)(e)(ii) with respect to one or more of the following
432 documents:

- 433 (I) a return;
- 434 (II) an affidavit;
- 435 (III) a claim; or
- 436 (IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and

437 (B) subject to Subsection (12)(e)(iii), with knowledge that the document described in
438 Subsection (12)(e)(i)(A):

- 439 (I) is false or fraudulent as to any material matter; and
- 440 (II) could be used in connection with any material matter administered by the
441 commission.

442 (ii) The following acts apply to Subsection (12)(e)(i):

- 443 (A) preparing any portion of a document described in Subsection (12)(e)(i)(A);
- 444 (B) presenting any portion of a document described in Subsection (12)(e)(i)(A);
- 445 (C) procuring any portion of a document described in Subsection (12)(e)(i)(A);
- 446 (D) advising in the preparation or presentation of any portion of a document described
447 in Subsection (12)(e)(i)(A);
- 448 (E) aiding in the preparation or presentation of any portion of a document described in
449 Subsection (12)(e)(i)(A);
- 450 (F) assisting in the preparation or presentation of any portion of a document described
451 in Subsection (12)(e)(i)(A); or
- 452 (G) counseling in the preparation or presentation of any portion of a document
453 described in Subsection (12)(e)(i)(A).

454 (iii) This Subsection (12)(e) applies:

- 455 (A) regardless of whether the person for which the document described in Subsection
456 (12)(e)(i)(A) is prepared or presented:
 - 457 (I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or
 - 458 (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and
 - 459 (B) in addition to any other penalty provided by law.
- 460 (iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the
461 penalty may not:

462 (A) be less than \$1,500; or

463 (B) exceed \$25,000.

464 (v) The commission may seek a court order to enjoin a person from engaging in
465 conduct that is subject to a penalty under this Subsection (12)(e).

466 (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
467 the commission may make rules prescribing the documents that are similar to Subsections
468 (12)(e)(i)(A)(I) through (III).

469 (f) The statute of limitations for prosecution for a violation of this Subsection (12) is
470 the later of six years:

471 (i) from the date the tax should have been remitted; or

472 (ii) after the day on which the person commits the criminal offense.

473 (13) Upon making a record of its actions, and upon reasonable cause shown, the
474 commission may waive, reduce, or compromise any of the penalties or interest imposed under
475 this part.

476 Section 2. Section **59-1-403** is amended to read:

477 **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

478 (1) (a) Any of the following may not divulge or make known in any manner any
479 information gained by that person from any return filed with the commission:

480 (i) a tax commissioner;

481 (ii) an agent, clerk, or other officer or employee of the commission; or

482 (iii) a representative, agent, clerk, or other officer or employee of any county, city, or
483 town.

484 (b) An official charged with the custody of a return filed with the commission is not
485 required to produce the return or evidence of anything contained in the return in any action or
486 proceeding in any court, except:

487 (i) in accordance with judicial order;

488 (ii) on behalf of the commission in any action or proceeding under:

489 (A) this title; or

490 (B) other law under which persons are required to file returns with the commission;

491 (iii) on behalf of the commission in any action or proceeding to which the commission
492 is a party; or

493 (iv) on behalf of any party to any action or proceeding under this title if the report or
494 facts shown by the return are directly involved in the action or proceeding.

495 (c) Notwithstanding Subsection (1)(b), a court may require the production of, and may
496 admit in evidence, any portion of a return or of the facts shown by the return, as are specifically
497 pertinent to the action or proceeding.

498 (2) This section does not prohibit:

499 (a) a person or that person's duly authorized representative from receiving a copy of
500 any return or report filed in connection with that person's own tax;

501 (b) the publication of statistics as long as the statistics are classified to prevent the
502 identification of particular reports or returns; and

503 (c) the inspection by the attorney general or other legal representative of the state of the
504 report or return of any taxpayer:

505 (i) who brings action to set aside or review a tax based on the report or return;

506 (ii) against whom an action or proceeding is contemplated or has been instituted under
507 this title; or

508 (iii) against whom the state has an unsatisfied money judgment.

509 (3) (a) Notwithstanding Subsection (1) and for purposes of administration, the
510 commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative
511 Rulemaking Act, provide for a reciprocal exchange of information with:

512 (i) the United States Internal Revenue Service; or

513 (ii) the revenue service of any other state.

514 (b) Notwithstanding Subsection (1) and for all taxes except individual income tax and
515 corporate franchise tax, the commission may by rule, made in accordance with Title 63G,
516 Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and
517 other written statements with the federal government, any other state, any of the political
518 subdivisions of another state, or any political subdivision of this state, except as limited by
519 Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal
520 government grant substantially similar privileges to this state.

521 (c) Notwithstanding Subsection (1) and for all taxes except individual income tax and
522 corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3,
523 Utah Administrative Rulemaking Act, provide for the issuance of information concerning the

524 identity and other information of taxpayers who have failed to file tax returns or to pay any tax
525 due.

526 (d) Notwithstanding Subsection (1), the commission shall provide to the Solid and
527 Hazardous Waste Control Board executive secretary, as defined in Section 19-6-102, as
528 requested by the executive secretary, any records, returns, or other information filed with the
529 commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5
530 regarding the environmental assurance program participation fee.

531 (e) Notwithstanding Subsection (1), at the request of any person the commission shall
532 provide that person sales and purchase volume data reported to the commission on a report,
533 return, or other information filed with the commission under:

- 534 (i) Chapter 13, Part 2, Motor Fuel; or
- 535 (ii) Chapter 13, Part 4, Aviation Fuel.

536 (f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer,
537 as defined in Section 59-22-202, the commission shall report to the manufacturer:

538 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
539 manufacturer and reported to the commission for the previous calendar year under Section
540 59-14-407; and

541 (ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
542 manufacturer for which a tax refund was granted during the previous calendar year under
543 Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

544 (g) Notwithstanding Subsection (1), the commission shall notify manufacturers,
545 distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited
546 from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

547 (h) Notwithstanding Subsection (1), the commission may:

548 (i) provide to the Division of Consumer Protection within the Department of
549 Commerce and the attorney general data:

- 550 (A) reported to the commission under Section 59-14-212; or
- 551 (B) related to a violation under Section 59-14-211; and

552 (ii) upon request provide to any person data reported to the commission under
553 Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

554 (i) Notwithstanding Subsection (1), the commission shall, at the request of a committee

555 of the Legislature, Office of the Legislative Fiscal Analyst, or Governor's Office of Planning
 556 and Budget, provide to the committee or office the total amount of revenues collected by the
 557 commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period
 558 specified by the committee or office.

559 ~~[(j)]~~ Notwithstanding Subsection (1), the commission shall at the request of the
 560 Legislature provide to the Legislature the total amount of sales or uses exempt under
 561 Subsection 59-12-104(46) reported to the commission in accordance with Section 59-12-105.]

562 ~~[(k)]~~ (j) Notwithstanding Subsection (1), the commission shall make the directory
 563 required by Section 59-14-603 available for public inspection.

564 ~~[(h)]~~ (k) Notwithstanding Subsection (1), the commission may share information with
 565 federal, state, or local agencies as provided in Subsection 59-14-606(3).

566 ~~[(m)]~~ (l) (i) Notwithstanding Subsection (1), the commission shall provide the Office
 567 of Recovery Services within the Department of Human Services any relevant information
 568 obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer
 569 who has become obligated to the Office of Recovery Services.

570 (ii) The information described in Subsection (3)~~[(m)]~~(l)(i) may be provided by the
 571 Office of Recovery Services to any other state's child support collection agency involved in
 572 enforcing that support obligation.

573 ~~[(n)]~~ (m) (i) Notwithstanding Subsection (1), upon request from the state court
 574 administrator, the commission shall provide to the state court administrator, the name, address,
 575 telephone number, county of residence, and Social Security number on resident returns filed
 576 under Chapter 10, Individual Income Tax Act.

577 (ii) The state court administrator may use the information described in Subsection
 578 (3)~~[(n)]~~(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

579 ~~[(o)]~~ (n) Notwithstanding Subsection (1), the commission shall at the request of a
 580 committee, commission, or task force of the Legislature provide to the committee, commission,
 581 or task force of the Legislature any information relating to a tax imposed under Chapter 9,
 582 Taxation of Admitted Insurers, relating to the study required by Section 59-9-101.

583 ~~[(p)]~~ (o) (i) As used in this Subsection (3)~~[(p)]~~(o), "office" means the:

584 (A) Office of the Legislative Fiscal Analyst; or

585 (B) Office of Legislative Research and General Counsel.

586 (ii) Notwithstanding Subsection (1) and except as provided in Subsection
587 (3)~~(p)~~(o)(iii), the commission shall at the request of an office provide to the office all
588 information:

- 589 (A) gained by the commission; and
- 590 (B) required to be attached to or included in returns filed with the commission.

591 (iii) (A) An office may not request and the commission may not provide to an office a
592 person's:

- 593 (I) address;
- 594 (II) name;
- 595 (III) Social Security number; or
- 596 (IV) taxpayer identification number.

597 (B) The commission shall in all instances protect the privacy of a person as required by
598 Subsection (3)~~(p)~~(o)(iii)(A).

599 (iv) An office may provide information received from the commission in accordance
600 with this Subsection (3)~~(p)~~(o) only:

- 601 (A) as:
 - 602 (I) a fiscal estimate;
 - 603 (II) fiscal note information; or
 - 604 (III) statistical information; and
- 605 (B) if the information is classified to prevent the identification of a particular return.

606 (v) (A) A person may not request information from an office under Title 63G, Chapter
607 2, Government Records Access and Management Act, or this section, if that office received the
608 information from the commission in accordance with this Subsection (3)~~(p)~~(o).

609 (B) An office may not provide to a person that requests information in accordance with
610 Subsection (3)~~(p)~~(o)(v)(A) any information other than the information the office provides in
611 accordance with Subsection (3)~~(p)~~(o)(iv).

612 ~~(q)~~ (p) Notwithstanding Subsection (1), the commission may provide to the
613 governing board of the agreement or a taxing official of another state, the District of Columbia,
614 the United States, or a territory of the United States:

615 (i) the following relating to an agreement sales and use tax:

- 616 (A) information contained in a return filed with the commission;

- 617 (B) information contained in a report filed with the commission;
- 618 (C) a schedule related to Subsection (3)~~(p)~~(p)(i)(A) or (B); or
- 619 (D) a document filed with the commission; or
- 620 (ii) a report of an audit or investigation made with respect to an agreement sales and
- 621 use tax.

622 (4) (a) Reports and returns shall be preserved for at least three years.

623 (b) After the three-year period provided in Subsection (4)(a) the commission may
624 destroy a report or return.

625 (5) (a) Any person who violates this section is guilty of a class A misdemeanor.

626 (b) If the person described in Subsection (5)(a) is an officer or employee of the state,
627 the person shall be dismissed from office and be disqualified from holding public office in this
628 state for a period of five years thereafter.

629 (c) Notwithstanding Subsection (5)(a) or (b), an office that requests information in
630 accordance with Subsection (3)~~(p)~~(o)(iii) or a person that requests information in accordance
631 with Subsection (3)~~(p)~~(o)(v):

632 (i) is not guilty of a class A misdemeanor; and

633 (ii) is not subject to:

634 (A) dismissal from office in accordance with Subsection (5)(b); or

635 (B) disqualification from holding public office in accordance with Subsection (5)(b).

636 (6) Except as provided in Section 59-1-404, this part does not apply to the property tax.

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

638 **59-12-104. Exemptions.**

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

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

642 (2) sales to the state, its institutions, and its political subdivisions; however, this
643 exemption does not apply to sales of:

644 (a) construction materials except:

645 (i) construction materials purchased by or on behalf of institutions of the public
646 education system as defined in Utah Constitution Article X, Section 2, provided the
647 construction materials are clearly identified and segregated and installed or converted to real

648 property which is owned by institutions of the public education system; and
649 (ii) construction materials purchased by the state, its institutions, or its political
650 subdivisions which are installed or converted to real property by employees of the state, its
651 institutions, or its political subdivisions; or
652 (b) tangible personal property in connection with the construction, operation,
653 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
654 providing additional project capacity, as defined in Section 11-13-103;
655 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
656 (i) the proceeds of each sale do not exceed \$1; and
657 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
658 the cost of the item described in Subsection (3)(b) as goods consumed; and
659 (b) Subsection (3)(a) applies to:
660 (i) food and food ingredients; or
661 (ii) prepared food;
662 (4) sales of the following to a commercial airline carrier for in-flight consumption:
663 (a) food and food ingredients;
664 (b) prepared food; or
665 (c) services related to Subsection (4)(a) or (b);
666 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
667 and equipment:
668 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
669 North American Industry Classification System of the federal Executive Office of the
670 President, Office of Management and Budget; and
671 (II) for:
672 (Aa) installation in an aircraft, including services relating to the installation of parts or
673 equipment in the aircraft;
674 (Bb) renovation of an aircraft; or
675 (Cc) repair of an aircraft; or
676 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
677 commerce; or
678 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an

679 aircraft operated by a common carrier in interstate or foreign commerce; and

680 (b) notwithstanding the time period of Subsection 59-12-110(2) for filing for a refund,
681 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
682 refund:

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

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

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

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

688 (v) in accordance with Section 59-12-110; and

689 (vi) subject to any extension allowed for filing for a refund under Section 59-12-110, if
690 the person files for the refund on or before September 30, 2011;

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

694 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
695 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
696 washing of tangible personal property;

697 (b) if a seller that sells at the same business location assisted cleaning or washing of
698 tangible personal property and cleaning or washing of tangible personal property that is not
699 assisted cleaning or washing of tangible personal property, the exemption described in
700 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
701 or washing of the tangible personal property; and

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

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

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

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

710 fulfilled;

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

713 (a) not registered in this state; and

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

715 (ii) used in this state:

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

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

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

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

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

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

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

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

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

727 (A) a drug;

728 (B) a syringe; or

729 (C) a stoma supply; and

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

732 (A) "syringe"; or

733 (B) "stoma supply";

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

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

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

739 (A) a church; or

740 (B) a charitable institution;

741 (ii) an institution of higher education if:
742 (A) the item described in Subsection (12)(c) is not available to the general public; or
743 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
744 offered by the institution of higher education; or
745 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
746 (i) a medical facility; or
747 (ii) a nursing facility; and
748 (c) Subsections (12)(a) and (b) apply to:
749 (i) food and food ingredients;
750 (ii) prepared food; or
751 (iii) alcoholic beverages;
752 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
753 or a product transferred electronically by a person:
754 (i) regardless of the number of transactions involving the sale of that tangible personal
755 property or product transferred electronically by that person; and
756 (ii) not regularly engaged in the business of selling that type of tangible personal
757 property or product transferred electronically;
758 (b) this Subsection (13) does not apply if:
759 (i) the sale is one of a series of sales of a character to indicate that the person is
760 regularly engaged in the business of selling that type of tangible personal property or product
761 transferred electronically;
762 (ii) the person holds that person out as regularly engaged in the business of selling that
763 type of tangible personal property or product transferred electronically;
764 (iii) the person sells an item of tangible personal property or product transferred
765 electronically that the person purchased as a sale that is exempt under Subsection (25); or
766 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
767 this state in which case the tax is based upon:
768 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
769 sold; or
770 (B) in the absence of a bill of sale or other written evidence of value, the fair market
771 value of the vehicle or vessel being sold at the time of the sale as determined by the

772 commission; and

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

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

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

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

782 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
783 July 1, 2006, for a purchase or lease by a manufacturing facility other than a cogeneration
784 facility, for the following:

785 (i) machinery and equipment that:

786 (A) is used:

787 (I) for a manufacturing facility other than a manufacturing facility that is a scrap
788 recycler described in Subsection 59-12-102(52)(b):

789 (Aa) in the manufacturing process; and

790 (Bb) to manufacture an item sold as tangible personal property; or

791 (II) for a manufacturing facility that is a scrap recycler described in Subsection
792 59-12-102(52)(b), to process an item sold as tangible personal property; and

793 (B) has an economic life of three or more years; and

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

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

796 (B) are used:

797 (I) for a manufacturing facility in the state other than a manufacturing facility that is a
798 scrap recycler described in Subsection 59-12-102 (52)(b), in the manufacturing process; or

799 (II) for a manufacturing facility in the state that is a scrap recycler described in
800 Subsection 59-12-102 (52)(b), to process an item sold as tangible personal property;

801 (b) (i) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
802 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,

803 for the following:

804 (A) machinery and equipment that:

805 (I) is used:

806 (Aa) in the manufacturing process; and

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

808 (II) has an economic life of three or more years; and

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

810 (I) are used in the manufacturing process in a manufacturing facility in the state; and

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

812 (ii) for amounts paid or charged on or after July 1, 2005, but on or before June 30,

813 2006, for a purchase or lease described in Subsection (14)(b)(i), a cogeneration facility may

814 claim the exemption allowed by Subsection (14)(b)(i) by filing for a refund:

815 (A) for sales and use taxes paid under this chapter on the purchase or lease payment;

816 and

817 (B) in accordance with Section 59-12-110;

818 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,

819 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or

820 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for

821 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,

822 of the 2002 North American Industry Classification System of the federal Executive Office of

823 the President, Office of Management and Budget:

824 (i) machinery and equipment that:

825 (A) are used in:

826 (I) the production process, other than the production of real property; or

827 (II) research and development; and

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

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

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

831 (B) are used in:

832 (I) the production process, other than the production of real property, in an

833 establishment described in this Subsection (14)(c) in the state; or

834 (II) research and development in an establishment described in this Subsection (14)(c)
835 in the state;

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

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

839 (ii) may by rule define what constitutes:

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

841 (B) the production process, other than the production of real property; or

842 (C) research and development; and

843 (e) on or before October 1, 2011, and every five years after October 1, 2011, the
844 commission shall:

845 (i) review the exemptions described in this Subsection (14) and make
846 recommendations to the Revenue and Taxation Interim Committee concerning whether the
847 exemptions should be continued, modified, or repealed; and

848 (ii) include in its report:

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

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

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

852 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

853 (i) tooling;

854 (ii) special tooling;

855 (iii) support equipment;

856 (iv) special test equipment; or

857 (v) parts used in the repairs or renovations of tooling or equipment described in

858 Subsections (15)(a)(i) through (iv); and

859 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

860 (i) the tooling, equipment, or parts are used or consumed exclusively in the
861 performance of any aerospace or electronics industry contract with the United States

862 government or any subcontract under that contract; and

863 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),

864 title to the tooling, equipment, or parts is vested in the United States government as evidenced

865 by:

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

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

869 (16) sales of newspapers or newspaper subscriptions;

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

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

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

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

882 (i) money;

883 (ii) electricity;

884 (iii) water;

885 (iv) gas; or

886 (v) steam;

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

891 (A) becomes part of real estate; or

892 (B) is installed by a:

893 (I) farmer;

894 (II) contractor; or

895 (III) subcontractor; or

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

899 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following are
900 subject to the taxes imposed by this chapter:

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

- 903 (I) machinery;
- 904 (II) equipment;
- 905 (III) materials; or
- 906 (IV) supplies; and

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

- 909 (I) hand tools; or
- 910 (II) maintenance and janitorial equipment and supplies;

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

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

- 916 (I) office equipment and supplies; or
- 917 (II) equipment and supplies used in:
 - 918 (Aa) the sale or distribution of farm products;
 - 919 (Bb) research; or
 - 920 (Cc) transportation; or

921 (iii) a vehicle required to be registered by the laws of this state during the period
922 ending two years after the date of the vehicle's purchase;

923 (19) sales of hay;

924 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
925 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
926 garden, farm, or other agricultural produce is sold by:

- 927 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
928 agricultural produce;
- 929 (b) an employee of the producer described in Subsection (20)(a); or
- 930 (c) a member of the immediate family of the producer described in Subsection (20)(a);
- 931 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
932 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 933 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
934 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
935 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
936 manufacturer, processor, wholesaler, or retailer;
- 937 (23) a product stored in the state for resale;
- 938 (24) (a) purchases of a product if:
- 939 (i) the product is:
- 940 (A) purchased outside of this state;
- 941 (B) brought into this state:
- 942 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
- 943 (II) by a nonresident person who is not living or working in this state at the time of the
944 purchase;
- 945 (C) used for the personal use or enjoyment of the nonresident person described in
946 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
- 947 (D) not used in conducting business in this state; and
- 948 (ii) for:
- 949 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
950 the product for a purpose for which the product is designed occurs outside of this state;
- 951 (B) a boat, the boat is registered outside of this state; or
- 952 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
953 outside of this state;
- 954 (b) the exemption provided for in Subsection (24)(a) does not apply to:
- 955 (i) a lease or rental of a product; or
- 956 (ii) a sale of a vehicle exempt under Subsection (33); and
- 957 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

958 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
959 following:

960 (i) conducting business in this state if that phrase has the same meaning in this
961 Subsection (24) as in Subsection (64);

962 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
963 as in Subsection (64); or

964 (iii) a purpose for which a product is designed if that phrase has the same meaning in
965 this Subsection (24) as in Subsection (64);

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

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

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

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

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

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

984 (a) not registered in this state; and

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

986 (ii) used in this state:

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

- 989 (I) 30 days in any calendar year; or
- 990 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
- 991 the borders of this state; or
- 992 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
- 993 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
- 994 state;
- 995 (31) sales of aircraft manufactured in Utah;
- 996 (32) amounts paid for the purchase of telecommunications service for purposes of
- 997 providing telecommunications service;
- 998 (33) sales, leases, or uses of the following:
- 999 (a) a vehicle by an authorized carrier; or
- 1000 (b) tangible personal property that is installed on a vehicle:
- 1001 (i) sold or leased to or used by an authorized carrier; and
- 1002 (ii) before the vehicle is placed in service for the first time;
- 1003 (34) (a) 45% of the sales price of any new manufactured home; and
- 1004 (b) 100% of the sales price of any used manufactured home;
- 1005 (35) sales relating to schools and fundraising sales;
- 1006 (36) sales or rentals of durable medical equipment if:
- 1007 (a) a person presents a prescription for the durable medical equipment; and
- 1008 (b) the durable medical equipment is used for home use only;
- 1009 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 1010 Section 72-11-102; and
- 1011 (b) the commission shall by rule determine the method for calculating sales exempt
- 1012 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 1013 (38) sales to a ski resort of:
- 1014 (a) snowmaking equipment;
- 1015 (b) ski slope grooming equipment;
- 1016 (c) passenger ropeways as defined in Section 72-11-102; or
- 1017 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 1018 described in Subsections (38)(a) through (c);
- 1019 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

1020 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
1021 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
1022 59-12-102;

1023 (b) if a seller that sells or rents at the same business location the right to use or operate
1024 for amusement, entertainment, or recreation one or more unassisted amusement devices and
1025 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
1026 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
1027 amusement, entertainment, or recreation for the assisted amusement devices; and

1028 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
1029 Utah Administrative Rulemaking Act, the commission may make rules:

1030 (i) governing the circumstances under which sales are at the same business location;
1031 and

1032 (ii) establishing the procedures and requirements for a seller to separately account for
1033 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
1034 assisted amusement devices;

1035 (41) (a) sales of photocopies by:

1036 (i) a governmental entity; or

1037 (ii) an entity within the state system of public education, including:

1038 (A) a school; or

1039 (B) the State Board of Education; or

1040 (b) sales of publications by a governmental entity;

1041 (42) amounts paid for admission to an athletic event at an institution of higher
1042 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
1043 20 U.S.C. Sec. 1681 et seq.;

1044 (43) sales of telecommunications service charged to a prepaid telephone calling card;

1045 (44) (a) sales made to or by:

1046 (i) an area agency on aging; or

1047 (ii) a senior citizen center owned by a county, city, or town; or

1048 (b) sales made by a senior citizen center that contracts with an area agency on aging;

1049 (45) sales or leases of semiconductor fabricating, processing, research, or development
1050 materials regardless of whether the semiconductor fabricating, processing, research, or

1051 development materials:

1052 (a) actually come into contact with a semiconductor; or

1053 (b) ultimately become incorporated into real property;

1054 (46) an amount paid by or charged to a purchaser for accommodations and services

1055 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section

1056 59-12-104.2;

1057 (47) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary

1058 sports event registration certificate in accordance with Section 41-3-306 for the event period

1059 specified on the temporary sports event registration certificate;

1060 (48) sales or uses of electricity, if the sales or uses are:

1061 (a) made under a tariff adopted by the Public Service Commission of Utah only for

1062 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy

1063 source, as designated in the tariff by the Public Service Commission of Utah; and

1064 (b) for an amount of electricity that is:

1065 (i) unrelated to the amount of electricity used by the person purchasing the electricity

1066 under the tariff described in Subsection (48)(a); and

1067 (ii) equivalent to the number of kilowatthours specified in the tariff described in

1068 Subsection (48)(a) that may be purchased under the tariff described in Subsection (48)(a);

1069 (49) sales or rentals of mobility enhancing equipment if a person presents a

1070 prescription for the mobility enhancing equipment;

1071 (50) sales of water in a:

1072 (a) pipe;

1073 (b) conduit;

1074 (c) ditch; or

1075 (d) reservoir;

1076 (51) sales of currency or coinage that constitute legal tender of the United States or of a

1077 foreign nation;

1078 (52) (a) sales of an item described in Subsection (52)(b) if the item:

1079 (i) does not constitute legal tender of any nation; and

1080 (ii) has a gold, silver, or platinum content of 80% or more; and

1081 (b) Subsection (52)(a) applies to a gold, silver, or platinum:

- 1082 (i) ingot;
- 1083 (ii) bar;
- 1084 (iii) medallion; or
- 1085 (iv) decorative coin;
- 1086 (53) amounts paid on a sale-leaseback transaction;
- 1087 (54) sales of a prosthetic device:
- 1088 (a) for use on or in a human; and
- 1089 (b) (i) for which a prescription is required; or
- 1090 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 1091 (55) (a) except as provided in Subsection (55)(b), purchases, leases, or rentals of
- 1092 machinery or equipment by an establishment described in Subsection (55)(c) if the machinery
- 1093 or equipment is primarily used in the production or postproduction of the following media for
- 1094 commercial distribution:
- 1095 (i) a motion picture;
- 1096 (ii) a television program;
- 1097 (iii) a movie made for television;
- 1098 (iv) a music video;
- 1099 (v) a commercial;
- 1100 (vi) a documentary; or
- 1101 (vii) a medium similar to Subsections (55)(a)(i) through (vi) as determined by the
- 1102 commission by administrative rule made in accordance with Subsection (55)(d); or
- 1103 (b) notwithstanding Subsection (55)(a), purchases, leases, or rentals of machinery or
- 1104 equipment by an establishment described in Subsection (55)(c) that is used for the production
- 1105 or postproduction of the following are subject to the taxes imposed by this chapter:
- 1106 (i) a live musical performance;
- 1107 (ii) a live news program; or
- 1108 (iii) a live sporting event;
- 1109 (c) the following establishments listed in the 1997 North American Industry
- 1110 Classification System of the federal Executive Office of the President, Office of Management
- 1111 and Budget, apply to Subsections (55)(a) and (b):
- 1112 (i) NAICS Code 512110; or

- 1113 (ii) NAICS Code 51219; and
- 1114 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1115 commission may by rule:
 - 1116 (i) prescribe what constitutes a medium similar to Subsections (55)(a)(i) through (vi);
 - 1117 or
 - 1118 (ii) define:
 - 1119 (A) "commercial distribution";
 - 1120 (B) "live musical performance";
 - 1121 (C) "live news program"; or
 - 1122 (D) "live sporting event";
 - 1123 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
 - 1124 or before June 30, 2019, of machinery or equipment that:
 - 1125 (i) is leased or purchased for or by a facility that:
 - 1126 (A) is a renewable energy production facility;
 - 1127 (B) is located in the state; and
 - 1128 (C) (I) becomes operational on or after July 1, 2004; or
 - 1129 (II) has its generation capacity increased by one or more megawatts on or after July 1,
 - 1130 2004 as a result of the use of the machinery or equipment;
 - 1131 (ii) has an economic life of five or more years; and
 - 1132 (iii) is used to make the facility or the increase in capacity of the facility described in
 - 1133 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
 - 1134 transmission grid including:
 - 1135 (A) a wind turbine;
 - 1136 (B) generating equipment;
 - 1137 (C) a control and monitoring system;
 - 1138 (D) a power line;
 - 1139 (E) substation equipment;
 - 1140 (F) lighting;
 - 1141 (G) fencing;
 - 1142 (H) pipes; or
 - 1143 (I) other equipment used for locating a power line or pole; and

- 1144 (b) this Subsection (56) does not apply to:
- 1145 (i) machinery or equipment used in construction of:
- 1146 (A) a new renewable energy production facility; or
- 1147 (B) the increase in the capacity of a renewable energy production facility;
- 1148 (ii) contracted services required for construction and routine maintenance activities;
- 1149 and
- 1150 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
- 1151 of the facility described in Subsection (56)(a)(i)(C)(II), machinery or equipment used or
- 1152 acquired after:
- 1153 (A) the renewable energy production facility described in Subsection (56)(a)(i) is
- 1154 operational as described in Subsection (56)(a)(iii); or
- 1155 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
- 1156 in Subsection (56)(a)(iii);
- 1157 (57) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
- 1158 or before June 30, 2019, of machinery or equipment that:
- 1159 (i) is leased or purchased for or by a facility that:
- 1160 (A) is a waste energy production facility;
- 1161 (B) is located in the state; and
- 1162 (C) (I) becomes operational on or after July 1, 2004; or
- 1163 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 1164 2004 as a result of the use of the machinery or equipment;
- 1165 (ii) has an economic life of five or more years; and
- 1166 (iii) is used to make the facility or the increase in capacity of the facility described in
- 1167 Subsection (57)(a)(i) operational up to the point of interconnection with an existing
- 1168 transmission grid including:
- 1169 (A) generating equipment;
- 1170 (B) a control and monitoring system;
- 1171 (C) a power line;
- 1172 (D) substation equipment;
- 1173 (E) lighting;
- 1174 (F) fencing;

- 1175 (G) pipes; or
- 1176 (H) other equipment used for locating a power line or pole; and
- 1177 (b) this Subsection (57) does not apply to:
 - 1178 (i) machinery or equipment used in construction of:
 - 1179 (A) a new waste energy facility; or
 - 1180 (B) the increase in the capacity of a waste energy facility;
 - 1181 (ii) contracted services required for construction and routine maintenance activities;
 - 1182 and
 - 1183 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
 - 1184 described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or acquired after:
 - 1185 (A) the waste energy facility described in Subsection (57)(a)(i) is operational as
 - 1186 described in Subsection (57)(a)(iii); or
 - 1187 (B) the increased capacity described in Subsection (57)(a)(i) is operational as described
 - 1188 in Subsection (57)(a)(iii);
- 1189 (58) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
- 1190 or before June 30, 2019, of machinery or equipment that:
 - 1191 (i) is leased or purchased for or by a facility that:
 - 1192 (A) is located in the state;
 - 1193 (B) produces fuel from biomass energy including:
 - 1194 (I) methanol; or
 - 1195 (II) ethanol; and
 - 1196 (C) (I) becomes operational on or after July 1, 2004; or
 - 1197 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as
 - 1198 a result of the installation of the machinery or equipment;
 - 1199 (ii) has an economic life of five or more years; and
 - 1200 (iii) is installed on the facility described in Subsection (58)(a)(i);
- 1201 (b) this Subsection (58) does not apply to:
 - 1202 (i) machinery or equipment used in construction of:
 - 1203 (A) a new facility described in Subsection (58)(a)(i); or
 - 1204 (B) the increase in capacity of the facility described in Subsection (58)(a)(i); or
 - 1205 (ii) contracted services required for construction and routine maintenance activities;

1206 and

1207 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
1208 described in Subsection (58)(a)(i)(C)(II), machinery or equipment used or acquired after:

1209 (A) the facility described in Subsection (58)(a)(i) is operational; or

1210 (B) the increased capacity described in Subsection (58)(a)(i) is operational;

1211 (59) (a) subject to Subsection (59)(b) or (c), sales of tangible personal property or a
1212 product transferred electronically to a person within this state if that tangible personal property
1213 or product transferred electronically is subsequently shipped outside the state and incorporated
1214 pursuant to contract into and becomes a part of real property located outside of this state;

1215 (b) the exemption under Subsection (59)(a) is not allowed to the extent that the other
1216 state or political entity to which the tangible personal property is shipped imposes a sales, use,
1217 gross receipts, or other similar transaction excise tax on the transaction against which the other
1218 state or political entity allows a credit for sales and use taxes imposed by this chapter; and

1219 (c) notwithstanding the time period of Subsection 59-12-110(2)(b) for filing for a
1220 refund, a person may claim the exemption allowed by this Subsection (59) for a sale by filing
1221 for a refund:

1222 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

1223 (ii) as if this Subsection (59) as in effect on July 1, 2008, were in effect on the day on
1224 which the sale is made;

1225 (iii) if the person did not claim the exemption allowed by this Subsection (59) for the
1226 sale prior to filing for the refund;

1227 (iv) for sales and use taxes paid under this chapter on the sale;

1228 (v) in accordance with Section 59-12-110; and

1229 (vi) subject to any extension allowed for filing for a refund under Section 59-12-110, if
1230 the person files for the refund on or before June 30, 2011;

1231 (60) purchases:

1232 (a) of one or more of the following items in printed or electronic format:

1233 (i) a list containing information that includes one or more:

1234 (A) names; or

1235 (B) addresses; or

1236 (ii) a database containing information that includes one or more:

- 1237 (A) names; or
- 1238 (B) addresses; and
- 1239 (b) used to send direct mail;
- 1240 (61) redemptions or repurchases of a product by a person if that product was:
- 1241 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 1242 (b) redeemed or repurchased within the time period established in a written agreement
- 1243 between the person and the pawnbroker for redeeming or repurchasing the product;
- 1244 (62) (a) purchases or leases of an item described in Subsection (62)(b) if the item:
- 1245 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
- 1246 and
- 1247 (ii) has a useful economic life of one or more years; and
- 1248 (b) the following apply to Subsection (62)(a):
- 1249 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 1250 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 1251 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 1252 (iv) telecommunications switching or routing equipment, machinery, or software; or
- 1253 (v) telecommunications transmission equipment, machinery, or software;
- 1254 (63) (a) beginning on July 1, 2006, and ending on June 30, 2016, purchases of tangible
- 1255 personal property or a product transferred electronically that are used in the research and
- 1256 development of coal-to-liquids, oil shale, or tar sands technology; and
- 1257 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1258 commission may, for purposes of Subsection (63)(a), make rules defining what constitutes
- 1259 purchases of tangible personal property or a product transferred electronically that are used in
- 1260 the research and development of coal-to-liquids, oil shale, and tar sands technology;
- 1261 (64) (a) purchases of tangible personal property or a product transferred electronically
- 1262 if:
- 1263 (i) the tangible personal property or product transferred electronically is:
- 1264 (A) purchased outside of this state;
- 1265 (B) brought into this state at any time after the purchase described in Subsection
- 1266 (64)(a)(i)(A); and
- 1267 (C) used in conducting business in this state; and

1268 (ii) for:
1269 (A) tangible personal property or a product transferred electronically other than the
1270 tangible personal property described in Subsection (64)(a)(ii)(B), the first use of the property
1271 for a purpose for which the property is designed occurs outside of this state; or
1272 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
1273 outside of this state;
1274 (b) the exemption provided for in Subsection (64)(a) does not apply to:
1275 (i) a lease or rental of tangible personal property or a product transferred electronically;
1276 or
1277 (ii) a sale of a vehicle exempt under Subsection (33); and
1278 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
1279 purposes of Subsection (64)(a), the commission may by rule define what constitutes the
1280 following:
1281 (i) conducting business in this state if that phrase has the same meaning in this
1282 Subsection (64) as in Subsection (24);
1283 (ii) the first use of tangible personal property or a product transferred electronically if
1284 that phrase has the same meaning in this Subsection (64) as in Subsection (24); or
1285 (iii) a purpose for which tangible personal property or a product transferred
1286 electronically is designed if that phrase has the same meaning in this Subsection (64) as in
1287 Subsection (24);
1288 (65) sales of disposable home medical equipment or supplies if:
1289 (a) a person presents a prescription for the disposable home medical equipment or
1290 supplies;
1291 (b) the disposable home medical equipment or supplies are used exclusively by the
1292 person to whom the prescription described in Subsection (65)(a) is issued; and
1293 (c) the disposable home medical equipment and supplies are listed as eligible for
1294 payment under:
1295 (i) Title XVIII, federal Social Security Act; or
1296 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
1297 (66) sales:
1298 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit

1299 District Act; or
1300 (b) of tangible personal property to a subcontractor of a public transit district, if the
1301 tangible personal property is:
1302 (i) clearly identified; and
1303 (ii) installed or converted to real property owned by the public transit district;
1304 (67) sales of construction materials:
1305 (a) purchased on or after July 1, 2010;
1306 (b) purchased by, on behalf of, or for the benefit of an international airport:
1307 (i) located within a county of the first class; and
1308 (ii) that has a United States customs office on its premises; and
1309 (c) if the construction materials are:
1310 (i) clearly identified;
1311 (ii) segregated; and
1312 (iii) installed or converted to real property:
1313 (A) owned or operated by the international airport described in Subsection (67)(b); and
1314 (B) located at the international airport described in Subsection (67)(b);
1315 (68) sales of construction materials:
1316 (a) purchased on or after July 1, 2008;
1317 (b) purchased by, on behalf of, or for the benefit of a new airport:
1318 (i) located within a county of the second class; and
1319 (ii) that is owned or operated by a city in which an airline as defined in Section
1320 59-2-102 is headquartered; and
1321 (c) if the construction materials are:
1322 (i) clearly identified;
1323 (ii) segregated; and
1324 (iii) installed or converted to real property:
1325 (A) owned or operated by the new airport described in Subsection (68)(b);
1326 (B) located at the new airport described in Subsection (68)(b); and
1327 (C) as part of the construction of the new airport described in Subsection (68)(b); and
1328 (69) sales of fuel to a common carrier that is a railroad for use in a locomotive engine.
1329 Section 4. Section **62A-11-328** is amended to read:

1330 **62A-11-328. Information received from State Tax Commission provided to other**
1331 **states' child support collection agencies.**

1332 The office shall, upon request, provide to any other state's child support collection
1333 agency the information which it receives from the State Tax Commission under Subsection
1334 59-1-403(3)~~(m)~~ (l), with regard to a support debt which that agency is involved in enforcing.

1335 Section 5. **Repealer.**

1336 This bill repeals:

1337 Section **59-12-105, Certain exempt sales to be reported -- Penalties.**

1338 Section 6. **Effective date.**

1339 This bill takes effect on July 1, 2009.

Legislative Review Note
as of 11-25-08 3:50 PM

Office of Legislative Research and General Counsel

H.B. 65 - Reporting of Certain Transactions Exempt from Sales and Use Taxes

**Revised
Fiscal Note**

2009 General Session
State of Utah

State Impact

Enactment of this bill could result in a cash loss to the General Fund of \$2,000 annually. Repeal of 59-12-105 forgoes potential General Fund revenue of \$554,000 annually had fines included in that section been enforced.

	<u>2009 Approp.</u>	<u>2010 Approp.</u>	<u>2011 Approp.</u>	<u>2009 Revenue</u>	<u>2010 Revenue</u>	<u>2011 Revenue</u>
General Fund	\$0	\$0	\$0	\$0	(\$2,000)	(\$2,000)
Total	\$0	\$0	\$0	\$0	(\$2,000)	(\$2,000)

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
