

TAX MODIFICATIONS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stewart E. Barlow

Senate Sponsor: _____

LONG TITLE

Committee Note:

The Revenue and Taxation Interim Committee recommended this bill.

Legislative Vote: 17 voting for 0 voting against 2 absent

General Description:

This bill modifies provisions related to tax.

Highlighted Provisions:

This bill:

- ▶ clarifies the signature requirements for the form a new owner of residential property uses to declare that the residential property qualifies for the primary residential exemption;
- ▶ amends the calculation of certain tax credits to match the applicable income tax rate;
- ▶ integrates the income tax code provisions from 2020 Third Special Session, H.B. 3003, Income Tax Revisions, into the Utah Code;
- ▶ integrates the sales tax code provisions from 2020 Fourth Special Session, H.B. 4002, Rail Fuel Sales Tax Amendments, into the Utah Code; and
- ▶ makes technical corrections, including eliminating references to repealed provisions, eliminating redundant or obsolete language, and updating cross-references.

Money Appropriated in this Bill:



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **11-41-102**, as last amended by Laws of Utah 2016, Chapter 176

34 **26-36b-208**, as last amended by Laws of Utah 2019, Chapters 1 and 393

35 **35A-8-308**, as last amended by Laws of Utah 2017, Chapters 181 and 421

36 **35A-8-309**, as last amended by Laws of Utah 2019, Chapter 493

37 **59-2-103.5**, as last amended by Laws of Utah 2020, Chapter 78

38 **59-1-401**, as last amended by Laws of Utah 2020, Chapter 294

39 **59-2-1602**, as last amended by Laws of Utah 2020, Chapter 447

40 **59-7-118**, as last amended by Laws of Utah 2019, Chapter 11

41 **59-7-159**, as last amended by Laws of Utah 2019, Chapters 247 and 465

42 **59-7-504**, as last amended by Laws of Utah 1995, Chapter 311

43 **59-7-505**, as last amended by Laws of Utah 1997, Chapter 332

44 **59-7-507**, as last amended by Laws of Utah 2007, Chapter 269

45 **59-7-610**, as last amended by Laws of Utah 2020, Chapters 82, 354, 360 and last
46 amended by Coordination Clause, Laws of Utah 2020, Chapter 360

47 **59-7-620**, as last amended by Laws of Utah 2020, Chapter 46

48 **59-10-103**, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 15

49 **59-10-114**, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 15

50 **59-10-137**, as last amended by Laws of Utah 2019, Chapters 247 and 465

51 **59-10-507**, as last amended by Laws of Utah 2016, Chapter 87

52 **59-10-514**, as last amended by Laws of Utah 2016, Chapter 87

53 **59-10-516**, as last amended by Laws of Utah 2010, Chapter 271

54 **59-10-522**, as renumbered and amended by Laws of Utah 1987, Chapter 2

55 **59-10-1007**, as last amended by Laws of Utah 2020, Chapters 82, 354, 360 and last
56 amended by Coordination Clause, Laws of Utah 2020, Chapter 360

57 **59-10-1017**, as last amended by Laws of Utah 2017, Chapter 389

58 **59-10-1017.1**, as enacted by Laws of Utah 2017, Chapter 389

- 59 **59-10-1022**, as enacted by Laws of Utah 2008, Chapter 389
- 60 **59-10-1023**, as enacted by Laws of Utah 2008, Chapter 389
- 61 **59-10-1028**, as last amended by Laws of Utah 2012, Chapter 399
- 62 **59-10-1035**, as last amended by Laws of Utah 2017, Chapter 222
- 63 **59-10-1036**, as enacted by Laws of Utah 2016, Chapter 55
- 64 **59-10-1403**, as last amended by Laws of Utah 2017, Chapter 270
- 65 **59-10-1403.3**, as enacted by Laws of Utah 2017, Chapter 270
- 66 **59-12-102**, as last amended by Laws of Utah 2020, Chapters 354, 365, and 438
- 67 **59-12-103**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
- 68 **59-12-104**, as last amended by Laws of Utah 2020, Chapters 44, 91, 354, 412, and 438

69 REPEALS:

- 70 **59-7-118.1**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 71 **59-7-504.1**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 72 **59-7-505.1**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 73 **59-7-507.1**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 74 **59-10-103.2**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 75 **59-10-114.1**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 76 **59-10-514.2**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 77 **59-10-516.1**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 78 **59-10-522.1**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 79 **59-10-1403.4**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 80 **59-12-103.3**, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 2



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

83 Section 1. Section **11-41-102** is amended to read:

84 **11-41-102. Definitions.**

85 As used in this chapter:

- 86 (1) "Agreement" means an oral or written agreement between a:
- 87 (a) (i) county; or
- 88 (ii) municipality; and
- 89 (b) person.

- 90 (2) "Municipality" means a:
- 91 (a) city;
- 92 (b) town; or
- 93 (c) metro township.
- 94 (3) "Payment" includes:
- 95 (a) a payment;
- 96 (b) a rebate;
- 97 (c) a refund; or
- 98 (d) an amount similar to Subsections (3)(a) through (c).
- 99 (4) "Regional retail business" means a:
- 100 (a) retail business that occupies a floor area of more than 80,000 square feet;
- 101 (b) dealer as defined in Section 41-1a-102;
- 102 (c) retail shopping facility that has at least two anchor tenants if the total number of
- 103 anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square
- 104 feet; or
- 105 (d) grocery store that occupies a floor area of more than 30,000 square feet.
- 106 (5) (a) "Sales and use tax" means a tax:
- 107 (i) imposed on transactions within a:
- 108 (A) county; or
- 109 (B) municipality; and
- 110 (ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12,
- 111 Sales and Use Tax Act.
- 112 (b) ~~[Notwithstanding Subsection (5)(a)(ii), "sales]~~ "Sales and use tax" does not include
- 113 a tax authorized under:
- 114 (i) Subsection 59-12-103(2)(a)(i);
- 115 (ii) Subsection 59-12-103(2)(b)(i);
- 116 (iii) Subsection 59-12-103(2)(c)(i);
- 117 (iv) Subsection 59-12-103(2)(d);
- 118 ~~[(iv)]~~ (v) Subsection 59-12-103(2)~~[(d)]~~(e)(i)(A);
- 119 ~~[(v)]~~ (vi) Section 59-12-301;
- 120 ~~[(vi)]~~ (vii) Section 59-12-352;

- 121 [~~(vii)~~] (viii) Section 59-12-353;
- 122 [~~(viii)~~] (ix) Section 59-12-603; or
- 123 [~~(ix)~~] (x) Section 59-12-1201.
- 124 (6) (a) "Sales and use tax incentive payment" means a payment of revenues:
- 125 (i) to a person;
- 126 (ii) by a:
- 127 (A) county; or
- 128 (B) municipality;
- 129 (iii) to induce the person to locate or relocate a regional retail business within the:
- 130 (A) county; or
- 131 (B) municipality; and
- 132 (iv) that are derived from a sales and use tax.
- 133 (b) "Sales and use tax incentive payment" does not include funding for public
- 134 infrastructure.
- 135 Section 2. Section **26-36b-208** is amended to read:
- 136 **26-36b-208. Medicaid Expansion Fund.**
- 137 (1) There is created an expendable special revenue fund known as the Medicaid
- 138 Expansion Fund.
- 139 (2) The fund consists of:
- 140 (a) assessments collected under this chapter;
- 141 (b) intergovernmental transfers under Section 26-36b-206;
- 142 (c) savings attributable to the health coverage improvement program as determined by
- 143 the department;
- 144 (d) savings attributable to the enhancement waiver program as determined by the
- 145 department;
- 146 (e) savings attributable to the Medicaid waiver expansion as determined by the
- 147 department;
- 148 (f) savings attributable to the inclusion of psychotropic drugs on the preferred drug list
- 149 under Subsection 26-18-2.4(3) as determined by the department;
- 150 (g) revenues collected from the sales tax described in Subsection 59-12-103[~~(13)~~](12);
- 151 (h) gifts, grants, donations, or any other conveyance of money that may be made to the

152 fund from private sources;

153 (i) interest earned on money in the fund; and

154 (j) additional amounts as appropriated by the Legislature.

155 (3) (a) The fund shall earn interest.

156 (b) All interest earned on fund money shall be deposited into the fund.

157 (4) (a) A state agency administering the provisions of this chapter may use money from
158 the fund to pay the costs, not otherwise paid for with federal funds or other revenue sources, of:

159 (i) the health coverage improvement program;

160 (ii) the enhancement waiver program;

161 (iii) a Medicaid waiver expansion; and

162 (iv) the outpatient upper payment limit supplemental payments under Section
163 26-36b-210.

164 (b) A state agency administering the provisions of this chapter may not use:

165 (i) funds described in Subsection (2)(b) to pay the cost of private outpatient upper
166 payment limit supplemental payments; or

167 (ii) money in the fund for any purpose not described in Subsection (4)(a).

168 Section 3. Section 35A-8-308 is amended to read:

169 **35A-8-308. Throughput Infrastructure Fund.**

170 (1) There is created an enterprise fund known as the Throughput Infrastructure Fund.

171 (2) The fund consists of money generated from the following revenue sources:

172 (a) all amounts transferred to the fund [~~under Subsection 59-12-103(12)~~] by statute;

173 (b) any voluntary contributions received;

174 (c) appropriations made to the fund by the Legislature; and

175 (d) all amounts received from the repayment of loans made by the impact board under
176 Section 35A-8-309.

177 (3) The state treasurer shall:

178 (a) invest the money in the fund by following the procedures and requirements of Title
179 51, Chapter 7, State Money Management Act; and

180 (b) deposit all interest or other earnings derived from those investments into the fund.

181 Section 4. Section 35A-8-309 is amended to read:

182 **35A-8-309. Throughput Infrastructure Fund administered by impact board --**

183 **Uses -- Review by board -- Annual report -- First project.**

184 (1) The impact board shall:

185 (a) make grants and loans from the Throughput Infrastructure Fund created in Section
186 35A-8-308 for a throughput infrastructure project;187 (b) use money transferred to the Throughput Infrastructure Fund in accordance with
188 ~~[Subsection 59-12-103(12)]~~ statute to provide a loan or grant to finance the cost of acquisition
189 or construction of a throughput infrastructure project to one or more local political
190 subdivisions, including a Utah interlocal agency created under Title 11, Chapter 13, Interlocal
191 Cooperation Act;192 (c) administer the Throughput Infrastructure Fund in a manner that will keep a portion
193 of the fund revolving;

194 (d) determine provisions for repayment of loans;

195 (e) establish criteria for awarding loans and grants; and

196 (f) establish criteria for determining eligibility for assistance under this section.

197 (2) The cost of acquisition or construction of a throughput infrastructure project
198 includes amounts for working capital, reserves, transaction costs, and other amounts
199 determined by the impact board to be allocable to a throughput infrastructure project.200 (3) The impact board may restructure or forgive all or part of a local political
201 subdivision's or interlocal agency's obligation to repay loans for extenuating circumstances.202 (4) To receive assistance under this section, a local political subdivision or an
203 interlocal agency shall submit a formal application containing the information that the impact
204 board requires.

205 (5) (a) The impact board shall:

206 (i) review the proposed uses of the Throughput Infrastructure Fund for a loan or grant
207 before approving the loan or grant and may condition its approval on whatever assurances the
208 impact board considers necessary to ensure that proceeds of the loan or grant will be used in
209 accordance with this section;210 (ii) ensure that each loan specifies terms for interest deferments, accruals, and
211 scheduled principal repayment; and212 (iii) ensure that repayment terms are evidenced by bonds, notes, or other obligations of
213 the appropriate local political subdivision or interlocal agency issued to the impact board and

214 payable from the net revenues of a throughput infrastructure project.

215 (b) An instrument described in Subsection (5)(a)(iii) may be:

216 (i) non-recourse to the local political subdivision or interlocal agency; and

217 (ii) limited to a pledge of the net revenues from a throughput infrastructure project.

218 (6) (a) Subject to the restriction in Subsection (6)(b), the impact board shall allocate
219 from the Throughput Infrastructure Fund to the board those amounts that are appropriated by
220 the Legislature for the administration of the Throughput Infrastructure Fund.

221 (b) The amount described in Subsection (6)(a) may not exceed 2% of the annual
222 receipts to the fund.

223 (7) The board shall include in the annual written report described in Section
224 35A-1-109:

225 (a) the number and type of loans and grants made under this section; and

226 (b) a list of local political subdivisions or interlocal agencies that received assistance
227 under this section.

228 (8) (a) The first throughput infrastructure project considered by the impact board shall
229 be a bulk commodities ocean terminal project.

230 (b) Upon receipt of an application from an interlocal agency created for the sole
231 purpose of undertaking a throughput infrastructure project that is a bulk commodities ocean
232 terminal project, the impact board shall:

233 (i) grant up to 2% of the money in the Throughput Infrastructure Fund to the interlocal
234 agency to pay or reimburse costs incurred by the interlocal agency preliminary to its acquisition
235 of the throughput infrastructure project; and

236 (ii) fund the interlocal agency's application if the application meets all criteria
237 established by the impact board.

238 Section 5. Section 59-1-401 is amended to read:

239 **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**
240 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**
241 **interest.**

242 (1) As used in this section:

243 (a) "Activated tax, fee, or charge" means a tax, fee, or charge with respect to which the
244 commission:

- 245 (i) has implemented the commission's GenTax system; and
- 246 (ii) at least 30 days before implementing the commission's GenTax system as described
- 247 in Subsection (1)(a)(i), has provided notice in a conspicuous place on the commission's website
- 248 stating:
- 249 (A) the date the commission will implement the GenTax system with respect to the tax,
- 250 fee, or charge; and
- 251 (B) that, at the time the commission implements the GenTax system with respect to the
- 252 tax, fee, or charge:
- 253 (I) a person that files a return after the due date as described in Subsection (2)(a) is
- 254 subject to the penalty described in Subsection (2)(c)(ii); and
- 255 (II) a person that fails to pay the tax, fee, or charge as described in Subsection (3)(a) is
- 256 subject to the penalty described in Subsection (3)(b)(ii).
- 257 (b) "Activation date for a tax, fee, or charge" means with respect to a tax, fee, or
- 258 charge, the later of:
- 259 (i) the date on which the commission implements the commission's GenTax system
- 260 with respect to the tax, fee, or charge; or
- 261 (ii) 30 days after the date the commission provides the notice described in Subsection
- 262 (1)(a)(ii) with respect to the tax, fee, or charge.
- 263 (c) (i) Except as provided in Subsection (1)(c)(ii), "tax, fee, or charge" means:
- 264 (A) a tax, fee, or charge the commission administers under:
- 265 (I) this title;
- 266 (II) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 267 (III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- 268 (IV) Section 19-6-410.5;
- 269 (V) Section 19-6-714;
- 270 (VI) Section 19-6-805;
- 271 (VII) Section 34A-2-202;
- 272 (VIII) Section 40-6-14; or
- 273 (IX) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service
- 274 Charges; or
- 275 (B) another amount that by statute is subject to a penalty imposed under this section.

- 276 (ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:
- 277 (A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;
- 278 (B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;
- 279 (C) Chapter 2, Property Tax Act, except for Section 59-2-1309;
- 280 (D) Chapter 3, Tax Equivalent Property Act; or
- 281 (E) Chapter 4, Privilege Tax.
- 282 (d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated
- 283 tax, fee, or charge.
- 284 (2) (a) The due date for filing a return is:
- 285 (i) if the person filing the return is not allowed by law an extension of time for filing
- 286 the return, the day on which the return is due as provided by law; or
- 287 (ii) if the person filing the return is allowed by law an extension of time for filing the
- 288 return, the earlier of:
- 289 (A) the date the person files the return; or
- 290 (B) the last day of that extension of time as allowed by law.
- 291 (b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a
- 292 return after the due date described in Subsection (2)(a).
- 293 (c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:
- 294 (i) if the return described in Subsection (2)(b) is filed with respect to an unactivated
- 295 tax, fee, or charge:
- 296 (A) \$20; or
- 297 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or
- 298 (ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax,
- 299 fee, or charge, beginning on the activation date for the tax, fee, or charge:
- 300 (A) \$20; or
- 301 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is
- 302 filed no later than five days after the due date described in Subsection (2)(a);
- 303 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed
- 304 more than five days after the due date but no later than 15 days after the due date described in
- 305 Subsection (2)(a); or
- 306 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is

307 filed more than 15 days after the due date described in Subsection (2)(a).
308 (d) This Subsection (2) does not apply to:
309 (i) an amended return; or
310 (ii) a return with no tax due.
311 (3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:
312 (i) the person files a return on or before the due date for filing a return described in
313 Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due
314 date;
315 (ii) the person:
316 (A) is subject to a penalty under Subsection (2)(b); and
317 (B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the
318 due date for filing a return described in Subsection (2)(a);
319 (iii) (A) the person is subject to a penalty under Subsection (2)(b); and
320 (B) the commission estimates an amount of tax due for that person in accordance with
321 Subsection 59-1-1406(2);
322 (iv) the person:
323 (A) is mailed a notice of deficiency; and
324 (B) within a 30-day period after the day on which the notice of deficiency described in
325 Subsection (3)(a)(iv)(A) is mailed:
326 (I) does not file a petition for redetermination or a request for agency action; and
327 (II) fails to pay the tax, fee, or charge due on a return;
328 (v) (A) the commission:
329 (I) issues an order constituting final agency action resulting from a timely filed petition
330 for redetermination or a timely filed request for agency action; or
331 (II) is considered to have denied a request for reconsideration under Subsection
332 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed
333 request for agency action; and
334 (B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period
335 after the date the commission:
336 (I) issues the order constituting final agency action described in Subsection
337 (3)(a)(v)(A)(I); or

338 (II) is considered to have denied the request for reconsideration described in
339 Subsection (3)(a)(v)(A)(II); or
340 (vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date
341 of a final judicial decision resulting from a timely filed petition for judicial review.
342 (b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:
343 (i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with
344 respect to an unactivated tax, fee, or charge:
345 (A) \$20; or
346 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or
347 (ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with
348 respect to an activated tax, fee, or charge, beginning on the activation date:
349 (A) \$20; or
350 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated
351 tax, fee, or charge due on the return is paid no later than five days after the due date for filing a
352 return described in Subsection (2)(a);
353 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the activated tax,
354 fee, or charge due on the return is paid more than five days after the due date for filing a return
355 described in Subsection (2)(a) but no later than 15 days after that due date; or
356 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the activated
357 tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a
358 return described in Subsection (2)(a).
359 (4) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or
360 quarterly installments required by Sections [59-5-107](#), [59-5-207](#), [59-7-504](#), and [59-9-104](#), there
361 shall be added a penalty in an amount determined by applying the interest rate provided under
362 Section [59-1-402](#) plus four percentage points to the amount of the underpayment for the period
363 of the underpayment.
364 (b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the
365 excess of the required installment over the amount, if any, of the installment paid on or before
366 the due date for the installment.
367 (ii) The period of the underpayment shall run from the due date for the installment to
368 whichever of the following dates is the earlier:

369 (A) the original due date of the tax return, without extensions, for the taxable year; or
370 (B) with respect to any portion of the underpayment, the date on which that portion is
371 paid.

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

375 (5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a
376 person allowed by law an extension of time for filing a corporate franchise or income tax return
377 under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return
378 under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in
379 Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not
380 including the extension of time, the person fails to pay:

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

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

385 (b) For purposes of Subsection (5)(a), the penalty per month during the period of the
386 extension of time for filing the return is an amount equal to 2% of the tax due on the return,
387 unpaid as of the day on which the return is due as provided by law.

388 (6) If a person does not file a return within an extension of time allowed by Section
389 59-7-505 or 59-10-516, the person:

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

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

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

393 (A) \$20; or

394 (B) 10% of the tax due on the return, unpaid as of the day on which the return is due as
395 provided by law, not including the extension of time; and

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

397 (A) \$20; or

398 (B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is
399 due as provided by law, not including the extension of time.

400 (7) (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided
401 in this Subsection (7)(a).

402 (i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax,
403 fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that
404 is due to negligence.

405 (ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of a
406 tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the entire
407 underpayment.

408 (iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge,
409 the penalty is the greater of \$500 per period or 50% of the entire underpayment.

410 (iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or
411 charge, the penalty is the greater of \$500 per period or 100% of the entire underpayment.

412 (b) If the commission determines that a person is liable for a penalty imposed under
413 Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the person of the proposed
414 penalty.

415 (i) The notice of proposed penalty shall:

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

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

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

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

421 or

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

423 (iii) A person against whom a penalty is proposed in accordance with this Subsection
424 (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with
425 the commission.

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

429 (B) The commission shall mail the notice and demand for payment described in
430 Subsection (7)(b)(iv)(A):

- 431 (I) to the person's last-known address; and
- 432 (II) in accordance with Section 59-1-1404.
- 433 (c) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not
- 434 subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:
- 435 (i) a court of competent jurisdiction issues a final unappealable judgment or order
- 436 determining that:
- 437 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
- 438 or is a seller required to pay or collect and remit sales and use taxes under Subsection
- 439 59-12-107(2)(b) or (2)(c); and
- 440 (B) the commission or a county, city, or town may require the seller to collect a tax
- 441 under Subsections 59-12-103(2)(a) through [~~(d)~~] (e); or
- 442 (ii) the commission issues a final unappealable administrative order determining that:
- 443 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
- 444 or is a seller required to pay or collect and remit sales and use taxes under Subsection
- 445 59-12-107(2)(b) or (2)(c); and
- 446 (B) the commission or a county, city, or town may require the seller to collect a tax
- 447 under Subsections 59-12-103(2)(a) through [~~(d)~~] (e).
- 448 (d) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not
- 449 subject to the penalty under Subsection (7)(a)(ii) if:
- 450 (i) (A) a court of competent jurisdiction issues a final unappealable judgment or order
- 451 determining that:
- 452 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
- 453 or is a seller required to pay or collect and remit sales and use taxes under Subsection
- 454 59-12-107(2)(b) or (2)(c); and
- 455 (II) the commission or a county, city, or town may require the seller to collect a tax
- 456 under Subsections 59-12-103(2)(a) through [~~(d)~~] (e); or
- 457 (B) the commission issues a final unappealable administrative order determining that:
- 458 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
- 459 or is a seller required to pay or collect and remit sales and use taxes under Subsection
- 460 59-12-107(2)(b) or (2)(c); and
- 461 (II) the commission or a county, city, or town may require the seller to collect a tax

462 under Subsections 59-12-103(2)(a) through ~~(d)~~ (e); and

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

466 (8) (a) Subject to Subsections (8)(b) and (c), the penalty for failure to file an
467 information return, information report, or a complete supporting schedule is \$50 for each
468 information return, information report, or supporting schedule up to a maximum of \$1,000.

469 (b) If an employer is subject to a penalty under Subsection (13), the employer may not
470 be subject to a penalty under Subsection (8)(a).

471 (c) If an employer is subject to a penalty under this Subsection (8) for failure to file a
472 return in accordance with Subsection 59-10-406(3) on or before the due date described in
473 Subsection 59-10-406(3)(b)(ii), the commission may not impose a penalty under this
474 Subsection (8) unless the return is filed more than 14 days after the due date described in
475 Subsection 59-10-406(3)(b)(ii).

476 (9) If a person, in furtherance of a frivolous position, has a prima facie intent to delay
477 or impede administration of a law relating to a tax, fee, or charge and files a purported return
478 that fails to contain information from which the correctness of reported tax, fee, or charge
479 liability can be determined or that clearly indicates that the tax, fee, or charge liability shown is
480 substantially incorrect, the penalty is \$500.

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

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

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

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

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

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

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

492 (i) commits an act described in Subsection (11)(b) with respect to one or more of the

493 following documents:

494 (A) a return;

495 (B) an affidavit;

496 (C) a claim; or

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

498 (ii) knows or has reason to believe that the document described in Subsection (11)(a)(i)

499 will be used in connection with any material matter administered by the commission; and

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

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

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

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

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

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

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

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

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

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

516 (i) shall be imposed by the commission;

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

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

520 (d) The commission may seek a court order to enjoin a person from engaging in
521 conduct that is subject to a penalty under this Subsection (11).

522 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
523 commission may make rules prescribing the documents that are similar to Subsections

524 (11)(a)(i)(A) through (C).

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

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

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

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

534 (B) exceed \$1,000.

535 (c) (i) With respect to a tax, fee, or charge, a person who knowingly and intentionally,
536 and without a reasonable good faith basis, fails to make, render, sign, or verify a return within
537 the time required by law or to supply information within the time required by law, or who
538 makes, renders, signs, or verifies a false or fraudulent return or statement, or who supplies false
539 or fraudulent information, is guilty of a third degree felony.

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

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

543 (B) exceed \$5,000.

544 (d) (i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or
545 charge or the payment of a tax, fee, or charge is, in addition to other penalties provided by law,
546 guilty of a second degree felony.

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

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

550 (B) exceed \$25,000.

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

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

554 (I) a return;

- 555 (II) an affidavit;
- 556 (III) a claim; or
- 557 (IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and
- 558 (B) subject to Subsection (12)(e)(iii), with knowledge that the document described in
- 559 Subsection (12)(e)(i)(A):
- 560 (I) is false or fraudulent as to any material matter; and
- 561 (II) could be used in connection with any material matter administered by the
- 562 commission.
- 563 (ii) The following acts apply to Subsection (12)(e)(i):
- 564 (A) preparing any portion of a document described in Subsection (12)(e)(i)(A);
- 565 (B) presenting any portion of a document described in Subsection (12)(e)(i)(A);
- 566 (C) procuring any portion of a document described in Subsection (12)(e)(i)(A);
- 567 (D) advising in the preparation or presentation of any portion of a document described
- 568 in Subsection (12)(e)(i)(A);
- 569 (E) aiding in the preparation or presentation of any portion of a document described in
- 570 Subsection (12)(e)(i)(A);
- 571 (F) assisting in the preparation or presentation of any portion of a document described
- 572 in Subsection (12)(e)(i)(A); or
- 573 (G) counseling in the preparation or presentation of any portion of a document
- 574 described in Subsection (12)(e)(i)(A).
- 575 (iii) This Subsection (12)(e) applies:
- 576 (A) regardless of whether the person for which the document described in Subsection
- 577 (12)(e)(i)(A) is prepared or presented:
- 578 (I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or
- 579 (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and
- 580 (B) in addition to any other penalty provided by law.
- 581 (iv) Notwithstanding Section [76-3-301](#), for purposes of this Subsection (12)(e), the
- 582 penalty may not:
- 583 (A) be less than \$1,500; or
- 584 (B) exceed \$25,000.
- 585 (v) The commission may seek a court order to enjoin a person from engaging in

586 conduct that is subject to a penalty under this Subsection (12)(e).

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

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

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

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

594 (13) (a) Subject to Subsection (13)(b), an employer that is required to file a form with
595 the commission in accordance with Subsection 59-10-406(8) is subject to a penalty described
596 in Subsection (13)(b) if the employer:

597 (i) fails to file the form with the commission in an electronic format approved by the
598 commission as required by Subsection 59-10-406(8);

599 (ii) fails to file the form on or before the due date provided in Subsection 59-10-406(8);

600 (iii) fails to provide accurate information on the form; or

601 (iv) fails to provide all of the information required by the Internal Revenue Service to
602 be contained on the form.

603 (b) For purposes of Subsection (13)(a), the penalty is:

604 (i) \$30 per form, not to exceed \$75,000 in a calendar year, if the employer files the
605 form in accordance with Subsection 59-10-406(8), more than 14 days after the due date
606 provided in Subsection 59-10-406(8) but no later than 30 days after the due date provided in
607 Subsection 59-10-406(8);

608 (ii) \$60 per form, not to exceed \$200,000 in a calendar year, if the employer files the
609 form in accordance with Subsection 59-10-406(8), more than 30 days after the due date
610 provided in Subsection 59-10-406(8) but on or before June 1; or

611 (iii) \$100 per form, not to exceed \$500,000 in a calendar year, if the employer:

612 (A) files the form in accordance with Subsection 59-10-406(8) after June 1; or

613 (B) fails to file the form.

614 (14) Upon making a record of its actions, and upon reasonable cause shown, the
615 commission may waive, reduce, or compromise any of the penalties or interest imposed under
616 this part.

617 Section 6. Section 59-2-103.5 is amended to read:

618 **59-2-103.5. Procedures to obtain an exemption for residential property --**
619 **Procedure if property owner or property no longer qualifies to receive a residential**
620 **exemption.**

621 (1) Subject to Subsection (8), for residential property other than part-year residential
622 property, a county legislative body may adopt an ordinance that requires an owner to file an
623 application with the county board of equalization before a residential exemption under Section
624 59-2-103 may be applied to the value of the residential property if:

625 (a) the residential property was ineligible for the residential exemption during the
626 calendar year immediately preceding the calendar year for which the owner is seeking to have
627 the residential exemption applied to the value of the residential property;

628 (b) an ownership interest in the residential property changes; or

629 (c) the county board of equalization determines that there is reason to believe that the
630 residential property no longer qualifies for the residential exemption.

631 (2) (a) The application described in Subsection (1):

632 (i) shall be on a form the commission prescribes by rule and makes available to the
633 counties;

634 (ii) shall be signed by the owner of the residential property; and

635 (iii) may not request the sales price of the residential property.

636 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
637 commission may make rules prescribing the contents of the form described in Subsection
638 (2)(a).

639 (c) For purposes of the application described in Subsection (1), a county may not
640 request information from an owner of a residential property beyond the information provided in
641 the form prescribed by the commission under this Subsection (2).

642 (3) (a) Regardless of whether a county legislative body adopts an ordinance described
643 in Subsection (1), before a residential exemption may be applied to the value of part-year
644 residential property, an owner of the property shall:

645 (i) file the application described in Subsection (2)(a) with the county board of
646 equalization; and

647 (ii) include as part of the application described in Subsection (2)(a) a statement that

648 certifies:

649 (A) the date the part-year residential property became residential property;

650 (B) that the part-year residential property will be used as residential property for 183 or
651 more consecutive calendar days during the calendar year for which the owner seeks to obtain
652 the residential exemption; and

653 (C) that the owner, or a member of the owner's household, may not claim a residential
654 exemption for any property for the calendar year for which the owner seeks to obtain the
655 residential exemption, other than the part-year residential property, or as allowed under Section
656 59-2-103 with respect to the primary residence or household furnishings, furniture, and
657 equipment of the owner's tenant.

658 (b) An owner may not obtain a residential exemption for part-year residential property
659 unless the owner files an application under this Subsection (3) on or before November 30 of the
660 calendar year for which the owner seeks to obtain the residential exemption.

661 (c) If an owner files an application under this Subsection (3) on or after May 1 of the
662 calendar year for which the owner seeks to obtain the residential exemption, the county board
663 of equalization may require the owner to pay an application fee of not to exceed \$50.

664 (4) Except as provided in Subsection (5), if a property owner no longer qualifies to
665 receive a residential exemption authorized under Section 59-2-103 for the property owner's
666 primary residence, the property owner shall:

667 (a) file a written statement with the county board of equalization of the county in which
668 the property is located:

669 (i) on a form provided by the county board of equalization; and

670 (ii) notifying the county board of equalization that the property owner no longer
671 qualifies to receive a residential exemption authorized under Section 59-2-103 for the property
672 owner's primary residence; and

673 (b) declare on the property owner's individual income tax return under Chapter 10,
674 Individual Income Tax Act, for the taxable year for which the property owner no longer
675 qualifies to receive a residential exemption authorized under Section 59-2-103 for the property
676 owner's primary residence, that the property owner no longer qualifies to receive a residential
677 exemption authorized under Section 59-2-103 for the property owner's primary residence.

678 (5) A property owner is not required to file a written statement or make the declaration

679 described in Subsection (4) if the property owner:

680 (a) changes primary residences;

681 (b) qualified to receive a residential exemption authorized under Section 59-2-103 for
682 the residence that was the property owner's former primary residence; and

683 (c) qualifies to receive a residential exemption authorized under Section 59-2-103 for
684 the residence that is the property owner's current primary residence.

685 (6) Subsections (2) through (5) do not apply to qualifying exempt primary residential
686 rental personal property.

687 (7) (a) Subject to Subsection (8), for the first calendar year in which a property owner
688 qualifies to receive a residential exemption under Section 59-2-103, a county assessor may
689 require the property owner to file a signed statement described in Section 59-2-306.

690 (b) Subject to Subsection (8) and notwithstanding Section 59-2-306, for a calendar year
691 after the calendar year described in Subsection (7)(a) in which a property owner qualifies for an
692 exemption described in Subsection 59-2-1115(2) for qualifying exempt primary residential
693 rental personal property, a signed statement described in Section 59-2-306 with respect to the
694 qualifying exempt primary residential rental personal property may only require the property
695 owner to certify, under penalty of perjury, that the property owner qualifies for the exemption
696 under Subsection 59-2-1115(2).

697 (8) (a) Subject to the requirements of this Subsection (8) and except as provided in
698 Subsection (8)(b), on or before May 1, 2020, a county assessor shall:

699 (i) notify each owner of residential property that the owner is required to submit a
700 written declaration described in Subsection (8)(d) within 30 days after the day on which the
701 county assessor mails the notice under this Subsection (8)(a); and

702 (ii) provide each owner with a form described in Subsection (8)(e) to make the written
703 declaration described in Subsection (8)(d).

704 (b) A county assessor is not required to provide a notice to an owner of residential
705 property under Subsection (8)(a) if the situs address of the residential property is the same as
706 any one of the following:

707 (i) the mailing address of the residential property owner or the tenant of the residential
708 property;

709 (ii) the address listed on the:

- 710 (A) residential property owner's driver license; or
- 711 (B) tenant of the residential property's driver license; or
- 712 (iii) the address listed on the:
- 713 (A) residential property owner's voter registration; or
- 714 (B) tenant of the residential property's voter registration.
- 715 (c) After an ownership interest in residential property changes, the county assessor
- 716 shall:

717 (i) notify the owner of the residential property that the owner is required to submit a
 718 written declaration described in Subsection (8)(d) within 90 days after the day on which the
 719 owner receives notice under this Subsection (8)(c); and

720 (ii) provide the owner of the residential property with the form described in Subsection
 721 (8)(e) to make the written declaration described in Subsection (8)(d).

722 (d) An owner of residential property that receives a notice described in Subsection
 723 (8)(a) or (c) shall submit a written declaration to the county assessor under penalty of perjury
 724 certifying the information contained in the form provided in Subsection (8)(e).

725 (e) The written declaration required by Subsection (8)(d) shall be:

- 726 (i) signed by the owner of the residential property; and
- 727 (ii) in substantially the following form:

728 "Residential Property Declaration

729 This form must be submitted to the County Assessor's office where your new residential
 730 property is located within 90 days of receipt. Failure to do so will result in the county assessor
 731 taking action that could result in the withdrawal of the primary residential exemption from your
 732 residential property.

733 Residential Property Owner Information

734 Name(s): _____

735 Home Phone: _____

736 Work Phone: _____

737 Mailing Address: _____

738 Residential Property Information

739 Physical Address: _____

740 Certification

741 1. Is this property used as a primary residential property or part-year residential
742 property for you or another person?

743 "Part-year residential property" means owned property that is not residential property on
744 January 1 of a calendar year but becomes residential property after January 1 of the calendar
745 year.

746 Yes No

747 2. Will this primary residential property or part-year residential property be occupied
748 for 183 or more consecutive calendar days by the owner or another person?

749 A part-year residential property occupied for 183 or more consecutive calendar days in
750 a calendar year by the owner(s) or a tenant is eligible for the exemption.

751 Yes No

752 If a property owner or a property owner's spouse claims a residential exemption under
753 Utah Code Ann. § 59-2-103 for property in this state that is the primary residence of the
754 property owner or the property owner's spouse, that claim of a residential exemption creates a
755 rebuttable presumption that the property owner and the property owner's spouse have domicile
756 in Utah for income tax purposes. The rebuttable presumption of domicile does not apply if the
757 residential property is the primary residence of a tenant of the property owner or the property
758 owner's spouse.

759 Signature

760 [~~This form must be signed by all owners of the property.~~]

761 Under penalties of perjury, I declare to the best of my knowledge and belief, this
762 declaration and accompanying pages are true, correct, and complete.

763 _____(Owner signature) _____Date (mm/dd/yyyy)

764 _____(Owner printed name)"

765 (f) For purposes of a written declaration described in this Subsection (8), a county may
766 not request information from a property owner beyond the information described in the form
767 provided in Subsection (8)(e).

768 (g) (i) If, after receiving a written declaration filed under Subsection (8)(d), the county
769 determines that the property has been incorrectly qualified or disqualified to receive a
770 residential exemption, the county shall:

771 (A) redetermine the property's qualification to receive a residential exemption; and

772 (B) notify the claimant of the redetermination and its reason for the redetermination.

773 (ii) The redetermination provided in Subsection (8)(g)(i)(A) is final unless appealed
774 within 30 days after the notice required by Subsection (8)(g)(i)(B).

775 (h) (i) If a residential property owner fails to file a written declaration required by
776 Subsection (8)(d), the county assessor shall mail to the owner of the residential property a
777 notice that:

778 (A) the property owner failed to file a written declaration as required by Subsection
779 (8)(d); and

780 (B) the property owner will no longer qualify to receive the residential exemption
781 authorized under Section 59-2-103 for the property that is the subject of the written declaration
782 if the property owner does not file the written declaration required by Subsection (8)(d) within
783 30 days after the day on which the county assessor mails the notice under this Subsection
784 (8)(h)(i).

785 (ii) If a property owner fails to file a written declaration required by Subsection (8)(d)
786 after receiving the notice described in Subsection (8)(h)(i), the property owner no longer
787 qualifies to receive the residential exemption authorized under Section 59-2-103 in the calendar
788 year for the property that is the subject of the written declaration.

789 (iii) A property owner that is disqualified to receive the residential exemption under
790 Subsection (8)(h)(ii) may file an application described in Subsection (1) to determine whether
791 the owner is eligible to receive the residential exemption.

792 (i) The requirements of this Subsection (8) do not apply to a county assessor in a
793 county that has, for the five calendar years prior to 2019, had in place and enforced an
794 ordinance described in Subsection (1).

795 Section 7. Section 59-2-1602 is amended to read:

796 **59-2-1602. Property Tax Valuation Agency Fund -- Creation -- Statewide levy --**
797 **Additional county levy.**

798 (1) (a) There is created an agency fund known as the "Property Tax Valuation Agency
799 Fund."

800 (b) The fund consists of:

801 (i) deposits made and penalties received under Subsection (3); and

802 (ii) interest on money deposited into the fund.

803 (c) Deposits, penalties, and interest described in Subsection (1)(b) shall be disbursed
804 and used as provided in Section 59-2-1603.

805 (2) (a) Each county shall annually impose a multicounty assessing and collecting levy
806 as provided in this Subsection (2).

807 (b) The tax rate of the multicounty assessing and collecting levy is:

808 (i) for a calendar year beginning on or after January 1, 2020, and before January 1,
809 2025, .000012; and

810 (ii) for a calendar year beginning on or after January 1, 2025, the certified revenue levy.

811 (c) The state treasurer shall allocate revenue collected from the multicounty assessing
812 and collecting levy as follows:

813 (i) 18% of the revenue collected [~~from the base rate~~] shall be deposited into the
814 Property Tax Valuation Agency Fund, up to \$500,000 annually; and

815 (ii) after the deposit described in Subsection (2)(c)(i), all remaining revenue collected
816 from the multicounty assessing and collecting levy shall be deposited into the Multicounty
817 Appraisal Trust.

818 (3) (a) The multicounty assessing and collecting levy imposed under Subsection (2)
819 shall be separately stated on the tax notice as a multicounty assessing and collecting levy.

820 (b) The multicounty assessing and collecting levy is:

821 (i) exempt from Sections 17C-1-403 through 17C-1-406;

822 (ii) in addition to and exempt from the maximum levies allowable under Section
823 59-2-908; and

824 (iii) exempt from the notice and public hearing requirements of Section 59-2-919.

825 (c) (i) Each county shall transmit quarterly to the state treasurer the revenue collected
826 from the multicounty assessing and collecting levy.

827 (ii) The revenue transmitted under Subsection (3)(c)(i) shall be transmitted no later
828 than the tenth day of the month following the end of the quarter in which the revenue is
829 collected.

830 (iii) If revenue transmitted under Subsection (3)(c)(i) is transmitted after the tenth day
831 of the month following the end of the quarter in which the revenue is collected, the county shall
832 pay an interest penalty at the rate of 10% each year until the revenue is transmitted.

833 (d) The state treasurer shall allocate the penalties received under this Subsection (3) in

834 the same manner as revenue is allocated under Subsection (2)(c).

835 (4) (a) A county may levy a county additional property tax in accordance with this
836 Subsection (4).

837 (b) The county additional property tax:

838 (i) shall be separately stated on the tax notice as a county assessing and collecting levy;

839 (ii) may not be incorporated into the rate of any other levy;

840 (iii) is exempt from Sections 17C-1-403 through 17C-1-406; and

841 (iv) is in addition to and exempt from the maximum levies allowable under Section
842 59-2-908.

843 (c) Revenue collected from the county additional property tax shall be used to:

844 (i) promote the accurate valuation and uniform assessment levels of property as
845 required by Section 59-2-103;

846 (ii) promote the efficient administration of the property tax system, including the costs
847 of assessment, collection, and distribution of property taxes;

848 (iii) fund state mandated actions to meet legislative mandates or judicial or
849 administrative orders that relate to promoting:

850 (A) the accurate valuation of property; and

851 (B) the establishment and maintenance of uniform assessment levels within and among
852 counties; and

853 (iv) establish reappraisal programs that:

854 (A) are adopted by a resolution or ordinance of the county legislative body; and

855 (B) conform to rules the commission makes in accordance with Title 63G, Chapter 3,
856 Utah Administrative Rulemaking Act.

857 Section 8. Section 59-7-118 is amended to read:

858 **59-7-118. Section 965, Internal Revenue Code -- Installment payments.**

859 (1) Subject to the other provisions of this section, a corporation may pay in
860 installments the tax owed under this chapter on deferred foreign income described in Section
861 965, Internal Revenue Code.

862 (2) Subsection (1) applies:

863 (a) to a corporation that:

864 (i) is authorized to make an election under Section 965(h), Internal Revenue Code; and

865 (ii) apportions deferred foreign income described in Section 965, Internal Revenue
866 Code, to this state; and

867 (b) for a tax year in which a corporation makes an election under Section 965(h),
868 Internal Revenue Code, for purposes of the corporation's federal income tax.

869 (3) (a) Except as provided in Subsection (3)(b), the same provisions that apply to an
870 election made under Section 965(h), Internal Revenue Code, for federal purposes apply to an
871 installment payment made under this section.

872 (b) A corporation shall make:

873 (i) the first installment under this section on or before the due date~~[, including any~~
874 ~~extension,]~~ of the tax return filed under this chapter for the first taxable year in which the
875 corporation reports deferred foreign income described in Section 965, Internal Revenue Code;
876 and

877 (ii) a subsequent installment on or before the due date~~[, including any extension,]~~ of
878 the tax return filed under this chapter in each of the following seven years.

879 Section 9. Section **59-7-159** is amended to read:

880 **59-7-159. Review of credits allowed under this chapter.**

881 (1) As used in this section, "committee" means the Revenue and Taxation Interim
882 Committee.

883 (2) (a) The committee shall review the tax credits described in this chapter as provided
884 in Subsection (3) and make recommendations concerning whether the tax credits should be
885 continued, modified, or repealed.

886 (b) In conducting the review required under Subsection (2)(a), the committee shall:

887 (i) schedule time on at least one committee agenda to conduct the review;

888 (ii) invite state agencies, individuals, and organizations concerned with the tax credit
889 under review to provide testimony;

890 (iii) (A) invite the Governor's Office of Economic Development to present a summary
891 and analysis of the information for each tax credit regarding which the Governor's Office of
892 Economic Development is required to make a report under this chapter; and

893 (B) invite the Office of the Legislative Fiscal Analyst to present a summary and
894 analysis of the information for each tax credit regarding which the Office of the Legislative
895 Fiscal Analyst is required to make a report under this chapter;

896 (iv) ensure that the committee's recommendations described in this section include an
897 evaluation of:

- 898 (A) the cost of the tax credit to the state;
- 899 (B) the purpose and effectiveness of the tax credit; and
- 900 (C) the extent to which the state benefits from the tax credit; and

901 (v) undertake other review efforts as determined by the committee chairs or as
902 otherwise required by law.

903 (3) (a) On or before November 30, 2017, and every three years after 2017, the
904 committee shall conduct the review required under Subsection (2) of the tax credits allowed
905 under the following sections:

- 906 (i) Section 59-7-601;
- 907 (ii) Section 59-7-607;
- 908 (iii) Section 59-7-612;
- 909 (iv) Section 59-7-614.1; and
- 910 (v) Section 59-7-614.5.

911 (b) On or before November 30, 2018, and every three years after 2018, the committee
912 shall conduct the review required under Subsection (2) of the tax credits allowed under the
913 following sections:

- 914 (i) Section 59-7-609;
- 915 (ii) Section 59-7-614.2;
- 916 (iii) Section 59-7-614.10;
- 917 (iv) Section 59-7-619;
- 918 (v) Section 59-7-620; and
- 919 (vi) Section 59-7-624.

920 (c) On or before November 30, 2019, and every three years after 2019, the committee
921 shall conduct the review required under Subsection (2) of the tax credits allowed under the
922 following sections:

- 923 (i) Section 59-7-610;
- 924 (ii) Section 59-7-614; and
- 925 (iii) Section 59-7-614.7[; ~~and~~].
- 926 [~~(iv) Section 59-7-618;~~]

927 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall
 928 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,
 929 2017.

930 (ii) The committee shall complete a review described in this Subsection (3)(d) three
 931 years after the effective date of the tax credit and every three years after the initial review date.

932 Section 10. Section **59-7-504** is amended to read:

933 **59-7-504. Estimated tax payments -- Penalty -- Waiver.**

934 (1) Except as [~~otherwise provided in this section, each~~] provided in Subsection (2), a
 935 corporation subject to taxation under this chapter [~~having] that has~~ that has a tax liability of \$3,000 or
 936 more in either the current tax year[~~, or which had a tax liability of \$3,000 or more in the~~
 937 ~~previous tax year, shall make payments of estimated tax at the same time and using any method~~
 938 ~~provided under Section 6655, Internal Revenue Code]~~ or the previous tax year shall make a
 939 payment of an estimated tax on or before the day on which the corporation is required to make
 940 a payment of an estimated tax for the same time period to the federal government.

941 [~~(2) The following are modifications or exceptions to the provisions of Section 6655,~~
 942 ~~Internal Revenue Code:]~~

943 (2) The provisions of Section 6655, Internal Revenue Code, shall govern the payment
 944 described in Subsection (1), except that:

945 (a) for the first year a corporation is required to file a return in Utah, that corporation is
 946 not subject to Subsection (1) if [~~it] the corporation~~ the corporation makes a payment on or before the due date
 947 of the return, without extensions, equal to or greater than the minimum tax required under
 948 Section ~~59-7-104~~ or ~~59-7-201~~;

949 (b) the applicable percentage of the required annual payment, as defined in Section
 950 6655, Internal Revenue Code, for annualized income installments, adjusted seasonal
 951 installments, and those estimated tax payments based on the current year tax liability shall be:

952	Installment	Percentage
953	1st	22.5
954	2nd	45.0
955	3rd	67.5
956	4th	90.0

957 (c) a large [corporations] corporation shall be treated as any other corporation for
 958 purposes of this section; [~~and]~~

959 (d) if a taxpayer elects a different annualization period than the one used for federal

960 purposes, the taxpayer shall make an election with the ~~[Tax Commission]~~ commission at the
961 same time as provided under Section 6655, Internal Revenue Code[-]; and

962 (e) the due date shall be superseded by the due date for federal estimated payments if
963 modified by other federal action.

964 (3) A penalty shall be added as provided in Section 59-1-401 for any quarterly
965 estimated tax payment ~~[which]~~ that is not made in accordance with this section.

966 (4) There shall be no interest added to any estimated tax payments subject to a penalty
967 under this section.

968 Section 11. Section 59-7-505 is amended to read:

969 **59-7-505. Returns required -- When due -- Extension of time -- Exemption from**
970 **filing.**

971 (1) Each corporation subject to taxation under this chapter shall make a return, except
972 that a group of corporations filing a combined report under Part 4, Combined Reporting, shall
973 file one combined report.

974 (a) The return shall be signed by a responsible officer of the corporation, the signature
975 of whom need not be notarized but when signed shall be considered as made under oath.

976 (b) (i) In cases where receivers, trustees in bankruptcy, or assignees are operating the
977 property or business of corporations, those receivers, trustees, or assignees shall make returns
978 for such corporations in the same manner and form as corporations are required to make
979 returns.

980 (ii) Any tax due on the basis of such returns made by receivers, trustees, or assignees
981 shall be collected in the same manner as if collected from the corporations of whose business
982 or property they have custody and control.

983 ~~[(2) Returns shall be made on or before the 15th day of the fourth month following the~~
984 ~~close of the taxable year.]~~

985 (2) (a) A corporation required to make a return under this chapter shall make a return
986 on or before the later of:

987 (i) the 15th day of the fourth month following the close of the taxable year; or

988 (ii) the day on which the corporation is required to file a federal income tax return.

989 (b) Interest accrues from the day on which a return is due under this Subsection (2).

990 (3) (a) The commission shall allow a taxpayer an extension of time for filing ~~[returns]~~ a
991 return.

992 ~~[(b) The extension under Subsection (3)(a) may not exceed six months.]~~

993 (b) Except as provided in Subsection (3)(c), the extension described in Subsection
994 (3)(a) may be for up to six months.

995 (c) For a taxable year beginning on or after January 1, 2019, but beginning on or before
996 December 31, 2019, a taxpayer may receive an extension described in Subsection (3)(a) for the
997 time period that ends on the last day of the extension to file the taxpayer's federal income tax
998 return.

999 (4) Each return shall be made to the commission.

1000 (5) A corporation incorporated or qualified to do business in this state ~~[prior to]~~ before
1001 January 1, 1973, is not liable for filing a return or paying tax measured by income for the
1002 taxable year in which ~~[it]~~ the corporation legally terminates ~~[its]~~ the corporation's existence.

1003 (6) A corporation incorporated or qualified to do business or ~~[which had its]~~ that had
1004 the corporation's authority to do business reinstated on or after January 1, 1973, shall file a
1005 return and pay the tax measured by income for each period during which ~~[it]~~ the corporation
1006 had the right to do business in this state, and the return shall be filed and the tax paid within
1007 three months and 15 days after the close of this period.

1008 (7) If a corporation terminates ~~[its]~~ the corporation's existence under Section
1009 16-10a-1401, [no returns are required to be filed if a statement is furnished] the corporation is
1010 not required to file a return if the corporation provides a statement to the commission that no
1011 business has been conducted during that period.

1012 (8) (a) A corporation commencing to do business in Utah after qualification or
1013 incorporation with the Division of Corporations and Commercial Code is not required to file a
1014 return for the period commencing with the date of incorporation or qualification and ending on
1015 the last day of the same month, if that corporation was not doing business in and received no
1016 income from sources in the state during such period.

1017 (b) In determining whether a corporation comes within the provisions of this chapter,
1018 affidavits on behalf of the corporation that it did no business in and received no income from

1019 sources in Utah during such period shall be filed with the commission.

1020 Section 12. Section **59-7-507** is amended to read:

1021 **59-7-507. Payment of tax.**

1022 (1) (a) If ~~[quarterly estimated payments are]~~ an estimated payment is not made as
1023 provided in Section 59-7-504, the amount of tax imposed by this chapter shall be paid no later
1024 than the [original] due date of the return described in Subsection 59-7-505(2).

1025 ~~[(b) If an extension of time is necessary for filing a return, as provided in Subsection~~
1026 ~~59-7-505(3) or Section 59-7-803, payment must be made no later than the original due date of~~
1027 ~~the return in an amount equal to the lesser of:]~~

1028 (b) If a taxpayer needs an extension of time to file a return, as provided in Section
1029 59-7-505 or 59-7-803, a taxpayer shall pay, no later than the due date of the return described in
1030 Subsection 59-7-505(2), an amount equal to the lesser of:

1031 (i) ~~[The]~~ the greater of:

1032 (A) 90% of the total tax reported on the return for the current taxable year; or

1033 (B) 100% of the minimum tax described in Section 59-7-104; or

1034 (ii) 100% of the total tax liability for the taxable year immediately preceding the
1035 current taxable year.

1036 (c) If payment is not made as provided in Subsection (1)(b), the commission shall add
1037 an extension penalty as provided in Section 59-1-401, until the tax is paid during the period of
1038 extension.

1039 (2) (a) For a taxable year beginning on or after January 1, 2019, but beginning on or
1040 before December 31, 2019, a taxpayer shall receive an extension of time for the payment of the
1041 amount determined as the tax of the taxpayer, or any part of that amount, for the time period
1042 that ends on the last day of the extension to pay the taxpayer's federal income tax.

1043 ~~[(2)(a) At]~~ (b) (i) For a taxable year beginning on or after January 1, 2020, at the
1044 request of the taxpayer, the commission may extend the time for payment of the amount
1045 determined as the tax by the taxpayer, or any part of that amount, for a period not to exceed six
1046 months from the date prescribed for the payment of the tax.

1047 ~~[(b) For purposes of Subsection (2)(a), the amount in respect of which the extension is~~
1048 ~~granted shall be paid on or before the date of the expiration of the period of the extension.]~~

1049 (ii) For purposes of Subsection (2)(b)(i), the taxpayer shall pay the amount for which

1050 the extension is granted on or before the day on which the period of the extension expires.

1051 Section 13. Section **59-7-610** is amended to read:

1052 **59-7-610. Recycling market development zones tax credits.**

1053 (1) Subject to other provisions of this section, a taxpayer that is a business operating in
1054 a recycling market development zone as defined in Section **19-13-102** may claim the following
1055 nonrefundable tax credits:

1056 (a) a tax credit [~~of 5% of~~] equal to the product of the percentage listed in Subsection
1057 59-7-104(2) and the purchase price paid for machinery and equipment used directly in:

1058 (i) commercial composting; or

1059 (ii) manufacturing facilities or plant units that:

1060 (A) manufacture, process, compound, or produce recycled items of tangible personal
1061 property for sale; or

1062 (B) reduce or reuse postconsumer waste material; and

1063 (b) a tax credit equal to the lesser of:

1064 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test
1065 inventory, and utilities made by the taxpayer for establishing and operating recycling or
1066 composting technology in the state; and

1067 (ii) \$2,000.

1068 (2) (a) To claim a tax credit described in Subsection (1), the taxpayer shall receive
1069 from the Department of Environmental Quality a written certification, on a form approved by
1070 the commission, that includes:

1071 (i) a statement that the taxpayer is operating a business within the boundaries of a
1072 recycling market development zone;

1073 (ii) for a claim of the tax credit described in Subsection (1)(a):

1074 (A) the type of the machinery and equipment that the taxpayer purchased;

1075 (B) the date that the taxpayer purchased the machinery and equipment;

1076 (C) the purchase price for the machinery and equipment;

1077 (D) the total purchase price for all machinery and equipment for which the taxpayer is
1078 claiming a tax credit;

1079 (E) a statement that the machinery and equipment are integral to the composting or
1080 recycling process; and

- 1081 (F) the amount of the taxpayer's tax credit; and
- 1082 (iii) for a claim of the tax credit described in Subsection (1)(b):
- 1083 (A) the type of net expenditure that the taxpayer made to a third party;
- 1084 (B) the date that the taxpayer made the payment to a third party;
- 1085 (C) the amount that the taxpayer paid to each third party;
- 1086 (D) the total amount that the taxpayer paid to all third parties;
- 1087 (E) a statement that the net expenditures support the establishment and operation of
- 1088 recycling or composting technology in the state; and
- 1089 (F) the amount of the taxpayer's tax credit.
- 1090 (b) (i) The Department of Environmental Quality shall provide a taxpayer seeking to
- 1091 claim a tax credit under Subsection (1) with a copy of the written certification.
- 1092 (ii) The taxpayer shall retain a copy of the written certification for the same period of
- 1093 time that a person is required to keep books and records under Section [59-1-1406](#).
- 1094 (c) The Department of Environmental Quality shall submit to the commission an
- 1095 electronic list that includes:
- 1096 (i) the name and identifying information of each taxpayer to which the Department of
- 1097 Environmental Quality issues a written certification; and
- 1098 (ii) for each taxpayer, the amount of each tax credit listed on the written certification.
- 1099 (3) A taxpayer may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or
- 1100 both that exceeds 40% of the taxpayer's state income tax liability as the tax liability is
- 1101 calculated:
- 1102 (a) for the taxable year in which the taxpayer made the purchases or payments;
- 1103 (b) before any other tax credits the taxpayer may claim for the taxable year; and
- 1104 (c) before the taxpayer claims a tax credit authorized by this section.
- 1105 (4) The commission shall make rules governing what information a taxpayer shall file
- 1106 with the commission to verify the entitlement to and amount of a tax credit.
- 1107 (5) Except as provided in Subsections (6) through (8), a taxpayer may carry forward, to
- 1108 the next three taxable years, the amount of a tax credit described in Subsection (1)(a) that the
- 1109 taxpayer does not use for the taxable year.
- 1110 (6) A taxpayer may not claim or carry forward a tax credit described in Subsection
- 1111 (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under

1112 Section [63N-2-213](#).

1113 (7) A taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable
1114 year during which the taxpayer claims or carries forward a tax credit under Section [63N-2-213](#).

1115 (8) A taxpayer may not claim or carry forward a tax credit under this section for a
1116 taxable year during which the taxpayer claims the targeted business income tax credit under
1117 Section [59-7-624](#).

1118 Section 14. Section **59-7-620** is amended to read:

1119 **59-7-620. Nonrefundable tax credit for contribution to state Achieving a Better**
1120 **Life Experience Program account.**

1121 (1) As used in this section:

1122 (a) "Account" means an account in a qualified ABLE program where the designated
1123 beneficiary of the account is a resident of this state.

1124 (b) "Contributor" means a corporation that:

1125 (i) makes a contribution to an account; and

1126 (ii) receives a statement from the qualified ABLE program itemizing the contribution.

1127 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.
1128 529A.

1129 (d) "Qualified ABLE program" means the same as that term is defined in Section
1130 [35A-12-102](#).

1131 (2) For a taxable year beginning on or after January 1, 2020, but beginning on or before
1132 December 31, 2020, a contributor to an account may claim a nonrefundable tax credit as
1133 provided in this section.

1134 (3) Subject to the other provisions of this section, the tax credit is equal to the product
1135 of:

1136 (a) ~~5%~~ the percentage listed in Subsection [59-7-104\(2\)](#); and

1137 (b) the total amount of contributions:

1138 (i) the contributor makes for the taxable year; and

1139 (ii) for which the contributor receives a statement from the qualified ABLE program
1140 itemizing the contributions.

1141 (4) A contributor may not claim a tax credit under this section:

1142 (a) for an amount of excess contribution to an account that is returned to the

1143 contributor; or

1144 (b) with respect to an amount the contributor deducts on a federal income tax return.

1145 (5) A tax credit under this section may not be carried forward or carried back.

1146 Section 15. Section **59-10-103** is amended to read:

1147 **59-10-103. Definitions.**

1148 (1) As used in this chapter:

1149 (a) (i) "Adjusted gross income":

1150 (A) for a resident or nonresident individual, means the same as that term is defined in

1151 Section 62, Internal Revenue Code; or

1152 (B) for a resident or nonresident estate or trust, is as calculated in Section 67(e),

1153 Internal Revenue Code.

1154 (ii) "Adjusted gross income" does not include:

1155 (A) income received from a loan forgiven in accordance with 15 U.S.C. Sec. 636(a)

1156 (36), to the extent that a deduction for the expenditures paid with the loan is disallowed, or a

1157 similar paycheck protection loan that is authorized by the federal government, provided in

1158 response to COVID-19, forgiven if the borrower meets the expenditure requirements, and

1159 exempt from federal income tax, to the extent that a deduction for the expenditures paid with

1160 the loan is disallowed; or

1161 (B) an amount that an individual receives in accordance with Section 6428, Internal

1162 Revenue Code, or an amount that an individual receives that is authorized by the federal

1163 government as a tax credit for the 2020 tax year, provided in response to COVID-19, paid in

1164 advance of the filing of the individual's 2020 federal income tax return, and exempt from

1165 federal income tax.

1166 (b) "Corporation" includes:

1167 (i) an association;

1168 (ii) a joint stock company; and

1169 (iii) an insurance company.

1170 (c) "COVID-19" means:

1171 (i) the severe acute respiratory syndrome coronavirus 2; or

1172 (ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

1173 (d) "Distributable net income" means the same as that term is defined in Section 643,

- 1174 Internal Revenue Code.
- 1175 (e) "Employee" means the same as that term is defined in Section 59-10-401.
- 1176 (f) "Employer" means the same as that term is defined in Section 59-10-401.
- 1177 (g) "Federal taxable income":
- 1178 (i) for a resident or nonresident individual, means taxable income as defined by Section
- 1179 63, Internal Revenue Code; or
- 1180 (ii) for a resident or nonresident estate or trust, is as calculated in Section 641(a) and
- 1181 (b), Internal Revenue Code.
- 1182 (h) "Fiduciary" means:
- 1183 (i) a guardian;
- 1184 (ii) a trustee;
- 1185 (iii) an executor;
- 1186 (iv) an administrator;
- 1187 (v) a receiver;
- 1188 (vi) a conservator; or
- 1189 (vii) any person acting in any fiduciary capacity for any individual.
- 1190 (i) "Guaranteed annuity interest" means the same as that term is defined in 26 C.F.R.
- 1191 Sec. 1.170A-6(c)(2).
- 1192 (j) "Homesteaded land diminished from the Uintah and Ouray Reservation" means the
- 1193 homesteaded land that was held to have been diminished from the Uintah and Ouray
- 1194 Reservation in Hagen v. Utah, 510 U.S. 399 (1994).
- 1195 (k) "Individual" means a natural person and includes aliens and minors.
- 1196 (l) "Irrevocable trust" means a trust in which the settlor may not revoke or terminate all
- 1197 or part of the trust without the consent of a person who has a substantial beneficial interest in
- 1198 the trust and the interest would be adversely affected by the exercise of the settlor's power to
- 1199 revoke or terminate all or part of the trust.
- 1200 (m) "Military service" means the same as that term is defined in Pub. L. No. 108-189,
- 1201 Sec. 101.
- 1202 (n) "Nonresident individual" means an individual who is not a resident of this state.
- 1203 (o) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a
- 1204 resident estate or trust.

1205 (p) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other
1206 unincorporated organization:
1207 (A) through or by means of which any business, financial operation, or venture is
1208 carried on; and
1209 (B) that is not, within the meaning of this chapter, a trust, an estate, or a corporation.
1210 (ii) "Partnership" does not include any organization not included under the definition of
1211 "partnership" in Section 761, Internal Revenue Code.
1212 (iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or
1213 organization described in Subsection (1)(p)(i).
1214 (q) "Pass-through entity" means the same as that term is defined in Section
1215 59-10-1402.
1216 (r) "Pass-through entity taxpayer" means the same as that term is defined in Section
1217 59-10-1402.
1218 [~~(q)~~] (s) "Qualified nongrantor charitable lead trust" means a trust:
1219 (i) that is irrevocable;
1220 (ii) that has a trust term measured by:
1221 (A) a fixed term of years; or
1222 (B) the life of a person living on the day on which the trust is created;
1223 (iii) under which:
1224 (A) a portion of the value of the trust assets is distributed during the trust term:
1225 (I) to an organization described in Section 170(c), Internal Revenue Code; and
1226 (II) as a guaranteed annuity interest or a unitrust interest; and
1227 (B) assets remaining in the trust at the termination of the trust term are distributed to a
1228 beneficiary:
1229 (I) designated in the trust; and
1230 (II) that is not an organization described in Section 170(c), Internal Revenue Code;
1231 (iv) for which the trust is allowed a deduction under Section 642(c), Internal Revenue
1232 Code; and
1233 (v) under which the grantor of the trust is not treated as the owner of any portion of the
1234 trust for federal income tax purposes.
1235 [~~(r)~~] (t) "Resident individual" means an individual who is domiciled in this state for

1236 any period of time during the taxable year, but only for the duration of the period during which
1237 the individual is domiciled in this state.

1238 ~~[(s)]~~ (u) "Resident estate" or "resident trust" means the same as that term is defined in
1239 Section 75-7-103.

1240 ~~[(t)]~~ (v) "Servicemember" means the same as that term is defined in Pub. L. No.
1241 108-189, Sec. 101.

1242 ~~[(tt)]~~ (w) "State income tax percentage for a nonresident estate or trust" means a
1243 percentage equal to a nonresident estate's or trust's state taxable income for the taxable year
1244 divided by the nonresident estate's or trust's total adjusted gross income for that taxable year
1245 after making the adjustments required by:

- 1246 (i) Section 59-10-202;
- 1247 (ii) Section 59-10-207;
- 1248 (iii) Section 59-10-209.1; or
- 1249 (iv) Section 59-10-210.

1250 ~~[(v)]~~ (x) "State income tax percentage for a nonresident individual" means a percentage
1251 equal to a nonresident individual's state taxable income for the taxable year divided by the
1252 difference between:

1253 (i) subject to Section 59-10-1405, the nonresident individual's total adjusted gross
1254 income for that taxable year, after making the:

- 1255 (A) additions and subtractions required by Section 59-10-114; and
- 1256 (B) adjustments required by Section 59-10-115; and

1257 (ii) if the nonresident individual described in Subsection (1)~~[(v)]~~(x)(i) is a
1258 servicemember, the compensation the servicemember receives for military service if the
1259 servicemember is serving in compliance with military orders.

1260 ~~[(w)]~~ (y) "State income tax percentage for a part-year resident individual" means, for a
1261 taxable year, a fraction:

1262 (i) the numerator of which is the sum of:

1263 (A) subject to Section 59-10-1404.5, for the time period during the taxable year that the
1264 part-year resident individual is a resident, the part-year resident individual's total adjusted gross
1265 income for that time period, after making the:

1266 (I) additions and subtractions required by Section 59-10-114; and

1267 (II) adjustments required by Section 59-10-115; and
1268 (B) for the time period during the taxable year that the part-year resident individual is a
1269 nonresident, an amount calculated by:
1270 (I) determining the part-year resident individual's adjusted gross income for that time
1271 period, after making the:
1272 (Aa) additions and subtractions required by Section 59-10-114; and
1273 (Bb) adjustments required by Section 59-10-115; and
1274 (II) calculating the portion of the amount determined under Subsection
1275 (1)[~~(w)~~](y)(i)(B)(I) that is derived from Utah sources in accordance with Section 59-10-117;
1276 and
1277 (ii) the denominator of which is the difference between:
1278 (A) the part-year resident individual's total adjusted gross income for that taxable year,
1279 after making the:
1280 (I) additions and subtractions required by Section 59-10-114; and
1281 (II) adjustments required by Section 59-10-115; and
1282 (B) if the part-year resident individual is a servicemember, any compensation the
1283 servicemember receives for military service during the portion of the taxable year that the
1284 servicemember is a nonresident if the servicemember is serving in compliance with military
1285 orders.
1286 [~~(x)~~] (z) "Taxable income" or "state taxable income":
1287 (i) subject to Section 59-10-1404.5, for a resident individual, means the resident
1288 individual's adjusted gross income after making the:
1289 (A) additions and subtractions required by Section 59-10-114; and
1290 (B) adjustments required by Section 59-10-115;
1291 (ii) for a nonresident individual, is an amount calculated by:
1292 (A) determining the nonresident individual's adjusted gross income for the taxable
1293 year, after making the:
1294 (I) additions and subtractions required by Section 59-10-114; and
1295 (II) adjustments required by Section 59-10-115; and
1296 (B) calculating the portion of the amount determined under Subsection
1297 (1)[~~(x)~~](z)(ii)(A) that is derived from Utah sources in accordance with Section 59-10-117;

- 1298 (iii) for a resident estate or trust, is as calculated under Section 59-10-201.1; and
1299 (iv) for a nonresident estate or trust, is as calculated under Section 59-10-204.
- 1300 ~~[(y)]~~ (aa) "Taxpayer" means any ~~[individual, estate, trust, or beneficiary of an estate or~~
1301 ~~trust,]~~ of the following that has income subject in whole or part to the tax imposed by this
1302 chapter[-]:
- 1303 (i) an individual;
1304 (ii) an estate, a trust, or a beneficiary of an estate or a trust that is not a pass-through
1305 entity or a pass-through entity taxpayer;
1306 (iii) a pass-through entity; or
1307 (iv) a pass-through entity taxpayer.
- 1308 ~~[(z)]~~ (bb) "Trust term" means a time period:
1309 (i) beginning on the day on which a qualified nongrantor charitable lead trust is
1310 created; and
1311 (ii) ending on the day on which the qualified nongrantor charitable lead trust described
1312 in Subsection (1)~~[(z)]~~(bb)(i) terminates.
- 1313 ~~[(aa)]~~ (cc) "Uintah and Ouray Reservation" means the lands recognized as being
1314 included within the Uintah and Ouray Reservation in:
- 1315 (i) Hagen v. Utah, 510 U.S. 399 (1994); and
1316 (ii) Ute Indian Tribe v. Utah, 114 F.3d 1513 (10th Cir. 1997).
- 1317 ~~[(bb)]~~ (dd) "Unadjusted income" means an amount equal to the difference between:
1318 (i) the total income required to be reported by a resident or nonresident estate or trust
1319 on the resident or nonresident estate's or trust's federal income tax return for estates and trusts
1320 for the taxable year; and
1321 (ii) the sum of the following:
1322 (A) fees paid or incurred to the fiduciary of a resident or nonresident estate or trust:
1323 (I) for administering the resident or nonresident estate or trust; and
1324 (II) that the resident or nonresident estate or trust deducts as allowed on the resident or
1325 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable
1326 year;
1327 (B) the income distribution deduction that a resident or nonresident estate or trust
1328 deducts under Section 651 or 661, Internal Revenue Code, as allowed on the resident or

1329 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable
1330 year;

1331 (C) the amount that a resident or nonresident estate or trust deducts as a deduction for
1332 estate tax or generation skipping transfer tax under Section 691(c), Internal Revenue Code, as
1333 allowed on the resident or nonresident estate's or trust's federal income tax return for estates
1334 and trusts for the taxable year; and

1335 (D) the amount that a resident or nonresident estate or trust deducts as a personal
1336 exemption under Section 642(b), Internal Revenue Code, as allowed on the resident or
1337 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable
1338 year.

1339 [~~ee~~] (ee) "Unitrust interest" means the same as that term is defined in 26 C.F.R. Sec.
1340 1.170A-6(c)(2).

1341 [~~dd~~] (ff) "Ute tribal member" means an individual who is enrolled as a member of the
1342 Ute Indian Tribe of the Uintah and Ouray Reservation.

1343 [~~ee~~] (gg) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray
1344 Reservation.

1345 [~~ff~~] (hh) "Wages" means the same as that term is defined in Section 59-10-401.

1346 (2) (a) Any term used in this chapter has the same meaning as when used in
1347 comparable context in the laws of the United States relating to federal income taxes unless a
1348 different meaning is clearly required.

1349 (b) Any reference to the Internal Revenue Code or to the laws of the United States shall
1350 mean the Internal Revenue Code or other provisions of the laws of the United States relating to
1351 federal income taxes that are in effect for the taxable year.

1352 (c) Any reference to a specific section of the Internal Revenue Code or other provision
1353 of the laws of the United States relating to federal income taxes shall include any
1354 corresponding or comparable provisions of the Internal Revenue Code as amended,
1355 redesignated, or reenacted.

1356 Section 16. Section 59-10-114 is amended to read:

1357 **59-10-114. Additions to and subtractions from adjusted gross income of an**
1358 **individual.**

1359 (1) There shall be added to adjusted gross income of a resident or nonresident

1360 individual:

1361 (a) a lump sum distribution that the taxpayer does not include in adjusted gross income
1362 on the taxpayer's federal individual income tax return for the taxable year;

1363 (b) the amount of a child's income calculated under Subsection (4) that:

1364 (i) a parent elects to report on the parent's federal individual income tax return for the
1365 taxable year; and

1366 (ii) the parent does not include in adjusted gross income on the parent's federal
1367 individual income tax return for the taxable year;

1368 (c) (i) a withdrawal from a medical care savings account and any penalty imposed for
1369 the taxable year if:

1370 (A) the resident or nonresident individual does not deduct the amounts on the resident
1371 or nonresident individual's federal individual income tax return under Section 220, Internal
1372 Revenue Code;

1373 (B) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and

1374 (C) the withdrawal is subtracted on, or used as the basis for claiming a tax credit on, a
1375 return the resident or nonresident individual files under this chapter;

1376 (ii) a disbursement required to be added to adjusted gross income in accordance with
1377 Subsection 31A-32a-105(3); or

1378 (iii) an amount required to be added to adjusted gross income in accordance with
1379 Subsection 31A-32a-105(5)(c);

1380 (d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan,
1381 from the account of a resident or nonresident individual who is an account owner as defined in
1382 Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount
1383 withdrawn from the account of the resident or nonresident individual who is the account
1384 owner:

1385 (i) is not expended for:

1386 (A) higher education costs as defined in Section 53B-8a-102.5; or

1387 (B) a payment or distribution that qualifies as an exception to the additional tax for
1388 distributions not used for educational expenses provided in Sections 529(c) and 530(d),
1389 Internal Revenue Code; and

1390 (ii) is:

- 1391 (A) subtracted by the resident or nonresident individual:
- 1392 (I) who is the account owner; and
- 1393 (II) on the resident or nonresident individual's return filed under this chapter for a
- 1394 taxable year beginning on or before December 31, 2007; or
- 1395 (B) used as the basis for the resident or nonresident individual who is the account
- 1396 owner to claim a tax credit under Section 59-10-1017;
- 1397 (e) except as provided in Subsection (5), for bonds, notes, and other evidences of
- 1398 indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other
- 1399 evidences of indebtedness:
- 1400 (i) issued by one or more of the following entities:
- 1401 (A) a state other than this state;
- 1402 (B) the District of Columbia;
- 1403 (C) a political subdivision of a state other than this state; or
- 1404 (D) an agency or instrumentality of an entity described in Subsections (1)(e)(i)(A)
- 1405 through (C); and
- 1406 (ii) to the extent the interest is not included in adjusted gross income on the taxpayer's
- 1407 federal income tax return for the taxable year;
- 1408 (f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a
- 1409 resident trust of income that was taxed at the trust level for federal tax purposes, but was
- 1410 subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);
- 1411 (g) any distribution received by a resident beneficiary of a nonresident trust of
- 1412 undistributed distributable net income realized by the trust on or after January 1, 2004, if that
- 1413 undistributed distributable net income was taxed at the trust level for federal tax purposes, but
- 1414 was not taxed at the trust level by any state, with undistributed distributable net income
- 1415 considered to be distributed from the most recently accumulated undistributed distributable net
- 1416 income; and
- 1417 (h) any adoption expense:
- 1418 (i) for which a resident or nonresident individual receives reimbursement from another
- 1419 person; and
- 1420 (ii) to the extent to which the resident or nonresident individual subtracts that adoption
- 1421 expense:

1422 (A) on a return filed under this chapter for a taxable year beginning on or before
1423 December 31, 2007; or
1424 (B) from federal taxable income on a federal individual income tax return.

1425 (2) There shall be subtracted from adjusted gross income of a resident or nonresident
1426 individual:

1427 (a) the difference between:

1428 (i) the interest or a dividend on an obligation or security of the United States or an
1429 authority, commission, instrumentality, or possession of the United States, to the extent that
1430 interest or dividend is:

1431 (A) included in adjusted gross income for federal income tax purposes for the taxable
1432 year; and

1433 (B) exempt from state income taxes under the laws of the United States; and

1434 (ii) any interest on indebtedness incurred or continued to purchase or carry the
1435 obligation or security described in Subsection (2)(a)(i);

1436 (b) [~~for taxable years beginning on or after January 1, 2000;~~] if the conditions of
1437 Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:

1438 (i) during a time period that the Ute tribal member resides on homesteaded land
1439 diminished from the Uintah and Ouray Reservation; and

1440 (ii) from a source within the Uintah and Ouray Reservation;

1441 (c) an amount received by a resident or nonresident individual or distribution received
1442 by a resident or nonresident beneficiary of a resident trust:

1443 (i) if that amount or distribution constitutes a refund of taxes imposed by:

1444 (A) a state; or

1445 (B) the District of Columbia; and

1446 (ii) to the extent that amount or distribution is included in adjusted gross income for
1447 that taxable year on the federal individual income tax return of the resident or nonresident
1448 individual or resident or nonresident beneficiary of a resident trust;

1449 (d) the amount of a railroad retirement benefit:

1450 (i) paid:

1451 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et
1452 seq.;

- 1453 (B) to a resident or nonresident individual; and
- 1454 (C) for the taxable year; and
- 1455 (ii) to the extent that railroad retirement benefit is included in adjusted gross income on
- 1456 that resident or nonresident individual's federal individual income tax return for that taxable
- 1457 year;
- 1458 (e) an amount:
- 1459 (i) received by an enrolled member of an American Indian tribe; and
- 1460 (ii) to the extent that the state is not authorized or permitted to impose a tax under this
- 1461 part on that amount in accordance with:
- 1462 (A) federal law;
- 1463 (B) a treaty; or
- 1464 (C) a final decision issued by a court of competent jurisdiction;
- 1465 (f) an amount received:
- 1466 (i) for the interest on a bond, note, or other obligation issued by an entity for which
- 1467 state statute provides an exemption of interest on its bonds from state individual income tax;
- 1468 (ii) by a resident or nonresident individual;
- 1469 (iii) for the taxable year; and
- 1470 (iv) to the extent the amount is included in adjusted gross income on the taxpayer's
- 1471 federal income tax return for the taxable year;
- 1472 (g) the amount of all income, including income apportioned to another state, of a
- 1473 nonmilitary spouse of an active duty military member if:
- 1474 (i) both the nonmilitary spouse and the active duty military member are nonresident
- 1475 individuals;
- 1476 (ii) the active duty military member is stationed in Utah;
- 1477 (iii) the nonmilitary spouse is subject to the residency provisions of 50 U.S.C. Sec.
- 1478 4001(a)(2); and
- 1479 (iv) the income is included in adjusted gross income for federal income tax purposes
- 1480 for the taxable year;
- 1481 (h) for a taxable year beginning on or after January 1, 2019, but beginning on or before
- 1482 December 31, 2019, only:
- 1483 (i) the amount of any FDIC premium paid or incurred by the taxpayer that is

1484 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal
1485 Revenue Code, on the taxpayer's 2018 federal income tax return; plus

1486 (ii) the amount of any FDIC premium paid or incurred by the taxpayer that is
1487 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal
1488 Revenue Code, for the taxable year;

1489 (i) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC
1490 premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income
1491 tax purposes under Section 162(r), Internal Revenue Code, for the taxable year; ~~and~~

1492 (j) for a taxable year beginning on or after January 1, 2020, but beginning on or before
1493 December 31, 2020, the amount:

1494 (i) of a paycheck protection loan similar to a loan forgiven in accordance with 15
1495 U.S.C. Sec. 636(a)(36) that is:

1496 (A) authorized by the federal government;

1497 (B) provided in response to COVID-19;

1498 (C) forgiven if the borrower meets the expenditure requirements; and

1499 (D) subject to federal income tax, to the extent that a deduction for the expenditures
1500 paid with the loan is disallowed;

1501 (ii) that a resident or a nonresident individual receives that is:

1502 (A) authorized by the federal government as a tax credit for the 2020 tax year;

1503 (B) provided in response to COVID-19;

1504 (C) paid in advance of the filing of the individual's 2020 federal income tax return; and

1505 (D) subject to federal income tax; and

1506 (iii) of any grant funds or forgiven loans that:

1507 (A) the resident or nonresident individual receives from the state, a county within the
1508 state, or a municipality within the state in response to COVID-19;

1509 (B) are funded by using federal revenue received by the state, the county, or the
1510 municipality to respond to COVID-19; and

1511 (C) are included in adjusted gross income[-]; and

1512 (k) an amount of a distribution from a qualified retirement plan under Section 401(a),
1513 Internal Revenue Code, if:

1514 (i) the amount of the distribution is included in adjusted gross income on the resident

1515 or nonresident individual's federal individual income tax return for the taxable year; and
1516 (ii) for the taxable year when the amount of the distribution was contributed to the
1517 qualified retirement plan, the amount of the distribution:
1518 (A) was not included in adjusted gross income on the resident or nonresident
1519 individual's federal individual income tax return for the taxable year; and
1520 (B) was taxed by another state of the United States, the District of Columbia, or a
1521 possession of the United States.
1522 (3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:
1523 (i) the taxpayer is a Ute tribal member; and
1524 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the
1525 requirements of this Subsection (3).
1526 (b) The agreement described in Subsection (3)(a):
1527 (i) may not:
1528 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
1529 (B) provide a subtraction under this section greater than or different from the
1530 subtraction described in Subsection (2)(b); or
1531 (C) affect the power of the state to establish rates of taxation; and
1532 (ii) shall:
1533 (A) provide for the implementation of the subtraction described in Subsection (2)(b);
1534 (B) be in writing;
1535 (C) be signed by:
1536 (I) the governor; and
1537 (II) the chair of the Business Committee of the Ute tribe;
1538 (D) be conditioned on obtaining any approval required by federal law; and
1539 (E) state the effective date of the agreement.
1540 (c) (i) The governor shall report to the commission by no later than February 1 of each
1541 year regarding whether or not an agreement meeting the requirements of this Subsection (3) is
1542 in effect.
1543 (ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the
1544 subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or
1545 after the January 1 following the termination of the agreement.

1546 (d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3,
1547 Utah Administrative Rulemaking Act, the commission may make rules:

1548 (i) for determining whether income is derived from a source within the Uintah and
1549 Ouray Reservation; and

1550 (ii) that are substantially similar to how adjusted gross income derived from Utah
1551 sources is determined under Section [59-10-117](#).

1552 (4) (a) For purposes of this Subsection (4), "Form 8814" means:

1553 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's
1554 Interest and Dividends; or

1555 (ii) (A) a form designated by the commission in accordance with Subsection
1556 (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal
1557 individual income taxes the information contained on 2000 Form 8814 is reported on a form
1558 other than Form 8814; and

1559 (B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter
1560 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as
1561 being substantially similar to 2000 Form 8814 if for purposes of federal individual income
1562 taxes the information contained on 2000 Form 8814 is reported on a form other than Form
1563 8814.

1564 (b) The amount of a child's income added to adjusted gross income under Subsection
1565 (1)(b) is equal to the difference between:

1566 (i) the lesser of:

1567 (A) the base amount specified on Form 8814; and

1568 (B) the sum of the following reported on Form 8814:

1569 (I) the child's taxable interest;

1570 (II) the child's ordinary dividends; and

1571 (III) the child's capital gain distributions; and

1572 (ii) the amount not taxed that is specified on Form 8814.

1573 (5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences
1574 of indebtedness issued by an entity described in Subsections (1)(e)(i)(A) through (D) may not
1575 be added to adjusted gross income of a resident or nonresident individual if, as annually
1576 determined by the commission:

1577 (a) for an entity described in Subsection (1)(e)(i)(A) or (B), the entity and all of the
1578 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on
1579 income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

1580 (b) for an entity described in Subsection (1)(e)(i)(C) or (D), the following do not
1581 impose a tax based on income on any part of the bonds, notes, and other evidences of
1582 indebtedness of this state:

1583 (i) the entity; or

1584 (ii) (A) the state in which the entity is located; or

1585 (B) the District of Columbia, if the entity is located within the District of Columbia.

1586 Section 17. Section **59-10-137** is amended to read:

1587 **59-10-137. Review of credits allowed under this chapter.**

1588 (1) As used in this section, "committee" means the Revenue and Taxation Interim
1589 Committee.

1590 (2) (a) The committee shall review the tax credits described in this chapter as provided
1591 in Subsection (3) and make recommendations concerning whether the tax credits should be
1592 continued, modified, or repealed.

1593 (b) In conducting the review required under Subsection (2)(a), the committee shall:

1594 (i) schedule time on at least one committee agenda to conduct the review;

1595 (ii) invite state agencies, individuals, and organizations concerned with the tax credit
1596 under review to provide testimony;

1597 (iii) (A) invite the Governor's Office of Economic Development to present a summary
1598 and analysis of the information for each tax credit regarding which the Governor's Office of
1599 Economic Development is required to make a report under this chapter; and

1600 (B) invite the Office of the Legislative Fiscal Analyst to present a summary and
1601 analysis of the information for each tax credit regarding which the Office of the Legislative
1602 Fiscal Analyst is required to make a report under this chapter;

1603 (iv) ensure that the committee's recommendations described in this section include an
1604 evaluation of:

1605 (A) the cost of the tax credit to the state;

1606 (B) the purpose and effectiveness of the tax credit; and

1607 (C) the extent to which the state benefits from the tax credit; and

1608 (v) undertake other review efforts as determined by the committee chairs or as
1609 otherwise required by law.

1610 (3) (a) On or before November 30, 2017, and every three years after 2017, the
1611 committee shall conduct the review required under Subsection (2) of the tax credits allowed
1612 under the following sections:

- 1613 (i) Section 59-10-1004;
- 1614 (ii) Section 59-10-1010;
- 1615 (iii) Section 59-10-1015;
- 1616 (iv) Section 59-10-1025;
- 1617 (v) Section 59-10-1027;
- 1618 (vi) Section 59-10-1031;
- 1619 (vii) Section 59-10-1032;
- 1620 (viii) Section 59-10-1035;
- 1621 (ix) Section 59-10-1104;
- 1622 (x) Section 59-10-1105; and
- 1623 (xi) Section 59-10-1108.

1624 (b) On or before November 30, 2018, and every three years after 2018, the committee
1625 shall conduct the review required under Subsection (2) of the tax credits allowed under the
1626 following sections:

- 1627 (i) Section 59-10-1005;
- 1628 (ii) Section 59-10-1006;
- 1629 (iii) Section 59-10-1012;
- 1630 (iv) Section 59-10-1022;
- 1631 (v) Section 59-10-1023;
- 1632 (vi) Section 59-10-1028;
- 1633 (vii) Section 59-10-1034;
- 1634 (viii) Section 59-10-1037;
- 1635 (ix) Section 59-10-1107; and
- 1636 (x) Section 59-10-1112.

1637 (c) On or before November 30, 2019, and every three years after 2019, the committee
1638 shall conduct the review required under Subsection (2) of the tax credits allowed under the

1639 following sections:

- 1640 (i) Section [59-10-1007](#);
- 1641 (ii) Section [59-10-1014](#);
- 1642 (iii) Section [59-10-1017](#);
- 1643 (iv) Section [59-10-1018](#);
- 1644 (v) Section [59-10-1019](#);
- 1645 (vi) Section [59-10-1024](#);
- 1646 (vii) Section [59-10-1029](#);
- 1647 [~~(viii)~~ Section [59-10-1033](#)];
- 1648 [~~(ix)~~] (viii) Section [59-10-1036](#);
- 1649 [~~(x)~~] (ix) Section [59-10-1106](#); and
- 1650 [~~(xi)~~] (x) Section [59-10-1111](#).

1651 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall
 1652 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,
 1653 2017.

1654 (ii) The committee shall complete a review described in this Subsection (3)(d) three
 1655 years after the effective date of the tax credit and every three years after the initial review date.

1656 Section 18. Section [59-10-507](#) is amended to read:

1657 **59-10-507. Return by a pass-through entity.**

1658 [~~(1)~~ As used in this section:]

1659 [~~(a)~~ "Pass-through entity" is as defined in Section [59-10-1402](#).]

1660 [~~(b)~~ "Taxable"] (1) As used in this section, "taxable year" means a year or other time
 1661 period that would be a taxable year of a pass-through entity if the pass-through entity were
 1662 subject to taxation under this chapter.

1663 (2) A pass-through entity having any income derived from or connected with Utah
 1664 sources shall make a return for the taxable year in accordance with Section [59-10-514](#).

1665 Section 19. Section [59-10-514](#) is amended to read:

1666 **59-10-514. Return filing requirements -- Rulemaking authority.**

1667 (1) (a) Subject to Subsection (3) and Section [59-10-518](#):

1668 [~~(a)~~] (i) an individual income tax return filed for a tax imposed in accordance with Part
 1669 1, Determination and Reporting of Tax Liability and Information, shall be filed with the

1670 commission on or before the day on which a federal individual income tax return is due [~~under~~
1671 ~~the Internal Revenue Code~~];

1672 [~~(b)~~] (ii) a fiduciary income tax return filed for a tax imposed in accordance with Part
1673 2, Trusts and Estates, shall be filed with the commission on or before the day on which a
1674 federal return for estates and trusts is due [~~under the Internal Revenue Code~~]; or

1675 [~~(c)~~] (iii) a return filed in accordance with Section 59-10-507 shall be filed with the
1676 commission on or before the later of:

1677 (A) the 15th day of the fourth month following the last day of the taxpayer's taxable
1678 year[-]; or

1679 (B) the day on which the taxpayer is required to file a federal income tax return.

1680 (b) Interest accrues from the day on which a return is due under this Subsection (1).

1681 (2) A person required to make and file a return under this chapter shall, without
1682 assessment, notice, or demand, pay any tax due:

1683 (a) to the commission; and

1684 (b) before the due date for filing the return, without regard to any extension of time for
1685 filing the return.

1686 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1687 commission may make rules prescribing what constitutes filing a return with the commission.

1688 Section 20. Section 59-10-516 is amended to read:

1689 **59-10-516. Filing extension -- Payment of tax -- Penalty -- Foreign residency.**

1690 (1) (a) The commission shall allow a taxpayer an extension of time for filing a return.

1691 (b) Except as provided in Subsection (1)(c):

1692 (i) [~~For~~] for a return filed by a taxpayer except for a partnership, the extension [~~under~~]
1693 described in Subsection (1)(a) may [~~not exceed~~] be up to six months[-]; and

1694 (ii) [~~For~~] for a return filed by a partnership, the extension [~~under~~] described in
1695 Subsection (1)(a) may [~~not exceed~~] be up to five months.

1696 [~~(2) (a) Except as provided in Subsection (2)(b), the commission may not impose on a~~
1697 ~~taxpayer during the extension period prescribed under Subsection (1) a penalty under Section~~
1698 ~~59-1-401 if the taxpayer pays, on or before the 15th day of the fourth month following the close~~
1699 ~~of the taxpayer's taxable year, the lesser of:]~~

1700 (c) For a taxable year beginning on or after January 1, 2019, but beginning on or before

1701 December 31, 2019, a taxpayer may receive an extension described in Subsection (1)(a) for the
1702 time period that ends on the last day of the extension to file the taxpayer's federal income tax
1703 return.

1704 (2) The commission may not impose a penalty under Section 59-1-401 during the
1705 extension period described in Subsection (1) on:

1706 (a) a pass-through entity, if the pass-through entity, on or before the return due date
1707 described in Section 59-10-514, pays or withholds the tax on behalf of a pass-through entity
1708 taxpayer; or

1709 (b) a taxpayer other than a taxpayer described in Subsection (2)(a), if the taxpayer pays,
1710 on or before the return due date described in Section 59-10-514, an amount equal to the lesser
1711 of:

1712 (i) 90% of the total tax reported on the return for the current taxable year; or

1713 (ii) 100% of the total tax liability for the taxable year immediately preceding the current
1714 taxable year.

1715 ~~[(b)]~~ (3) If a taxpayer fails to meet the requirements of Subsection (2)[(a)], the
1716 commission may apply to the total balance due a penalty as provided in Section 59-1-401.

1717 ~~[(3)]~~ (4) If a federal income tax return filing is lawfully delayed pending a
1718 determination of qualification for a federal tax exemption due to residency outside of the
1719 United States, a taxpayer shall file a return within 30 days after that determination is made.

1720 Section 21. Section 59-10-522 is amended to read:

1721 **59-10-522. Extension of time for paying tax.**

1722 (1) (a) For a taxable year beginning on or after January 1, 2019, but beginning on or
1723 before December 31, 2019, a taxpayer shall receive an extension of time for the payment of the
1724 amount determined as the tax of the taxpayer, or any part of that amount, for the time period
1725 that ends on the last day of the extension to pay the taxpayer's federal income tax.

1726 ~~[(1) The]~~ (b) (i) For a taxable year beginning on or after January 1, 2020, the
1727 commission, except as otherwise provided by this chapter, may extend the time for payment of
1728 the amount shown, or required to be shown, on any return required under authority of this
1729 chapter (or any installment thereof), for a reasonable period not to exceed six months from the
1730 date fixed for payment thereof.

1731 (ii) ~~[Such]~~ The extension may exceed six months in the cases of taxpayers who are

1732 outside the states of the union and the District of Columbia.

1733 (2) (a) Under rules prescribed by the commission, the time for payment of the amount
1734 determined as a deficiency may be extended for a period not to exceed 18 months from the date
1735 fixed for payment of the deficiency, and, in exceptional cases, for a further period not to exceed
1736 12 months.

1737 (b) An extension under this subsection may be granted only where it is shown to the
1738 satisfaction of the commission that the payment of a deficiency upon the date fixed for the
1739 payment thereof will result in undue hardship to the taxpayer.

1740 (c) No extension may be granted if the deficiency is due to negligence, to intentional
1741 disregard of rules, or to fraud with intent to evade tax.

1742 (3) ~~[Extensions]~~ An extension of time for payment of any portion of a claim for an
1743 unpaid tax under this chapter, allowed in bankruptcy or receivership proceedings, ~~[which is~~
1744 ~~unpaid,]~~ may be had in the same manner and subject to the same provisions and limitations as
1745 provided in Subsection (2) ~~[in respect of a deficiency in tax].~~

1746 Section 22. Section **59-10-1007** is amended to read:

1747 **59-10-1007. Recycling market development zones tax credits.**

1748 (1) Subject to other provisions of this section, a claimant, estate, or trust in a recycling
1749 market development zone as defined in Section **19-13-102** may claim the following
1750 nonrefundable tax credits:

1751 (a) a tax credit ~~[of 5% of]~~ equal to the product of the percentage listed in Subsection
1752 59-10-104(2) and the purchase price paid for machinery and equipment used directly in:

1753 (i) commercial composting; or

1754 (ii) manufacturing facilities or plant units that:

1755 (A) manufacture, process, compound, or produce recycled items of tangible personal
1756 property for sale; or

1757 (B) reduce or reuse postconsumer waste material; and

1758 (b) a tax credit equal to the lesser of:

1759 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test
1760 inventory, and utilities made by the claimant, estate, or trust for establishing and operating
1761 recycling or composting technology in the state; and

1762 (ii) \$2,000.

1763 (2) (a) To claim a tax credit described in Subsection (1), the claimant, estate, or trust
1764 shall receive from the Department of Environmental Quality a written certification, on a form
1765 approved by the commission, that includes:

1766 (i) a statement that the claimant, estate, or trust is operating within the boundaries of a
1767 recycling market development zone;

1768 (ii) for a claim of the tax credit described in Subsection (1)(a):

1769 (A) the type of the machinery and equipment that the claimant, estate, or trust
1770 purchased;

1771 (B) the date that the claimant, estate, or trust purchased the machinery and equipment;

1772 (C) the purchase price for the machinery and equipment;

1773 (D) the total purchase price for all machinery and equipment for which the claimant,
1774 estate, or trust is claiming a tax credit;

1775 (E) the amount of the claimant's, estate's, or trust's tax credit; and

1776 (F) a statement that the machinery and equipment are integral to the composting or
1777 recycling process; and

1778 (iii) for a claim of the tax credit described in Subsection (1)(b):

1779 (A) the type of net expenditure that the claimant, estate, or trust made to a third party;

1780 (B) the date that the claimant, estate, or trust made the payment to a third party;

1781 (C) the amount that the claimant, estate, or trust paid to each third party;

1782 (D) the total amount that the claimant, estate, or trust paid to all third parties;

1783 (E) a statement that the net expenditures support the establishment and operation of
1784 recycling or composting technology in the state; and

1785 (F) the amount of the claimant's, estate's, or trust's tax credit.

1786 (b) (i) The Department of Environmental Quality shall provide a claimant, estate, or
1787 trust seeking to claim a tax credit under Subsection (1) with a copy of the written certification.

1788 (ii) The claimant, estate, or trust shall retain a copy of the written certification for the
1789 same period of time that a person is required to keep books and records under Section
1790 [59-1-1406](#).

1791 (c) The Department of Environmental Quality shall submit to the commission an
1792 electronic list that includes:

1793 (i) the name and identifying information of each claimant, estate, or trust to which the

1794 Department of Environmental Quality issues a written certification; and

1795 (ii) for each claimant, estate, or trust, the amount of each tax credit listed on the written
1796 certification.

1797 (3) A claimant, estate, or trust may not claim a tax credit under Subsection (1)(a),
1798 Subsection (1)(b), or both that exceeds 40% of the claimant's, estate's, or trust's state income
1799 tax liability as the tax liability is calculated:

1800 (a) for the taxable year in which the claimant, estate, or trust made the purchases or
1801 payments;

1802 (b) before any other tax credits the claimant, estate, or trust may claim for the taxable
1803 year; and

1804 (c) before the claimant, estate, or trust claims a tax credit authorized by this section.

1805 (4) The commission shall make rules governing what information a claimant, estate, or
1806 trust shall file with the commission to verify the entitlement to and amount of a tax credit.

1807 (5) Except as provided in Subsections (6) through (8), a claimant, estate, or trust may
1808 carry forward, to the next three taxable years, the amount of a tax credit described in
1809 Subsection (1)(a) that the claimant, estate, or trust does not use for the taxable year.

1810 (6) A claimant, estate, or trust may not claim or carry forward a tax credit described in
1811 Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries
1812 forward a tax credit under Section [63N-2-213](#).

1813 (7) A claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b)
1814 in a taxable year during which the claimant, estate, or trust claims or carries forward a tax
1815 credit under Section [63N-2-213](#).

1816 (8) A claimant, estate, or trust may not claim or carry forward a tax credit under this
1817 section for a taxable year during which the claimant, estate, or trust claims the targeted
1818 business income tax credit under Section [59-10-1112](#).

1819 Section 23. Section [59-10-1017](#) is amended to read:

1820 **59-10-1017. Utah Educational Savings Plan tax credit.**

1821 (1) As used in this section:

1822 (a) "Account owner" means the same as that term is defined in Section [53B-8a-102](#).

1823 (b) "Grantor trust" means the same as that term is defined in Section [53B-8a-102.5](#).

1824 (c) "Higher education costs" means the same as that term is defined in Section

1825 [53B-8a-102.5](#).

1826 (d) "Maximum amount of a qualified investment for the taxable year" means, for a
1827 taxable year, the product of [~~5%~~] the percentage listed in Subsection [59-10-104\(2\)](#) and:

1828 (i) subject to Subsection (1)(d)(iii), for a claimant, estate, or trust that is an account
1829 owner, if that claimant, estate, or trust is other than husband and wife account owners who file
1830 a single return jointly, the maximum amount of a qualified investment:

1831 (A) listed in Subsection [53B-8a-106\(1\)\(e\)\(ii\)](#); and

1832 (B) increased or kept for that taxable year in accordance with Subsections

1833 [53B-8a-106\(1\)\(f\)](#) and (g);

1834 (ii) subject to Subsection (1)(d)(iii), for claimants who are husband and wife account
1835 owners who file a single return jointly, the maximum amount of a qualified investment:

1836 (A) listed in Subsection [53B-8a-106\(1\)\(e\)\(iii\)](#); and

1837 (B) increased or kept for that taxable year in accordance with Subsections

1838 [53B-8a-106\(1\)\(f\)](#) and (g); or

1839 (iii) for a grantor trust:

1840 (A) if the owner of the grantor trust has a single filing status or head of household
1841 filing status as defined in Section [59-10-1018](#), the amount described in Subsection (1)(d)(i); or

1842 (B) if the owner of the grantor trust has a joint filing status as defined in Section

1843 [59-10-1018](#), the amount described in Subsection (1)(d)(ii).

1844 (e) "Owner of the grantor trust" means the same as that term is defined in Section

1845 [53B-8a-102.5](#).

1846 (f) "Qualified investment" means the same as that term is defined in Section

1847 [53B-8a-102.5](#).

1848 (2) Except as provided in Section [59-10-1002.2](#) and subject to the other provisions of
1849 this section, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax
1850 credit equal to the product of:

1851 (a) the amount of a qualified investment made:

1852 (i) during the taxable year; and

1853 (ii) into an account owned by the claimant, estate, or trust; and

1854 [~~(b) 5%.~~]

1855 (b) the percentage listed in Subsection [59-10-104\(2\)](#).

1856 (3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may
1857 make a qualified investment described in Subsection (2).

1858 (4) A claimant, estate, or trust that is an account owner may not claim a tax credit
1859 under this section with respect to any portion of a qualified investment described in Subsection
1860 (2) that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal
1861 income tax return.

1862 (5) A tax credit under this section may not exceed the maximum amount of a qualified
1863 investment for the taxable year.

1864 (6) A claimant, estate, or trust that is an account owner may not carry forward or carry
1865 back the tax credit under this section.

1866 (7) A claimant, estate, or trust may claim a tax credit under this section in addition to
1867 the tax credit described in Section [59-10-1017.1](#).

1868 Section 24. Section [59-10-1017.1](#) is amended to read:

1869 **[59-10-1017.1. Student Prosperity Savings Program tax credit.](#)**

1870 (1) As used in this section, "qualified donation" means an amount donated, in
1871 accordance with Section [53B-8a-203](#), to the Student Prosperity Savings Program created in
1872 Section [53B-8a-202](#).

1873 (2) A claimant, estate, or trust may claim a nonrefundable tax credit for a qualified
1874 donation.

1875 (3) The tax credit equals the product of:

1876 (a) the qualified donation; and

1877 ~~[(b) 5%.]~~

1878 (b) the percentage listed in Subsection [59-10-104\(2\)](#).

1879 (4) A claimant, estate, or trust may not claim a tax credit under this section with
1880 respect to any portion of a qualified donation that a claimant, estate, or trust deducts on a
1881 federal income tax return.

1882 (5) A claimant, estate, or trust may not carry forward or carry back the portion of the
1883 tax credit allowed by this section that exceeds the claimant's, estate's, or trust's tax liability for
1884 the taxable year in which the claimant, estate, or trust claims the tax credit.

1885 (6) A claimant, estate, or trust may claim a tax credit under this section in addition to
1886 the tax credit described in Section [59-10-1017](#).

1887 Section 25. Section **59-10-1022** is amended to read:
1888 **59-10-1022. Nonrefundable tax credit for capital gain transactions.**
1889 (1) As used in this section:
1890 (a) (i) "Capital gain transaction" means a transaction that results in a:
1891 (A) short-term capital gain; or
1892 (B) long-term capital gain.
1893 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1894 commission may by rule define the term "transaction."
1895 (b) "Commercial domicile" means the principal place from which the trade or business
1896 of a Utah small business corporation is directed or managed.
1897 (c) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.
1898 (d) "Qualifying stock" means stock that is:
1899 (i) (A) common; or
1900 (B) preferred;
1901 (ii) as defined by the commission by rule made in accordance with Title 63G, Chapter
1902 3, Utah Administrative Rulemaking Act, originally issued to:
1903 (A) a claimant, estate, or trust; or
1904 (B) a partnership if the claimant, estate, or trust that claims a tax credit under this
1905 section:
1906 (I) was a partner on the day on which the stock was issued; and
1907 (II) remains a partner until the last day of the taxable year for which the claimant,
1908 estate, or trust claims a tax credit under this section; and
1909 (iii) issued:
1910 (A) by a Utah small business corporation;
1911 (B) on or after January 1, 2008; and
1912 (C) for:
1913 (I) money; or
1914 (II) other property, except for stock or securities.
1915 (e) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.
1916 (f) (i) "Utah small business corporation" means a corporation that:
1917 (A) except as provided in Subsection (1)(f)(ii), is a small business corporation as

1918 defined in Section 1244(c)(3), Internal Revenue Code;

1919 (B) except as provided in Subsection (1)(f)(iii), meets the requirements of Section
1920 1244(c)(1)(C), Internal Revenue Code; and

1921 (C) has its commercial domicile in this state.

1922 (ii) The dollar amount listed in Section 1244(c)(3)(A) is considered to be \$2,500,000.

1923 (iii) The phrase "the date the loss on such stock was sustained" in Sections
1924 1244(c)(1)(C) and 1244(c)(2), Internal Revenue Code, is considered to be "the last day of the
1925 taxable year for which the claimant, estate, or trust claims a tax credit under this section."

1926 (2) For taxable years beginning on or after January 1, 2008, a claimant, estate, or trust
1927 that meets the requirements of Subsection (3) may claim a nonrefundable tax credit equal to the
1928 product of:

1929 (a) the total amount of the claimant's, estate's, or trust's short-term capital gain or
1930 long-term capital gain on a capital gain transaction that occurs on or after January 1, 2008; and
1931 [~~(b) 5%.~~]

1932 (b) the percentage listed in Subsection 59-10-104(2).

1933 (3) For purposes of Subsection (2), a claimant, estate, or trust may claim the
1934 nonrefundable tax credit allowed by Subsection (2) if:

1935 (a) 70% or more of the gross proceeds of the capital gain transaction are expended:

1936 (i) to purchase qualifying stock in a Utah small business corporation; and

1937 (ii) within a 12-month period after the day on which the capital gain transaction occurs;

1938 and

1939 (b) prior to the purchase of the qualifying stock described in Subsection (3)(a)(i), the
1940 claimant, estate, or trust did not have an ownership interest in the Utah small business
1941 corporation that issued the qualifying stock.

1942 (4) A claimant, estate, or trust may not carry forward or carry back a tax credit under
1943 this section.

1944 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1945 commission may make rules:

1946 (a) defining the term "gross proceeds"; and

1947 (b) prescribing the circumstances under which a claimant, estate, or trust has an
1948 ownership interest in a Utah small business corporation.

1949 Section 26. Section **59-10-1023** is amended to read:
1950 **59-10-1023. Nonrefundable tax credit for amounts paid under a health benefit**
1951 **plan.**
1952 (1) As used in this section:
1953 (a) "Claimant with dependents" means a claimant:
1954 (i) regardless of the claimant's filing status for purposes of filing a federal individual
1955 income tax return for the taxable year; and
1956 (ii) who claims one or more dependents under Section 151, Internal Revenue Code, as
1957 allowed on the claimant's federal individual income tax return for the taxable year.
1958 (b) "Eligible insured individual" means:
1959 (i) the claimant who is insured under a health benefit plan;
1960 (ii) the spouse of the claimant described in Subsection (1)(b)(i) if:
1961 (A) the claimant files a single return jointly under this chapter with the claimant's
1962 spouse for the taxable year; and
1963 (B) the spouse is insured under the health benefit plan described in Subsection
1964 (1)(b)(i); or
1965 (iii) a dependent of the claimant described in Subsection (1)(b)(i) if:
1966 (A) the claimant claims the dependent under Section 151, Internal Revenue Code, as
1967 allowed on the claimant's federal individual income tax return for the taxable year; and
1968 (B) the dependent is insured under the health benefit plan described in Subsection
1969 (1)(b)(i).
1970 (c) "Excluded expenses" means an amount a claimant pays for insurance offered under
1971 a health benefit plan for a taxable year if:
1972 (i) the claimant claims a tax credit for that amount under Section 35, Internal Revenue
1973 Code:
1974 (A) on the claimant's federal individual income tax return for the taxable year; and
1975 (B) with respect to an eligible insured individual;
1976 (ii) the claimant deducts that amount under Section 162 or 213, Internal Revenue
1977 Code:
1978 (A) on the claimant's federal individual income tax return for the taxable year; and
1979 (B) with respect to an eligible insured individual; or

- 1980 (iii) the claimant excludes that amount from gross income under Section 106 or 125,
1981 Internal Revenue Code, with respect to an eligible insured individual.
- 1982 (d) (i) "Health benefit plan" is as defined in Section 31A-1-301.
- 1983 (ii) "Health benefit plan" does not include equivalent self-insurance as defined by the
1984 Insurance Department by rule made in accordance with Title 63G, Chapter 3, Utah
1985 Administrative Rulemaking Act.
- 1986 (e) "Joint claimant with no dependents" means a husband and wife who:
- 1987 (i) file a single return jointly under this chapter for the taxable year; and
1988 (ii) do not claim a dependent under Section 151, Internal Revenue Code, on the
1989 husband's and wife's federal individual income tax return for the taxable year.
- 1990 (f) "Single claimant with no dependents" means:
- 1991 (i) a single individual who:
- 1992 (A) files a single federal individual income tax return for the taxable year; and
1993 (B) does not claim a dependent under Section 151, Internal Revenue Code, on the
1994 single individual's federal individual income tax return for the taxable year;
- 1995 (ii) a head of household:
- 1996 (A) as defined in Section 2(b), Internal Revenue Code, who files a single federal
1997 individual income tax return for the taxable year; and
1998 (B) who does not claim a dependent under Section 151, Internal Revenue Code, on the
1999 head of household's federal individual income tax return for the taxable year; or
- 2000 (iii) a married individual who:
- 2001 (A) does not file a single federal individual income tax return jointly with that married
2002 individual's spouse for the taxable year; and
2003 (B) does not claim a dependent under Section 151, Internal Revenue Code, on that
2004 married individual's federal individual income tax return for the taxable year.
- 2005 (2) Subject to Subsection (3), and except as provided in Subsection (4), for taxable
2006 years beginning on or after January 1, 2009, a claimant may claim a nonrefundable tax credit
2007 equal to the product of:
- 2008 (a) the difference between:
- 2009 (i) the total amount the claimant pays during the taxable year for:
2010 (A) insurance offered under a health benefit plan; and

- 2011 (B) an eligible insured individual; and
- 2012 (ii) excluded expenses; and
- 2013 [~~(b) 5%.~~]
- 2014 (b) the percentage listed in Subsection 59-10-104(2).
- 2015 (3) The maximum amount of a tax credit described in Subsection (2) a claimant may
- 2016 claim on a return for a taxable year is:
- 2017 (a) for a single claimant with no dependents, \$300;
- 2018 (b) for a joint claimant with no dependents, \$600; or
- 2019 (c) for a claimant with dependents, \$900.
- 2020 (4) A claimant may not claim a tax credit under this section if the claimant is eligible to
- 2021 participate in insurance offered under a health benefit plan maintained and funded in whole or
- 2022 in part by:
- 2023 (a) the claimant's employer; or
- 2024 (b) another person's employer.
- 2025 (5) A claimant may not carry forward or carry back a tax credit under this section.
- 2026 Section 27. Section **59-10-1028** is amended to read:
- 2027 **59-10-1028. Nonrefundable tax credit for capital gain transactions on the**
- 2028 **exchange of one form of legal tender for another form of legal tender.**
- 2029 (1) As used in this section:
- 2030 (a) "Capital gain transaction" means a transaction that results in a:
- 2031 (i) short-term capital gain; or
- 2032 (ii) long-term capital gain.
- 2033 (b) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.
- 2034 (c) "Long-term capital loss" is as defined in Section 1222, Internal Revenue Code.
- 2035 (d) "Net capital gain" means the amount by which the sum of long-term capital gains
- 2036 and short-term capital gains on a claimant's, estate's, or trust's transactions from exchanges
- 2037 made for a taxable year of one form of legal tender for another form of legal tender exceeds the
- 2038 sum of long-term capital losses and short-term capital losses on those transactions for that
- 2039 taxable year.
- 2040 (e) "Short-term capital loss" is as defined in Section 1222, Internal Revenue Code.
- 2041 (f) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.

2042 (2) Except as provided in Section [59-10-1002.2](#), for taxable years beginning on or after
2043 January 1, 2012, a claimant, estate, or trust may claim a nonrefundable tax credit equal to the
2044 product of:

2045 (a) to the extent a net capital gain is included in taxable income, the amount of the
2046 claimant's, estate's, or trust's net capital gain on capital gain transactions from exchanges made
2047 on or after January 1, 2012, for a taxable year, of one form of legal tender for another form of
2048 legal tender; and

2049 [~~(b) 5%.~~]

2050 (b) the percentage listed in Subsection [59-10-104\(2\)](#).

2051 (3) A claimant, estate, or trust may not carry forward or carry back a tax credit under
2052 this section.

2053 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2054 commission may make rules to implement this section.

2055 Section 28. Section **59-10-1035** is amended to read:

2056 **59-10-1035. Nonrefundable tax credit for contribution to state Achieving a Better**
2057 **Life Experience Program account.**

2058 (1) As used in this section:

2059 (a) "Account" means an account in a qualified ABLE program where the designated
2060 beneficiary of the account is a resident of this state.

2061 (b) "Contributor" means a claimant, estate, or trust that:

2062 (i) makes a contribution to an account; and

2063 (ii) receives a statement from the qualified ABLE program itemizing the contribution.

2064 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.
2065 529A.

2066 (d) "Qualified ABLE program" means the same as that term is defined in Section
2067 [35A-12-102](#).

2068 (2) A contributor to an account may claim a nonrefundable tax credit as provided in
2069 this section.

2070 (3) Subject to the other provisions of this section, the tax credit is equal to the product
2071 of:

2072 [~~(a) 5%; and~~]

2073 (a) the percentage listed in Subsection 59-10-104(2); and

2074 (b) the total amount of contributions:

2075 (i) the contributor makes for the taxable year; and

2076 (ii) for which the contributor receives a statement from the qualified ABLE program

2077 itemizing the contributions.

2078 (4) A contributor may not claim a tax credit under this section:

2079 (a) for an amount of excess contribution to an account that is returned to the

2080 contributor; or

2081 (b) with respect to an amount the contributor deducts on a federal income tax return.

2082 (5) A tax credit under this section may not be carried forward or carried back.

2083 Section 29. Section 59-10-1036 is amended to read:

2084 **59-10-1036. Nonrefundable tax credit for military survivor benefits.**

2085 (1) As used in this section:

2086 (a) "Dependent child" means the same as that term is defined in 10 U.S.C. Sec. 1447.

2087 (b) "Reserve components" means the same as that term is described in 10 U.S.C. Sec.

2088 10101.

2089 (c) "Surviving spouse" means the same as that term is defined in 10 U.S.C. Sec. 1447.

2090 (d) "Survivor benefits" means the amount paid by the federal government in

2091 accordance with 10 U.S.C. Secs. 1447 through 1455.

2092 (2) A surviving spouse or dependent child may claim a nonrefundable tax credit for

2093 survivor benefits if the benefits are paid due to:

2094 (a) the death of a member of the armed forces or reserve components while on active

2095 duty; or

2096 (b) the death of a member of the reserve components that results from a

2097 service-connected cause while performing inactive duty training.

2098 (3) The tax credit described in Subsection (2) is equal to the product of:

2099 (a) the amount of survivor benefits that the surviving spouse or dependent child

2100 received during the taxable year; and

2101 [~~(b) 5%.~~]

2102 (b) the percentage listed in Subsection 59-10-104(2).

2103 (4) The tax credit described in Subsection (2):

2104 (a) may not be carried forward or carried back; and

2105 (b) applies to a taxable year beginning on or after January 1, 2017.

2106 Section 30. Section **59-10-1403** is amended to read:

2107 **59-10-1403. Income tax treatment of a pass-through entity -- Returns --**

2108 **Classification same as under Internal Revenue Code.**

2109 (1) Subject to Subsection (3), a pass-through entity is not subject to a tax imposed by
2110 this chapter.

2111 (2) Except as provided in Section [59-10-1403.3](#), the income, gain, loss, deduction, or
2112 credit of a pass-through entity shall be passed through to one or more pass-through entity
2113 taxpayers as provided in this part.

2114 (3) A pass-through entity is subject to the return filing requirements of Sections
2115 [59-10-507](#) [and], [59-10-514](#), and [59-10-516](#).

2116 (4) For purposes of taxation under this title, a pass-through entity that transacts
2117 business in the state shall be classified in the same manner as the pass-through entity is
2118 classified for federal income tax purposes.

2119 Section 31. Section **59-10-1403.3** is amended to read:

2120 **59-10-1403.3. Refund of amounts paid or withheld for a pass-through entity.**

2121 (1) As used in this section:

2122 (a) "Committee" means the Revenue and Taxation Interim Committee.

2123 (b) "Qualifying excess withholding" means an amount that:

2124 (i) is paid or withheld:

2125 (A) by a pass-through entity that has a different taxable year than the pass-through
2126 entity that requests a refund under this section; and

2127 (B) on behalf of the pass-through entity that requests the refund, if the pass-through
2128 entity that requests the refund also is a pass-through entity taxpayer; and

2129 (ii) is equal to the difference between:

2130 (A) the amount paid or withheld for the taxable year on behalf of the pass-through
2131 entity that requests the refund; and

2132 (B) the product of [~~5%~~] the percentage listed in Subsection [59-10-104\(2\)](#) and the
2133 income, described in Subsection [59-10-1403.2\(1\)\(a\)\(i\)](#), of the pass-through entity that requests
2134 the refund.

2135 (2) For a taxable year ending on or after July 1, 2017, a pass-through entity may claim
2136 a refund of qualifying excess withholding, if the amount of the qualifying excess withholding is
2137 equal to or greater than \$250,000.

2138 (3) A pass-through entity that requests a refund of qualifying excess withholding under
2139 this section shall:

2140 (a) apply to the commission for a refund on or, subject to Subsection (4), after the day
2141 on which the pass-through entity files the pass-through entity's income tax return; and

2142 (b) provide any information that the commission may require to determine that the
2143 pass-through entity is eligible to receive the refund.

2144 (4) A pass-through entity shall claim a refund of qualifying excess withholding under
2145 this section within 30 days after the earlier of the day on which:

2146 (a) the pass-through entity files an income tax return; or

2147 (b) the pass-through entity's income tax return is due, including any extension of due
2148 date authorized in statute.

2149 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2150 commission may make rules establishing the information that a pass-through entity shall
2151 provide to the commission to obtain a refund of qualifying excess withholding under this
2152 section.

2153 (6) (a) On or before November 30, 2018, the committee shall review the \$250,000
2154 threshold described in Subsection (2) for the purpose of assessing whether the threshold
2155 amount should be maintained, increased, or decreased.

2156 (b) To assist the committee in conducting the review described in Subsection (6)(a),
2157 the commission shall provide the committee with:

2158 (i) the total number of refund requests made under this section;

2159 (ii) the total costs of any refunds issued under this section;

2160 (iii) the costs of any audits conducted on refund requests made under this section; and

2161 (iv) an estimation of:

2162 (A) the number of refund requests the commission expects to receive if the Legislature
2163 increases the threshold;

2164 (B) the number of refund requests the commission expects to receive if the Legislature
2165 decreases the threshold; and

2166 (C) the costs of any audits the commission would conduct if the Legislature increases
2167 or decreases the threshold.

2168 Section 32. Section **59-12-102** is amended to read:

2169 **59-12-102. Definitions.**

2170 As used in this chapter:

2171 (1) "800 service" means a telecommunications service that:

2172 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

2173 (b) is typically marketed:

2174 (i) under the name 800 toll-free calling;

2175 (ii) under the name 855 toll-free calling;

2176 (iii) under the name 866 toll-free calling;

2177 (iv) under the name 877 toll-free calling;

2178 (v) under the name 888 toll-free calling; or

2179 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the

2180 Federal Communications Commission.

2181 (2) (a) "900 service" means an inbound toll telecommunications service that:

2182 (i) a subscriber purchases;

2183 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to

2184 the subscriber's:

2185 (A) prerecorded announcement; or

2186 (B) live service; and

2187 (iii) is typically marketed:

2188 (A) under the name 900 service; or

2189 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal

2190 Communications Commission.

2191 (b) "900 service" does not include a charge for:

2192 (i) a collection service a seller of a telecommunications service provides to a

2193 subscriber; or

2194 (ii) the following a subscriber sells to the subscriber's customer:

2195 (A) a product; or

2196 (B) a service.

- 2197 (3) (a) "Admission or user fees" includes season passes.
- 2198 (b) "Admission or user fees" does not include:
- 2199 (i) annual membership dues to private organizations; or
- 2200 (ii) a lesson, including a lesson that involves as part of the lesson equipment or a
- 2201 facility listed in Subsection 59-12-103(1)(f).
- 2202 (4) "Affiliate" or "affiliated person" means a person that, with respect to another
- 2203 person:
- 2204 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
- 2205 person; or
- 2206 (b) is related to the other person because a third person, or a group of third persons who
- 2207 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,
- 2208 whether direct or indirect, in the related persons.
- 2209 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 2210 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 2211 Agreement after November 12, 2002.
- 2212 (6) "Agreement combined tax rate" means the sum of the tax rates:
- 2213 (a) listed under Subsection (7); and
- 2214 (b) that are imposed within a local taxing jurisdiction.
- 2215 (7) "Agreement sales and use tax" means a tax imposed under:
- 2216 (a) Subsection 59-12-103(2)(a)(i)(A);
- 2217 (b) Subsection 59-12-103(2)(b)(i);
- 2218 (c) Subsection 59-12-103(2)(c)(i);
- 2219 (d) Subsection 59-12-103(2)(d);
- 2220 ~~(e)~~ (e) Subsection 59-12-103(2)~~(e)~~(e)(i)(A)(I);
- 2221 ~~(f)~~ (f) Section 59-12-204;
- 2222 ~~(g)~~ (g) Section 59-12-401;
- 2223 ~~(h)~~ (h) Section 59-12-402;
- 2224 ~~(i)~~ (i) Section 59-12-402.1;
- 2225 ~~(j)~~ (j) Section 59-12-703;
- 2226 ~~(k)~~ (k) Section 59-12-802;
- 2227 ~~(l)~~ (l) Section 59-12-804;

- 2228 ~~(h)~~ (m) Section 59-12-1102;
- 2229 ~~(m)~~ (n) Section 59-12-1302;
- 2230 ~~(n)~~ (o) Section 59-12-1402;
- 2231 ~~(o)~~ (p) Section 59-12-1802;
- 2232 ~~(p)~~ (q) Section 59-12-2003;
- 2233 ~~(q)~~ (r) Section 59-12-2103;
- 2234 ~~(r)~~ (s) Section 59-12-2213;
- 2235 ~~(s)~~ (t) Section 59-12-2214;
- 2236 ~~(t)~~ (u) Section 59-12-2215;
- 2237 ~~(u)~~ (v) Section 59-12-2216;
- 2238 ~~(v)~~ (w) Section 59-12-2217;
- 2239 ~~(w)~~ (x) Section 59-12-2218;
- 2240 ~~(x)~~ (y) Section 59-12-2219; or
- 2241 ~~(y)~~ (z) Section 59-12-2220.
- 2242 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 2243 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 2244 (a) except for:
- 2245 (i) an airline as defined in Section 59-2-102; or
- 2246 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 2247 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 2248 state, of an airline; and
- 2249 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 2250 whether the business entity performs the following in this state:
- 2251 (i) check, diagnose, overhaul, and repair:
- 2252 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 2253 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 2254 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 2255 engine;
- 2256 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 2257 aircraft:
- 2258 (A) an inspection;

- 2259 (B) a repair, including a structural repair or modification;
- 2260 (C) changing landing gear; and
- 2261 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 2262 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 2263 completely apply new paint to the fixed wing turbine powered aircraft; and
- 2264 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 2265 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 2266 authority that certifies the fixed wing turbine powered aircraft.
- 2267 (10) "Alcoholic beverage" means a beverage that:
- 2268 (a) is suitable for human consumption; and
- 2269 (b) contains .5% or more alcohol by volume.
- 2270 (11) "Alternative energy" means:
- 2271 (a) biomass energy;
- 2272 (b) geothermal energy;
- 2273 (c) hydroelectric energy;
- 2274 (d) solar energy;
- 2275 (e) wind energy; or
- 2276 (f) energy that is derived from:
- 2277 (i) coal-to-liquids;
- 2278 (ii) nuclear fuel;
- 2279 (iii) oil-impregnated diatomaceous earth;
- 2280 (iv) oil sands;
- 2281 (v) oil shale;
- 2282 (vi) petroleum coke; or
- 2283 (vii) waste heat from:
- 2284 (A) an industrial facility; or
- 2285 (B) a power station in which an electric generator is driven through a process in which
- 2286 water is heated, turns into steam, and spins a steam turbine.
- 2287 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production
- 2288 facility" means a facility that:
- 2289 (i) uses alternative energy to produce electricity; and

- 2290 (ii) has a production capacity of two megawatts or greater.
- 2291 (b) A facility is an alternative energy electricity production facility regardless of
2292 whether the facility is:
- 2293 (i) connected to an electric grid; or
- 2294 (ii) located on the premises of an electricity consumer.
- 2295 (13) (a) "Ancillary service" means a service associated with, or incidental to, the
2296 provision of telecommunications service.
- 2297 (b) "Ancillary service" includes:
- 2298 (i) a conference bridging service;
- 2299 (ii) a detailed communications billing service;
- 2300 (iii) directory assistance;
- 2301 (iv) a vertical service; or
- 2302 (v) a voice mail service.
- 2303 (14) "Area agency on aging" means the same as that term is defined in Section
2304 [62A-3-101](#).
- 2305 (15) "Assisted amusement device" means an amusement device, skill device, or ride
2306 device that is started and stopped by an individual:
- 2307 (a) who is not the purchaser or renter of the right to use or operate the amusement
2308 device, skill device, or ride device; and
- 2309 (b) at the direction of the seller of the right to use the amusement device, skill device,
2310 or ride device.
- 2311 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or
2312 washing of tangible personal property if the cleaning or washing labor is primarily performed
2313 by an individual:
- 2314 (a) who is not the purchaser of the cleaning or washing of the tangible personal
2315 property; and
- 2316 (b) at the direction of the seller of the cleaning or washing of the tangible personal
2317 property.
- 2318 (17) "Authorized carrier" means:
- 2319 (a) in the case of vehicles operated over public highways, the holder of credentials
2320 indicating that the vehicle is or will be operated pursuant to both the International Registration

2321 Plan and the International Fuel Tax Agreement;

2322 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
2323 certificate or air carrier's operating certificate; or

2324 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
2325 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
2326 stock in more than one state.

2327 (18) (a) Except as provided in Subsection (18)(b), "biomass energy" means any of the
2328 following that is used as the primary source of energy to produce fuel or electricity:

2329 (i) material from a plant or tree; or

2330 (ii) other organic matter that is available on a renewable basis, including:

2331 (A) slash and brush from forests and woodlands;

2332 (B) animal waste;

2333 (C) waste vegetable oil;

2334 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
2335 wastewater residuals, or through the conversion of a waste material through a nonincineration,
2336 thermal conversion process;

2337 (E) aquatic plants; and

2338 (F) agricultural products.

2339 (b) "Biomass energy" does not include:

2340 (i) black liquor; or

2341 (ii) treated woods.

2342 (19) (a) "Bundled transaction" means the sale of two or more items of tangible personal
2343 property, products, or services if the tangible personal property, products, or services are:

2344 (i) distinct and identifiable; and

2345 (ii) sold for one nonitemized price.

2346 (b) "Bundled transaction" does not include:

2347 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
2348 the basis of the selection by the purchaser of the items of tangible personal property included in
2349 the transaction;

2350 (ii) the sale of real property;

2351 (iii) the sale of services to real property;

- 2352 (iv) the retail sale of tangible personal property and a service if:
- 2353 (A) the tangible personal property:
- 2354 (I) is essential to the use of the service; and
- 2355 (II) is provided exclusively in connection with the service; and
- 2356 (B) the service is the true object of the transaction;
- 2357 (v) the retail sale of two services if:
- 2358 (A) one service is provided that is essential to the use or receipt of a second service;
- 2359 (B) the first service is provided exclusively in connection with the second service; and
- 2360 (C) the second service is the true object of the transaction;
- 2361 (vi) a transaction that includes tangible personal property or a product subject to
- 2362 taxation under this chapter and tangible personal property or a product that is not subject to
- 2363 taxation under this chapter if the:
- 2364 (A) seller's purchase price of the tangible personal property or product subject to
- 2365 taxation under this chapter is de minimis; or
- 2366 (B) seller's sales price of the tangible personal property or product subject to taxation
- 2367 under this chapter is de minimis; and
- 2368 (vii) the retail sale of tangible personal property that is not subject to taxation under
- 2369 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 2370 (A) that retail sale includes:
- 2371 (I) food and food ingredients;
- 2372 (II) a drug;
- 2373 (III) durable medical equipment;
- 2374 (IV) mobility enhancing equipment;
- 2375 (V) an over-the-counter drug;
- 2376 (VI) a prosthetic device; or
- 2377 (VII) a medical supply; and
- 2378 (B) subject to Subsection (19)(f):
- 2379 (I) the seller's purchase price of the tangible personal property subject to taxation under
- 2380 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 2381 (II) the seller's sales price of the tangible personal property subject to taxation under
- 2382 this chapter is 50% or less of the seller's total sales price of that retail sale.

2383 (c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a
2384 service that is distinct and identifiable does not include:

2385 (A) packaging that:

2386 (I) accompanies the sale of the tangible personal property, product, or service; and

2387 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
2388 service;

2389 (B) tangible personal property, a product, or a service provided free of charge with the
2390 purchase of another item of tangible personal property, a product, or a service; or

2391 (C) an item of tangible personal property, a product, or a service included in the
2392 definition of "purchase price."

2393 (ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a
2394 product, or a service is provided free of charge with the purchase of another item of tangible
2395 personal property, a product, or a service if the sales price of the purchased item of tangible
2396 personal property, product, or service does not vary depending on the inclusion of the tangible
2397 personal property, product, or service provided free of charge.

2398 (d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price
2399 does not include a price that is separately identified by tangible personal property, product, or
2400 service on the following, regardless of whether the following is in paper format or electronic
2401 format:

2402 (A) a binding sales document; or

2403 (B) another supporting sales-related document that is available to a purchaser.

2404 (ii) For purposes of Subsection (19)(d)(i), a binding sales document or another
2405 supporting sales-related document that is available to a purchaser includes:

2406 (A) a bill of sale;

2407 (B) a contract;

2408 (C) an invoice;

2409 (D) a lease agreement;

2410 (E) a periodic notice of rates and services;

2411 (F) a price list;

2412 (G) a rate card;

2413 (H) a receipt; or

- 2414 (I) a service agreement.
- 2415 (e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal
2416 property or a product subject to taxation under this chapter is de minimis if:
- 2417 (A) the seller's purchase price of the tangible personal property or product is 10% or
2418 less of the seller's total purchase price of the bundled transaction; or
- 2419 (B) the seller's sales price of the tangible personal property or product is 10% or less of
2420 the seller's total sales price of the bundled transaction.
- 2421 (ii) For purposes of Subsection (19)(b)(vi), a seller:
- 2422 (A) shall use the seller's purchase price or the seller's sales price to determine if the
2423 purchase price or sales price of the tangible personal property or product subject to taxation
2424 under this chapter is de minimis; and
- 2425 (B) may not use a combination of the seller's purchase price and the seller's sales price
2426 to determine if the purchase price or sales price of the tangible personal property or product
2427 subject to taxation under this chapter is de minimis.
- 2428 (iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service
2429 contract to determine if the sales price of tangible personal property or a product is de minimis.
- 2430 (f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of
2431 the seller's purchase price and the seller's sales price to determine if tangible personal property
2432 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
2433 price of that retail sale.
- 2434 (20) "Certified automated system" means software certified by the governing board of
2435 the agreement that:
- 2436 (a) calculates the agreement sales and use tax imposed within a local taxing
2437 jurisdiction:
- 2438 (i) on a transaction; and
- 2439 (ii) in the states that are members of the agreement;
- 2440 (b) determines the amount of agreement sales and use tax to remit to a state that is a
2441 member of the agreement; and
- 2442 (c) maintains a record of the transaction described in Subsection (20)(a)(i).
- 2443 (21) "Certified service provider" means an agent certified:
- 2444 (a) by the governing board of the agreement; and

2445 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax,
2446 as outlined in the contract between the governing board of the agreement and the certified
2447 service provider, other than the seller's obligation under Section [59-12-124](#) to remit a tax on the
2448 seller's own purchases.

2449 (22) (a) Subject to Subsection (22)(b), "clothing" means all human wearing apparel
2450 suitable for general use.

2451 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2452 commission shall make rules:

2453 (i) listing the items that constitute "clothing"; and

2454 (ii) that are consistent with the list of items that constitute "clothing" under the
2455 agreement.

2456 (23) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

2457 (24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
2458 fuels that does not constitute industrial use under Subsection (57) or residential use under
2459 Subsection (112).

2460 (25) (a) "Common carrier" means a person engaged in or transacting the business of
2461 transporting passengers, freight, merchandise, or other property for hire within this state.

2462 (b) (i) "Common carrier" does not include a person that, at the time the person is
2463 traveling to or from that person's place of employment, transports a passenger to or from the
2464 passenger's place of employment.

2465 (ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3,
2466 Utah Administrative Rulemaking Act, the commission may make rules defining what
2467 constitutes a person's place of employment.

2468 (c) "Common carrier" does not include a person that provides transportation network
2469 services, as defined in Section [13-51-102](#).

2470 (26) "Component part" includes:

2471 (a) poultry, dairy, and other livestock feed, and their components;

2472 (b) baling ties and twine used in the baling of hay and straw;

2473 (c) fuel used for providing temperature control of orchards and commercial
2474 greenhouses doing a majority of their business in wholesale sales, and for providing power for
2475 off-highway type farm machinery; and

- 2476 (d) feed, seeds, and seedlings.
- 2477 (27) "Computer" means an electronic device that accepts information:
- 2478 (a) (i) in digital form; or
- 2479 (ii) in a form similar to digital form; and
- 2480 (b) manipulates that information for a result based on a sequence of instructions.
- 2481 (28) "Computer software" means a set of coded instructions designed to cause:
- 2482 (a) a computer to perform a task; or
- 2483 (b) automatic data processing equipment to perform a task.
- 2484 (29) "Computer software maintenance contract" means a contract that obligates a seller
- 2485 of computer software to provide a customer with:
- 2486 (a) future updates or upgrades to computer software;
- 2487 (b) support services with respect to computer software; or
- 2488 (c) a combination of Subsections (29)(a) and (b).
- 2489 (30) (a) "Conference bridging service" means an ancillary service that links two or
- 2490 more participants of an audio conference call or video conference call.
- 2491 (b) "Conference bridging service" may include providing a telephone number as part of
- 2492 the ancillary service described in Subsection (30)(a).
- 2493 (c) "Conference bridging service" does not include a telecommunications service used
- 2494 to reach the ancillary service described in Subsection (30)(a).
- 2495 (31) "Construction materials" means any tangible personal property that will be
- 2496 converted into real property.
- 2497 (32) "Delivered electronically" means delivered to a purchaser by means other than
- 2498 tangible storage media.
- 2499 (33) (a) "Delivery charge" means a charge:
- 2500 (i) by a seller of:
- 2501 (A) tangible personal property;
- 2502 (B) a product transferred electronically; or
- 2503 (C) a service; and
- 2504 (ii) for preparation and delivery of the tangible personal property, product transferred
- 2505 electronically, or services described in Subsection (33)(a)(i) to a location designated by the
- 2506 purchaser.

- 2507 (b) "Delivery charge" includes a charge for the following:
- 2508 (i) transportation;
- 2509 (ii) shipping;
- 2510 (iii) postage;
- 2511 (iv) handling;
- 2512 (v) crating; or
- 2513 (vi) packing.
- 2514 (34) "Detailed telecommunications billing service" means an ancillary service of
- 2515 separately stating information pertaining to individual calls on a customer's billing statement.
- 2516 (35) "Dietary supplement" means a product, other than tobacco, that:
- 2517 (a) is intended to supplement the diet;
- 2518 (b) contains one or more of the following dietary ingredients:
- 2519 (i) a vitamin;
- 2520 (ii) a mineral;
- 2521 (iii) an herb or other botanical;
- 2522 (iv) an amino acid;
- 2523 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 2524 dietary intake; or
- 2525 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 2526 described in Subsections (35)(b)(i) through (v);
- 2527 (c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:
- 2528 (A) tablet form;
- 2529 (B) capsule form;
- 2530 (C) powder form;
- 2531 (D) softgel form;
- 2532 (E) gelcap form; or
- 2533 (F) liquid form; or
- 2534 (ii) if the product is not intended for ingestion in a form described in Subsections
- 2535 (35)(c)(i)(A) through (F), is not represented:
- 2536 (A) as conventional food; and
- 2537 (B) for use as a sole item of:

- 2538 (I) a meal; or
- 2539 (II) the diet; and
- 2540 (d) is required to be labeled as a dietary supplement:
- 2541 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 2542 (ii) as required by 21 C.F.R. Sec. 101.36.
- 2543 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 2544 musical, spoken, or other sounds.
- 2545 (b) "Digital audio work" includes a ringtone.
- 2546 (37) "Digital audio-visual work" means a series of related images which, when shown
- 2547 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 2548 (38) "Digital book" means a work that is generally recognized in the ordinary and usual
- 2549 sense as a book.
- 2550 (39) (a) "Direct mail" means printed material delivered or distributed by United States
- 2551 mail or other delivery service:
- 2552 (i) to:
- 2553 (A) a mass audience; or
- 2554 (B) addressees on a mailing list provided:
- 2555 (I) by a purchaser of the mailing list; or
- 2556 (II) at the discretion of the purchaser of the mailing list; and
- 2557 (ii) if the cost of the printed material is not billed directly to the recipients.
- 2558 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 2559 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 2560 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 2561 single address.
- 2562 (40) "Directory assistance" means an ancillary service of providing:
- 2563 (a) address information; or
- 2564 (b) telephone number information.
- 2565 (41) (a) "Disposable home medical equipment or supplies" means medical equipment
- 2566 or supplies that:
- 2567 (i) cannot withstand repeated use; and
- 2568 (ii) are purchased by, for, or on behalf of a person other than:

- 2569 (A) a health care facility as defined in Section 26-21-2;
- 2570 (B) a health care provider as defined in Section 78B-3-403;
- 2571 (C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or
- 2572 (D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).
- 2573 (b) "Disposable home medical equipment or supplies" does not include:
- 2574 (i) a drug;
- 2575 (ii) durable medical equipment;
- 2576 (iii) a hearing aid;
- 2577 (iv) a hearing aid accessory;
- 2578 (v) mobility enhancing equipment; or
- 2579 (vi) tangible personal property used to correct impaired vision, including:
- 2580 (A) eyeglasses; or
- 2581 (B) contact lenses.
- 2582 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2583 commission may by rule define what constitutes medical equipment or supplies.
- 2584 (42) "Drilling equipment manufacturer" means a facility:
- 2585 (a) located in the state;
- 2586 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 2587 consist of manufacturing component parts of drilling equipment;
- 2588 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 2589 manufacturing process; and
- 2590 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 2591 manufacturing process.
- 2592 (43) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 2593 compound, substance, or preparation that is:
- 2594 (i) recognized in:
- 2595 (A) the official United States Pharmacopoeia;
- 2596 (B) the official Homeopathic Pharmacopoeia of the United States;
- 2597 (C) the official National Formulary; or
- 2598 (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);
- 2599 (ii) intended for use in the:

- 2600 (A) diagnosis of disease;
- 2601 (B) cure of disease;
- 2602 (C) mitigation of disease;
- 2603 (D) treatment of disease; or
- 2604 (E) prevention of disease; or
- 2605 (iii) intended to affect:
 - 2606 (A) the structure of the body; or
 - 2607 (B) any function of the body.
- 2608 (b) "Drug" does not include:
 - 2609 (i) food and food ingredients;
 - 2610 (ii) a dietary supplement;
 - 2611 (iii) an alcoholic beverage; or
 - 2612 (iv) a prosthetic device.
- 2613 (44) (a) Except as provided in Subsection (44)(c), "durable medical equipment" means
- 2614 equipment that:
 - 2615 (i) can withstand repeated use;
 - 2616 (ii) is primarily and customarily used to serve a medical purpose;
 - 2617 (iii) generally is not useful to a person in the absence of illness or injury; and
 - 2618 (iv) is not worn in or on the body.
- 2619 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 2620 equipment described in Subsection (44)(a).
- 2621 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 2622 (45) "Electronic" means:
 - 2623 (a) relating to technology; and
 - 2624 (b) having:
 - 2625 (i) electrical capabilities;
 - 2626 (ii) digital capabilities;
 - 2627 (iii) magnetic capabilities;
 - 2628 (iv) wireless capabilities;
 - 2629 (v) optical capabilities;
 - 2630 (vi) electromagnetic capabilities; or

- 2631 (vii) capabilities similar to Subsections (45)(b)(i) through (vi).
- 2632 (46) "Electronic financial payment service" means an establishment:
- 2633 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 2634 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 2635 federal Executive Office of the President, Office of Management and Budget; and
- 2636 (b) that performs electronic financial payment services.
- 2637 (47) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 2638 (48) "Fixed guideway" means a public transit facility that uses and occupies:
- 2639 (a) rail for the use of public transit; or
- 2640 (b) a separate right-of-way for the use of public transit.
- 2641 (49) "Fixed wing turbine powered aircraft" means an aircraft that:
- 2642 (a) is powered by turbine engines;
- 2643 (b) operates on jet fuel; and
- 2644 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 2645 (50) "Fixed wireless service" means a telecommunications service that provides radio
- 2646 communication between fixed points.
- 2647 (51) (a) "Food and food ingredients" means substances:
- 2648 (i) regardless of whether the substances are in:
- 2649 (A) liquid form;
- 2650 (B) concentrated form;
- 2651 (C) solid form;
- 2652 (D) frozen form;
- 2653 (E) dried form; or
- 2654 (F) dehydrated form; and
- 2655 (ii) that are:
- 2656 (A) sold for:
- 2657 (I) ingestion by humans; or
- 2658 (II) chewing by humans; and
- 2659 (B) consumed for the substance's:
- 2660 (I) taste; or
- 2661 (II) nutritional value.

- 2662 (b) "Food and food ingredients" includes an item described in Subsection (96)(b)(iii).
2663 (c) "Food and food ingredients" does not include:
2664 (i) an alcoholic beverage;
2665 (ii) tobacco; or
2666 (iii) prepared food.
- 2667 (52) (a) "Fundraising sales" means sales:
2668 (i) (A) made by a school; or
2669 (B) made by a school student;
2670 (ii) that are for the purpose of raising funds for the school to purchase equipment,
2671 materials, or provide transportation; and
2672 (iii) that are part of an officially sanctioned school activity.
- 2673 (b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity"
2674 means a school activity:
2675 (i) that is conducted in accordance with a formal policy adopted by the school or school
2676 district governing the authorization and supervision of fundraising activities;
2677 (ii) that does not directly or indirectly compensate an individual teacher or other
2678 educational personnel by direct payment, commissions, or payment in kind; and
2679 (iii) the net or gross revenues from which are deposited in a dedicated account
2680 controlled by the school or school district.
- 2681 (53) "Geothermal energy" means energy contained in heat that continuously flows
2682 outward from the earth that is used as the sole source of energy to produce electricity.
- 2683 (54) "Governing board of the agreement" means the governing board of the agreement
2684 that is:
2685 (a) authorized to administer the agreement; and
2686 (b) established in accordance with the agreement.
- 2687 (55) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
2688 (i) the executive branch of the state, including all departments, institutions, boards,
2689 divisions, bureaus, offices, commissions, and committees;
2690 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
2691 Administrative Office of the Courts, and similar administrative units in the judicial branch;
2692 (iii) the legislative branch of the state, including the House of Representatives, the

2693 Senate, the Legislative Printing Office, the Office of Legislative Research and General
2694 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
2695 Analyst;

2696 (iv) the National Guard;

2697 (v) an independent entity as defined in Section [63E-1-102](#); or

2698 (vi) a political subdivision as defined in Section [17B-1-102](#).

2699 (b) "Governmental entity" does not include the state systems of public and higher
2700 education, including:

2701 (i) a school;

2702 (ii) the State Board of Education;

2703 (iii) the Utah Board of Higher Education; or

2704 (iv) an institution of higher education described in Section [53B-1-102](#).

2705 (56) "Hydroelectric energy" means water used as the sole source of energy to produce
2706 electricity.

2707 (57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
2708 other fuels:

2709 (a) in mining or extraction of minerals;

2710 (b) in agricultural operations to produce an agricultural product up to the time of
2711 harvest or placing the agricultural product into a storage facility, including:

2712 (i) commercial greenhouses;

2713 (ii) irrigation pumps;

2714 (iii) farm machinery;

2715 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered
2716 under Title 41, Chapter 1a, Part 2, Registration; and

2717 (v) other farming activities;

2718 (c) in manufacturing tangible personal property at an establishment described in:

2719 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
2720 the federal Executive Office of the President, Office of Management and Budget; or

2721 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
2722 American Industry Classification System of the federal Executive Office of the President,
2723 Office of Management and Budget;

2724 (d) by a scrap recycler if:

2725 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
2726 one or more of the following items into prepared grades of processed materials for use in new
2727 products:

2728 (A) iron;

2729 (B) steel;

2730 (C) nonferrous metal;

2731 (D) paper;

2732 (E) glass;

2733 (F) plastic;

2734 (G) textile; or

2735 (H) rubber; and

2736 (ii) the new products under Subsection (57)(d)(i) would otherwise be made with
2737 nonrecycled materials; or

2738 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
2739 cogeneration facility as defined in Section 54-2-1.

2740 (58) (a) Except as provided in Subsection (58)(b), "installation charge" means a charge
2741 for installing:

2742 (i) tangible personal property; or

2743 (ii) a product transferred electronically.

2744 (b) "Installation charge" does not include a charge for:

2745 (i) repairs or renovations of:

2746 (A) tangible personal property; or

2747 (B) a product transferred electronically; or

2748 (ii) attaching tangible personal property or a product transferred electronically:

2749 (A) to other tangible personal property; and

2750 (B) as part of a manufacturing or fabrication process.

2751 (59) "Institution of higher education" means an institution of higher education listed in
2752 Section 53B-2-101.

2753 (60) (a) "Lease" or "rental" means a transfer of possession or control of tangible
2754 personal property or a product transferred electronically for:

2755 (i) (A) a fixed term; or
2756 (B) an indeterminate term; and
2757 (ii) consideration.

2758 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
2759 amount of consideration may be increased or decreased by reference to the amount realized
2760 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
2761 Code.

2762 (c) "Lease" or "rental" does not include:

2763 (i) a transfer of possession or control of property under a security agreement or
2764 deferred payment plan that requires the transfer of title upon completion of the required
2765 payments;

2766 (ii) a transfer of possession or control of property under an agreement that requires the
2767 transfer of title:

2768 (A) upon completion of required payments; and
2769 (B) if the payment of an option price does not exceed the greater of:

2770 (I) \$100; or
2771 (II) 1% of the total required payments; or

2772 (iii) providing tangible personal property along with an operator for a fixed period of
2773 time or an indeterminate period of time if the operator is necessary for equipment to perform as
2774 designed.

2775 (d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to
2776 perform as designed if the operator's duties exceed the:

2777 (i) set-up of tangible personal property;
2778 (ii) maintenance of tangible personal property; or
2779 (iii) inspection of tangible personal property.

2780 (61) "Lesson" means a fixed period of time for the duration of which a trained
2781 instructor:

2782 (a) is present with a student in person or by video; and
2783 (b) actively instructs the student, including by providing observation or feedback.

2784 (62) "Life science establishment" means an establishment in this state that is classified
2785 under the following NAICS codes of the 2007 North American Industry Classification System

2786 of the federal Executive Office of the President, Office of Management and Budget:

2787 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

2788 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

2789 Manufacturing; or

2790 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

2791 (63) "Life science research and development facility" means a facility owned, leased,

2792 or rented by a life science establishment if research and development is performed in 51% or

2793 more of the total area of the facility.

2794 (64) "Load and leave" means delivery to a purchaser by use of a tangible storage media

2795 if the tangible storage media is not physically transferred to the purchaser.

2796 (65) "Local taxing jurisdiction" means a:

2797 (a) county that is authorized to impose an agreement sales and use tax;

2798 (b) city that is authorized to impose an agreement sales and use tax; or

2799 (c) town that is authorized to impose an agreement sales and use tax.

2800 (66) "Manufactured home" means the same as that term is defined in Section

2801 [15A-1-302](#).

2802 (67) "Manufacturing facility" means:

2803 (a) an establishment described in:

2804 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
2805 the federal Executive Office of the President, Office of Management and Budget; or

2806 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
2807 American Industry Classification System of the federal Executive Office of the President,
2808 Office of Management and Budget;

2809 (b) a scrap recycler if:

2810 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
2811 one or more of the following items into prepared grades of processed materials for use in new
2812 products:

2813 (A) iron;

2814 (B) steel;

2815 (C) nonferrous metal;

2816 (D) paper;

2817 (E) glass;
2818 (F) plastic;
2819 (G) textile; or
2820 (H) rubber; and
2821 (ii) the new products under Subsection [~~(66)~~] (67)(b)(i) would otherwise be made with
2822 nonrecycled materials; or
2823 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
2824 placed in service on or after May 1, 2006.
2825 (68) (a) "Marketplace" means a physical or electronic place, platform, or forum where
2826 tangible personal property, a product transferred electronically, or a service is offered for sale.
2827 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a
2828 dedicated sales software application.
2829 (69) (a) "Marketplace facilitator" means a person, including an affiliate of the person,
2830 that enters into a contract, an agreement, or otherwise with sellers, for consideration, to
2831 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or
2832 controls and that directly or indirectly:
2833 (i) does any of the following:
2834 (A) lists, makes available, or advertises tangible personal property, a product
2835 transferred electronically, or a service for sale by a marketplace seller on a marketplace that the
2836 person owns, operates, or controls;
2837 (B) facilitates the sale of a marketplace seller's tangible personal property, product
2838 transferred electronically, or service by transmitting or otherwise communicating an offer or
2839 acceptance of a retail sale between the marketplace seller and a purchaser using the
2840 marketplace;
2841 (C) owns, rents, licenses, makes available, or operates any electronic or physical
2842 infrastructure or any property, process, method, copyright, trademark, or patent that connects a
2843 marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal
2844 property, a product transferred electronically, or a service;
2845 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible
2846 personal property, a product transferred electronically, or a service, regardless of ownership or
2847 control of the tangible personal property, the product transferred electronically, or the service

2848 that is the subject of the retail sale;

2849 (E) provides software development or research and development activities related to
2850 any activity described in this Subsection (69)(a)(i), if the software development or research and
2851 development activity is directly related to the person's marketplace;

2852 (F) provides or offers fulfillment or storage services for a marketplace seller;

2853 (G) sets prices for the sale of tangible personal property, a product transferred
2854 electronically, or a service by a marketplace seller;

2855 (H) provides or offers customer service to a marketplace seller or a marketplace seller's
2856 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal
2857 property, a product transferred electronically, or a service sold by a marketplace seller on the
2858 person's marketplace; or

2859 (I) brands or otherwise identifies sales as those of the person; and

2860 (ii) does any of the following:

2861 (A) collects the sales price or purchase price of a retail sale of tangible personal
2862 property, a product transferred electronically, or a service;

2863 (B) provides payment processing services for a retail sale of tangible personal property,
2864 a product transferred electronically, or a service;

2865 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing
2866 fee, a fee for inserting or making available tangible personal property, a product transferred
2867 electronically, or a service on the person's marketplace, or other consideration for the
2868 facilitation of a retail sale of tangible personal property, a product transferred electronically, or
2869 a service, regardless of ownership or control of the tangible personal property, the product
2870 transferred electronically, or the service that is the subject of the retail sale;

2871 (D) through terms and conditions, an agreement, or another arrangement with a third
2872 person, collects payment from a purchase for a retail sale of tangible personal property, a
2873 product transferred electronically, or a service and transmits that payment to the marketplace
2874 seller, regardless of whether the third person receives compensation or other consideration in
2875 exchange for the service; or

2876 (E) provides a virtual currency for a purchaser to use to purchase tangible personal
2877 property, a product transferred electronically, or service offered for sale.

2878 (b) "Marketplace facilitator" does not include:

2879 (i) a person that only provides payment processing services; or

2880 (ii) a person described in Subsection (69)(a) to the extent the person is facilitating a
2881 sale for a seller that is a restaurant as defined in Section 59-12-602.

2882 (70) "Marketplace seller" means a seller that makes one or more retail sales through a
2883 marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the
2884 seller is required to be registered to collect and remit the tax under this part.

2885 (71) "Member of the immediate family of the producer" means a person who is related
2886 to a producer described in Subsection 59-12-104(20)(a) as a:

2887 (a) child or stepchild, regardless of whether the child or stepchild is:

2888 (i) an adopted child or adopted stepchild; or

2889 (ii) a foster child or foster stepchild;

2890 (b) grandchild or stepgrandchild;

2891 (c) grandparent or stepgrandparent;

2892 (d) nephew or stepnephew;

2893 (e) niece or stepniece;

2894 (f) parent or stepparent;

2895 (g) sibling or stepsibling;

2896 (h) spouse;

2897 (i) person who is the spouse of a person described in Subsections (71)(a) through (g);

2898 or

2899 (j) person similar to a person described in Subsections (71)(a) through (i) as
2900 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
2901 Administrative Rulemaking Act.

2902 (72) "Mobile home" means the same as that term is defined in Section 15A-1-302.

2903 (73) "Mobile telecommunications service" means the same as that term is defined in
2904 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2905 (74) (a) "Mobile wireless service" means a telecommunications service, regardless of
2906 the technology used, if:

2907 (i) the origination point of the conveyance, routing, or transmission is not fixed;

2908 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

2909 (iii) the origination point described in Subsection (74)(a)(i) and the termination point

2910 described in Subsection (74)(a)(ii) are not fixed.

2911 (b) "Mobile wireless service" includes a telecommunications service that is provided
2912 by a commercial mobile radio service provider.

2913 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2914 commission may by rule define "commercial mobile radio service provider."

2915 (75) (a) Except as provided in Subsection (75)(c), "mobility enhancing equipment"
2916 means equipment that is:

2917 (i) primarily and customarily used to provide or increase the ability to move from one
2918 place to another;

2919 (ii) appropriate for use in a:

2920 (A) home; or

2921 (B) motor vehicle; and

2922 (iii) not generally used by persons with normal mobility.

2923 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
2924 the equipment described in Subsection (75)(a).

2925 (c) "Mobility enhancing equipment" does not include:

2926 (i) a motor vehicle;

2927 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
2928 vehicle manufacturer;

2929 (iii) durable medical equipment; or

2930 (iv) a prosthetic device.

2931 (76) "Model 1 seller" means a seller registered under the agreement that has selected a
2932 certified service provider as the seller's agent to perform the seller's sales and use tax functions
2933 for agreement sales and use taxes, as outlined in the contract between the governing board of
2934 the agreement and the certified service provider, other than the seller's obligation under Section
2935 [59-12-124](#) to remit a tax on the seller's own purchases.

2936 (77) "Model 2 seller" means a seller registered under the agreement that:

2937 (a) except as provided in Subsection (77)(b), has selected a certified automated system
2938 to perform the seller's sales tax functions for agreement sales and use taxes; and

2939 (b) retains responsibility for remitting all of the sales tax:

2940 (i) collected by the seller; and

- 2941 (ii) to the appropriate local taxing jurisdiction.
- 2942 (78) (a) Subject to Subsection (78)(b), "model 3 seller" means a seller registered under
2943 the agreement that has:
- 2944 (i) sales in at least five states that are members of the agreement;
 - 2945 (ii) total annual sales revenues of at least \$500,000,000;
 - 2946 (iii) a proprietary system that calculates the amount of tax:
 - 2947 (A) for an agreement sales and use tax; and
 - 2948 (B) due to each local taxing jurisdiction; and
 - 2949 (iv) entered into a performance agreement with the governing board of the agreement.
- 2950 (b) For purposes of Subsection (78)(a), "model 3 seller" includes an affiliated group of
2951 sellers using the same proprietary system.
- 2952 (79) "Model 4 seller" means a seller that is registered under the agreement and is not a
2953 model 1 seller, model 2 seller, or model 3 seller.
- 2954 (80) "Modular home" means a modular unit as defined in Section [15A-1-302](#).
- 2955 (81) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).
- 2956 (82) "Oil sands" means impregnated bituminous sands that:
- 2957 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
2958 other hydrocarbons, or otherwise treated;
 - 2959 (b) yield mixtures of liquid hydrocarbon; and
 - 2960 (c) require further processing other than mechanical blending before becoming finished
2961 petroleum products.
- 2962 (83) "Oil shale" means a group of fine black to dark brown shales containing kerogen
2963 material that yields petroleum upon heating and distillation.
- 2964 (84) "Optional computer software maintenance contract" means a computer software
2965 maintenance contract that a customer is not obligated to purchase as a condition to the retail
2966 sale of computer software.
- 2967 (85) (a) "Other fuels" means products that burn independently to produce heat or
2968 energy.
- 2969 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
2970 personal property.
- 2971 (86) (a) "Paging service" means a telecommunications service that provides

2972 transmission of a coded radio signal for the purpose of activating a specific pager.

2973 (b) For purposes of Subsection (86)(a), the transmission of a coded radio signal
2974 includes a transmission by message or sound.

2975 (87) "Pawnbroker" means the same as that term is defined in Section [13-32a-102](#).

2976 (88) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).

2977 (89) (a) "Permanently attached to real property" means that for tangible personal
2978 property attached to real property:

2979 (i) the attachment of the tangible personal property to the real property:

2980 (A) is essential to the use of the tangible personal property; and

2981 (B) suggests that the tangible personal property will remain attached to the real
2982 property in the same place over the useful life of the tangible personal property; or

2983 (ii) if the tangible personal property is detached from the real property, the detachment
2984 would:

2985 (A) cause substantial damage to the tangible personal property; or

2986 (B) require substantial alteration or repair of the real property to which the tangible
2987 personal property is attached.

2988 (b) "Permanently attached to real property" includes:

2989 (i) the attachment of an accessory to the tangible personal property if the accessory is:

2990 (A) essential to the operation of the tangible personal property; and

2991 (B) attached only to facilitate the operation of the tangible personal property;

2992 (ii) a temporary detachment of tangible personal property from real property for a
2993 repair or renovation if the repair or renovation is performed where the tangible personal
2994 property and real property are located; or

2995 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
2996 Subsection (89)(c)(iii) or (iv).

2997 (c) "Permanently attached to real property" does not include:

2998 (i) the attachment of portable or movable tangible personal property to real property if
2999 that portable or movable tangible personal property is attached to real property only for:

3000 (A) convenience;

3001 (B) stability; or

3002 (C) for an obvious temporary purpose;

3003 (ii) the detachment of tangible personal property from real property except for the
3004 detachment described in Subsection (89)(b)(ii);

3005 (iii) an attachment of the following tangible personal property to real property if the
3006 attachment to real property is only through a line that supplies water, electricity, gas,
3007 telecommunications, cable, or supplies a similar item as determined by the commission by rule
3008 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

3009 (A) a computer;

3010 (B) a telephone;

3011 (C) a television; or

3012 (D) tangible personal property similar to Subsections (89)(c)(iii)(A) through (C) as
3013 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
3014 Administrative Rulemaking Act; or

3015 (iv) an item listed in Subsection (130)(c).

3016 (90) "Person" includes any individual, firm, partnership, joint venture, association,
3017 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
3018 municipality, district, or other local governmental entity of the state, or any group or
3019 combination acting as a unit.

3020 (91) "Place of primary use":

3021 (a) for telecommunications service other than mobile telecommunications service,
3022 means the street address representative of where the customer's use of the telecommunications
3023 service primarily occurs, which shall be:

3024 (i) the residential street address of the customer; or

3025 (ii) the primary business street address of the customer; or

3026 (b) for mobile telecommunications service, means the same as that term is defined in
3027 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

3028 (92) (a) "Postpaid calling service" means a telecommunications service a person
3029 obtains by making a payment on a call-by-call basis:

3030 (i) through the use of a:

3031 (A) bank card;

3032 (B) credit card;

3033 (C) debit card; or

- 3034 (D) travel card; or
- 3035 (ii) by a charge made to a telephone number that is not associated with the origination
- 3036 or termination of the telecommunications service.
- 3037 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
- 3038 service, that would be a prepaid wireless calling service if the service were exclusively a
- 3039 telecommunications service.
- 3040 (93) "Postproduction" means an activity related to the finishing or duplication of a
- 3041 medium described in Subsection [59-12-104\(54\)\(a\)](#).
- 3042 (94) "Prepaid calling service" means a telecommunications service:
- 3043 (a) that allows a purchaser access to telecommunications service that is exclusively
- 3044 telecommunications service;
- 3045 (b) that:
- 3046 (i) is paid for in advance; and
- 3047 (ii) enables the origination of a call using an:
- 3048 (A) access number; or
- 3049 (B) authorization code;
- 3050 (c) that is dialed:
- 3051 (i) manually; or
- 3052 (ii) electronically; and
- 3053 (d) sold in predetermined units or dollars that decline:
- 3054 (i) by a known amount; and
- 3055 (ii) with use.
- 3056 (95) "Prepaid wireless calling service" means a telecommunications service:
- 3057 (a) that provides the right to utilize:
- 3058 (i) mobile wireless service; and
- 3059 (ii) other service that is not a telecommunications service, including:
- 3060 (A) the download of a product transferred electronically;
- 3061 (B) a content service; or
- 3062 (C) an ancillary service;
- 3063 (b) that:
- 3064 (i) is paid for in advance; and

- 3065 (ii) enables the origination of a call using an:
- 3066 (A) access number; or
- 3067 (B) authorization code;
- 3068 (c) that is dialed:
- 3069 (i) manually; or
- 3070 (ii) electronically; and
- 3071 (d) sold in predetermined units or dollars that decline:
- 3072 (i) by a known amount; and
- 3073 (ii) with use.
- 3074 (96) (a) "Prepared food" means:
- 3075 (i) food:
- 3076 (A) sold in a heated state; or
- 3077 (B) heated by a seller;
- 3078 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 3079 item; or
- 3080 (iii) except as provided in Subsection (96)(c), food sold with an eating utensil provided
- 3081 by the seller, including a:
- 3082 (A) plate;
- 3083 (B) knife;
- 3084 (C) fork;
- 3085 (D) spoon;
- 3086 (E) glass;
- 3087 (F) cup;
- 3088 (G) napkin; or
- 3089 (H) straw.
- 3090 (b) "Prepared food" does not include:
- 3091 (i) food that a seller only:
- 3092 (A) cuts;
- 3093 (B) repackages; or
- 3094 (C) pasteurizes; or
- 3095 (ii) (A) the following:

- 3096 (I) raw egg;
- 3097 (II) raw fish;
- 3098 (III) raw meat;
- 3099 (IV) raw poultry; or
- 3100 (V) a food containing an item described in Subsections (96)(b)(ii)(A)(I) through (IV);
- 3101 and
- 3102 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 3103 Food and Drug Administration's Food Code that a consumer cook the items described in
- 3104 Subsection (96)(b)(ii)(A) to prevent food borne illness; or
- 3105 (iii) the following if sold without eating utensils provided by the seller:
- 3106 (A) food and food ingredients sold by a seller if the seller's proper primary
- 3107 classification under the 2002 North American Industry Classification System of the federal
- 3108 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 3109 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 3110 Manufacturing;
- 3111 (B) food and food ingredients sold in an unheated state:
- 3112 (I) by weight or volume; and
- 3113 (II) as a single item; or
- 3114 (C) a bakery item, including:
- 3115 (I) a bagel;
- 3116 (II) a bar;
- 3117 (III) a biscuit;
- 3118 (IV) bread;
- 3119 (V) a bun;
- 3120 (VI) a cake;
- 3121 (VII) a cookie;
- 3122 (VIII) a croissant;
- 3123 (IX) a danish;
- 3124 (X) a donut;
- 3125 (XI) a muffin;
- 3126 (XII) a pastry;

- 3127 (XIII) a pie;
- 3128 (XIV) a roll;
- 3129 (XV) a tart;
- 3130 (XVI) a torte; or
- 3131 (XVII) a tortilla.
- 3132 (c) An eating utensil provided by the seller does not include the following used to
- 3133 transport the food:
 - 3134 (i) a container; or
 - 3135 (ii) packaging.
- 3136 (97) "Prescription" means an order, formula, or recipe that is issued:
 - 3137 (a) (i) orally;
 - 3138 (ii) in writing;
 - 3139 (iii) electronically; or
 - 3140 (iv) by any other manner of transmission; and
 - 3141 (b) by a licensed practitioner authorized by the laws of a state.
- 3142 (98) (a) Except as provided in Subsection (98)(b)(ii) or (iii), "prewritten computer
- 3143 software" means computer software that is not designed and developed:
 - 3144 (i) by the author or other creator of the computer software; and
 - 3145 (ii) to the specifications of a specific purchaser.
- 3146 (b) "Prewritten computer software" includes:
 - 3147 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
 - 3148 software is not designed and developed:
 - 3149 (A) by the author or other creator of the computer software; and
 - 3150 (B) to the specifications of a specific purchaser;
 - 3151 (ii) computer software designed and developed by the author or other creator of the
 - 3152 computer software to the specifications of a specific purchaser if the computer software is sold
 - 3153 to a person other than the purchaser; or
 - 3154 (iii) except as provided in Subsection (98)(c), prewritten computer software or a
 - 3155 prewritten portion of prewritten computer software:
 - 3156 (A) that is modified or enhanced to any degree; and
 - 3157 (B) if the modification or enhancement described in Subsection (98)(b)(iii)(A) is

3158 designed and developed to the specifications of a specific purchaser.

3159 (c) "Prewritten computer software" does not include a modification or enhancement
3160 described in Subsection (98)(b)(iii) if the charges for the modification or enhancement are:

3161 (i) reasonable; and

3162 (ii) subject to Subsections 59-12-103(2)(~~f~~)(f)(ii) and (2)(~~f~~)(g)(i), separately stated
3163 on the invoice or other statement of price provided to the purchaser at the time of sale or later,
3164 as demonstrated by:

3165 (A) the books and records the seller keeps at the time of the transaction in the regular
3166 course of business, including books and records the seller keeps at the time of the transaction in
3167 the regular course of business for nontax purposes;

3168 (B) a preponderance of the facts and circumstances at the time of the transaction; and

3169 (C) the understanding of all of the parties to the transaction.

3170 (99) (a) "Private communications service" means a telecommunications service:

3171 (i) that entitles a customer to exclusive or priority use of one or more communications
3172 channels between or among termination points; and

3173 (ii) regardless of the manner in which the one or more communications channels are
3174 connected.

3175 (b) "Private communications service" includes the following provided in connection
3176 with the use of one or more communications channels:

3177 (i) an extension line;

3178 (ii) a station;

3179 (iii) switching capacity; or

3180 (iv) another associated service that is provided in connection with the use of one or
3181 more communications channels as defined in Section 59-12-215.

3182 (100) (a) Except as provided in Subsection (100)(b), "product transferred
3183 electronically" means a product transferred electronically that would be subject to a tax under
3184 this chapter if that product was transferred in a manner other than electronically.

3185 (b) "Product transferred electronically" does not include:

3186 (i) an ancillary service;

3187 (ii) computer software; or

3188 (iii) a telecommunications service.

- 3189 (101) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 3190 (i) artificially replace a missing portion of the body;
- 3191 (ii) prevent or correct a physical deformity or physical malfunction; or
- 3192 (iii) support a weak or deformed portion of the body.
- 3193 (b) "Prosthetic device" includes:
- 3194 (i) parts used in the repairs or renovation of a prosthetic device;
- 3195 (ii) replacement parts for a prosthetic device;
- 3196 (iii) a dental prosthesis; or
- 3197 (iv) a hearing aid.
- 3198 (c) "Prosthetic device" does not include:
- 3199 (i) corrective eyeglasses; or
- 3200 (ii) contact lenses.
- 3201 (102) (a) "Protective equipment" means an item:
- 3202 (i) for human wear; and
- 3203 (ii) that is:
- 3204 (A) designed as protection:
- 3205 (I) to the wearer against injury or disease; or
- 3206 (II) against damage or injury of other persons or property; and
- 3207 (B) not suitable for general use.
- 3208 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3209 commission shall make rules:
- 3210 (i) listing the items that constitute "protective equipment"; and
- 3211 (ii) that are consistent with the list of items that constitute "protective equipment"
- 3212 under the agreement.
- 3213 (103) (a) For purposes of Subsection [59-12-104\(41\)](#), "publication" means any written
- 3214 or printed matter, other than a photocopy:
- 3215 (i) regardless of:
- 3216 (A) characteristics;
- 3217 (B) copyright;
- 3218 (C) form;
- 3219 (D) format;

- 3220 (E) method of reproduction; or
3221 (F) source; and
3222 (ii) made available in printed or electronic format.
- 3223 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3224 commission may by rule define the term "photocopy."
- 3225 (104) (a) "Purchase price" and "sales price" mean the total amount of consideration:
3226 (i) valued in money; and
3227 (ii) for which tangible personal property, a product transferred electronically, or
3228 services are:
- 3229 (A) sold;
3230 (B) leased; or
3231 (C) rented.
- 3232 (b) "Purchase price" and "sales price" include:
3233 (i) the seller's cost of the tangible personal property, a product transferred
3234 electronically, or services sold;
3235 (ii) expenses of the seller, including:
3236 (A) the cost of materials used;
3237 (B) a labor cost;
3238 (C) a service cost;
3239 (D) interest;
3240 (E) a loss;
3241 (F) the cost of transportation to the seller; or
3242 (G) a tax imposed on the seller;
3243 (iii) a charge by the seller for any service necessary to complete the sale; or
3244 (iv) consideration a seller receives from a person other than the purchaser if:
3245 (A) (I) the seller actually receives consideration from a person other than the purchaser;
3246 and
3247 (II) the consideration described in Subsection (104)(b)(iv)(A)(I) is directly related to a
3248 price reduction or discount on the sale;
3249 (B) the seller has an obligation to pass the price reduction or discount through to the
3250 purchaser;

3251 (C) the amount of the consideration attributable to the sale is fixed and determinable by
3252 the seller at the time of the sale to the purchaser; and

3253 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
3254 seller to claim a price reduction or discount; and

3255 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
3256 coupon, or other documentation with the understanding that the person other than the seller
3257 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

3258 (II) the purchaser identifies that purchaser to the seller as a member of a group or
3259 organization allowed a price reduction or discount, except that a preferred customer card that is
3260 available to any patron of a seller does not constitute membership in a group or organization
3261 allowed a price reduction or discount; or

3262 (III) the price reduction or discount is identified as a third party price reduction or
3263 discount on the:

3264 (Aa) invoice the purchaser receives; or

3265 (Bb) certificate, coupon, or other documentation the purchaser presents.

3266 (c) "Purchase price" and "sales price" do not include:

3267 (i) a discount:

3268 (A) in a form including:

3269 (I) cash;

3270 (II) term; or

3271 (III) coupon;

3272 (B) that is allowed by a seller;

3273 (C) taken by a purchaser on a sale; and

3274 (D) that is not reimbursed by a third party; or

3275 (ii) subject to Subsections 59-12-103(2)(~~f~~)(f)(ii) and (2)(~~f~~)(g)(i), the following if
3276 separately stated on an invoice, bill of sale, or similar document provided to the purchaser at
3277 the time of sale or later, as demonstrated by the books and records the seller keeps at the time
3278 of the transaction in the regular course of business, including books and records the seller
3279 keeps at the time of the transaction in the regular course of business for nontax purposes, by a
3280 preponderance of the facts and circumstances at the time of the transaction, and by the
3281 understanding of all of the parties to the transaction:

- 3282 (A) the following from credit extended on the sale of tangible personal property or
3283 services:
- 3284 (I) a carrying charge;
3285 (II) a financing charge; or
3286 (III) an interest charge;
- 3287 (B) a delivery charge;
3288 (C) an installation charge;
3289 (D) a manufacturer rebate on a motor vehicle; or
3290 (E) a tax or fee legally imposed directly on the consumer.
- 3291 (105) "Purchaser" means a person to whom:
3292 (a) a sale of tangible personal property is made;
3293 (b) a product is transferred electronically; or
3294 (c) a service is furnished.
- 3295 (106) "Qualifying data center" means a data center facility that:
3296 (a) houses a group of networked server computers in one physical location in order to
3297 disseminate, manage, and store data and information;
3298 (b) is located in the state;
3299 (c) is a new operation constructed on or after July 1, 2016;
3300 (d) consists of one or more buildings that total 150,000 or more square feet;
3301 (e) is owned or leased by:
3302 (i) the operator of the data center facility; or
3303 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
3304 of the data center facility; and
3305 (f) is located on one or more parcels of land that are owned or leased by:
3306 (i) the operator of the data center facility; or
3307 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
3308 of the data center facility.
- 3309 (107) "Regularly rented" means:
3310 (a) rented to a guest for value three or more times during a calendar year; or
3311 (b) advertised or held out to the public as a place that is regularly rented to guests for
3312 value.

3313 (108) "Rental" means the same as that term is defined in Subsection (60).

3314 (109) (a) Except as provided in Subsection (109)(b), "repairs or renovations of tangible
3315 personal property" means:

3316 (i) a repair or renovation of tangible personal property that is not permanently attached
3317 to real property; or

3318 (ii) attaching tangible personal property or a product transferred electronically to other
3319 tangible personal property or detaching tangible personal property or a product transferred
3320 electronically from other tangible personal property if:

3321 (A) the other tangible personal property to which the tangible personal property or
3322 product transferred electronically is attached or from which the tangible personal property or
3323 product transferred electronically is detached is not permanently attached to real property; and

3324 (B) the attachment of tangible personal property or a product transferred electronically
3325 to other tangible personal property or detachment of tangible personal property or a product
3326 transferred electronically from other tangible personal property is made in conjunction with a
3327 repair or replacement of tangible personal property or a product transferred electronically.

3328 (b) "Repairs or renovations of tangible personal property" does not include:

3329 (i) attaching prewritten computer software to other tangible personal property if the
3330 other tangible personal property to which the prewritten computer software is attached is not
3331 permanently attached to real property; or

3332 (ii) detaching prewritten computer software from other tangible personal property if the
3333 other tangible personal property from which the prewritten computer software is detached is
3334 not permanently attached to real property.

3335 (110) "Research and development" means the process of inquiry or experimentation
3336 aimed at the discovery of facts, devices, technologies, or applications and the process of
3337 preparing those devices, technologies, or applications for marketing.

3338 (111) (a) "Residential telecommunications services" means a telecommunications
3339 service or an ancillary service that is provided to an individual for personal use:

3340 (i) at a residential address; or

3341 (ii) at an institution, including a nursing home or a school, if the telecommunications
3342 service or ancillary service is provided to and paid for by the individual residing at the
3343 institution rather than the institution.

- 3344 (b) For purposes of Subsection (111)(a)(i), a residential address includes an:
3345 (i) apartment; or
3346 (ii) other individual dwelling unit.
- 3347 (112) "Residential use" means the use in or around a home, apartment building,
3348 sleeping quarters, and similar facilities or accommodations.
- 3349 (113) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
3350 than:
- 3351 (a) resale;
3352 (b) sublease; or
3353 (c) subrent.
- 3354 (114) (a) "Retailer" means any person, unless prohibited by the Constitution of the
3355 United States or federal law, that is engaged in a regularly organized business in tangible
3356 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is
3357 selling to the user or consumer and not for resale.
- 3358 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
3359 engaged in the business of selling to users or consumers within the state.
- 3360 (115) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
3361 otherwise, in any manner, of tangible personal property or any other taxable transaction under
3362 Subsection 59-12-103(1), for consideration.
- 3363 (b) "Sale" includes:
3364 (i) installment and credit sales;
3365 (ii) any closed transaction constituting a sale;
3366 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
3367 chapter;
- 3368 (iv) any transaction if the possession of property is transferred but the seller retains the
3369 title as security for the payment of the price; and
- 3370 (v) any transaction under which right to possession, operation, or use of any article of
3371 tangible personal property is granted under a lease or contract and the transfer of possession
3372 would be taxable if an outright sale were made.
- 3373 (116) "Sale at retail" means the same as that term is defined in Subsection (113).
3374 (117) "Sale-leaseback transaction" means a transaction by which title to tangible

3375 personal property or a product transferred electronically that is subject to a tax under this
3376 chapter is transferred:

3377 (a) by a purchaser-lessee;

3378 (b) to a lessor;

3379 (c) for consideration; and

3380 (d) if:

3381 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
3382 of the tangible personal property or product transferred electronically;

3383 (ii) the sale of the tangible personal property or product transferred electronically to the
3384 lessor is intended as a form of financing:

3385 (A) for the tangible personal property or product transferred electronically; and

3386 (B) to the purchaser-lessee; and

3387 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
3388 is required to:

3389 (A) capitalize the tangible personal property or product transferred electronically for
3390 financial reporting purposes; and

3391 (B) account for the lease payments as payments made under a financing arrangement.

3392 (118) "Sales price" means the same as that term is defined in Subsection (104).

3393 (119) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
3394 amounts charged by a school:

3395 (i) sales that are directly related to the school's educational functions or activities
3396 including:

3397 (A) the sale of:

3398 (I) textbooks;

3399 (II) textbook fees;

3400 (III) laboratory fees;

3401 (IV) laboratory supplies; or

3402 (V) safety equipment;

3403 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

3404 that:

3405 (I) a student is specifically required to wear as a condition of participation in a

- 3406 school-related event or school-related activity; and
- 3407 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 3408 place of ordinary clothing;
- 3409 (C) sales of the following if the net or gross revenues generated by the sales are
- 3410 deposited into a school district fund or school fund dedicated to school meals:
- 3411 (I) food and food ingredients; or
- 3412 (II) prepared food; or
- 3413 (D) transportation charges for official school activities; or
- 3414 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 3415 event or school-related activity.
- 3416 (b) "Sales relating to schools" does not include:
- 3417 (i) bookstore sales of items that are not educational materials or supplies;
- 3418 (ii) except as provided in Subsection (119)(a)(i)(B):
- 3419 (A) clothing;
- 3420 (B) clothing accessories or equipment;
- 3421 (C) protective equipment; or
- 3422 (D) sports or recreational equipment; or
- 3423 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 3424 event or school-related activity if the amounts paid or charged are passed through to a person:
- 3425 (A) other than a:
- 3426 (I) school;
- 3427 (II) nonprofit organization authorized by a school board or a governing body of a
- 3428 private school to organize and direct a competitive secondary school activity; or
- 3429 (III) nonprofit association authorized by a school board or a governing body of a
- 3430 private school to organize and direct a competitive secondary school activity; and
- 3431 (B) that is required to collect sales and use taxes under this chapter.
- 3432 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3433 commission may make rules defining the term "passed through."
- 3434 (120) For purposes of this section and Section 59-12-104, "school" means:
- 3435 (a) an elementary school or a secondary school that:
- 3436 (i) is a:

- 3437 (A) public school; or
- 3438 (B) private school; and
- 3439 (ii) provides instruction for one or more grades kindergarten through 12; or
- 3440 (b) a public school district.
- 3441 (121) (a) "Seller" means a person that makes a sale, lease, or rental of:
- 3442 (i) tangible personal property;
- 3443 (ii) a product transferred electronically; or
- 3444 (iii) a service.
- 3445 (b) "Seller" includes a marketplace facilitator.
- 3446 (122) (a) "Semiconductor fabricating, processing, research, or development materials"
- 3447 means tangible personal property or a product transferred electronically if the tangible personal
- 3448 property or product transferred electronically is:
- 3449 (i) used primarily in the process of:
- 3450 (A) (I) manufacturing a semiconductor;
- 3451 (II) fabricating a semiconductor; or
- 3452 (III) research or development of a:
- 3453 (Aa) semiconductor; or
- 3454 (Bb) semiconductor manufacturing process; or
- 3455 (B) maintaining an environment suitable for a semiconductor; or
- 3456 (ii) consumed primarily in the process of:
- 3457 (A) (I) manufacturing a semiconductor;
- 3458 (II) fabricating a semiconductor; or
- 3459 (III) research or development of a:
- 3460 (Aa) semiconductor; or
- 3461 (Bb) semiconductor manufacturing process; or
- 3462 (B) maintaining an environment suitable for a semiconductor.
- 3463 (b) "Semiconductor fabricating, processing, research, or development materials"
- 3464 includes:
- 3465 (i) parts used in the repairs or renovations of tangible personal property or a product
- 3466 transferred electronically described in Subsection (122)(a); or
- 3467 (ii) a chemical, catalyst, or other material used to:

- 3468 (A) produce or induce in a semiconductor a:
- 3469 (I) chemical change; or
- 3470 (II) physical change;
- 3471 (B) remove impurities from a semiconductor; or
- 3472 (C) improve the marketable condition of a semiconductor.
- 3473 (123) "Senior citizen center" means a facility having the primary purpose of providing
- 3474 services to the aged as defined in Section [62A-3-101](#).
- 3475 (124) (a) Subject to Subsections (124)(b) and (c), "short-term lodging consumable"
- 3476 means tangible personal property that:
- 3477 (i) a business that provides accommodations and services described in Subsection
- 3478 [59-12-103](#)(1)(i) purchases as part of a transaction to provide the accommodations and services
- 3479 to a purchaser;
- 3480 (ii) is intended to be consumed by the purchaser; and
- 3481 (iii) is:
- 3482 (A) included in the purchase price of the accommodations and services; and
- 3483 (B) not separately stated on an invoice, bill of sale, or other similar document provided
- 3484 to the purchaser.
- 3485 (b) "Short-term lodging consumable" includes:
- 3486 (i) a beverage;
- 3487 (ii) a brush or comb;
- 3488 (iii) a cosmetic;
- 3489 (iv) a hair care product;
- 3490 (v) lotion;
- 3491 (vi) a magazine;
- 3492 (vii) makeup;
- 3493 (viii) a meal;
- 3494 (ix) mouthwash;
- 3495 (x) nail polish remover;
- 3496 (xi) a newspaper;
- 3497 (xii) a notepad;
- 3498 (xiii) a pen;

- 3499 (xiv) a pencil;
- 3500 (xv) a razor;
- 3501 (xvi) saline solution;
- 3502 (xvii) a sewing kit;
- 3503 (xviii) shaving cream;
- 3504 (xix) a shoe shine kit;
- 3505 (xx) a shower cap;
- 3506 (xxi) a snack item;
- 3507 (xxii) soap;
- 3508 (xxiii) toilet paper;
- 3509 (xxiv) a toothbrush;
- 3510 (xxv) toothpaste; or
- 3511 (xxvi) an item similar to Subsections (124)(b)(i) through (xxv) as the commission may
- 3512 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 3513 Rulemaking Act.
- 3514 (c) "Short-term lodging consumable" does not include:
- 3515 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 3516 property to be reused; or
- 3517 (ii) a product transferred electronically.
- 3518 (125) "Simplified electronic return" means the electronic return:
- 3519 (a) described in Section 318(C) of the agreement; and
- 3520 (b) approved by the governing board of the agreement.
- 3521 (126) "Solar energy" means the sun used as the sole source of energy for producing
- 3522 electricity.
- 3523 (127) (a) "Sports or recreational equipment" means an item:
- 3524 (i) designed for human use; and
- 3525 (ii) that is:
- 3526 (A) worn in conjunction with:
- 3527 (I) an athletic activity; or
- 3528 (II) a recreational activity; and
- 3529 (B) not suitable for general use.

3530 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3531 commission shall make rules:

3532 (i) listing the items that constitute "sports or recreational equipment"; and

3533 (ii) that are consistent with the list of items that constitute "sports or recreational
3534 equipment" under the agreement.

3535 (128) "State" means the state of Utah, its departments, and agencies.

3536 (129) "Storage" means any keeping or retention of tangible personal property or any
3537 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
3538 sale in the regular course of business.

3539 (130) (a) Except as provided in Subsection (130)(d) or (e), "tangible personal property"
3540 means personal property that:

3541 (i) may be:

3542 (A) seen;

3543 (B) weighed;

3544 (C) measured;

3545 (D) felt; or

3546 (E) touched; or

3547 (ii) is in any manner perceptible to the senses.

3548 (b) "Tangible personal property" includes:

3549 (i) electricity;

3550 (ii) water;

3551 (iii) gas;

3552 (iv) steam; or

3553 (v) prewritten computer software, regardless of the manner in which the prewritten
3554 computer software is transferred.

3555 (c) "Tangible personal property" includes the following regardless of whether the item
3556 is attached to real property:

3557 (i) a dishwasher;

3558 (ii) a dryer;

3559 (iii) a freezer;

3560 (iv) a microwave;

3561 (v) a refrigerator;
3562 (vi) a stove;
3563 (vii) a washer; or
3564 (viii) an item similar to Subsections (130)(c)(i) through (vii) as determined by the
3565 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3566 Rulemaking Act.

3567 (d) "Tangible personal property" does not include a product that is transferred
3568 electronically.

3569 (e) "Tangible personal property" does not include the following if attached to real
3570 property, regardless of whether the attachment to real property is only through a line that
3571 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
3572 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3573 Rulemaking Act:

- 3574 (i) a hot water heater;
- 3575 (ii) a water filtration system; or
- 3576 (iii) a water softener system.

3577 (131) (a) "Telecommunications enabling or facilitating equipment, machinery, or
3578 software" means an item listed in Subsection (131)(b) if that item is purchased or leased
3579 primarily to enable or facilitate one or more of the following to function:

- 3580 (i) telecommunications switching or routing equipment, machinery, or software; or
- 3581 (ii) telecommunications transmission equipment, machinery, or software.

3582 (b) The following apply to Subsection (131)(a):

- 3583 (i) a pole;
- 3584 (ii) software;
- 3585 (iii) a supplementary power supply;
- 3586 (iv) temperature or environmental equipment or machinery;
- 3587 (v) test equipment;
- 3588 (vi) a tower; or
- 3589 (vii) equipment, machinery, or software that functions similarly to an item listed in
3590 Subsections (131)(b)(i) through (vi) as determined by the commission by rule made in
3591 accordance with Subsection (131)(c).

3592 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3593 commission may by rule define what constitutes equipment, machinery, or software that
3594 functions similarly to an item listed in Subsections (131)(b)(i) through (vi).

3595 (132) "Telecommunications equipment, machinery, or software required for 911
3596 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
3597 Sec. 20.18.

3598 (133) "Telecommunications maintenance or repair equipment, machinery, or software"
3599 means equipment, machinery, or software purchased or leased primarily to maintain or repair
3600 one or more of the following, regardless of whether the equipment, machinery, or software is
3601 purchased or leased as a spare part or as an upgrade or modification to one or more of the
3602 following:

- 3603 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 3604 (b) telecommunications switching or routing equipment, machinery, or software; or
- 3605 (c) telecommunications transmission equipment, machinery, or software.

3606 (134) (a) "Telecommunications service" means the electronic conveyance, routing, or
3607 transmission of audio, data, video, voice, or any other information or signal to a point, or
3608 among or between points.

3609 (b) "Telecommunications service" includes:

3610 (i) an electronic conveyance, routing, or transmission with respect to which a computer
3611 processing application is used to act:

3612 (A) on the code, form, or protocol of the content;

3613 (B) for the purpose of electronic conveyance, routing, or transmission; and

3614 (C) regardless of whether the service:

3615 (I) is referred to as voice over Internet protocol service; or

3616 (II) is classified by the Federal Communications Commission as enhanced or value
3617 added;

3618 (ii) an 800 service;

3619 (iii) a 900 service;

3620 (iv) a fixed wireless service;

3621 (v) a mobile wireless service;

3622 (vi) a postpaid calling service;

- 3623 (vii) a prepaid calling service;
- 3624 (viii) a prepaid wireless calling service; or
- 3625 (ix) a private communications service.
- 3626 (c) "Telecommunications service" does not include:
- 3627 (i) advertising, including directory advertising;
- 3628 (ii) an ancillary service;
- 3629 (iii) a billing and collection service provided to a third party;
- 3630 (iv) a data processing and information service if:
- 3631 (A) the data processing and information service allows data to be:
- 3632 (I) (Aa) acquired;
- 3633 (Bb) generated;
- 3634 (Cc) processed;
- 3635 (Dd) retrieved; or
- 3636 (Ee) stored; and
- 3637 (II) delivered by an electronic transmission to a purchaser; and
- 3638 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 3639 or information;
- 3640 (v) installation or maintenance of the following on a customer's premises:
- 3641 (A) equipment; or
- 3642 (B) wiring;
- 3643 (vi) Internet access service;
- 3644 (vii) a paging service;
- 3645 (viii) a product transferred electronically, including:
- 3646 (A) music;
- 3647 (B) reading material;
- 3648 (C) a ring tone;
- 3649 (D) software; or
- 3650 (E) video;
- 3651 (ix) a radio and television audio and video programming service:
- 3652 (A) regardless of the medium; and
- 3653 (B) including:

- 3654 (I) furnishing conveyance, routing, or transmission of a television audio and video
3655 programming service by a programming service provider;
- 3656 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 3657 (III) audio and video programming services delivered by a commercial mobile radio
3658 service provider as defined in 47 C.F.R. Sec. 20.3;
- 3659 (x) a value-added nonvoice data service; or
- 3660 (xi) tangible personal property.
- 3661 (135) (a) "Telecommunications service provider" means a person that:
- 3662 (i) owns, controls, operates, or manages a telecommunications service; and
- 3663 (ii) engages in an activity described in Subsection (135)(a)(i) for the shared use with or
3664 resale to any person of the telecommunications service.
- 3665 (b) A person described in Subsection (135)(a) is a telecommunications service provider
3666 whether or not the Public Service Commission of Utah regulates:
- 3667 (i) that person; or
- 3668 (ii) the telecommunications service that the person owns, controls, operates, or
3669 manages.
- 3670 (136) (a) "Telecommunications switching or routing equipment, machinery, or
3671 software" means an item listed in Subsection (136)(b) if that item is purchased or leased
3672 primarily for switching or routing:
- 3673 (i) an ancillary service;
- 3674 (ii) data communications;
- 3675 (iii) voice communications; or
- 3676 (iv) telecommunications service.
- 3677 (b) The following apply to Subsection (136)(a):
- 3678 (i) a bridge;
- 3679 (ii) a computer;
- 3680 (iii) a cross connect;
- 3681 (iv) a modem;
- 3682 (v) a multiplexer;
- 3683 (vi) plug in circuitry;
- 3684 (vii) a router;

3685 (viii) software;
3686 (ix) a switch; or
3687 (x) equipment, machinery, or software that functions similarly to an item listed in
3688 Subsections (136)(b)(i) through (ix) as determined by the commission by rule made in
3689 accordance with Subsection (136)(c).

3690 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3691 commission may by rule define what constitutes equipment, machinery, or software that
3692 functions similarly to an item listed in Subsections (136)(b)(i) through (ix).

3693 (137) (a) "Telecommunications transmission equipment, machinery, or software"
3694 means an item listed in Subsection (137)(b) if that item is purchased or leased primarily for
3695 sending, receiving, or transporting:

- 3696 (i) an ancillary service;
- 3697 (ii) data communications;
- 3698 (iii) voice communications; or
- 3699 (iv) telecommunications service.

3700 (b) The following apply to Subsection (137)(a):

- 3701 (i) an amplifier;
- 3702 (ii) a cable;
- 3703 (iii) a closure;
- 3704 (iv) a conduit;
- 3705 (v) a controller;
- 3706 (vi) a duplexer;
- 3707 (vii) a filter;
- 3708 (viii) an input device;
- 3709 (ix) an input/output device;
- 3710 (x) an insulator;
- 3711 (xi) microwave machinery or equipment;
- 3712 (xii) an oscillator;
- 3713 (xiii) an output device;
- 3714 (xiv) a pedestal;
- 3715 (xv) a power converter;

- 3716 (xvi) a power supply;
3717 (xvii) a radio channel;
3718 (xviii) a radio receiver;
3719 (xix) a radio transmitter;
3720 (xx) a repeater;
3721 (xxi) software;
3722 (xxii) a terminal;
3723 (xxiii) a timing unit;
3724 (xxiv) a transformer;
3725 (xxv) a wire; or

3726 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
3727 Subsections (137)(b)(i) through (xxv) as determined by the commission by rule made in
3728 accordance with Subsection (137)(c).

3729 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3730 commission may by rule define what constitutes equipment, machinery, or software that
3731 functions similarly to an item listed in Subsections (137)(b)(i) through (xxv).

3732 (138) (a) "Textbook for a higher education course" means a textbook or other printed
3733 material that is required for a course:

- 3734 (i) offered by an institution of higher education; and
3735 (ii) that the purchaser of the textbook or other printed material attends or will attend.
3736 (b) "Textbook for a higher education course" includes a textbook in electronic format.

3737 (139) "Tobacco" means:

- 3738 (a) a cigarette;
3739 (b) a cigar;
3740 (c) chewing tobacco;
3741 (d) pipe tobacco; or
3742 (e) any other item that contains tobacco.

3743 (140) "Unassisted amusement device" means an amusement device, skill device, or
3744 ride device that is started and stopped by the purchaser or renter of the right to use or operate
3745 the amusement device, skill device, or ride device.

3746 (141) (a) "Use" means the exercise of any right or power over tangible personal

3747 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
3748 incident to the ownership or the leasing of that tangible personal property, product transferred
3749 electronically, or service.

3750 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
3751 property, a product transferred electronically, or a service in the regular course of business and
3752 held for resale.

3753 (142) "Value-added nonvoice data service" means a service:

3754 (a) that otherwise meets the definition of a telecommunications service except that a
3755 computer processing application is used to act primarily for a purpose other than conveyance,
3756 routing, or transmission; and

3757 (b) with respect to which a computer processing application is used to act on data or
3758 information:

- 3759 (i) code;
- 3760 (ii) content;
- 3761 (iii) form; or
- 3762 (iv) protocol.

3763 (143) (a) Subject to Subsection (143)(b), "vehicle" means the following that are
3764 required to be titled, registered, or titled and registered:

- 3765 (i) an aircraft as defined in Section 72-10-102;
- 3766 (ii) a vehicle as defined in Section 41-1a-102;
- 3767 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 3768 (iv) a vessel as defined in Section 41-1a-102.

3769 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 3770 (i) a vehicle described in Subsection (143)(a); or
- 3771 (ii) (A) a locomotive;
- 3772 (B) a freight car;
- 3773 (C) railroad work equipment; or
- 3774 (D) other railroad rolling stock.

3775 (144) "Vehicle dealer" means a person engaged in the business of buying, selling, or
3776 exchanging a vehicle as defined in Subsection (143).

3777 (145) (a) "Vertical service" means an ancillary service that:

3778 (i) is offered in connection with one or more telecommunications services; and
3779 (ii) offers an advanced calling feature that allows a customer to:
3780 (A) identify a caller; and
3781 (B) manage multiple calls and call connections.
3782 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
3783 conference bridging service.

3784 (146) (a) "Voice mail service" means an ancillary service that enables a customer to
3785 receive, send, or store a recorded message.

3786 (b) "Voice mail service" does not include a vertical service that a customer is required
3787 to have in order to utilize a voice mail service.

3788 (147) (a) Except as provided in Subsection (147)(b), "waste energy facility" means a
3789 facility that generates electricity:

3790 (i) using as the primary source of energy waste materials that would be placed in a
3791 landfill or refuse pit if it were not used to generate electricity, including:

3792 (A) tires;

3793 (B) waste coal;

3794 (C) oil shale; or

3795 (D) municipal solid waste; and

3796 (ii) in amounts greater than actually required for the operation of the facility.

3797 (b) "Waste energy facility" does not include a facility that incinerates:

3798 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

3799 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

3800 (148) "Watercraft" means a vessel as defined in Section [73-18-2](#).

3801 (149) "Wind energy" means wind used as the sole source of energy to produce
3802 electricity.

3803 (150) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
3804 location by the United States Postal Service.

3805 Section 33. Section **59-12-103** is amended to read:

3806 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
3807 **tax revenues.**

3808 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or

3809 sales price for amounts paid or charged for the following transactions:
3810 (a) retail sales of tangible personal property made within the state;
3811 (b) amounts paid for:
3812 (i) telecommunications service, other than mobile telecommunications service, that
3813 originates and terminates within the boundaries of this state;
3814 (ii) mobile telecommunications service that originates and terminates within the
3815 boundaries of one state only to the extent permitted by the Mobile Telecommunications
3816 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
3817 (iii) an ancillary service associated with a:
3818 (A) telecommunications service described in Subsection (1)(b)(i); or
3819 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
3820 (c) sales of the following for commercial use:
3821 (i) gas;
3822 (ii) electricity;
3823 (iii) heat;
3824 (iv) coal;
3825 (v) fuel oil; or
3826 (vi) other fuels;
3827 (d) sales of the following for residential use:
3828 (i) gas;
3829 (ii) electricity;
3830 (iii) heat;
3831 (iv) coal;
3832 (v) fuel oil; or
3833 (vi) other fuels;
3834 (e) sales of prepared food;
3835 (f) except as provided in Section [59-12-104](#), amounts paid or charged as admission or
3836 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
3837 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
3838 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
3839 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf

3840 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
3841 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
3842 horseback rides, sports activities, or any other amusement, entertainment, recreation,
3843 exhibition, cultural, or athletic activity;

3844 (g) amounts paid or charged for services for repairs or renovations of tangible personal
3845 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

3846 (i) the tangible personal property; and

3847 (ii) parts used in the repairs or renovations of the tangible personal property described
3848 in Subsection (1)(g)(i), regardless of whether:

3849 (A) any parts are actually used in the repairs or renovations of that tangible personal
3850 property; or

3851 (B) the particular parts used in the repairs or renovations of that tangible personal
3852 property are exempt from a tax under this chapter;

3853 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
3854 assisted cleaning or washing of tangible personal property;

3855 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
3856 accommodations and services that are regularly rented for less than 30 consecutive days;

3857 (j) amounts paid or charged for laundry or dry cleaning services;

3858 (k) amounts paid or charged for leases or rentals of tangible personal property if within
3859 this state the tangible personal property is:

3860 (i) stored;

3861 (ii) used; or

3862 (iii) otherwise consumed;

3863 (l) amounts paid or charged for tangible personal property if within this state the
3864 tangible personal property is:

3865 (i) stored;

3866 (ii) used; or

3867 (iii) consumed; and

3868 (m) amounts paid or charged for a sale:

3869 (i) (A) of a product transferred electronically; or

3870 (B) of a repair or renovation of a product transferred electronically; and

3871 (ii) regardless of whether the sale provides:

3872 (A) a right of permanent use of the product; or

3873 (B) a right to use the product that is less than a permanent use, including a right:

3874 (I) for a definite or specified length of time; and

3875 (II) that terminates upon the occurrence of a condition.

3876 (2) (a) Except as provided in Subsections (2)(b) through ~~[(e)]~~ (f), a state tax and a local

3877 tax are imposed on a transaction described in Subsection (1) equal to the sum of:

3878 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

3879 ~~[(A) (f) through March 31, 2019, 4.70%; and]~~

3880 ~~[(H)]~~ (A) ~~[beginning on April 1, 2019,]~~ 4.70% plus the rate specified in Subsection

3881 ~~[(H)]~~ (12)(a); and

3882 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales

3883 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

3884 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional

3885 State Sales and Use Tax Act; and

3886 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales

3887 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

3888 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state

3889 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3890 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

3891 transaction under this chapter other than this part.

3892 (b) Except as provided in Subsection ~~[(2)(d) or (e)]~~ (2)(e) or (f) and subject to

3893 Subsection (2)~~[(j)]~~(k), a state tax and a local tax are imposed on a transaction described in

3894 Subsection (1)(d) equal to the sum of:

3895 (i) a state tax imposed on the transaction at a tax rate of 2%; and

3896 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

3897 transaction under this chapter other than this part.

3898 (c) Except as provided in Subsection ~~[(2)(d) or (e)]~~ (2)(e) or (f), a state tax and a local

3899 tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

3900 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at

3901 a tax rate of 1.75%; and

3902 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3903 amounts paid or charged for food and food ingredients under this chapter other than this part.

3904 (d) Except as provided in Subsection (2)(e) or (f), a state tax is imposed on amounts
3905 paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at
3906 a rate of 4.85%.

3907 ~~(e)~~ (e) (i) For a bundled transaction that is attributable to food and food ingredients
3908 and tangible personal property other than food and food ingredients, a state tax and a local tax
3909 is imposed on the entire bundled transaction equal to the sum of:

3910 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

3911 (I) the tax rate described in Subsection (2)(a)(i)(A); and

3912 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
3913 Sales and Use Tax Act, if the location of the transaction as determined under Sections
3914 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
3915 Additional State Sales and Use Tax Act; and

3916 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
3917 Sales and Use Tax Act, if the location of the transaction as determined under Sections
3918 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
3919 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3920 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
3921 described in Subsection (2)(a)(ii).

3922 (ii) If an optional computer software maintenance contract is a bundled transaction that
3923 consists of taxable and nontaxable products that are not separately itemized on an invoice or
3924 similar billing document, the purchase of the optional computer software maintenance contract
3925 is 40% taxable under this chapter and 60% nontaxable under this chapter.

3926 (iii) Subject to Subsection (2)~~(e)~~(e)(iv), for a bundled transaction other than a
3927 bundled transaction described in Subsection (2)~~(e)~~(e)(i) or (ii):

3928 (A) if the sales price of the bundled transaction is attributable to tangible personal
3929 property, a product, or a service that is subject to taxation under this chapter and tangible
3930 personal property, a product, or service that is not subject to taxation under this chapter, the
3931 entire bundled transaction is subject to taxation under this chapter unless:

3932 (I) the seller is able to identify by reasonable and verifiable standards the tangible

3933 personal property, product, or service that is not subject to taxation under this chapter from the
3934 books and records the seller keeps in the seller's regular course of business; or

3935 (II) state or federal law provides otherwise; or

3936 (B) if the sales price of a bundled transaction is attributable to two or more items of
3937 tangible personal property, products, or services that are subject to taxation under this chapter
3938 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
3939 higher tax rate unless:

3940 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3941 personal property, product, or service that is subject to taxation under this chapter at the lower
3942 tax rate from the books and records the seller keeps in the seller's regular course of business; or

3943 (II) state or federal law provides otherwise.

3944 (iv) For purposes of Subsection (2)~~(f)~~(e)(iii), books and records that a seller keeps in
3945 the seller's regular course of business includes books and records the seller keeps in the regular
3946 course of business for nontax purposes.

3947 ~~(e)~~ (f) (i) Except as otherwise provided in this chapter and subject to Subsections
3948 (2)~~(e)~~(f)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal
3949 property, a product, or a service that is subject to taxation under this chapter, and the sale,
3950 lease, or rental of tangible personal property, other property, a product, or a service that is not
3951 subject to taxation under this chapter, the entire transaction is subject to taxation under this
3952 chapter unless the seller, at the time of the transaction:

3953 (A) separately states the portion of the transaction that is not subject to taxation under
3954 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

3955 (B) is able to identify by reasonable and verifiable standards, from the books and
3956 records the seller keeps in the seller's regular course of business, the portion of the transaction
3957 that is not subject to taxation under this chapter.

3958 (ii) A purchaser and a seller may correct the taxability of a transaction if:

3959 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
3960 the transaction that is not subject to taxation under this chapter was not separately stated on an
3961 invoice, bill of sale, or similar document provided to the purchaser because of an error or
3962 ignorance of the law; and

3963 (B) the seller is able to identify by reasonable and verifiable standards, from the books

3964 and records the seller keeps in the seller's regular course of business, the portion of the
3965 transaction that is not subject to taxation under this chapter.

3966 (iii) For purposes of Subsections (2)~~(e)~~(f)(i) and (ii), books and records that a seller
3967 keeps in the seller's regular course of business includes books and records the seller keeps in
3968 the regular course of business for nontax purposes.

3969 ~~(f)~~ (g) (i) If the sales price of a transaction is attributable to two or more items of
3970 tangible personal property, products, or services that are subject to taxation under this chapter
3971 at different rates, the entire purchase is subject to taxation under this chapter at the higher tax
3972 rate unless the seller, at the time of the transaction:

3973 (A) separately states the items subject to taxation under this chapter at each of the
3974 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

3975 (B) is able to identify by reasonable and verifiable standards the tangible personal
3976 property, product, or service that is subject to taxation under this chapter at the lower tax rate
3977 from the books and records the seller keeps in the seller's regular course of business.

3978 (ii) For purposes of Subsection (2)~~(f)~~(g)(i), books and records that a seller keeps in
3979 the seller's regular course of business includes books and records the seller keeps in the regular
3980 course of business for nontax purposes.

3981 ~~(g)~~ (h) Subject to Subsections ~~(2)(h) and (i)~~ (2)(i) and (j), a tax rate repeal or tax
3982 rate change for a tax rate imposed under the following shall take effect on the first day of a
3983 calendar quarter:

3984 (i) Subsection (2)(a)(i)(A);

3985 (ii) Subsection (2)(b)(i);

3986 (iii) Subsection (2)(c)(i); or

3987 (iv) Subsection (2)~~(f)~~(e)(i)(A)(I).

3988 ~~(h)~~ (i) (i) A tax rate increase takes effect on the first day of the first billing period that
3989 begins on or after the effective date of the tax rate increase if the billing period for the
3990 transaction begins before the effective date of a tax rate increase imposed under:

3991 (A) Subsection (2)(a)(i)(A);

3992 (B) Subsection (2)(b)(i);

3993 (C) Subsection (2)(c)(i); or

3994 (D) Subsection (2)~~(f)~~(e)(i)(A)(I).

3995 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
 3996 statement for the billing period is rendered on or after the effective date of the repeal of the tax
 3997 or the tax rate decrease imposed under:

- 3998 (A) Subsection (2)(a)(i)(A);
- 3999 (B) Subsection (2)(b)(i);
- 4000 (C) Subsection (2)(c)(i); or
- 4001 (D) Subsection (2)~~(f)~~(e)(i)(A)(I).

4002 ~~(f)~~ (j) (i) For a tax rate described in Subsection (2)~~(f)~~(j)(ii), if a tax due on a
 4003 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a
 4004 tax rate repeal or change in a tax rate takes effect:

- 4005 (A) on the first day of a calendar quarter; and
- 4006 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

4007 (ii) Subsection (2)~~(f)~~(j)(i) applies to the tax rates described in the following:

- 4008 (A) Subsection (2)(a)(i)(A);
- 4009 (B) Subsection (2)(b)(i);
- 4010 (C) Subsection (2)(c)(i); or
- 4011 (D) Subsection (2)~~(f)~~(e)(i)(A)(I).

4012 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
 4013 the commission may by rule define the term "catalogue sale."

4014 ~~(f)~~ (k) (i) For a location described in Subsection (2)~~(f)~~(k)(ii), the commission shall
 4015 determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based
 4016 on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

4017 (ii) Subsection (2)~~(f)~~(k)(i) applies to a location where gas, electricity, heat, coal, fuel
 4018 oil, or other fuel is furnished through a single meter for two or more of the following uses:

- 4019 (A) a commercial use;
- 4020 (B) an industrial use; or
- 4021 (C) a residential use.

4022 (3) (a) The following state taxes shall be deposited into the General Fund:

- 4023 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 4024 (ii) the tax imposed by Subsection (2)(b)(i);
- 4025 (iii) the tax imposed by Subsection (2)(c)(i); ~~[or]~~ and

- 4026 (iv) the tax imposed by Subsection (2)[~~(d)~~](e)(i)(A)(I).
- 4027 (b) The following local taxes shall be distributed to a county, city, or town as provided
- 4028 in this chapter:
- 4029 (i) the tax imposed by Subsection (2)(a)(ii);
- 4030 (ii) the tax imposed by Subsection (2)(b)(ii);
- 4031 (iii) the tax imposed by Subsection (2)(c)(ii); and
- 4032 (iv) the tax imposed by Subsection (2)[~~(d)~~](e)(i)(B).
- 4033 (c) The state tax imposed by Subsection (2)(d) shall be deposited into the General
- 4034 Fund.
- 4035 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
- 4036 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
- 4037 through (g):
- 4038 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
- 4039 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- 4040 (B) for the fiscal year; or
- 4041 (ii) \$17,500,000.
- 4042 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
- 4043 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
- 4044 Department of Natural Resources to:
- 4045 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
- 4046 protect sensitive plant and animal species; or
- 4047 (B) award grants, up to the amount authorized by the Legislature in an appropriations
- 4048 act, to political subdivisions of the state to implement the measures described in Subsections
- 4049 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.
- 4050 (ii) Money transferred to the Department of Natural Resources under Subsection
- 4051 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
- 4052 person to list or attempt to have listed a species as threatened or endangered under the
- 4053 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.
- 4054 (iii) At the end of each fiscal year:
- 4055 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
- 4056 Conservation and Development Fund created in Section 73-10-24;

4057 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
4058 Program Subaccount created in Section 73-10c-5; and

4059 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
4060 Program Subaccount created in Section 73-10c-5.

4061 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
4062 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
4063 created in Section 4-18-106.

4064 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
4065 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
4066 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
4067 water rights.

4068 (ii) At the end of each fiscal year:

4069 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
4070 Conservation and Development Fund created in Section 73-10-24;

4071 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
4072 Program Subaccount created in Section 73-10c-5; and

4073 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
4074 Program Subaccount created in Section 73-10c-5.

4075 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
4076 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
4077 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

4078 (ii) In addition to the uses allowed of the Water Resources Conservation and
4079 Development Fund under Section 73-10-24, the Water Resources Conservation and
4080 Development Fund may also be used to:

4081 (A) conduct hydrologic and geotechnical investigations by the Division of Water
4082 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
4083 quantifying surface and ground water resources and describing the hydrologic systems of an
4084 area in sufficient detail so as to enable local and state resource managers to plan for and
4085 accommodate growth in water use without jeopardizing the resource;

4086 (B) fund state required dam safety improvements; and

4087 (C) protect the state's interest in interstate water compact allocations, including the

4088 hiring of technical and legal staff.

4089 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
4090 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
4091 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

4092 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
4093 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
4094 created in Section 73-10c-5 for use by the Division of Drinking Water to:

4095 (i) provide for the installation and repair of collection, treatment, storage, and
4096 distribution facilities for any public water system, as defined in Section 19-4-102;

4097 (ii) develop underground sources of water, including springs and wells; and

4098 (iii) develop surface water sources.

4099 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
4100 2006, the difference between the following amounts shall be expended as provided in this
4101 Subsection (5), if that difference is greater than \$1:

4102 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
4103 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

4104 (ii) \$17,500,000.

4105 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

4106 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
4107 credits; and

4108 (B) expended by the Department of Natural Resources for watershed rehabilitation or
4109 restoration.

4110 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
4111 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
4112 created in Section 73-10-24.

4113 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
4114 remaining difference described in Subsection (5)(a) shall be:

4115 (A) transferred each fiscal year to the Division of Water Resources as dedicated
4116 credits; and

4117 (B) expended by the Division of Water Resources for cloud-seeding projects
4118 authorized by Title 73, Chapter 15, Modification of Weather.

4119 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
4120 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
4121 created in Section 73-10-24.

4122 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
4123 remaining difference described in Subsection (5)(a) shall be deposited into the Water
4124 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
4125 Division of Water Resources for:

4126 (i) preconstruction costs:

4127 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
4128 26, Bear River Development Act; and

4129 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
4130 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

4131 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
4132 Chapter 26, Bear River Development Act;

4133 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
4134 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

4135 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
4136 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

4137 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
4138 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be
4139 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
4140 incurred for employing additional technical staff for the administration of water rights.

4141 (f) At the end of each fiscal year, any unexpended dedicated credits described in
4142 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
4143 Fund created in Section 73-10-24.

4144 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
4145 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
4146 (1) for the fiscal year shall be deposited as follows:

4147 ~~[(a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)~~
4148 ~~shall be deposited into the Transportation Investment Fund of 2005 created by Section~~
4149 ~~72-2-124;]~~

4150 ~~[(b) for fiscal year 2017-18 only:]~~

4151 ~~[(i) 80% of the revenue described in this Subsection (6) shall be deposited into the~~

4152 ~~Transportation Investment Fund of 2005 created by Section 72-2-124; and]~~

4153 ~~[(ii) 20% of the revenue described in this Subsection (6) shall be deposited into the~~

4154 ~~Water Infrastructure Restricted Account created by Section 73-10g-103;]~~

4155 ~~[(c) for fiscal year 2018-19 only:]~~

4156 ~~[(i) 60% of the revenue described in this Subsection (6) shall be deposited into the~~

4157 ~~Transportation Investment Fund of 2005 created by Section 72-2-124; and]~~

4158 ~~[(ii) 40% of the revenue described in this Subsection (6) shall be deposited into the~~

4159 ~~Water Infrastructure Restricted Account created by Section 73-10g-103;]~~

4160 ~~[(d) for fiscal year 2019-20 only:]~~

4161 ~~[(i) 40% of the revenue described in this Subsection (6) shall be deposited into the~~

4162 ~~Transportation Investment Fund of 2005 created by Section 72-2-124; and]~~

4163 ~~[(ii) 60% of the revenue described in this Subsection (6) shall be deposited into the~~

4164 ~~Water Infrastructure Restricted Account created by Section 73-10g-103;]~~

4165 ~~[(e)]~~ (a) for fiscal year 2020-21 only:

4166 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the

4167 Transportation Investment Fund of 2005 created by Section 72-2-124; and

4168 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the

4169 Water Infrastructure Restricted Account created by Section 73-10g-103; and

4170 ~~[(f)]~~ (b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue

4171 described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted

4172 Account created by Section 73-10g-103.

4173 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in

4174 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,

4175 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005

4176 created by Section 72-2-124:

4177 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of

4178 the revenues collected from the following taxes, which represents a portion of the

4179 approximately 17% of sales and use tax revenues generated annually by the sales and use tax

4180 on vehicles and vehicle-related products:

- 4181 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;
- 4182 (B) the tax imposed by Subsection (2)(b)(i);
- 4183 (C) the tax imposed by Subsection (2)(c)(i); and
- 4184 (D) the tax imposed by Subsection (2)~~(d)~~(e)(i)(A)(I); plus
- 4185 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
- 4186 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
- 4187 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
- 4188 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

4189 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of

4190 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total

4191 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)

4192 generated in the current fiscal year than the total percentage of sales and use taxes deposited in

4193 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection

4194 (7)(a) equal to the product of:

4195 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the

4196 previous fiscal year; and

4197 (B) the total sales and use tax revenue generated by the taxes described in Subsections

4198 (7)(a)(i)(A) through (D) in the current fiscal year.

4199 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under

4200 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes

4201 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of

4202 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in

4203 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

4204 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected

4205 from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited

4206 under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues

4207 collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the

4208 current fiscal year under Subsection (7)(a).

4209 ~~[(8)(a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited~~

4210 ~~under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall~~

4211 ~~deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into~~

4212 the Transportation Investment Fund of 2005 created by Section ~~72-2-124.~~]

4213 ~~[(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under~~
 4214 ~~Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit~~
 4215 ~~\$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the~~
 4216 ~~Transportation Investment Fund of 2005 created by Section 72-2-124.]~~

4217 ~~[(c)(i)]~~ (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited
 4218 under Subsections (6) and (7), and subject to Subsection ~~[(8)(c)(ii)]~~ (8)(b), for a fiscal year
 4219 beginning on or after July 1, 2018, the commission shall annually deposit into the
 4220 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes
 4221 listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the
 4222 following taxes:

4223 ~~[(A)]~~ (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

4224 ~~[(B)]~~ (ii) the tax imposed by Subsection (2)(b)(i);

4225 ~~[(C)]~~ (iii) the tax imposed by Subsection (2)(c)(i); and

4226 ~~[(D)]~~ (iv) the tax imposed by Subsection (2)~~[(d)]~~(e)(i)(A)(I).

4227 ~~[(ii)]~~ (b) For a fiscal year beginning on or after July 1, 2019, the commission shall
 4228 annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection
 4229 ~~[(8)(c)(i)]~~ (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the
 4230 current fiscal year by the portion of the tax imposed on motor and special fuel that is sold,
 4231 used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

4232 ~~[(iii)]~~ (c) The commission shall annually deposit the amount described in Subsection
 4233 ~~[(8)(c)(ii)]~~ (8)(b) into the Transit and Transportation Investment Fund created in Section
 4234 72-2-124.

4235 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
 4236 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
 4237 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

4238 ~~[(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),~~
 4239 ~~in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17~~
 4240 ~~fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund~~
 4241 ~~of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on~~
 4242 ~~the transactions described in Subsection (1).]~~

4243 ~~[(b)]~~ (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection
4244 (10)~~[(c)]~~(b), and in addition to any amounts deposited under Subsections (6), (7), and (8), the
4245 Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by
4246 Section 72-2-124 the amount of revenue described as follows:

4247 ~~[(i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%~~
4248 ~~tax rate on the transactions described in Subsection (1);]~~

4249 ~~[(ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a~~
4250 ~~.05% tax rate on the transactions described in Subsection (1);]~~

4251 ~~[(iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%~~
4252 ~~tax rate on the transactions described in Subsection (1);]~~

4253 ~~[(iv)]~~ (i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
4254 .05% tax rate on the transactions described in Subsection (1); and

4255 ~~[(v)]~~ (ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a
4256 .05% tax rate on the transactions described in Subsection (1).

4257 ~~[(c)]~~ (b) For purposes of ~~[Subsections (10)(a) and (b)]~~ Subsection (10)(a), the Division
4258 of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue
4259 generated by amounts paid or charged for food and food ingredients, except for tax revenue
4260 generated by a bundled transaction attributable to food and food ingredients and tangible
4261 personal property other than food and food ingredients described in Subsection (2)~~[(d)]~~(e).

4262 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
4263 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
4264 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
4265 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue
4266 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,
4267 created in Section 63N-2-512.

4268 ~~[(12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the~~
4269 ~~Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed~~
4270 ~~under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section~~
4271 ~~35A-8-308;~~

4272 ~~[(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division~~
4273 ~~of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under~~

4274 Subsection (3)(a) into the Throughput Infrastructure Fund created by Section ~~35A-8-308~~]

4275 [~~(13)~~] (12) (a) The rate specified in this subsection is 0.15%.

4276 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall [~~(i) on or before~~

4277 September 30, 2019, transfer the amount of revenue collected from the rate described in

4278 Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the

4279 transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the

4280 Medicaid Expansion Fund created in Section ~~26-36b-208~~; and (ii)], for a fiscal year beginning

4281 on or after July 1, 2019, annually transfer the amount of revenue collected from the rate

4282 described in Subsection [~~(13)~~] (12)(a) on the transactions that are subject to the sales and use

4283 tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section

4284 ~~26-36b-208~~.

4285 [~~(14)~~] (13) Notwithstanding Subsection (3)(a), for each fiscal year beginning with

4286 fiscal year 2020-21, the Division of Finance shall deposit \$200,000 into the General Fund as a

4287 dedicated credit solely for use of the Search and Rescue Financial Assistance Program created

4288 in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

4289 [~~(15)~~] (14) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of

4290 Finance shall annually transfer \$1,813,400 of the revenue deposited into the Transportation

4291 Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

4292 (b) If the total revenue deposited into the Transportation Investment Fund of 2005

4293 under Subsections (6) through (8) is less than \$1,813,400 for a fiscal year, the Division of

4294 Finance shall transfer the total revenue deposited into the Transportation Investment Fund of

4295 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

4296 Section 34. Section ~~59-12-104~~ is amended to read:

4297 **~~59-12-104. Exemptions.~~**

4298 Exemptions from the taxes imposed by this chapter are as follows:

4299 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax

4300 under Chapter 13, Motor and Special Fuel Tax Act;

4301 (2) subject to Section ~~59-12-104.6~~, sales to the state, its institutions, and its political

4302 subdivisions; however, this exemption does not apply to sales of:

4303 (a) construction materials except:

4304 (i) construction materials purchased by or on behalf of institutions of the public

4305 education system as defined in Utah Constitution, Article X, Section 2, provided the
4306 construction materials are clearly identified and segregated and installed or converted to real
4307 property which is owned by institutions of the public education system; and

4308 (ii) construction materials purchased by the state, its institutions, or its political
4309 subdivisions which are installed or converted to real property by employees of the state, its
4310 institutions, or its political subdivisions; or

4311 (b) tangible personal property in connection with the construction, operation,
4312 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
4313 providing additional project capacity, as defined in Section 11-13-103;

4314 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

4315 (i) the proceeds of each sale do not exceed \$1; and

4316 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
4317 the cost of the item described in Subsection (3)(b) as goods consumed; and

4318 (b) Subsection (3)(a) applies to:

4319 (i) food and food ingredients; or

4320 (ii) prepared food;

4321 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

4322 (i) alcoholic beverages;

4323 (ii) food and food ingredients; or

4324 (iii) prepared food;

4325 (b) sales of tangible personal property or a product transferred electronically:

4326 (i) to a passenger;

4327 (ii) by a commercial airline carrier; and

4328 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or

4329 (c) services related to Subsection (4)(a) or (b);

4330 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
4331 and equipment:

4332 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
4333 North American Industry Classification System of the federal Executive Office of the
4334 President, Office of Management and Budget; and

4335 (II) for:

4336 (Aa) installation in an aircraft, including services relating to the installation of parts or
4337 equipment in the aircraft;

4338 (Bb) renovation of an aircraft; or

4339 (Cc) repair of an aircraft; or

4340 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
4341 commerce; or

4342 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
4343 aircraft operated by a common carrier in interstate or foreign commerce; and

4344 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
4345 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
4346 refund:

4347 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

4348 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

4349 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
4350 the sale prior to filing for the refund;

4351 (iv) for sales and use taxes paid under this chapter on the sale;

4352 (v) in accordance with Section 59-1-1410; and

4353 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
4354 the person files for the refund on or before September 30, 2011;

4355 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
4356 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
4357 exhibitor, distributor, or commercial television or radio broadcaster;

4358 (7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of
4359 cleaning or washing of tangible personal property if the cleaning or washing of the tangible
4360 personal property is not assisted cleaning or washing of tangible personal property;

4361 (b) if a seller that sells at the same business location assisted cleaning or washing of
4362 tangible personal property and cleaning or washing of tangible personal property that is not
4363 assisted cleaning or washing of tangible personal property, the exemption described in
4364 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
4365 or washing of the tangible personal property; and

4366 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,

4367 Utah Administrative Rulemaking Act, the commission may make rules:

4368 (i) governing the circumstances under which sales are at the same business location;

4369 and

4370 (ii) establishing the procedures and requirements for a seller to separately account for

4371 sales of assisted cleaning or washing of tangible personal property;

4372 (8) sales made to or by religious or charitable institutions in the conduct of their regular

4373 religious or charitable functions and activities, if the requirements of Section [59-12-104.1](#) are

4374 fulfilled;

4375 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of

4376 this state if the vehicle is:

4377 (a) not registered in this state; and

4378 (b) (i) not used in this state; or

4379 (ii) used in this state:

4380 (A) if the vehicle is not used to conduct business, for a time period that does not

4381 exceed the longer of:

4382 (I) 30 days in any calendar year; or

4383 (II) the time period necessary to transport the vehicle to the borders of this state; or

4384 (B) if the vehicle is used to conduct business, for the time period necessary to transport

4385 the vehicle to the borders of this state;

4386 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

4387 (i) the item is intended for human use; and

4388 (ii) (A) a prescription was issued for the item; or

4389 (B) the item was purchased by a hospital or other medical facility; and

4390 (b) (i) Subsection (10)(a) applies to:

4391 (A) a drug;

4392 (B) a syringe; or

4393 (C) a stoma supply; and

4394 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

4395 commission may by rule define the terms:

4396 (A) "syringe"; or

4397 (B) "stoma supply";

- 4398 (11) purchases or leases exempt under Section 19-12-201;
- 4399 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 4400 (i) the following if the item described in Subsection (12)(c) is not available to the
- 4401 general public:
- 4402 (A) a church; or
- 4403 (B) a charitable institution; or
- 4404 (ii) an institution of higher education if:
- 4405 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 4406 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 4407 offered by the institution of higher education; or
- 4408 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 4409 (i) a medical facility; or
- 4410 (ii) a nursing facility; and
- 4411 (c) Subsections (12)(a) and (b) apply to:
- 4412 (i) food and food ingredients;
- 4413 (ii) prepared food; or
- 4414 (iii) alcoholic beverages;
- 4415 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 4416 or a product transferred electronically by a person:
- 4417 (i) regardless of the number of transactions involving the sale of that tangible personal
- 4418 property or product transferred electronically by that person; and
- 4419 (ii) not regularly engaged in the business of selling that type of tangible personal
- 4420 property or product transferred electronically;
- 4421 (b) this Subsection (13) does not apply if:
- 4422 (i) the sale is one of a series of sales of a character to indicate that the person is
- 4423 regularly engaged in the business of selling that type of tangible personal property or product
- 4424 transferred electronically;
- 4425 (ii) the person holds that person out as regularly engaged in the business of selling that
- 4426 type of tangible personal property or product transferred electronically;
- 4427 (iii) the person sells an item of tangible personal property or product transferred
- 4428 electronically that the person purchased as a sale that is exempt under Subsection (25); or

4429 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
4430 this state in which case the tax is based upon:

4431 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
4432 sold; or

4433 (B) in the absence of a bill of sale or other written evidence of value, the fair market
4434 value of the vehicle or vessel being sold at the time of the sale as determined by the
4435 commission; and

4436 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4437 commission shall make rules establishing the circumstances under which:

4438 (i) a person is regularly engaged in the business of selling a type of tangible personal
4439 property or product transferred electronically;

4440 (ii) a sale of tangible personal property or a product transferred electronically is one of
4441 a series of sales of a character to indicate that a person is regularly engaged in the business of
4442 selling that type of tangible personal property or product transferred electronically; or

4443 (iii) a person holds that person out as regularly engaged in the business of selling a type
4444 of tangible personal property or product transferred electronically;

4445 (14) amounts paid or charged for a purchase or lease of machinery, equipment, normal
4446 operating repair or replacement parts, or materials, except for office equipment or office
4447 supplies, by:

4448 (a) a manufacturing facility that:

4449 (i) is located in the state; and

4450 (ii) uses or consumes the machinery, equipment, normal operating repair or
4451 replacement parts, or materials:

4452 (A) in the manufacturing process to manufacture an item sold as tangible personal
4453 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
4454 Utah Administrative Rulemaking Act; or

4455 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
4456 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
4457 Administrative Rulemaking Act;

4458 (b) an establishment, as the commission defines that term in accordance with Title
4459 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

4460 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
4461 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
4462 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
4463 2002 North American Industry Classification System of the federal Executive Office of the
4464 President, Office of Management and Budget;

4465 (ii) is located in the state; and

4466 (iii) uses or consumes the machinery, equipment, normal operating repair or
4467 replacement parts, or materials in:

4468 (A) the production process to produce an item sold as tangible personal property, as the
4469 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
4470 Administrative Rulemaking Act;

4471 (B) research and development, as the commission may define that phrase in accordance
4472 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

4473 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
4474 produced from mining;

4475 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
4476 mining; or

4477 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

4478 (c) an establishment, as the commission defines that term in accordance with Title 63G,
4479 Chapter 3, Utah Administrative Rulemaking Act, that:

4480 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
4481 American Industry Classification System of the federal Executive Office of the President,
4482 Office of Management and Budget;

4483 (ii) is located in the state; and

4484 (iii) uses or consumes the machinery, equipment, normal operating repair or
4485 replacement parts, or materials in the operation of the web search portal;

4486 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

4487 (i) tooling;

4488 (ii) special tooling;

4489 (iii) support equipment;

4490 (iv) special test equipment; or

4491 (v) parts used in the repairs or renovations of tooling or equipment described in
4492 Subsections (15)(a)(i) through (iv); and
4493 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
4494 (i) the tooling, equipment, or parts are used or consumed exclusively in the
4495 performance of any aerospace or electronics industry contract with the United States
4496 government or any subcontract under that contract; and
4497 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
4498 title to the tooling, equipment, or parts is vested in the United States government as evidenced
4499 by:
4500 (A) a government identification tag placed on the tooling, equipment, or parts; or
4501 (B) listing on a government-approved property record if placing a government
4502 identification tag on the tooling, equipment, or parts is impractical;
4503 (16) sales of newspapers or newspaper subscriptions;
4504 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
4505 product transferred electronically traded in as full or part payment of the purchase price, except
4506 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
4507 trade-ins are limited to other vehicles only, and the tax is based upon:
4508 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
4509 vehicle being traded in; or
4510 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
4511 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
4512 commission; and
4513 (b) Subsection (17)(a) does not apply to the following items of tangible personal
4514 property or products transferred electronically traded in as full or part payment of the purchase
4515 price:
4516 (i) money;
4517 (ii) electricity;
4518 (iii) water;
4519 (iv) gas; or
4520 (v) steam;
4521 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property

4522 or a product transferred electronically used or consumed primarily and directly in farming
4523 operations, regardless of whether the tangible personal property or product transferred
4524 electronically:

- 4525 (A) becomes part of real estate; or
- 4526 (B) is installed by a:
 - 4527 (I) farmer;
 - 4528 (II) contractor; or
 - 4529 (III) subcontractor; or
- 4530 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
4531 product transferred electronically if the tangible personal property or product transferred
4532 electronically is exempt under Subsection (18)(a)(i); and
- 4533 (b) amounts paid or charged for the following are subject to the taxes imposed by this
4534 chapter:
 - 4535 (i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or
4536 supplies if used in a manner that is incidental to farming; and
 - 4537 (B) tangible personal property that is considered to be used in a manner that is
4538 incidental to farming includes:
 - 4539 (I) hand tools; or
 - 4540 (II) maintenance and janitorial equipment and supplies;
 - 4541 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
4542 transferred electronically if the tangible personal property or product transferred electronically
4543 is used in an activity other than farming; and
 - 4544 (B) tangible personal property or a product transferred electronically that is considered
4545 to be used in an activity other than farming includes:
 - 4546 (I) office equipment and supplies; or
 - 4547 (II) equipment and supplies used in:
 - 4548 (Aa) the sale or distribution of farm products;
 - 4549 (Bb) research; or
 - 4550 (Cc) transportation; or
 - 4551 (iii) a vehicle required to be registered by the laws of this state during the period
4552 ending two years after the date of the vehicle's purchase;

- 4553 (19) sales of hay;
- 4554 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
- 4555 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
- 4556 garden, farm, or other agricultural produce is sold by:
 - 4557 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
 - 4558 agricultural produce;
 - 4559 (b) an employee of the producer described in Subsection (20)(a); or
 - 4560 (c) a member of the immediate family of the producer described in Subsection (20)(a);
- 4561 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
- 4562 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 4563 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
- 4564 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
- 4565 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
- 4566 manufacturer, processor, wholesaler, or retailer;
- 4567 (23) a product stored in the state for resale;
- 4568 (24) (a) purchases of a product if:
 - 4569 (i) the product is:
 - 4570 (A) purchased outside of this state;
 - 4571 (B) brought into this state:
 - 4572 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
 - 4573 (II) by a nonresident person who is not living or working in this state at the time of the
 - 4574 purchase;
 - 4575 (C) used for the personal use or enjoyment of the nonresident person described in
 - 4576 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
 - 4577 (D) not used in conducting business in this state; and
 - 4578 (ii) for:
 - 4579 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
 - 4580 the product for a purpose for which the product is designed occurs outside of this state;
 - 4581 (B) a boat, the boat is registered outside of this state; or
 - 4582 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
 - 4583 outside of this state;

- 4584 (b) the exemption provided for in Subsection (24)(a) does not apply to:
- 4585 (i) a lease or rental of a product; or
- 4586 (ii) a sale of a vehicle exempt under Subsection (33); and
- 4587 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
- 4588 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
- 4589 following:
- 4590 (i) conducting business in this state if that phrase has the same meaning in this
- 4591 Subsection (24) as in Subsection (63);
- 4592 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
- 4593 as in Subsection (63); or
- 4594 (iii) a purpose for which a product is designed if that phrase has the same meaning in
- 4595 this Subsection (24) as in Subsection (63);
- 4596 (25) a product purchased for resale in the regular course of business, either in its
- 4597 original form or as an ingredient or component part of a manufactured or compounded product;
- 4598 (26) a product upon which a sales or use tax was paid to some other state, or one of its
- 4599 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
- 4600 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
- 4601 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
- 4602 Act;
- 4603 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
- 4604 person for use in compounding a service taxable under the subsections;
- 4605 (28) purchases made in accordance with the special supplemental nutrition program for
- 4606 women, infants, and children established in 42 U.S.C. Sec. 1786;
- 4607 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
- 4608 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
- 4609 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
- 4610 the President, Office of Management and Budget;
- 4611 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
- 4612 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
- 4613 (a) not registered in this state; and
- 4614 (b) (i) not used in this state; or

- 4615 (ii) used in this state:
- 4616 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
- 4617 time period that does not exceed the longer of:
- 4618 (I) 30 days in any calendar year; or
- 4619 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
- 4620 the borders of this state; or
- 4621 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
- 4622 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
- 4623 state;
- 4624 (31) sales of aircraft manufactured in Utah;
- 4625 (32) amounts paid for the purchase of telecommunications service for purposes of
- 4626 providing telecommunications service;
- 4627 (33) sales, leases, or uses of the following:
- 4628 (a) a vehicle by an authorized carrier; or
- 4629 (b) tangible personal property that is installed on a vehicle:
- 4630 (i) sold or leased to or used by an authorized carrier; and
- 4631 (ii) before the vehicle is placed in service for the first time;
- 4632 (34) (a) 45% of the sales price of any new manufactured home; and
- 4633 (b) 100% of the sales price of any used manufactured home;
- 4634 (35) sales relating to schools and fundraising sales;
- 4635 (36) sales or rentals of durable medical equipment if:
- 4636 (a) a person presents a prescription for the durable medical equipment; and
- 4637 (b) the durable medical equipment is used for home use only;
- 4638 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 4639 Section [72-11-102](#); and
- 4640 (b) the commission shall by rule determine the method for calculating sales exempt
- 4641 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 4642 (38) sales to a ski resort of:
- 4643 (a) snowmaking equipment;
- 4644 (b) ski slope grooming equipment;
- 4645 (c) passenger ropeways as defined in Section [72-11-102](#); or

- 4646 (d) parts used in the repairs or renovations of equipment or passenger ropeways
4647 described in Subsections (38)(a) through (c);
- 4648 (39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal,
4649 fuel oil, or other fuels for industrial use;
- 4650 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
4651 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
4652 59-12-102;
- 4653 (b) if a seller that sells or rents at the same business location the right to use or operate
4654 for amusement, entertainment, or recreation one or more unassisted amusement devices and
4655 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
4656 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
4657 amusement, entertainment, or recreation for the assisted amusement devices; and
- 4658 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
4659 Utah Administrative Rulemaking Act, the commission may make rules:
- 4660 (i) governing the circumstances under which sales are at the same business location;
4661 and
- 4662 (ii) establishing the procedures and requirements for a seller to separately account for
4663 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
4664 assisted amusement devices;
- 4665 (41) (a) sales of photocopies by:
- 4666 (i) a governmental entity; or
4667 (ii) an entity within the state system of public education, including:
4668 (A) a school; or
4669 (B) the State Board of Education; or
- 4670 (b) sales of publications by a governmental entity;
- 4671 (42) amounts paid for admission to an athletic event at an institution of higher
4672 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
4673 20 U.S.C. Sec. 1681 et seq.;
- 4674 (43) (a) sales made to or by:
4675 (i) an area agency on aging; or
4676 (ii) a senior citizen center owned by a county, city, or town; or

4677 (b) sales made by a senior citizen center that contracts with an area agency on aging;
4678 (44) sales or leases of semiconductor fabricating, processing, research, or development
4679 materials regardless of whether the semiconductor fabricating, processing, research, or
4680 development materials:

4681 (a) actually come into contact with a semiconductor; or

4682 (b) ultimately become incorporated into real property;

4683 (45) an amount paid by or charged to a purchaser for accommodations and services
4684 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
4685 59-12-104.2;

4686 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
4687 sports event registration certificate in accordance with Section 41-3-306 for the event period
4688 specified on the temporary sports event registration certificate;

4689 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
4690 adopted by the Public Service Commission only for purchase of electricity produced from a
4691 new alternative energy source built after January 1, 2016, as designated in the tariff by the
4692 Public Service Commission; and

4693 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
4694 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
4695 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
4696 customer would have paid absent the tariff;

4697 (48) sales or rentals of mobility enhancing equipment if a person presents a
4698 prescription for the mobility enhancing equipment;

4699 (49) sales of water in a:

4700 (a) pipe;

4701 (b) conduit;

4702 (c) ditch; or

4703 (d) reservoir;

4704 (50) sales of currency or coins that constitute legal tender of a state, the United States,
4705 or a foreign nation;

4706 (51) (a) sales of an item described in Subsection (51)(b) if the item:

4707 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and

4708 (ii) has a gold, silver, or platinum content of 50% or more; and
4709 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
4710 (i) ingot;
4711 (ii) bar;
4712 (iii) medallion; or
4713 (iv) decorative coin;
4714 (52) amounts paid on a sale-leaseback transaction;
4715 (53) sales of a prosthetic device:
4716 (a) for use on or in a human; and
4717 (b) (i) for which a prescription is required; or
4718 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
4719 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
4720 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
4721 or equipment is primarily used in the production or postproduction of the following media for
4722 commercial distribution:
4723 (i) a motion picture;
4724 (ii) a television program;
4725 (iii) a movie made for television;
4726 (iv) a music video;
4727 (v) a commercial;
4728 (vi) a documentary; or
4729 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
4730 commission by administrative rule made in accordance with Subsection (54)(d); or
4731 (b) purchases, leases, or rentals of machinery or equipment by an establishment
4732 described in Subsection (54)(c) that is used for the production or postproduction of the
4733 following are subject to the taxes imposed by this chapter:
4734 (i) a live musical performance;
4735 (ii) a live news program; or
4736 (iii) a live sporting event;
4737 (c) the following establishments listed in the 1997 North American Industry
4738 Classification System of the federal Executive Office of the President, Office of Management

4739 and Budget, apply to Subsections (54)(a) and (b):

4740 (i) NAICS Code 512110; or

4741 (ii) NAICS Code 51219; and

4742 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

4743 commission may by rule:

4744 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);

4745 or

4746 (ii) define:

4747 (A) "commercial distribution";

4748 (B) "live musical performance";

4749 (C) "live news program"; or

4750 (D) "live sporting event";

4751 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but

4752 on or before June 30, 2027, of tangible personal property that:

4753 (i) is leased or purchased for or by a facility that:

4754 (A) is an alternative energy electricity production facility;

4755 (B) is located in the state; and

4756 (C) (I) becomes operational on or after July 1, 2004; or

4757 (II) has its generation capacity increased by one or more megawatts on or after July 1,

4758 2004, as a result of the use of the tangible personal property;

4759 (ii) has an economic life of five or more years; and

4760 (iii) is used to make the facility or the increase in capacity of the facility described in

4761 Subsection (55)(a)(i) operational up to the point of interconnection with an existing

4762 transmission grid including:

4763 (A) a wind turbine;

4764 (B) generating equipment;

4765 (C) a control and monitoring system;

4766 (D) a power line;

4767 (E) substation equipment;

4768 (F) lighting;

4769 (G) fencing;

- 4770 (H) pipes; or
- 4771 (I) other equipment used for locating a power line or pole; and
- 4772 (b) this Subsection (55) does not apply to:
- 4773 (i) tangible personal property used in construction of:
- 4774 (A) a new alternative energy electricity production facility; or
- 4775 (B) the increase in the capacity of an alternative energy electricity production facility;
- 4776 (ii) contracted services required for construction and routine maintenance activities;
- 4777 and
- 4778 (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 4779 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
- 4780 acquired after:
- 4781 (A) the alternative energy electricity production facility described in Subsection
- 4782 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
- 4783 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
- 4784 in Subsection (55)(a)(iii);
- 4785 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
- 4786 on or before June 30, 2027, of tangible personal property that:
- 4787 (i) is leased or purchased for or by a facility that:
- 4788 (A) is a waste energy production facility;
- 4789 (B) is located in the state; and
- 4790 (C) (I) becomes operational on or after July 1, 2004; or
- 4791 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 4792 2004, as a result of the use of the tangible personal property;
- 4793 (ii) has an economic life of five or more years; and
- 4794 (iii) is used to make the facility or the increase in capacity of the facility described in
- 4795 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
- 4796 transmission grid including:
- 4797 (A) generating equipment;
- 4798 (B) a control and monitoring system;
- 4799 (C) a power line;
- 4800 (D) substation equipment;

- 4801 (E) lighting;
- 4802 (F) fencing;
- 4803 (G) pipes; or
- 4804 (H) other equipment used for locating a power line or pole; and
- 4805 (b) this Subsection (56) does not apply to:
- 4806 (i) tangible personal property used in construction of:
- 4807 (A) a new waste energy facility; or
- 4808 (B) the increase in the capacity of a waste energy facility;
- 4809 (ii) contracted services required for construction and routine maintenance activities;
- 4810 and
- 4811 (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 4812 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
- 4813 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
- 4814 described in Subsection (56)(a)(iii); or
- 4815 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
- 4816 in Subsection (56)(a)(iii);
- 4817 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
- 4818 or before June 30, 2027, of tangible personal property that:
- 4819 (i) is leased or purchased for or by a facility that:
- 4820 (A) is located in the state;
- 4821 (B) produces fuel from alternative energy, including:
- 4822 (I) methanol; or
- 4823 (II) ethanol; and
- 4824 (C) (I) becomes operational on or after July 1, 2004; or
- 4825 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
- 4826 a result of the installation of the tangible personal property;
- 4827 (ii) has an economic life of five or more years; and
- 4828 (iii) is installed on the facility described in Subsection (57)(a)(i);
- 4829 (b) this Subsection (57) does not apply to:
- 4830 (i) tangible personal property used in construction of:
- 4831 (A) a new facility described in Subsection (57)(a)(i); or

- 4832 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
4833 (ii) contracted services required for construction and routine maintenance activities;
4834 and
4835 (iii) unless the tangible personal property is used or acquired for an increase in capacity
4836 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
4837 (A) the facility described in Subsection (57)(a)(i) is operational; or
4838 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
- 4839 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
4840 product transferred electronically to a person within this state if that tangible personal property
4841 or product transferred electronically is subsequently shipped outside the state and incorporated
4842 pursuant to contract into and becomes a part of real property located outside of this state;
4843 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
4844 state or political entity to which the tangible personal property is shipped imposes a sales, use,
4845 gross receipts, or other similar transaction excise tax on the transaction against which the other
4846 state or political entity allows a credit for sales and use taxes imposed by this chapter; and
4847 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
4848 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
4849 refund:
- 4850 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;
4851 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
4852 which the sale is made;
- 4853 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
4854 sale prior to filing for the refund;
- 4855 (iv) for sales and use taxes paid under this chapter on the sale;
4856 (v) in accordance with Section 59-1-1410; and
4857 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
4858 the person files for the refund on or before June 30, 2011;
- 4859 (59) purchases:
4860 (a) of one or more of the following items in printed or electronic format:
4861 (i) a list containing information that includes one or more:
4862 (A) names; or

4863 (B) addresses; or
4864 (ii) a database containing information that includes one or more:
4865 (A) names; or
4866 (B) addresses; and
4867 (b) used to send direct mail;
4868 (60) redemptions or repurchases of a product by a person if that product was:
4869 (a) delivered to a pawnbroker as part of a pawn transaction; and
4870 (b) redeemed or repurchased within the time period established in a written agreement
4871 between the person and the pawnbroker for redeeming or repurchasing the product;
4872 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
4873 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
4874 and
4875 (ii) has a useful economic life of one or more years; and
4876 (b) the following apply to Subsection (61)(a):
4877 (i) telecommunications enabling or facilitating equipment, machinery, or software;
4878 (ii) telecommunications equipment, machinery, or software required for 911 service;
4879 (iii) telecommunications maintenance or repair equipment, machinery, or software;
4880 (iv) telecommunications switching or routing equipment, machinery, or software; or
4881 (v) telecommunications transmission equipment, machinery, or software;
4882 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
4883 personal property or a product transferred electronically that are used in the research and
4884 development of alternative energy technology; and
4885 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4886 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
4887 purchases of tangible personal property or a product transferred electronically that are used in
4888 the research and development of alternative energy technology;
4889 (63) (a) purchases of tangible personal property or a product transferred electronically
4890 if:
4891 (i) the tangible personal property or product transferred electronically is:
4892 (A) purchased outside of this state;
4893 (B) brought into this state at any time after the purchase described in Subsection

4894 (63)(a)(i)(A); and
4895 (C) used in conducting business in this state; and
4896 (ii) for:
4897 (A) tangible personal property or a product transferred electronically other than the
4898 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
4899 for a purpose for which the property is designed occurs outside of this state; or
4900 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
4901 outside of this state and not required to be registered in this state under Section 41-1a-202 or
4902 73-18-9 based on residency;
4903 (b) the exemption provided for in Subsection (63)(a) does not apply to:
4904 (i) a lease or rental of tangible personal property or a product transferred electronically;
4905 or
4906 (ii) a sale of a vehicle exempt under Subsection (33); and
4907 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
4908 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
4909 following:
4910 (i) conducting business in this state if that phrase has the same meaning in this
4911 Subsection (63) as in Subsection (24);
4912 (ii) the first use of tangible personal property or a product transferred electronically if
4913 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
4914 (iii) a purpose for which tangible personal property or a product transferred
4915 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
4916 Subsection (24);
4917 (64) sales of disposable home medical equipment or supplies if:
4918 (a) a person presents a prescription for the disposable home medical equipment or
4919 supplies;
4920 (b) the disposable home medical equipment or supplies are used exclusively by the
4921 person to whom the prescription described in Subsection (64)(a) is issued; and
4922 (c) the disposable home medical equipment and supplies are listed as eligible for
4923 payment under:
4924 (i) Title XVIII, federal Social Security Act; or

4925 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

4926 (65) sales:

4927 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit

4928 District Act; or

4929 (b) of tangible personal property to a subcontractor of a public transit district, if the

4930 tangible personal property is:

4931 (i) clearly identified; and

4932 (ii) installed or converted to real property owned by the public transit district;

4933 (66) sales of construction materials:

4934 (a) purchased on or after July 1, 2010;

4935 (b) purchased by, on behalf of, or for the benefit of an international airport:

4936 (i) located within a county of the first class; and

4937 (ii) that has a United States customs office on its premises; and

4938 (c) if the construction materials are:

4939 (i) clearly identified;

4940 (ii) segregated; and

4941 (iii) installed or converted to real property:

4942 (A) owned or operated by the international airport described in Subsection (66)(b); and

4943 (B) located at the international airport described in Subsection (66)(b);

4944 (67) sales of construction materials:

4945 (a) purchased on or after July 1, 2008;

4946 (b) purchased by, on behalf of, or for the benefit of a new airport:

4947 (i) located within a county of the second class; and

4948 (ii) that is owned or operated by a city in which an airline as defined in Section

4949 [59-2-102](#) is headquartered; and

4950 (c) if the construction materials are:

4951 (i) clearly identified;

4952 (ii) segregated; and

4953 (iii) installed or converted to real property:

4954 (A) owned or operated by the new airport described in Subsection (67)(b);

4955 (B) located at the new airport described in Subsection (67)(b); and

- 4956 (C) as part of the construction of the new airport described in Subsection (67)(b);
4957 (68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a
4958 common carrier that is a railroad for use in a locomotive engine;
- 4959 (69) purchases and sales described in Section [63H-4-111](#);
- 4960 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
4961 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
4962 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
4963 lists a state or country other than this state as the location of registry of the fixed wing turbine
4964 powered aircraft; or
- 4965 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
4966 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
4967 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
4968 lists a state or country other than this state as the location of registry of the fixed wing turbine
4969 powered aircraft;
- 4970 (71) subject to Section [59-12-104.4](#), sales of a textbook for a higher education course:
4971 (a) to a person admitted to an institution of higher education; and
4972 (b) by a seller, other than a bookstore owned by an institution of higher education, if
4973 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
4974 textbook for a higher education course;
- 4975 (72) a license fee or tax a municipality imposes in accordance with Subsection
4976 [10-1-203\(5\)](#) on a purchaser from a business for which the municipality provides an enhanced
4977 level of municipal services;
- 4978 (73) amounts paid or charged for construction materials used in the construction of a
4979 new or expanding life science research and development facility in the state, if the construction
4980 materials are:
- 4981 (a) clearly identified;
4982 (b) segregated; and
4983 (c) installed or converted to real property;
- 4984 (74) amounts paid or charged for:
4985 (a) a purchase or lease of machinery and equipment that:
4986 (i) are used in performing qualified research:

4987 (A) as defined in Section 41(d), Internal Revenue Code; and
4988 (B) in the state; and
4989 (ii) have an economic life of three or more years; and
4990 (b) normal operating repair or replacement parts:
4991 (i) for the machinery and equipment described in Subsection (74)(a); and
4992 (ii) that have an economic life of three or more years;
4993 (75) a sale or lease of tangible personal property used in the preparation of prepared
4994 food if:
4995 (a) for a sale:
4996 (i) the ownership of the seller and the ownership of the purchaser are identical; and
4997 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
4998 tangible personal property prior to making the sale; or
4999 (b) for a lease:
5000 (i) the ownership of the lessor and the ownership of the lessee are identical; and
5001 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
5002 personal property prior to making the lease;
5003 (76) (a) purchases of machinery or equipment if:
5004 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
5005 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
5006 System of the federal Executive Office of the President, Office of Management and Budget;
5007 (ii) the machinery or equipment:
5008 (A) has an economic life of three or more years; and
5009 (B) is used by one or more persons who pay admission or user fees described in
5010 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
5011 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
5012 (A) amounts paid or charged as admission or user fees described in Subsection
5013 59-12-103(1)(f); and
5014 (B) subject to taxation under this chapter; and
5015 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5016 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
5017 previous calendar quarter is:

- 5018 (i) amounts paid or charged as admission or user fees described in Subsection
5019 [59-12-103\(1\)\(f\)](#); and
- 5020 (ii) subject to taxation under this chapter;
- 5021 (77) purchases of a short-term lodging consumable by a business that provides
5022 accommodations and services described in Subsection [59-12-103\(1\)\(i\)](#);
- 5023 (78) amounts paid or charged to access a database:
- 5024 (a) if the primary purpose for accessing the database is to view or retrieve information
5025 from the database; and
- 5026 (b) not including amounts paid or charged for a:
- 5027 (i) digital audio work;
- 5028 (ii) digital audio-visual work; or
- 5029 (iii) digital book;
- 5030 (79) amounts paid or charged for a purchase or lease made by an electronic financial
5031 payment service, of:
- 5032 (a) machinery and equipment that:
- 5033 (i) are used in the operation of the electronic financial payment service; and
- 5034 (ii) have an economic life of three or more years; and
- 5035 (b) normal operating repair or replacement parts that:
- 5036 (i) are used in the operation of the electronic financial payment service; and
- 5037 (ii) have an economic life of three or more years;
- 5038 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section [54-15-102](#);
- 5039 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
5040 product transferred electronically if the tangible personal property or product transferred
5041 electronically:
- 5042 (a) is stored, used, or consumed in the state; and
- 5043 (b) is temporarily brought into the state from another state:
- 5044 (i) during a disaster period as defined in Section [53-2a-1202](#);
- 5045 (ii) by an out-of-state business as defined in Section [53-2a-1202](#);
- 5046 (iii) for a declared state disaster or emergency as defined in Section [53-2a-1202](#); and
- 5047 (iv) for disaster- or emergency-related work as defined in Section [53-2a-1202](#);
- 5048 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined

5049 in Section [39-9-102](#), made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
5050 Recreation Program;

5051 (83) amounts paid or charged for a purchase or lease of molten magnesium;

5052 (84) amounts paid or charged for a purchase or lease made by a qualifying data center
5053 or an occupant of a qualifying data center of machinery, equipment, or normal operating repair
5054 or replacement parts, if the machinery, equipment, or normal operating repair or replacement
5055 parts:

5056 (a) are used in:

5057 (i) the operation of the qualifying data center; or
5058 (ii) the occupant's operations in the qualifying data center; and

5059 (b) have an economic life of one or more years;

5060 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
5061 vehicle that includes cleaning or washing of the interior of the vehicle;

5062 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal
5063 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used
5064 or consumed:

5065 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
5066 in Section [63M-4-701](#) located in the state;

5067 (b) if the machinery, equipment, normal operating repair or replacement parts,
5068 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

5069 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
5070 added to gasoline or diesel fuel;

5071 (ii) research and development;

5072 (iii) transporting, storing, or managing raw materials, work in process, finished
5073 products, and waste materials produced from refining gasoline or diesel fuel, or adding
5074 blendstock to gasoline or diesel fuel;

5075 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
5076 refining; or

5077 (v) preventing, controlling, or reducing pollutants from refining; and

5078 (c) beginning on July 1, 2021, if the person holds a valid refiner tax exemption
5079 certification as defined in Section [63M-4-701](#);

5080 (87) amounts paid to or charged by a proprietor for accommodations and services, as
5081 defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax
5082 imposed under Section 63H-1-205;

5083 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal
5084 operating repair or replacement parts, or materials, except for office equipment or office
5085 supplies, by an establishment, as the commission defines that term in accordance with Title
5086 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

5087 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
5088 American Industry Classification System of the federal Executive Office of the President,
5089 Office of Management and Budget;

5090 (b) is located in this state; and

5091 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
5092 materials in the operation of the establishment; and

5093 (89) amounts paid or charged for an item exempt under Section 59-12-104.10.

5094 Section 35. **Repealer.**

5095 This bill repeals:

5096 Section 59-7-118.1, **Modification of installment due date for deferred foreign**
5097 **income tax.**

5098 Section 59-7-504.1, **Modification of estimated payment due date.**

5099 Section 59-7-505.1, **Modification of return due date and extension period.**

5100 Section 59-7-507.1, **Modification of time for payment of tax.**

5101 Section 59-10-103.2, **Additional chapter definitions.**

5102 Section 59-10-114.1, **Additional subtraction from income.**

5103 Section 59-10-514.2, **Modification of return due date.**

5104 Section 59-10-516.1, **Modification of extension dates and requirements.**

5105 Section 59-10-522.1, **Limitation on commission authority to extend the time for**
5106 **payment of tax.**

5107 Section 59-10-1403.4, **Modification of return filing requirements for pass-through**
5108 **entity.**

5109 Section 59-12-103.3, **Sales and use tax base -- Rate for locomotive fuel.**