

**TAX REFORM**

2018 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE****General Description:**

This bill modifies tax provisions.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ amends the Air Quality Board's rulemaking authority;
- ▶ establishes the equity pupil tax rate;
- ▶ sets a rate of .0016 for the school minimum basic tax rate and the equity pupil tax rate unless the minimum basic tax rate is higher;
- ▶ requires the revenue from the equity pupil tax rate to be deposited into the Minimum Basic Growth Account;
- ▶ modifies the property tax rate cap for the school board local levy to subject all school districts to the same rate cap;
- ▶ modifies the newspaper advertisement requirement for taxing entities proposing to impose a property tax rate greater than the certified tax rate;
- ▶ defines when a corporation is doing business or exercising a corporate franchise in the state for income tax purposes;
- ▶ prohibits a taxpayer from carrying a Utah net loss back to an earlier taxable year;
- ▶ addresses the apportionment of business income for income tax purposes by:
  - phasing in a requirement that certain taxpayers use only the sales factor to calculate the fraction for apportioning business income to the state;
  - allowing an optional apportionment taxpayer to choose between a single sales factor and an equally weighted method to calculate the fraction for apportioning business income to the state; and
  - requiring an optional apportionment taxpayer that chooses to apportion business income using the single sales factor method to continue using the single sales factor method of apportionment in subsequent taxable years;

- 33 ▶ provides a method for a taxpayer to determine if the taxpayer is an optional
- 34 apportionment taxpayer;
- 35 ▶ extends certain corporate and individual income tax credits related to energy
- 36 efficient vehicles;
- 37 ▶ amends the maximum amount of tax credit for energy efficient vehicles;
- 38 ▶ authorizes assignment of the corporate and individual income tax credits;
- 39 ▶ requires the Revenue and Taxation Interim Committee to annually review the
- 40 corporate and individual income tax credits related to energy efficient vehicles;
- 41 ▶ creates a tax credit certificate process for the recycling market development zone
- 42 income tax credits and research activities income tax credits;
- 43 ▶ requires a taxpayer to receive a tax credit certificate from the Governor's Office of
- 44 Economic Development before claiming the recycling market development zone
- 45 income tax credits or the research activities income tax credits;
- 46 ▶ grants rulemaking authority to the Governor's Office of Economic Development
- 47 related to the recycling market development zone income tax credits and research
- 48 activities income tax credits;
- 49 ▶ repeals sales and use tax definitions;
- 50 ▶ provides that amounts paid or charged for access to digital audio-visual works,
- 51 digital audio works, digital books, or gaming services, including the streaming of or
- 52 subscription for access to digital audio-visual works, digital audio works, digital
- 53 books, or gaming services are subject to sales and use tax;
- 54 ▶ repeals the sales and use tax exemption for sales or rentals of the right to use or
- 55 operate for amusement, entertainment, or recreation an unassisted amusement
- 56 device;
- 57 ▶ enacts a sales and use tax exemption for certain amounts paid or charged for
- 58 multi-channel video or audio services;
- 59 ▶ repeals a provision related to the economic life of machinery, equipment, or normal
- 60 operating repair or replacement parts for purposes of a sales and use tax exemption
- 61 related to certain business activities;
- 62 ▶ amends a sales and use tax exemption to include materials, except office equipment
- 63 and supplies, used or consumed in certain business activities;

- 64 ▶ establishes a refund process to phase in the exemptions for the purchase or lease of:
- 65 • machinery, equipment, or normal operating repair or replacement parts with an
- 66 economic life of less than three years; and
- 67 • certain materials;
- 68 ▶ repeals sales and use tax exemptions for specific industries once those exemptions
- 69 are subsumed by the phase-in of the amendments repealing the provision related to
- 70 economic life and exempting certain materials;
- 71 ▶ repeals obsolete sales and use tax provisions;
- 72 ▶ increases certain registration fees for an electric vehicle or allows the owner of the
- 73 registered electric vehicle to participate in a road usage charge program as an
- 74 alternative to paying the increased registration fee;
- 75 ▶ creates a Road Usage Charge Technical Advisory Committee within the Department
- 76 of Transportation;
- 77 ▶ specifies the duties of the Road Usage Charge Technical Advisory Committee;
- 78 ▶ requires the Department of Transportation to implement a road usage charge
- 79 program;
- 80 ▶ requires the Department of Transportation to report to certain entities regarding the
- 81 road usage charge program; and
- 82 ▶ makes technical and conforming changes.

83 **Money Appropriated in this Bill:**

84 None

85 **Other Special Clauses:**

86 This bill provides a special effective date.

87 This bill provides retrospective operation.

88 **Utah Code Sections Affected:**

89 AMENDS:

90 **19-2-104**, as last amended by Laws of Utah 2015, Chapter 154

91 **41-1a-102**, as last amended by Laws of Utah 2016, Chapter 40

92 **41-1a-1206 (Effective 01/01/18)**, as last amended by Laws of Utah 2017, Chapters 261,  
93 406 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 261

94 **53A-1a-106**, as last amended by Laws of Utah 2017, Chapters 173, 378, and 444

- 95           **53A-2-214**, as last amended by Laws of Utah 2017, Chapter 173
- 96           **53A-16-110**, as last amended by Laws of Utah 2011, Chapter 371
- 97           **53A-16-113**, as last amended by Laws of Utah 2017, Chapter 181
- 98           **53A-17a-103**, as last amended by Laws of Utah 2017, Chapter 173
- 99           **53A-17a-124.5**, as last amended by Laws of Utah 2017, Chapter 173
- 100          **53A-17a-127**, as last amended by Laws of Utah 2017, Chapter 173
- 101          **53A-17a-135**, as last amended by Laws of Utah 2017, Chapters 6 and 173
- 102          **53A-17a-135.1**, as enacted by Laws of Utah 2015, Chapter 287
- 103          **53A-17a-150**, as last amended by Laws of Utah 2017, Chapter 173
- 104          **53A-17a-164**, as last amended by Laws of Utah 2016, Chapters 229, 350, and 367
- 105          **53A-21-101.5**, as last amended by Laws of Utah 2011, Chapter 371
- 106          **59-1-1503**, as last amended by Laws of Utah 2012, Chapter 399
- 107          **59-2-102**, as last amended by Laws of Utah 2016, Chapters 98, 308, 367, and 368
- 108          **59-2-918.6**, as last amended by Laws of Utah 2016, Chapter 98
- 109          **59-2-919**, as last amended by Laws of Utah 2016, Chapters 341 and 367
- 110          **59-2-919.2**, as last amended by Laws of Utah 2010, Chapter 90
- 111          **59-2-926**, as last amended by Laws of Utah 2016, Chapter 367
- 112          **59-7-101**, as last amended by Laws of Utah 2011, Chapter 69
- 113          **59-7-104**, as repealed and reenacted by Laws of Utah 1993, Chapter 169
- 114          **59-7-110**, as last amended by Laws of Utah 2016, Chapters 311 and 323
- 115          **59-7-302 (Effective 01/01/18)**, as last amended by Laws of Utah 2017, Chapters 181
- 116             and 268
- 117          **59-7-311**, as last amended by Laws of Utah 2016, Chapters 311 and 323
- 118          **59-7-312**, as last amended by Laws of Utah 2008, Chapter 283
- 119          **59-7-315**, as last amended by Laws of Utah 2008, Chapter 283
- 120          **59-7-402**, as last amended by Laws of Utah 2009, Chapter 312
- 121          **59-7-605**, as last amended by Laws of Utah 2016, Chapters 369 and 375
- 122          **59-7-610**, as last amended by Laws of Utah 2015, Chapter 283
- 123          **59-7-612**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 124          **59-10-1007**, as last amended by Laws of Utah 2015, Chapter 283
- 125          **59-10-1009**, as last amended by Laws of Utah 2016, Chapters 369 and 375

- 126 **59-10-1012**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1  
127 **59-12-102**, as last amended by Laws of Utah 2017, Chapters 181, 382, and 422  
128 **59-12-103**, as last amended by Laws of Utah 2017, Chapters 234, 421, and 422  
129 **59-12-104 (Effective 01/01/18)**, as last amended by Laws of Utah 2017, Chapters 264,  
130 268, and 429  
131 **59-12-104.4**, as enacted by Laws of Utah 2011, Chapter 314  
132 **59-12-104.5**, as last amended by Laws of Utah 2017, Chapter 268  
133 **59-12-104.7**, as enacted by Laws of Utah 2017, Chapter 268  
134 **63I-1-263 (Effective 01/01/18)**, as last amended by Laws of Utah 2017, Chapters 23,  
135 47, 95, 166, 205, 469, and 470  
136 **63I-2-259**, as last amended by Laws of Utah 2017, Chapter 181  
137 **63I-2-263**, as last amended by Laws of Utah 2017, First Special Session, Chapter 1  
138 **63I-2-272**, as last amended by Laws of Utah 2017, Chapter 427  
139 **63J-1-220**, as last amended by Laws of Utah 2017, Chapter 173  
140 **63M-4-702 (Effective 01/01/18)**, as enacted by Laws of Utah 2017, Chapter 429  
141 **63N-1-302**, as enacted by Laws of Utah 2017, Chapter 268  
142 **63N-2-403**, as renumbered and amended by Laws of Utah 2015, Chapter 283

## 143 ENACTS:

- 144 **59-12-104.8**, Utah Code Annotated 1953  
145 **63N-2-901**, Utah Code Annotated 1953  
146 **63N-2-902**, Utah Code Annotated 1953  
147 **63N-2-903**, Utah Code Annotated 1953  
148 **72-2-301**, Utah Code Annotated 1953  
149 **72-2-302**, Utah Code Annotated 1953  
150 **72-2-303**, Utah Code Annotated 1953  
151 **72-2-304**, Utah Code Annotated 1953

## 152 REPEALS AND REENACTS:

- 153 **63N-2-410**, as renumbered and amended by Laws of Utah 2015, Chapter 283

## 154 REPEALS:

- 155 **53A-17a-134**, as last amended by Laws of Utah 2017, Chapter 173

156 **53A-17a-145**, as last amended by Laws of Utah 2017, Chapter 173

157 **53A-17a-151**, as last amended by Laws of Utah 2017, Chapter 173

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

160 Section 1. Section **19-2-104** is amended to read:

161 **19-2-104. Powers of board.**

162 (1) The board may make rules in accordance with Title 63G, Chapter 3, Utah  
163 Administrative Rulemaking Act:

164 (a) regarding the control, abatement, and prevention of air pollution from all sources  
165 and the establishment of the maximum quantity of air pollutants that may be emitted by an air  
166 pollutant source;

167 (b) establishing air quality standards;

168 (c) requiring persons engaged in operations that result in air pollution to:

169 (i) install, maintain, and use emission monitoring devices, as the board finds necessary;

170 (ii) file periodic reports containing information relating to the rate, period of emission,  
171 and composition of the air pollutant; and

172 (iii) provide access to records relating to emissions which cause or contribute to air  
173 pollution;

174 (d) (i) implementing:

175 (A) Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency  
176 Response, 15 U.S.C. 2601 et seq.;

177 (B) 40 C.F.R. Part 763, Asbestos; and

178 (C) 40 C.F.R. Part 61, National Emission Standards for Hazardous Air Pollutants,  
179 Subpart M, National Emission Standard for Asbestos; and

180 (ii) reviewing and approving asbestos management plans submitted by local education  
181 agencies under the Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency  
182 Response, 15 U.S.C. 2601 et seq.;

183 (e) establishing a requirement for a diesel emission opacity inspection and maintenance  
184 program for diesel-powered motor vehicles;

185 (f) implementing an operating permit program as required by and in conformity with  
186 Titles IV and V of the federal Clean Air Act Amendments of 1990;

187 (g) establishing requirements for county emissions inspection and maintenance  
188 programs after obtaining agreement from the counties that would be affected by the  
189 requirements;

190 (h) with the approval of the governor, implementing in air quality nonattainment areas  
191 employer-based trip reduction programs applicable to businesses having more than 100  
192 employees at a single location and applicable to federal, state, and local governments to the  
193 extent necessary to attain and maintain ambient air quality standards consistent with the state  
194 implementation plan and federal requirements under the standards set forth in Subsection (2);

195 (i) implementing lead-based paint training, certification, and performance requirements  
196 in accordance with 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter IV --  
197 Lead Exposure Reduction, Sections 402 and 406; and

198 (j) to implement the requirements of Section 19-2-107.5.

199 (2) When implementing Subsection (1)(h) the board shall take into consideration:

200 (a) the impact of the business on overall air quality; and

201 (b) the need of the business to use automobiles in order to carry out its business  
202 purposes.

203 (3) (a) The board may:

204 (i) hold a hearing that is not an adjudicative proceeding relating to any aspect of, or  
205 matter in, the administration of this chapter;

206 (ii) recommend that the director:

207 (A) issue orders necessary to enforce the provisions of this chapter;

208 (B) enforce the orders by appropriate administrative and judicial proceedings;

209 (C) institute judicial proceedings to secure compliance with this chapter; or

210 (D) advise, consult, contract, and cooperate with other agencies of the state, local  
211 governments, industries, other states, interstate or interlocal agencies, the federal government,  
212 or interested persons or groups; and

213 (iii) establish certification requirements for asbestos project monitors, which shall  
214 provide for experience-based certification of a person who:

215 (A) receives relevant asbestos training, as defined by rule; and

216 (B) has acquired a minimum of 1,000 hours of asbestos project monitoring related  
217 work experience.

218 (b) The board shall:

219 (i) to ensure compliance with applicable statutes and regulations:

220 (A) review a settlement negotiated by the director in accordance with Subsection

221 19-2-107(2)(b)(viii) that requires a civil penalty of \$25,000 or more; and

222 (B) approve or disapprove the settlement;

223 (ii) encourage voluntary cooperation by persons and affected groups to achieve the

224 purposes of this chapter;

225 (iii) meet the requirements of federal air pollution laws;

226 (iv) by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking

227 Act, establish work practice and certification requirements for persons who:

228 (A) contract for hire to conduct demolition, renovation, salvage, encapsulation work

229 involving friable asbestos-containing materials, or asbestos inspections if:

230 (I) the contract work is done on a site other than a residential property with four or

231 fewer units; or

232 (II) the contract work is done on a residential property with four or fewer units where a

233 tested sample contained greater than 1% of asbestos;

234 (B) conduct work described in Subsection (3)(b)(iv)(A) in areas to which the general

235 public has unrestrained access or in school buildings that are subject to the federal Asbestos

236 Hazard Emergency Response Act of 1986;

237 (C) conduct asbestos inspections in facilities subject to 15 U.S.C. 2601 et seq., Toxic

238 Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response; or

239 (D) conduct lead-based paint inspections in facilities subject to 15 U.S.C. 2601 et seq.,

240 Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction;

241 (v) establish certification requirements for a person required under 15 U.S.C. 2601 et

242 seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to

243 be accredited as an inspector, management planner, abatement project designer, asbestos

244 abatement contractor and supervisor, or an asbestos abatement worker;

245 (vi) establish certification procedures and ~~[requirements for certification of the~~

246 ~~conversion of a motor vehicle to a clean-fuel vehicle, certifying the vehicle]~~ the form for

247 submitting proof of purchase or lease of a vehicle that is eligible for the tax credit granted in

248 Section 59-7-605 or 59-10-1009;



249 (vii) establish certification requirements for a person required under 15 U.S.C. 2601 et  
250 seq., Toxic Control Act, Subchapter IV - Lead Exposure Reduction, to be accredited as an  
251 inspector, risk assessor, supervisor, project designer, abatement worker, renovator, or dust  
252 sampling technician; and

253 (viii) assist the State Board of Education in adopting school bus idling reduction  
254 standards and implementing an idling reduction program in accordance with Section  
255 41-6a-1308.

256 (4) A rule adopted under this chapter shall be consistent with provisions of federal  
257 laws, if any, relating to control of motor vehicles or motor vehicle emissions.

258 (5) Nothing in this chapter authorizes the board to require installation of or payment for  
259 any monitoring equipment by the owner or operator of a source if the owner or operator has  
260 installed or is operating monitoring equipment that is equivalent to equipment which the board  
261 would require under this section.

262 (6) (a) The board may not require testing for asbestos or related materials on a  
263 residential property with four or fewer units, unless:

264 (i) the property's construction was completed before January 1, 1981; or

265 (ii) the testing is for:

266 (A) a sprayed-on or painted on ceiling treatment that contained or may contain asbestos  
267 fiber;

268 (B) asbestos cement siding or roofing materials;

269 (C) resilient flooring products including vinyl asbestos tile, sheet vinyl products,  
270 resilient flooring backing material, whether attached or unattached, and mastic;

271 (D) thermal-system insulation or tape on a duct or furnace; or

272 (E) vermiculite type insulation materials.

273 (b) A residential property with four or fewer units is subject to an abatement rule made  
274 under Subsection (1) or (3)(b)(iv) if:

275 (i) a sample from the property is tested for asbestos; and

276 (ii) the sample contains asbestos measuring greater than 1%.

277 (7) The board may not issue, amend, renew, modify, revoke, or terminate any of the  
278 following that are subject to the authority granted to the director under Section 19-2-107 or  
279 19-2-108:

- 280 (a) a permit;
- 281 (b) a license;
- 282 (c) a registration;
- 283 (d) a certification; or
- 284 (e) another administrative authorization made by the director.
- 285 (8) A board member may not speak or act for the board unless the board member is
- 286 authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.
- 287 (9) Notwithstanding Subsection (7), the board may exercise all authority granted to the
- 288 board by a federally enforceable state implementation plan.
- 289 Section 2. Section **41-1a-102** is amended to read:
- 290 **41-1a-102. Definitions.**
- 291 As used in this chapter:
- 292 (1) "Actual miles" means the actual distance a vehicle has traveled while in operation.
- 293 (2) "Actual weight" means the actual unladen weight of a vehicle or combination of
- 294 vehicles as operated and certified to by a weighmaster.
- 295 (3) "All-terrain type I vehicle" has the same meaning provided in Section 41-22-2.
- 296 (4) "All-terrain type II vehicle" has the same meaning provided in Section 41-22-2.
- 297 (5) "Amateur radio operator" means any person licensed by the Federal
- 298 Communications Commission to engage in private and experimental two-way radio operation
- 299 on the amateur band radio frequencies.
- 300 (6) "Autocycle" means the same as that term is defined in Section 53-3-102.
- 301 (7) "Branded title" means a title certificate that is labeled:
- 302 (a) rebuilt and restored to operation;
- 303 (b) flooded and restored to operation; or
- 304 (c) not restored to operation.
- 305 (8) "Camper" means any structure designed, used, and maintained primarily to be
- 306 mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a
- 307 mobile dwelling, sleeping place, commercial space, or facilities for human habitation or for
- 308 camping.
- 309 (9) "Certificate of title" means a document issued by a jurisdiction to establish a record
- 310 of ownership between an identified owner and the described vehicle, vessel, or outboard motor.

311 (10) "Certified scale weigh ticket" means a weigh ticket that has been issued by a  
312 weighmaster.

313 (11) "Commercial vehicle" means a motor vehicle, trailer, or semitrailer used or  
314 maintained for the transportation of persons or property that operates:

315 (a) as a carrier for hire, compensation, or profit; or

316 (b) as a carrier to transport the vehicle owner's goods or property in furtherance of the  
317 owner's commercial enterprise.

318 (12) "Commission" means the State Tax Commission.

319 (13) "Dealer" means a person engaged or licensed to engage in the business of buying,  
320 selling, or exchanging new or used vehicles, vessels, or outboard motors either outright or on  
321 conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an established  
322 place of business for the sale, lease, trade, or display of vehicles, vessels, or outboard motors.

323 (14) "Division" means the Motor Vehicle Division of the commission, created in  
324 Section 41-1a-106.

325 (15) "Electric vehicle" means a motor vehicle that is powered solely by one or more  
326 electric motors drawing current from a rechargeable energy storage system.

327 [~~15~~] (16) "Essential parts" means all integral and body parts of a vehicle of a type  
328 required to be registered in this state, the removal, alteration, or substitution of which would  
329 tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or  
330 mode of operation.

331 [~~16~~] (17) "Farm tractor" means every motor vehicle designed and used primarily as a  
332 farm implement for drawing plows, mowing machines, and other implements of husbandry.

333 [~~17~~] (18) (a) "Farm truck" means a truck used by the owner or operator of a farm  
334 solely for his own use in the transportation of:

335 (i) farm products, including livestock and its products, poultry and its products,  
336 floricultural and horticultural products;

337 (ii) farm supplies, including tile, fence, and every other thing or commodity used in  
338 agricultural, floricultural, horticultural, livestock, and poultry production; and

339 (iii) livestock, poultry, and other animals and things used for breeding, feeding, or  
340 other purposes connected with the operation of a farm.

341 (b) "Farm truck" does not include the operation of trucks by commercial processors of

342 agricultural products.

343 ~~[(18)]~~ (19) "Fleet" means one or more commercial vehicles.

344 ~~[(19)]~~ (20) "Foreign vehicle" means a vehicle of a type required to be registered,  
345 brought into this state from another state, territory, or country other than in the ordinary course  
346 of business by or through a manufacturer or dealer, and not registered in this state.

347 ~~[(20)]~~ (21) "Gross laden weight" means the actual weight of a vehicle or combination  
348 of vehicles, equipped for operation, to which shall be added the maximum load to be carried.

349 ~~[(21)]~~ (22) "Highway" or "street" means the entire width between property lines of  
350 every way or place of whatever nature when any part of it is open to the public, as a matter of  
351 right, for purposes of vehicular traffic.

352 ~~[(22)]~~ (23) (a) "Identification number" means the identifying number assigned by the  
353 manufacturer or by the division for the purpose of identifying the vehicle, vessel, or outboard  
354 motor.

355 (b) "Identification number" includes a vehicle identification number, state assigned  
356 identification number, hull identification number, and motor serial number.

357 ~~[(23)]~~ (24) "Implement of husbandry" means every vehicle designed or adapted and  
358 used exclusively for an agricultural operation and only incidentally operated or moved upon the  
359 highways.

360 ~~[(24)]~~ (25) (a) "In-state miles" means the total number of miles operated in this state  
361 during the preceding year by fleet power units.

362 (b) If fleets are composed entirely of trailers or semitrailers, "in-state miles" means the  
363 total number of miles that those vehicles were towed on Utah highways during the preceding  
364 year.

365 ~~[(25)]~~ (26) "Interstate vehicle" means any commercial vehicle operated in more than  
366 one state, province, territory, or possession of the United States or foreign country.

367 ~~[(26)]~~ (27) "Jurisdiction" means a state, district, province, political subdivision,  
368 territory, or possession of the United States or any foreign country.

369 ~~[(27)]~~ (28) "Lienholder" means a person with a security interest in particular property.

370 ~~[(28)]~~ (29) "Manufactured home" means a transportable factory built housing unit  
371 constructed on or after June 15, 1976, according to the Federal Home Construction and Safety  
372 Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is

373 eight body feet or more in width or 40 body feet or more in length, or when erected on site, is  
374 400 or more square feet, and which is built on a permanent chassis and designed to be used as a  
375 dwelling with or without a permanent foundation when connected to the required utilities, and  
376 includes the plumbing, heating, air-conditioning, and electrical systems.

377 ~~[(29)]~~ (30) "Manufacturer" means a person engaged in the business of constructing,  
378 manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or  
379 outboard motors for the purpose of sale or trade.

380 ~~[(30)]~~ (31) "Mobile home" means a transportable factory built housing unit built prior  
381 to June 15, 1976, in accordance with a state mobile home code which existed prior to the  
382 Federal Manufactured Housing and Safety Standards Act (HUD Code).

383 ~~[(31)]~~ (32) "Motorboat" has the same meaning as provided in Section 73-18-2.

384 ~~[(32)]~~ (33) "Motorcycle" means:

385 (a) a motor vehicle having a saddle for the use of the rider and designed to travel on not  
386 more than three wheels in contact with the ground; or

387 (b) an auticycle.

388 ~~[(33)]~~ (34) (a) "Motor vehicle" means a self-propelled vehicle intended primarily for  
389 use and operation on the highways.

390 (b) "Motor vehicle" does not include an off-highway vehicle.

391 ~~[(34)]~~ (35) (a) "Nonresident" means a person who is not a resident of this state as  
392 defined by Section 41-1a-202, and who does not engage in intrastate business within this state  
393 and does not operate in that business any motor vehicle, trailer, or semitrailer within this state.

394 (b) A person who engages in intrastate business within this state and operates in that  
395 business any motor vehicle, trailer, or semitrailer in this state or who, even though engaging in  
396 interstate commerce, maintains any vehicle in this state as the home station of that vehicle is  
397 considered a resident of this state, insofar as that vehicle is concerned in administering this  
398 chapter.

399 ~~[(35)]~~ (36) "Odometer" means a device for measuring and recording the actual distance  
400 a vehicle travels while in operation, but does not include any auxiliary odometer designed to be  
401 periodically reset.

402 ~~[(36)]~~ (37) "Off-highway implement of husbandry" has the same meaning as provided  
403 in Section 41-22-2.

404           ~~[(37)]~~ (38) "Off-highway vehicle" has the same meaning as provided in Section  
405 41-22-2.

406           ~~[(38)]~~ (39) "Operate" means to drive or be in actual physical control of a vehicle or to  
407 navigate a vessel.

408           ~~[(39)]~~ (40) "Outboard motor" means a detachable self-contained propulsion unit,  
409 excluding fuel supply, used to propel a vessel.

410           ~~[(40)]~~ (41) (a) "Owner" means a person, other than a lienholder, holding title to a  
411 vehicle, vessel, or outboard motor whether or not the vehicle, vessel, or outboard motor is  
412 subject to a security interest.

413           (b) If a vehicle is the subject of an agreement for the conditional sale or installment  
414 sale or mortgage of the vehicle with the right of purchase upon performance of the conditions  
415 stated in the agreement and with an immediate right of possession vested in the conditional  
416 vendee or mortgagor, or if the vehicle is the subject of a security agreement, then the  
417 conditional vendee, mortgagor, or debtor is considered the owner for the purposes of this  
418 chapter.

419           (c) If a vehicle is the subject of an agreement to lease, the lessor is considered the  
420 owner until the lessee exercises his option to purchase the vehicle.

421           ~~[(41)]~~ (42) "Park model recreational vehicle" means a unit that:

422           (a) is designed and marketed as temporary living quarters for recreational, camping,  
423 travel, or seasonal use;

424           (b) is not permanently affixed to real property for use as a permanent dwelling;

425           (c) requires a special highway movement permit for transit; and

426           (d) is built on a single chassis mounted on wheels with a gross trailer area not  
427 exceeding 400 square feet in the setup mode.

428           ~~[(42)]~~ (43) "Personalized license plate" means a license plate that has displayed on it a  
429 combination of letters, numbers, or both as requested by the owner of the vehicle and assigned  
430 to the vehicle by the division.

431           ~~[(43)]~~ (44) (a) "Pickup truck" means a two-axle motor vehicle with motive power  
432 manufactured, remanufactured, or materially altered to provide an open cargo area.

433           (b) "Pickup truck" includes motor vehicles with the open cargo area covered with a  
434 camper, camper shell, tarp, removable top, or similar structure.

435           ~~[(44)]~~ (45) "Pneumatic tire" means every tire in which compressed air is designed to  
436 support the load.

437           ~~[(45)]~~ (46) "Preceding year" means a period of 12 consecutive months fixed by the  
438 division that is within 16 months immediately preceding the commencement of the registration  
439 or license year in which proportional registration is sought. The division in fixing the period  
440 shall conform it to the terms, conditions, and requirements of any applicable agreement or  
441 arrangement for the proportional registration of vehicles.

442           ~~[(46)]~~ (47) "Public garage" means every building or other place where vehicles or  
443 vessels are kept and stored and where a charge is made for the storage and keeping of vehicles  
444 and vessels.

445           ~~[(47)]~~ (48) "Receipt of surrender of ownership documents" means the receipt of  
446 surrender of ownership documents described in Section 41-1a-503.

447           ~~[(48)]~~ (49) "Reconstructed vehicle" means every vehicle of a type required to be  
448 registered in this state that is materially altered from its original construction by the removal,  
449 addition, or substitution of essential parts, new or used.

450           ~~[(49)]~~ (50) "Recreational vehicle" has the same meaning as provided in Section  
451 13-14-102.

452           ~~[(50)]~~ (51) "Registration" means a document issued by a jurisdiction that allows  
453 operation of a vehicle or vessel on the highways or waters of this state for the time period for  
454 which the registration is valid and that is evidence of compliance with the registration  
455 requirements of the jurisdiction.

456           ~~[(51)]~~ (52) (a) "Registration year" means a 12 consecutive month period commencing  
457 with the completion of all applicable registration criteria.

458           (b) For administration of a multistate agreement for proportional registration the  
459 division may prescribe a different 12-month period.

460           ~~[(52)]~~ (53) "Repair or replacement" means the restoration of vehicles, vessels, or  
461 outboard motors to a sound working condition by substituting any inoperative part of the  
462 vehicle, vessel, or outboard motor, or by correcting the inoperative part.

463           ~~[(53)]~~ (54) "Replica vehicle" means:

464           (a) a street rod that meets the requirements under Subsection 41-21-1(3)(a)(i)(B); or

465           (b) a custom vehicle that meets the requirements under Subsection

466 41-6a-1507(1)(a)(i)(B).

467 ~~[(54)]~~ (55) "Road tractor" means every motor vehicle designed and used for drawing  
468 other vehicles and constructed so it does not carry any load either independently or any part of  
469 the weight of a vehicle or load that is drawn.

470 ~~[(55)]~~ (56) "Sailboat" means the same as that term is defined in Section 73-18-2.

471 ~~[(56)]~~ (57) "Security interest" means an interest that is reserved or created by a security  
472 agreement to secure the payment or performance of an obligation and that is valid against third  
473 parties.

474 ~~[(57)]~~ (58) "Semitrailer" means every vehicle without motive power designed for  
475 carrying persons or property and for being drawn by a motor vehicle and constructed so that  
476 some part of its weight and its load rests or is carried by another vehicle.

477 ~~[(58)]~~ (59) "Special group license plate" means a type of license plate designed for a  
478 particular group of people or a license plate authorized and issued by the division in accordance  
479 with Section 41-1a-418.

480 ~~[(59)]~~ (60) (a) "Special interest vehicle" means a vehicle used for general  
481 transportation purposes and that is:

482 (i) 20 years or older from the current year; or

483 (ii) a make or model of motor vehicle recognized by the division director as having  
484 unique interest or historic value.

485 (b) In making a determination under Subsection ~~[(59)]~~ (60)(a), the division director  
486 shall give special consideration to:

487 (i) a make of motor vehicle that is no longer manufactured;

488 (ii) a make or model of motor vehicle produced in limited or token quantities;

489 (iii) a make or model of motor vehicle produced as an experimental vehicle or one  
490 designed exclusively for educational purposes or museum display; or

491 (iv) a motor vehicle of any age or make that has not been substantially altered or  
492 modified from original specifications of the manufacturer and because of its significance is  
493 being collected, preserved, restored, maintained, or operated by a collector or hobbyist as a  
494 leisure pursuit.

495 ~~[(60)]~~ (61) (a) "Special mobile equipment" means every vehicle:

496 (i) not designed or used primarily for the transportation of persons or property;



- 497 (ii) not designed to operate in traffic; and
- 498 (iii) only incidentally operated or moved over the highways.
- 499 (b) "Special mobile equipment" includes:
- 500 (i) farm tractors;
- 501 (ii) off-road motorized construction or maintenance equipment including backhoes,
- 502 bulldozers, compactors, graders, loaders, road rollers, tractors, and trenchers; and
- 503 (iii) ditch-digging apparatus.
- 504 (c) "Special mobile equipment" does not include a commercial vehicle as defined
- 505 under Section 72-9-102.
- 506 ~~[(61)]~~ (62) "Specially constructed vehicle" means every vehicle of a type required to be
- 507 registered in this state, not originally constructed under a distinctive name, make, model, or
- 508 type by a generally recognized manufacturer of vehicles, and not materially altered from its
- 509 original construction.
- 510 ~~[(62)]~~ (63) "Title" means the right to or ownership of a vehicle, vessel, or outboard
- 511 motor.
- 512 ~~[(63)]~~ (64) (a) "Total fleet miles" means the total number of miles operated in all
- 513 jurisdictions during the preceding year by power units.
- 514 (b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means
- 515 the number of miles that those vehicles were towed on the highways of all jurisdictions during
- 516 the preceding year.
- 517 ~~[(64)]~~ (65) "Trailer" means a vehicle without motive power designed for carrying
- 518 persons or property and for being drawn by a motor vehicle and constructed so that no part of
- 519 its weight rests upon the towing vehicle.
- 520 ~~[(65)]~~ (66) "Transferee" means a person to whom the ownership of property is
- 521 conveyed by sale, gift, or any other means except by the creation of a security interest.
- 522 ~~[(66)]~~ (67) "Transferor" means a person who transfers his ownership in property by
- 523 sale, gift, or any other means except by creation of a security interest.
- 524 ~~[(67)]~~ (68) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable
- 525 vehicle without motive power, designed as a temporary dwelling for travel, recreational, or
- 526 vacation use that does not require a special highway movement permit when drawn by a
- 527 self-propelled motor vehicle.

528           ~~[(68)]~~ (69) "Truck tractor" means a motor vehicle designed and used primarily for  
 529 drawing other vehicles and not constructed to carry a load other than a part of the weight of the  
 530 vehicle and load that is drawn.

531           ~~[(69)]~~ (70) "Vehicle" includes a motor vehicle, trailer, semitrailer, off-highway vehicle,  
 532 camper, park model recreational vehicle, manufactured home, and mobile home.

533           ~~[(70)]~~ (71) "Vessel" means the same as that term is defined in Section 73-18-2.

534           ~~[(71)]~~ (72) "Vintage vehicle" means the same as that term is defined in Section  
 535 41-21-1.

536           ~~[(72)]~~ (73) "Waters of this state" means the same as that term is defined in Section  
 537 73-18-2.

538           ~~[(73)]~~ (74) "Weighmaster" means a person, association of persons, or corporation  
 539 permitted to weigh vehicles under this chapter.

540           Section 3. Section **41-1a-1206 (Effective 01/01/18)** is amended to read:

541           **41-1a-1206 (Effective 01/01/18). Registration fees -- Fees by gross laden weight.**

542           (1) Except as provided in Subsections (2) and (3), at the time application is made for  
 543 registration or renewal of registration of a vehicle or combination of vehicles under this  
 544 chapter, a registration fee shall be paid to the division as follows:

545           (a) \$46.00 for each motorcycle;

546           (b) (i) except as provided in Subsection (1)(b)(ii), \$44 for each motor vehicle of 12,000  
 547 pounds or less gross laden weight, excluding motorcycles; or

548           (ii) for a motor vehicle of 12,000 pounds or less gross laden weight that is an electric  
 549 vehicle:

550           (A) \$344; or

551           (B) \$44 plus an amount determined through participation in a road usage charge  
 552 program established in Title 72, Chapter 2, Part 3, Road Usage Charge Program;

553           (c) unless the semitrailer or trailer is exempt from registration under Section 41-1a-202  
 554 or is registered under Section 41-1a-301:

555           (i) \$31 for each trailer or semitrailer over 750 pounds gross unladen weight; or

556           (ii) \$28.50 for each commercial trailer or commercial semitrailer of 750 pounds or less  
 557 gross unladen weight;

558           (d) (i) \$53 for each farm truck over 12,000 pounds, but not exceeding 14,000 pounds

- 559 gross laden weight; plus
- 560 (ii) \$9 for each 2,000 pounds over 14,000 pounds gross laden weight;
- 561 (e) (i) \$69.50 for each motor vehicle or combination of motor vehicles, excluding farm
- 562 trucks, over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus
- 563 (ii) \$19 for each 2,000 pounds over 14,000 pounds gross laden weight;
- 564 (f) (i) \$69.50 for each park model recreational vehicle over 12,000 pounds, but not
- 565 exceeding 14,000 pounds gross laden weight; plus
- 566 (ii) \$19 for each 2,000 pounds over 14,000 pounds gross laden weight; and
- 567 (g) \$45 for each vintage vehicle that is less than 40 years old.
- 568 (2) At the time application is made for registration or renewal of registration of a
- 569 vehicle under this chapter for a six-month registration period under Section 41-1a-215.5, a
- 570 registration fee shall be paid to the division as follows:
- 571 (a) \$34.50 for each motorcycle; and
- 572 (b) (i) except as provided in Subsection (2)(b)(ii), \$33.50 for each motor vehicle of
- 573 12,000 pounds or less gross laden weight, excluding motorcycles[-] or
- 574 (ii) for a motor vehicle of 12,000 pounds or less gross laden weight that is an electric
- 575 vehicle:
- 576 (A) \$233.50; or
- 577 (B) \$33.50 plus an amount determined through participation in a road usage charge
- 578 program established in Title 72, Chapter 2, Part 3, Road Usage Charge Program.
- 579 (3) (a) The initial registration fee for a vintage vehicle that is 40 years old or older is
- 580 \$40.
- 581 (b) A vintage vehicle that is 40 years old or older is exempt from the renewal of
- 582 registration fees under Subsection (1).
- 583 (c) A vehicle with a Purple Heart special group license plate issued in accordance with
- 584 Section 41-1a-421 is exempt from the registration fees under Subsection (1).
- 585 (d) A camper is exempt from the registration fees under Subsection (1).
- 586 (4) If a motor vehicle is operated in combination with a semitrailer or trailer, each
- 587 motor vehicle shall register for the total gross laden weight of all units of the combination if the
- 588 total gross laden weight of the combination exceeds 12,000 pounds.
- 589 (5) (a) Registration fee categories under this section are based on the gross laden

590 weight declared in the licensee's application for registration.

591 (b) Gross laden weight shall be computed in units of 2,000 pounds. A fractional part  
592 of 2,000 pounds is a full unit.

593 (6) The owner of a commercial trailer or commercial semitrailer may, as an alternative  
594 to registering under Subsection (1)(c), apply for and obtain a special registration and license  
595 plate for a fee of \$130.

596 (7) Except as provided in Section 41-6a-1642, a truck may not be registered as a farm  
597 truck unless:

598 (a) the truck meets the definition of a farm truck under Section 41-1a-102; and

599 (b) (i) the truck has a gross vehicle weight rating of more than 12,000 pounds; or

600 (ii) the truck has a gross vehicle weight rating of 12,000 pounds or less and the owner  
601 submits to the division a certificate of emissions inspection or a waiver in compliance with  
602 Section 41-6a-1642.

603 (8) A violation of Subsection (7) is an infraction that shall be punished by a fine of not  
604 less than \$200.

605 (9) Trucks used exclusively to pump cement, bore wells, or perform crane services  
606 with a crane lift capacity of five or more tons, are exempt from 50% of the amount of the fees  
607 required for those vehicles under this section.

608 Section 4. Section **53A-1a-106** is amended to read:

609 **53A-1a-106. School district and individual school powers -- Plan for college and**  
610 **career readiness definition.**

611 (1) In order to acquire and develop the characteristics listed in Section 53A-1a-104,  
612 each school district and each public school within its respective district shall implement a  
613 comprehensive system of accountability in which students advance through public schools by  
614 demonstrating competency in the core standards for Utah public schools through the use of  
615 diverse assessment instruments such as authentic assessments, projects, and portfolios.

616 (2) (a) Each school district and public school shall:

617 (i) develop and implement programs integrating technology into the curriculum,  
618 instruction, and student assessment;

619 (ii) provide for teacher and parent involvement in policymaking at the school site;

620 (iii) implement a public school choice program to give parents, students, and teachers

621 greater flexibility in designing and choosing among programs with different focuses through  
622 schools within the same district and other districts, subject to space availability, demographics,  
623 and legal and performance criteria;

624 (iv) establish strategic planning at both the district and school level and site-based  
625 decision making programs at the school level;

626 (v) provide opportunities for each student to acquire and develop academic and  
627 occupational knowledge, skills, and abilities;

628 (vi) participate in ongoing research and development projects primarily at the school  
629 level aimed at improving the quality of education within the system; and

630 (vii) involve business and industry in the education process through the establishment  
631 of partnerships with the business community at the district and school level.

632 (b) (i) As used in this title, "plan for college and career readiness" means a plan  
633 developed by a student and the student's parent or guardian, in consultation with school  
634 counselors, teachers, and administrators that:

635 (A) is initiated at the beginning of grade 7;

636 (B) identifies a student's skills and objectives;

637 (C) maps out a strategy to guide a student's course selection; and

638 (D) links a student to post-secondary options, including higher education and careers.

639 (ii) Each local school board, in consultation with school personnel, parents, and school  
640 community councils or similar entities shall establish policies to provide for the effective  
641 implementation of an individual learning plan or a plan for college and career readiness for  
642 each student at the school site.

643 (iii) The policies shall include guidelines and expectations for:

644 (A) recognizing the student's accomplishments, strengths, and progress toward meeting  
645 student achievement standards as defined in the core standards for Utah public schools;

646 (B) planning, monitoring, and managing education and career development; and

647 (C) involving students, parents, and school personnel in preparing and implementing  
648 an individual learning plan and a plan for college and career readiness.

649 (iv) A parent may request a conference with school personnel in addition to an  
650 individual learning plan or a plan for college and career readiness conference established by  
651 local school board policy.

652 (v) Time spent during the school day to implement an individual learning plan or a  
653 plan for college and career readiness is considered part of the school term referred to in  
654 Subsection 53A-17a-103~~(7)~~(6).

655 (3) A school district or public school may submit proposals to modify or waive rules or  
656 policies of a supervisory authority within the public education system in order to acquire or  
657 develop the characteristics listed in Section 53A-1a-104.

658 (4) (a) Each school district and public school shall make an annual report to its patrons  
659 on its activities under this section.

660 (b) The reporting process shall involve participation from teachers, parents, and the  
661 community at large in determining how well the district or school is performing.

662 Section 5. Section **53A-2-214** is amended to read:

663 **53A-2-214. Online students' participation in extracurricular activities.**

664 (1) As used in this section:

665 (a) "Online education" means the use of information and communication technologies  
666 to deliver educational opportunities to a student in a location other than a school.

667 (b) "Online student" means a student who:

668 (i) participates in an online education program sponsored or supported by the State  
669 Board of Education, a school district, or charter school; and

670 (ii) generates funding for the school district or school pursuant to Subsection  
671 53A-17a-103~~(7)~~(6) and rules of the State Board of Education.

672 (2) An online student is eligible to participate in extracurricular activities at:

673 (a) the school within whose attendance boundaries the student's custodial parent or  
674 legal guardian resides; or

675 (b) the public school from which the student withdrew for the purpose of participating  
676 in an online education program.

677 (3) A school other than a school described in Subsection (2)(a) or (b) may allow an  
678 online student to participate in extracurricular activities other than:

679 (a) interschool competitions of athletic teams sponsored and supported by a public  
680 school; or

681 (b) interschool contests or competitions for music, drama, or forensic groups or teams  
682 sponsored and supported by a public school.

683 (4) An online student is eligible for extracurricular activities at a public school  
684 consistent with eligibility standards as applied to full-time students of the public school.

685 (5) A school district or public school may not impose additional requirements on an  
686 online school student to participate in extracurricular activities that are not imposed on  
687 full-time students of the public school.

688 (6) (a) The State Board of Education shall make rules establishing fees for an online  
689 school student's participation in extracurricular activities at school district schools.

690 (b) The rules shall provide that:

691 (i) online school students pay the same fees as other students to participate in  
692 extracurricular activities;

693 (ii) online school students are eligible for fee waivers pursuant to Section 53A-12-103;

694 (iii) for each online school student who participates in an extracurricular activity at a  
695 school district school, the online school shall pay a share of the school district's costs for the  
696 extracurricular activity; and

697 (iv) an online school's share of the costs of an extracurricular activity shall reflect state  
698 and local tax revenues expended, except capital facilities expenditures, for an extracurricular  
699 activity in a school district or school divided by total student enrollment of the school district  
700 or school.

701 (c) In determining an online school's share of the costs of an extracurricular activity  
702 under Subsections (6)(b)(iii) and (iv), the State Board of Education may establish uniform fees  
703 statewide based on average costs statewide or average costs within a sample of school districts.

704 (7) When selection to participate in an extracurricular activity at a public school is  
705 made on a competitive basis, an online student is eligible to try out for and participate in the  
706 activity as provided in this section.

707 Section 6. Section **53A-16-110** is amended to read:

708 **53A-16-110. Special tax to buy school building sites, build and furnish**  
709 **schoolhouses, or improve school property.**

710 (1) (a) Except as provided in Subsection (6), a local school board may, by following  
711 the process for special elections established in Sections 20A-1-203 and 20A-1-204, call a  
712 special election to determine whether a special property tax should be levied for one or more  
713 years to buy building sites, build and furnish schoolhouses, or improve the school property

714 under its control.

715 (b) The tax may not exceed .2% of the taxable value of all taxable property in the  
716 district in any one year.

717 (2) The board shall give reasonable notice of the election and follow the same  
718 procedure used in elections for the issuance of bonds.

719 (3) If a majority of those voting on the proposition vote in favor of the tax, it is [~~levied~~  
720 ~~in addition to a levy authorized under Section 53A-17a-145 and~~] computed on the valuation of  
721 the county assessment roll for that year.

722 (4) (a) Within 20 days after the election, the board shall certify the amount of the  
723 approved tax to the governing body of the county in which the school district is located.

724 (b) The governing body shall acknowledge receipt of the certification and levy and  
725 collect the special tax.

726 (c) It shall then distribute the collected taxes to the business administrator of the school  
727 district at the end of each calendar month.

728 (5) The special tax becomes due and delinquent and attaches to and becomes a lien on  
729 real and personal property at the same time as state and county taxes.

730 (6) Notwithstanding Subsections (3) and (4), beginning January 1, 2012, a local school  
731 board may not levy a tax in accordance with this section.

732 Section 7. Section **53A-16-113** is amended to read:

733 **53A-16-113. Capital local levy -- First class county required levy -- Allowable**  
734 **uses of collected revenue.**

735 (1) [~~(a)~~] Subject to the other requirements of this section, a local school board may levy  
736 a tax to fund the school district's capital projects.

737 [~~(b)~~] (2) A tax rate imposed by a school district pursuant to this section may not exceed  
738 .0030 per dollar of taxable value in any calendar year.

739 [~~(2) A school district that imposes a capital local levy in the calendar year beginning on~~  
740 ~~January 1, 2012, is exempt from the public notice and hearing requirements of Section~~  
741 ~~59-2-919 if the school district budgets an amount of ad valorem property tax revenue equal to~~  
742 ~~or less than the sum of the following amounts:]~~

743 [(a) the amount of revenue generated during the calendar year beginning on January 1,  
744 2011, from the sum of the following levies of a school district:]



745 ~~[(i) a capital outlay levy imposed under Section 53A-16-107; and]~~  
746 ~~[(ii) the portion of the 10% of basic levy described in Section 53A-17a-145 that is~~  
747 ~~budgeted for debt service or capital outlay; and]~~  
748 ~~[(b) revenue from eligible new growth as defined in Section 59-2-924.]~~  
749 ~~[(3)(a) Subject to Subsections (3)(b), (c), and (d), for fiscal year 2013-14, a local~~  
750 ~~school board may utilize the proceeds of a maximum of .0024 per dollar of taxable value of the~~  
751 ~~local school board's annual capital local levy for general fund purposes if the proceeds are not~~  
752 ~~committed or dedicated to pay debt service or bond payments.]~~  
753 ~~[(b) If a local school board uses the proceeds described in Subsection (3)(a) for general~~  
754 ~~fund purposes, the local school board shall notify the public of the local school board's use of~~  
755 ~~the capital local levy proceeds for general fund purposes:]~~  
756 ~~[(i) before the local school board's budget hearing in accordance with the notification~~  
757 ~~requirements described in Section 53A-19-102; and]~~  
758 ~~[(ii) at a budget hearing required in Section 53A-19-102.]~~  
759 ~~[(c) A local school board may not use the proceeds described in Subsection (3)(a) to~~  
760 ~~fund the following accounting function classifications as provided in the Financial Accounting~~  
761 ~~for Local and State School Systems guidelines developed by the National Center for Education~~  
762 ~~Statistics:]~~  
763 ~~[(i) 2300 Support Services - General District Administration; or]~~  
764 ~~[(ii) 2500 Support Services - Central Services.]~~  
765 Section 8. Section **53A-17a-103** is amended to read:  
766 **53A-17a-103. Definitions.**  
767 As used in this chapter:  
768 (1) "Basic state-supported school program" or "basic program" means public education  
769 programs for kindergarten, elementary, and secondary school students that are operated and  
770 maintained for the amount derived by multiplying the number of weighted pupil units for each  
771 school district or charter school by the value established each year in statute, except as  
772 otherwise provided in this chapter.  
773 ~~[(2)(a) "Certified revenue levy" means a property tax levy that provides an amount of~~  
774 ~~ad valorem property tax revenue equal to the sum of:]~~  
775 ~~[(i) the amount of ad valorem property tax revenue to be generated statewide in the~~

776 ~~previous year from imposing a minimum basic tax rate, as specified in Section 53A-17a-135;~~  
777 ~~and]~~

778 ~~[(ii) the product of:]~~

779 ~~[(A) eligible new growth, as defined in Section 59-2-924 and rules of the State Tax~~  
780 ~~Commission; and]~~

781 ~~[(B) the minimum basic tax rate certified by the State Tax Commission for the~~  
782 ~~previous year.]~~

783 ~~[(b) For purposes of this Subsection (2), "ad valorem property tax revenue" does not~~  
784 ~~include property tax revenue received statewide from personal property that is:]~~

785 ~~[(i) assessed by a county assessor in accordance with Title 59, Chapter 2, Part 3;~~  
786 ~~County Assessment; and]~~

787 ~~[(ii) semiconductor manufacturing equipment.]~~

788 ~~[(c) For purposes of calculating the certified revenue levy described in this Subsection~~  
789 ~~(2), the State Tax Commission shall use:]~~

790 ~~[(i) the taxable value of real property assessed by a county assessor contained on the~~  
791 ~~assessment roll;]~~

792 ~~[(ii) the taxable value of real and personal property assessed by the State Tax~~  
793 ~~Commission; and]~~

794 ~~[(iii) the taxable year-end value of personal property assessed by a county assessor~~  
795 ~~contained on the prior year's assessment roll.]~~

796 ~~[(3)] (2) "Charter school governing board" means the governing board, as defined in~~  
797 ~~Section 53A-1a-501.3, that governs a charter school.~~

798 ~~[(4)] (3) "Local education board" means a local school board or charter school~~  
799 ~~governing board.~~

800 ~~[(5)] (4) "Local school board" means a board elected under Title 20A, Chapter 14, Part~~  
801 ~~2, Election of Members of Local Boards of Education.~~

802 ~~[(6)] (5) "Pupil in average daily membership (ADM)" means a full-day equivalent~~  
803 ~~pupil.~~

804 ~~[(7)] (6) (a) "State-supported minimum school program" or "Minimum School~~  
805 ~~Program" means public school programs for kindergarten, elementary, and secondary schools~~  
806 ~~as described in this Subsection [(7)] (6).~~

807 (b) The minimum school program established in school districts and charter schools  
808 shall include the equivalent of a school term of nine months as determined by the State Board  
809 of Education.

810 (c) (i) The board shall establish the number of days or equivalent instructional hours  
811 that school is held for an academic school year.

812 (ii) Education, enhanced by utilization of technologically enriched delivery systems,  
813 when approved by a local education board, shall receive full support by the State Board of  
814 Education as it pertains to fulfilling the attendance requirements, excluding time spent viewing  
815 commercial advertising.

816 (d) (i) A local education board may reallocate up to 32 instructional hours or four  
817 school days established under Subsection [~~(7)~~] (6)(c) for teacher preparation time or teacher  
818 professional development.

819 (ii) A reallocation of instructional hours or school days under Subsection [~~(7)~~] (6)(d)(i)  
820 is subject to the approval of two-thirds of the members of a local education board voting in a  
821 regularly scheduled meeting:

822 (A) at which a quorum of the local education board is present; and

823 (B) held in compliance with Title 52, Chapter 4, Open and Public Meetings Act.

824 (iii) If a local education board reallocates instructional hours or school days as  
825 provided by this Subsection [~~(7)~~] (6)(d), the school district or charter school shall notify  
826 students' parents and guardians of the school calendar at least 90 days before the beginning of  
827 the school year.

828 (iv) Instructional hours or school days reallocated for teacher preparation time or  
829 teacher professional development pursuant to this Subsection [~~(7)~~] (6)(d) is considered part of a  
830 school term referred to in Subsection [~~(7)~~] (6)(b).

831 (e) The Minimum School Program includes a program or allocation funded by a line  
832 item appropriation or other appropriation designated as follows:

833 (i) Basic School Program;

834 (ii) Related to Basic Programs;

835 (iii) Voted and Board Levy Programs; or

836 (iv) Minimum School Program.

837 [~~(8)~~] (7) "Weighted pupil unit or units or WPU or WPUs" means the unit of measure of

838 factors that is computed in accordance with this chapter for the purpose of determining the  
839 costs of a program on a uniform basis for each school district or charter school.

840 Section 9. Section **53A-17a-124.5** is amended to read:

841 **53A-17a-124.5. Appropriation for class size reduction.**

842 (1) Money appropriated to the State Board of Education for class size reduction shall  
843 be used to reduce the average class size in kindergarten through the eighth grade in the state's  
844 public schools.

845 (2) Each school district or charter school shall receive an allocation based upon the  
846 school district or charter school's prior year average daily membership in kindergarten through  
847 grade 8 plus growth as determined under Subsection 53A-17a-106(3) as compared to the total  
848 prior year average daily membership in kindergarten through grade 8 plus growth of school  
849 districts and charter schools that qualify for an allocation pursuant to Subsection (8).

850 (3) (a) A local education board may use an allocation to reduce class size in any one or  
851 all of the grades referred to under this section, except as otherwise provided in Subsection  
852 (3)(b).

853 (b) (i) Each local education board shall use 50% of an allocation to reduce class size in  
854 any one or all of grades kindergarten through grade 2, with an emphasis on improving student  
855 reading skills.

856 (ii) If a school district's or charter school's average class size is below 18 in grades  
857 kindergarten through grade 2, a local education board may petition the State Board of  
858 Education for, and the State Board of Education may grant, a waiver to use an allocation under  
859 Subsection (3)(b)(i) for class size reduction in the other grades.

860 (4) Schools may use nontraditional innovative and creative methods to reduce class  
861 sizes with this appropriation and may use part of an allocation to focus on class size reduction  
862 for specific groups, such as at risk students, or for specific blocks of time during the school  
863 day.

864 (5) (a) A local education board may use up to 20% of an allocation under Subsection  
865 (1) for capital facilities projects if such projects would help to reduce class size.

866 (b) If a school district's or charter school's student population increases by 5% or 700  
867 students from the previous school year, the local education board may use up to 50% of any  
868 allocation received by the respective school district or charter school under this section for

869 classroom construction.

870 (6) This appropriation is to supplement any other appropriation made for class size  
871 reduction.

872 (7) The Legislature shall provide for an annual adjustment in the appropriation  
873 authorized under this section in proportion to the increase in the number of students in the state  
874 in kindergarten through grade eight.

875 (8) (a) For a school district or charter school to qualify for class size reduction money,  
876 a local education board shall submit:

877 (i) a plan for the use of the allocation of class size reduction money to the State Board  
878 of Education; and

879 (ii) beginning with the 2014-15 school year, a report on the local education board's use  
880 of class size reduction money in the prior school year.

881 (b) The plan and report required pursuant to Subsection (8)(a) shall include the  
882 following information:

883 (i) (A) the number of teachers employed using class size reduction money;

884 (B) the amount of class size reduction money expended for teachers; and

885 (C) if supplemental school district or charter school funds are expended to pay for  
886 teachers employed using class size reduction money, the amount of the supplemental money;

887 (ii) (A) the number of paraprofessionals employed using class size reduction money;

888 (B) the amount of class size reduction money expended for paraprofessionals; and

889 (C) if supplemental school district or charter school funds are expended to pay for  
890 paraprofessionals employed using class size reduction money, the amount of the supplemental  
891 money; and

892 (iii) the amount of class size reduction money expended for capital facilities.

893 (c) In addition to submitting a plan and report on the use of class size reduction money,  
894 a local education board shall annually submit a report to the State Board of Education that  
895 includes the following information:

896 (i) the number of teachers employed using K-3 Reading Improvement Program money  
897 received pursuant to [Sections] Section 53A-17a-150 [~~and 53A-17a-151~~];

898 (ii) the amount of K-3 Reading Improvement Program money expended for teachers;

899 (iii) the number of teachers employed in kindergarten through grade 8 using Title I

900 money;

901 (iv) the amount of Title I money expended for teachers in kindergarten through grade  
902 8; and

903 (v) a comparison of actual average class size by grade in grades kindergarten through 8  
904 in the school district or charter school with what the average class size would be without the  
905 expenditure of class size reduction, K-3 Reading Improvement Program, and Title I money.

906 (d) The information required to be reported in Subsections (8)(b)(i)(A) through (C),  
907 (8)(b)(ii)(A) through (C), and (8)(c) shall be categorized by a teacher's or paraprofessional's  
908 teaching assignment, such as the grade level, course, or subject taught.

909 (e) The State Board of Education may make rules specifying procedures and standards  
910 for the submission of:

911 (i) a plan and a report on the use of class size reduction money as required by this  
912 section; and

913 (ii) a report required under Subsection (8)(c).

914 (f) Based on the data contained in the class size reduction plans and reports submitted  
915 by local education boards, and data on average class size, the State Board of Education shall  
916 annually report to the Public Education Appropriations Subcommittee on the impact of class  
917 size reduction, K-3 Reading Improvement Program, and Title I money on class size.

918 Section 10. Section **53A-17a-127** is amended to read:

919 **53A-17a-127. Eligibility for state-supported transportation -- Approved bus**  
920 **routes -- Additional local tax.**

921 (1) A student eligible for state-supported transportation means:

922 (a) a student enrolled in kindergarten through grade six who lives at least 1-1/2 miles  
923 from school;

924 (b) a student enrolled in grades seven through 12 who lives at least two miles from  
925 school; and

926 (c) a student enrolled in a special program offered by a school district and approved by  
927 the State Board of Education for trainable, motor, multiple-disability, or other students with  
928 severe disabilities who are incapable of walking to school or where it is unsafe for students to  
929 walk because of their disabling condition, without reference to distance from school.

930 (2) If a school district implements double sessions as an alternative to new building

931 construction, with the approval of the State Board of Education, those affected elementary  
932 school students residing less than 1-1/2 miles from school may be transported one way to or  
933 from school because of safety factors relating to darkness or other hazardous conditions as  
934 determined by the local school board.

935 (3) (a) The State Board of Education shall distribute transportation money to school  
936 districts based on:

- 937 (i) an allowance per mile for approved bus routes;  
938 (ii) an allowance per hour for approved bus routes; and  
939 (iii) a minimum allocation for each school district eligible for transportation funding.

940 (b) The State Board of Education shall distribute appropriated transportation funds  
941 based on the prior year's eligible transportation costs as legally reported under Subsection  
942 53A-17a-126(3).

943 (c) The State Board of Education shall annually review the allowance per mile and the  
944 allowance per hour and adjust the allowances to reflect current economic conditions.

945 (4) (a) Approved bus routes for funding purposes shall be determined on fall data  
946 collected by October 1.

947 (b) Approved route funding shall be determined on the basis of the most efficient and  
948 economic routes.

949 (5) A Transportation Advisory Committee with representation from school district  
950 superintendents, business officials, school district transportation supervisors, and State Board  
951 of Education employees shall serve as a review committee for addressing school transportation  
952 needs, including recommended approved bus routes.

953 (6) ~~[(a) Except as provided in Subsection (6)(e), a]~~ A local school board may provide  
954 for the transportation of students, regardless of the distance from school, from ~~[-(i)]~~ general  
955 funds of the school district ~~[-and]~~.

956 ~~[(ii) a tax rate not to exceed .0003 per dollar of taxable value levied by the local school~~  
957 ~~board.]~~

958 ~~[(b) A local school board may use revenue from the tax described in Subsection~~  
959 ~~(6)(a)(ii) to pay for transporting students and for the replacement of school buses.]~~

960 ~~[(c) (i) If a local school board levies a tax under Subsection (6)(a)(ii) of at least .0002,~~  
961 ~~the state may contribute an amount not to exceed 85% of the state average cost per mile,~~

962 contingent upon the Legislature appropriating funds for a state contribution.]

963        ~~[(ii) The State Board of Education's employees shall distribute the state contribution~~  
964 ~~according to rules enacted by the State Board of Education.]~~

965        ~~[(d)(i) The amount of state guarantee money that a school district would otherwise be~~  
966 ~~entitled to receive under Subsection (6)(c) may not be reduced for the sole reason that the~~  
967 ~~school district's levy is reduced as a consequence of changes in the certified tax rate under~~  
968 ~~Section 59-2-924 due to changes in property valuation.]~~

969        ~~[(ii) Subsection (6)(d)(i) applies for a period of two years following the change in the~~  
970 ~~certified tax rate.]~~

971        ~~[(e) Beginning January 1, 2012, a local school board may not impose a tax in~~  
972 ~~accordance with this Subsection (6).]~~

973        (7) (a) (i) If a local school board expends an amount of revenue equal to at least .0002  
974 per dollar of taxable value of the school district's board local levy imposed under Section  
975 53A-17a-164 ~~[for the uses described in Subsection (6)(b)]~~ to pay for transporting students, the  
976 state may contribute an amount not to exceed 85% of the state average cost per mile,  
977 contingent upon the Legislature appropriating funds for a state contribution.

978        (ii) The State Board of Education's employees shall distribute the state contribution  
979 according to rules enacted by the State Board of Education.

980        (b) (i) The amount of state guarantee money that a school district would otherwise be  
981 entitled to receive under Subsection (7)(a) may not be reduced for the sole reason that the  
982 school district's levy is reduced as a consequence of changes in the certified tax rate under  
983 Section 59-2-924 due to changes in property valuation.

984        (ii) Subsection (7)(b)(i) applies for a period of two years following the change in the  
985 certified tax rate.

986        Section 11. Section **53A-17a-135** is amended to read:

987        **53A-17a-135. Minimum basic tax rate -- Combined basic and equity pupil tax**  
988 **rate.**

989        (1) As used in this section[, "basic"]:

990        (a) "Basic levy increment rate" means a tax rate that will generate an amount of  
991 revenue equal to \$75,000,000.

992        ~~[(2) (a) To qualify for receipt of the state contribution toward the basic program and as~~



993 ~~a school district's contribution toward the school district's costs of the basic program, each local~~  
 994 ~~school board shall impose a minimum basic tax rate per dollar of taxable value that generates~~  
 995 ~~\$399,041,300 in revenues statewide.]~~

996 (b) "Combined basic and equity pupil tax rate" means a tax rate certified by the  
 997 commission that will generate:

998 (i) the minimum basic guarantee amount; and

999 (ii) \$50,000,000.

1000 (c) "Commission" means the State Tax Commission.

1001 (d) "Equity pupil tax rate" means the tax rate that is:

1002 (i) calculated by subtracting the minimum basic tax rate from the rate floor; or

1003 (ii) zero, if the rate calculated in accordance with Subsection (1)(d)(i):

1004 (A) is zero or less; or

1005 (B) generated an amount of revenue statewide that is \$50,000,000 or more during the  
 1006 previous year.

1007 (e) "Minimum basic guarantee amount" means an amount that is:

1008 (i) equal to the sum of:

1009 (A) the amount needed to fund the school districts' contribution to the basic program;

1010 and

1011 (B) the amount generated by the basic levy increment rate; and

1012 (ii) set annually by the Legislature in Subsection (2)(a).

1013 (f) "Minimum basic tax rate" means a tax rate certified by the commission that will

1014 generate an amount of revenue equal to the minimum basic guarantee amount stated in

1015 Subsection (2)(a).

1016 (g) "Rate floor" means the greater of:

1017 (i) a .0016 tax rate; or

1018 (ii) the highest minimum basic tax rate imposed after fiscal year 2019.

1019 (2) (a) The minimum basic guarantee amount for fiscal year 2019 is \$408,073,800 in  
 1020 revenue statewide.

1021 (b) The preliminary estimate for the [2017-18] fiscal year 2019 minimum basic tax rate  
 1022 is [:.001596] .001498.

1023 (c) [~~The State Tax Commission~~] On or before June 22, the commission shall certify

1024 [~~on or before June 22 the rate that generates \$399,041,300 in revenues statewide~~] the minimum  
 1025 basic tax rate for the year.

1026 [~~(d) If the minimum basic tax rate exceeds the certified revenue levy as defined in~~  
 1027 ~~Section 53A-17a-103, the state is subject to the notice requirements of Section 59-2-926.]~~

1028 (d) The estimate of the minimum basic tax rate provided in Subsection (2)(b) and the  
 1029 certified minimum basic tax rate described in Subsection (2)(c) are based on property values as  
 1030 of January 1 of the calendar year in which the fiscal year begins.

1031 (3) (a) To qualify for receipt of the state contribution toward the basic program and as a  
 1032 school district's contribution toward the school district's costs of the basic program, each local  
 1033 school board shall impose a property tax at the rate described in this Subsection (3).

1034 (b) Except as provided in Subsection (3)(c), a local district shall impose the greater of:

1035 (i) the rate floor; or

1036 (ii) the minimum basic tax rate.

1037 (c) Beginning the year after the year in which the equity pupil tax rate generates  
 1038 \$50,000,000 statewide, a local school board shall impose the combined basic and equity pupil  
 1039 tax rate.

1040 (d) (i) The state is not subject to the notice requirements of Section 59-2-926 before  
 1041 imposing the tax rates described in this Subsection (3).

1042 (ii) The state is subject to the notice requirements of Section 59-2-926 if the state  
 1043 authorizes a tax rate that exceeds the tax rates described in this Subsection (3).

1044 [~~(3)~~] (4) The state shall contribute to each school district toward the cost of the basic  
 1045 program in the school district that portion of the cost of the basic program that exceeds the  
 1046 proceeds of the difference between:

1047 (a) the minimum basic tax rate [~~to be imposed under Subsection (2)~~]; and

1048 (b) the basic levy increment rate.

1049 [~~(4)~~] (5) (a) If the difference described in Subsection [~~(3)~~] (4) equals or exceeds the  
 1050 cost of the basic program in a school district, no state contribution shall be made to the basic  
 1051 program.

1052 (b) The proceeds of the difference described in Subsection [~~(3)~~] (4) that exceed the cost  
 1053 of the basic program shall be paid into the Uniform School Fund as provided by law.

1054 [~~(5)~~] (6) The State Board of Education shall:

1055 (a) deduct from state funds that a school district is authorized to receive under this  
1056 chapter an amount equal to the sum of the proceeds generated within the school district by:

1057 (i) the basic levy increment rate; and

1058 (ii) the equity pupil tax rate; and

1059 (b) deposit the money described in Subsection [~~(5)~~] (6)(a) into the Minimum Basic  
1060 Growth Account created in Section 53A-17a-135.1.

1061 Section 12. Section **53A-17a-135.1** is amended to read:

1062 **53A-17a-135.1. Minimum Basic Growth Account.**

1063 (1) As used in this section [~~,"account"~~]:

1064 (a) "Account" means the Minimum Basic Growth Account created in this section.

1065 (b) "Equity pupil tax rate" means the same as that term is defined in Section  
1066 53A-17a-135.

1067 (2) There is created within the Education Fund a restricted account known as the  
1068 "Minimum Basic Growth Account."

1069 (3) The account shall be funded by:

1070 (a) amounts deposited into the account in accordance with Section 53A-17a-135[-]; and

1071 (b) an annual appropriation by the Legislature from the Education Fund in an amount  
1072 equal to the difference between \$50,000,000 and the revenue to be generated by the equity  
1073 pupil tax rate for the year.

1074 (4) The account shall earn interest.

1075 (5) Interest earned on the account shall be deposited into the account.

1076 (6) Upon appropriation by the Legislature:

1077 (a) 75% of the money from the account shall be used to fund the state's contribution to  
1078 the voted levy guarantee described in Subsection 53A-17a-133(4);

1079 (b) 20% of the money from the account shall be used to fund the Capital Outlay  
1080 Foundation Program as provided in Title 53A, Chapter 21, Part 2, Capital Outlay Foundation  
1081 Program; and

1082 (c) 5% of the money from the account shall be used to fund the Capital Outlay  
1083 Enrollment Growth Program as provided in Title 53A, Chapter 21, Part 3, Capital Outlay  
1084 Enrollment Growth Program.

1085 Section 13. Section **53A-17a-150** is amended to read:

1086 **53A-17a-150. K-3 Reading Improvement Program.**

1087 (1) As used in this section:

1088 (a) "Board" means the State Board of Education.

1089 (b) "Five domains of reading" include phonological awareness, phonics, fluency,  
1090 comprehension, and vocabulary.

1091 (c) "Program" means the K-3 Reading Improvement Program.

1092 (d) "Program money" means:

1093 (i) school district revenue allocated to the program from other money available to the  
1094 school district, except money provided by the state, for the purpose of receiving state funds  
1095 under this section; and

1096 (ii) money appropriated by the Legislature to the program.

1097 (2) The K-3 Reading Improvement Program consists of program money and is created  
1098 to supplement other school resources to achieve the state's goal of having third graders reading  
1099 at or above grade level.

1100 (3) Subject to future budget constraints, the Legislature may annually appropriate  
1101 money to the K-3 Reading Improvement Program.

1102 (4) (a) For a school district or charter school to receive program money, a local  
1103 education board shall submit a plan to the board for reading proficiency improvement that  
1104 incorporates the following components:

1105 (i) assessment;

1106 (ii) intervention strategies;

1107 (iii) professional development for classroom teachers in kindergarten through grade  
1108 three;

1109 (iv) reading performance standards; and

1110 (v) specific measurable goals that include the following:

1111 (A) a growth goal for each school within a school district and each charter school  
1112 based upon student learning gains as measured by benchmark assessments administered  
1113 pursuant to Section 53A-1-606.6; and

1114 (B) a growth goal for each school district and charter school to increase the percentage  
1115 of third grade students who read on grade level from year to year as measured by the third  
1116 grade reading test administered pursuant to Section 53A-1-603.

1117 (b) The board shall provide model plans that a local education board may use, or the  
1118 local education board may develop the local education board's own plan.

1119 (c) Plans developed by a local education board shall be approved by the board.

1120 (d) The board shall develop uniform standards for acceptable growth goals that a local  
1121 education board adopts for a school district or charter school as described in this Subsection  
1122 (4).

1123 (5) (a) There is created within the K-3 Reading Achievement Program three funding  
1124 programs:

1125 (i) the Base Level Program;

1126 (ii) the Guarantee Program; and

1127 (iii) the Low Income Students Program.

1128 (b) The board may use no more than \$7,500,000 from an appropriation described in  
1129 Subsection (3) for computer-assisted instructional learning and assessment programs.

1130 (6) Money appropriated to the board for the K-3 Reading Improvement Program and  
1131 not used by the board for computer-assisted instructional learning and assessments as described  
1132 in Subsection (5)(b), shall be allocated to the three funding programs as follows:

1133 (a) 8% to the Base Level Program;

1134 (b) 46% to the Guarantee Program; and

1135 (c) 46% to the Low Income Students Program.

1136 (7) (a) For a school district or charter school to participate in the Base Level Program,  
1137 the local education board shall submit a reading proficiency improvement plan to the board as  
1138 provided in Subsection (4) and must receive approval of the plan from the board.

1139 (b) (i) The local school board of a school district qualifying for Base Level Program  
1140 funds and the governing boards of qualifying elementary charter schools combined shall  
1141 receive a base amount.

1142 (ii) The base amount for the qualifying elementary charter schools combined shall be  
1143 allocated among each charter school in an amount proportionate to:

1144 (A) each existing charter school's prior year fall enrollment in grades kindergarten  
1145 through grade three; and

1146 (B) each new charter school's estimated fall enrollment in grades kindergarten through  
1147 grade three.

1148 (8) (a) A local school board that applies for program money in excess of the Base Level  
1149 Program funds shall choose to first participate in either the Guarantee Program or the Low  
1150 Income Students Program.

1151 (b) A school district must fully participate in either the Guarantee Program or the Low  
1152 Income Students Program before the local school board may elect for the school district to  
1153 either fully or partially participate in the other program.

1154 (c) For a school district to fully participate in the Guarantee Program, the local school  
1155 board shall allocate to the program money available to the school district, except money  
1156 provided by the state, equal to the amount of revenue that would be generated by a tax rate of  
1157 .000056.

1158 (d) For a school district to fully participate in the Low Income Students Program, the  
1159 local school board shall allocate to the program money available to the school district, except  
1160 money provided by the state, equal to the amount of revenue that would be generated by a tax  
1161 rate of .000065.

1162 (e) (i) The board shall verify that a local school board allocates the money required in  
1163 accordance with Subsections (8)(c) and (d) before the local school board distributes funds in  
1164 accordance with this section.

1165 (ii) The State Tax Commission shall provide the board the information the board needs  
1166 in order to comply with Subsection (8)(e)(i).

1167 (9) (a) Except as provided in Subsection (9)(c), the local school board of a school  
1168 district that fully participates in the Guarantee Program shall receive state funds in an amount  
1169 that is:

1170 (i) equal to the difference between \$21 multiplied by the school district's total WPU's  
1171 and the revenue the local school board is required to allocate under Subsection (8)(c) for the  
1172 school district to fully participate in the Guarantee Program; and

1173 (ii) not less than \$0.

1174 (b) Except as provided in Subsection (9)(c), an elementary charter school shall receive  
1175 under the Guarantee Program an amount equal to \$21 times the elementary charter school's  
1176 total WPU's.

1177 (c) The board may adjust the \$21 guarantee amount described in Subsections (9)(a) and  
1178 (b) to account for actual appropriations and money used by the board for computer-assisted

1179 instructional learning and assessments.

1180 (10) The board shall distribute Low Income Students Program funds in an amount  
1181 proportionate to the number of students in each school district or charter school who qualify for  
1182 free or reduced price school lunch multiplied by two.

1183 (11) A school district that partially participates in the Guarantee Program or Low  
1184 Income Students Program shall receive program funds based on the amount of school district  
1185 revenue allocated to the program as a percentage of the amount of revenue that could have been  
1186 allocated if the school district had fully participated in the program.

1187 (12) (a) A local education board shall use program money for reading proficiency  
1188 improvement interventions in grades kindergarten through grade 3 that have proven to  
1189 significantly increase the percentage of students reading at grade level, including:

1190 (i) reading assessments; and

1191 (ii) focused reading remediations that may include:

1192 (A) the use of reading specialists;

1193 (B) tutoring;

1194 (C) before or after school programs;

1195 (D) summer school programs; or

1196 (E) the use of reading software; or

1197 (F) the use of interactive computer software programs for literacy instruction and  
1198 assessments for students.

1199 (b) A local education board may use program money for portable technology devices  
1200 used to administer reading assessments.

1201 (c) Program money may not be used to supplant funds for existing programs, but may  
1202 be used to augment existing programs.

1203 (13) (a) Each local education board shall annually submit a report to the board  
1204 accounting for the expenditure of program money in accordance with its plan for reading  
1205 proficiency improvement.

1206 (b) If a local education board uses program money in a manner that is inconsistent with  
1207 Subsection (12), the school district or charter school is liable for reimbursing the board for the  
1208 amount of program money improperly used, up to the amount of program money received from  
1209 the board.

1210 (14) (a) The board shall make rules to implement the program.

1211 (b) (i) The rules under Subsection (14)(a) shall require each local education board to  
1212 annually report progress in meeting goals stated in the school district's or charter school's plan  
1213 for student reading proficiency.

1214 (ii) If a school does not meet or exceed the school's goals, the local education board  
1215 shall prepare a new plan which corrects deficiencies.

1216 (iii) The new plan described in Subsection (14)(b)(ii) shall be approved by the board  
1217 before the local education board receives an allocation for the next year.

1218 (15) (a) If for two consecutive school years, a school district fails to meet the school  
1219 district's goal to increase the percentage of third grade students who read on grade level as  
1220 measured by the third grade reading test administered pursuant to Section 53A-1-603, the  
1221 school district [~~shall terminate any levy imposed under Section 53A-17a-151 and~~] may not  
1222 receive money appropriated by the Legislature for the K-3 Reading Improvement Program.

1223 (b) If for two consecutive school years, a charter school fails to meet the charter  
1224 school's goal to increase the percentage of third grade students who read on grade level as  
1225 measured by the third grade reading test administered pursuant to Section 53A-1-603, the  
1226 charter school may not receive money appropriated by the Legislature for the K-3 Reading  
1227 Improvement Program.

1228 (16) The board shall make an annual report to the Public Education Appropriations  
1229 Subcommittee that:

1230 (a) includes information on:

1231 (i) student learning gains in reading for the past school year and the five-year trend;

1232 (ii) the percentage of third grade students reading on grade level in the past school year  
1233 and the five-year trend;

1234 (iii) the progress of schools and school districts in meeting goals stated in a school  
1235 district's or charter school's plan for student reading proficiency; and

1236 (iv) the correlation between third grade students reading on grade level and results of  
1237 third grade language arts scores on a criterion-referenced test or computer adaptive test; and

1238 (b) may include recommendations on how to increase the percentage of third grade  
1239 students who read on grade level.

1240 Section 14. Section **53A-17a-164** is amended to read:



1241 **53A-17a-164. Board local levy -- State guarantee.**

1242 (1) Subject to the other requirements of this section, for a calendar year beginning on  
 1243 or after January 1, 2012, a local school board may levy a tax to fund the school district's  
 1244 general fund.

1245 (2) (a) For purposes of this Subsection (2), "combined rate" means the sum of:

1246 (i) the rate imposed by a local school board under Subsection (1); and

1247 (ii) the charter school levy rate, described in Section 53A-1a-513.1, for the local school  
 1248 board's school district.

1249 ~~[(b) Except as provided in Subsection (2)(c), beginning on January 1, 2017, a school  
 1250 district's combined rate may not exceed .0018 per dollar of taxable value in any calendar year.]~~

1251 ~~[(c) Beginning on January 1, 2017, a]~~

1252 (b) Beginning on January 1, 2018, a school district's combined rate may not exceed  
 1253 .0025 per dollar of taxable value in any calendar year [if, during the calendar year beginning on  
 1254 January 1, 2011, the school district's total tax rate for the following levies was greater than  
 1255 .0018 per dollar of taxable value].

1256 ~~[(i) a recreation levy imposed under Section 11-2-7;]~~

1257 ~~[(ii) a transportation levy imposed under Section 53A-17a-127;]~~

1258 ~~[(iii) a board-authorized levy imposed under Section 53A-17a-134;]~~

1259 ~~[(iv) an impact aid levy imposed under Section 53A-17a-143;]~~

1260 ~~[(v) the portion of a 10% of basic levy imposed under Section 53A-17a-145 that is  
 1261 budgeted for purposes other than capital outlay or debt service;]~~

1262 ~~[(vi) a reading levy imposed under Section 53A-17a-151; and]~~

1263 ~~[(vii) a tort liability levy imposed under Section 63G-7-704.]~~

1264 (3) (a) In addition to the revenue a school district collects from the imposition of a levy  
 1265 pursuant to this section, the state shall contribute an amount sufficient to guarantee that each  
 1266 .0001 of the first .0004 per dollar of taxable value generates an amount equal to the state  
 1267 guarantee per weighted pupil unit described in Subsection 53A-17a-133(4).

1268 (b) (i) The amount of state guarantee money to which a school district would otherwise  
 1269 be entitled to under this Subsection (3) may not be reduced for the sole reason that the district's  
 1270 levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924  
 1271 pursuant to changes in property valuation.

1272 (ii) Subsection (3)(b)(i) applies for a period of five years following any changes in the  
1273 certified tax rate.

1274 (4) (a) For a calendar year beginning on or after January 1, 2017, the State Tax  
1275 Commission shall adjust a board local levy rate imposed by a local school board under this  
1276 section by the amount necessary to offset the change in revenues from the charter school levy  
1277 imposed under Section 53A-1a-513.1.

1278 (b) A local school board is not required to comply with the notice and public hearing  
1279 requirements of Section 59-2-919 for an offset described in Subsection (4)(a) to the change in  
1280 revenues from the charter school levy imposed under Section 53A-1a-513.1.

1281 (c) A local school board may not increase a board local levy rate under this section  
1282 before December 31, 2016, if the local school board did not give public notice on or before  
1283 March 4, 2016, of the local school board's intent to increase the board local levy rate.

1284 (d) So long as the charter school levy rate does not exceed 25% of the charter school  
1285 levy per district revenues, a local school board may not increase a board local levy rate under  
1286 this section if the purpose of increasing the board local levy rate is to capture the revenues  
1287 assigned to the charter school levy through the adjustment in a board local levy rate under  
1288 Subsection (4)(a).

1289 (e) Before a local school board takes action to increase a board local levy rate under  
1290 this section, the local school board shall:

1291 (i) prepare a written statement that attests that the local school board is in compliance  
1292 with Subsection (4)(d);

1293 (ii) read the statement described in Subsection (4)(e)(i) during a local school board  
1294 public meeting where the local school board discusses increasing the board local levy rate; and

1295 (iii) send a copy of the statement described in Subsection (4)(e)(i) to the State Tax  
1296 Commission.

1297 Section 15. Section **53A-21-101.5** is amended to read:

1298 **53A-21-101.5. Definitions.**

1299 As used in this chapter:

1300 (1) "ADM" or "pupil in average daily membership" is as defined in Section  
1301 53A-17a-103.

1302 (2) "Base tax effort rate" means the average of:

- 1303 (a) the highest combined capital levy rate; and
- 1304 (b) the average combined capital levy rate for the school districts statewide.
- 1305 (3) "Combined capital levy rate" means a rate that includes the sum of the following
- 1306 property tax levies:
- 1307 (a) (i) the capital outlay levy authorized in Section 53A-16-107;
- 1308 [~~(ii) the portion of the 10% of basic levy described in Section 53A-17a-145 that is~~
- 1309 ~~budgeted for debt service or capital outlay;~~]
- 1310 [~~(iii)~~ (ii) the debt service levy authorized in Section 11-14-310; and
- 1311 [~~(iv)~~ (iii) the voted capital outlay leeway authorized in Section 53A-16-110; or
- 1312 (b) (i) the capital local levy authorized in Section 53A-16-113; and
- 1313 (ii) the debt service levy authorized in Section 11-14-310.
- 1314 (4) "Derived net taxable value" means the quotient of:
- 1315 (a) the total property tax collections from April 1 through the following March 31 for a
- 1316 school district for the calendar year preceding the March 31 date; divided by
- 1317 (b) the school district's total tax rate for the calendar year preceding the March 31
- 1318 referenced in Subsection (4)(a).
- 1319 (5) "Highest combined capital levy rate" means the highest combined capital levy rate
- 1320 imposed by a school district within the state for a fiscal year.
- 1321 (6) "Property tax base per ADM" means the quotient of:
- 1322 (a) a school district's derived net taxable value; divided by
- 1323 (b) the school district's ADM.
- 1324 (7) "Property tax yield per ADM" means:
- 1325 (a) the product of:
- 1326 (i) a school district's derived net taxable value; and
- 1327 (ii) the base tax effort rate; divided by
- 1328 (b) the school district's ADM.
- 1329 (8) "Statewide average property tax base per ADM" means the quotient of:
- 1330 (a) the sum of all school districts' derived net taxable value; divided by
- 1331 (b) the sum of all school districts' ADM.
- 1332 Section 16. Section **59-1-1503** is amended to read:
- 1333 **59-1-1503. Nonrefundable credit -- Sales and use tax exemption -- Sales and use**

1334 **tax remittance.**

1335 (1) A nonrefundable individual income tax credit is allowed as provided in Section  
1336 59-10-1028 related to a capital gain on a transaction involving the exchange of one form of  
1337 legal tender for another form of legal tender.

1338 (2) Sales of currency or coin are exempt from sales and use taxes as provided in  
1339 Subsection 59-12-104[~~(50)~~](49).

1340 (3) The remittance of a sales and use tax on a transaction involving specie legal tender  
1341 is as provided in Section 59-12-107.

1342 Section 17. Section **59-2-102** is amended to read:

1343 **59-2-102. Definitions.**

1344 As used in this chapter and title:

1345 (1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of  
1346 engaging in dispensing activities directly affecting agriculture or horticulture with an  
1347 airworthiness certificate from the Federal Aviation Administration certifying the aircraft or  
1348 rotorcraft's use for agricultural and pest control purposes.

1349 (2) "Air charter service" means an air carrier operation that requires the customer to  
1350 hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled  
1351 trip.

1352 (3) "Air contract service" means an air carrier operation available only to customers  
1353 that engage the services of the carrier through a contractual agreement and excess capacity on  
1354 any trip and is not available to the public at large.

1355 (4) "Aircraft" means the same as that term is defined in Section 72-10-102.

1356 (5) (a) Except as provided in Subsection (5)(b), "airline" means an air carrier that:

1357 (i) operates:

1358 (A) on an interstate route; and

1359 (B) on a scheduled basis; and

1360 (ii) offers to fly one or more passengers or cargo on the basis of available capacity on a  
1361 regularly scheduled route.

1362 (b) "Airline" does not include an:

1363 (i) air charter service; or

1364 (ii) air contract service.

1365 (6) "Assessment roll" means a permanent record of the assessment of property as  
1366 assessed by the county assessor and the commission and may be maintained manually or as a  
1367 computerized file as a consolidated record or as multiple records by type, classification, or  
1368 categories.

1369 (7) "Base parcel" means a parcel of property that was legally:

1370 (a) subdivided into two or more lots, parcels, or other divisions of land; or

1371 (b) (i) combined with one or more other parcels of property; and

1372 (ii) subdivided into two or more lots, parcels, or other divisions of land.

1373 (8) (a) "Certified revenue levy" means a property tax levy that provides an amount of  
1374 ad valorem property tax revenue equal to the sum of:

1375 (i) the amount of ad valorem property tax revenue to be generated statewide in the  
1376 previous year from imposing a [~~school minimum basic tax rate, as specified in Section~~  
1377 ~~53A-17a-135, or~~] multicounty assessing and collecting levy, as specified in Section 59-2-1602;  
1378 and

1379 (ii) the product of:

1380 (A) eligible new growth, as defined in Section 59-2-924; and

1381 (B) the [~~school minimum basic tax rate or~~] multicounty assessing and collecting levy  
1382 certified by the commission for the previous year.

1383 (b) For purposes of this Subsection (8), "ad valorem property tax revenue" does not  
1384 include property tax revenue received by a taxing entity from personal property that is:

1385 (i) assessed by a county assessor in accordance with Part 3, County Assessment; and

1386 (ii) semiconductor manufacturing equipment.

1387 (c) For purposes of calculating the certified revenue levy described in this Subsection  
1388 (8), the commission shall use:

1389 (i) the taxable value of real property assessed by a county assessor contained on the  
1390 assessment roll;

1391 (ii) the taxable value of real and personal property assessed by the commission; and

1392 (iii) the taxable year end value of personal property assessed by a county assessor  
1393 contained on the prior year's assessment roll.

1394 (9) "County-assessed commercial vehicle" means:

1395 (a) any commercial vehicle, trailer, or semitrailer that is not apportioned under Section

1396 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in  
1397 furtherance of the owner's commercial enterprise;

1398 (b) any passenger vehicle owned by a business and used by its employees for  
1399 transportation as a company car or vanpool vehicle; and

1400 (c) vehicles that are:

1401 (i) especially constructed for towing or wrecking, and that are not otherwise used to  
1402 transport goods, merchandise, or people for compensation;

1403 (ii) used or licensed as taxicabs or limousines;

1404 (iii) used as rental passenger cars, travel trailers, or motor homes;

1405 (iv) used or licensed in this state for use as ambulances or hearses;

1406 (v) especially designed and used for garbage and rubbish collection; or

1407 (vi) used exclusively to transport students or their instructors to or from any private,  
1408 public, or religious school or school activities.

1409 (10) (a) Except as provided in Subsection (10)(b), for purposes of Section 59-2-801,  
1410 "designated tax area" means a tax area created by the overlapping boundaries of only the  
1411 following taxing entities:

1412 (i) a county; and

1413 (ii) a school district.

1414 (b) "Designated tax area" includes a tax area created by the overlapping boundaries of  
1415 the taxing entities described in Subsection (10)(a) and:

1416 (i) a city or town if the boundaries of the school district under Subsection (10)(a) and  
1417 the boundaries of the city or town are identical; or

1418 (ii) a special service district if the boundaries of the school district under Subsection  
1419 (10)(a) are located entirely within the special service district.

1420 (11) "Eligible judgment" means a final and unappealable judgment or order under  
1421 Section 59-2-1330:

1422 (a) that became a final and unappealable judgment or order no more than 14 months  
1423 before the day on which the notice described in Section 59-2-919.1 is required to be provided;  
1424 and

1425 (b) for which a taxing entity's share of the final and unappealable judgment or order is  
1426 greater than or equal to the lesser of:

1427 (i) \$5,000; or

1428 (ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the  
1429 previous fiscal year.

1430 (12) (a) "Escaped property" means any property, whether personal, land, or any  
1431 improvements to the property, that is subject to taxation and is:

1432 (i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed  
1433 to the wrong taxpayer by the assessing authority;

1434 (ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to  
1435 comply with the reporting requirements of this chapter; or

1436 (iii) undervalued because of errors made by the assessing authority based upon  
1437 incomplete or erroneous information furnished by the taxpayer.

1438 (b) "Escaped property" does not include property that is undervalued because of the use  
1439 of a different valuation methodology or because of a different application of the same valuation  
1440 methodology.

1441 (13) "Fair market value" means the amount at which property would change hands  
1442 between a willing buyer and a willing seller, neither being under any compulsion to buy or sell  
1443 and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair  
1444 market value" shall be determined using the current zoning laws applicable to the property in  
1445 question, except in cases where there is a reasonable probability of a change in the zoning laws  
1446 affecting that property in the tax year in question and the change would have an appreciable  
1447 influence upon the value.

1448 (14) (a) "Farm machinery and equipment," for purposes of the exemption provided  
1449 under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities,  
1450 feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters,  
1451 tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and  
1452 cubers, and any other machinery or equipment used primarily for agricultural purposes.

1453 (b) "Farm machinery and equipment" does not include vehicles required to be  
1454 registered with the Motor Vehicle Division or vehicles or other equipment used for business  
1455 purposes other than farming.

1456 (15) "Geothermal fluid" means water in any form at temperatures greater than 120  
1457 degrees centigrade naturally present in a geothermal system.

- 1458 (16) "Geothermal resource" means:
- 1459 (a) the natural heat of the earth at temperatures greater than 120 degrees centigrade;
- 1460 and
- 1461 (b) the energy, in whatever form, including pressure, present in, resulting from, created
- 1462 by, or which may be extracted from that natural heat, directly or through a material medium.
- 1463 (17) (a) "Goodwill" means:
- 1464 (i) acquired goodwill that is reported as goodwill on the books and records that a
- 1465 taxpayer maintains for financial reporting purposes; or
- 1466 (ii) the ability of a business to:
- 1467 (A) generate income that exceeds a normal rate of return on assets and that results from
- 1468 a factor described in Subsection (17)(b); or
- 1469 (B) obtain an economic or competitive advantage resulting from a factor described in
- 1470 Subsection (17)(b).
- 1471 (b) The following factors apply to Subsection (17)(a)(ii):
- 1472 (i) superior management skills;
- 1473 (ii) reputation;
- 1474 (iii) customer relationships;
- 1475 (iv) patronage; or
- 1476 (v) a factor similar to Subsections (17)(b)(i) through (iv).
- 1477 (c) "Goodwill" does not include:
- 1478 (i) the intangible property described in Subsection (21)(a) or (b);
- 1479 (ii) locational attributes of real property, including:
- 1480 (A) zoning;
- 1481 (B) location;
- 1482 (C) view;
- 1483 (D) a geographic feature;
- 1484 (E) an easement;
- 1485 (F) a covenant;
- 1486 (G) proximity to raw materials;
- 1487 (H) the condition of surrounding property; or
- 1488 (I) proximity to markets;



1489 (iii) value attributable to the identification of an improvement to real property,  
1490 including:

1491 (A) reputation of the designer, builder, or architect of the improvement;

1492 (B) a name given to, or associated with, the improvement; or

1493 (C) the historic significance of an improvement; or

1494 (iv) the enhancement or assemblage value specifically attributable to the interrelation  
1495 of the existing tangible property in place working together as a unit.

1496 (18) "Governing body" means:

1497 (a) for a county, city, or town, the legislative body of the county, city, or town;

1498 (b) for a local district under Title 17B, Limited Purpose Local Government Entities -  
1499 Local Districts, the local district's board of trustees;

1500 (c) for a school district, the local board of education; or

1501 (d) for a special service district under Title 17D, Chapter 1, Special Service District  
1502 Act:

1503 (i) the legislative body of the county or municipality that created the special service  
1504 district, to the extent that the county or municipal legislative body has not delegated authority  
1505 to an administrative control board established under Section 17D-1-301; or

1506 (ii) the administrative control board, to the extent that the county or municipal  
1507 legislative body has delegated authority to an administrative control board established under  
1508 Section 17D-1-301.

1509 (19) (a) For purposes of Section 59-2-103:

1510 (i) "household" means the association of individuals who live in the same dwelling,  
1511 sharing its furnishings, facilities, accommodations, and expenses; and

1512 (ii) "household" includes married individuals, who are not legally separated, that have  
1513 established domiciles at separate locations within the state.

1514 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1515 commission may make rules defining the term "domicile."

1516 (20) (a) Except as provided in Subsection (20)(c), "improvement" means a building,  
1517 structure, fixture, fence, or other item that is permanently attached to land, regardless of  
1518 whether the title has been acquired to the land, if:

1519 (i) (A) attachment to land is essential to the operation or use of the item; and

- 1520 (B) the manner of attachment to land suggests that the item will remain attached to the  
1521 land in the same place over the useful life of the item; or
- 1522 (ii) removal of the item would:
- 1523 (A) cause substantial damage to the item; or
- 1524 (B) require substantial alteration or repair of a structure to which the item is attached.
- 1525 (b) "Improvement" includes:
- 1526 (i) an accessory to an item described in Subsection (20)(a) if the accessory is:
- 1527 (A) essential to the operation of the item described in Subsection (20)(a); and
- 1528 (B) installed solely to serve the operation of the item described in Subsection (20)(a);
- 1529 and
- 1530 (ii) an item described in Subsection (20)(a) that is temporarily detached from the land  
1531 for repairs and remains located on the land.
- 1532 (c) "Improvement" does not include:
- 1533 (i) an item considered to be personal property pursuant to rules made in accordance  
1534 with Section 59-2-107;
- 1535 (ii) a moveable item that is attached to land for stability only or for an obvious  
1536 temporary purpose;
- 1537 (iii) (A) manufacturing equipment and machinery; or
- 1538 (B) essential accessories to manufacturing equipment and machinery;
- 1539 (iv) an item attached to the land in a manner that facilitates removal without substantial  
1540 damage to the land or the item; or
- 1541 (v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that  
1542 transportable factory-built housing unit is considered to be personal property under Section  
1543 59-2-1503.
- 1544 (21) "Intangible property" means:
- 1545 (a) property that is capable of private ownership separate from tangible property,  
1546 including:
- 1547 (i) money;
- 1548 (ii) credits;
- 1549 (iii) bonds;
- 1550 (iv) stocks;

- 1551 (v) representative property;
- 1552 (vi) franchises;
- 1553 (vii) licenses;
- 1554 (viii) trade names;
- 1555 (ix) copyrights; and
- 1556 (x) patents;
- 1557 (b) a low-income housing tax credit;
- 1558 (c) goodwill; or
- 1559 (d) a renewable energy tax credit or incentive, including:
- 1560 (i) a federal renewable energy production tax credit under Section 45, Internal Revenue
- 1561 Code;
- 1562 (ii) a federal energy credit for qualified renewable electricity production facilities under
- 1563 Section 48, Internal Revenue Code;
- 1564 (iii) a federal grant for a renewable energy property under American Recovery and
- 1565 Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and
- 1566 (iv) a tax credit under Subsection 59-7-614(5).
- 1567 (22) "Livestock" means:
- 1568 (a) a domestic animal;
- 1569 (b) a fish;
- 1570 (c) a fur-bearing animal;
- 1571 (d) a honeybee; or
- 1572 (e) poultry.
- 1573 (23) "Low-income housing tax credit" means:
- 1574 (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;
- 1575 or
- 1576 (b) a low-income housing tax credit under Section 59-7-607 or Section 59-10-1010.
- 1577 (24) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.
- 1578 (25) "Mine" means a natural deposit of either metalliferous or nonmetalliferous
- 1579 valuable mineral.
- 1580 (26) "Mining" means the process of producing, extracting, leaching, evaporating, or
- 1581 otherwise removing a mineral from a mine.

1582 (27) (a) "Mobile flight equipment" means tangible personal property that is owned or  
1583 operated by an air charter service, air contract service, or airline and:

1584 (i) is capable of flight or is attached to an aircraft that is capable of flight; or

1585 (ii) is contained in an aircraft that is capable of flight if the tangible personal property  
1586 is intended to be used:

1587 (A) during multiple flights;

1588 (B) during a takeoff, flight, or landing; and

1589 (C) as a service provided by an air charter service, air contract service, or airline.

1590 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare  
1591 engine that is rotated at regular intervals with an engine that is attached to the aircraft.

1592 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1593 commission may make rules defining the term "regular intervals."

1594 (28) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts,  
1595 sand, rock, gravel, and all carboniferous materials.

1596 (29) "Part-year residential property" means property that is not residential property on  
1597 January 1 of a calendar year but becomes residential property after January 1 of the calendar  
1598 year.

1599 (30) "Personal property" includes:

1600 (a) every class of property as defined in Subsection (31) that is the subject of  
1601 ownership and is not real estate or an improvement;

1602 (b) any pipe laid in or affixed to land whether or not the ownership of the pipe is  
1603 separate from the ownership of the underlying land, even if the pipe meets the definition of an  
1604 improvement;

1605 (c) bridges and ferries;

1606 (d) livestock; and

1607 (e) outdoor advertising structures as defined in Section 72-7-502.

1608 (31) (a) "Property" means property that is subject to assessment and taxation according  
1609 to its value.

1610 (b) "Property" does not include intangible property as defined in this section.

1611 (32) "Public utility" means:

1612 (a) for purposes of this chapter, the operating property of a railroad, gas corporation, oil

1613 or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation,  
1614 telephone corporation, sewerage corporation, or heat corporation where the company performs  
1615 the service for, or delivers the commodity to, the public generally or companies serving the  
1616 public generally, or in the case of a gas corporation or an electrical corporation, where the gas  
1617 or electricity is sold or furnished to any member or consumers within the state for domestic,  
1618 commercial, or industrial use; and

1619 (b) the operating property of any entity or person defined under Section 54-2-1 except  
1620 water corporations.

1621 (33) (a) Subject to Subsection (33)(b), "qualifying exempt primary residential rental  
1622 personal property" means household furnishings, furniture, and equipment that:

1623 (i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

1624 (ii) are owned by the owner of the dwelling unit that is the primary residence of a  
1625 tenant; and

1626 (iii) after applying the residential exemption described in Section 59-2-103, are exempt  
1627 from taxation under this chapter in accordance with Subsection 59-2-1115(2).

1628 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1629 commission may by rule define the term "dwelling unit" for purposes of this Subsection (33)  
1630 and Subsection (36).

1631 (34) "Real estate" or "real property" includes:

1632 (a) the possession of, claim to, ownership of, or right to the possession of land;

1633 (b) all mines, minerals, and quarries in and under the land, all timber belonging to  
1634 individuals or corporations growing or being on the lands of this state or the United States, and  
1635 all rights and privileges appertaining to these; and

1636 (c) improvements.

1637 (35) (a) "Relationship with an owner of the property's land surface rights" means a  
1638 relationship described in Subsection 267(b), Internal Revenue Code, except that the term 25%  
1639 shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code.

1640 (b) For purposes of determining if a relationship described in Subsection 267(b),  
1641 Internal Revenue Code, exists, the ownership of stock shall be determined using the ownership  
1642 rules in Subsection 267(c), Internal Revenue Code.

1643 (36) (a) Subject to Subsection (36)(b), "residential property," for purposes of the

1644 reductions and adjustments under this chapter, means any property used for residential  
1645 purposes as a primary residence.

1646 (b) Subject to Subsection (36)(c), "residential property":

1647 (i) except as provided in Subsection (36)(b)(ii), includes household furnishings,  
1648 furniture, and equipment if the household furnishings, furniture, and equipment are:

1649 (A) used exclusively within a dwelling unit that is the primary residence of a tenant;

1650 and

1651 (B) owned by the owner of the dwelling unit that is the primary residence of a tenant;

1652 and

1653 (ii) does not include property used for transient residential use.

1654 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1655 commission may by rule define the term "dwelling unit" for purposes of Subsection (33) and  
1656 this Subsection (36).

1657 (37) "Split estate mineral rights owner" means a person that:

1658 (a) has a legal right to extract a mineral from property;

1659 (b) does not hold more than a 25% interest in:

1660 (i) the land surface rights of the property where the wellhead is located; or

1661 (ii) an entity with an ownership interest in the land surface rights of the property where  
1662 the wellhead is located;

1663 (c) is not an entity in which the owner of the land surface rights of the property where  
1664 the wellhead is located holds more than a 25% interest; and

1665 (d) does not have a relationship with an owner of the land surface rights of the property  
1666 where the wellhead is located.

1667 (38) (a) "State-assessed commercial vehicle" means:

1668 (i) any commercial vehicle, trailer, or semitrailer that operates interstate or intrastate to  
1669 transport passengers, freight, merchandise, or other property for hire; or

1670 (ii) any commercial vehicle, trailer, or semitrailer that operates interstate and transports  
1671 the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

1672 (b) "State-assessed commercial vehicle" does not include vehicles used for hire that are  
1673 specified in Subsection (9)(c) as county-assessed commercial vehicles.

1674 (39) "Subdivided lot" means a lot, parcel, or other division of land, that is a division of

1675 a base parcel.

1676 (40) "Taxable value" means fair market value less any applicable reduction allowed for  
1677 residential property under Section 59-2-103.

1678 (41) "Tax area" means a geographic area created by the overlapping boundaries of one  
1679 or more taxing entities.

1680 (42) "Taxing entity" means any county, city, town, school district, special taxing  
1681 district, local district under Title 17B, Limited Purpose Local Government Entities - Local  
1682 Districts, or other political subdivision of the state with the authority to levy a tax on property.

1683 (43) (a) "Tax roll" means a permanent record of the taxes charged on property, as  
1684 extended on the assessment roll, and may be maintained on the same record or records as the  
1685 assessment roll or may be maintained on a separate record properly indexed to the assessment  
1686 roll.

1687 (b) "Tax roll" includes tax books, tax lists, and other similar materials.

1688 Section 18. Section **59-2-918.6** is amended to read:

1689 **59-2-918.6. New and remaining school district budgets -- Advertisement -- Public**  
1690 **hearing.**

1691 (1) As used in this section[, "~~existing school district,~~" "~~new school district,~~" and  
1692 "~~remaining school district~~" are as defined in Section 53A-2-117.];

1693 (a) "Existing school district" means the same as that term is defined in Section  
1694 53A-2-117.

1695 (b) "New school district" means the same as that term is defined in Section 53A-2-117.

1696 (c) "Primary residence" means a residence that qualifies for the exemption described in  
1697 Section 59-2-103.

1698 (d) "Remaining school district" means the same as that term is defined in Section  
1699 53A-2-117.

1700 (e) "Secondary residence" means a residence that does not qualify for the exemption  
1701 described in Section 59-2-103.

1702 (2) For the first fiscal year in which a new school district created under Section  
1703 53A-2-118.1 assumes responsibility for providing student instruction, the new school district  
1704 and [~~the~~] any remaining school district [~~or districts~~] may not impose a property tax unless the  
1705 district imposing the tax:

1706 (a) advertises [~~its~~] the district's intention to do so in accordance with Subsection (3);

1707 and

1708 (b) holds a public hearing in accordance with Subsection (4).

1709 (3) The advertisement required by this section:

1710 (a) may be combined with the advertisement described in Section 59-2-919;

1711 (b) shall be at least 1/4 of a page in size and shall meet the type, placement, and

1712 frequency requirements established under Section 59-2-919; [~~and~~]

1713 (c) shall specify the date, time, and location of the public hearing at which the levy will

1714 be considered; and

1715 (d) shall [~~set forth~~] state:

1716 (i) the total amount of the district's proposed property tax levy [~~and the tax impact on~~

1717 ~~an average residential and business property located within the taxing entity compared to the~~

1718 ~~property tax levy imposed in the prior year by the existing school district.];~~

1719 (ii) for a primary residence in the taxing entity, the dollar increase for each \$100,000 of

1720 market value that the proposed tax increase will generate compared to the property tax levy

1721 imposed in the prior year by the existing school district; and

1722 (iii) for a business or a secondary residence in the taxing entity, the dollar increase for

1723 each \$100,000 of market value that the proposed tax increase will generate compared to the

1724 property tax imposed in the prior year by the existing school district.

1725 (4) (a) The date, time, and place of public hearings required by this section shall be

1726 included on the notice provided to property owners pursuant to Section 59-2-919.1.

1727 (b) If a final decision regarding the property tax levy is not made at the public hearing,

1728 the school district shall announce at the public hearing the scheduled time and place for

1729 consideration and adoption of the budget and property tax levies.

1730 Section 19. Section **59-2-919** is amended to read:

1731 **59-2-919. Notice and public hearing requirements for certain tax increases --**

1732 **Exceptions.**

1733 (1) As used in this section:

1734 (a) "Additional ad valorem tax revenue" means ad valorem property tax revenue

1735 generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.

1736 (b) "Ad valorem tax revenue" means ad valorem property tax revenue not including



1737 revenue from:

1738 (i) eligible new growth as that term is defined in Section 59-2-924; or

1739 (ii) personal property that is:

1740 (A) assessed by a county assessor in accordance with Part 3, County Assessment; and

1741 (B) semiconductor manufacturing equipment.

1742 (c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year  
1743 that begins on January 1 and ends on December 31.

1744 (d) "County executive calendar year taxing entity" means a calendar year taxing entity  
1745 that operates under the county executive-council form of government described in Section  
1746 17-52-504.

1747 (e) "Current calendar year" means the calendar year immediately preceding the  
1748 calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the  
1749 calendar year taxing entity's certified tax rate.

1750 (f) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that  
1751 begins on July 1 and ends on June 30.

1752 (g) "Last year's property tax budgeted revenue" does not include revenue received by a  
1753 taxing entity from a debt service levy voted on by the public.

1754 (h) "Primary residence" means a residence that qualifies for the exemption described in  
1755 Section 59-2-103.

1756 (i) "Secondary residence" means a residence that does not qualify for the exemption  
1757 described in Section 59-2-103.

1758 (2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax  
1759 rate unless the taxing entity meets:

1760 (a) the requirements of this section that apply to the taxing entity; and

1761 (b) all other requirements as may be required by law.

1762 (3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar  
1763 year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax  
1764 rate if the calendar year taxing entity:

1765 (i) 14 or more days before the date of the regular general election or municipal general  
1766 election held in the current calendar year, states at a public meeting:

1767 (A) that the calendar year taxing entity intends to levy a tax rate that exceeds the

1768 calendar year taxing entity's certified tax rate;

1769 (B) the dollar amount of and purpose for additional ad valorem tax revenue that would  
1770 be generated by the proposed increase in the certified tax rate; and

1771 (C) the approximate percentage increase in ad valorem tax revenue for the taxing entity  
1772 based on the proposed increase described in Subsection (3)(a)(i)(B);

1773 (ii) provides notice for the public meeting described in Subsection (3)(a)(i) in  
1774 accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a  
1775 separate item on the meeting agenda that notifies the public that the calendar year taxing entity  
1776 intends to make the statement described in Subsection (3)(a)(i);

1777 (iii) meets the advertisement requirements of Subsections (6) and (7) before the  
1778 calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

1779 (iv) provides ~~[notice by mail:(A)]~~ the notice described in Subsection (3)(c) seven or  
1780 more days before the regular general election or municipal general election held in the current  
1781 calendar year; and

1782 ~~[(B) as provided in Subsection (3)(c); and]~~

1783 (v) conducts a public hearing that is held:

1784 (A) in accordance with Subsections (8) and (9); and

1785 (B) in conjunction with the public hearing required by Section 17-36-13 or 17B-1-610.

1786 (b) (i) For a county executive calendar year taxing entity, the statement described in  
1787 Subsection (3)(a)(i) shall be made by the:

1788 (A) county council;

1789 (B) county executive; or

1790 (C) both the county council and county executive.

1791 (ii) If the county council makes the statement described in Subsection (3)(a)(i) or the  
1792 county council states a dollar amount of additional ad valorem tax revenue that is greater than  
1793 the amount of additional ad valorem tax revenue previously stated by the county executive in  
1794 accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:

1795 (A) make the statement described in Subsection (3)(a)(i) 14 or more days before the  
1796 county executive calendar year taxing entity conducts the public hearing under Subsection  
1797 (3)(a)(v); and

1798 (B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the

1799 county executive calendar year taxing entity conducts the public hearing required by  
1800 Subsection (3)(a)(v).

1801 (c) The notice described in Subsection (3)(a)(iv):

1802 (i) shall be mailed to each owner of property that is:

1803 (A) within the calendar year taxing entity; and

1804 (B) listed on the assessment roll;

1805 (ii) shall be printed on a separate form that:

1806 (A) is developed by the commission;

1807 (B) states at the top of the form, in bold upper-case type no smaller than 18 point  
1808 "NOTICE OF PROPOSED TAX INCREASE"; and

1809 (C) may be mailed with the notice required by Section 59-2-1317;

1810 (iii) shall contain for each property described in Subsection (3)(c)(i):

1811 (A) the value of the property for the current calendar year;

1812 (B) the tax on the property for the current calendar year; and

1813 (C) subject to Subsection (3)(d), for the calendar year for which the calendar year  
1814 taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax  
1815 rate, the estimated tax on the property;

1816 (iv) shall contain the following statement:

1817 "[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar  
1818 year]. This notice contains estimates of the tax on your property and the proposed tax increase  
1819 on your property as a result of this tax increase. These estimates are calculated on the basis of  
1820 [insert previous applicable calendar year] data. The actual tax on your property and proposed  
1821 tax increase on your property may vary from this estimate.";

1822 (v) shall state the date, time, and place of the public hearing described in Subsection  
1823 (3)(a)(v); and

1824 (vi) may contain other property tax information approved by the commission.

1825 (d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall  
1826 calculate the estimated tax on property on the basis of:

1827 (i) data for the current calendar year; and

1828 (ii) the amount of additional ad valorem tax revenue stated in accordance with this  
1829 section.

1830 (4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate  
1831 that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

1832 (a) provides notice by meeting the advertisement requirements of Subsections (6) and  
1833 (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year  
1834 taxing entity's annual budget is adopted; and

1835 (b) conducts a public hearing in accordance with Subsections (8) and (9) before the  
1836 fiscal year taxing entity's annual budget is adopted.

1837 (5) (a) A taxing entity is not required to meet the notice or public hearing requirements  
1838 of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with  
1839 the requirements of this section.

1840 (b) A taxing entity is not required to meet the notice requirements of Subsection (3) or  
1841 (4) if:

1842 (i) Section 53A-17a-133 allows the taxing entity to levy a tax rate that exceeds that  
1843 certified tax rate without having to comply with the notice provisions of this section; or

1844 (ii) the taxing entity:

1845 (A) budgeted less than \$20,000 in ad valorem tax revenues for the previous fiscal year;  
1846 and

1847 (B) sets a budget during the current fiscal year of less than \$20,000 of ad valorem tax  
1848 revenues.

1849 (6) (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this  
1850 section shall be published:

1851 (i) subject to Section 45-1-101, in a newspaper or combination of newspapers of  
1852 general circulation in the taxing entity;

1853 (ii) electronically in accordance with Section 45-1-101; and

1854 (iii) on the Utah Public Notice Website created in Section 63F-1-701.

1855 (b) The advertisement described in Subsection (6)(a)(i) shall:

1856 (i) be no less than 1/4 page in size;

1857 (ii) use type no smaller than 18 point; and

1858 (iii) be surrounded by a 1/4-inch border.

1859 (c) The advertisement described in Subsection (6)(a)(i) may not be placed in that  
1860 portion of the newspaper where legal notices and classified advertisements appear.

1861 (d) It is the intent of the Legislature that:

1862 (i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a  
1863 newspaper that is published at least one day per week; and

1864 (ii) the newspaper or combination of newspapers selected:

1865 (A) be of general interest and readership in the taxing entity; and

1866 (B) not be of limited subject matter.

1867 (e) (i) The advertisement described in Subsection (6)(a)(i) shall:

1868 (A) except as provided in Subsection (6)(f), be run once each week for the two weeks  
1869 before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b);  
1870 and

1871 (B) state that the taxing entity will meet on a certain day, time, and place fixed in the  
1872 advertisement, which shall be seven or more days after the day on which the first advertisement  
1873 is published, for the purpose of hearing comments regarding any proposed increase and to  
1874 explain the reasons for the proposed increase.

1875 (ii) The advertisement described in Subsection (6)(a)(ii) shall:

1876 (A) be published two weeks before a taxing entity conducts a public hearing described  
1877 in Subsection (3)(a)(v) or (4)(b); and

1878 (B) state that the taxing entity will meet on a certain day, time, and place fixed in the  
1879 advertisement, which shall be seven or more days after the day on which the first advertisement  
1880 is published, for the purpose of hearing comments regarding any proposed increase and to  
1881 explain the reasons for the proposed increase.

1882 (f) If a fiscal year taxing entity's public hearing information is published by the county  
1883 auditor in accordance with Section 59-2-919.2, the fiscal year taxing entity is not subject to the  
1884 requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run  
1885 the advertisement once during the week before the fiscal year taxing entity conducts a public  
1886 hearing at which the taxing entity's annual budget is discussed.

1887 (g) For purposes of Subsection (3)(a)(iii) or (4)(a), the form and content of an  
1888 advertisement shall be substantially as follows:

1889 "NOTICE OF PROPOSED TAX INCREASE

1890 (NAME OF TAXING ENTITY)

1891 The (name of the taxing entity) is proposing to increase its property tax revenue.

1892 [~~●~~—The (name of the taxing entity) tax on a (insert the average value of a residence  
1893 in the taxing entity rounded to the nearest thousand dollars) residence would  
1894 increase from \$\_\_\_\_\_ to \$\_\_\_\_\_, which is \$\_\_\_\_\_ per year.]

1895 [~~●~~—The (name of the taxing entity) tax on a (insert the value of a business having  
1896 the same value as the average value of a residence in the taxing entity) business  
1897 would increase from \$\_\_\_\_\_ to \$\_\_\_\_\_, which is \$\_\_\_\_\_ per year.]

1898 ● The (name of the taxing entity) tax on a primary residence in the taxing entity  
1899 will increase from \$\_\_\_\_\_ to \$\_\_\_\_\_ for each \$100,000 of market value,  
1900 which is a \_\_\_\_\_% increase per \$100,000 of market value.

1901 ● The (name of the taxing entity) tax on a business or a secondary residence in the  
1902 taxing entity will increase from \$\_\_\_\_\_ to \$\_\_\_\_\_ for each \$100,000 of  
1903 market value, which is a \_\_\_\_\_% increase per \$100,000 of market value.

1904 ● If the proposed budget is approved, (name of the taxing entity) would increase  
1905 its property tax budgeted revenue by \_\_\_% above last year's property tax  
1906 budgeted revenue excluding eligible new growth.

1907 All concerned citizens are invited to a public hearing on the tax increase.

#### 1908 PUBLIC HEARING

1909 Date/Time: (date) (time)

1910 Location: (name of meeting place and address of meeting place)

1911 To obtain more information regarding the tax increase, citizens may contact the (name  
1912 of the taxing entity) at (phone number of taxing entity)."

1913 (7) The commission:

1914 (a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative  
1915 Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by  
1916 two or more taxing entities; and

1917 (b) subject to Section 45-1-101, may authorize:

1918 (i) the use of a weekly newspaper:

1919 (A) in a county having both daily and weekly newspapers if the weekly newspaper  
1920 would provide equal or greater notice to the taxpayer; and

1921 (B) if the county petitions the commission for the use of the weekly newspaper; or

1922 (ii) the use by a taxing entity of a commission approved direct notice to each taxpayer

1923 if:

1924 (A) the cost of the advertisement would cause undue hardship;

1925 (B) the direct notice is different and separate from that provided for in Section

1926 59-2-919.1; and

1927 (C) the taxing entity petitions the commission for the use of a commission approved

1928 direct notice.

1929 (8) (a) (i) (A) A fiscal year taxing entity shall, on or before March 1, notify the county

1930 legislative body in which the fiscal year taxing entity is located of the date, time, and place of

1931 the first public hearing at which the fiscal year taxing entity's annual budget will be discussed.

1932 (B) A county that receives notice from a fiscal year taxing entity under Subsection

1933 (8)(a)(i)(A) shall include on the notice required by Section 59-2-919.1 the date, time, and place

1934 of the public hearing described in Subsection (8)(a)(i)(A).

1935 (ii) A calendar year taxing entity shall, on or before October 1 of the current calendar

1936 year, notify the county legislative body in which the calendar year taxing entity is located of the

1937 date, time, and place of the first public hearing at which the calendar year taxing entity's annual

1938 budget will be discussed.

1939 (b) (i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be open to the

1940 public.

1941 (ii) The governing body of a taxing entity conducting a public hearing described in

1942 Subsection (3)(a)(v) or (4)(b) shall provide an interested party desiring to be heard an

1943 opportunity to present oral testimony within reasonable time limits.

1944 (c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a

1945 public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing

1946 of another overlapping taxing entity in the same county.

1947 (ii) The taxing entities in which the power to set tax levies is vested in the same

1948 governing board or authority may consolidate the public hearings described in Subsection

1949 (3)(a)(v) or (4)(b) into one public hearing.

1950 (d) A county legislative body shall resolve any conflict in public hearing dates and

1951 times after consultation with each affected taxing entity.

1952 (e) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or

1953 (4)(b) beginning at or after 6 p.m.

1954 (9) (a) If a taxing entity does not make a final decision on budgeting additional ad  
 1955 valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing  
 1956 entity shall announce at that public hearing the scheduled time and place of the next public  
 1957 meeting at which the taxing entity will consider budgeting the additional ad valorem tax  
 1958 revenue.

1959 (b) A calendar year taxing entity may not adopt a final budget that budgets an amount  
 1960 of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem  
 1961 tax revenue stated at a public meeting under Subsection (3)(a)(i).

1962 (c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's  
 1963 certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed  
 1964 annual budget.

1965 Section 20. Section **59-2-919.2** is amended to read:

1966 **59-2-919.2. Consolidated advertisement of public hearings.**

1967 (1) As used in this section:

1968 (a) "Primary residence" means a residence that qualifies for the exemption described in  
 1969 Section 59-2-103.

1970 (b) "Secondary residence" means a residence that does not qualify for the exemption  
 1971 described in Section 59-2-103.

1972 ~~[(1)]~~ (2) (a) Except as provided in Subsection ~~[(1)]~~ (2)(b), on the same day on which a  
 1973 taxing entity provides the notice to the county required under Subsection 59-2-919(8)(a)(i), the  
 1974 taxing entity shall provide to the county auditor the information required by Subsection  
 1975 59-2-919(8)(a)(i).

1976 (b) A taxing entity is not required to notify the county auditor of the taxing entity's  
 1977 public hearing in accordance with Subsection ~~[(1)]~~ (2)(a) if the taxing entity is exempt from the  
 1978 notice requirements ~~[of]~~ described in Section 59-2-919.

1979 ~~[(2)]~~ (3) If as of July 22, two or more taxing entities notify the county auditor under  
 1980 Subsection ~~[(1)]~~ (2), the county auditor shall by no later than July 22 of each year:

1981 (a) compile a list of the taxing entities that notify the county auditor under Subsection  
 1982 ~~[(1)]~~ (2);

1983 (b) include on the list described in Subsection ~~[(2)]~~ (3)(a), the following information  
 1984 for each taxing entity on the list:



- 1985 (i) the name of the taxing entity;
- 1986 (ii) the date, time, and location of the public hearing described in Subsection  
1987 59-2-919(8)(a)(i);
- 1988 (iii) for a primary residence in the taxing entity, the [average] dollar increase [~~on a~~  
1989 ~~residence in the taxing entity~~] for each \$100,000 of market value that the proposed tax increase  
1990 would generate; and
- 1991 (iv) for a business or a secondary residence in the taxing entity, the [average] dollar  
1992 increase [~~on a business in the taxing entity~~] for each \$100,000 of market value that the  
1993 proposed tax increase would generate;
- 1994 (c) provide a copy of the list described in Subsection [~~(2)~~] (3)(a) to each taxing entity  
1995 that notifies the county auditor under Subsection [~~(1)~~] (2); and
- 1996 (d) in addition to the requirements of Subsection [~~(3)~~] (4), if the county has a webpage,  
1997 publish a copy of the list described in Subsection [~~(2)~~] (3)(a) on the county's webpage until  
1998 December 31.
- 1999 [~~(3)~~] (4) (a) At least two weeks before any public hearing included in the list under  
2000 Subsection [~~(2)~~] (3) is held, the county auditor shall publish:
- 2001 (i) the list compiled under Subsection [~~(2)~~] (3); and
- 2002 (ii) a statement that:
- 2003 (A) the list is for informational purposes only;
- 2004 (B) the list should not be relied on to determine a [person's] taxpayer's tax liability  
2005 under this chapter; and
- 2006 (C) for specific information related to the tax liability of a taxpayer, the taxpayer  
2007 should review the taxpayer's tax notice received under Section 59-2-919.1.
- 2008 (b) Except as provided in Subsection [~~(3)~~] (4)(d)(ii), the information described in  
2009 Subsection [~~(3)~~] (4)(a) shall be published:
- 2010 (i) in no less than 1/4 page in size;
- 2011 (ii) in type no smaller than 18 point; and
- 2012 (iii) surrounded by a 1/4-inch border.
- 2013 (c) The published information described in Subsection [~~(3)~~] (4)(a) and published in  
2014 accordance with Subsection [~~(3)~~] (4)(d)(i) may not be placed in the portion of a newspaper  
2015 where a legal notice or classified advertisement appears.

2016 (d) A county auditor shall publish the information described in Subsection [(3)] (4)(a):  
 2017 (i) (A) in a newspaper or combination of newspapers that are:  
 2018 (I) published at least one day per week;  
 2019 (II) of general interest and readership in the county; and  
 2020 (III) not of limited subject matter; and  
 2021 (B) once each week for the two weeks preceding the first hearing included in the list  
 2022 compiled under Subsection [(2)] (3); and  
 2023 (ii) for two weeks preceding the first hearing included in the list compiled under  
 2024 Subsection [(2)] (3):  
 2025 (A) as required in Section 45-1-101; and  
 2026 (B) on the Utah Public Notice Website created in Section 63F-1-701.  
 2027 [(4)] (5) A taxing entity that notifies the county auditor under Subsection [(1)] (2) shall  
 2028 provide the list described in Subsection [(2)] (3)(c) to ~~a person~~ an individual:  
 2029 (a) who attends the public hearing described in Subsection 59-2-919(8)(a)(i) of the  
 2030 taxing entity; or  
 2031 (b) who requests a copy of the list.  
 2032 [(5)] (6) (a) ~~[A] No later than 30 days after the day on which the last publication of the~~  
 2033 information required by Subsection (4)(a) is made, a county auditor shall [by no later than 30  
 2034 days from the day on which the last publication of the information required by Subsection  
 2035 (3)(a) is made]:  
 2036 (i) determine the costs of compiling and publishing the list; and  
 2037 (ii) charge each taxing entity included on the list an amount calculated by dividing the  
 2038 amount determined under Subsection [(5)] (6)(a) by the number of taxing entities on the list.  
 2039 (b) A taxing entity shall pay the county auditor the amount charged under Subsection  
 2040 [(5)] (6)(a).  
 2041 [(6)] (7) The publication of the list under this section does not remove or change the  
 2042 notice requirements of Section 59-2-919 for a taxing entity.  
 2043 [(7)] (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
 2044 Act, the commission may make rules:  
 2045 (a) relating to the publication of a consolidated advertisement ~~[which]~~ that includes the  
 2046 information described in Subsection [(2)] (3) for a taxing entity that overlaps two or more

2047 counties;

2048 (b) relating to the payment required in Subsection [(5)] (6)(b); and

2049 (c) to oversee the administration of this section and provide for uniform

2050 implementation.

2051 Section 21. Section **59-2-926** is amended to read:

2052 **59-2-926. Proposed tax increase by state -- Notice -- Contents -- Dates.**

2053 If the state authorizes a [~~levy pursuant to Section 53A-17a-135~~] a tax rate that exceeds

2054 the [~~certified revenue levy as defined in Section 53A-17a-103~~] applicable tax rate described in

2055 Section 53A-17a-135 or authorizes a levy pursuant to Section 59-2-1602 that exceeds the

2056 certified revenue levy as defined in Section 59-2-102, the state shall publish a notice no later

2057 than 10 days after the last day of the annual legislative general session that meets the following

2058 requirements:

2059 (1) (a) The Office of the Legislative Fiscal Analyst shall advertise that the state

2060 authorized a tax rate or a levy that generates revenue in excess of the previous year's ad

2061 valorem tax revenue, plus eligible new growth as defined in Section 59-2-924, but exclusive of

2062 revenue from collections from redemptions, interest, and penalties:

2063 (i) in a newspaper of general circulation in the state; and

2064 (ii) as required in Section 45-1-101.

2065 (b) Except an advertisement published on a website, the advertisement described in

2066 Subsection (1)(a):

2067 (i) shall be no less than 1/4 page in size and the type used shall be no smaller than 18

2068 point, and surrounded by a 1/4-inch border;

2069 (ii) may not be placed in that portion of the newspaper where legal notices and

2070 classified advertisements appear; and

2071 (iii) shall be run once.

2072 (2) The form and content of the notice shall be substantially as follows:

2073 "NOTICE OF TAX INCREASE

2074 The state has budgeted an increase in its property tax revenue from \$\_\_\_\_\_ to

2075 \$\_\_\_\_\_ or \_\_\_\_%. The increase in property tax revenues will come from the following

2076 sources (include all of the following provisions):

2077 (a) \$\_\_\_\_\_ of the increase will come from (provide an explanation of the cause

2078 of adjustment or increased revenues, such as reappraisals or factoring orders);

2079 (b) \$\_\_\_\_\_ of the increase will come from natural increases in the value of the  
2080 tax base due to (explain cause of eligible new growth, such as new building activity,  
2081 annexation, etc.);

2082 (c) a home valued at \$100,000 in the state of Utah which based on last year's (~~levy~~  
2083 applicable tax rate for the basic state-supported school program, levy for the Property Tax  
2084 Valuation Agency Fund, or both) paid \$\_\_\_\_\_ in property taxes would pay the  
2085 following:

2086 (i) \$\_\_\_\_\_ if the state of Utah did not budget an increase in property tax revenue  
2087 exclusive of eligible new growth; and

2088 (ii) \$\_\_\_\_\_ under the increased property tax revenues exclusive of eligible new  
2089 growth budgeted by the state of Utah."

2090 Section 22. Section **59-7-101** is amended to read:

2091 **59-7-101. Definitions.**

2092 As used in this chapter:

2093 (1) "Adjusted income" means unadjusted income as modified by Sections 59-7-105  
2094 and 59-7-106.

2095 (2) (a) "Affiliated group" means one or more chains of corporations that are connected  
2096 through stock ownership with a common parent corporation that meet the following  
2097 requirements:

2098 (i) at least 80% of the stock of each of the corporations in the group, excluding the  
2099 common parent corporation, is owned by one or more of the other corporations in the group;  
2100 and

2101 (ii) the common parent directly owns at least 80% of the stock of at least one of the  
2102 corporations in the group.

2103 (b) "Affiliated group" does not include corporations that are qualified to do business  
2104 but are not otherwise doing business in this state.

2105 (c) For purposes of this Subsection (2), "stock" does not include nonvoting stock which  
2106 is limited and preferred as to dividends.

2107 (3) "Apportionable income" means adjusted income less nonbusiness income net of  
2108 related expenses, to the extent included in adjusted income.

- 2109 (4) "Apportioned income" means apportionable income multiplied by the  
2110 apportionment fraction as determined in Section 59-7-311.
- 2111 (5) "Business income" [~~is as~~] means the same as that term is defined in Section  
2112 59-7-302.
- 2113 (6) (a) "Captive real estate investment trust" means a real estate investment trust if:  
2114 (i) the shares or beneficial interests of the real estate investment trust are not regularly  
2115 traded on an established securities market; and  
2116 (ii) more than 50% of the voting power or value of the shares or beneficial interests of  
2117 the real estate investment trust are directly, indirectly, or constructively:  
2118 (A) owned by a controlling entity of the real estate investment trust; or  
2119 (B) controlled by a controlling entity of the real estate investment trust.
- 2120 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2121 commission may make rules defining "established securities market."
- 2122 (7) (a) "Common ownership" means the direct or indirect control or ownership of more  
2123 than 50% of the outstanding voting stock of:  
2124 (i) a parent-subsidiary controlled group as that term is defined in Section 1563, Internal  
2125 Revenue Code, except that 50% shall be substituted for 80%;  
2126 (ii) a brother-sister controlled group as that term is defined in Section 1563, Internal  
2127 Revenue Code; or  
2128 (iii) three or more corporations each of which is a member of a group of corporations  
2129 described in Subsection (2)(a)(i) or (ii), and one of which is:  
2130 (A) a common parent corporation included in a group of corporations described in  
2131 Subsection (2)(a)(i); and  
2132 (B) included in a group of corporations described in Subsection (2)(a)(ii).
- 2133 (b) Ownership of outstanding voting stock shall be determined by Section 1563,  
2134 Internal Revenue Code.
- 2135 (8) (a) "Controlling entity of a captive real estate investment trust" means an entity  
2136 that:  
2137 (i) is treated as an association taxable as a corporation under the Internal Revenue  
2138 Code;  
2139 (ii) is not exempt from federal income taxation under Section 501(a), Internal Revenue

2140 Code; and

2141 (iii) directly, indirectly, or constructively holds more than 50% of:

2142 (A) the voting power of a captive real estate investment trust; or

2143 (B) the value of the shares or beneficial interests of a captive real estate investment

2144 trust.

2145 (b) "Controlling entity of a captive real estate investment trust" does not include:

2146 (i) a real estate investment trust, except for a captive real estate investment trust;

2147 (ii) a qualified real estate investment subsidiary described in Section 856(i), Internal

2148 Revenue Code, except for a qualified real estate investment trust subsidiary of a captive real

2149 estate investment trust; or

2150 (iii) a foreign real estate investment trust.

2151 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2152 commission may make rules defining "established securities market."

2153 (9) "Corporate return" or "return" includes a combined report.

2154 (10) "Corporation" includes:

2155 (a) entities defined as corporations under Sections 7701(a) and 7704, Internal Revenue

2156 Code; and

2157 (b) other organizations that are taxed as corporations for federal income tax purposes

2158 under the Internal Revenue Code.

2159 (11) "Dividend" means any distribution, including money or other type of property,

2160 made by a corporation to its shareholders out of its earnings or profits accumulated after

2161 December 31, 1930.

2162 (12) (a) "Doing business" includes any transaction in the course of [~~its~~] business by a

2163 domestic corporation[;] or by a foreign corporation qualified to do or doing [~~intrastate~~]

2164 business in this state.

2165 (b) Except as provided in Subsection (12)(c) or Subsection 59-7-102(3), "doing

2166 business" includes:

2167 (i) the right to do business through incorporation or qualification;

2168 (ii) the owning, renting, or leasing of real or personal property within this state; [~~and~~]

2169 (iii) the participation in joint ventures, working and operating agreements, the

2170 performance of which takes place in this state[;];

2171 (iv) selling or performing services in this state if the customer receives the greater  
2172 benefit of the service in this state; and

2173 (v) earning income from the use of intangible property in this state.

2174 (c) "Doing business" does not include the business activity of a corporation if the  
2175 corporation's only business activity within the state is the solicitation of orders for sales of  
2176 tangible personal property that are protected under 15 U.S.C. Sec. 381.

2177 (13) "Domestic corporation" means a corporation that is incorporated or organized  
2178 under the laws of this state.

2179 (14) "Exercising a corporate franchise" does not include the business activity of a  
2180 corporation if the corporation's only business activity within the state is the solicitation of  
2181 orders for sales of tangible personal property that are protected under 15 U.S.C. Sec. 381.

2182 ~~[(14)]~~ (15) (a) "Farmers' cooperative" means an association, corporation, or other  
2183 organization that is:

2184 (i) (A) an association, corporation, or other organization of ~~[(14)]~~ farmers~~[:]~~ or ~~[(14)]~~ fruit  
2185 growers; or

2186 (B) an association, corporation, or other organization that is similar to an association,  
2187 corporation, or organization described in Subsection ~~[(14)]~~ (15)(a)(i)(A); and

2188 (ii) organized and operated on a cooperative basis to:

2189 (A) (I) market the products of members of the cooperative or the products of other  
2190 producers; and

2191 (II) return to the members of the cooperative or other producers the proceeds of sales  
2192 less necessary marketing expenses on the basis of the quantity of the products of a member or  
2193 producer or the value of the products of a member or producer; or

2194 (B) (I) purchase supplies and equipment for the use of members of the cooperative or  
2195 other persons; and

2196 (II) turn over the supplies and equipment described in Subsection ~~[(14)]~~  
2197 (15)(a)(ii)(B)(I) at actual costs plus necessary expenses to the members of the cooperative or  
2198 other persons.

2199 (b) (i) Subject to Subsection ~~[(14)]~~ (15)(b)(ii), for purposes of this Subsection ~~[(14)]~~  
2200 (15), the commission by rule, made in accordance with Title 63G, Chapter 3, Utah  
2201 Administrative Rulemaking Act, shall define:

2202 (A) the terms~~[(F)]~~ "member"~~[:]~~ and ~~[(H)]~~ "producer"; and

2203 (B) what constitutes an association, corporation, or other organization that is similar to

2204 an association, corporation, or organization described in Subsection ~~[(14)]~~ (15)(a)(i)(A).

2205 (ii) The rules made under this Subsection ~~[(14)]~~ (15)(b) shall be consistent with the

2206 filing requirements under federal law for a farmers' cooperative.

2207 ~~[(15)]~~ (16) "Foreign corporation" means a corporation that is not incorporated or

2208 organized under the laws of this state.

2209 ~~[(16)]~~ (17) (a) "Foreign operating company" means a corporation if:

2210 (i) the corporation is incorporated in the United States;

2211 (ii) at least 80% of the corporation's business activity, as determined under Section

2212 59-7-401, is conducted outside the United States; and

2213 (iii) as calculated in accordance with Part 3, Allocation and Apportionment of Income -

2214 Utah UDITPA Provisions, the corporation has:

2215 (A) at least \$1,000,000 of payroll located outside the United States; and

2216 (B) at least \$2,000,000 of property located outside the United States.

2217 (b) "Foreign operating company" does not include a corporation that qualifies for the

2218 Puerto Rico and possession tax credit as provided in Section 936, Internal Revenue Code.

2219 ~~[(17)]~~ (18) (a) "Foreign real estate investment trust" means:

2220 (i) a business entity organized outside the laws of the United States if:

2221 (A) at least 75% of the business entity's total asset value at the close of the business

2222 entity's taxable year is represented by:

2223 (I) real estate assets, as that term is defined in Section 856(c)(5)(B), Internal Revenue

2224 Code;

2225 (II) cash or cash equivalents; or

2226 (III) one or more securities issued or guaranteed by the United States;

2227 (B) the business entity is:

2228 (I) not subject to income taxation:

2229 (Aa) on amounts distributed to the business entity's beneficial owners; and

2230 (Bb) in the jurisdiction in which the business entity is organized; or

2231 (II) exempt from income taxation on an entity level in the jurisdiction in which the

2232 business entity is organized;



2233 (C) the business entity distributes at least 85% of the business entity's taxable income,  
 2234 as computed in the jurisdiction in which the business entity is organized, to the holders of the  
 2235 business entity's:

2236 (I) shares or beneficial interests; and  
 2237 (II) on an annual basis;

2238 (D) (I) not more than 10% of the following is held directly, indirectly, or constructively  
 2239 by a single person:

2240 (Aa) the voting power of the business entity; or  
 2241 (Bb) the value of the shares or beneficial interests of the business entity; or  
 2242 (II) the shares of the business entity are regularly traded on an established securities  
 2243 market; and

2244 (E) the business entity is organized in a country that has a tax treaty with the United  
 2245 States; or

2246 (ii) a listed Australian property trust.

2247 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
 2248 commission may make rules defining:

2249 (i) "cash or cash equivalents";  
 2250 (ii) "established securities market"; or  
 2251 (iii) "listed Australian property trust."

2252 [~~(18)~~] (19) "Income" includes losses.  
 2253 [~~(19)~~] (20) "Internal Revenue Code" means Title 26 of the United States Code as  
 2254 effective during the year in which Utah taxable income is determined.

2255 [~~(20)~~] (21) "Nonbusiness income" [~~is as~~] means the same as that term is defined in  
 2256 Section 59-7-302.

2257 [~~(21)~~] (22) "Real estate investment trust" [~~is as~~] means the same as that term is defined  
 2258 in Section 856, Internal Revenue Code.

2259 [~~(22)~~] (23) "Related expenses" means:

2260 (a) expenses directly attributable to nonbusiness income; and  
 2261 (b) the portion of interest or other expense indirectly attributable to both nonbusiness  
 2262 and business income which bears the same ratio to the aggregate amount of such interest or  
 2263 other expense, determined without regard to this Subsection [~~(22)~~] (23), as the average amount

2264 of the asset producing the nonbusiness income bears to the average amount of all assets of the  
2265 taxpayer within the taxable year.

2266 ~~[(23)]~~ (24) "Safe harbor lease" means a lease that qualified as a safe harbor lease under  
2267 Section 168, Internal Revenue Code.

2268 ~~[(24)]~~ (25) "S corporation" means an S corporation as that term is defined in Section  
2269 1361, Internal Revenue Code.

2270 ~~[(25)]~~ (26) "State of the United States" includes any of the 50 states or the District of  
2271 Columbia.

2272 ~~[(26)]~~ (27) (a) "Taxable year" means the calendar year or the fiscal year ending during  
2273 such calendar year upon the basis of which the adjusted income is computed.

2274 (b) In the case of a return made for a fractional part of a year under this chapter or  
2275 under rules prescribed by the commission, "taxable year" includes the period for which such  
2276 return is made.

2277 ~~[(27)]~~ (28) "Taxpayer" means any corporation subject to the tax imposed by this  
2278 chapter.

2279 ~~[(28)]~~ (29) "Threshold level of business activity" means business activity in the United  
2280 States equal to or greater than 20% of the corporation's total business activity as determined  
2281 under Section 59-7-401.

2282 ~~[(29)]~~ (30) "Unadjusted income" means federal taxable income as determined on a  
2283 separate return basis before intercompany eliminations as determined by the Internal Revenue  
2284 Code, before the net operating loss deduction and special deductions for dividends received.

2285 ~~[(30)]~~ (31) (a) "Unitary group" means a group of corporations that:

2286 (i) are related through common ownership; and

2287 (ii) by a preponderance of the evidence as determined by a court of competent  
2288 jurisdiction or the commission, are economically interdependent with one another as  
2289 demonstrated by the following factors:

2290 (A) centralized management;

2291 (B) functional integration; and

2292 (C) economies of scale.

2293 (b) "Unitary group" includes a captive real estate investment trust.

2294 (c) "Unitary group" does not include an S corporation.

2295 ~~[(31)]~~ (32) "United States" includes the 50 states and the District of Columbia.

2296 ~~[(32)]~~ (33) "Utah net loss" means the current year Utah taxable income before Utah net  
2297 loss deduction, if determined to be less than zero.

2298 ~~[(33)]~~ (34) "Utah net loss deduction" means the amount of Utah net losses from other  
2299 taxable years that ~~[may be carried back or carried]~~ a taxpayer may carry forward to the current  
2300 taxable year in accordance with Section 59-7-110.

2301 ~~[(34)]~~ (35) (a) "Utah taxable income" means Utah taxable income before net loss  
2302 deduction less Utah net loss deduction.

2303 (b) "Utah taxable income" includes income from tangible or intangible property located  
2304 or having situs in this state, regardless of whether carried on in intrastate, interstate, or foreign  
2305 commerce.

2306 ~~[(35)]~~ (36) "Utah taxable income before net loss deduction" means apportioned income  
2307 plus nonbusiness income allocable to Utah net of related expenses.

2308 ~~[(36)]~~ (37) (a) "Water's edge combined report" means a report combining the income  
2309 and activities of:

2310 (i) all members of a unitary group that are:

2311 (A) corporations organized or incorporated in the United States, including those  
2312 corporations qualifying for the Puerto Rico and Possession Tax Credit as provided in Section  
2313 936, Internal Revenue Code, in accordance with Subsection ~~[(36)]~~ (37)(b); and

2314 (B) corporations organized or incorporated outside of the United States meeting the  
2315 threshold level of business activity; and

2316 (ii) an affiliated group electing to file a water's edge combined report under Subsection  
2317 59-7-402(2).

2318 (b) There is a rebuttable presumption that a corporation which qualifies for the Puerto  
2319 Rico and possession tax credit provided in Section 936, Internal Revenue Code, is part of a  
2320 unitary group.

2321 ~~[(37)]~~ (38) "Worldwide combined report" means the combination of the income and  
2322 activities of all members of a unitary group irrespective of the country in which the  
2323 corporations are incorporated or conduct business activity.

2324 Section 23. Section **59-7-104** is amended to read:

2325 **59-7-104. Tax -- Minimum tax.**

2326 (1) Each domestic and foreign corporation, except ~~[those]~~ a corporation exempted  
 2327 under Section 59-7-102, shall pay an annual tax to the state based on ~~[its]~~ the corporation's  
 2328 Utah taxable income for the taxable year for the privilege of exercising ~~[its]~~ a corporate  
 2329 franchise, as that term is defined in Section 59-7-101, or for the privilege of doing business, as  
 2330 that term is defined in Section 59-7-101, in the state.

2331 (2) The tax shall be 5% of a corporation's Utah taxable income.

2332 (3) The minimum tax a corporation shall pay under this chapter is \$100.

2333 Section 24. Section **59-7-110** is amended to read:

2334 **59-7-110. Utah net losses -- Carryforwards and carrybacks -- Deduction.**

2335 (1) ~~[The amount of Utah net loss that shall be carried back or]~~ A taxpayer shall  
 2336 determine the amount of Utah net loss that the taxpayer may carry forward to offset income of  
 2337 another taxable year [is determined] as provided in this section.

2338 ~~[(2)(a) Subject to the other provisions of this section, a Utah net loss from a taxable~~  
 2339 ~~year beginning before January 1, 1994, shall be carried back three taxable years preceding the~~  
 2340 ~~taxable year of the loss and any remaining loss shall be carried forward five taxable years~~  
 2341 ~~following the taxable year of the loss.]~~

2342 ~~[(b)(i) (2) Subject to the other provisions of this section, a [Utah net loss from a~~  
 2343 ~~taxable year beginning on or after January 1, 1994, may be carried back three taxable years~~  
 2344 ~~preceding the taxable year of the loss and carried forward] taxpayer:~~

2345 (a) may carry forward a Utah net loss from a taxable year for 15 taxable years  
 2346 following the taxable year of the loss[:]; and

2347 (b) may not carry back a Utah net loss from a taxable year.

2348 ~~[(ii) If an election is made to forego the federal net operating loss carryback, a Utah net~~  
 2349 ~~loss is not eligible to be carried back unless an election is made for state purposes:]~~

2350 (3) A taxpayer that carries forward a Utah net loss shall carry forward the Utah net loss  
 2351 [shall be carried] to the earliest eligible year for which the Utah taxable income before net loss  
 2352 deduction, minus Utah net losses from previous years that [were applied or required to be  
 2353 applied] a taxpayer applied or was required to apply to offset income, is not less than zero.

2354 (4) ~~[(a) Except as provided in Subsection (4)(b), the]~~ The amount of Utah net loss that  
 2355 [shall be carried] a taxpayer may carry to the year identified in Subsection (3) is the lesser of:

2356 [(i)] (a) the remaining Utah net loss after deduction of any amounts of the Utah net loss

2357 that ~~[were]~~ a taxpayer carried to previous years; or

2358 ~~[(iii)]~~ (b) the remaining Utah taxable income before net loss deduction of the year  
2359 identified in Subsection (3) after deduction of Utah net losses from previous years that ~~[were~~  
2360 ~~carried or required to be carried]~~ a taxpayer carried or was required to carry to the year  
2361 identified in Subsection (3).

2362 ~~[(b) (i)]~~ The amount of Utah net loss carried back from a taxable year may not exceed  
2363 \$1,000,000 in Utah taxable income for each return filed under this chapter in a taxable year.]

2364 ~~[(ii)]~~ A Utah net loss in excess of \$1,000,000 may be carried forward.]

2365 ~~[(iii)]~~ A remaining Utah net loss shall be available to be carried to one or more taxable  
2366 years in accordance with this section.]

2367 (5) (a) (i) Subject to Subsection (5)(a)(ii), a corporation acquiring the assets or stock of  
2368 another corporation may not deduct any net loss incurred by the acquired corporation prior to  
2369 the date of acquisition.

2370 (ii) Subsection (5)(a)(i) does not apply if the only change in the corporation is that of  
2371 the state of incorporation.

2372 (b) An acquired corporation may deduct the acquired corporation's net losses incurred  
2373 before the date of acquisition against the acquired corporation's separate income as calculated  
2374 under Subsections (6) and (7) if the acquired corporation has continued to carry on a trade or  
2375 business substantially the same as that conducted before the acquisition.

2376 (6) For purposes of Subsection (5)(b), the amount of net loss an acquired corporation  
2377 that is acquired by a unitary group may deduct is calculated by:

2378 (a) subject to Subsection (7):

2379 (i) except as provided in Subsection (6)(a)(ii), calculating the sum of:

2380 (A) an amount determined by dividing the average value of the acquired corporation's  
2381 real and tangible personal property owned or rented and used in this state during the taxable  
2382 year by the average value of all of the unitary group's real and tangible personal property owned  
2383 or rented and used during the taxable year;

2384 (B) an amount determined by dividing the total amount paid in this state during the  
2385 taxable year by the acquired corporation for compensation by the total compensation paid  
2386 everywhere by the unitary group during the taxable year; and

2387 (C) an amount determined by ~~[-(F)]~~ dividing the total sales of the acquired corporation

2388 in this state during the taxable year by the total sales of the unitary group everywhere during the  
 2389 taxable year; ~~and~~ or

2390 ~~[(H) if the unitary group elects to calculate the fraction for apportioning business~~  
 2391 ~~income to this state using the method described in Subsection 59-7-311(2)(b), multiplying the~~  
 2392 ~~amount calculated under Subsection (6)(a)(i)(C)(I) by two; or]~~

2393 (ii) if the unitary group is required or elects to calculate the fraction for apportioning  
 2394 business income to this state using the method described in Subsection 59-7-311~~(3)~~(2),  
 2395 calculating an amount determined by dividing the total sales of the acquired corporation in this  
 2396 state during the taxable year by the total sales of the unitary group everywhere during the  
 2397 taxable year;

2398 (b) dividing the amount calculated under Subsection (6)(a) by the same denominator of  
 2399 the fraction the unitary group uses to apportion business income to this state~~[(i)]~~ for that  
 2400 taxable year~~[(i)]~~ in accordance with Section 59-7-311;

2401 (c) multiplying the amount calculated under Subsection (6)(b) by the business income  
 2402 of the unitary group for the taxable year that is subject to apportionment under Section  
 2403 59-7-311; and

2404 (d) calculating the sum of:

2405 (i) the amount calculated under Subsection (6)(c); and

2406 (ii) the following amounts allocable to the acquired corporation for the taxable year:

2407 (A) nonbusiness income allocable to this state; or

2408 (B) nonbusiness loss allocable to this state.

2409 (7) The amounts calculated under Subsection (6)(a) shall be derived in the same  
 2410 manner as those amounts are derived for purposes of apportioning the unitary group's business  
 2411 income before deducting the net loss, including a modification made in accordance with  
 2412 Section 59-7-320.

2413 Section 25. Section **59-7-302 (Effective 01/01/18)** is amended to read:

2414 **59-7-302 (Effective 01/01/18). Definitions -- Determination of taxpayer status.**

2415 (1) As used in this part, unless the context otherwise requires:

2416 (a) "Aircraft type" means a particular model of aircraft as designated by the  
 2417 manufacturer of the aircraft.

2418 (b) "Airline" means the same as that term is defined in Section 59-2-102.

2419 (c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during  
2420 the airline's tax period.

2421 (d) "Business income" means income arising from transactions and activity in the  
2422 regular course of the taxpayer's trade or business and includes income from tangible and  
2423 intangible property if the acquisition, management, and disposition of the property constitutes  
2424 integral parts of the taxpayer's regular trade or business operations.

2425 (e) "Commercial domicile" means the principal place from which the trade or business  
2426 of the taxpayer is directed or managed.

2427 (f) "Compensation" means wages, salaries, commissions, and any other form of  
2428 remuneration paid to employees for personal services.

2429 (g) "Excluded NAICS code" means a NAICS code of the 2017 North American  
2430 Industry Classification System of the federal Executive Office of the President, Office of  
2431 Management and Budget, within:

2432 (i) NAICS Code 211120, Crude Petroleum Extraction;

2433 (ii) NAICS Industry Group 2121, Coal Mining;

2434 (iii) NAICS Industry Group 2212, Natural Gas Distribution;

2435 (iv) NAICS Subsector 311, Food Manufacturing;

2436 (v) NAICS Industry Group 3121, Beverage Manufacturing;

2437 (vi) NAICS Code 327310, Cement Manufacturing;

2438 (vii) NAICS Subsector 482, Rail Transportation; or

2439 (viii) NAICS Code 522110, Commercial Banking.

2440 [~~(g)~~] (h) (i) Except as provided in Subsection (1)[~~(g)~~](h)(ii), "mobile flight equipment"  
2441 means the same as that term is defined in Section 59-2-102.

2442 (ii) "Mobile flight equipment" does not include:

2443 (A) a spare engine; or

2444 (B) tangible personal property described in Subsection 59-2-102(27) owned by an air  
2445 charter service or an air contract service.

2446 [~~(h)~~] (i) "Nonbusiness income" means all income other than business income.

2447 [~~(i)~~ Subject to Subsection (2), "optional sales factor weighted taxpayer" means:]

2448 [~~(i)~~ for a taxpayer that is not a unitary group, regardless of the number of economic

2449 activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer's total sales

2450 everywhere generated by economic activities performed by the taxpayer if the economic  
 2451 activities are classified in a NAICS code within NAICS Subsector 334, Computer and  
 2452 Electronic Product Manufacturing, of the 2002 or 2007 North American Industry Classification  
 2453 System of the federal Executive Office of the President, Office of Management and Budget; or]  
 2454 [(ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the  
 2455 taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if  
 2456 the economic activities are classified in a NAICS code within NAICS Subsector 334,  
 2457 Computer and Electronic Product Manufacturing, of the 2002 or 2007 North American  
 2458 Industry Classification System of the federal Executive Office of the President, Office of  
 2459 Management and Budget.]

2460 (j) "Optional apportionment taxpayer" means a taxpayer described in Subsection (3).

2461 (k) "Phased-in sales factor weighted taxpayer" means a taxpayer that:

2462 (i) is not a sales factor weighted taxpayer;

2463 (ii) except as provided in Subsection (1)(k)(iii), does not meet the definition of an  
 2464 optional apportionment taxpayer; or

2465 (iii) (A) meets the definition of an optional apportionment taxpayer; and

2466 (B) apportioned business income using the method described in Subsection  
 2467 59-7-311(4) during the previous taxable year.

2468 [(j)] (l) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.

2469 [(k)] (m) "Sales" means all gross receipts of the taxpayer not allocated under Sections  
 2470 59-7-306 through 59-7-310.

2471 [(h)] (n) [~~Subject to Subsection (2), "sales]~~ "Sales factor weighted taxpayer" means[:] a  
 2472 taxpayer described in Subsection (2).

2473 [(i) for a taxpayer that is not a unitary group, regardless of the number of economic  
 2474 activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer's total sales  
 2475 everywhere generated by economic activities performed by the taxpayer if the economic  
 2476 activities are classified in a NAICS code of the 2002 or 2007 North American Industry  
 2477 Classification System of the federal Executive Office of the President, Office of Management  
 2478 and Budget, except for:]

2479 [(A) a NAICS code within NAICS Sector 21, Mining;]

2480 [(B) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;]



- 2481 ~~[(C) a NAICS code within NAICS Sector 31-33, Manufacturing, other than NAICS~~  
 2482 ~~Code 336111, Automobile Manufacturing;]~~
- 2483 ~~[(D) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;]~~
- 2484 ~~[(E) a NAICS code within NAICS Sector 51, Information, other than NAICS Subsector~~  
 2485 ~~519, Other Information Services; or]~~
- 2486 ~~[(F) a NAICS code within NAICS Sector 52, Finance and Insurance; or]~~
- 2487 ~~[(ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the~~  
 2488 ~~taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if~~  
 2489 ~~the economic activities are classified in a NAICS code of the 2002 or 2007 North American~~  
 2490 ~~Industry Classification System of the federal Executive Office of the President, Office of~~  
 2491 ~~Management and Budget, except for a NAICS code under Subsections (1)(i)(A) through (F).]~~
- 2492 ~~[(m)]~~ (o) "State" means any state of the United States, the District of Columbia, the  
 2493 Commonwealth of Puerto Rico, any territory or possession of the United States, and any  
 2494 foreign country or political subdivision thereof.
- 2495 ~~[(n)]~~ (p) "Transportation revenue" means revenue an airline earns from:  
 2496 (i) transporting a passenger or cargo; or  
 2497 (ii) from miscellaneous sales of merchandise as part of providing transportation  
 2498 services.
- 2499 ~~[(o)]~~ (q) "Utah revenue ton miles" means, for an airline, the total revenue ton miles  
 2500 within the borders of this state:  
 2501 (i) during the airline's tax period; and  
 2502 (ii) from flight stages that originate or terminate in this state.
- 2503 ~~[(2) The following apply to Subsections (1)(i) and (1):]~~
- 2504 ~~[(a) (i) Subject to the other provisions of this Subsection (2), for each taxable year, a~~  
 2505 ~~taxpayer shall determine whether the taxpayer is a sales factor weighted taxpayer.]~~
- 2506 (2) (a) A taxpayer is a sales factor weighted taxpayer if, regardless of the number of  
 2507 economic activities the taxpayer performs, the taxpayer generates greater than 50% of the  
 2508 taxpayer's total sales everywhere from economic activities that are classified in a NAICS code  
 2509 of the 2002 or 2007 North American Industry Classification System of the federal Executive  
 2510 Office of the President, Office of Management and Budget, other than:
- 2511 (i) a NAICS code within NAICS Sector 21, Mining;

- 2512 (ii) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;  
 2513 (iii) a NAICS code within NAICS Sector 31-33, Manufacturing, except NAICS Code  
 2514 336111, Automobile Manufacturing;  
 2515 (iv) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;  
 2516 (v) a NAICS code within NAICS Sector 51, Information, except NAICS Subsector  
 2517 519, Other Information Services; or  
 2518 (vi) a NAICS code within NAICS Sector 52, Finance and Insurance.
- 2519 ~~[(ii)]~~ (b) A taxpayer shall [make the determination required by Subsection (2)(a)(i)]  
 2520 determine if the taxpayer is a sales factor weighted taxpayer each year before the due date for  
 2521 filing the taxpayer's return under this chapter for the taxable year, including extensions.
- 2522 ~~[(iii)]~~ (c) For purposes of making the determination required by Subsection (2)(a)[(i)],  
 2523 total sales everywhere include only the total sales everywhere:
- 2524 ~~[(A)]~~ (i) as determined in accordance with this part; and  
 2525 ~~[(B)]~~ (ii) made during the taxable year for which a taxpayer makes the determination  
 2526 required by Subsection (2)(a)[(i)].
- 2527 (3) (a) A taxpayer is an optional apportionment taxpayer if the average calculated in  
 2528 accordance with Subsection (3)(b) is greater than .50.
- 2529 (b) To calculate the average described in Subsection (3)(a), a taxpayer shall:
- 2530 (i) calculate the following two fractions:
- 2531 (A) the property factor fraction as described in Subsection 59-7-312(3); and  
 2532 (B) the payroll factor fraction as described in Subsection 59-7-315(3);
- 2533 (ii) add together the fractions described in Subsection (3)(b)(i); and  
 2534 (iii) divide the sum calculated in Subsection (3)(b)(ii):
- 2535 (A) except as provided in Subsection (3)(b)(iii)(B), by two; or  
 2536 (B) if either the property factor fraction or the payroll factor fraction has a denominator  
 2537 of zero or is excluded in accordance with Subsection 59-7-312(3)(b) or 59-7-315(3)(b), by one.
- 2538 (c) A taxpayer shall determine if the taxpayer is an optional apportionment taxpayer  
 2539 before the due date for filing the taxpayer's return under this chapter for the taxable year,  
 2540 including extensions.
- 2541 ~~[(b) (i) (A) Subject to other provisions of this Subsection (2), for each taxable year, a~~  
 2542 ~~taxpayer that is not a sales factor weighted taxpayer may determine whether the taxpayer is an~~

2543 optional sales factor weighted taxpayer.]

2544 ~~[(B) A taxpayer that is not a sales factor weighted taxpayer shall determine that the~~  
 2545 ~~taxpayer is an optional sales factor weighted taxpayer before the taxpayer may use the~~  
 2546 ~~apportionment options described in Subsection 59-7-311(4).]~~

2547 ~~[(ii) A taxpayer making the determination described in Subsection (2)(b)(i) shall make~~  
 2548 ~~the determination before the due date for filing the taxpayer's return under this chapter for the~~  
 2549 ~~taxable year, including extensions.]~~

2550 ~~[(iii) For purposes of making the determination described in Subsection (2)(b)(i), total~~  
 2551 ~~sales everywhere include only the total sales everywhere.]~~

2552 ~~[(A) as determined in accordance with this part; and]~~

2553 ~~[(B) made during the taxable year for which a taxpayer makes a determination~~  
 2554 ~~described in Subsection (2)(b)(i).]~~

2555 ~~[(c)]~~ (4) A taxpayer that files a return as a unitary group for a taxable year is considered  
 2556 to be a unitary group for that taxable year.

2557 ~~[(d)]~~ (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
 2558 Act, the commission may define the term "economic activity" consistent with the use of the  
 2559 term "activity" in the 2007 North American Industry Classification System of the federal  
 2560 Executive Office of the President, Office of Management and Budget.

2561 Section 26. Section **59-7-311** is amended to read:

2562 **59-7-311. Method of apportionment of business income.**

2563 (1) For a taxable year, a taxpayer shall apportion all business income [~~shall be~~  
 2564 ~~apportioned~~] to this state by multiplying the business income by a fraction calculated as  
 2565 provided in this section.

2566 ~~[(2) Subject to the other provisions of this part, a taxpayer, except for a sales factor~~  
 2567 ~~weighted taxpayer and an optional sales factor weighted taxpayer, shall calculate the fraction~~  
 2568 ~~for apportioning business income to this state using one of the following fractions:]~~

2569 ~~[(a) a fraction where:]~~

2570 ~~[(i) the numerator of the fraction is the sum of:]~~

2571 ~~[(A) the property factor as calculated under Section 59-7-312;]~~

2572 ~~[(B) the payroll factor as calculated under Section 59-7-315; and]~~

2573 ~~[(C) the sales factor as calculated under Section 59-7-317; and]~~

2574 ~~[(ii) the denominator of the fraction is three; or]~~  
 2575 ~~[(b) a fraction where:]~~  
 2576 ~~[(i) the numerator of the fraction is the sum of:]~~  
 2577 ~~[(A) the property factor as calculated under Section 59-7-312;]~~  
 2578 ~~[(B) the payroll factor as calculated under Section 59-7-315; and]~~  
 2579 ~~[(C) the sales factor as calculated under Section 59-7-317 multiplied by two; and]~~  
 2580 ~~[(ii) the denominator of the fraction is four.]~~  
 2581 ~~[(3)]~~ (2) Subject to the other provisions of this part, a sales factor weighted taxpayer  
 2582 shall calculate the fraction for apportioning business income to this state using a fraction  
 2583 where:  
 2584 (a) the numerator of the fraction is the sales factor as calculated under Section  
 2585 59-7-317; and  
 2586 (b) the denominator of the fraction is one.  
 2587 ~~[(4)]~~ (3) Subject to the other provisions of this part, an optional ~~[sales factor weighted~~  
 2588 ~~taxpayer]~~ apportionment taxpayer that is not a phased-in sales factor weighted taxpayer shall  
 2589 calculate the fraction for apportioning business income to this state [using a method described  
 2590 in Subsection (2)(a), (2)(b), or (3).] using one of the following fractions:  
 2591 (a) the fraction described in Subsection (4); or  
 2592 (b) the fraction where:  
 2593 (i) the numerator of the fraction is the sum of:  
 2594 (A) the property factor as calculated under Section 59-7-312;  
 2595 (B) the payroll factor as calculated under Section 59-7-315; and  
 2596 (C) the sales factor as calculated under Section 59-7-317; and  
 2597 (ii) the denominator of the fraction is three.  
 2598 (4) (a) Subject to other provisions of this part, a phased-in sales factor weighted  
 2599 taxpayer shall calculate the fraction for apportioning business income to this state as provided  
 2600 in Subsections (4)(b) through (d).  
 2601 (b) For the taxable year that begins on or after January 1, 2019, but begins on or before  
 2602 December 31, 2019:  
 2603 (i) the numerator of the fraction is the sum of:  
 2604 (A) the property factor as calculated under Section 59-7-312;

- 2605 (B) the payroll factor as calculated under Section 59-7-315; and  
2606 (C) the sales factor as calculated under Subsection (4)(e)(i); and  
2607 (ii) the denominator of the fraction is six.  
2608 (c) For the taxable year that begins on or after January 1, 2020, but begins on or before  
2609 December 31, 2020:  
2610 (i) the numerator of the fraction is the sum of:  
2611 (A) the property factor as calculated under Section 59-7-312;  
2612 (B) the payroll factor as calculated under Section 59-7-315; and  
2613 (C) the sales factor as calculated under Subsection (4)(e)(ii); and  
2614 (ii) the denominator of the fraction is 10.  
2615 (d) For a taxable year that begins on or after January 1, 2021, a phased-in sales factor  
2616 weighted taxpayer shall calculate the fraction as described in Subsection (2).  
2617 (e) (i) For the taxable year that begins on or after January 1, 2019, but begins on or  
2618 before December 31, 2019, the sales factor shall be:  
2619 (A) calculated as described in Section 59-7-317; and  
2620 (B) multiplied by four.  
2621 (ii) For the taxable year that begins on or after January 1, 2020, but begins on or before  
2622 December 31, 2020, the sales factor shall be:  
2623 (A) calculated as described in Section 59-7-317; and  
2624 (B) multiplied by eight.  
2625 (5) (a) The taxpayer shall determine the method for calculating the fraction for  
2626 apportioning business income to this state under this section on or before the due date for filing  
2627 the taxpayer's return under this chapter for the taxable year, including extensions.  
2628 (b) The method described in Subsection (5)(a) is in effect for the taxable year.  
2629 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2630 commission may make rules providing procedures for a taxpayer to make the election required  
2631 by [~~Subsections (2) and (4)~~] Subsection (3).  
2632 Section 27. Section **59-7-312** is amended to read:  
2633 **59-7-312. Property factor for apportionment of business income -- Mobile flight**  
2634 **equipment of an airline.**  
2635 (1) Except as provided in [~~Subsection (2)~~] Subsections (2) and (3), the property factor

2636 is a fraction[;];

2637 (a) the numerator of which is the average value of the taxpayer's real and tangible  
2638 personal property owned or rented and used in this state during the tax period; and

2639 (b) the denominator of which is the average value of all the taxpayer's real and tangible  
2640 personal property owned or rented and used during the tax period.

2641 (2) The average value of an airline's real and tangible personal property owned or  
2642 rented and used in this state attributable to mobile flight equipment for purposes of the  
2643 numerator of the fraction described in Subsection (1) shall be calculated for each aircraft type  
2644 by ~~[determining the product of]~~ multiplying:

2645 (a) the total average value of the airline's mobile flight equipment of the aircraft type  
2646 owned or rented and used during the tax period; and

2647 (b) a fraction[;];

2648 (i) the numerator of which is the Utah revenue ton miles for the aircraft type; and

2649 (ii) the denominator of which is the airline revenue ton miles for the aircraft type.

2650 (3) (a) For purposes of Subsection 59-7-302(3)(b)(i)(A) and subject to Subsection  
2651 (3)(b), the property factor is a fraction:

2652 (i) the numerator of which is the value of the property in this state that is attributable to  
2653 economic activities that are classified in an excluded NAICS code; and

2654 (ii) the denominator of which is the value of all property in this state.

2655 (b) A taxpayer shall exclude property from the calculation of the property factor  
2656 fraction in Subsection (3)(a) if the property may be attributed to economic activities in both  
2657 excluded NAICS codes and NAICS codes that are not excluded NAICS codes.

2658 Section 28. Section **59-7-315** is amended to read:

2659 **59-7-315. Payroll factor for apportionment of business income -- Compensation**  
2660 **of flight personnel by an airline.**

2661 (1) Except as provided in ~~[Subsection (2)]~~ Subsections (2) and (3), the payroll factor is  
2662 a fraction[;];

2663 (a) the numerator of which is the total amount paid in this state during the tax period by  
2664 the taxpayer for compensation[;]; and

2665 (b) the denominator of which is the total compensation paid everywhere during the tax  
2666 period.

2667 (2) The total amount paid in this state during the tax period by an airline for  
 2668 compensation attributable to the compensation of flight personnel for purposes of the  
 2669 numerator of the fraction described in Subsection (1) shall be calculated for each aircraft type  
 2670 by ~~[determining the product of]~~ multiplying:

2671 (a) the total amount paid during the tax period by the airline to flight personnel for  
 2672 compensation for the aircraft type; and

2673 (b) a fraction~~[-]~~:

2674 (i) the numerator of which is the Utah revenue ton miles for the aircraft type; and

2675 (ii) the denominator of which is the airline revenue ton miles for the aircraft type.

2676 (3) (a) For purposes of Subsection 59-7-302(3)(b)(i)(B) and subject to Subsection  
 2677 (3)(b), the payroll factor is a fraction:

2678 (i) the numerator of which is the amount of the payroll in this state that is attributable  
 2679 to economic activities that are classified in an excluded NAICS code; and

2680 (ii) the denominator of which is the total amount of the payroll in this state.

2681 (b) A taxpayer engaged in economic activities that are classified in an excluded NAICS  
 2682 code shall exclude an individual's payroll from the calculation of the payroll factor fraction in  
 2683 Subsection (3)(a) if the individual's payroll may be attributed:

2684 (i) to economic activities in both excluded NAICS codes and NAICS codes that are not  
 2685 excluded NAICS codes; or

2686 (ii) to providing management, information technology, finance, accounting, legal, or  
 2687 human resource services.

2688 Section 29. Section **59-7-402** is amended to read:

2689 **59-7-402. Water's edge combined report.**

2690 (1) Except as provided in Section 59-7-403, if any corporation listed in Subsection  
 2691 59-7-101~~(36)~~(37)(a) is doing business in Utah, the unitary group shall file a water's edge  
 2692 combined report.

2693 (2) (a) A group of corporations that are not otherwise a unitary group may elect to file a  
 2694 water's edge combined report if each member of the group is:

2695 (i) doing business in Utah;

2696 (ii) part of the same affiliated group; and

2697 (iii) qualified, under Section 1501, Internal Revenue Code, to file a federal

2698 consolidated return.

2699 (b) (i) Each corporation within the affiliated group that is doing business in Utah  
2700 [~~must~~] shall consent to filing a combined report.

2701 (ii) If an affiliated group elects to file a combined report, each corporation within the  
2702 affiliated group that is doing business in Utah must file a combined report.

2703 (c) Corporations that elect to file a water's edge combined report under this section may  
2704 not thereafter elect to file a separate return without the consent of the commission.

2705 Section 30. Section **59-7-605** is amended to read:

2706 **59-7-605. Definitions -- Tax credits related to energy efficient vehicles.**

2707 (1) As used in this section:

2708 (a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than  
2709 the standards established in bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

2710 (b) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air  
2711 Conservation Act.

2712 (c) "Committee" means the Revenue and Taxation Interim Committee.

2713 (d) "Director" means the director of the Division of Air Quality appointed under  
2714 Section 19-2-107.

2715 (e) "Election statement" means a document that:

2716 (i) is executed by:

2717 (A) a qualifying taxpayer; and

2718 (B) the financing entity, the financing entity's agent, or the financing entity's designee;

2719 (ii) identifies the vehicle identification number of the vehicle that qualifies for a tax  
2720 credit under this section; and

2721 (iii) affirms that the requirements described in Subsection (7) have been met.

2722 (f) "Financing entity" means the entity that finances the purchase or lease of a vehicle  
2723 that qualifies for a tax credit under this section.

2724 [~~(e)~~] (g) "OEM vehicle" means the same as that term is defined in Section 19-1-402.

2725 [~~(d)~~] (h) "Original purchase" means the purchase of a vehicle that has never been titled  
2726 or registered and has been driven less than 7,500 miles.

2727 [~~(e)~~] (i) "Qualifying electric motorcycle" means a vehicle that:

2728 (i) has a seat or saddle for the use of the rider;



- 2729 (ii) is designed to travel with not more than three wheels in contact with the ground;
- 2730 (iii) may lawfully be operated on a freeway, as defined in Section 41-6a-102;
- 2731 [~~(iv) is not fueled by natural gas;~~]
- 2732 [~~(v)~~] (iv) is fueled by electricity only; and
- 2733 [~~(v)~~] (v) is an OEM vehicle except that the vehicle is fueled by a fuel described in
- 2734 Subsection [~~(f)(e)(v)~~] (1)(i)(iv).
- 2735 [~~(f)~~] (j) "Qualifying long-range electric vehicle" means a vehicle that:
- 2736 (i) meets air quality standards;
- 2737 [~~(ii) is not fueled by natural gas;~~]
- 2738 [~~(iii) draws propulsion energy from]~~
- 2739 (ii) has a battery [~~with~~] capacity of at least 10 kilowatt hours [~~of capacity; and~~];
- 2740 (iii) is fueled by electricity only; and
- 2741 (iv) is an OEM vehicle except that the vehicle is fueled by a fuel described in
- 2742 Subsection (1)[~~(f)~~](j)(iii).
- 2743 [~~(g)~~] (k) "Qualifying [~~plug-in hybrid~~] short-range electric vehicle" means a vehicle that:
- 2744 (i) meets air quality standards;
- 2745 [~~(ii) is not fueled by natural gas or propane;~~]
- 2746 [~~(iii)~~] (ii) has a battery capacity that meets or exceeds the battery capacity described in
- 2747 Section 30D(b)(3), Internal Revenue Code[~~;~~ and], but has less than 10 kilowatt hours of battery
- 2748 capacity;
- 2749 [~~(iv)~~] (iii) is fueled by [~~a combination of electricity and;~~] electricity only; and
- 2750 [~~(A) diesel fuel;~~]
- 2751 [~~(B) gasoline; or~~]
- 2752 [~~(C) a mixture of gasoline and ethanol;~~]
- 2753 (iv) is an OEM vehicle except that the vehicle is fueled as described in Subsection
- 2754 (1)(k)(iii).
- 2755 (l) "Qualifying taxpayer" means a taxpayer that operates in a part of the state where air
- 2756 quality is determined to exceed the National Ambient Air Quality Standards, as defined in the
- 2757 Clean Air Amendments of 1970, Pub. L. No. 91-604, Sec. 109, for fine particulate matter (PM
- 2758 2.5).
- 2759 (2) For a taxable year beginning on or after January 1, [~~2015~~] 2018, but beginning on

2760 or before December 31, ~~[2016]~~ 2018, a qualifying taxpayer may claim a nonrefundable tax  
2761 credit against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain  
2762 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in an amount equal  
2763 to:

2764 (a) ~~[(i)]~~ for the original purchase of a new qualifying long-range electric vehicle that is  
2765 registered in this state, ~~[the lesser of:]~~ \$1,500;

2766 ~~[(A) \$1,500; or]~~

2767 ~~[(B) 35% of the purchase price of the vehicle; or]~~

2768 ~~[(ii)]~~ (b) for the original purchase of a new qualifying ~~[plug-in hybrid]~~ short-range  
2769 electric vehicle that is registered in this state, \$1,000;

2770 ~~[(b) for the original purchase of a new vehicle fueled by natural gas or propane that is~~  
2771 ~~registered in this state, the lesser of:]~~

2772 ~~[(i) \$1,500; or]~~

2773 ~~[(ii) 35% of the purchase price of the vehicle;]~~

2774 (c) for the original purchase of a new qualifying electric motorcycle that is registered in  
2775 this state, ~~[the lesser of:]~~ \$750; and

2776 ~~[(i) \$750; or]~~

2777 ~~[(ii) 35% of the purchase price of the vehicle; and]~~

2778 (d) for a lease of a vehicle described in Subsection (2)(a), (b), or (c), an amount equal  
2779 to the product of:

2780 (i) the amount of tax credit the qualifying taxpayer would otherwise qualify to claim  
2781 under Subsection (2)(a), (b), or (c) had the qualifying taxpayer purchased the vehicle~~[-except~~  
2782 ~~that the purchase price described in Subsection (2)(a)(i)(B), (2)(b)(ii), or (2)(c)(ii) is considered~~  
2783 ~~to be the value of the vehicle at the beginning of the lease]; and~~

2784 (ii) a percentage calculated by:

2785 (A) determining the difference between the value of the vehicle at the beginning of the  
2786 lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as  
2787 stated in the lease agreement; and

2788 (B) dividing the difference determined under Subsection (2)(d)(ii)(A) by the value of  
2789 the vehicle at the beginning of the lease, as stated in the lease agreement.

2790 ~~[(3)(a) The board shall:]~~

2791 ~~[(i) determine the amount of tax credit a taxpayer is allowed under this section; and]~~  
2792 ~~[(ii) provide the taxpayer with a written certification of the amount of tax credit the~~  
2793 ~~taxpayer is allowed under this section.]~~  
2794 ~~[(b) A taxpayer shall provide proof of the purchase or lease of an item for which a tax~~  
2795 ~~credit is allowed under this section by:]~~  
2796 ~~[(i) providing proof to the board in the form the board requires by rule;]~~  
2797 ~~[(ii) receiving a written statement from the board acknowledging receipt of the proof;~~  
2798 ~~and]~~  
2799 ~~[(iii) retaining the written statement described in Subsection (3)(b)(ii).]~~  
2800 ~~[(c) A taxpayer shall retain the written certification described in Subsection (3)(a)(ii).]~~  
2801 ~~[(4) Except as provided by Subsection (5), the tax credit under this section is allowed~~  
2802 ~~only:]~~  
2803 ~~[(a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain~~  
2804 ~~Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year~~  
2805 ~~by the taxpayer;]~~  
2806 ~~[(b) for the taxable year in which a vehicle described in Subsection (2)(a), (b), or (c) is~~  
2807 ~~purchased or a vehicle described in Subsection (2)(d) is leased; and]~~  
2808 ~~[(c) once per vehicle.]~~  
2809 ~~[(5) A taxpayer may not assign a tax credit under this section to another person.]~~  
2810 (3) For a taxable year beginning on or after January 1, 2019, but beginning on or before  
2811 December 31, 2019, a qualifying taxpayer may claim a nonrefundable tax credit against tax  
2812 otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not  
2813 Required to Pay Corporate Franchise or Income Tax Act, in an amount equal to:  
2814 (a) for the original purchase of a new qualifying long-range electric vehicle that is  
2815 registered in this state, \$1,500;  
2816 (b) for the original purchase of a new qualifying short-range electric vehicle that is  
2817 registered in this state, \$1,000;  
2818 (c) for the original purchase of a new qualifying electric motorcycle that is registered in  
2819 this state, \$750; and  
2820 (d) for a lease of a vehicle described in Subsection (3)(a), (b), or (c), an amount equal  
2821 to the product of:

2822 (i) the amount of tax credit the qualifying taxpayer would otherwise qualify to claim  
2823 under Subsection (3)(a), (b), or (c) had the qualifying taxpayer purchased the vehicle; and

2824 (ii) a percentage calculated by:

2825 (A) determining the difference between the value of the vehicle at the beginning of the  
2826 lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as  
2827 stated in the lease agreement; and

2828 (B) dividing the difference determined under Subsection (3)(d)(ii)(A) by the value of  
2829 the vehicle at the beginning of the lease, as stated in the lease agreement.

2830 (4) For a taxable year beginning on or after January 1, 2020, but beginning on or before  
2831 December 31, 2020, a qualifying taxpayer may claim a nonrefundable tax credit against tax  
2832 otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not  
2833 Required to Pay Corporate Franchise or Income Tax Act, in an amount equal to:

2834 (a) for the original purchase of a new qualifying long-range electric vehicle that is  
2835 registered in this state, \$1,000;

2836 (b) for the original purchase of a new qualifying short-range electric vehicle that is  
2837 registered in this state, \$750;

2838 (c) for the original purchase of a new qualifying electric motorcycle that is registered in  
2839 this state, \$550; and

2840 (d) for a lease of a vehicle described in Subsection (4)(a), (b), or (c), an amount equal  
2841 to the product of:

2842 (i) the amount of tax credit the qualifying taxpayer would otherwise qualify to claim  
2843 under Subsection (4)(a), (b), or (c) had the qualifying taxpayer purchased the vehicle; and

2844 (ii) a percentage calculated by:

2845 (A) determining the difference between the value of the vehicle at the beginning of the  
2846 lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as  
2847 stated in the lease agreement; and

2848 (B) dividing the difference determined under Subsection (4)(d)(ii)(A) by the value of  
2849 the vehicle at the beginning of the lease, as stated in the lease agreement.

2850 (5) For a taxable year beginning on or after January 1, 2021, but beginning on or before  
2851 December 31, 2021, a qualifying taxpayer may claim a nonrefundable tax credit against tax  
2852 otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not

2853 Required to Pay Corporate Franchise or Income Tax Act, in an amount equal to:  
2854       (a) for the original purchase of a new qualifying long-range electric vehicle that is  
2855 registered in this state, \$750;  
2856       (b) for the original purchase of a new qualifying short-range electric vehicle that is  
2857 registered in this state, \$500;  
2858       (c) for the original purchase of a new qualifying electric motorcycle that is registered in  
2859 this state, \$375; and  
2860       (d) for a lease of a vehicle described in Subsection (5)(a), (b), or (c), an amount equal  
2861 to the product of:  
2862       (i) the amount of tax credit the qualifying taxpayer would otherwise qualify to claim  
2863 under Subsection (5)(a), (b), or (c) had the qualifying taxpayer purchased the vehicle; and  
2864       (ii) a percentage calculated by:  
2865       (A) determining the difference between the value of the vehicle at the beginning of the  
2866 lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as  
2867 stated in the lease agreement; and  
2868       (B) dividing the difference determined under Subsection (5)(d)(ii)(A) by the value of  
2869 the vehicle at the beginning of the lease, as stated in the lease agreement.  
2870       (6) For a taxable year beginning on or after January 1, 2022, but beginning on or before  
2871 December 31, 2022, a qualifying taxpayer may claim a nonrefundable tax credit against tax  
2872 otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not  
2873 Required to Pay Corporate Franchise or Income Tax Act, in an amount equal to:  
2874       (a) for the original purchase of a new qualifying long-range electric vehicle that is  
2875 registered in this state, \$350;  
2876       (b) for the original purchase of a new qualifying short-range electric vehicle that is  
2877 registered in this state, \$150;  
2878       (c) for the original purchase of a new qualifying electric motorcycle that is registered in  
2879 this state, \$100; and  
2880       (d) for a lease of a vehicle described in Subsection (6)(a), (b), or (c), an amount equal  
2881 to the product of:  
2882       (i) the amount of tax credit the qualifying taxpayer would otherwise qualify to claim  
2883 under Subsection (6)(a), (b), or (c) had the qualifying taxpayer purchased the vehicle; and

2884 (ii) a percentage calculated by:

2885 (A) determining the difference between the value of the vehicle at the beginning of the  
2886 lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as  
2887 stated in the lease agreement; and

2888 (B) dividing the difference determined under Subsection (6)(d)(ii)(A) by the value of  
2889 the vehicle at the beginning of the lease, as stated in the lease agreement.

2890 (7) (a) Except as provided in Subsection (7)(b), a qualifying taxpayer may not assign a  
2891 tax credit under this section to another person.

2892 (b) A qualifying taxpayer may assign a tax credit under this section to a financing  
2893 entity as follows:

2894 (i) in exchange for the consideration described in Subsection (7)(b)(iv), the qualifying  
2895 taxpayer shall assign the tax credit to the financing entity and forfeit the right to claim the tax  
2896 credit on the qualifying taxpayer's income tax return;

2897 (ii) the qualifying taxpayer shall assign the tax credit to the financing entity by  
2898 executing an election statement described in Subsection (7)(c) at the time of the purchase or  
2899 lease of a new qualifying long-range electric vehicle, a new qualifying short-range electric  
2900 vehicle, or a new qualifying electric motorcycle;

2901 (iii) the qualifying taxpayer shall title and register the vehicle in the state as required by  
2902 Title 41, Chapter 1a, Part 5, Titling Requirement, and Title 41, Chapter 1a, Part 2, Registration;  
2903 and

2904 (iv) the financing entity shall compensate the qualifying taxpayer the applicable  
2905 amount of the tax credit described in Subsection (2), (3), (4), (5), or (6) for the type of vehicle  
2906 purchased or leased, except that the financing entity may collect an administrative fee equal to  
2907 or less than \$150.

2908 (c) The board shall develop a model election statement on or before July 1, 2018.

2909 (8) (a) A qualifying taxpayer may claim the tax credit under this section only:

2910 (i) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain  
2911 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year;  
2912 and

2913 (ii) for the taxable year in which a qualifying taxpayer purchases or leases a new  
2914 qualifying long-range electric vehicle, a new qualifying short-range electric vehicle, or a new

2915 qualifying electric motorcycle.

2916 (b) A financing entity may claim a tax credit assigned to the financing entity under  
2917 Subsection (7)(b):

2918 (i) against a tax owed under this chapter, Chapter 8, Gross Receipts Tax on Certain  
2919 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter 10,  
2920 Individual Income Tax Act; and

2921 (ii) for the taxable year in which the qualifying taxpayer purchases or leases a new  
2922 qualifying long-range electric vehicle, a new qualifying short-range electric vehicle, or a new  
2923 qualifying electric motorcycle.

2924 (c) This section only allows one tax credit per vehicle.

2925 (9) Before claiming a tax credit under this section, a qualifying taxpayer or a financing  
2926 entity described in Subsection (7)(b) shall obtain the written certification described in  
2927 Subsection (10).

2928 (10) (a) The director shall:

2929 (i) verify that only one written certification is issued per vehicle;

2930 (ii) determine the amount of tax credit a qualifying taxpayer or a financing entity  
2931 described in Subsection (7)(b) is allowed under this section; and

2932 (iii) provide the qualifying taxpayer or the financing entity described in Subsection  
2933 (7)(b) with a written certification of the amount of tax credit allowed under this section.

2934 (b) (i) A qualifying taxpayer shall provide proof of the purchase or lease of a vehicle  
2935 that qualifies for a tax credit under this section by:

2936 (A) providing proof to the director in the form established by the board;

2937 (B) obtaining a written statement from the director acknowledging receipt of the proof;

2938 and

2939 (C) retaining the written statement described in Subsection (10)(b)(i)(B) for the same  
2940 time period a person is required to keep books and records under Section 59-1-1406.

2941 (ii) A financing entity shall provide proof of assignment of a tax credit for a vehicle  
2942 that qualifies for a tax credit under this section by:

2943 (A) providing a copy of the election statement to the director;

2944 (B) providing proof, in the form established by the board, of the qualifying taxpayer's  
2945 purchase or lease of a vehicle that qualifies for a tax credit under this section;

2946 (C) obtaining a written statement from the director acknowledging receipt of the  
2947 election statement; and

2948 (D) retaining the written statement described in Subsection (10)(b)(ii)(C) for the same  
2949 time period a person is required to keep books and records under Section 59-1-1406.

2950 (c) A qualifying taxpayer or a financing entity described in Subsection (7)(b) shall  
2951 retain the written certification described in Subsection (10)(a)(iii).

2952 ~~[(6)]~~ (11) (a) If the amount of a tax credit claimed by a taxpayer under this section  
2953 exceeds the qualifying taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts  
2954 Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for  
2955 a taxable year, a qualifying taxpayer may carry forward the amount of the tax credit exceeding  
2956 the tax liability [may be carried forward] for a period that does not exceed the next five taxable  
2957 years.

2958 (b) If the amount of a tax credit claimed by a financing entity under this section  
2959 exceeds the financing entity's tax liability under this chapter, Chapter 8, Gross Receipts Tax on  
2960 Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter  
2961 10, Individual Income Tax Act, for a taxable year, the financing entity may carry forward the  
2962 amount of the tax credit exceeding the liability for a period that does not exceed the next five  
2963 taxable years.

2964 ~~[(7)]~~ (12) In accordance with any rules prescribed by the commission under Subsection  
2965 ~~[(8)]~~ (13), the Division of Finance shall transfer at least annually from the General Fund into  
2966 the Education Fund the amount by which the amount of tax credit claimed under this section  
2967 for a fiscal year exceeds [~~\$500,000~~] \$125,000.

2968 ~~[(8)]~~ (13) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
2969 Act, the commission may make rules for making a transfer from the General Fund into the  
2970 Education Fund as required by Subsection [~~(7)~~] (12).

2971 (14) (a) On or before November 30, the committee shall study the tax credit described  
2972 in this section and make recommendations concerning whether the tax credit should be  
2973 continued, modified, or repealed.

2974 (b) In conducting the review required under Subsection (14)(a), the committee shall:

2975 (i) schedule time on at least one committee agenda to conduct the review;

2976 (ii) invite state agencies, individuals, and organizations concerned with the tax credit



2977 under review to provide testimony:

2978 (iii) ensure that the committee's recommendations described in this section include an  
 2979 evaluation of:

2980 (A) the cost of the tax credit to the state;

2981 (B) the purpose and effectiveness of the tax credit; and

2982 (C) the extent to which the state benefits from the tax credit; and

2983 (iv) undertake other review efforts as determined by the committee chairs or as  
 2984 otherwise required by law.

2985 (c) If the committee conducts a review in accordance with Section 59-7-159, the  
 2986 committee need not conduct the review required by this Subsection (14).

2987 Section 31. Section **59-7-610** is amended to read:

2988 **59-7-610. Recycling market development zones tax credit.**

2989 ~~[(1) For taxable years beginning on or after January 1, 1996, a business]~~

2990 (1) As used in this section:

2991 (a) "Composting" means the same as that term is defined in Section 63N-2-402.

2992 (b) "Recycling" means the same as that term is defined in Section 63N-2-402.

2993 (c) "Recycling market development zone" means the same as that term is defined in  
 2994 Section 63N-2-402.

2995 (2) (a) Except as provided in Subsection (5)(b), if a taxpayer operating in a recycling  
 2996 market development zone~~[as defined in Section 63N-2-402]~~ receives a tax credit certificate in  
 2997 accordance with Section 63N-2-410, the taxpayer may claim a nonrefundable tax credit [as  
 2998 provided in this section:] for purchases of machinery and equipment that are integral to the  
 2999 composting or recycling process and are used directly in:

3000 ~~[(a) (i) There shall be allowed a nonrefundable tax credit of 5% of the purchase price~~  
 3001 ~~paid for machinery and equipment used directly in:]~~

3002 ~~[(A)] (i) commercial composting; or~~

3003 ~~[(B)] (ii) manufacturing facilities or plant units that:~~

3004 ~~[(1)] (A) manufacture, process, compound, or produce recycled items of tangible~~  
 3005 ~~personal property for sale; or~~

3006 ~~[(1)] (B) reduce or reuse postconsumer waste material.~~

3007 (b) Subject to Subsection (4), the tax credit under this Subsection (2) is equal to the

3008 amount stated on a tax credit certificate issued in accordance with Section 63N-2-410.

3009  ~~[(ii) The Governor's Office of Economic Development shall certify that the machinery~~  
3010  ~~and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling~~  
3011  ~~process:]~~

3012  ~~[(A) on a form provided by the commission; and]~~

3013  ~~[(B) before a taxpayer is allowed a tax credit under this section.]~~

3014  ~~[(iii) The Governor's Office of Economic Development shall provide a taxpayer~~  
3015  ~~seeking to claim a tax credit under this section with a copy of the form described in Subsection~~  
3016  ~~(1)(a)(ii).]~~

3017  ~~[(iv) The taxpayer described in Subsection (1)(a)(iii) shall retain a copy of the form~~  
3018  ~~received under Subsection (1)(a)(iii).]~~

3019  ~~[(b) There shall be allowed a nonrefundable tax credit equal to 20% of net expenditures~~  
3020  ~~up to \$10,000 to third parties for]~~

3021 (3) (a) Except as provided in Subsection (6)(b), if a taxpayer receives a tax credit  
3022 certificate in accordance with Section 63N-2-410, the taxpayer may claim a nonrefundable tax  
3023 credit for expenditures to third parties for rent, wages, supplies, tools, test inventory, and  
3024 utilities [made by the taxpayer] for establishing and operating recycling or composting  
3025 technology in Utah[, with an annual maximum tax credit of \$2,000].

3026 (b) Subject to Subsection (4), the tax credit under this Section (3) is equal to the  
3027 amount stated on a tax credit certificate issued in accordance with Section 63N-2-410.

3028  ~~[(2) The] (4) A taxpayer's total nonrefundable tax credit [allowed] under this section~~  
3029  ~~may not exceed 40% of the taxpayer's Utah income tax liability [of the taxpayer prior to] before~~  
3030  ~~the taxpayer claims any tax credits [in] for the taxable year [of purchase prior to claiming the~~  
3031  ~~tax credit authorized by this section].~~

3032  ~~[(3) (a) Any tax credit not used for the taxable year in which the purchase price on~~  
3033  ~~composting or recycling machinery and equipment was paid may be carried over for credit~~  
3034  ~~against the business' income taxes in the three succeeding taxable years until the total tax credit~~  
3035  ~~amount is used.]~~

3036  ~~[(b) Tax credits not claimed by a business on the business' state income tax return~~  
3037  ~~within three years are forfeited.]~~

3038  ~~[(4) The commission shall make rules governing what information shall be filed with~~

3039 ~~the commission to verify the entitlement to and amount of a tax credit.]~~

3040 ~~[(5)(a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after~~  
 3041 ~~January 1, 2001, a]~~

3042 ~~(5) (a) Except as provided in Subsection (5)(b), a taxpayer:~~

3043 ~~(i) may carry forward the amount of the tax credit described in Subsection (2) that~~  
 3044 ~~exceeds the taxpayer's liability for the taxable year for the next three taxable years; and~~

3045 ~~(ii) may not carry back the amount of the tax credit described in Subsection (2) that~~  
 3046 ~~exceeds the taxpayer's liability.~~

3047 ~~(b) A taxpayer may not claim or carry forward a tax credit described in Subsection~~  
 3048 ~~[(1)(a)] (2) in a taxable year during which the taxpayer claims or carries forward a tax credit~~  
 3049 ~~under Section 63N-2-213 or claims a tax credit under Section 63N-2-305.~~

3050 ~~[(b) For a taxable year other than a taxable year during which the taxpayer may not~~  
 3051 ~~claim or carry forward a tax credit in accordance with Subsection (5)(a), a taxpayer may claim~~  
 3052 ~~or carry forward a tax credit described in Subsection (1)(a):]~~

3053 ~~[(i) if the taxpayer may claim or carry forward the tax credit in accordance with~~  
 3054 ~~Subsections (1) and (2); and]~~

3055 ~~[(ii) subject to Subsections (3) and (4).]~~

3056 ~~[(6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January~~  
 3057 ~~1, 2001, a]~~

3058 ~~(6) (a) A taxpayer may not carry forward or carry back a tax credit described in~~  
 3059 ~~Subsection (3).~~

3060 ~~(b) A taxpayer may not claim a tax credit described in Subsection [(1)(b)] (3) in a~~  
 3061 ~~taxable year during which the taxpayer claims or carries forward a tax credit under Section~~  
 3062 ~~63N-2-213. (7) A taxpayer may not claim or carry forward a tax credit available under this~~  
 3063 ~~section for a taxable year during which the taxpayer has claimed the targeted business income~~  
 3064 ~~tax credit available] or claims a tax credit under Section 63N-2-305.~~

3065 Section 32. Section **59-7-612** is amended to read:

3066 **59-7-612. Tax credits for research activities conducted in the state -- Carry**  
 3067 **forward -- Commission to report modification or repeal of certain federal provisions --**  
 3068 **Revenue and Taxation Interim Committee study.**

3069 (1) (a) As used in this section:

3070 (i) "Basic research" means the same as that term is defined in Section 41(e)(7), Internal  
 3071 Revenue Code, except that the term includes only basic research conducted in this state.

3072 (ii) "Qualified organization" means the same as that term is defined in Section 41(e)(6),  
 3073 Internal Revenue Code.

3074 (iii) "Qualified research expenses" means the same as that term is defined in Section  
 3075 41(b), Internal Revenue Code, except that the term includes only:

3076 (A) in-house research expenses incurred in this state; and

3077 (B) contract research expenses incurred in this state.

3078 (b) Except as provided in Subsection (1)(a), a term used in this section that is defined  
 3079 in Section 41, Internal Revenue Code, means the same as that term is defined in Section 41,  
 3080 Internal Revenue Code.

3081 ~~[(+)]~~ (2) (a) A taxpayer ~~[meeting the requirements of this section]~~ that receives a tax  
 3082 credit certificate in accordance with Section 63N-2-902 may claim the following nonrefundable  
 3083 tax credits:

3084 (i) a research tax credit ~~[of 5% of]~~ calculated in accordance with Section 63N-2-903 for  
 3085 the taxpayer's qualified research expenses [for the current taxable year that exceed the base  
 3086 amount provided for under Subsection (4)] during the taxable year;

3087 (ii) a tax credit calculated in accordance with Section 63N-2-903 for a payment to a  
 3088 qualified organization for basic research ~~[as provided in Section 41(e), Internal Revenue Code,~~  
 3089 ~~of 5% for the current taxable year that exceed the base amount provided for under Subsection~~  
 3090 ~~(4)] during the taxable year; and~~

3091 (iii) ~~[a]~~ an additional research tax credit [equal to 7.5% of] calculated in accordance  
 3092 with Section 63N-2-903 for the taxpayer's qualified research expenses [for the current taxable  
 3093 year] during the taxable year.

3094 ~~[(b) Subject to Subsection (5), a taxpayer may claim a tax credit under:]~~

3095 ~~[(i) Subsection (1)(a)(i) or (1)(a)(iii), for the taxable year for which the taxpayer incurs~~  
 3096 ~~the qualified research expenses; or]~~

3097 ~~[(ii) Subsection (1)(a)(ii), for the taxable year for which the taxpayer makes the~~  
 3098 ~~payment to the qualified organization.]~~

3099 (b) The taxpayer may claim a tax credit under this Subsection (2) in an amount equal to  
 3100 the amount stated for each tax credit on a tax credit certificate issued in accordance with

3101 Section 63N-2-902.

3102 (c) The tax credits provided for in this section do not include the alternative  
3103 incremental credit provided for in Section 41(c)(4), Internal Revenue Code.

3104 (d) A tax credit provided for in this section does not terminate if a credit terminates  
3105 under Section 41, Internal Revenue Code.

3106 ~~[(2)]~~ (3) For purposes of claiming a tax credit under this section, a unitary group as that  
3107 term is defined in Section 59-7-101 is considered to be one taxpayer.

3108 ~~[(3) Except as specifically provided for in this section:]~~

3109 ~~[(a) the tax credits authorized under Subsection (1) shall be calculated as provided in~~  
3110 ~~Section 41, Internal Revenue Code; and]~~

3111 ~~[(b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating~~  
3112 ~~the tax credits authorized under Subsection (1);]~~

3113 ~~[(4) For purposes of this section:]~~

3114 ~~[(a) the base amount shall be calculated as provided in Sections 41(c) and 41(h),~~  
3115 ~~Internal Revenue Code, except that:]~~

3116 ~~[(i) the base amount does not include the calculation of the alternative incremental~~  
3117 ~~credit provided for in Section 41(c)(4), Internal Revenue Code;]~~

3118 ~~[(ii) a taxpayer's gross receipts include only those gross receipts attributable to sources~~  
3119 ~~within this state as provided in Part 3, Allocation and Apportionment of Income - Utah~~  
3120 ~~UDITPA Provisions; and]~~

3121 ~~[(iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating~~  
3122 ~~the base amount, a taxpayer:]~~

3123 ~~[(A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B)~~  
3124 ~~regardless of whether the taxpayer meets the requirements of Section 41(c)(3)(B)(i)(I) or (II);~~  
3125 ~~and]~~

3126 ~~[(B) may not revoke an election to be treated as a start-up company under Subsection~~  
3127 ~~(4)(a)(iii)(A);]~~

3128 ~~[(b) "basic research" is as defined in Section 41(c)(7), Internal Revenue Code, except~~  
3129 ~~that the term includes only basic research conducted in this state;]~~

3130 ~~[(c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except~~  
3131 ~~that the term includes only qualified research conducted in this state;]~~

3132 ~~[(d) "qualified research expenses" is as defined and calculated in Section 41(b);~~  
 3133 ~~Internal Revenue Code, except that the term includes only:]~~  
 3134 ~~[(i) in-house research expenses incurred in this state; and]~~  
 3135 ~~[(ii) contract research expenses incurred in this state; and]~~  
 3136 ~~[(e) a tax credit provided for in this section is not terminated if a credit terminates under~~  
 3137 ~~Section 41, Internal Revenue Code.]~~

3138 ~~[(5)]~~ (4) (a) If the amount of a tax credit ~~[claimed by a taxpayer]~~ that a taxpayer claims  
 3139 under Subsection ~~[(1)]~~ (2)(a)(i) or (ii) exceeds the taxpayer's tax liability under this chapter for  
 3140 a taxable year, the ~~[amount of the tax credit exceeding the tax liability]~~ taxpayer:

3141 (i) may ~~[be carried forward]~~ carry forward the amount of the tax credit that exceeds the  
 3142 taxpayer's tax liability for a period that does not exceed the next 14 taxable years; and

3143 (ii) may not ~~[be carried back]~~ carry back the amount of the tax credit that exceeds the  
 3144 taxpayer's tax liability to a taxable year preceding the current taxable year.

3145 (b) A taxpayer may not carry forward or carry back the tax credit allowed by  
 3146 Subsection ~~[(1)]~~ (2)(a)(iii).

3147 ~~[(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~  
 3148 ~~the commission may make rules for purposes of this section prescribing a certification process~~  
 3149 ~~for qualified organizations to ensure that amounts paid to the qualified organizations are for~~  
 3150 ~~basic research conducted in this state.]~~

3151 (5) The commission shall develop a form to calculate the amount of the tax credit in  
 3152 accordance with Section 63N-2-903 for each tax credit described in this section.

3153 ~~[(7)]~~ (6) If a provision of Section 41, Internal Revenue Code, is modified or repealed,  
 3154 the commission shall provide an electronic report of the modification or repeal to the Revenue  
 3155 and Taxation Interim Committee within 60 days after the day on which the modification or  
 3156 repeal becomes effective.

3157 ~~[(8)]~~ (7) (a) The Revenue and Taxation Interim Committee shall review the tax credits  
 3158 provided for in this section on or before October 1 of the year after the year in which the  
 3159 commission reports under Subsection ~~[(7)]~~ (6) a modification or repeal of a provision of  
 3160 Section 41, Internal Revenue Code.

3161 (b) The review described in Subsection ~~[(8)]~~ (7)(a) is in addition to the review required  
 3162 by Section 59-7-159.

3163 ~~[(c) Notwithstanding Subsection (8)(a), the Revenue and Taxation Interim Committee~~  
 3164 ~~is not required to review the tax credits provided for in this section if the only modification to a~~  
 3165 ~~provision of Section 41, Internal Revenue Code, is the extension of the termination date~~  
 3166 ~~provided for in Section 41(h), Internal Revenue Code.]~~

3167 ~~[(d)]~~ (c) The Revenue and Taxation Interim Committee shall address in a review under  
 3168 this ~~[section]~~ Subsection (7):

- 3169 (i) the cost of the tax credits provided for in this section;
- 3170 (ii) the purpose and effectiveness of the tax credits provided for in this section;
- 3171 (iii) whether the tax credits provided for in this section benefit the state; and
- 3172 (iv) whether the tax credits provided for in this section should be ~~[-(A)]~~ continued[;
- 3173 ~~(B)]~~ modified[;] or ~~[-(C)]~~ repealed.

3174 ~~[(e)]~~ (d) If the Revenue and Taxation Interim Committee ~~[reviews the tax credits~~  
 3175 ~~provided for in this section, the committee]~~ conducts a review under this Subsection (7), the  
 3176 Revenue and Taxation Interim Committee shall issue a report of the Revenue and Taxation  
 3177 Interim Committee's findings.

3178 Section 33. Section **59-10-1007** is amended to read:

3179 **59-10-1007. Recycling market development zones tax credit.**

3180 ~~[(1) For taxable years beginning on or after January 1, 1996, a]~~

3181 (1) As used in this section:

3182 (a) "Composting" means the same as that term is defined in Section 63N-2-402.

3183 (b) "Recycling" means the same as that term is defined in Section 63N-2-402.

3184 (c) "Recycling market development zone" means the same as that term is defined in  
 3185 Section 63N-2-402.

3186 (2) (a) Except as provided in Subsection (5)(b), if a claimant, estate, or trust in a  
 3187 recycling market development zone [as defined in Section 63N-2-402] receives a tax credit  
 3188 certificate in accordance with Section 63N-2-410, the claimant, estate, or trust may claim a  
 3189 nonrefundable tax credit [as provided in this section.] for purchases of machinery and  
 3190 equipment that are integral to the composting or recycling process and are used directly in:

3191 ~~[(a) (i) There shall be allowed a tax credit of 5% of the purchase price paid for~~  
 3192 ~~machinery and equipment used directly in:]~~

3193 ~~[(A)]~~ (i) commercial composting; or

3194 ~~[(B)]~~ (ii) manufacturing facilities or plant units that:

3195 ~~[(F)]~~ (A) manufacture, process, compound, or produce recycled items of tangible

3196 personal property for sale; or

3197 ~~[(H)]~~ (B) reduce or reuse postconsumer waste material.

3198 (b) Subject to Subsection (4), the tax credit under this Subsection (2) is equal to the

3199 amount stated on a tax credit certificate issued in accordance with Section 63N-2-410.

3200 ~~[(ii) The Governor's Office of Economic Development shall certify that the machinery~~

3201 ~~and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling~~

3202 ~~process:]~~

3203 ~~[(A) on a form provided by the commission; and]~~

3204 ~~[(B) before a claimant, estate, or trust is allowed a tax credit under this section.]~~

3205 ~~[(iii) The Governor's Office of Economic Development shall provide a claimant, estate,~~

3206 ~~or trust seeking to claim a tax credit under this section with a copy of the form described in~~

3207 ~~Subsection (1)(a)(ii).]~~

3208 ~~[(iv) The claimant, estate, or trust described in Subsection (1)(a)(iii) shall retain a copy~~

3209 ~~of the form received under Subsection (1)(a)(iii).]~~

3210 ~~[(b) There shall be allowed a tax credit equal to 20% of net expenditures up to \$10,000~~

3211 ~~to third parties for]~~

3212 (3) (a) Except as provided in Subsection (6)(b), if a claimant, estate, or trust receives a

3213 tax credit certificate in accordance with Section 63N-2-410, the claimant, estate, or trust may

3214 claim a nonrefundable tax credit for expenditures to third parties for rent, wages, supplies,

3215 tools, test inventory, and utilities ~~[made by the claimant, estate, or trust]~~ for establishing and

3216 operating recycling or composting technology in Utah~~[- with an annual maximum tax credit of~~

3217 ~~\$2,000].~~

3218 (b) Subject to Subsection (4), the tax credit under this Section (3) is equal to the

3219 amount stated on a tax credit certificate issued in accordance with Section 63N-2-410.

3220 ~~[(2) The]~~ (4) A claimant's, estate's, or trust's total tax credit [allowed] under this section

3221 may not exceed 40% of the claimant's, estate's, or trust's Utah income tax liability [of the

3222 claimant, estate, or trust prior to] before the claimant, estate, or trust claims any tax credits in

3223 the taxable year ~~[of purchase prior to claiming the tax credit authorized by this section].~~

3224 ~~[(3) (a) Any tax credit not used for the taxable year in which the purchase price on~~



3225 ~~composting or recycling machinery and equipment was paid may be carried forward against the~~  
3226 ~~claimant's, estate's, or trusts's tax liability under this chapter in the three succeeding taxable~~  
3227 ~~years until the total tax credit amount is used.]~~

3228 ~~[(b) Tax credits not claimed by a claimant, estate, or trust on the claimant's, estate's, or~~  
3229 ~~trust's tax return under this chapter within three years are forfeited.]~~

3230 ~~[(4) The commission shall make rules governing what information shall be filed with~~  
3231 ~~the commission to verify the entitlement to and amount of a tax credit.]~~

3232 ~~[(5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after~~  
3233 ~~January 1, 2001, a]~~

3234 (5) (a) Except as provided in Subsection (5)(b), a claimant, estate, or trust:

3235 (i) may carry forward the amount of the tax credit described in Subsection (2) that  
3236 exceeds the claimant's, estate's, or trust's tax liability for the taxable year for the next three  
3237 taxable years; and

3238 (ii) may not carry back the amount of the tax credit described in Subsection (2) that  
3239 exceeds the claimant's, estate's, or trust's tax liability.

3240 (b) A claimant, estate, or trust may not claim or carry forward a tax credit described in  
3241 Subsection [(1)(a)] (2) in a taxable year during which the claimant, estate, or trust claims or  
3242 carries forward a tax credit under Section 63N-2-213 or claims a tax credit under Section  
3243 63N-2-305.

3244 ~~[(b) For a taxable year other than a taxable year during which the claimant, estate, or~~  
3245 ~~trust may not claim or carry forward a tax credit in accordance with Subsection (5)(a), a~~  
3246 ~~claimant, estate, or trust may claim or carry forward a tax credit described in Subsection~~  
3247 ~~(1)(a).]~~

3248 ~~[(i) if the claimant, estate, or trust may claim or carry forward the tax credit in~~  
3249 ~~accordance with Subsections (1) and (2); and]~~

3250 ~~[(ii) subject to Subsections (3) and (4).]~~

3251 ~~[(6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January~~  
3252 ~~1, 2001, a]~~

3253 (6) (a) A claimant, estate, or trust may not carry forward or carry back a tax credit  
3254 described in Subsection (3).

3255 (b) A claimant, estate, or trust may not claim a tax credit described in Subsection

3256 ~~[(1)(b)]~~ (3) in a taxable year during which the claimant, estate, or trust claims or carries  
3257 forward a tax credit under Section 63N-2-213~~[-(7) A claimant, estate, or trust may not claim or~~  
3258 ~~carry forward a tax credit available under this section for a taxable year during which the~~  
3259 ~~claimant, estate, or trust has claimed the targeted business income tax credit available]~~ or  
3260 claims a tax credit under Section 63N-2-305.

3261 Section 34. Section **59-10-1009** is amended to read:

3262 **59-10-1009. Definitions -- Tax credits related to energy efficient vehicles.**

3263 (1) As used in this section:

3264 (a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than  
3265 the standards established in bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

3266 (b) "Board" means the Air Quality Board created in Title 19, Chapter 2, Air  
3267 Conservation Act.

3268 (c) "Committee" means the Revenue and Taxation Interim Committee.

3269 (d) "Director" means the director of the Division of Air Quality appointed under  
3270 Section 19-2-107.

3271 (e) "Election statement" means a document that:

3272 (i) is executed by:

3273 (A) a qualifying claimant, estate, or trust; and

3274 (B) the financing entity, the financing entity's agent, or the financing entity's designee;

3275 (ii) identifies the vehicle identification number of the vehicle that qualifies for a tax  
3276 credit under this section; and

3277 (iii) affirms that the requirements described in Subsection (7) have been met.

3278 (f) "Financing entity" means the entity that finances the purchase or lease of a vehicle  
3279 that qualifies for a tax credit under this section.

3280 ~~[(e)]~~ (g) "OEM vehicle" means the same as that term is defined in Section 19-1-402.

3281 ~~[(d)]~~ (h) "Original purchase" means the purchase of a vehicle that has never been titled  
3282 or registered and has been driven less than 7,500 miles.

3283 (i) "Qualifying claimant, estate, or trust" means a claimant, estate, or trust that:

3284 (i) for a claimant, lives or lived, at the time of the purchase or lease of a vehicle

3285 described in Subsection (2), in a part of the state where air quality is determined to exceed the

3286 National Ambient Air Quality Standards, as defined in the Clean Air Amendments of 1970,

3287 Pub. L. No. 91-604, Sec. 109, for fine particulate matter (PM 2.5):

3288 (ii) for an estate, had a decedent that lived, at the time of the purchase or lease of a  
 3289 vehicle described in Subsection (2), in a part of the state where air quality is determined to  
 3290 exceed the National Ambient Air Quality Standards, as defined in the Clean Air Amendments  
 3291 of 1970, Pub. L. No. 91-604, Sec. 109, for fine particulate matter (PM 2.5); or

3292 (iii) for a trust, had a trustee that lives or lived, at the time of the purchase or lease of a  
 3293 vehicle described in Subsection (2), in a part of the state where air quality is determined to  
 3294 exceed the National Ambient Air Quality Standards, as defined in the Clean Air Amendments  
 3295 of 1970, Pub. L. No. 91-604, Sec. 109, for fine particulate matter (PM 2.5).

3296 ~~(e)~~ (j) "Qualifying electric motorcycle" means a vehicle that:

- 3297 (i) has a seat or saddle for the use of the rider;
- 3298 (ii) is designed to travel with not more than three wheels in contact with the ground;
- 3299 (iii) may lawfully be operated on a freeway, as defined in Section 41-6a-102;

3300 ~~(iv) is not fueled by natural gas;~~

3301 ~~(v)~~ (iv) is fueled by electricity only; and

3302 ~~(v)~~ (v) is an OEM vehicle except that the vehicle is fueled by a fuel described in  
 3303 Subsection ~~(f)(e)(v)~~ (1)(j)(iv).

3304 ~~(f)~~ (k) "Qualifying long-range electric vehicle" means a vehicle that:

- 3305 (i) meets air quality standards;
- 3306 ~~(ii) is not fueled by natural gas;~~
- 3307 ~~(iii) draws propulsion energy from]~~
- 3308 (ii) has a battery ~~[with]~~ capacity of at least 10 kilowatt hours ~~[of capacity; and];~~

3309 (iii) is fueled by electricity only; and

3310 (iv) is an OEM vehicle except that the vehicle is fueled by a fuel described in

3311 Subsection (1)~~(f)~~(k)(iii).

3312 ~~(g)~~ (l) "Qualifying ~~[plug-in hybrid]~~ short-range electric vehicle" means a vehicle that:

- 3313 (i) meets air quality standards;
- 3314 ~~(ii) is not fueled by natural gas or propane;~~

3315 ~~(iii)~~ (ii) has a battery capacity that meets or exceeds the battery capacity described in  
 3316 Section 30D(b)(3), Internal Revenue Code~~[-and]~~, but has less than 10 kilowatt hours of battery  
 3317 capacity;

3318 ~~[(iv)]~~ (iii) is fueled by ~~[a combination of electricity and:]~~ electricity only; and

3319 ~~[(A) diesel fuel;]~~

3320 ~~[(B) gasoline; or]~~

3321 ~~[(C) a mixture of gasoline and ethanol.]~~

3322 (iv) is an OEM vehicle except that the vehicle is fueled as described in Subsection

3323 (1)(l)(iii).

3324 (2) For a taxable year beginning on or after January 1, ~~[2015]~~ 2018, but beginning on

3325 or before December 31, ~~[2016]~~ 2018, a qualifying claimant, estate, or trust may claim a

3326 nonrefundable tax credit against tax otherwise due under this chapter in an amount equal to:

3327 (a) (i) for the original purchase of a new qualifying long-range electric vehicle that is

3328 registered in this state, ~~[the lesser of:]~~ \$1,500;

3329 ~~[(A) \$1,500; or]~~

3330 ~~[(B) 35% of the purchase price of the vehicle; or]~~

3331 ~~[(ii)]~~ (b) for the original purchase of a new qualifying ~~[plug-in hybrid]~~ short-range

3332 electric vehicle that is registered in this state, \$1,000;

3333 ~~[(b) for the original purchase of a new vehicle fueled by natural gas or propane that is~~

3334 ~~registered in this state, the lesser of:]~~

3335 ~~[(i) \$1,500; or]~~

3336 ~~[(ii) 35% of the purchase price of the vehicle;]~~

3337 (c) for the original purchase of a new qualifying electric motorcycle that is registered in

3338 this state, ~~[the lesser of:]~~ \$750; and

3339 ~~[(i) \$750; or]~~

3340 ~~[(ii) 35% of the purchase price of the vehicle; and]~~

3341 (d) for a lease of a vehicle described in Subsection (2)(a), (b), or (c), an amount equal

3342 to the product of:

3343 (i) the amount of tax credit the qualifying claimant, estate, or trust would otherwise

3344 qualify to claim under Subsection (2)(a), (b), or (c) had the qualifying claimant, estate, or trust

3345 purchased the vehicle~~[-except that the purchase price described in Subsection (2)(a)(i)(B);~~

3346 ~~(2)(b)(ii), or (2)(c)(ii) is considered to be the value of the vehicle at the beginning of the lease];~~

3347 and

3348 (ii) a percentage calculated by:

3349 (A) determining the difference between the value of the vehicle at the beginning of the  
3350 lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as  
3351 stated in the lease agreement; and

3352 (B) dividing the difference determined under Subsection (2)(d)(ii)(A) by the value of  
3353 the vehicle at the beginning of the lease, as stated in the lease agreement.

3354 ~~[(3) (a) The board shall:]~~

3355 ~~[(i) determine the amount of tax credit a claimant, estate, or trust is allowed under this~~  
3356 ~~section; and]~~

3357 ~~[(ii) provide the claimant, estate, or trust with a written certification of the amount of~~  
3358 ~~tax credit the claimant, estate, or trust is allowed under this section.]~~

3359 ~~[(b) A claimant, estate, or trust shall provide proof of the purchase or lease of an item~~  
3360 ~~for which a tax credit is allowed under this section by:]~~

3361 ~~[(i) providing proof to the board in the form the board requires by rule;]~~

3362 ~~[(ii) receiving a written statement from the board acknowledging receipt of the proof;~~  
3363 ~~and]~~

3364 ~~[(iii) retaining the written statement described in Subsection (3)(b)(ii).]~~

3365 ~~[(c) A claimant, estate, or trust shall retain the written certification described in~~  
3366 ~~Subsection (3)(a)(ii).]~~

3367 ~~[(4) Except as provided by Subsection (5), the tax credit under this section is allowed~~  
3368 ~~only:]~~

3369 ~~[(a) against a tax owed under this chapter in the taxable year by the claimant, estate, or~~  
3370 ~~trust;]~~

3371 ~~[(b) for the taxable year in which a vehicle described in Subsection (2)(a), (b), or (c) is~~  
3372 ~~purchased or a vehicle described in Subsection (2)(d) is leased; and]~~

3373 ~~[(c) once per vehicle.]~~

3374 ~~[(5) A claimant, estate, or trust may not assign a tax credit under this section to another~~  
3375 ~~person.]~~

3376 (3) For a taxable year beginning on or after January 1, 2019, but beginning on or before  
3377 December 31, 2019, a qualifying claimant, estate, or trust may claim a nonrefundable tax credit  
3378 against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain  
3379 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in an amount equal

3380 to:

3381 (a) for the original purchase of a new qualifying long-range electric vehicle that is  
3382 registered in this state, \$1,500;

3383 (b) for the original purchase of a new qualifying short-range electric vehicle that is  
3384 registered in this state, \$1,000;

3385 (c) for the original purchase of a new qualifying electric motorcycle that is registered in  
3386 this state, \$750; and

3387 (d) for a lease of a vehicle described in Subsection (3)(a), (b), or (c), an amount equal  
3388 to the product of:

3389 (i) the amount of tax credit the qualifying claimant, estate, or trust would otherwise  
3390 qualify to claim under Subsection (3)(a), (b), or (c) had the qualifying claimant, estate, or trust  
3391 purchased the vehicle; and

3392 (ii) a percentage calculated by:

3393 (A) determining the difference between the value of the vehicle at the beginning of the  
3394 lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as  
3395 stated in the lease agreement; and

3396 (B) dividing the difference determined under Subsection (3)(d)(ii)(A) by the value of  
3397 the vehicle at the beginning of the lease, as stated in the lease agreement.

3398 (4) For a taxable year beginning on or after January 1, 2020, but beginning on or before  
3399 December 31, 2020, a qualifying claimant, estate, or trust may claim a nonrefundable tax credit  
3400 against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain  
3401 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in an amount equal  
3402 to:

3403 (a) for the original purchase of a new qualifying long-range electric vehicle that is  
3404 registered in this state, \$1,000;

3405 (b) for the original purchase of a new qualifying short-range electric vehicle that is  
3406 registered in this state, \$750;

3407 (c) for the original purchase of a new qualifying electric motorcycle that is registered in  
3408 this state, \$550; and

3409 (d) for a lease of a vehicle described in Subsection (4)(a), (b), or (c), an amount equal  
3410 to the product of:

3411 (i) the amount of tax credit the qualifying claimant, estate, or trust would otherwise  
3412 qualify to claim under Subsection (4)(a), (b), or (c) had the qualifying claimant, estate, or trust  
3413 purchased the vehicle; and

3414 (ii) a percentage calculated by:

3415 (A) determining the difference between the value of the vehicle at the beginning of the  
3416 lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as  
3417 stated in the lease agreement; and

3418 (B) dividing the difference determined under Subsection (4)(d)(ii)(A) by the value of  
3419 the vehicle at the beginning of the lease, as stated in the lease agreement.

3420 (5) For a taxable year beginning on or after January 1, 2021, but beginning on or before  
3421 December 31, 2021, a qualifying claimant, estate, or trust may claim a nonrefundable tax credit  
3422 against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain  
3423 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in an amount equal  
3424 to:

3425 (a) for the original purchase of a new qualifying long-range electric vehicle that is  
3426 registered in this state, \$750;

3427 (b) for the original purchase of a new qualifying short-range electric vehicle that is  
3428 registered in this state, \$500;

3429 (c) for the original purchase of a new qualifying electric motorcycle that is registered in  
3430 this state, \$375; and

3431 (d) for a lease of a vehicle described in Subsection (5)(a), (b), or (c), an amount equal  
3432 to the product of:

3433 (i) the amount of tax credit the qualifying claimant, estate, or trust would otherwise  
3434 qualify to claim under Subsection (5)(a), (b), or (c) had the qualifying claimant, estate, or trust  
3435 purchased the vehicle; and

3436 (ii) a percentage calculated by:

3437 (A) determining the difference between the value of the vehicle at the beginning of the  
3438 lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as  
3439 stated in the lease agreement; and

3440 (B) dividing the difference determined under Subsection (5)(d)(ii)(A) by the value of  
3441 the vehicle at the beginning of the lease, as stated in the lease agreement.

3442 (6) For a taxable year beginning on or after January 1, 2022, but beginning on or before  
3443 December 31, 2022, a qualifying claimant, estate, or trust may claim a nonrefundable tax credit  
3444 against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain  
3445 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in an amount equal  
3446 to:

3447 (a) for the original purchase of a new qualifying long-range electric vehicle that is  
3448 registered in this state, \$350;

3449 (b) for the original purchase of a new qualifying short-range electric vehicle that is  
3450 registered in this state, \$150;

3451 (c) for the original purchase of a new qualifying electric motorcycle that is registered in  
3452 this state, \$100; and

3453 (d) for a lease of a vehicle described in Subsection (6)(a), (b), or (c), an amount equal  
3454 to the product of:

3455 (i) the amount of tax credit the qualifying claimant, estate, or trust would otherwise  
3456 qualify to claim under Subsection (6)(a), (b), or (c) had the qualifying claimant, estate, or trust  
3457 purchased the vehicle; and

3458 (ii) a percentage calculated by:

3459 (A) determining the difference between the value of the vehicle at the beginning of the  
3460 lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as  
3461 stated in the lease agreement; and

3462 (B) dividing the difference determined under Subsection (6)(d)(ii)(A) by the value of  
3463 the vehicle at the beginning of the lease, as stated in the lease agreement.

3464 (7) (a) Except as provided in Subsection (7)(b), a qualifying claimant, estate, or trust  
3465 may not assign a tax credit under this section to another person.

3466 (b) A qualifying claimant, estate, or trust may assign a tax credit under this section to a  
3467 financing entity as follows:

3468 (i) in exchange for the consideration described in Subsection (7)(b)(iv), the qualifying  
3469 claimant, estate, or trust shall assign the tax credit to the financing entity and forfeit the right to  
3470 claim the tax credit on the qualifying claimant's, estate's, or trust's income tax return;

3471 (ii) the qualifying claimant, estate, or trust shall assign the tax credit to the financing  
3472 entity by executing an election statement described in Subsection (7)(c) at the time of the



3473 purchase or lease of a new qualifying long-range electric vehicle, a new qualifying short-range  
3474 electric vehicle, or a new qualifying electric motorcycle;

3475 (iii) the qualifying claimant, estate, or trust shall title and register the vehicle in the  
3476 state as required by Title 41, Chapter 1a, Part 5, Titling Requirement, and Title 41, Chapter 1a,  
3477 Part 2, Registration; and

3478 (iv) the financing entity shall compensate the qualifying claimant, estate, or trust the  
3479 applicable amount of the tax credit described in Subsection (2), (3), (4), (5), or (6) for the type  
3480 of vehicle purchased or leased, except that the financing entity may collect an administrative  
3481 fee equal to or less than \$150.

3482 (c) The board shall develop a model election statement on or before July 1, 2018.

3483 (8) (a) A qualifying claimant, estate, or trust may claim the tax credit under this section  
3484 only:

3485 (i) against a tax owed under this chapter; and

3486 (ii) for the taxable year in which a qualifying claimant, estate, or trust purchases or  
3487 leases a new qualifying long-range electric vehicle, a new qualifying short-range electric  
3488 vehicle, or a new qualifying electric motorcycle .

3489 (b) A financing entity may claim a tax credit assigned to the financing entity under  
3490 Subsection (7)(b):

3491 (i) against a tax owed under this chapter, Chapter 7, Corporate Franchise and Income  
3492 Taxes, or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay  
3493 Corporate Franchise or Income Tax Act; and

3494 (ii) for the taxable year in which the qualifying claimant, estate, or trust purchases or  
3495 leases a new qualifying long-range electric vehicle, a new qualifying short-range electric  
3496 vehicle, or a new qualifying electric motorcycle .

3497 (c) This section only allows one tax credit per vehicle.

3498 (9) Before claiming a tax credit under this section, a qualifying claimant, estate, or trust  
3499 or the financing entity described in Subsection (7)(b) shall obtain the written certification  
3500 described in Subsection (10).

3501 (10) (a) The director shall:

3502 (i) verify that only one written certification is issued per vehicle;

3503 (ii) determine the amount of tax credit a qualifying claimant, estate, or trust or a

3504 financing entity described in Subsection (7)(b) is allowed under this section; and  
3505 (iii) provide the qualifying claimant, estate, or trust or financing entity described in  
3506 Subsection (7)(b) with a written certification of the amount of tax credit allowed under this  
3507 section.

3508 (b) (i) A qualifying claimant, estate, or trust shall provide proof of the purchase or lease  
3509 of a vehicle that qualifies for a tax credit under this section by:

3510 (A) providing proof to the director in the form established by the board;

3511 (B) obtaining a written statement from the director acknowledging receipt of the proof;

3512 and

3513 (C) retaining the written statement described in Subsection (10)(b)(i)(B) for the same  
3514 time period a person is required to keep books and records under Section 59-1-1406.

3515 (ii) A financing entity shall provide proof of assignment of a tax credit for a vehicle  
3516 that qualifies for a tax credit under this section by:

3517 (A) providing a copy of the election statement to the director;

3518 (B) providing proof, in the form established by the board, of the qualifying claimant's,  
3519 estate's, or trust's purchase or lease of a vehicle that qualifies for a tax credit under this section;

3520 (C) obtaining a written statement from the director acknowledging receipt of the  
3521 election statement; and

3522 (D) retaining the written statement described in Subsection (10)(b)(ii)(C) for the same  
3523 time period a person is required to keep books and records under Section 59-1-1406.

3524 (c) A qualifying claimant, estate, or trust or a financing entity described in Subsection  
3525 (7)(b) shall retain the written certification described in Subsection (10)(a)(iii).

3526 ~~[(6)]~~ (11) (a) If the amount of a tax credit claimed by a qualifying claimant, estate, or  
3527 trust under this section exceeds the qualifying claimant's, estate's, or trust's tax liability under  
3528 this chapter for a taxable year, the qualifying claimant, estate, or trust may carry forward the  
3529 amount of the tax credit exceeding the tax liability [~~may be carried forward~~] for a period that  
3530 does not exceed the next five taxable years.

3531 (b) If the amount of a tax credit claimed by a financing entity under this section  
3532 exceeds the financing entity's tax liability under this chapter, Chapter 7, Corporate Franchise  
3533 and Income Taxes, or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to  
3534 Pay Corporate Franchise or Income Tax Act, for a taxable year, the financing entity may carry

3535 forward the amount of the tax credit exceeding the tax liability for a period that does not  
3536 exceed the next five taxable years.

3537 ~~(7)~~ (12) In accordance with any rules prescribed by the commission under Subsection  
3538 ~~(8)~~ (13), the Division of Finance shall transfer at least annually from the General Fund into  
3539 the Education Fund the amount by which the amount of tax credit claimed under this section  
3540 for a fiscal year exceeds [~~\$500,000~~] \$125,000.

3541 ~~(8)~~ (13) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
3542 Act, the commission may make rules for making a transfer from the General Fund into the  
3543 Education Fund as required by Subsection [~~(7)~~] 12.

3544 (14) (a) On or before November 30, the committee shall study the tax credit described  
3545 in this section and make recommendations concerning whether the tax credit should be  
3546 continued, modified, or repealed.

3547 (b) In conducting the review required under Subsection (14)(a), the committee shall:

3548 (i) schedule time on at least one committee agenda to conduct the review;

3549 (ii) invite state agencies, individuals, and organizations concerned with the tax credit  
3550 under review to provide testimony;

3551 (iii) ensure that the committee's recommendations described in this section include an  
3552 evaluation of:

3553 (A) the cost of the tax credit to the state;

3554 (B) the purpose and effectiveness of the tax credit; and

3555 (C) the extent to which the state benefits from the tax credit; and

3556 (iv) undertake other review efforts as determined by the committee chairs or as  
3557 otherwise required by law.

3558 (c) If the committee conducts a review in accordance with Section 59-10-137, the  
3559 committee need not conduct the review required by this Subsection (14).

3560 Section 35. Section **59-10-1012** is amended to read:

3561 **59-10-1012. Tax credits for research activities conducted in the state -- Carry**  
3562 **forward -- Commission to report modification or repeal of certain federal provisions --**  
3563 **Revenue and Taxation Interim Committee study.**

3564 (1) (a) As used in this section:

3565 (i) "Basic research" means the same as that term is defined in Section 41(e)(7), Internal

3566 Revenue Code, except that the term includes only basic research conducted in this state.

3567 (ii) "Qualified organization" means the same as that term is defined in Section 41(e)(6).

3568 Internal Revenue Code.

3569 (iii) "Qualified research expenses" means the same as that term is defined in Section

3570 41(b), Internal Revenue Code, except that the term includes only:

3571 (A) in-house research expenses incurred in this state; and

3572 (B) contract research expenses incurred in this state.

3573 (b) Except as provided in Subsection (1)(a), a term used in this section that is defined

3574 in Section 41, Internal Revenue Code, means the same as that term is defined in Section 41,

3575 Internal Revenue Code.

3576 ~~[(1)]~~ (2) (a) A claimant, estate, or trust [meeting the requirements of this section] that  
3577 receives a tax credit certificate in accordance with Section 63N-2-902 may claim the following  
3578 nonrefundable tax credits:

3579 (i) a research tax credit [of 5% of] calculated in accordance with Section 63N-2-903 for  
3580 the claimant's, estate's, or trust's qualified research expenses [for the current taxable year that  
3581 exceed the base amount provided for under Subsection (3)] during the taxable year;

3582 (ii) a tax credit calculated in accordance with Section 63N-2-903 for a payment to a  
3583 qualified organization for basic research [as provided in Section 41(e), Internal Revenue Code  
3584 of 5% for the current taxable year that exceed the base amount provided for under Subsection  
3585 (3)], during the taxable year; and

3586 (iii) [a] an additional research tax credit [equal to 7.5% of] calculated in accordance  
3587 with Section 63N-2-903 for the claimant's, estate's, or trust's qualified research expenses [for  
3588 the current taxable year] during the taxable year.

3589 ~~[(b) Subject to Subsection (4), a claimant, estate, or trust may claim a tax credit under:]~~

3590 ~~[(i) Subsection (1)(a)(i) or (1)(a)(iii), for the taxable year for which the claimant, estate,~~  
3591 ~~or trust incurs the qualified research expenses; or]~~

3592 ~~[(ii) Subsection (1)(a)(ii), for the taxable year for which the claimant, estate, or trust~~  
3593 ~~makes the payment to the qualified organization.]~~

3594 (b) A claimant, estate, or trust may claim a tax credit under Subsection (2) in an

3595 amount equal to the amount stated for each tax credit on a tax credit certificate issued in

3596 accordance with Section 63N-2-902.

3597 (c) The tax credits provided for in this section do not include the alternative  
3598 incremental credit provided for in Section 41(c)(4), Internal Revenue Code.  
3599 ~~[(2) Except as specifically provided for in this section:]~~  
3600 ~~[(a) the tax credits authorized under Subsection (1) shall be calculated as provided in~~  
3601 ~~Section 41, Internal Revenue Code; and]~~  
3602 ~~[(b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating~~  
3603 ~~the tax credits authorized under Subsection (1).]~~  
3604 ~~[(3) For purposes of this section:]~~  
3605 ~~[(a) the base amount shall be calculated as provided in Sections 41(c) and 41(h),~~  
3606 ~~Internal Revenue Code, except that:]~~  
3607 ~~[(i) the base amount does not include the calculation of the alternative incremental~~  
3608 ~~credit provided for in Section 41(c)(4), Internal Revenue Code;]~~  
3609 ~~[(ii) a claimant's, estate's, or trust's gross receipts include only those gross receipts~~  
3610 ~~attributable to sources within this state as provided in Section 59-10-118; and]~~  
3611 ~~[(iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating~~  
3612 ~~the base amount, a claimant, estate, or trust:]~~  
3613 ~~[(A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B);~~  
3614 ~~Internal Revenue Code, regardless of whether the claimant, estate, or trust meets the~~  
3615 ~~requirements of Section 41(c)(3)(B)(i)(I) or (II), Internal Revenue Code; and]~~  
3616 ~~[(B) may not revoke an election to be treated as a start-up company under Subsection~~  
3617 ~~(3)(a)(iii)(A);]~~  
3618 ~~[(b) "basic research" is as defined in Section 41(c)(7), Internal Revenue Code, except~~  
3619 ~~that the term includes only basic research conducted in this state;]~~  
3620 ~~[(c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except~~  
3621 ~~that the term includes only qualified research conducted in this state;]~~  
3622 ~~[(d) "qualified research expenses" is as defined and calculated in Section 41(b);~~  
3623 ~~Internal Revenue Code, except that the term includes only:]~~  
3624 ~~[(i) in-house research expenses incurred in this state; and]~~  
3625 ~~[(ii) contract research expenses incurred in this state; and]~~  
3626 ~~[(e) a] (d) A tax credit provided for in this section ~~[is not terminated]~~ does not~~  
3627 terminate if a credit terminates under Section 41, Internal Revenue Code.

3628 ~~[(4)]~~ (3) (a) If the amount of a tax credit ~~[claimed by]~~ that a claimant, estate, or trust  
3629 claims under Subsection ~~[(1)]~~ (2)(a)(i) or (ii) exceeds the claimant's, estate's, or trust's tax  
3630 liability under this chapter for a taxable year, the ~~[amount of the tax credit exceeding the tax~~  
3631 ~~liability]~~ claimant, estate, or trust:

3632 (i) may ~~[be carried forward]~~ carry forward the amount of the tax credit that exceeds the  
3633 claimant's, estate's, or trust's tax liability for a period that does not exceed the next 14 taxable  
3634 years; and

3635 (ii) may not ~~[be carried back]~~ carry back the amount of the tax credit that exceeds the  
3636 claimant's, estate's, or trust's tax liability to a taxable year preceding the current taxable year.

3637 (b) A claimant, estate, or trust may not carry forward or carry back the tax credit  
3638 allowed by Subsection ~~[(1)]~~ (2)(a)(iii).

3639 ~~[(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~  
3640 ~~the commission may make rules for purposes of this section prescribing a certification process~~  
3641 ~~for qualified organizations to ensure that amounts paid to the qualified organizations are for~~  
3642 ~~basic research conducted in this state.]~~

3643 (4) The commission shall develop a form to calculate the amount of the tax credit in  
3644 accordance with Section 63N-2-903 for each tax credit described in this section.

3645 ~~[(6)]~~ (5) If a provision of Section 41, Internal Revenue Code, is modified or repealed,  
3646 the commission shall report the modification or repeal by electronic means to the Revenue and  
3647 Taxation Interim Committee within 60 days after the day on which the modification or repeal  
3648 becomes effective.

3649 ~~[(7)]~~ (6) (a) The Revenue and Taxation Interim Committee shall review the tax credits  
3650 provided for in this section on or before October 1 of the year after the year in which the  
3651 commission reports under Subsection ~~[(6)]~~ (5) a modification or repeal of a provision of  
3652 Section 41, Internal Revenue Code.

3653 (b) The review described in Subsection ~~[(7)]~~ (6)(a) is in addition to the review required  
3654 by Section 59-10-137.

3655 ~~[(c) Notwithstanding Subsection (7)(a), the Revenue and Taxation Interim Committee~~  
3656 ~~is not required to review the tax credits provided for in this section if the only modification to a~~  
3657 ~~provision of Section 41, Internal Revenue Code, is the extension of the termination date~~  
3658 ~~provided for in Section 41(h), Internal Revenue Code.]~~

3659 ~~[(d)]~~ (c) The Revenue and Taxation Interim Committee shall address in a review under  
 3660 this ~~[section]~~ Subsection (6):

- 3661 (i) the cost of the tax credits provided for in this section;
- 3662 (ii) the purpose and effectiveness of the tax credits provided for in this section;
- 3663 (iii) whether the tax credits provided for in this section benefit the state; and
- 3664 (iv) whether the tax credits provided for in this section should be ~~[(A)]~~ continued[;
- 3665 ~~(B)]~~, modified[;], or ~~[(C)]~~ repealed.

3666 ~~[(e)]~~ (d) If the Revenue and Taxation Interim Committee ~~[reviews the tax credits~~  
 3667 ~~provided for in this section, the committee]~~ conducts a review under this Subsection (6), the  
 3668 Revenue and Taxation Interim Committee shall issue a report of the Revenue and Taxation  
 3669 Interim Committee's findings.

3670 Section 36. Section **59-12-102** is amended to read:

3671 **59-12-102. Definitions.**

3672 As used in this chapter:

- 3673 (1) "800 service" means a telecommunications service that:
  - 3674 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and
  - 3675 (b) is typically marketed:
    - 3676 (i) under the name 800 toll-free calling;
    - 3677 (ii) under the name 855 toll-free calling;
    - 3678 (iii) under the name 866 toll-free calling;
    - 3679 (iv) under the name 877 toll-free calling;
    - 3680 (v) under the name 888 toll-free calling; or
    - 3681 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
    - 3682 Federal Communications Commission.

3683 (2) (a) "900 service" means an inbound toll telecommunications service that:

- 3684 (i) a subscriber purchases;
- 3685 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 3686 the subscriber's:
  - 3687 (A) prerecorded announcement; or
  - 3688 (B) live service; and
  - 3689 (iii) is typically marketed:

- 3690 (A) under the name 900 service; or
- 3691 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 3692 Communications Commission.
- 3693 (b) "900 service" does not include a charge for:
- 3694 (i) a collection service a seller of a telecommunications service provides to a
- 3695 subscriber; or
- 3696 (ii) the following a subscriber sells to the subscriber's customer:
- 3697 (A) a product; or
- 3698 (B) a service.
- 3699 (3) (a) "Admission or user fees" includes season passes.
- 3700 (b) "Admission or user fees" does not include annual membership dues to private
- 3701 organizations.
- 3702 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 3703 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 3704 Agreement after November 12, 2002.
- 3705 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 3706 (a) listed under Subsection (6); and
- 3707 (b) that are imposed within a local taxing jurisdiction.
- 3708 (6) "Agreement sales and use tax" means a tax imposed under:
- 3709 (a) Subsection 59-12-103(2)(a)(i)(A);
- 3710 (b) Subsection 59-12-103(2)(b)(i);
- 3711 (c) Subsection 59-12-103(2)(c)(i);
- 3712 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 3713 (e) Section 59-12-204;
- 3714 (f) Section 59-12-401;
- 3715 (g) Section 59-12-402;
- 3716 (h) Section 59-12-402.1;
- 3717 (i) Section 59-12-703;
- 3718 (j) Section 59-12-802;
- 3719 (k) Section 59-12-804;
- 3720 (l) Section 59-12-1102;



- 3721 (m) Section 59-12-1302;
- 3722 (n) Section 59-12-1402;
- 3723 (o) Section 59-12-1802;
- 3724 (p) Section 59-12-2003;
- 3725 (q) Section 59-12-2103;
- 3726 (r) Section 59-12-2213;
- 3727 (s) Section 59-12-2214;
- 3728 (t) Section 59-12-2215;
- 3729 (u) Section 59-12-2216;
- 3730 (v) Section 59-12-2217;
- 3731 (w) Section 59-12-2218; or
- 3732 (x) Section 59-12-2219.
- 3733 (7) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 3734 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 3735 (a) except for:
- 3736 (i) an airline as defined in Section 59-2-102; or
- 3737 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 3738 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 3739 state, of an airline; and
- 3740 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 3741 whether the business entity performs the following in this state:
- 3742 (i) check, diagnose, overhaul, and repair:
- 3743 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 3744 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 3745 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 3746 engine;
- 3747 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 3748 aircraft:
- 3749 (A) an inspection;
- 3750 (B) a repair, including a structural repair or modification;
- 3751 (C) changing landing gear; and

- 3752 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 3753 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 3754 completely apply new paint to the fixed wing turbine powered aircraft; and
- 3755 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 3756 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 3757 authority that certifies the fixed wing turbine powered aircraft.
- 3758 (9) "Alcoholic beverage" means a beverage that:
- 3759 (a) is suitable for human consumption; and
- 3760 (b) contains .5% or more alcohol by volume.
- 3761 (10) "Alternative energy" means:
- 3762 (a) biomass energy;
- 3763 (b) geothermal energy;
- 3764 (c) hydroelectric energy;
- 3765 (d) solar energy;
- 3766 (e) wind energy; or
- 3767 (f) energy that is derived from:
- 3768 (i) coal-to-liquids;
- 3769 (ii) nuclear fuel;
- 3770 (iii) oil-impregnated diatomaceous earth;
- 3771 (iv) oil sands;
- 3772 (v) oil shale;
- 3773 (vi) petroleum coke; or
- 3774 (vii) waste heat from:
- 3775 (A) an industrial facility; or
- 3776 (B) a power station in which an electric generator is driven through a process in which
- 3777 water is heated, turns into steam, and spins a steam turbine.
- 3778 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 3779 facility" means a facility that:
- 3780 (i) uses alternative energy to produce electricity; and
- 3781 (ii) has a production capacity of two megawatts or greater.
- 3782 (b) A facility is an alternative energy electricity production facility regardless of

3783 whether the facility is:

3784 (i) connected to an electric grid; or

3785 (ii) located on the premises of an electricity consumer.

3786 (12) (a) "Ancillary service" means a service associated with, or incidental to, the  
3787 provision of telecommunications service.

3788 (b) "Ancillary service" includes:

3789 (i) a conference bridging service;

3790 (ii) a detailed communications billing service;

3791 (iii) directory assistance;

3792 (iv) a vertical service; or

3793 (v) a voice mail service.

3794 (13) "Area agency on aging" means the same as that term is defined in Section  
3795 62A-3-101.

3796 [~~(14) "Assisted amusement device" means an amusement device, skill device, or ride  
3797 device that is started and stopped by an individual:]~~

3798 [~~(a) who is not the purchaser or renter of the right to use or operate the amusement  
3799 device, skill device, or ride device; and]~~

3800 [~~(b) at the direction of the seller of the right to use the amusement device, skill device,  
3801 or ride device.]~~

3802 [~~(15)~~ (14) "Assisted cleaning or washing of tangible personal property" means  
3803 cleaning or washing of tangible personal property if the cleaning or washing labor is primarily  
3804 performed by an individual:

3805 (a) who is not the purchaser of the cleaning or washing of the tangible personal  
3806 property; and

3807 (b) at the direction of the seller of the cleaning or washing of the tangible personal  
3808 property.

3809 [~~(16)~~ (15) "Authorized carrier" means:

3810 (a) in the case of vehicles operated over public highways, the holder of credentials  
3811 indicating that the vehicle is or will be operated pursuant to both the International Registration  
3812 Plan and the International Fuel Tax Agreement;

3813 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating

3814 certificate or air carrier's operating certificate; or

3815 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling  
3816 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling  
3817 stock in more than one state.

3818 ~~[(17)]~~ (16) (a) Except as provided in Subsection ~~[(17)]~~ (16)(b), "biomass energy"  
3819 means any of the following that is used as the primary source of energy to produce fuel or  
3820 electricity:

3821 (i) material from a plant or tree; or

3822 (ii) other organic matter that is available on a renewable basis, including:

3823 (A) slash and brush from forests and woodlands;

3824 (B) animal waste;

3825 (C) waste vegetable oil;

3826 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of  
3827 wastewater residuals, or through the conversion of a waste material through a nonincineration,  
3828 thermal conversion process;

3829 (E) aquatic plants; and

3830 (F) agricultural products.

3831 (b) "Biomass energy" does not include:

3832 (i) black liquor; or

3833 (ii) treated woods.

3834 ~~[(18)]~~ (17) (a) "Bundled transaction" means the sale of two or more items of tangible  
3835 personal property, products, or services if the tangible personal property, products, or services  
3836 are:

3837 (i) distinct and identifiable; and

3838 (ii) sold for one nonitemized price.

3839 (b) "Bundled transaction" does not include:

3840 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on  
3841 the basis of the selection by the purchaser of the items of tangible personal property included in  
3842 the transaction;

3843 (ii) the sale of real property;

3844 (iii) the sale of services to real property;

- 3845 (iv) the retail sale of tangible personal property and a service if:
- 3846 (A) the tangible personal property:
- 3847 (I) is essential to the use of the service; and
- 3848 (II) is provided exclusively in connection with the service; and
- 3849 (B) the service is the true object of the transaction;
- 3850 (v) the retail sale of two services if:
- 3851 (A) one service is provided that is essential to the use or receipt of a second service;
- 3852 (B) the first service is provided exclusively in connection with the second service; and
- 3853 (C) the second service is the true object of the transaction;
- 3854 (vi) a transaction that includes tangible personal property or a product subject to
- 3855 taxation under this chapter and tangible personal property or a product that is not subject to
- 3856 taxation under this chapter if the:
- 3857 (A) seller's purchase price of the tangible personal property or product subject to
- 3858 taxation under this chapter is de minimis; or
- 3859 (B) seller's sales price of the tangible personal property or product subject to taxation
- 3860 under this chapter is de minimis; and
- 3861 (vii) the retail sale of tangible personal property that is not subject to taxation under
- 3862 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 3863 (A) that retail sale includes:
- 3864 (I) food and food ingredients;
- 3865 (II) a drug;
- 3866 (III) durable medical equipment;
- 3867 (IV) mobility enhancing equipment;
- 3868 (V) an over-the-counter drug;
- 3869 (VI) a prosthetic device; or
- 3870 (VII) a medical supply; and
- 3871 (B) subject to Subsection [~~(18)~~] (17)(f):
- 3872 (I) the seller's purchase price of the tangible personal property subject to taxation under
- 3873 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 3874 (II) the seller's sales price of the tangible personal property subject to taxation under
- 3875 this chapter is 50% or less of the seller's total sales price of that retail sale.

3876 (c) (i) For purposes of Subsection [~~(18)~~] (17)(a)(i), tangible personal property, a  
3877 product, or a service that is distinct and identifiable does not include:

3878 (A) packaging that:

3879 (I) accompanies the sale of the tangible personal property, product, or service; and

3880 (II) is incidental or immaterial to the sale of the tangible personal property, product, or  
3881 service;

3882 (B) tangible personal property, a product, or a service provided free of charge with the  
3883 purchase of another item of tangible personal property, a product, or a service; or

3884 (C) an item of tangible personal property, a product, or a service included in the  
3885 definition of "purchase price."

3886 (ii) For purposes of Subsection [~~(18)~~] (17)(c)(i)(B), an item of tangible personal  
3887 property, a product, or a service is provided free of charge with the purchase of another item of  
3888 tangible personal property, a product, or a service if the sales price of the purchased item of  
3889 tangible personal property, product, or service does not vary depending on the inclusion of the  
3890 tangible personal property, product, or service provided free of charge.

3891 (d) (i) For purposes of Subsection [~~(18)~~] (17)(a)(ii), property sold for one nonitemized  
3892 price does not include a price that is separately identified by tangible personal property,  
3893 product, or service on the following, regardless of whether the following is in paper format or  
3894 electronic format:

3895 (A) a binding sales document; or

3896 (B) another supporting sales-related document that is available to a purchaser.

3897 (ii) For purposes of Subsection [~~(18)~~] (17)(d)(i), a binding sales document or another  
3898 supporting sales-related document that is available to a purchaser includes:

3899 (A) a bill of sale;

3900 (B) a contract;

3901 (C) an invoice;

3902 (D) a lease agreement;

3903 (E) a periodic notice of rates and services;

3904 (F) a price list;

3905 (G) a rate card;

3906 (H) a receipt; or

3907 (I) a service agreement.

3908 (e) (i) For purposes of Subsection [~~(18)~~] (17)(b)(vi), the sales price of tangible personal  
3909 property or a product subject to taxation under this chapter is de minimis if:

3910 (A) the seller's purchase price of the tangible personal property or product is 10% or  
3911 less of the seller's total purchase price of the bundled transaction; or

3912 (B) the seller's sales price of the tangible personal property or product is 10% or less of  
3913 the seller's total sales price of the bundled transaction.

3914 (ii) For purposes of Subsection [~~(18)~~] (17)(b)(vi), a seller:

3915 (A) shall use the seller's purchase price or the seller's sales price to determine if the  
3916 purchase price or sales price of the tangible personal property or product subject to taxation  
3917 under this chapter is de minimis; and

3918 (B) may not use a combination of the seller's purchase price and the seller's sales price  
3919 to determine if the purchase price or sales price of the tangible personal property or product  
3920 subject to taxation under this chapter is de minimis.

3921 (iii) For purposes of Subsection [~~(18)~~] (17)(b)(vi), a seller shall use the full term of a  
3922 service contract to determine if the sales price of tangible personal property or a product is de  
3923 minimis.

3924 (f) For purposes of Subsection [~~(18)~~] (17)(b)(vii)(B), a seller may not use a  
3925 combination of the seller's purchase price and the seller's sales price to determine if tangible  
3926 personal property subject to taxation under this chapter is 50% or less of the seller's total  
3927 purchase price or sales price of that retail sale.

3928 [~~(19)~~] (18) "Certified automated system" means software certified by the governing  
3929 board of the agreement that:

3930 (a) calculates the agreement sales and use tax imposed within a local taxing  
3931 jurisdiction:

3932 (i) on a transaction; and

3933 (ii) in the states that are members of the agreement;

3934 (b) determines the amount of agreement sales and use tax to remit to a state that is a  
3935 member of the agreement; and

3936 (c) maintains a record of the transaction described in Subsection [~~(19)~~] (18)(a)(i).

3937 [~~(20)~~] (19) "Certified service provider" means an agent certified:

3938 (a) by the governing board of the agreement; and

3939 (b) to perform all of a seller's sales and use tax functions for an agreement sales and  
3940 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's  
3941 own purchases.

3942 [~~(21)~~] (20) (a) Subject to Subsection [~~(21)~~] (20)(b), "clothing" means all human  
3943 wearing apparel suitable for general use.

3944 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3945 commission shall make rules:

3946 (i) listing the items that constitute "clothing"; and

3947 (ii) that are consistent with the list of items that constitute "clothing" under the  
3948 agreement.

3949 [~~(22)~~] (21) "Coal-to-liquid" means the process of converting coal into a liquid synthetic  
3950 fuel.

3951 [~~(23)~~] (22) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or  
3952 other fuels that does not constitute industrial use under Subsection [~~(56)~~] (55) or residential use  
3953 under Subsection [~~(106)~~] (105).

3954 [~~(24)~~] (23) (a) "Common carrier" means a person engaged in or transacting the  
3955 business of transporting passengers, freight, merchandise, or other property for hire within this  
3956 state.

3957 (b) (i) "Common carrier" does not include a person who, at the time the person is  
3958 traveling to or from that person's place of employment, transports a passenger to or from the  
3959 passenger's place of employment.

3960 (ii) For purposes of Subsection [~~(24)~~] (23)(b)(i), in accordance with Title 63G, Chapter  
3961 3, Utah Administrative Rulemaking Act, the commission may make rules defining what  
3962 constitutes a person's place of employment.

3963 (c) "Common carrier" does not include a person that provides transportation network  
3964 services, as defined in Section 13-51-102.

3965 [~~(25)~~] (24) "Component part" includes:

3966 (a) poultry, dairy, and other livestock feed, and their components;

3967 (b) baling ties and twine used in the baling of hay and straw;

3968 (c) fuel used for providing temperature control of orchards and commercial



3969 greenhouses doing a majority of their business in wholesale sales, and for providing power for  
3970 off-highway type farm machinery; and

3971 (d) feed, seeds, and seedlings.

3972 [~~(26)~~] (25) "Computer" means an electronic device that accepts information:

3973 (a) (i) in digital form; or

3974 (ii) in a form similar to digital form; and

3975 (b) manipulates that information for a result based on a sequence of instructions.

3976 [~~(27)~~] (26) "Computer software" means a set of coded instructions designed to cause:

3977 (a) a computer to perform a task; or

3978 (b) automatic data processing equipment to perform a task.

3979 [~~(28)~~] (27) "Computer software maintenance contract" means a contract that obligates a  
3980 seller of computer software to provide a customer with:

3981 (a) future updates or upgrades to computer software;

3982 (b) support services with respect to computer software; or

3983 (c) a combination of Subsections [~~(28)~~] (27)(a) and (b).

3984 [~~(29)~~] (28) (a) "Conference bridging service" means an ancillary service that links two  
3985 or more participants of an audio conference call or video conference call.

3986 (b) "Conference bridging service" may include providing a telephone number as part of  
3987 the ancillary service described in Subsection [~~(29)~~] (28)(a).

3988 (c) "Conference bridging service" does not include a telecommunications service used  
3989 to reach the ancillary service described in Subsection [~~(29)~~] (28)(a).

3990 [~~(30)~~] (29) "Construction materials" means any tangible personal property that will be  
3991 converted into real property.

3992 [~~(31)~~] (30) "Delivered electronically" means delivered to a purchaser by means other  
3993 than tangible storage media.

3994 [~~(32)~~] (31) (a) "Delivery charge" means a charge:

3995 (i) by a seller of:

3996 (A) tangible personal property;

3997 (B) a product transferred electronically; or

3998 (C) services; and

3999 (ii) for preparation and delivery of the tangible personal property, product transferred

4000 electronically, or services described in Subsection [~~(32)~~] (31)(a)(i) to a location designated by  
4001 the purchaser.

4002 (b) "Delivery charge" includes a charge for the following:

4003 (i) transportation;

4004 (ii) shipping;

4005 (iii) postage;

4006 (iv) handling;

4007 (v) crating; or

4008 (vi) packing.

4009 [~~(33)~~] (32) "Detailed telecommunications billing service" means an ancillary service of  
4010 separately stating information pertaining to individual calls on a customer's billing statement.

4011 [~~(34)~~] (33) "Dietary supplement" means a product, other than tobacco, that:

4012 (a) is intended to supplement the diet;

4013 (b) contains one or more of the following dietary ingredients:

4014 (i) a vitamin;

4015 (ii) a mineral;

4016 (iii) an herb or other botanical;

4017 (iv) an amino acid;

4018 (v) a dietary substance for use by humans to supplement the diet by increasing the total  
4019 dietary intake; or

4020 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient  
4021 described in Subsections [~~(34)~~] (33)(b)(i) through (v);

4022 (c) (i) except as provided in Subsection [~~(34)~~] (33)(c)(ii), is intended for ingestion in:

4023 (A) tablet form;

4024 (B) capsule form;

4025 (C) powder form;

4026 (D) softgel form;

4027 (E) gelcap form; or

4028 (F) liquid form; or

4029 (ii) if the product is not intended for ingestion in a form described in Subsections [~~(34)~~]

4030 (33)(c)(i)(A) through (F), is not represented:

- 4031 (A) as conventional food; and
- 4032 (B) for use as a sole item of:
- 4033 (I) a meal; or
- 4034 (II) the diet; and
- 4035 (d) is required to be labeled as a dietary supplement:
- 4036 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 4037 (ii) as required by 21 C.F.R. Sec. 101.36.
- 4038 [~~(35)~~] (34) "Digital audio-visual work" means a series of related images which, when
- 4039 shown in succession, imparts an impression of motion, together with accompanying sounds, if
- 4040 any.
- 4041 [~~(36)~~] (35) (a) "Digital audio work" means a work that results from the fixation of a
- 4042 series of musical, spoken, or other sounds.
- 4043 (b) "Digital audio work" includes a ringtone.
- 4044 [~~(37)~~] (36) "Digital book" means a work that is generally recognized in the ordinary
- 4045 and usual sense as a book.
- 4046 [~~(38)~~] (37) (a) "Direct mail" means printed material delivered or distributed by United
- 4047 States mail or other delivery service:
- 4048 (i) to:
- 4049 (A) a mass audience; or
- 4050 (B) addressees on a mailing list provided:
- 4051 (I) by a purchaser of the mailing list; or
- 4052 (II) at the discretion of the purchaser of the mailing list; and
- 4053 (ii) if the cost of the printed material is not billed directly to the recipients.
- 4054 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 4055 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 4056 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 4057 single address.
- 4058 [~~(39)~~] (38) "Directory assistance" means an ancillary service of providing:
- 4059 (a) address information; or
- 4060 (b) telephone number information.
- 4061 [~~(40)~~] (39) (a) "Disposable home medical equipment or supplies" means medical

4062 equipment or supplies that:

4063 (i) cannot withstand repeated use; and

4064 (ii) are purchased by, for, or on behalf of a person other than:

4065 (A) a health care facility as defined in Section 26-21-2;

4066 (B) a health care provider as defined in Section 78B-3-403;

4067 (C) an office of a health care provider described in Subsection [~~(40)~~] (39)(a)(ii)(B); or

4068 (D) a person similar to a person described in Subsections [~~(40)~~] (39)(a)(ii)(A) through

4069 (C).

4070 (b) "Disposable home medical equipment or supplies" does not include:

4071 (i) a drug;

4072 (ii) durable medical equipment;

4073 (iii) a hearing aid;

4074 (iv) a hearing aid accessory;

4075 (v) mobility enhancing equipment; or

4076 (vi) tangible personal property used to correct impaired vision, including:

4077 (A) eyeglasses; or

4078 (B) contact lenses.

4079 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

4080 commission may by rule define what constitutes medical equipment or supplies.

4081 [~~(41)~~] (40) "Drilling equipment manufacturer" means a facility:

4082 (a) located in the state;

4083 (b) with respect to which 51% or more of the manufacturing activities of the facility

4084 consist of manufacturing component parts of drilling equipment;

4085 (c) that uses pressure of 800,000 or more pounds per square inch as part of the

4086 manufacturing process; and

4087 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the

4088 manufacturing process.

4089 [~~(42)~~] (41) (a) "Drug" means a compound, substance, or preparation, or a component of

4090 a compound, substance, or preparation that is:

4091 (i) recognized in:

4092 (A) the official United States Pharmacopoeia;

- 4093 (B) the official Homeopathic Pharmacopoeia of the United States;
- 4094 (C) the official National Formulary; or
- 4095 (D) a supplement to a publication listed in Subsections [~~(42)~~] (41)(a)(i)(A) through
- 4096 (C);
- 4097 (ii) intended for use in the:
- 4098 (A) diagnosis of disease;
- 4099 (B) cure of disease;
- 4100 (C) mitigation of disease;
- 4101 (D) treatment of disease; or
- 4102 (E) prevention of disease; or
- 4103 (iii) intended to affect:
- 4104 (A) the structure of the body; or
- 4105 (B) any function of the body.
- 4106 (b) "Drug" does not include:
- 4107 (i) food and food ingredients;
- 4108 (ii) a dietary supplement;
- 4109 (iii) an alcoholic beverage; or
- 4110 (iv) a prosthetic device.
- 4111 [~~(43)~~] (42) (a) Except as provided in Subsection [~~(43)~~] (42)(c), "durable medical
- 4112 equipment" means equipment that:
- 4113 (i) can withstand repeated use;
- 4114 (ii) is primarily and customarily used to serve a medical purpose;
- 4115 (iii) generally is not useful to a person in the absence of illness or injury; and
- 4116 (iv) is not worn in or on the body.
- 4117 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 4118 equipment described in Subsection [~~(43)~~] (42)(a).
- 4119 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 4120 [~~(44)~~] (43) "Electronic" means:
- 4121 (a) relating to technology; and
- 4122 (b) having:
- 4123 (i) electrical capabilities;

- 4124 (ii) digital capabilities;
- 4125 (iii) magnetic capabilities;
- 4126 (iv) wireless capabilities;
- 4127 (v) optical capabilities;
- 4128 (vi) electromagnetic capabilities; or
- 4129 (vii) capabilities similar to Subsections [~~(44)~~] (43)(b)(i) through (vi).
- 4130 [~~(45)~~] (44) "Electronic financial payment service" means an establishment:
- 4131 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 4132 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 4133 federal Executive Office of the President, Office of Management and Budget; and
- 4134 (b) that performs electronic financial payment services.
- 4135 [~~(46)~~] (45) "Employee" means the same as that term is defined in Section 59-10-401.
- 4136 [~~(47)~~] (46) "Fixed guideway" means a public transit facility that uses and occupies:
- 4137 (a) rail for the use of public transit; or
- 4138 (b) a separate right-of-way for the use of public transit.
- 4139 [~~(48)~~] (47) "Fixed wing turbine powered aircraft" means an aircraft that:
- 4140 (a) is powered by turbine engines;
- 4141 (b) operates on jet fuel; and
- 4142 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 4143 [~~(49)~~] (48) "Fixed wireless service" means a telecommunications service that provides
- 4144 radio communication between fixed points.
- 4145 [~~(50)~~] (49) (a) "Food and food ingredients" means substances:
- 4146 (i) regardless of whether the substances are in:
- 4147 (A) liquid form;
- 4148 (B) concentrated form;
- 4149 (C) solid form;
- 4150 (D) frozen form;
- 4151 (E) dried form; or
- 4152 (F) dehydrated form; and
- 4153 (ii) that are:
- 4154 (A) sold for:

- 4155 (I) ingestion by humans; or  
4156 (II) chewing by humans; and  
4157 (B) consumed for the substance's:  
4158 (I) taste; or  
4159 (II) nutritional value.  
4160 (b) "Food and food ingredients" includes an item described in Subsection [~~(91)~~  
4161 (90)(b)(iii).  
4162 (c) "Food and food ingredients" does not include:  
4163 (i) an alcoholic beverage;  
4164 (ii) tobacco; or  
4165 (iii) prepared food.  
4166 [~~(51)~~] (50) (a) "Fundraising sales" means sales:  
4167 (i) (A) made by a school; or  
4168 (B) made by a school student;  
4169 (ii) that are for the purpose of raising funds for the school to purchase equipment,  
4170 materials, or provide transportation; and  
4171 (iii) that are part of an officially sanctioned school activity.  
4172 (b) For purposes of Subsection [~~(51)~~] (50)(a)(iii), "officially sanctioned school activity"  
4173 means a school activity:  
4174 (i) that is conducted in accordance with a formal policy adopted by the school or school  
4175 district governing the authorization and supervision of fundraising activities;  
4176 (ii) that does not directly or indirectly compensate an individual teacher or other  
4177 educational personnel by direct payment, commissions, or payment in kind; and  
4178 (iii) the net or gross revenues from which are deposited in a dedicated account  
4179 controlled by the school or school district.  
4180 [~~(52)~~] (51) "Geothermal energy" means energy contained in heat that continuously  
4181 flows outward from the earth that is used as the sole source of energy to produce electricity.  
4182 [~~(53)~~] (52) "Governing board of the agreement" means the governing board of the  
4183 agreement that is:  
4184 (a) authorized to administer the agreement; and  
4185 (b) established in accordance with the agreement.

4186            [~~54~~] (53) (a) For purposes of Subsection 59-12-104[~~(41)~~](40), "governmental entity"  
4187 means:

4188            (i) the executive branch of the state, including all departments, institutions, boards,  
4189 divisions, bureaus, offices, commissions, and committees;

4190            (ii) the judicial branch of the state, including the courts, the Judicial Council, the  
4191 Office of the Court Administrator, and similar administrative units in the judicial branch;

4192            (iii) the legislative branch of the state, including the House of Representatives, the  
4193 Senate, the Legislative Printing Office, the Office of Legislative Research and General  
4194 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal  
4195 Analyst;

4196            (iv) the National Guard;

4197            (v) an independent entity as defined in Section 63E-1-102; or

4198            (vi) a political subdivision as defined in Section 17B-1-102.

4199            (b) "Governmental entity" does not include the state systems of public and higher  
4200 education, including:

4201            (i) a school;

4202            (ii) the State Board of Education;

4203            (iii) the State Board of Regents; or

4204            (iv) an institution of higher education described in Section 53B-1-102.

4205            [~~55~~] (54) "Hydroelectric energy" means water used as the sole source of energy to  
4206 produce electricity.

4207            [~~56~~] (55) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,  
4208 or other fuels:

4209            (a) in mining or extraction of minerals;

4210            (b) in agricultural operations to produce an agricultural product up to the time of  
4211 harvest or placing the agricultural product into a storage facility, including:

4212            (i) commercial greenhouses;

4213            (ii) irrigation pumps;

4214            (iii) farm machinery;

4215            (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered  
4216 under Title 41, Chapter 1a, Part 2, Registration; and



- 4217 (v) other farming activities;
- 4218 (c) in manufacturing tangible personal property at an establishment described in;
- 4219 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
- 4220 the federal Executive Office of the President, Office of Management and Budget; or
- 4221 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
- 4222 American Industry Classification System of the federal Executive Office of the President,
- 4223 Office of Management and Budget;
- 4224 (d) by a scrap recycler if:
- 4225 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 4226 one or more of the following items into prepared grades of processed materials for use in new
- 4227 products:
- 4228 (A) iron;
- 4229 (B) steel;
- 4230 (C) nonferrous metal;
- 4231 (D) paper;
- 4232 (E) glass;
- 4233 (F) plastic;
- 4234 (G) textile; or
- 4235 (H) rubber; and
- 4236 (ii) the new products under Subsection [~~(56)~~] (55)(d)(i) would otherwise be made with
- 4237 nonrecycled materials; or
- 4238 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
- 4239 cogeneration facility as defined in Section 54-2-1.
- 4240 [~~(57)~~] (56) (a) Except as provided in Subsection [~~(57)~~] (56)(b), "installation charge"
- 4241 means a charge for installing:
- 4242 (i) tangible personal property; or
- 4243 (ii) a product transferred electronically.
- 4244 (b) "Installation charge" does not include a charge for:
- 4245 (i) repairs or renovations of:
- 4246 (A) tangible personal property; or
- 4247 (B) a product transferred electronically; or

- 4248 (ii) attaching tangible personal property or a product transferred electronically:  
4249 (A) to other tangible personal property; and  
4250 (B) as part of a manufacturing or fabrication process.
- 4251 [~~(58)~~] (57) "Institution of higher education" means an institution of higher education  
4252 listed in Section 53B-2-101.
- 4253 [~~(59)~~] (58) (a) "Lease" or "rental" means a transfer of possession or control of tangible  
4254 personal property or a product transferred electronically for:
- 4255 (i) (A) a fixed term; or  
4256 (B) an indeterminate term; and  
4257 (ii) consideration.
- 4258 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the  
4259 amount of consideration may be increased or decreased by reference to the amount realized  
4260 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue  
4261 Code.
- 4262 (c) "Lease" or "rental" does not include:
- 4263 (i) a transfer of possession or control of property under a security agreement or  
4264 deferred payment plan that requires the transfer of title upon completion of the required  
4265 payments;
- 4266 (ii) a transfer of possession or control of property under an agreement that requires the  
4267 transfer of title:
- 4268 (A) upon completion of required payments; and  
4269 (B) if the payment of an option price does not exceed the greater of:  
4270 (I) \$100; or  
4271 (II) 1% of the total required payments; or  
4272 (iii) providing tangible personal property along with an operator for a fixed period of  
4273 time or an indeterminate period of time if the operator is necessary for equipment to perform as  
4274 designed.
- 4275 (d) For purposes of Subsection [~~(59)~~] (58)(c)(iii), an operator is necessary for  
4276 equipment to perform as designed if the operator's duties exceed the:
- 4277 (i) set-up of tangible personal property;  
4278 (ii) maintenance of tangible personal property; or

4279 (iii) inspection of tangible personal property.

4280 ~~[(60)]~~ (59) "Life science establishment" means an establishment in this state that is  
4281 classified under the following NAICS codes of the 2007 North American Industry  
4282 Classification System of the federal Executive Office of the President, Office of Management  
4283 and Budget:

4284 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

4285 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus  
4286 Manufacturing; or

4287 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

4288 ~~[(61)]~~ (60) "Life science research and development facility" means a facility owned,  
4289 leased, or rented by a life science establishment if research and development is performed in  
4290 51% or more of the total area of the facility.

4291 ~~[(62)]~~ (61) "Load and leave" means delivery to a purchaser by use of a tangible storage  
4292 media if the tangible storage media is not physically transferred to the purchaser.

4293 ~~[(63)]~~ (62) "Local taxing jurisdiction" means a:

4294 (a) county that is authorized to impose an agreement sales and use tax;

4295 (b) city that is authorized to impose an agreement sales and use tax; or

4296 (c) town that is authorized to impose an agreement sales and use tax.

4297 ~~[(64)]~~ (63) "Manufactured home" means the same as that term is defined in Section  
4298 15A-1-302.

4299 ~~[(65)]~~ (64) "Manufacturing facility" means:

4300 (a) an establishment described in:

4301 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of  
4302 the federal Executive Office of the President, Office of Management and Budget; or

4303 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North  
4304 American Industry Classification System of the federal Executive Office of the President,  
4305 Office of Management and Budget;

4306 (b) a scrap recycler if:

4307 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
4308 one or more of the following items into prepared grades of processed materials for use in new  
4309 products:

- 4310 (A) iron;
- 4311 (B) steel;
- 4312 (C) nonferrous metal;
- 4313 (D) paper;
- 4314 (E) glass;
- 4315 (F) plastic;
- 4316 (G) textile; or
- 4317 (H) rubber; and
- 4318 (ii) the new products under Subsection [~~(65)~~] (64)(b)(i) would otherwise be made with
- 4319 nonrecycled materials; or
- 4320 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
- 4321 placed in service on or after May 1, 2006.
- 4322 [~~(66)~~] (65) "Member of the immediate family of the producer" means a person who is
- 4323 related to a producer described in Subsection 59-12-104(20)(a) as a:
- 4324 (a) child or stepchild, regardless of whether the child or stepchild is:
- 4325 (i) an adopted child or adopted stepchild; or
- 4326 (ii) a foster child or foster stepchild;
- 4327 (b) grandchild or stepgrandchild;
- 4328 (c) grandparent or stepgrandparent;
- 4329 (d) nephew or stepnephew;
- 4330 (e) niece or stepniece;
- 4331 (f) parent or stepparent;
- 4332 (g) sibling or stepsibling;
- 4333 (h) spouse;
- 4334 (i) person who is the spouse of a person described in Subsections [~~(66)~~] (65)(a) through
- 4335 (g); or
- 4336 (j) person similar to a person described in Subsections [~~(66)~~] (65)(a) through (i) as
- 4337 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 4338 Administrative Rulemaking Act.
- 4339 [~~(67)~~] (66) "Mobile home" means the same as that term is defined in Section
- 4340 15A-1-302.

4341           ~~[(68)]~~ (67) "Mobile telecommunications service" ~~[is as]~~ means the same as that term is  
4342 defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

4343           ~~[(69)]~~ (68) (a) "Mobile wireless service" means a telecommunications service,  
4344 regardless of the technology used, if:

- 4345           (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 4346           (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 4347           (iii) the origination point described in Subsection ~~[(69)]~~ (68)(a)(i) and the termination  
4348 point described in Subsection ~~[(69)]~~ (68)(a)(ii) are not fixed.

4349           (b) "Mobile wireless service" includes a telecommunications service that is provided  
4350 by a commercial mobile radio service provider.

4351           (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
4352 commission may by rule define "commercial mobile radio service provider."

4353           ~~[(70)]~~ (69) (a) Except as provided in Subsection ~~[(70)]~~ (69)(c), "mobility enhancing  
4354 equipment" means equipment that is:

- 4355           (i) primarily and customarily used to provide or increase the ability to move from one  
4356 place to another;
- 4357           (ii) appropriate for use in a:
  - 4358           (A) home; or
  - 4359           (B) motor vehicle; and
- 4360           (iii) not generally used by persons with normal mobility.

4361           (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of  
4362 the equipment described in Subsection ~~[(70)]~~ (69)(a).

4363           (c) "Mobility enhancing equipment" does not include:

- 4364           (i) a motor vehicle;
- 4365           (ii) equipment on a motor vehicle if that equipment is normally provided by the motor  
4366 vehicle manufacturer;
- 4367           (iii) durable medical equipment; or
- 4368           (iv) a prosthetic device.

4369           ~~[(71)]~~ (70) "Model 1 seller" means a seller registered under the agreement that has  
4370 selected a certified service provider as the seller's agent to perform all of the seller's sales and  
4371 use tax functions for agreement sales and use taxes other than the seller's obligation under

4372 Section 59-12-124 to remit a tax on the seller's own purchases.

4373 [~~(72)~~] (71) "Model 2 seller" means a seller registered under the agreement that:

4374 (a) except as provided in Subsection [~~(72)~~] (71)(b), has selected a certified automated  
4375 system to perform the seller's sales tax functions for agreement sales and use taxes; and

4376 (b) retains responsibility for remitting all of the sales tax:

4377 (i) collected by the seller; and

4378 (ii) to the appropriate local taxing jurisdiction.

4379 [~~(73)~~] (72) (a) Subject to Subsection [~~(73)~~] (72)(b), "model 3 seller" means a seller  
4380 registered under the agreement that has:

4381 (i) sales in at least five states that are members of the agreement;

4382 (ii) total annual sales revenues of at least \$500,000,000;

4383 (iii) a proprietary system that calculates the amount of tax:

4384 (A) for an agreement sales and use tax; and

4385 (B) due to each local taxing jurisdiction; and

4386 (iv) entered into a performance agreement with the governing board of the agreement.

4387 (b) For purposes of Subsection [~~(73)~~] (72)(a), "model 3 seller" includes an affiliated  
4388 group of sellers using the same proprietary system.

4389 [~~(74)~~] (73) "Model 4 seller" means a seller that is registered under the agreement and is  
4390 not a model 1 seller, model 2 seller, or model 3 seller.

4391 [~~(75)~~] (74) "Modular home" means a modular unit as that term is defined in Section  
4392 15A-1-302.

4393 [~~(76)~~] (75) "Motor vehicle" means the same as that term is defined in Section  
4394 41-1a-102.

4395 [~~(77)~~] (76) "Oil sands" means impregnated bituminous sands that:

4396 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with  
4397 other hydrocarbons, or otherwise treated;

4398 (b) yield mixtures of liquid hydrocarbon; and

4399 (c) require further processing other than mechanical blending before becoming finished  
4400 petroleum products.

4401 [~~(78)~~] (77) "Oil shale" means a group of fine black to dark brown shales containing  
4402 kerogen material that yields petroleum upon heating and distillation.

4403           ~~[(79)]~~ (78) "Optional computer software maintenance contract" means a computer  
4404 software maintenance contract that a customer is not obligated to purchase as a condition to the  
4405 retail sale of computer software.

4406           ~~[(80)]~~ (79) (a) "Other fuels" means products that burn independently to produce heat or  
4407 energy.

4408           (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible  
4409 personal property.

4410           ~~[(81)]~~ (80) (a) "Paging service" means a telecommunications service that provides  
4411 transmission of a coded radio signal for the purpose of activating a specific pager.

4412           (b) For purposes of Subsection ~~[(81)]~~ (80)(a), the transmission of a coded radio signal  
4413 includes a transmission by message or sound.

4414           ~~[(82)]~~ (81) "Pawnbroker" means the same as that term is defined in Section  
4415 13-32a-102.

4416           ~~[(83)]~~ (82) "Pawn transaction" means the same as that term is defined in Section  
4417 13-32a-102.

4418           ~~[(84)]~~ (83) (a) "Permanently attached to real property" means that for tangible personal  
4419 property attached to real property:

4420           (i) the attachment of the tangible personal property to the real property:

4421           (A) is essential to the use of the tangible personal property; and

4422           (B) suggests that the tangible personal property will remain attached to the real  
4423 property in the same place over the useful life of the tangible personal property; or

4424           (ii) if the tangible personal property is detached from the real property, the detachment  
4425 would:

4426           (A) cause substantial damage to the tangible personal property; or

4427           (B) require substantial alteration or repair of the real property to which the tangible  
4428 personal property is attached.

4429           (b) "Permanently attached to real property" includes:

4430           (i) the attachment of an accessory to the tangible personal property if the accessory is:

4431           (A) essential to the operation of the tangible personal property; and

4432           (B) attached only to facilitate the operation of the tangible personal property;

4433           (ii) a temporary detachment of tangible personal property from real property for a

4434 repair or renovation if the repair or renovation is performed where the tangible personal  
4435 property and real property are located; or

4436 (iii) property attached to oil, gas, or water pipelines, except for the property listed in  
4437 Subsection [~~(84)~~] (83)(c)(iii) or (iv).

4438 (c) "Permanently attached to real property" does not include:

4439 (i) the attachment of portable or movable tangible personal property to real property if  
4440 that portable or movable tangible personal property is attached to real property only for:

4441 (A) convenience;

4442 (B) stability; or

4443 (C) for an obvious temporary purpose;

4444 (ii) the detachment of tangible personal property from real property except for the  
4445 detachment described in Subsection [~~(84)~~] (83)(b)(ii);

4446 (iii) an attachment of the following tangible personal property to real property if the  
4447 attachment to real property is only through a line that supplies water, electricity, gas,  
4448 telecommunications, cable, or supplies a similar item as determined by the commission by rule  
4449 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

4450 (A) a computer;

4451 (B) a telephone;

4452 (C) a television; or

4453 (D) tangible personal property similar to Subsections [~~(84)~~] (83)(c)(iii)(A) through (C)  
4454 as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
4455 Administrative Rulemaking Act; or

4456 (iv) an item listed in Subsection [~~(125)~~] (124)(c).

4457 [~~(85)~~] (84) "Person" includes any individual, firm, partnership, joint venture,  
4458 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,  
4459 city, municipality, district, or other local governmental entity of the state, or any group or  
4460 combination acting as a unit.

4461 [~~(86)~~] (85) "Place of primary use":

4462 (a) for telecommunications service other than mobile telecommunications service,  
4463 means the street address representative of where the customer's use of the telecommunications  
4464 service primarily occurs, which shall be:



- 4465 (i) the residential street address of the customer; or  
4466 (ii) the primary business street address of the customer; or  
4467 (b) for mobile telecommunications service, [~~is as~~] means the same as that term is  
4468 defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.  
4469 [~~(87)~~] (86) (a) "Postpaid calling service" means a telecommunications service a person  
4470 obtains by making a payment on a call-by-call basis:  
4471 (i) through the use of a:  
4472 (A) bank card;  
4473 (B) credit card;  
4474 (C) debit card; or  
4475 (D) travel card; or  
4476 (ii) by a charge made to a telephone number that is not associated with the origination  
4477 or termination of the telecommunications service.  
4478 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling  
4479 service, that would be a prepaid wireless calling service if the service were exclusively a  
4480 telecommunications service.  
4481 [~~(88)~~] (87) "Postproduction" means an activity related to the finishing or duplication of  
4482 a medium described in Subsection 59-12-104[~~(54)~~](53)(a).  
4483 [~~(89)~~] (88) "Prepaid calling service" means a telecommunications service:  
4484 (a) that allows a purchaser access to telecommunications service that is exclusively  
4485 telecommunications service;  
4486 (b) that:  
4487 (i) is paid for in advance; and  
4488 (ii) enables the origination of a call using an:  
4489 (A) access number; or  
4490 (B) authorization code;  
4491 (c) that is dialed:  
4492 (i) manually; or  
4493 (ii) electronically; and  
4494 (d) sold in predetermined units or dollars that decline:  
4495 (i) by a known amount; and

- 4496 (ii) with use.
- 4497 [~~(90)~~] (89) "Prepaid wireless calling service" means a telecommunications service:
- 4498 (a) that provides the right to utilize:
- 4499 (i) mobile wireless service; and
- 4500 (ii) other service that is not a telecommunications service, including:
- 4501 (A) the download of a product transferred electronically;
- 4502 (B) a content service; or
- 4503 (C) an ancillary service;
- 4504 (b) that:
- 4505 (i) is paid for in advance; and
- 4506 (ii) enables the origination of a call using an:
- 4507 (A) access number; or
- 4508 (B) authorization code;
- 4509 (c) that is dialed:
- 4510 (i) manually; or
- 4511 (ii) electronically; and
- 4512 (d) sold in predetermined units or dollars that decline:
- 4513 (i) by a known amount; and
- 4514 (ii) with use.
- 4515 [~~(91)~~] (90) (a) "Prepared food" means:
- 4516 (i) food:
- 4517 (A) sold in a heated state; or
- 4518 (B) heated by a seller;
- 4519 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 4520 item; or
- 4521 (iii) except as provided in Subsection [~~(91)~~] (90)(c), food sold with an eating utensil
- 4522 provided by the seller, including a:
- 4523 (A) plate;
- 4524 (B) knife;
- 4525 (C) fork;
- 4526 (D) spoon;

- 4527 (E) glass;
- 4528 (F) cup;
- 4529 (G) napkin; or
- 4530 (H) straw.
- 4531 (b) "Prepared food" does not include:
- 4532 (i) food that a seller only:
- 4533 (A) cuts;
- 4534 (B) repackages; or
- 4535 (C) pasteurizes; or
- 4536 (ii) (A) the following:
- 4537 (I) raw egg;
- 4538 (II) raw fish;
- 4539 (III) raw meat;
- 4540 (IV) raw poultry; or
- 4541 (V) a food containing an item described in Subsections [~~91~~] (90)(b)(ii)(A)(I) through
- 4542 (IV); and
- 4543 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 4544 Food and Drug Administration's Food Code that a consumer cook the items described in
- 4545 Subsection [~~91~~] (90)(b)(ii)(A) to prevent food borne illness; or
- 4546 (iii) the following if sold without eating utensils provided by the seller:
- 4547 (A) food and food ingredients sold by a seller if the seller's proper primary
- 4548 classification under the 2002 North American Industry Classification System of the federal
- 4549 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 4550 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 4551 Manufacturing;
- 4552 (B) food and food ingredients sold in an unheated state:
- 4553 (I) by weight or volume; and
- 4554 (II) as a single item; or
- 4555 (C) a bakery item, including:
- 4556 (I) a bagel;
- 4557 (II) a bar;

- 4558 (III) a biscuit;
- 4559 (IV) bread;
- 4560 (V) a bun;
- 4561 (VI) a cake;
- 4562 (VII) a cookie;
- 4563 (VIII) a croissant;
- 4564 (IX) a danish;
- 4565 (X) a donut;
- 4566 (XI) a muffin;
- 4567 (XII) a pastry;
- 4568 (XIII) a pie;
- 4569 (XIV) a roll;
- 4570 (XV) a tart;
- 4571 (XVI) a torte; or
- 4572 (XVII) a tortilla.
- 4573 (c) An eating utensil provided by the seller does not include the following used to
- 4574 transport the food:
- 4575 (i) a container; or
- 4576 (ii) packaging.
- 4577 [~~(92)~~] (91) "Prescription" means an order, formula, or recipe that is issued:
- 4578 (a) (i) orally;
- 4579 (ii) in writing;
- 4580 (iii) electronically; or
- 4581 (iv) by any other manner of transmission; and
- 4582 (b) by a licensed practitioner authorized by the laws of a state.
- 4583 [~~(93)~~] (92) (a) Except as provided in Subsection [~~(93)~~] (92)(b)(ii) or (iii), "prewritten
- 4584 computer software" means computer software that is not designed and developed:
- 4585 (i) by the author or other creator of the computer software; and
- 4586 (ii) to the specifications of a specific purchaser.
- 4587 (b) "Prewritten computer software" includes:
- 4588 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer

4589 software is not designed and developed:

4590 (A) by the author or other creator of the computer software; and

4591 (B) to the specifications of a specific purchaser;

4592 (ii) computer software designed and developed by the author or other creator of the

4593 computer software to the specifications of a specific purchaser if the computer software is sold

4594 to a person other than the purchaser; or

4595 (iii) except as provided in Subsection [~~93~~] (92)(c), prewritten computer software or a

4596 prewritten portion of prewritten computer software:

4597 (A) that is modified or enhanced to any degree; and

4598 (B) if the modification or enhancement described in Subsection [~~93~~] (92)(b)(iii)(A) is

4599 designed and developed to the specifications of a specific purchaser.

4600 (c) "Prewritten computer software" does not include a modification or enhancement

4601 described in Subsection [~~93~~] (92)(b)(iii) if the charges for the modification or enhancement

4602 are:

4603 (i) reasonable; and

4604 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the

4605 invoice or other statement of price provided to the purchaser at the time of sale or later, as

4606 demonstrated by:

4607 (A) the books and records the seller keeps at the time of the transaction in the regular

4608 course of business, including books and records the seller keeps at the time of the transaction in

4609 the regular course of business for nontax purposes;

4610 (B) a preponderance of the facts and circumstances at the time of the transaction; and

4611 (C) the understanding of all of the parties to the transaction.

4612 [~~94~~] (93) (a) "Private communications service" means a telecommunications service:

4613 (i) that entitles a customer to exclusive or priority use of one or more communications

4614 channels between or among termination points; and

4615 (ii) regardless of the manner in which the one or more communications channels are

4616 connected.

4617 (b) "Private communications service" includes the following provided in connection

4618 with the use of one or more communications channels:

4619 (i) an extension line;

4620 (ii) a station;  
4621 (iii) switching capacity; or  
4622 (iv) another associated service that is provided in connection with the use of one or  
4623 more communications channels as defined in Section 59-12-215.

4624 ~~[(95)]~~ (94) (a) Except as provided in Subsection ~~[(95)]~~ (94)(b), "product transferred  
4625 electronically" means a product transferred electronically that would be subject to a tax under  
4626 this chapter if that product was transferred in a manner other than electronically.

4627 (b) "Product transferred electronically" does not include:

4628 (i) an ancillary service;  
4629 (ii) computer software; or  
4630 (iii) a telecommunications service.

4631 ~~[(96)]~~ (95) (a) "Prosthetic device" means a device that is worn on or in the body to:

4632 (i) artificially replace a missing portion of the body;  
4633 (ii) prevent or correct a physical deformity or physical malfunction; or  
4634 (iii) support a weak or deformed portion of the body.

4635 (b) "Prosthetic device" includes:

4636 (i) parts used in the repairs or renovation of a prosthetic device;  
4637 (ii) replacement parts for a prosthetic device;  
4638 (iii) a dental prosthesis; or  
4639 (iv) a hearing aid.

4640 (c) "Prosthetic device" does not include:

4641 (i) corrective eyeglasses; or  
4642 (ii) contact lenses.

4643 ~~[(97)]~~ (96) (a) "Protective equipment" means an item:

4644 (i) for human wear; and  
4645 (ii) that is:  
4646 (A) designed as protection:  
4647 (I) to the wearer against injury or disease; or  
4648 (II) against damage or injury of other persons or property; and  
4649 (B) not suitable for general use.

4650 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

4651 commission shall make rules:

4652 (i) listing the items that constitute "protective equipment"; and

4653 (ii) that are consistent with the list of items that constitute "protective equipment"

4654 under the agreement.

4655 ~~[(98)]~~ (97) (a) For purposes of Subsection 59-12-104~~[(41)]~~(40), "publication" means

4656 any written or printed matter, other than a photocopy:

4657 (i) regardless of:

4658 (A) characteristics;

4659 (B) copyright;

4660 (C) form;

4661 (D) format;

4662 (E) method of reproduction; or

4663 (F) source; and

4664 (ii) made available in printed or electronic format.

4665 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

4666 commission may by rule define the term "photocopy."

4667 ~~[(99)]~~ (98) (a) "Purchase price" and "sales price" mean the total amount of

4668 consideration:

4669 (i) valued in money; and

4670 (ii) for which tangible personal property, a product transferred electronically, or

4671 services are:

4672 (A) sold;

4673 (B) leased; or

4674 (C) rented.

4675 (b) "Purchase price" and "sales price" include:

4676 (i) the seller's cost of the tangible personal property, a product transferred

4677 electronically, or services sold;

4678 (ii) expenses of the seller, including:

4679 (A) the cost of materials used;

4680 (B) a labor cost;

4681 (C) a service cost;

- 4682 (D) interest;
- 4683 (E) a loss;
- 4684 (F) the cost of transportation to the seller; or
- 4685 (G) a tax imposed on the seller;
- 4686 (iii) a charge by the seller for any service necessary to complete the sale; or
- 4687 (iv) consideration a seller receives from a person other than the purchaser if:
- 4688 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 4689 and
- 4690 (II) the consideration described in Subsection [~~99~~] 98(b)(iv)(A)(I) is directly related
- 4691 to a price reduction or discount on the sale;
- 4692 (B) the seller has an obligation to pass the price reduction or discount through to the
- 4693 purchaser;
- 4694 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 4695 the seller at the time of the sale to the purchaser; and
- 4696 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 4697 seller to claim a price reduction or discount; and
- 4698 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 4699 coupon, or other documentation with the understanding that the person other than the seller
- 4700 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 4701 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 4702 organization allowed a price reduction or discount, except that a preferred customer card that is
- 4703 available to any patron of a seller does not constitute membership in a group or organization
- 4704 allowed a price reduction or discount; or
- 4705 (III) the price reduction or discount is identified as a third party price reduction or
- 4706 discount on the:
- 4707 (Aa) invoice the purchaser receives; or
- 4708 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 4709 (c) "Purchase price" and "sales price" do not include:
- 4710 (i) a discount:
- 4711 (A) in a form including:
- 4712 (I) cash;



- 4713 (II) term; or  
4714 (III) coupon;  
4715 (B) that is allowed by a seller;  
4716 (C) taken by a purchaser on a sale; and  
4717 (D) that is not reimbursed by a third party; or  
4718 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately  
4719 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of  
4720 sale or later, as demonstrated by the books and records the seller keeps at the time of the  
4721 transaction in the regular course of business, including books and records the seller keeps at the  
4722 time of the transaction in the regular course of business for nontax purposes, by a  
4723 preponderance of the facts and circumstances at the time of the transaction, and by the  
4724 understanding of all of the parties to the transaction:
- 4725 (A) the following from credit extended on the sale of tangible personal property or  
4726 services:
- 4727 (I) a carrying charge;  
4728 (II) a financing charge; or  
4729 (III) an interest charge;  
4730 (B) a delivery charge;  
4731 (C) an installation charge;  
4732 (D) a manufacturer rebate on a motor vehicle; or  
4733 (E) a tax or fee legally imposed directly on the consumer.
- 4734 [~~(100)~~] (99) "Purchaser" means a person to whom:  
4735 (a) a sale of tangible personal property is made;  
4736 (b) a product is transferred electronically; or  
4737 (c) a service is furnished.
- 4738 [~~(101)~~] (100) "Qualifying enterprise data center" means an establishment that will:  
4739 (a) own and operate a data center facility that will house a group of networked server  
4740 computers in one physical location in order to centralize the dissemination, management, and  
4741 storage of data and information;  
4742 (b) be located in the state;  
4743 (c) be a new operation constructed on or after July 1, 2016;

- 4744 (d) consist of one or more buildings that total 150,000 or more square feet;
- 4745 (e) be owned or leased by:
- 4746 (i) the establishment; or
- 4747 (ii) a person under common ownership, as defined in Section 59-7-101, of the
- 4748 establishment; and
- 4749 (f) be located on one or more parcels of land that are owned or leased by:
- 4750 (i) the establishment; or
- 4751 (ii) a person under common ownership, as defined in Section 59-7-101, of the
- 4752 establishment.
- 4753 [~~(102)~~] (101) "Regularly rented" means:
- 4754 (a) rented to a guest for value three or more times during a calendar year; or
- 4755 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 4756 value.
- 4757 [~~(103)~~] (102) "Rental" means the same as that term is defined in Subsection [~~(59)~~] (58).
- 4758 [~~(104)~~] (103) (a) Except as provided in Subsection [~~(104)~~] (103)(b), "repairs or
- 4759 renovations of tangible personal property" means:
- 4760 (i) a repair or renovation of tangible personal property that is not permanently attached
- 4761 to real property; or
- 4762 (ii) attaching tangible personal property or a product transferred electronically to other
- 4763 tangible personal property or detaching tangible personal property or a product transferred
- 4764 electronically from other tangible personal property if:
- 4765 (A) the other tangible personal property to which the tangible personal property or
- 4766 product transferred electronically is attached or from which the tangible personal property or
- 4767 product transferred electronically is detached is not permanently attached to real property; and
- 4768 (B) the attachment of tangible personal property or a product transferred electronically
- 4769 to other tangible personal property or detachment of tangible personal property or a product
- 4770 transferred electronically from other tangible personal property is made in conjunction with a
- 4771 repair or replacement of tangible personal property or a product transferred electronically.
- 4772 (b) "Repairs or renovations of tangible personal property" does not include:
- 4773 (i) attaching prewritten computer software to other tangible personal property if the
- 4774 other tangible personal property to which the prewritten computer software is attached is not

4775 permanently attached to real property; or

4776 (ii) detaching prewritten computer software from other tangible personal property if the  
4777 other tangible personal property from which the prewritten computer software is detached is  
4778 not permanently attached to real property.

4779 ~~[(105)]~~ (104) "Research and development" means the process of inquiry or  
4780 experimentation aimed at the discovery of facts, devices, technologies, or applications and the  
4781 process of preparing those devices, technologies, or applications for marketing.

4782 ~~[(106)]~~ (105) (a) "Residential telecommunications services" means a  
4783 telecommunications service or an ancillary service that is provided to an individual for personal  
4784 use:

4785 (i) at a residential address; or

4786 (ii) at an institution, including a nursing home or a school, if the telecommunications  
4787 service or ancillary service is provided to and paid for by the individual residing at the  
4788 institution rather than the institution.

4789 (b) For purposes of Subsection ~~[(106)]~~ (105)(a)(i), a residential address includes an:

4790 (i) apartment; or

4791 (ii) other individual dwelling unit.

4792 ~~[(107)]~~ (106) "Residential use" means the use in or around a home, apartment building,  
4793 sleeping quarters, and similar facilities or accommodations.

4794 ~~[(108)]~~ (107) (a) "Retailer" means any person engaged in a regularly organized  
4795 business in tangible personal property or any other taxable transaction under Subsection  
4796 59-12-103(1), and who is selling to the user or consumer and not for resale.

4797 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
4798 engaged in the business of selling to users or consumers within the state.

4799 ~~[(109)]~~ (108) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose  
4800 other than:

4801 (a) resale;

4802 (b) sublease; or

4803 (c) subrent.

4804 ~~[(110)]~~ (109) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
4805 otherwise, in any manner, of tangible personal property or any other taxable transaction under

4806 Subsection 59-12-103(1), for consideration.

4807 (b) "Sale" includes:

4808 (i) installment and credit sales;

4809 (ii) any closed transaction constituting a sale;

4810 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
4811 chapter;

4812 (iv) any transaction if the possession of property is transferred but the seller retains the  
4813 title as security for the payment of the price; and

4814 (v) any transaction under which right to possession, operation, or use of any article of  
4815 tangible personal property is granted under a lease or contract and the transfer of possession  
4816 would be taxable if an outright sale were made.

4817 [~~(111)~~] (110) "Sale at retail" means the same as that term is defined in Subsection  
4818 [~~(109)~~] (108).

4819 [~~(112)~~] (111) "Sale-leaseback transaction" means a transaction by which title to  
4820 tangible personal property or a product transferred electronically that is subject to a tax under  
4821 this chapter is transferred:

4822 (a) by a purchaser-lessee;

4823 (b) to a lessor;

4824 (c) for consideration; and

4825 (d) if:

4826 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase  
4827 of the tangible personal property or product transferred electronically;

4828 (ii) the sale of the tangible personal property or product transferred electronically to the  
4829 lessor is intended as a form of financing:

4830 (A) for the tangible personal property or product transferred electronically; and

4831 (B) to the purchaser-lessee; and

4832 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee  
4833 is required to:

4834 (A) capitalize the tangible personal property or product transferred electronically for  
4835 financial reporting purposes; and

4836 (B) account for the lease payments as payments made under a financing arrangement.

4837            [~~(113)~~] (112) "Sales price" means the same as that term is defined in Subsection [~~(99)~~]  
4838 (98).

4839            [~~(114)~~] (113) (a) "Sales relating to schools" means the following sales by, amounts  
4840 paid to, or amounts charged by a school:

4841            (i) sales that are directly related to the school's educational functions or activities  
4842 including:

4843            (A) the sale of:

4844            (I) textbooks;

4845            (II) textbook fees;

4846            (III) laboratory fees;

4847            (IV) laboratory supplies; or

4848            (V) safety equipment;

4849            (B) the sale of a uniform, protective equipment, or sports or recreational equipment

4850 that:

4851            (I) a student is specifically required to wear as a condition of participation in a  
4852 school-related event or school-related activity; and

4853            (II) is not readily adaptable to general or continued usage to the extent that it takes the  
4854 place of ordinary clothing;

4855            (C) sales of the following if the net or gross revenues generated by the sales are  
4856 deposited into a school district fund or school fund dedicated to school meals:

4857            (I) food and food ingredients; or

4858            (II) prepared food; or

4859            (D) transportation charges for official school activities; or

4860            (ii) amounts paid to or amounts charged by a school for admission to a school-related  
4861 event or school-related activity.

4862            (b) "Sales relating to schools" does not include:

4863            (i) bookstore sales of items that are not educational materials or supplies;

4864            (ii) except as provided in Subsection [~~(114)~~] (113)(a)(i)(B):

4865            (A) clothing;

4866            (B) clothing accessories or equipment;

4867            (C) protective equipment; or

- 4868 (D) sports or recreational equipment; or
- 4869 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 4870 event or school-related activity if the amounts paid or charged are passed through to a person:
- 4871 (A) other than a:
- 4872 (I) school;
- 4873 (II) nonprofit organization authorized by a school board or a governing body of a
- 4874 private school to organize and direct a competitive secondary school activity; or
- 4875 (III) nonprofit association authorized by a school board or a governing body of a
- 4876 private school to organize and direct a competitive secondary school activity; and
- 4877 (B) that is required to collect sales and use taxes under this chapter.
- 4878 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 4879 commission may make rules defining the term "passed through."
- 4880 [~~(115)~~] (114) For purposes of this section and Section 59-12-104, "school":
- 4881 (a) means:
- 4882 (i) an elementary school or a secondary school that:
- 4883 (A) is a:
- 4884 (I) public school; or
- 4885 (II) private school; and
- 4886 (B) provides instruction for one or more grades kindergarten through 12; or
- 4887 (ii) a public school district; and
- 4888 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 4889 [~~(116)~~] (115) "Seller" means a person that makes a sale, lease, or rental of:
- 4890 (a) tangible personal property;
- 4891 (b) a product transferred electronically; or
- 4892 (c) a service.
- 4893 [~~(117)~~] (116) (a) "Semiconductor fabricating, processing, research, or development
- 4894 materials" means tangible personal property or a product transferred electronically if the
- 4895 tangible personal property or product transferred electronically is:
- 4896 (i) used primarily in the process of:
- 4897 (A) (I) manufacturing a semiconductor;
- 4898 (II) fabricating a semiconductor; or

- 4899 (III) research or development of a:
- 4900 (Aa) semiconductor; or
- 4901 (Bb) semiconductor manufacturing process; or
- 4902 (B) maintaining an environment suitable for a semiconductor; or
- 4903 (ii) consumed primarily in the process of:
- 4904 (A) (I) manufacturing a semiconductor;
- 4905 (II) fabricating a semiconductor; or
- 4906 (III) research or development of a:
- 4907 (Aa) semiconductor; or
- 4908 (Bb) semiconductor manufacturing process; or
- 4909 (B) maintaining an environment suitable for a semiconductor.
- 4910 (b) "Semiconductor fabricating, processing, research, or development materials"
- 4911 includes:
- 4912 (i) parts used in the repairs or renovations of tangible personal property or a product
- 4913 transferred electronically described in Subsection [~~(117)~~] (116)(a); or
- 4914 (ii) a chemical, catalyst, or other material used to:
- 4915 (A) produce or induce in a semiconductor a:
- 4916 (I) chemical change; or
- 4917 (II) physical change;
- 4918 (B) remove impurities from a semiconductor; or
- 4919 (C) improve the marketable condition of a semiconductor.
- 4920 [~~(118)~~] (117) "Senior citizen center" means a facility having the primary purpose of
- 4921 providing services to the aged as defined in Section 62A-3-101.
- 4922 [~~(119)~~] (118) (a) Subject to Subsections [~~(119)~~] (118)(b) and (c), "short-term lodging
- 4923 consumable" means tangible personal property that:
- 4924 (i) a business that provides accommodations and services described in Subsection
- 4925 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
- 4926 to a purchaser;
- 4927 (ii) is intended to be consumed by the purchaser; and
- 4928 (iii) is:
- 4929 (A) included in the purchase price of the accommodations and services; and

4930 (B) not separately stated on an invoice, bill of sale, or other similar document provided  
4931 to the purchaser.

4932 (b) "Short-term lodging consumable" includes:

4933 (i) a beverage;

4934 (ii) a brush or comb;

4935 (iii) a cosmetic;

4936 (iv) a hair care product;

4937 (v) lotion;

4938 (vi) a magazine;

4939 (vii) makeup;

4940 (viii) a meal;

4941 (ix) mouthwash;

4942 (x) nail polish remover;

4943 (xi) a newspaper;

4944 (xii) a notepad;

4945 (xiii) a pen;

4946 (xiv) a pencil;

4947 (xv) a razor;

4948 (xvi) saline solution;

4949 (xvii) a sewing kit;

4950 (xviii) shaving cream;

4951 (xix) a shoe shine kit;

4952 (xx) a shower cap;

4953 (xxi) a snack item;

4954 (xxii) soap;

4955 (xxiii) toilet paper;

4956 (xxiv) a toothbrush;

4957 (xxv) toothpaste; or

4958 (xxvi) an item similar to Subsections [~~(H9)~~] (118)(b)(i) through (xxv) as the

4959 commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah

4960 Administrative Rulemaking Act.



- 4961 (c) "Short-term lodging consumable" does not include:
- 4962 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 4963 property to be reused; or
- 4964 (ii) a product transferred electronically.
- 4965 [~~(120)~~] (119) "Simplified electronic return" means the electronic return:
- 4966 (a) described in Section 318(C) of the agreement; and
- 4967 (b) approved by the governing board of the agreement.
- 4968 [~~(121)~~] (120) "Solar energy" means the sun used as the sole source of energy for
- 4969 producing electricity.
- 4970 [~~(122)~~] (121) (a) "Sports or recreational equipment" means an item:
- 4971 (i) designed for human use; and
- 4972 (ii) that is:
- 4973 (A) worn in conjunction with:
- 4974 (I) an athletic activity; or
- 4975 (II) a recreational activity; and
- 4976 (B) not suitable for general use.
- 4977 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 4978 commission shall make rules:
- 4979 (i) listing the items that constitute "sports or recreational equipment"; and
- 4980 (ii) that are consistent with the list of items that constitute "sports or recreational
- 4981 equipment" under the agreement.
- 4982 [~~(123)~~] (122) "State" means the state of Utah, its departments, and agencies.
- 4983 [~~(124)~~] (123) "Storage" means any keeping or retention of tangible personal property or
- 4984 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
- 4985 except sale in the regular course of business.
- 4986 [~~(125)~~] (124) (a) Except as provided in Subsection [~~(125)~~] (124)(d) or (e), "tangible
- 4987 personal property" means personal property that:
- 4988 (i) may be:
- 4989 (A) seen;
- 4990 (B) weighed;
- 4991 (C) measured;

- 4992 (D) felt; or
- 4993 (E) touched; or
- 4994 (ii) is in any manner perceptible to the senses.
- 4995 (b) "Tangible personal property" includes:
- 4996 (i) electricity;
- 4997 (ii) water;
- 4998 (iii) gas;
- 4999 (iv) steam; or
- 5000 (v) prewritten computer software, regardless of the manner in which the prewritten
- 5001 computer software is transferred.
- 5002 (c) "Tangible personal property" includes the following regardless of whether the item
- 5003 is attached to real property:
- 5004 (i) a dishwasher;
- 5005 (ii) a dryer;
- 5006 (iii) a freezer;
- 5007 (iv) a microwave;
- 5008 (v) a refrigerator;
- 5009 (vi) a stove;
- 5010 (vii) a washer; or
- 5011 (viii) an item similar to Subsections [~~125~~] (124)(c)(i) through (vii) as determined by
- 5012 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 5013 Rulemaking Act.
- 5014 (d) "Tangible personal property" does not include a product that is transferred
- 5015 electronically.
- 5016 (e) "Tangible personal property" does not include the following if attached to real
- 5017 property, regardless of whether the attachment to real property is only through a line that
- 5018 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
- 5019 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 5020 Rulemaking Act:
- 5021 (i) a hot water heater;
- 5022 (ii) a water filtration system; or

- 5023 (iii) a water softener system.
- 5024 [~~(126)~~] (125) (a) "Telecommunications enabling or facilitating equipment, machinery,  
5025 or software" means an item listed in Subsection [~~(126)~~] (125)(b) if that item is purchased or  
5026 leased primarily to enable or facilitate one or more of the following to function:
- 5027 (i) telecommunications switching or routing equipment, machinery, or software; or  
5028 (ii) telecommunications transmission equipment, machinery, or software.
- 5029 (b) The following apply to Subsection [~~(126)~~] (125)(a):
- 5030 (i) a pole;  
5031 (ii) software;  
5032 (iii) a supplementary power supply;  
5033 (iv) temperature or environmental equipment or machinery;  
5034 (v) test equipment;  
5035 (vi) a tower; or  
5036 (vii) equipment, machinery, or software that functions similarly to an item listed in  
5037 Subsections [~~(126)~~] (125)(b)(i) through (vi) as determined by the commission by rule made in  
5038 accordance with Subsection [~~(126)~~] (125)(c).
- 5039 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
5040 commission may by rule define what constitutes equipment, machinery, or software that  
5041 functions similarly to an item listed in Subsections [~~(126)~~] (125)(b)(i) through (vi).
- 5042 [~~(127)~~] (126) "Telecommunications equipment, machinery, or software required for  
5043 911 service" means equipment, machinery, or software that is required to comply with 47  
5044 C.F.R. Sec. 20.18.
- 5045 [~~(128)~~] (127) "Telecommunications maintenance or repair equipment, machinery, or  
5046 software" means equipment, machinery, or software purchased or leased primarily to maintain  
5047 or repair one or more of the following, regardless of whether the equipment, machinery, or  
5048 software is purchased or leased as a spare part or as an upgrade or modification to one or more  
5049 of the following:
- 5050 (a) telecommunications enabling or facilitating equipment, machinery, or software;  
5051 (b) telecommunications switching or routing equipment, machinery, or software; or  
5052 (c) telecommunications transmission equipment, machinery, or software.
- 5053 [~~(129)~~] (128) (a) "Telecommunications service" means the electronic conveyance,

- 5054 routing, or transmission of audio, data, video, voice, or any other information or signal to a  
5055 point, or among or between points.
- 5056 (b) "Telecommunications service" includes:
- 5057 (i) an electronic conveyance, routing, or transmission with respect to which a computer  
5058 processing application is used to act:
- 5059 (A) on the code, form, or protocol of the content;
- 5060 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 5061 (C) regardless of whether the service:
- 5062 (I) is referred to as voice over Internet protocol service; or
- 5063 (II) is classified by the Federal Communications Commission as enhanced or value  
5064 added;
- 5065 (ii) an 800 service;
- 5066 (iii) a 900 service;
- 5067 (iv) a fixed wireless service;
- 5068 (v) a mobile wireless service;
- 5069 (vi) a postpaid calling service;
- 5070 (vii) a prepaid calling service;
- 5071 (viii) a prepaid wireless calling service; or
- 5072 (ix) a private communications service.
- 5073 (c) "Telecommunications service" does not include:
- 5074 (i) advertising, including directory advertising;
- 5075 (ii) an ancillary service;
- 5076 (iii) a billing and collection service provided to a third party;
- 5077 (iv) a data processing and information service if:
- 5078 (A) the data processing and information service allows data to be:
- 5079 (I) (Aa) acquired;
- 5080 (Bb) generated;
- 5081 (Cc) processed;
- 5082 (Dd) retrieved; or
- 5083 (Ee) stored; and
- 5084 (II) delivered by an electronic transmission to a purchaser; and

- 5085 (B) the purchaser's primary purpose for the underlying transaction is the processed data  
5086 or information;
- 5087 (v) installation or maintenance of the following on a customer's premises:
- 5088 (A) equipment; or
- 5089 (B) wiring;
- 5090 (vi) Internet access service;
- 5091 (vii) a paging service;
- 5092 (viii) a product transferred electronically, including:
- 5093 (A) music;
- 5094 (B) reading material;
- 5095 (C) a ring tone;
- 5096 (D) software; or
- 5097 (E) video;
- 5098 (ix) a radio and television audio and video programming service:
- 5099 (A) regardless of the medium; and
- 5100 (B) including:
- 5101 (I) furnishing conveyance, routing, or transmission of a television audio and video  
5102 programming service by a programming service provider;
- 5103 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 5104 (III) audio and video programming services delivered by a commercial mobile radio  
5105 service provider as defined in 47 C.F.R. Sec. 20.3;
- 5106 (x) a value-added nonvoice data service; or
- 5107 (xi) tangible personal property.
- 5108 [~~(130)~~] (129) (a) "Telecommunications service provider" means a person that:
- 5109 (i) owns, controls, operates, or manages a telecommunications service; and
- 5110 (ii) engages in an activity described in Subsection [~~(130)~~] (129)(a)(i) for the shared use  
5111 with or resale to any person of the telecommunications service.
- 5112 (b) A person described in Subsection [~~(130)~~] (129)(a) is a telecommunications service  
5113 provider whether or not the Public Service Commission of Utah regulates:
- 5114 (i) that person; or
- 5115 (ii) the telecommunications service that the person owns, controls, operates, or

5116 manages.

5117           ~~[(131)]~~ (130) (a) "Telecommunications switching or routing equipment, machinery, or  
5118 software" means an item listed in Subsection ~~[(131)]~~ (130)(b) if that item is purchased or  
5119 leased primarily for switching or routing:

- 5120           (i) an ancillary service;
- 5121           (ii) data communications;
- 5122           (iii) voice communications; or
- 5123           (iv) telecommunications service.

5124           (b) The following apply to Subsection ~~[(131)]~~ (130)(a):

- 5125           (i) a bridge;
- 5126           (ii) a computer;
- 5127           (iii) a cross connect;
- 5128           (iv) a modem;
- 5129           (v) a multiplexer;
- 5130           (vi) plug in circuitry;
- 5131           (vii) a router;
- 5132           (viii) software;
- 5133           (ix) a switch; or
- 5134           (x) equipment, machinery, or software that functions similarly to an item listed in  
5135 Subsections ~~[(131)]~~ (130)(b)(i) through (ix) as determined by the commission by rule made in  
5136 accordance with Subsection ~~[(131)]~~ (130)(c).

5137           (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
5138 commission may by rule define what constitutes equipment, machinery, or software that  
5139 functions similarly to an item listed in Subsections ~~[(131)]~~ (130)(b)(i) through (ix).

5140           ~~[(132)]~~ (131) (a) "Telecommunications transmission equipment, machinery, or  
5141 software" means an item listed in Subsection ~~[(132)]~~ (131)(b) if that item is purchased or  
5142 leased primarily for sending, receiving, or transporting:

- 5143           (i) an ancillary service;
- 5144           (ii) data communications;
- 5145           (iii) voice communications; or
- 5146           (iv) telecommunications service.

- 5147 (b) The following apply to Subsection [~~(132)~~] (131)(a):
- 5148 (i) an amplifier;
- 5149 (ii) a cable;
- 5150 (iii) a closure;
- 5151 (iv) a conduit;
- 5152 (v) a controller;
- 5153 (vi) a duplexer;
- 5154 (vii) a filter;
- 5155 (viii) an input device;
- 5156 (ix) an input/output device;
- 5157 (x) an insulator;
- 5158 (xi) microwave machinery or equipment;
- 5159 (xii) an oscillator;
- 5160 (xiii) an output device;
- 5161 (xiv) a pedestal;
- 5162 (xv) a power converter;
- 5163 (xvi) a power supply;
- 5164 (xvii) a radio channel;
- 5165 (xviii) a radio receiver;
- 5166 (xix) a radio transmitter;
- 5167 (xx) a repeater;
- 5168 (xxi) software;
- 5169 (xxii) a terminal;
- 5170 (xxiii) a timing unit;
- 5171 (xxiv) a transformer;
- 5172 (xxv) a wire; or
- 5173 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 5174 Subsections [~~(132)~~] (131)(b)(i) through (xxv) as determined by the commission by rule made in
- 5175 accordance with Subsection [~~(132)~~] (131)(c).
- 5176 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 5177 commission may by rule define what constitutes equipment, machinery, or software that

5178 functions similarly to an item listed in Subsections ~~[(132)]~~ (131)(b)(i) through (xxv).

5179 ~~[(133)]~~ (132) (a) "Textbook for a higher education course" means a textbook or other  
5180 printed material that is required for a course:

5181 (i) offered by an institution of higher education; and

5182 (ii) that the purchaser of the textbook or other printed material attends or will attend.

5183 (b) "Textbook for a higher education course" includes a textbook in electronic format.

5184 ~~[(134)]~~ (133) "Tobacco" means:

5185 (a) a cigarette;

5186 (b) a cigar;

5187 (c) chewing tobacco;

5188 (d) pipe tobacco; or

5189 (e) any other item that contains tobacco.

5190 ~~[(135)] "Unassisted amusement device" means an amusement device, skill device, or~~  
5191 ~~ride device that is started and stopped by the purchaser or renter of the right to use or operate~~  
5192 ~~the amusement device, skill device, or ride device.]~~

5193 ~~[(136)]~~ (134) (a) "Use" means the exercise of any right or power over tangible personal  
5194 property, a product transferred electronically, or a service under Subsection 59-12-103(1),  
5195 incident to the ownership or the leasing of that tangible personal property, product transferred  
5196 electronically, or service.

5197 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
5198 property, a product transferred electronically, or a service in the regular course of business and  
5199 held for resale.

5200 ~~[(137)]~~ (135) "Value-added nonvoice data service" means a service:

5201 (a) that otherwise meets the definition of a telecommunications service except that a  
5202 computer processing application is used to act primarily for a purpose other than conveyance,  
5203 routing, or transmission; and

5204 (b) with respect to which a computer processing application is used to act on data or  
5205 information:

5206 (i) code;

5207 (ii) content;

5208 (iii) form; or



- 5209 (iv) protocol.
- 5210 [~~(138)~~] (136) (a) Subject to Subsection [~~(138)~~] (136)(b), "vehicle" means the following
- 5211 that are required to be titled, registered, or titled and registered:
- 5212 (i) an aircraft as defined in Section 72-10-102;
- 5213 (ii) a vehicle as defined in Section 41-1a-102;
- 5214 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 5215 (iv) a vessel as defined in Section 41-1a-102.
- 5216 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 5217 (i) a vehicle described in Subsection [~~(138)~~] (136)(a); or
- 5218 (ii) (A) a locomotive;
- 5219 (B) a freight car;
- 5220 (C) railroad work equipment; or
- 5221 (D) other railroad rolling stock.
- 5222 [~~(139)~~] (137) "Vehicle dealer" means a person engaged in the business of buying,
- 5223 selling, or exchanging a vehicle as defined in Subsection [~~(138)~~] (136).
- 5224 [~~(140)~~] (138) (a) "Vertical service" means an ancillary service that:
- 5225 (i) is offered in connection with one or more telecommunications services; and
- 5226 (ii) offers an advanced calling feature that allows a customer to:
- 5227 (A) identify a caller; and
- 5228 (B) manage multiple calls and call connections.
- 5229 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 5230 conference bridging service.
- 5231 [~~(141)~~] (139) (a) "Voice mail service" means an ancillary service that enables a
- 5232 customer to receive, send, or store a recorded message.
- 5233 (b) "Voice mail service" does not include a vertical service that a customer is required
- 5234 to have in order to utilize a voice mail service.
- 5235 [~~(142)~~] (140) (a) Except as provided in Subsection [~~(142)~~] (140)(b), "waste energy
- 5236 facility" means a facility that generates electricity:
- 5237 (i) using as the primary source of energy waste materials that would be placed in a
- 5238 landfill or refuse pit if it were not used to generate electricity, including:
- 5239 (A) tires;

- 5240 (B) waste coal;
- 5241 (C) oil shale; or
- 5242 (D) municipal solid waste; and
- 5243 (ii) in amounts greater than actually required for the operation of the facility.
- 5244 (b) "Waste energy facility" does not include a facility that incinerates:
- 5245 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 5246 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 5247 [~~(143)~~] (141) "Watercraft" means a vessel as defined in Section 73-18-2.
- 5248 [~~(144)~~] (142) "Wind energy" means wind used as the sole source of energy to produce
- 5249 electricity.

5250 [~~(145)~~] (143) "ZIP Code" means a Zoning Improvement Plan Code assigned to a

5251 geographic location by the United States Postal Service.

5252 Section 37. Section **59-12-103** is amended to read:

5253 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**

5254 **tax revenues.**

5255 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or

5256 sales price for amounts paid or charged for the following transactions:

5257 (a) retail sales of tangible personal property made within the state;

5258 (b) amounts paid for:

5259 (i) telecommunications service, other than mobile telecommunications service, that

5260 originates and terminates within the boundaries of this state;

5261 (ii) mobile telecommunications service that originates and terminates within the

5262 boundaries of one state only to the extent permitted by the Mobile Telecommunications

5263 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

5264 (iii) an ancillary service associated with a:

5265 (A) telecommunications service described in Subsection (1)(b)(i); or

5266 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

5267 (c) sales of the following for commercial use:

5268 (i) gas;

5269 (ii) electricity;

5270 (iii) heat;

- 5271 (iv) coal;
- 5272 (v) fuel oil; or
- 5273 (vi) other fuels;
- 5274 (d) sales of the following for residential use:
- 5275 (i) gas;
- 5276 (ii) electricity;
- 5277 (iii) heat;
- 5278 (iv) coal;
- 5279 (v) fuel oil; or
- 5280 (vi) other fuels;
- 5281 (e) sales of prepared food;
- 5282 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 5283 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 5284 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 5285 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 5286 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 5287 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 5288 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 5289 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 5290 exhibition, cultural, or athletic activity;
- 5291 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 5292 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 5293 (i) the tangible personal property; and
- 5294 (ii) parts used in the repairs or renovations of the tangible personal property described
- 5295 in Subsection (1)(g)(i), regardless of whether:
- 5296 (A) any parts are actually used in the repairs or renovations of that tangible personal
- 5297 property; or
- 5298 (B) the particular parts used in the repairs or renovations of that tangible personal
- 5299 property are exempt from a tax under this chapter;
- 5300 (h) except as provided in ~~[Subsection]~~ Subsections 59-12-104(7) and (87), amounts
- 5301 paid or charged for assisted cleaning or washing of tangible personal property;

- 5302 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court  
5303 accommodations and services that are regularly rented for less than 30 consecutive days;
- 5304 (j) amounts paid or charged for laundry or dry cleaning services;
- 5305 (k) amounts paid or charged for leases or rentals of tangible personal property if within  
5306 this state the tangible personal property is:
- 5307 (i) stored;
- 5308 (ii) used; or
- 5309 (iii) otherwise consumed;
- 5310 (l) amounts paid or charged for tangible personal property if within this state the  
5311 tangible personal property is:
- 5312 (i) stored;
- 5313 (ii) used; or
- 5314 (iii) consumed; [~~and~~]
- 5315 (m) amounts paid or charged for a sale:
- 5316 (i) (A) of a product transferred electronically; or  
5317 (B) of a repair or renovation of a product transferred electronically; and
- 5318 (ii) regardless of whether the sale provides:
- 5319 (A) a right of permanent use of the product; or  
5320 (B) a right to use the product that is less than a permanent use, including a right:  
5321 (I) for a definite or specified length of time; and  
5322 (II) that terminates upon the occurrence of a condition[-]; and
- 5323 (n) amounts paid or charged for access:
- 5324 (i) to digital audio-visual works, digital audio works, digital books, or gaming services,  
5325 including the streaming of or subscription for access to digital audio-visual works, digital audio  
5326 work, digital books, or gaming services;
- 5327 (ii) regardless of the method of delivery; and
- 5328 (iii) regardless of whether the amount paid or charged for access provides:
- 5329 (A) a right to single-use access to the digital audio-visual works, digital audio works,  
5330 digital books, or gaming services; or
- 5331 (B) a right to access the audio-visual works, digital audio works, digital books, or  
5332 gaming services through a subscription, including a right that terminates upon the occurrence

5333 of a condition.

5334 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax  
5335 is imposed on a transaction described in Subsection (1) equal to the sum of:

5336 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

5337 (A) 4.70%; and

5338 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales  
5339 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211  
5340 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional  
5341 State Sales and Use Tax Act; and

5342 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales  
5343 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211  
5344 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state  
5345 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

5346 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
5347 transaction under this chapter other than this part.

5348 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed  
5349 on a transaction described in Subsection (1)(d) equal to the sum of:

5350 (i) a state tax imposed on the transaction at a tax rate of 2%; and

5351 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
5352 transaction under this chapter other than this part.

5353 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed  
5354 on amounts paid or charged for food and food ingredients equal to the sum of:

5355 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at  
5356 a tax rate of 1.75%; and

5357 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
5358 amounts paid or charged for food and food ingredients under this chapter other than this part.

5359 (d) (i) For a bundled transaction that is attributable to food and food ingredients and  
5360 tangible personal property other than food and food ingredients, a state tax and a local tax is  
5361 imposed on the entire bundled transaction equal to the sum of:

5362 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

5363 (I) the tax rate described in Subsection (2)(a)(i)(A); and

5364 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State  
5365 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
5366 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,  
5367 Additional State Sales and Use Tax Act; and

5368 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State  
5369 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
5370 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which  
5371 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

5372 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates  
5373 described in Subsection (2)(a)(ii).

5374 (ii) If an optional computer software maintenance contract is a bundled transaction that  
5375 consists of taxable and nontaxable products that are not separately itemized on an invoice or  
5376 similar billing document, the purchase of the optional computer software maintenance contract  
5377 is 40% taxable under this chapter and 60% nontaxable under this chapter.

5378 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled  
5379 transaction described in Subsection (2)(d)(i) or (ii):

5380 (A) if the sales price of the bundled transaction is attributable to tangible personal  
5381 property, a product, or a service that is subject to taxation under this chapter and tangible  
5382 personal property, a product, or service that is not subject to taxation under this chapter, the  
5383 entire bundled transaction is subject to taxation under this chapter unless:

5384 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
5385 personal property, product, or service that is not subject to taxation under this chapter from the  
5386 books and records the seller keeps in the seller's regular course of business; or

5387 (II) state or federal law provides otherwise; or

5388 (B) if the sales price of a bundled transaction is attributable to two or more items of  
5389 tangible personal property, products, or services that are subject to taxation under this chapter  
5390 at different rates, the entire bundled transaction is subject to taxation under this chapter at the  
5391 higher tax rate unless:

5392 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
5393 personal property, product, or service that is subject to taxation under this chapter at the lower  
5394 tax rate from the books and records the seller keeps in the seller's regular course of business; or

5395 (II) state or federal law provides otherwise.

5396 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the  
5397 seller's regular course of business includes books and records the seller keeps in the regular  
5398 course of business for nontax purposes.

5399 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)  
5400 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a  
5401 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental  
5402 of tangible personal property, other property, a product, or a service that is not subject to  
5403 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless  
5404 the seller, at the time of the transaction:

5405 (A) separately states the portion of the transaction that is not subject to taxation under  
5406 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

5407 (B) is able to identify by reasonable and verifiable standards, from the books and  
5408 records the seller keeps in the seller's regular course of business, the portion of the transaction  
5409 that is not subject to taxation under this chapter.

5410 (ii) A purchaser and a seller may correct the taxability of a transaction if:

5411 (A) after the transaction occurs, the purchaser and the seller discover that the portion of  
5412 the transaction that is not subject to taxation under this chapter was not separately stated on an  
5413 invoice, bill of sale, or similar document provided to the purchaser because of an error or  
5414 ignorance of the law; and

5415 (B) the seller is able to identify by reasonable and verifiable standards, from the books  
5416 and records the seller keeps in the seller's regular course of business, the portion of the  
5417 transaction that is not subject to taxation under this chapter.

5418 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps  
5419 in the seller's regular course of business includes books and records the seller keeps in the  
5420 regular course of business for nontax purposes.

5421 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible  
5422 personal property, products, or services that are subject to taxation under this chapter at  
5423 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate  
5424 unless the seller, at the time of the transaction:

5425 (A) separately states the items subject to taxation under this chapter at each of the

5426 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

5427 (B) is able to identify by reasonable and verifiable standards the tangible personal  
5428 property, product, or service that is subject to taxation under this chapter at the lower tax rate  
5429 from the books and records the seller keeps in the seller's regular course of business.

5430 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the  
5431 seller's regular course of business includes books and records the seller keeps in the regular  
5432 course of business for nontax purposes.

5433 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax  
5434 rate imposed under the following shall take effect on the first day of a calendar quarter:

5435 (i) Subsection (2)(a)(i)(A);

5436 (ii) Subsection (2)(b)(i);

5437 (iii) Subsection (2)(c)(i); or

5438 (iv) Subsection (2)(d)(i)(A)(I).

5439 (h) (i) A tax rate increase takes effect on the first day of the first billing period that  
5440 begins on or after the effective date of the tax rate increase if the billing period for the  
5441 transaction begins before the effective date of a tax rate increase imposed under:

5442 (A) Subsection (2)(a)(i)(A);

5443 (B) Subsection (2)(b)(i);

5444 (C) Subsection (2)(c)(i); or

5445 (D) Subsection (2)(d)(i)(A)(I).

5446 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing  
5447 statement for the billing period is rendered on or after the effective date of the repeal of the tax  
5448 or the tax rate decrease imposed under:

5449 (A) Subsection (2)(a)(i)(A);

5450 (B) Subsection (2)(b)(i);

5451 (C) Subsection (2)(c)(i); or

5452 (D) Subsection (2)(d)(i)(A)(I).

5453 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is  
5454 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or  
5455 change in a tax rate takes effect:

5456 (A) on the first day of a calendar quarter; and



- 5457 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 5458 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:
- 5459 (A) Subsection (2)(a)(i)(A);
- 5460 (B) Subsection (2)(b)(i);
- 5461 (C) Subsection (2)(c)(i); or
- 5462 (D) Subsection (2)(d)(i)(A)(I).
- 5463 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 5464 the commission may by rule define the term "catalogue sale."
- 5465 (3) (a) The following state taxes shall be deposited into the General Fund:
- 5466 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 5467 (ii) the tax imposed by Subsection (2)(b)(i);
- 5468 (iii) the tax imposed by Subsection (2)(c)(i); or
- 5469 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
- 5470 (b) The following local taxes shall be distributed to a county, city, or town as provided
- 5471 in this chapter:
- 5472 (i) the tax imposed by Subsection (2)(a)(ii);
- 5473 (ii) the tax imposed by Subsection (2)(b)(ii);
- 5474 (iii) the tax imposed by Subsection (2)(c)(ii); and
- 5475 (iv) the tax imposed by Subsection (2)(d)(i)(B).
- 5476 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
- 5477 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
- 5478 through (g):
- 5479 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
- 5480 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- 5481 (B) for the fiscal year; or
- 5482 (ii) \$17,500,000.
- 5483 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
- 5484 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
- 5485 Department of Natural Resources to:
- 5486 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
- 5487 protect sensitive plant and animal species; or

5488 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
5489 act, to political subdivisions of the state to implement the measures described in Subsections  
5490 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

5491 (ii) Money transferred to the Department of Natural Resources under Subsection  
5492 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other  
5493 person to list or attempt to have listed a species as threatened or endangered under the  
5494 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

5495 (iii) At the end of each fiscal year:

5496 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
5497 Conservation and Development Fund created in Section 73-10-24;

5498 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
5499 Program Subaccount created in Section 73-10c-5; and

5500 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
5501 Program Subaccount created in Section 73-10c-5.

5502 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in  
5503 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund  
5504 created in Section 4-18-106.

5505 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described  
5506 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water  
5507 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of  
5508 water rights.

5509 (ii) At the end of each fiscal year:

5510 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
5511 Conservation and Development Fund created in Section 73-10-24;

5512 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
5513 Program Subaccount created in Section 73-10c-5; and

5514 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
5515 Program Subaccount created in Section 73-10c-5.

5516 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described  
5517 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and  
5518 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

5519 (ii) In addition to the uses allowed of the Water Resources Conservation and  
5520 Development Fund under Section 73-10-24, the Water Resources Conservation and  
5521 Development Fund may also be used to:

5522 (A) conduct hydrologic and geotechnical investigations by the Division of Water  
5523 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
5524 quantifying surface and ground water resources and describing the hydrologic systems of an  
5525 area in sufficient detail so as to enable local and state resource managers to plan for and  
5526 accommodate growth in water use without jeopardizing the resource;

5527 (B) fund state required dam safety improvements; and

5528 (C) protect the state's interest in interstate water compact allocations, including the  
5529 hiring of technical and legal staff.

5530 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
5531 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount  
5532 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

5533 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
5534 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount  
5535 created in Section 73-10c-5 for use by the Division of Drinking Water to:

5536 (i) provide for the installation and repair of collection, treatment, storage, and  
5537 distribution facilities for any public water system, as defined in Section 19-4-102;

5538 (ii) develop underground sources of water, including springs and wells; and

5539 (iii) develop surface water sources.

5540 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
5541 2006, the difference between the following amounts shall be expended as provided in this  
5542 Subsection (5), if that difference is greater than \$1:

5543 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the  
5544 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

5545 (ii) \$17,500,000.

5546 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

5547 (A) transferred each fiscal year to the Department of Natural Resources as dedicated  
5548 credits; and

5549 (B) expended by the Department of Natural Resources for watershed rehabilitation or

5550 restoration.

5551 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
5552 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund  
5553 created in Section 73-10-24.

5554 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the  
5555 remaining difference described in Subsection (5)(a) shall be:

5556 (A) transferred each fiscal year to the Division of Water Resources as dedicated  
5557 credits; and

5558 (B) expended by the Division of Water Resources for cloud-seeding projects  
5559 authorized by Title 73, Chapter 15, Modification of Weather.

5560 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
5561 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund  
5562 created in Section 73-10-24.

5563 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the  
5564 remaining difference described in Subsection (5)(a) shall be deposited into the Water  
5565 Resources Conservation and Development Fund created in Section 73-10-24 for use by the  
5566 Division of Water Resources for:

5567 (i) preconstruction costs:

5568 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
5569 26, Bear River Development Act; and

5570 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project  
5571 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

5572 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,  
5573 Chapter 26, Bear River Development Act;

5574 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project  
5575 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

5576 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and  
5577 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

5578 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to  
5579 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be  
5580 transferred each year as dedicated credits to the Division of Water Rights to cover the costs

5581 incurred for employing additional technical staff for the administration of water rights.

5582 (f) At the end of each fiscal year, any unexpended dedicated credits described in  
5583 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development  
5584 Fund created in Section 73-10-24.

5585 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the  
5586 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection  
5587 (1) for the fiscal year shall be deposited as follows:

5588 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)  
5589 shall be deposited into the Transportation Investment Fund of 2005 created by Section  
5590 72-2-124;

5591 (b) for fiscal year 2017-18 only:

5592 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the  
5593 Transportation Investment Fund of 2005 created by Section 72-2-124; and

5594 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the  
5595 Water Infrastructure Restricted Account created by Section 73-10g-103;

5596 (c) for fiscal year 2018-19 only:

5597 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the  
5598 Transportation Investment Fund of 2005 created by Section 72-2-124; and

5599 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the  
5600 Water Infrastructure Restricted Account created by Section 73-10g-103;

5601 (d) for fiscal year 2019-20 only:

5602 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the  
5603 Transportation Investment Fund of 2005 created by Section 72-2-124; and

5604 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the  
5605 Water Infrastructure Restricted Account created by Section 73-10g-103;

5606 (e) for fiscal year 2020-21 only:

5607 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the  
5608 Transportation Investment Fund of 2005 created by Section 72-2-124; and

5609 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the  
5610 Water Infrastructure Restricted Account created by Section 73-10g-103; and

5611 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described

5612 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account  
5613 created by Section 73-10g-103.

5614 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in  
5615 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,  
5616 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005  
5617 created by Section 72-2-124:

5618 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of  
5619 the revenues collected from the following taxes, which represents a portion of the  
5620 approximately 17% of sales and use tax revenues generated annually by the sales and use tax  
5621 on vehicles and vehicle-related products:

5622 (A) the tax imposed by Subsection (2)(a)(i)(A);

5623 (B) the tax imposed by Subsection (2)(b)(i);

5624 (C) the tax imposed by Subsection (2)(c)(i); and

5625 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

5626 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the  
5627 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through  
5628 (D) that exceeds the amount collected from the sales and use taxes described in Subsections  
5629 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

5630 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of  
5631 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total  
5632 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)  
5633 generated in the current fiscal year than the total percentage of sales and use taxes deposited in  
5634 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection  
5635 (7)(a) equal to the product of:

5636 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the  
5637 previous fiscal year; and

5638 (B) the total sales and use tax revenue generated by the taxes described in Subsections  
5639 (7)(a)(i)(A) through (D) in the current fiscal year.

5640 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under  
5641 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes  
5642 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of

5643 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in  
5644 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

5645 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected  
5646 from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited  
5647 under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues  
5648 collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the  
5649 current fiscal year under Subsection (7)(a).

5650 (8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited  
5651 under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall  
5652 deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into  
5653 the Transportation Investment Fund of 2005 created by Section 72-2-124.

5654 (b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under  
5655 Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit  
5656 \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the  
5657 Transportation Investment Fund of 2005 created by Section 72-2-124.

5658 (c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under  
5659 Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning on or  
5660 after July 1, 2018, the commission shall annually deposit into the Transportation Investment  
5661 Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a)  
5662 in an amount equal to 3.68% of the revenues collected from the following taxes:

- 5663 (A) the tax imposed by Subsection (2)(a)(i)(A);  
5664 (B) the tax imposed by Subsection (2)(b)(i);  
5665 (C) the tax imposed by Subsection (2)(c)(i); and  
5666 (D) the tax imposed by Subsection (2)(d)(i)(A)(I).

5667 (ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually  
5668 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i)  
5669 by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year  
5670 by the portion of the tax imposed on motor and special fuel that is sold, used, or received for  
5671 sale or use in this state that exceeds 29.4 cents per gallon.

5672 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
5673 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund

5674 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

5675 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),  
5676 in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17  
5677 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund  
5678 of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on  
5679 the transactions described in Subsection (1).

5680 (b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in  
5681 addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance  
5682 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the  
5683 amount of revenue described as follows:

5684 (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%  
5685 tax rate on the transactions described in Subsection (1);

5686 (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05%  
5687 tax rate on the transactions described in Subsection (1);

5688 (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%  
5689 tax rate on the transactions described in Subsection (1);

5690 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a  
5691 .05% tax rate on the transactions described in Subsection (1); and

5692 (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%  
5693 tax rate on the transactions described in Subsection (1).

5694 (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not  
5695 deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts  
5696 paid or charged for food and food ingredients, except for tax revenue generated by a bundled  
5697 transaction attributable to food and food ingredients and tangible personal property other than  
5698 food and food ingredients described in Subsection (2)(d).

5699 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the  
5700 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that  
5701 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of  
5702 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue  
5703 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,  
5704 created in Section 63N-2-512.



5705 (12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the  
5706 Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed  
5707 under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

5708 (b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of  
5709 Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under  
5710 Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

5711 (13) Notwithstanding Subsections (4) through (12), an amount required to be expended  
5712 or deposited in accordance with Subsections (4) through (12) may not include an amount the  
5713 Division of Finance deposits in accordance with Section 59-12-103.2.

5714 Section 38. Section **59-12-104 (Effective 01/01/18)** is amended to read:

5715 **59-12-104 (Effective 01/01/18). Exemptions.**

5716 Exemptions from the taxes imposed by this chapter are as follows:

5717 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax  
5718 under Chapter 13, Motor and Special Fuel Tax Act;

5719 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political  
5720 subdivisions; however, this exemption does not apply to sales of:

5721 (a) construction materials except:

5722 (i) construction materials purchased by or on behalf of institutions of the public  
5723 education system as defined in Utah Constitution, Article X, Section 2, provided the  
5724 construction materials are clearly identified and segregated and installed or converted to real  
5725 property which is owned by institutions of the public education system; and

5726 (ii) construction materials purchased by the state, its institutions, or its political  
5727 subdivisions which are installed or converted to real property by employees of the state, its  
5728 institutions, or its political subdivisions; or

5729 (b) tangible personal property in connection with the construction, operation,  
5730 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities  
5731 providing additional project capacity, as defined in Section 11-13-103;

5732 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

5733 (i) the proceeds of each sale do not exceed \$1; and

5734 (ii) the seller or operator of the vending machine reports an amount equal to 150% of  
5735 the cost of the item described in Subsection (3)(b) as goods consumed; and

- 5736 (b) Subsection (3)(a) applies to:
- 5737 (i) food and food ingredients; or
- 5738 (ii) prepared food;
- 5739 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
- 5740 (i) alcoholic beverages;
- 5741 (ii) food and food ingredients; or
- 5742 (iii) prepared food;
- 5743 (b) sales of tangible personal property or a product transferred electronically:
- 5744 (i) to a passenger;
- 5745 (ii) by a commercial airline carrier; and
- 5746 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 5747 (c) services related to Subsection (4)(a) or (b);
- 5748 ~~[(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts~~
- 5749 ~~and equipment:]~~
- 5750 ~~[(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002~~
- 5751 ~~North American Industry Classification System of the federal Executive Office of the~~
- 5752 ~~President, Office of Management and Budget, and]~~
- 5753 ~~[(H) for:]~~
- 5754 ~~[(Aa) installation in an aircraft, including services relating to the installation of parts or~~
- 5755 ~~equipment in the aircraft;]~~
- 5756 ~~[(Bb) renovation of an aircraft; or]~~
- 5757 ~~[(Cc) repair of an aircraft; or]~~
- 5758 ~~[(B) for installation in an aircraft operated by a common carrier in interstate or foreign~~
- 5759 ~~commerce; or]~~
- 5760 ~~[(ii) beginning on October 1, 2008;]~~
- 5761 (5) sales of parts and equipment for installation in an aircraft operated by a common
- 5762 carrier in interstate or foreign commerce; ~~[and]~~
- 5763 ~~[(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~
- 5764 ~~a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a~~
- 5765 ~~refund:]~~
- 5766 ~~[(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;]~~

5767 ~~[(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;]~~

5768 ~~[(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for~~  
5769 ~~the sale prior to filing for the refund;]~~

5770 ~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~

5771 ~~[(v) in accordance with Section 59-1-1410; and]~~

5772 ~~[(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,~~  
5773 ~~if the person files for the refund on or before September 30, 2011;]~~

5774 (6) sales of commercials, motion picture films, prerecorded audio program tapes or  
5775 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture  
5776 exhibitor, distributor, or commercial television or radio broadcaster;

5777 (7) (a) except as provided in Subsection ~~[(88)]~~ (87) and subject to Subsection (7)(b),  
5778 sales of cleaning or washing of tangible personal property if the cleaning or washing of the  
5779 tangible personal property is not assisted cleaning or washing of tangible personal property;

5780 (b) if a seller that sells at the same business location assisted cleaning or washing of  
5781 tangible personal property and cleaning or washing of tangible personal property that is not  
5782 assisted cleaning or washing of tangible personal property, the exemption described in  
5783 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning  
5784 or washing of the tangible personal property; and

5785 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,  
5786 Utah Administrative Rulemaking Act, the commission may make rules:

5787 (i) governing the circumstances under which sales are at the same business location;  
5788 and

5789 (ii) establishing the procedures and requirements for a seller to separately account for  
5790 sales of assisted cleaning or washing of tangible personal property;

5791 (8) sales made to or by religious or charitable institutions in the conduct of their regular  
5792 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are  
5793 fulfilled;

5794 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of  
5795 this state if the vehicle is:

5796 (a) not registered in this state; and

5797 (b) (i) not used in this state; or

- 5798 (ii) used in this state:
- 5799 (A) if the vehicle is not used to conduct business, for a time period that does not
- 5800 exceed the longer of:
- 5801 (I) 30 days in any calendar year; or
- 5802 (II) the time period necessary to transport the vehicle to the borders of this state; or
- 5803 (B) if the vehicle is used to conduct business, for the time period necessary to transport
- 5804 the vehicle to the borders of this state;
- 5805 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
- 5806 (i) the item is intended for human use; and
- 5807 (ii) (A) a prescription was issued for the item; or
- 5808 (B) the item was purchased by a hospital or other medical facility; and
- 5809 (b) (i) Subsection (10)(a) applies to:
- 5810 (A) a drug;
- 5811 (B) a syringe; or
- 5812 (C) a stoma supply; and
- 5813 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 5814 commission may by rule define the terms:
- 5815 (A) "syringe"; or
- 5816 (B) "stoma supply";
- 5817 (11) purchases or leases exempt under Section 19-12-201;
- 5818 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 5819 (i) the following if the item described in Subsection (12)(c) is not available to the
- 5820 general public:
- 5821 (A) a church; or
- 5822 (B) a charitable institution;
- 5823 (ii) an institution of higher education if:
- 5824 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 5825 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 5826 offered by the institution of higher education; or
- 5827 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 5828 (i) a medical facility; or

- 5829 (ii) a nursing facility; and
- 5830 (c) Subsections (12)(a) and (b) apply to:
- 5831 (i) food and food ingredients;
- 5832 (ii) prepared food; or
- 5833 (iii) alcoholic beverages;
- 5834 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 5835 or a product transferred electronically by a person:
- 5836 (i) regardless of the number of transactions involving the sale of that tangible personal
- 5837 property or product transferred electronically by that person; and
- 5838 (ii) not regularly engaged in the business of selling that type of tangible personal
- 5839 property or product transferred electronically;
- 5840 (b) this Subsection (13) does not apply if:
- 5841 (i) the sale is one of a series of sales of a character to indicate that the person is
- 5842 regularly engaged in the business of selling that type of tangible personal property or product
- 5843 transferred electronically;
- 5844 (ii) the person holds that person out as regularly engaged in the business of selling that
- 5845 type of tangible personal property or product transferred electronically;
- 5846 (iii) the person sells an item of tangible personal property or product transferred
- 5847 electronically that the person purchased as a sale that is exempt under Subsection (25); or
- 5848 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
- 5849 this state in which case the tax is based upon:
- 5850 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
- 5851 sold; or
- 5852 (B) in the absence of a bill of sale or other written evidence of value, the fair market
- 5853 value of the vehicle or vessel being sold at the time of the sale as determined by the
- 5854 commission; and
- 5855 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 5856 commission shall make rules establishing the circumstances under which:
- 5857 (i) a person is regularly engaged in the business of selling a type of tangible personal
- 5858 property or product transferred electronically;
- 5859 (ii) a sale of tangible personal property or a product transferred electronically is one of

5860 a series of sales of a character to indicate that a person is regularly engaged in the business of  
5861 selling that type of tangible personal property or product transferred electronically; or  
5862 (iii) a person holds that person out as regularly engaged in the business of selling a type  
5863 of tangible personal property or product transferred electronically;  
5864 (14) except as provided in Subsections (83), (85), (86), and (88) and subject to Section  
5865 59-12-104.8, amounts paid or charged for a purchase or lease of machinery, equipment, [or]  
5866 normal operating repair or replacement parts [with an economic life of three or more years], or  
5867 materials, except for office equipment or office supplies, by:  
5868 (a) a manufacturing facility[~~except as provided in Subsection (86);~~] that:  
5869 (i) is located in the state; and  
5870 (ii) uses or consumes the machinery, equipment, [or] normal operating repair or  
5871 replacement parts, or materials:  
5872 (A) in the manufacturing process to manufacture an item sold as tangible personal  
5873 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,  
5874 Utah Administrative Rulemaking Act; or  
5875 (B) for a scrap recycler, to process an item sold as tangible personal property, as the  
5876 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah  
5877 Administrative Rulemaking Act;  
5878 (b) an establishment, as the commission defines that term in accordance with Title 63G,  
5879 Chapter 3, Utah Administrative Rulemaking Act, that:  
5880 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS  
5881 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal  
5882 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the  
5883 2002 North American Industry Classification System of the federal Executive Office of the  
5884 President, Office of Management and Budget;  
5885 (ii) is located in the state; and  
5886 (iii) uses or consumes the machinery, equipment, [or] normal operating repair or  
5887 replacement parts, or materials in:  
5888 (A) the production process to produce an item sold as tangible personal property, as the  
5889 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah  
5890 Administrative Rulemaking Act;

5891 (B) research and development, as the commission may define that phrase in accordance  
5892 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

5893 (C) transporting, storing, or managing tailings, overburden, or similar waste materials  
5894 produced from mining;

5895 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in  
5896 mining; or

5897 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

5898 (c) an establishment, as the commission defines that term in accordance with Title 63G,  
5899 Chapter 3, Utah Administrative Rulemaking Act, that:

5900 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North  
5901 American Industry Classification System of the federal Executive Office of the President,  
5902 Office of Management and Budget;

5903 (ii) is located in the state; and

5904 (iii) uses or consumes the machinery, equipment, [~~or~~] normal operating repair or  
5905 replacement parts, or materials in the operation of the web search portal;

5906 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

5907 (i) tooling;

5908 (ii) special tooling;

5909 (iii) support equipment;

5910 (iv) special test equipment; or

5911 (v) parts used in the repairs or renovations of tooling or equipment described in  
5912 Subsections (15)(a)(i) through (iv); and

5913 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

5914 (i) the tooling, equipment, or parts are used or consumed exclusively in the  
5915 performance of any aerospace or electronics industry contract with the United States  
5916 government or any subcontract under that contract; and

5917 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),  
5918 title to the tooling, equipment, or parts is vested in the United States government as evidenced  
5919 by:

5920 (A) a government identification tag placed on the tooling, equipment, or parts; or

5921 (B) listing on a government-approved property record if placing a government

5922 identification tag on the tooling, equipment, or parts is impractical;

5923 (16) sales of newspapers or newspaper subscriptions;

5924 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a

5925 product transferred electronically traded in as full or part payment of the purchase price, except

5926 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,

5927 trade-ins are limited to other vehicles only, and the tax is based upon:

5928 (i) the bill of sale or other written evidence of value of the vehicle being sold and the

5929 vehicle being traded in; or

5930 (ii) in the absence of a bill of sale or other written evidence of value, the then existing

5931 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the

5932 commission; and

5933 (b) Subsection (17)(a) does not apply to the following items of tangible personal

5934 property or products transferred electronically traded in as full or part payment of the purchase

5935 price:

5936 (i) money;

5937 (ii) electricity;

5938 (iii) water;

5939 (iv) gas; or

5940 (v) steam;

5941 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property

5942 or a product transferred electronically used or consumed primarily and directly in farming

5943 operations, regardless of whether the tangible personal property or product transferred

5944 electronically:

5945 (A) becomes part of real estate; or

5946 (B) is installed by a~~[-(F)]~~ farmer~~[-(H)]~~, contractor~~[-(I)]~~, or ~~[(H)]~~ subcontractor; or

5947 (ii) sales of parts used in the repairs or renovations of tangible personal property or a

5948 product transferred electronically if the tangible personal property or product transferred

5949 electronically is exempt under Subsection (18)(a)(i); and

5950 (b) amounts paid or charged for the following are subject to the taxes imposed by this

5951 chapter:

5952 (i) (A) subject to Subsection (18)(b)(i)(B), ~~[the following]~~ machinery, equipment,



5953 materials, or supplies if used in a manner that is incidental to farming[~~;~~]; and  
5954 ~~[(I) machinery;]~~  
5955 ~~[(H) equipment;]~~  
5956 ~~[(HH) materials; or]~~  
5957 ~~[(IV) supplies; and]~~  
5958 (B) tangible personal property that is considered to be used in a manner that is  
5959 incidental to farming includes:  
5960 (I) hand tools; or  
5961 (II) maintenance and janitorial equipment and supplies;  
5962 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product  
5963 transferred electronically if the tangible personal property or product transferred electronically  
5964 is used in an activity other than farming; and  
5965 (B) tangible personal property or a product transferred electronically that is considered  
5966 to be used in an activity other than farming includes:  
5967 (I) office equipment and supplies; or  
5968 (II) equipment and supplies used in:  
5969 (Aa) the sale or distribution of farm products;  
5970 (Bb) research; or  
5971 (Cc) transportation; or  
5972 (iii) a vehicle required to be registered by the laws of this state during the period  
5973 ending two years after the date of the vehicle's purchase;  
5974 (19) sales of hay;  
5975 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or  
5976 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or  
5977 garden, farm, or other agricultural produce is sold by:  
5978 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other  
5979 agricultural produce;  
5980 (b) an employee of the producer described in Subsection (20)(a); or  
5981 (c) a member of the immediate family of the producer described in Subsection (20)(a);  
5982 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued  
5983 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

5984 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,  
5985 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,  
5986 wholesaler, or retailer for use in packaging tangible personal property to be sold by that  
5987 manufacturer, processor, wholesaler, or retailer;

5988 (23) a product stored in the state for resale;

5989 (24) (a) purchases of a product if:

5990 (i) the product is:

5991 (A) purchased outside of this state;

5992 (B) brought into this state:

5993 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

5994 (II) by a nonresident person who is not living or working in this state at the time of the  
5995 purchase;

5996 (C) used for the personal use or enjoyment of the nonresident person described in  
5997 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

5998 (D) not used in conducting business in this state; and

5999 (ii) for:

6000 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of  
6001 the product for a purpose for which the product is designed occurs outside of this state;

6002 (B) a boat, the boat is registered outside of this state; or

6003 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
6004 outside of this state;

6005 (b) the exemption provided for in Subsection (24)(a) does not apply to:

6006 (i) a lease or rental of a product; or

6007 (ii) a sale of a vehicle exempt under Subsection (33); and

6008 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
6009 purposes of Subsection (24)(a), the commission may by rule define what constitutes the  
6010 following:

6011 (i) conducting business in this state if that phrase has the same meaning in this  
6012 Subsection (24) as in Subsection [~~(63)~~] (62);

6013 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)  
6014 as in Subsection [~~(63)~~] (62); or

6015 (iii) a purpose for which a product is designed if that phrase has the same meaning in  
6016 this Subsection (24) as in Subsection [~~(63)~~] (62);

6017 (25) a product purchased for resale in this state, in the regular course of business, either  
6018 in its original form or as an ingredient or component part of a manufactured or compounded  
6019 product;

6020 (26) a product upon which a sales or use tax was paid to some other state, or one of its  
6021 subdivisions, except that the state shall be paid any difference between the tax paid and the tax  
6022 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if  
6023 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax  
6024 Act;

6025 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a  
6026 person for use in compounding a service taxable under the subsections;

6027 (28) purchases made in accordance with the special supplemental nutrition program for  
6028 women, infants, and children established in 42 U.S.C. Sec. 1786;

6029 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other  
6030 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code  
6031 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of  
6032 the President, Office of Management and Budget;

6033 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State  
6034 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

6035 (a) not registered in this state; and

6036 (b) (i) not used in this state; or

6037 (ii) used in this state:

6038 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a  
6039 time period that does not exceed the longer of:

6040 (I) 30 days in any calendar year; or

6041 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to  
6042 the borders of this state; or

6043 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time  
6044 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this  
6045 state;

- 6046 (31) sales of aircraft manufactured in Utah;
- 6047 (32) amounts paid for the purchase of telecommunications service for purposes of  
6048 providing telecommunications service;
- 6049 (33) sales, leases, or uses of the following:
- 6050 (a) a vehicle by an authorized carrier; or
- 6051 (b) tangible personal property that is installed on a vehicle:
- 6052 (i) sold or leased to or used by an authorized carrier; and
- 6053 (ii) before the vehicle is placed in service for the first time;
- 6054 (34) (a) 45% of the sales price of any new manufactured home; and
- 6055 (b) 100% of the sales price of any used manufactured home;
- 6056 (35) sales relating to schools and fundraising sales;
- 6057 (36) sales or rentals of durable medical equipment if:
- 6058 (a) a person presents a prescription for the durable medical equipment; and
- 6059 (b) the durable medical equipment is used for home use only;
- 6060 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in  
6061 Section 72-11-102; and
- 6062 (b) the commission shall by rule determine the method for calculating sales exempt  
6063 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 6064 (38) sales to a ski resort of:
- 6065 (a) snowmaking equipment;
- 6066 (b) ski slope grooming equipment;
- 6067 (c) passenger ropeways as defined in Section 72-11-102; or
- 6068 (d) parts used in the repairs or renovations of equipment or passenger ropeways  
6069 described in Subsections (38)(a) through (c);
- 6070 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 6071 ~~[(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for~~  
6072 ~~amusement, entertainment, or recreation an unassisted amusement device as defined in Section~~  
6073 ~~59-12-102;]~~
- 6074 ~~[(b) if a seller that sells or rents at the same business location the right to use or operate~~  
6075 ~~for amusement, entertainment, or recreation one or more unassisted amusement devices and~~  
6076 ~~one or more assisted amusement devices, the exemption described in Subsection (40)(a)~~

6077 applies if the seller separately accounts for the sales or rentals of the right to use or operate for  
6078 amusement, entertainment, or recreation for the assisted amusement devices; and]

6079 [(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,  
6080 Utah Administrative Rulemaking Act, the commission may make rules:]

6081 [(i) governing the circumstances under which sales are at the same business location;  
6082 and]

6083 [(ii) establishing the procedures and requirements for a seller to separately account for  
6084 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for  
6085 assisted amusement devices;]

6086 [(41)] (40) (a) sales of photocopies by:

6087 (i) a governmental entity; or

6088 (ii) an entity within the state system of public education, including:

6089 (A) a school; or

6090 (B) the State Board of Education; or

6091 (b) sales of publications by a governmental entity;

6092 [(42)] (41) amounts paid for admission to an athletic event at an institution of higher  
6093 education that is subject to the provisions of Title IX of the Education Amendments of 1972,  
6094 20 U.S.C. Sec. 1681 et seq.;

6095 [(43)] (42) (a) sales made to or by:

6096 (i) an area agency on aging; or

6097 (ii) a senior citizen center owned by a county, city, or town; or

6098 (b) sales made by a senior citizen center that contracts with an area agency on aging;

6099 [(44)] (43) sales or leases of semiconductor fabricating, processing, research, or  
6100 development materials regardless of whether the semiconductor fabricating, processing,  
6101 research, or development materials:

6102 (a) actually come into contact with a semiconductor; or

6103 (b) ultimately become incorporated into real property;

6104 [(45)] (44) an amount paid by or charged to a purchaser for accommodations and  
6105 services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under  
6106 Section 59-12-104.2;

6107 [(46) beginning on September 1, 2001,]

6108            (45) the lease or use of a vehicle issued a temporary sports event registration certificate  
6109 in accordance with Section 41-3-306 for the event period specified on the temporary sports  
6110 event registration certificate;

6111            [~~(47)~~] (46) (a) sales or uses of electricity, if the sales or uses are made under a retail  
6112 tariff adopted by the Public Service Commission only for purchase of electricity produced from  
6113 a new alternative energy source built after January 1, 2016, as designated in the tariff by the  
6114 Public Service Commission;

6115            (b) for a residential use customer only, the exemption under Subsection [~~(47)~~] (46)(a)  
6116 applies only to the portion of the tariff rate a customer pays under the tariff described in  
6117 Subsection [~~(47)~~] (46)(a) that exceeds the tariff rate under the tariff described in Subsection  
6118 [~~(47)~~] (46)(a) that the customer would have paid absent the tariff;

6119            [~~(48)~~] (47) sales or rentals of mobility enhancing equipment if a person presents a  
6120 prescription for the mobility enhancing equipment;

6121            [~~(49)~~] (48) sales of water in a:

6122            (a) pipe;

6123            (b) conduit;

6124            (c) ditch; or

6125            (d) reservoir;

6126            [~~(50)~~] (49) sales of currency or coins that constitute legal tender of a state, the United  
6127 States, or a foreign nation;

6128            [~~(51)~~] (50) (a) sales of an item described in Subsection [~~(51)~~] (50)(b) if the item:

6129            (i) does not constitute legal tender of a state, the United States, or a foreign nation; and

6130            (ii) has a gold, silver, or platinum content of 50% or more; and

6131            (b) Subsection [~~(51)~~] (50)(a) applies to a gold, silver, or platinum:

6132            (i) ingot;

6133            (ii) bar;

6134            (iii) medallion; or

6135            (iv) decorative coin;

6136            [~~(52)~~] (51) amounts paid on a sale-leaseback transaction;

6137            [~~(53)~~] (52) sales of a prosthetic device:

6138            (a) for use on or in a human; and

6139 (b) (i) for which a prescription is required; or  
6140 (ii) if the prosthetic device is purchased by a hospital or other medical facility;  
6141 ~~[(54)]~~ (53) (a) except as provided in Subsection ~~[(54)]~~ (53)(b), purchases, leases, or  
6142 rentals of machinery or equipment by an establishment described in Subsection ~~[(54)]~~ (53)(c) if  
6143 the machinery or equipment is primarily used in the production or postproduction of the  
6144 following media for commercial distribution:  
6145 (i) a motion picture;  
6146 (ii) a television program;  
6147 (iii) a movie made for television;  
6148 (iv) a music video;  
6149 (v) a commercial;  
6150 (vi) a documentary; or  
6151 (vii) a medium similar to Subsections ~~[(54)]~~ (53)(a)(i) through (vi) as determined by  
6152 the commission by administrative rule made in accordance with Subsection ~~[(54)]~~ (53)(d); or  
6153 (b) purchases, leases, or rentals of machinery or equipment by an establishment  
6154 described in Subsection ~~[(54)]~~ (53)(c) that is used for the production or postproduction of the  
6155 following are subject to the taxes imposed by this chapter:  
6156 (i) a live musical performance;  
6157 (ii) a live news program; or  
6158 (iii) a live sporting event;  
6159 (c) the following establishments listed in the 1997 North American Industry  
6160 Classification System of the federal Executive Office of the President, Office of Management  
6161 and Budget, apply to Subsections ~~[(54)]~~ (53)(a) and (b):  
6162 (i) NAICS Code 512110; or  
6163 (ii) NAICS Code 51219; and  
6164 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
6165 commission may by rule:  
6166 (i) prescribe what constitutes a medium similar to Subsections ~~[(54)]~~ (53)(a)(i) through  
6167 (vi); or  
6168 (ii) define:  
6169 (A) "commercial distribution";

- 6170 (B) "live musical performance";
- 6171 (C) "live news program"; or
- 6172 (D) "live sporting event";
- 6173 [~~55~~] (54) (a) leases of seven or more years or purchases made on or after July 1,
- 6174 2004, but on or before June 30, 2027, of tangible personal property that:
- 6175 (i) is leased or purchased for or by a facility that:
- 6176 (A) is an alternative energy electricity production facility;
- 6177 (B) is located in the state; and
- 6178 (C) (I) becomes operational on or after July 1, 2004; or
- 6179 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 6180 2004, as a result of the use of the tangible personal property;
- 6181 (ii) has an economic life of five or more years; and
- 6182 (iii) is used to make the facility or the increase in capacity of the facility described in
- 6183 Subsection [~~55~~] (54)(a)(i) operational up to the point of interconnection with an existing
- 6184 transmission grid including:
- 6185 (A) a wind turbine;
- 6186 (B) generating equipment;
- 6187 (C) a control and monitoring system;
- 6188 (D) a power line;
- 6189 (E) substation equipment;
- 6190 (F) lighting;
- 6191 (G) fencing;
- 6192 (H) pipes; or
- 6193 (I) other equipment used for locating a power line or pole; and
- 6194 (b) this Subsection [~~55~~] (54) does not apply to:
- 6195 (i) tangible personal property used in construction of:
- 6196 (A) a new alternative energy electricity production facility; or
- 6197 (B) the increase in the capacity of an alternative energy electricity production facility;
- 6198 (ii) contracted services required for construction and routine maintenance activities;
- 6199 and
- 6200 (iii) unless the tangible personal property is used or acquired for an increase in capacity



6201 of the facility described in Subsection [~~(55)~~] (54)(a)(i)(C)(II), tangible personal property used  
6202 or acquired after:

6203 (A) the alternative energy electricity production facility described in Subsection [~~(55)~~]  
6204 (54)(a)(i) is operational as described in Subsection [~~(55)~~] (54)(a)(iii); or

6205 (B) the increased capacity described in Subsection [~~(55)~~] (54)(a)(i) is operational as  
6206 described in Subsection [~~(55)~~] (54)(a)(iii);

6207 [~~(56)~~] (55) (a) leases of seven or more years or purchases made on or after July 1,  
6208 2004, but on or before June 30, 2027, of tangible personal property that:

6209 (i) is leased or purchased for or by a facility that:

6210 (A) is a waste energy production facility;

6211 (B) is located in the state; and

6212 (C) (I) becomes operational on or after July 1, 2004; or

6213 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
6214 2004, as a result of the use of the tangible personal property;

6215 (ii) has an economic life of five or more years; and

6216 (iii) is used to make the facility or the increase in capacity of the facility described in

6217 Subsection [~~(56)~~] (55)(a)(i) operational up to the point of interconnection with an existing  
6218 transmission grid including:

6219 (A) generating equipment;

6220 (B) a control and monitoring system;

6221 (C) a power line;

6222 (D) substation equipment;

6223 (E) lighting;

6224 (F) fencing;

6225 (G) pipes; or

6226 (H) other equipment used for locating a power line or pole; and

6227 (b) this Subsection [~~(56)~~] (55) does not apply to:

6228 (i) tangible personal property used in construction of:

6229 (A) a new waste energy facility; or

6230 (B) the increase in the capacity of a waste energy facility;

6231 (ii) contracted services required for construction and routine maintenance activities;

6232 and

6233 (iii) unless the tangible personal property is used or acquired for an increase in capacity

6234 described in Subsection [~~(56)~~] (55)(a)(i)(C)(II), tangible personal property used or acquired

6235 after:

6236 (A) the waste energy facility described in Subsection [~~(56)~~] (55)(a)(i) is operational as

6237 described in Subsection [~~(56)~~] (55)(a)(iii); or

6238 (B) the increased capacity described in Subsection [~~(56)~~] (55)(a)(i) is operational as

6239 described in Subsection [~~(56)~~] (55)(a)(iii);

6240 [~~(57)~~] (56) (a) leases of five or more years or purchases made on or after July 1, 2004,

6241 but on or before June 30, 2027, of tangible personal property that:

6242 (i) is leased or purchased for or by a facility that:

6243 (A) is located in the state;

6244 (B) produces fuel from alternative energy, including[:~~(F)~~] methanol[:] or [~~(H)~~] ethanol;

6245 and

6246 (C) (I) becomes operational on or after July 1, 2004; or

6247 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as

6248 a result of the installation of the tangible personal property;

6249 (ii) has an economic life of five or more years; and

6250 (iii) is installed on the facility described in Subsection [~~(57)~~] (56)(a)(i);

6251 (b) this Subsection [~~(57)~~] (56) does not apply to:

6252 (i) tangible personal property used in construction of:

6253 (A) a new facility described in Subsection [~~(57)~~] (56)(a)(i); or

6254 (B) the increase in capacity of the facility described in Subsection [~~(57)~~] (56)(a)(i); or

6255 (ii) contracted services required for construction and routine maintenance activities;

6256 and

6257 (iii) unless the tangible personal property is used or acquired for an increase in capacity

6258 described in Subsection [~~(57)~~] (56)(a)(i)(C)(II), tangible personal property used or acquired

6259 after:

6260 (A) the facility described in Subsection [~~(57)~~] (56)(a)(i) is operational; or

6261 (B) the increased capacity described in Subsection [~~(57)~~] (56)(a)(i) is operational;

6262 [~~(58)~~] (57) (a) subject to Subsection [~~(58)(b) or (c)~~] (57)(b), sales of tangible personal

6263 property or a product transferred electronically to a person within this state if that tangible  
 6264 personal property or product transferred electronically is subsequently shipped outside the state  
 6265 and incorporated pursuant to contract into and becomes a part of real property located outside  
 6266 of this state; and

6267 (b) the exemption under Subsection [~~(58)~~] (57)(a) is not allowed to the extent that the  
 6268 other state or political entity to which the tangible personal property is shipped imposes a sales,  
 6269 use, gross receipts, or other similar transaction excise tax on the transaction against which the  
 6270 other state or political entity allows a credit for sales and use taxes imposed by this chapter;  
 6271 [~~and~~]

6272 [~~(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~  
 6273 ~~a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a~~  
 6274 ~~refund;]~~

6275 [~~(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;]~~

6276 [~~(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on~~  
 6277 ~~which the sale is made;]~~

6278 [~~(iii) if the person did not claim the exemption allowed by this Subsection (58) for the~~  
 6279 ~~sale prior to filing for the refund;]~~

6280 [~~(iv) for sales and use taxes paid under this chapter on the sale;]~~

6281 [~~(v) in accordance with Section 59-1-1410; and]~~

6282 [~~(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,~~  
 6283 ~~if the person files for the refund on or before June 30, 2011;]~~

6284 [~~(59)~~] (58) purchases:

6285 (a) of one or more of the following items in printed or electronic format:

6286 (i) a list containing information that includes one or more[~~-(A)~~] names[~~;~~] or [~~(B)~~]  
 6287 addresses; or

6288 (ii) a database containing information that includes one or more[~~-(A)~~] names[~~;~~] or  
 6289 [~~(B)~~] addresses; and

6290 (b) used to send direct mail;

6291 [~~(60)~~] (59) redemptions or repurchases of a product by a person if that product was:

6292 (a) delivered to a pawnbroker as part of a pawn transaction; and

6293 (b) redeemed or repurchased within the time period established in a written agreement

6294 between the person and the pawnbroker for redeeming or repurchasing the product;

6295 ~~[(61)]~~ (60) (a) purchases or leases of an item described in Subsection ~~[(61)]~~ (60)(b) if

6296 the item:

6297 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;

6298 and

6299 (ii) has a useful economic life of one or more years; and

6300 (b) the following apply to Subsection ~~[(61)]~~ (60)(a):

6301 (i) telecommunications enabling or facilitating equipment, machinery, or software;

6302 (ii) telecommunications equipment, machinery, or software required for 911 service;

6303 (iii) telecommunications maintenance or repair equipment, machinery, or software;

6304 (iv) telecommunications switching or routing equipment, machinery, or software; or

6305 (v) telecommunications transmission equipment, machinery, or software;

6306 ~~[(62)]~~ (61) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of

6307 tangible personal property or a product transferred electronically that are used in the research

6308 and development of alternative energy technology; and

6309 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

6310 commission may, for purposes of Subsection ~~[(62)]~~ (61)(a), make rules defining what

6311 constitutes purchases of tangible personal property or a product transferred electronically that

6312 are used in the research and development of alternative energy technology;

6313 ~~[(63)]~~ (62) (a) purchases of tangible personal property or a product transferred

6314 electronically if:

6315 (i) the tangible personal property or product transferred electronically is:

6316 (A) purchased outside of this state;

6317 (B) brought into this state at any time after the purchase described in Subsection ~~[(63)]~~

6318 (62)(a)(i)(A); and

6319 (C) used in conducting business in this state; and

6320 (ii) for:

6321 (A) tangible personal property or a product transferred electronically other than the

6322 tangible personal property described in Subsection ~~[(63)]~~ (62)(a)(ii)(B), the first use of the

6323 property for a purpose for which the property is designed occurs outside of this state; or

6324 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

6325 outside of this state;

6326 (b) the exemption provided for in Subsection [~~(63)~~] (62)(a) does not apply to:

6327 (i) a lease or rental of tangible personal property or a product transferred electronically;

6328 or

6329 (ii) a sale of a vehicle exempt under Subsection (33); and

6330 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

6331 purposes of Subsection [~~(63)~~] (62)(a), the commission may by rule define what constitutes the

6332 following:

6333 (i) conducting business in this state if that phrase has the same meaning in this

6334 Subsection [~~(63)~~] (62) as in Subsection (24);

6335 (ii) the first use of tangible personal property or a product transferred electronically if

6336 that phrase has the same meaning in this Subsection [~~(63)~~] (62) as in Subsection (24); or

6337 (iii) a purpose for which tangible personal property or a product transferred

6338 electronically is designed if that phrase has the same meaning in this Subsection [~~(63)~~] (62) as

6339 in Subsection (24);

6340 [~~(64)~~] (63) sales of disposable home medical equipment or supplies if:

6341 (a) a person presents a prescription for the disposable home medical equipment or

6342 supplies;

6343 (b) the disposable home medical equipment or supplies are used exclusively by the

6344 person to whom the prescription described in Subsection [~~(64)~~] (63)(a) is issued; and

6345 (c) the disposable home medical equipment and supplies are listed as eligible for

6346 payment under:

6347 (i) Title XVIII, federal Social Security Act; or

6348 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

6349 [~~(65)~~] (64) sales:

6350 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit

6351 District Act; or

6352 (b) of tangible personal property to a subcontractor of a public transit district, if the

6353 tangible personal property is:

6354 (i) clearly identified; and

6355 (ii) installed or converted to real property owned by the public transit district;

- 6356            ~~[(66)]~~ (65) sales of construction materials:
- 6357            (a) purchased on or after July 1, 2010;
- 6358            (b) purchased by, on behalf of, or for the benefit of an international airport:
- 6359            (i) located within a county of the first class; and
- 6360            (ii) that has a United States customs office on its premises; and
- 6361            (c) if the construction materials are:
- 6362            (i) clearly identified;
- 6363            (ii) segregated; and
- 6364            (iii) installed or converted to real property:
- 6365            (A) owned or operated by the international airport described in Subsection ~~[(66)]~~
- 6366            (65)(b); and
- 6367            (B) located at the international airport described in Subsection ~~[(66)]~~ (65)(b);
- 6368            ~~[(67)]~~ (66) sales of construction materials:
- 6369            (a) purchased on or after July 1, 2008;
- 6370            (b) purchased by, on behalf of, or for the benefit of a new airport:
- 6371            (i) located within a county of the second class; and
- 6372            (ii) that is owned or operated by a city in which an airline as defined in Section
- 6373            59-2-102 is headquartered; and
- 6374            (c) if the construction materials are:
- 6375            (i) clearly identified;
- 6376            (ii) segregated; and
- 6377            (iii) installed or converted to real property:
- 6378            (A) owned or operated by the new airport described in Subsection ~~[(67)]~~ (66)(b);
- 6379            (B) located at the new airport described in Subsection ~~[(67)]~~ (66)(b); and
- 6380            (C) as part of the construction of the new airport described in Subsection ~~[(67)]~~
- 6381            (66)(b);
- 6382            ~~[(68)]~~ (67) sales of fuel to a common carrier that is a railroad for use in a locomotive
- 6383            engine;
- 6384            ~~[(69)]~~ (68) purchases and sales described in Section 63H-4-111;
- 6385            ~~[(70)]~~ (69) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 6386            overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of

6387 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration  
6388 lists a state or country other than this state as the location of registry of the fixed wing turbine  
6389 powered aircraft; or

6390 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul  
6391 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of  
6392 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration  
6393 lists a state or country other than this state as the location of registry of the fixed wing turbine  
6394 powered aircraft;

6395 [~~(71)~~] (70) subject to Section 59-12-104.4, sales of a textbook for a higher education  
6396 course:

6397 (a) to a person admitted to an institution of higher education; and

6398 (b) by a seller, other than a bookstore owned by an institution of higher education, if  
6399 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a  
6400 textbook for a higher education course;

6401 [~~(72)~~] (71) a license fee or tax a municipality imposes in accordance with Subsection  
6402 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced  
6403 level of municipal services;

6404 [~~(73)~~] (72) amounts paid or charged for construction materials used in the construction  
6405 of a new or expanding life science research and development facility in the state, if the  
6406 construction materials are:

6407 (a) clearly identified;

6408 (b) segregated; and

6409 (c) installed or converted to real property;

6410 [~~(74)~~] (73) amounts paid or charged for:

6411 (a) a purchase or lease of machinery and equipment that:

6412 (i) are used in performing qualified research:

6413 (A) as defined in Section 41(d), Internal Revenue Code; and

6414 (B) in the state; and

6415 (ii) have an economic life of three or more years; and

6416 (b) normal operating repair or replacement parts:

6417 (i) for the machinery and equipment described in Subsection [~~(74)~~] (73)(a); and

6418 (ii) that have an economic life of three or more years;  
6419 [~~75~~] (74) a sale or lease of tangible personal property used in the preparation of  
6420 prepared food if:  
6421 (a) for a sale:  
6422 (i) the ownership of the seller and the ownership of the purchaser are identical; and  
6423 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that  
6424 tangible personal property prior to making the sale; or  
6425 (b) for a lease:  
6426 (i) the ownership of the lessor and the ownership of the lessee are identical; and  
6427 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible  
6428 personal property prior to making the lease;  
6429 [~~76~~] (75) (a) purchases of machinery or equipment if:  
6430 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,  
6431 Gambling, and Recreation Industries, of the 2012 North American Industry Classification  
6432 System of the federal Executive Office of the President, Office of Management and Budget;  
6433 (ii) the machinery or equipment:  
6434 (A) has an economic life of three or more years; and  
6435 (B) is used by one or more persons who pay admission or user fees described in  
6436 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and  
6437 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:  
6438 (A) amounts paid or charged as admission or user fees described in Subsection  
6439 59-12-103(1)(f); and  
6440 (B) subject to taxation under this chapter; and  
6441 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
6442 commission may make rules for verifying that 51% of a purchaser's sales revenue for the  
6443 previous calendar quarter is:  
6444 (i) amounts paid or charged as admission or user fees described in Subsection  
6445 59-12-103(1)(f); and  
6446 (ii) subject to taxation under this chapter;  
6447 [~~77~~] (76) purchases of a short-term lodging consumable by a business that provides  
6448 accommodations and services described in Subsection 59-12-103(1)(i);



- 6449            ~~[(78)]~~ (77) amounts paid or charged to access a database:
- 6450            (a) if the primary purpose for accessing the database is to view or retrieve information
- 6451 from the database; and
- 6452            (b) not including amounts paid or charged for a:
- 6453            (i) digital audiowork;
- 6454            (ii) digital audio-visual work; or
- 6455            (iii) digital book;
- 6456            ~~[(79)]~~ (78) amounts paid or charged for a purchase or lease made by an electronic
- 6457 financial payment service, of:
- 6458            (a) machinery and equipment that:
- 6459            (i) are used in the operation of the electronic financial payment service; and
- 6460            (ii) have an economic life of three or more years; and
- 6461            (b) normal operating repair or replacement parts that:
- 6462            (i) are used in the operation of the electronic financial payment service; and
- 6463            (ii) have an economic life of three or more years;
- 6464            ~~[(80)]~~ (79) ~~[beginning on April 1, 2013,]~~ sales of a fuel cell as that term is defined in
- 6465 Section 54-15-102;
- 6466            ~~[(81)]~~ (80) amounts paid or charged for a purchase or lease of tangible personal
- 6467 property or a product transferred electronically if the tangible personal property or product
- 6468 transferred electronically:
- 6469            (a) is stored, used, or consumed in the state; and
- 6470            (b) is temporarily brought into the state from another state:
- 6471            (i) during a disaster period as defined in Section 53-2a-1202;
- 6472            (ii) by an out-of-state business as defined in Section 53-2a-1202;
- 6473            (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
- 6474            (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
- 6475            ~~[(82)]~~ (81) sales of goods and services at a morale, welfare, and recreation facility, as
- 6476 defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
- 6477 Recreation Program;
- 6478            ~~[(83)]~~ (82) amounts paid or charged for a purchase or lease of molten magnesium;
- 6479            ~~[(84)]~~ (83) ~~[(a) except as provided in Subsection (84)(b),]~~ amounts paid or charged for

6480 a purchase or lease made by a drilling equipment manufacturer of machinery, equipment,  
6481 ~~[materials, or]~~ normal operating repair or replacement parts~~[-(i)]~~, or materials, except for office  
6482 equipment or office supplies, that are used or consumed exclusively in the drilling equipment  
6483 manufacturer's manufacturing process; ~~[and]~~

6484 ~~[(ii) except for office:]~~  
6485 ~~[(A) equipment; or]~~  
6486 ~~[(B) supplies; and]~~

6487 ~~[(b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an~~  
6488 ~~exemption described in Subsection (84)(a) only by filing for a refund:]~~  
6489 ~~[(i) of 50% of the tax paid on the amounts paid or charged; and]~~  
6490 ~~[(ii) in accordance with Section 59-1-1410;]~~

6491 ~~[(85)]~~ (84) amounts paid or charged for a purchase or lease made by a qualifying  
6492 enterprise data center of machinery, equipment, or normal operating repair or replacement  
6493 parts, if the machinery, equipment, or normal operating repair or replacement parts:  
6494 (a) are used in the operation of the establishment; and  
6495 (b) have an economic life of one or more years; ~~[and]~~

6496 ~~[(86)]~~ (85) amounts paid or charged for a purchase or lease of machinery, equipment,  
6497 or normal operating repair or replacement parts by a manufacturing facility that:  
6498 (a) is an establishment, as the commission defines that term in accordance with Title  
6499 63G, Chapter 3, Utah Administrative Rulemaking Act;  
6500 (b) is described in NAICS Code 336111, Automobile Manufacturing, of the 2002  
6501 North American Industry Classification System of the federal Executive Office of the  
6502 President, Office of Management and Budget;  
6503 (c) is located in the state; and  
6504 (d) uses the machinery, equipment, or normal operating repair or replacement parts in  
6505 the manufacturing process to manufacture an item sold as tangible personal property, as the  
6506 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah  
6507 Administrative Rulemaking Act;

6508 ~~[(87)]~~ (86) amounts paid or charged for a purchase or lease of equipment or normal  
6509 operating repair or replacement parts with an economic life of less than three years by a  
6510 manufacturing facility that:

6511 (a) is an establishment, as the commission defines that term in accordance with Title  
6512 63G, Chapter 3, Utah Administrative Rulemaking Act;

6513 (b) is described in NAICS Code 325120, Industrial Gas Manufacturing, of the 2002  
6514 North American Industry Classification System of the federal Executive Office of the  
6515 President, Office of Management and Budget;

6516 (c) is located in the state; and

6517 (d) uses the equipment or normal operating repair or replacement parts to manufacture  
6518 hydrogen;

6519 ~~[(88)]~~ (87) sales of cleaning or washing of a vehicle, except for cleaning or washing of  
6520 a vehicle that includes cleaning or washing of the interior of the vehicle; ~~[and]~~

6521 ~~[(89)]~~ (88) amounts paid or charged for a purchase or lease of machinery, equipment,  
6522 normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or  
6523 supplies used or consumed:

6524 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined  
6525 in Section 63M-4-701 located in the state;

6526 (b) if the machinery, equipment, normal operating repair or replacement parts,  
6527 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

6528 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is  
6529 added to gasoline or diesel fuel;

6530 (ii) research and development;

6531 (iii) transporting, storing, or managing raw materials, work in process, finished  
6532 products, and waste materials produced from refining gasoline or diesel fuel, or adding  
6533 blendstock to gasoline or diesel fuel;

6534 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in  
6535 refining; or

6536 (v) preventing, controlling, or reducing pollutants from refining; and

6537 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office  
6538 of Energy Development under Subsection 63M-4-702(2)[-]; and

6539 (89) amounts paid or charged for multi-channel video or audio services provided by a  
6540 multi-channel video or audio service provider if a tax under Chapter 26, Multi-Channel Video  
6541 or Audio Service Tax Act, is paid on the multi-channel video or audio services.

6542 Section 39. Section **59-12-104.4** is amended to read:

6543 **59-12-104.4. Seller recordkeeping for purposes of higher education textbook**  
6544 **exemption -- Rulemaking authority.**

6545 (1) If a seller described in Subsection 59-12-104[~~(71)~~](70)(b) makes a sale of a  
6546 textbook for a higher education course that is exempt under Subsection 59-12-104[~~(71)~~](70),  
6547 the seller shall keep a record verifying that the textbook is a textbook for a higher education  
6548 course.

6549 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
6550 commission may make rules:

6551 (a) prescribing the records a seller shall keep to verify that a textbook is a textbook for  
6552 a higher education course; or

6553 (b) to verify that 51% or more of a seller's sales revenue for the previous calendar  
6554 quarter are sales of a textbook for a higher education course.

6555 Section 40. Section **59-12-104.5** is amended to read:

6556 **59-12-104.5. Revenue and Taxation Interim Committee review of sales and use**  
6557 **taxes.**

6558 The Revenue and Taxation Interim Committee shall:

6559 (1) review Subsection 59-12-104(28) before October 1 of the year after the year in  
6560 which Congress permits a state to participate in the special supplemental nutrition program  
6561 under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on  
6562 purchases of food under that program;

6563 (2) review Subsection 59-12-104(21) before October 1 of the year after the year in  
6564 which Congress permits a state to participate in the SNAP as defined in Section 35A-1-102,  
6565 even if state or local sales taxes are collected within the state on purchases of food under that  
6566 program; and

6567 (3) on or before November 30:

6568 (a) require the Governor's Office of Economic Development to provide the report  
6569 described in Section 63N-1-302(2);

6570 (b) review for each exemption described in [~~Subsection~~] Subsections  
6571 59-12-104[~~(86)~~](85) and [~~(87)~~] (86):

6572 (i) the cost of the exemption;

6573 (ii) the purpose and effectiveness of the exemption; and  
6574 (iii) the extent to which the state benefits from the exemption; and  
6575 (c) make recommendations concerning whether the exemptions described in  
6576 Subsections 59-12-104[(86)](85) and [(87)] (86) should be continued, modified, or repealed.

6577 Section 41. Section **59-12-104.7** is amended to read:

6578 **59-12-104.7. Reporting by purchaser of certain sales and use tax exempt**  
6579 **purchases.**

6580 A purchaser that receives a sales and use tax exemption under Subsection  
6581 59-12-104[(86)](85) or [(87)] (86) shall make the report described in Section 63N-1-302.

6582 Section 42. Section **59-12-104.8** is enacted to read:

6583 **59-12-104.8. Exemption for machinery, equipment, normal operating repair or**  
6584 **replacement parts, and materials.**

6585 (1) A person may claim the sales and use tax exemption described in Subsection  
6586 59-12-104(14) at the point of sale for an amount paid or charged for a purchase or lease of  
6587 machinery, equipment, or normal operating repair or replacement parts that have an economic  
6588 life of three years or more.

6589 (2) (a) On or after July 1, 2019, and on or before June 30, 2021, a person may file for a  
6590 refund from the commission to claim the sales and use tax exemption described in Subsection  
6591 59-12-104(14) for an amount paid or charged for a purchase or lease of:

6592 (i) machinery, equipment, or normal operating repair or replacement parts that have an  
6593 economic life of less than three years; or

6594 (ii) materials, except for office equipment or office supplies.

6595 (b) The amount of the refund described in Subsection (2)(a) is as follows:

6596 (i) on or after July 1, 2019, and on or before June 30, 2020, 33% of the sales and use  
6597 tax on the amount paid or charged for the purchase or lease; and

6598 (ii) on or after July 1, 2020, and on or before June 30, 2021, 66% of the sales and use  
6599 tax on the amount paid or charged for the purchase or lease.

6600 (c) A person shall file for a refund under this Subsection (2):

6601 (i) in an electronic format prescribed by the commission; and

6602 (ii) no more frequently than once per month.

6603 (3) (a) On or after July 1, 2021, a person may claim the sales and use tax exemption

6604 described in Subsection 59-12-104(14) at the point of sale for an amount paid or charged for a  
 6605 purchase or lease of:

6606 (i) machinery, equipment, or normal operating repair or replacement parts that have an  
 6607 economic life of less than three years; or

6608 (ii) materials, except for office equipment or office supplies.

6609 (b) The amount of the exemption described in Subsection (3)(a) is 100% of the sales  
 6610 and use tax on the amount paid or charged for the purchase or lease.

6611 Section 43. Section **63I-1-263 (Effective 01/01/18)** is amended to read:

6612 **63I-1-263 (Effective 01/01/18). Repeal dates, Titles 63A to 63N.**

6613 (1) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

6614 (2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

6615 [~~(3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July~~  
 6616 ~~1, 2018.~~]

6617 [~~(4) (3) Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands, is~~  
 6618 ~~repealed November 30, 2019.~~]

6619 [~~(5) (4) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July~~  
 6620 ~~1, 2020.~~]

6621 [~~(6) (5) Title 63C, Chapter 17, Point of the Mountain Development Commission Act,~~  
 6622 ~~is repealed July 1, 2021.~~]

6623 [~~(7) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1,~~  
 6624 ~~2018.~~]

6625 [~~(8) (6) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July~~  
 6626 ~~1, 2023.~~]

6627 [~~(9) (7) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed~~  
 6628 ~~July 1, 2020.~~]

6629 [~~(10) (8) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1,~~  
 6630 ~~2026.~~]

6631 [~~(11) (9) On July 1, 2025:~~

6632 (a) in Subsection 17-27a-404(3)(c)(ii), the language that states "the Resource  
 6633 Development Coordinating Committee," is repealed;

6634 (b) Subsection 23-14-21(2)(c) is amended to read "(c) provide notification of proposed

6635 sites for the transplant of species to local government officials having jurisdiction over areas  
6636 that may be affected by a transplant.";

6637 (c) in Subsection 23-14-21(3), the language that states "and the Resource Development  
6638 Coordinating Committee" is repealed;

6639 (d) in Subsection 23-21-2.3(1), the language that states "the Resource Development  
6640 Coordinating Committee created in Section 63J-4-501 and" is repealed;

6641 (e) in Subsection 23-21-2.3(2), the language that states "the Resource Development  
6642 Coordinating Committee and" is repealed;

6643 (f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered  
6644 accordingly;

6645 (g) Subsections 63J-4-401(5)(a) and (c) are repealed;

6646 (h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the  
6647 word "and" is inserted immediately after the semicolon;

6648 (i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

6649 (j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed;  
6650 and

6651 (k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are  
6652 renumbered accordingly.

6653 ~~[(12)]~~ (10) (a) Subsection 63J-1-602.4(15) is repealed July 1, 2022.

6654 (b) When repealing Subsection 63J-1-602.4(15), the Office of Legislative Research and  
6655 General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make  
6656 necessary changes to subsection numbering and cross references.

6657 ~~[(13)]~~ (11) The Crime Victim Reparations and Assistance Board, created in Section  
6658 63M-7-504, is repealed July 1, 2027.

6659 ~~[(14)]~~ (12) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1,  
6660 2027.

6661 ~~[(15) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2018.]~~

6662 ~~[(16)]~~ (13) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act,  
6663 is repealed January 1, 2021.

6664 (b) Subject to Subsection ~~[(16)]~~ (13)(c), Sections 59-7-610 and 59-10-1007 regarding  
6665 tax credits for certain persons in recycling market development zones, are repealed for taxable

6666 years beginning on or after January 1, 2021.

6667 (c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

6668 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or  
6669 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

6670 (ii) for an expenditure described in Subsection 59-7-610~~[(1)(b)]~~(3) or  
6671 59-10-1007~~[(1)(b)]~~(3), if the expenditure is made on or after January 1, 2021.

6672 (d) Notwithstanding Subsections ~~[(16)]~~ (13)(b) and (c), a person may carry forward a  
6673 tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

6674 (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

6675 (ii) (A) for the purchase price of machinery or equipment described in Section  
6676 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31,  
6677 2020; or

6678 (B) for an expenditure described in Subsection 59-7-610~~[(1)(b)]~~(3) or  
6679 59-10-1007~~[(1)(b)]~~(3), the expenditure is made on or before December 31, 2020.

6680 ~~[(17)]~~ (14) Section 63N-2-512 is repealed on July 1, 2021.

6681 ~~[(18)]~~ (15) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed  
6682 January 1, 2021.

6683 (b) Section 59-9-107 regarding tax credits against premium taxes is repealed for  
6684 calendar years beginning on or after January 1, 2021.

6685 (c) Notwithstanding Subsection ~~[(18)]~~ (15)(b), an entity may carry forward a tax credit  
6686 in accordance with Section 59-9-107 if:

6687 (i) the person is entitled to a tax credit under Section 59-9-107 on or before December  
6688 31, 2020; and

6689 (ii) the qualified equity investment that is the basis of the tax credit is certified under  
6690 Section 63N-2-603 on or before December 31, 2023.

6691 ~~[(19)]~~ (16) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant  
6692 Program, is repealed January 1, 2023.

6693 ~~[(20)] Title 63N, Chapter 12, Part 3, Utah Broadband Outreach Center, is repealed July~~  
6694 ~~1, 2018.]~~

6695 ~~[(21)] Title 63N, Chapter 12, Part 4, Career and Technical Education Board, is repealed~~  
6696 ~~July 1, 2018.]~~



6697 Section 44. Section **63I-2-259** is amended to read:

6698 **63I-2-259. Repeal dates -- Title 59.**

6699 [~~Subsection 59-2-1007(14) is repealed on December 31, 2018.~~]

6700 (1) Subsection 59-12-102(40), drilling equipment manufacturer definition, is repealed  
6701 on July 1, 2021.

6702 (2) In Subsection 59-12-104(14), the language "except as provided in Subsections (83),  
6703 (85), (86), and (88)" is repealed on July 1, 2021, and replaced with "except as provided in  
6704 Subsections (86) and (88)" except that the references to Subsections (86) and (88) shall be  
6705 updated to make necessary changes to subsection numbering.

6706 (3) In Subsection 59-12-104(14), the language "and subject to Section 59-12-104.8" is  
6707 repealed on December 31, 2021.

6708 (4) (a) Subsection 59-12-104(83) is repealed on July 1, 2021.

6709 (b) When repealing Subsection 59-12-104(83), the Office of Legislative Research and  
6710 General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make  
6711 necessary changes to subsection numbering and cross-references.

6712 (5) (a) Subsection 59-12-104(85) is repealed on July 1, 2021.

6713 (b) When repealing Subsection 59-12-104(85), the Office of Legislative Research and  
6714 General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make  
6715 necessary changes to subsection numbering and cross-references.

6716 (6) (a) In Subsection 59-12-104.5(3), the language "(85) and" is repealed on July 1,  
6717 2021.

6718 (b) When repealing the language "(85) and" in Subsection 59-12-104.5(3), the Office  
6719 of Legislative Research and General Counsel shall, in addition to the office's authority under  
6720 Subsection 36-12-12(3), make necessary changes to subsection numbering and  
6721 cross-references.

6722 (7) In Section 59-12-104.7, the language "A purchaser that receives a sales and use tax  
6723 exemption under Subsection 59-12-104(85) or (86) shall make the report described in Section  
6724 63N-1-302." shall be repealed on July 1, 2021, and replaced with "A purchaser that receives a  
6725 sales and use tax exemption under Subsection 59-12-104(86) shall make the report described in  
6726 Section 63N-1-302, "except that the reference to Subsection 59-12-104(86) shall be updated to  
6727 make necessary changes to subsection numbering.

- 6728 (8) Section 59-12-104.8 is repealed on December 31, 2021.
- 6729 Section 45. Section **63I-2-263** is amended to read:
- 6730 **63I-2-263. Repeal dates, Title 63A to Title 63N.**
- 6731 [~~(1)~~ Section 63A-5-227 is repealed on January 1, 2018.]
- 6732 [~~(2)~~ (1) Section 63H-7a-303 is repealed on July 1, 2022.
- 6733 [~~(3)~~ (2) On July 1, 2019:
- 6734 (a) in Subsection 63J-1-206(3)(c)(i), the language that states "(i) Except as provided in
- 6735 Subsection (3)(c)(ii)" is repealed; and
- 6736 (b) Subsection 63J-1-206(3)(c)(ii) is repealed.
- 6737 (3) Subsection 63N-1-302(1)(a) is repealed on July 1, 2021.
- 6738 (4) Subsection 63N-3-109(2)(f)(i)(B) is repealed July 1, 2020.
- 6739 (5) Section 63N-3-110 is repealed July 1, 2020.
- 6740 Section 46. Section **63I-2-272** is amended to read:
- 6741 **63I-2-272. Repeal dates -- Title 72.**
- 6742 (1) On July 1, 2018:
- 6743 (a) in Subsection 72-2-108(2), the language that states "and except as provided in
- 6744 Subsection (10)" is repealed;
- 6745 (b) in Subsection 72-2-108(4)(c)(ii)(A), the language that states ", excluding any
- 6746 amounts appropriated as additional support for class B and class C roads under Subsection
- 6747 (10)," is repealed; and
- 6748 (c) Subsection 72-2-108(10) is repealed.
- 6749 (2) Section 72-2-304 is repealed January 1, 2019.
- 6750 [~~(2)~~ (3) Section 72-3-113 is repealed January 1, 2020.
- 6751 [~~(3)~~ (4) Section 72-15-101 is repealed on March 31, 2018.
- 6752 Section 47. Section **63J-1-220** is amended to read:
- 6753 **63J-1-220. Reporting related to pass through money distributed by state**
- 6754 **agencies.**
- 6755 (1) As used in this section:
- 6756 (a) "Local government entity" means a county, municipality, school district, local
- 6757 district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special
- 6758 service district under Title 17D, Chapter 1, Special Service District Act, or any other political

6759 subdivision of the state.

6760 (b) (i) "Pass through funding" means money appropriated by the Legislature to a state  
6761 agency that is intended to be passed through the state agency to one or more:

6762 (A) local government entities;

6763 (B) private organizations, including not-for-profit organizations; or

6764 (C) persons in the form of a loan or grant.

6765 (ii) "Pass through funding" may be:

6766 (A) general funds, dedicated credits, or any combination of state funding sources; and

6767 (B) ongoing or one-time.

6768 (c) "Recipient entity" means a local government entity or private entity, including a  
6769 nonprofit entity, that receives money by way of pass through funding from a state agency.

6770 (d) "State agency" means a department, commission, board, council, agency,  
6771 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,  
6772 unit, bureau, panel, or other administrative unit of the executive branch of the state.

6773 (e) (i) "State money" means money that is owned, held, or administered by a state  
6774 agency and derived from state fees or tax revenues.

6775 (ii) "State money" does not include contributions or donations received by a state  
6776 agency.

6777 (2) A state agency may not provide a recipient entity state money through pass through  
6778 funding unless:

6779 (a) the state agency enters into a written agreement with the recipient entity; and

6780 (b) the written agreement described in Subsection (2)(a) requires the recipient entity to  
6781 provide the state agency:

6782 (i) a written description and an itemized report at least annually detailing the  
6783 expenditure of the state money, or the intended expenditure of any state money that has not  
6784 been spent; and

6785 (ii) a final written itemized report when all the state money is spent.

6786 (3) A state agency shall provide to the Governor's Office of Management and Budget a  
6787 copy of a written description or itemized report received by the state agency under Subsection  
6788 (2).

6789 (4) Notwithstanding Subsection (2), a state agency is not required to comply with this

6790 section to the extent that the pass through funding is issued:

6791 (a) under a competitive award process;

6792 (b) in accordance with a formula enacted in statute;

6793 (c) in accordance with a state program under parameters in statute or rule that guides

6794 the distribution of the pass through funding; or

6795 (d) under the authority of the minimum school program, as defined in Subsection

6796 53A-17a-103[~~(7)~~](6)(e).

6797 Section 48. Section **63M-4-702 (Effective 01/01/18)** is amended to read:

6798 **63M-4-702 (Effective 01/01/18). Refiner gasoline standard reporting -- Office of**  
6799 **Energy Development certification of sales and use tax exemption eligibility.**

6800 (1) (a) Beginning on July 1, 2021, a refiner that seeks to be eligible for a sales and use  
6801 tax exemption under Subsection 59-12-104[~~(89)~~](88) shall annually report to the office  
6802 whether the refiner's facility that is located within the state will have an average gasoline sulfur  
6803 level of 10 parts per million (ppm) or less using the formulas prescribed in 40 C.F.R. Sec.  
6804 80.1603, excluding the offset for credit use and transfer as prescribed in 40 C.F.R. Sec.  
6805 80.1616.

6806 (b) Fuels for which a final destination outside Utah can be demonstrated or that are not  
6807 subject to the standards and requirements of 40 C.F.R. Sec. 80.1603 as specified in 40 C.F.R.  
6808 Sec. 80.1601 are not subject to the reporting provisions under Subsection (1)(a).

6809 (2) (a) Beginning on July 1, 2021, the office shall annually certify that the refiner is  
6810 eligible for the sales and use tax exemption under Subsection 59-12-104[~~(89)~~](88):

6811 (i) on a form provided by the State Tax Commission that shall be retained by the  
6812 refiner claiming the sales and use tax exemption under Subsection 59-12-104[~~(89)~~](88);

6813 (ii) if the refiner's refinery that is located within the state had an average sulfur level of  
6814 10 parts per million (ppm) or less as reported under Subsection (1) in the previous calendar  
6815 year; and

6816 (iii) before a taxpayer is allowed the sales and use tax exemption under Subsection  
6817 59-12-104[~~(89)~~](88).

6818 (b) The certification provided by the office under Subsection (2)(a) shall be renewed  
6819 annually.

6820 (c) The office:

6821 (i) shall accept a copy of a report submitted by a refiner to the Environmental  
6822 Protection Agency under 40 C.F.R. Sec. 80.1652 as sufficient evidence of the refiner's average  
6823 gasoline sulfur level; or

6824 (ii) may establish another reporting mechanism through rules made under Subsection  
6825 (3).

6826 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
6827 office may make rules to implement this section.

6828 Section 49. Section **63N-1-302** is amended to read:

6829 **63N-1-302. Reporting of certain sales and use tax exempt purchases.**

6830 (1) (a) On or before October 1, a purchaser that receives a sales and use tax exemption  
6831 under Subsection 59-12-104[~~(86)~~](85) for the previous calendar year shall report to the office:

6832 (i) the total purchase or lease price for all machinery, equipment, or normal operating  
6833 repair or replacement parts for which the purchaser received the sales and use tax exemption  
6834 under Subsection 59-12-104[~~(86)~~](85); and

6835 (ii) the total amount of sales and use tax that the purchaser would have owed on the  
6836 purchase or lease price but for the exemption in Subsection 59-12-104[~~(86)~~](85).

6837 (b) On or before October 1, a purchaser that receives a sales and use tax exemption  
6838 under Subsection 59-12-104[~~(87)~~](86) for the previous calendar year shall report to the office:

6839 (i) the total purchase or lease price for all equipment or normal operating repair or  
6840 replacement parts for which the purchaser received the sales and use tax exemption under  
6841 Subsection 59-12-104[~~(87)~~](86); and

6842 (ii) the total amount of sales and use tax that the purchaser would have owed on the  
6843 purchase or lease price but for the exemption in Subsection 59-12-104[~~(87)~~](86).

6844 (2) On or before November 30, the office shall report the information received under  
6845 Subsection (1) to the Revenue and Taxation Interim Committee:

6846 (a) for each exemption; and

6847 (b) in the aggregate for all purchasers that make a report in accordance with this  
6848 section.

6849 Section 50. Section **63N-2-403** is amended to read:

6850 **63N-2-403. Duties of the office.**

6851 The office shall:

6852 (1) facilitate recycling development zones through state support of county incentives  
 6853 which encourage development of manufacturing enterprises that use recycling materials  
 6854 currently collected;

6855 (2) evaluate an application from a county or municipality executive authority to be  
 6856 designated as a recycling market development zone and determine if the county or municipality  
 6857 qualifies for that designation;

6858 (3) provide technical assistance to municipalities and counties in developing  
 6859 applications for designation as a recycling market development zone;

6860 (4) assist counties and municipalities designated as recycling market development  
 6861 zones in obtaining assistance from the federal government and agencies of the state;

6862 (5) assist a qualified business in obtaining the benefits of an incentive or inducement  
 6863 program authorized by this part;

6864 (6) monitor the implementation and operation of this part and conduct a continuing  
 6865 evaluation of the progress made in the recycling market development zone; ~~and~~

6866 (7) include in the annual written report described in Section ~~[63N-2-304]~~ 63N-1-301,  
 6867 an evaluation of the effectiveness of the program and recommendations for legislation~~[-]; and~~

6868 (8) review applications and issue tax credit certificates in accordance with Section  
 6869 63N-2-410.

6870 Section 51. Section **63N-2-410** is repealed and reenacted to read:

6871 **63N-2-410. Recycling market development zone credit.**

6872 (1) As used in this section:

6873 (a) "Certified net expenditures" means net expenditures to third parties for rent, wages,  
 6874 supplies, tools, test inventory, or utilities that the office certifies that the taxpayer paid.

6875 (b) "Certified purchase price" means the purchase price of composting or recycling  
 6876 machinery or equipment that the office certifies that the taxpayer paid.

6877 (c) "Commission" means the State Tax Commission.

6878 (2) To claim a nonrefundable tax credit under Section 59-7-610 or 59-10-1007, a  
 6879 taxpayer shall first apply for and receive a tax credit certificate in accordance with this section.

6880 (3) To receive a tax credit certificate to claim a tax credit under Subsection  
 6881 59-7-610(2) or 59-10-1007(2), a taxpayer shall submit to the office an application that  
 6882 includes:

- 6883 (a) proof of the date the taxpayer purchased composting or recycling machinery or  
6884 equipment:
- 6885 (b) proof of the purchase price of the composting or recycling machinery or equipment;  
6886 (c) documentation that the purchased machinery or equipment is used directly in:  
6887 (i) commercial composting; or  
6888 (ii) manufacturing facilities or plant units that:  
6889 (A) manufacture, process, compound, or produce recycled items of tangible personal  
6890 property for sale; or  
6891 (B) reduce or reuse postconsumer waste material; and  
6892 (d) documentation that the machinery or equipment purchased is integral to the  
6893 composting or recycling process.
- 6894 (4) To receive a tax credit certificate to claim a tax credit under Subsection  
6895 59-7-610(3) or 59-10-1007(3), a taxpayer shall submit to the office an application that  
6896 includes:
- 6897 (a) a list of each net expenditure that the taxpayer made to a third party for rent, wages,  
6898 supplies, tools, test inventory, and utilities for establishing and operating recycling or  
6899 composting technology in the state; and
- 6900 (b) for each payment:
- 6901 (i) the date of payment;  
6902 (ii) the amount paid; and  
6903 (iii) the name of the third party whom the taxpayer paid.
- 6904 (5) (a) If, after review of the application described in Subsection (3), the office  
6905 determines that the taxpayer is eligible to claim a tax credit under Subsection 59-7-610(2) or  
6906 59-10-1007(2), the office shall:
- 6907 (i) determine the amount of the tax credit by multiplying the certified purchase price of  
6908 the composting or recycling machinery or equipment by 5%;  
6909 (ii) issue to the taxpayer a tax credit certificate that:  
6910 (A) states the amount of the tax credit calculated in accordance with Subsection  
6911 (5)(a)(i);  
6912 (B) states the date that the taxpayer purchased the machinery or equipment; and  
6913 (C) certifies that the machinery or equipment is integral to the composting or recycling

6914 process; and  
6915 (iii) provide the information from the tax credit certificate electronically:  
6916 (A) to the commission; and  
6917 (B) in a manner prescribed by the commission.  
6918 (b) If, after review of the application described in Subsection (4), the office determines  
6919 that the taxpayer is eligible to claim a tax credit under Subsection 59-7-610(3) or  
6920 59-10-1007(3), the office shall:  
6921 (i) determine the amount of the tax credit by multiplying the certified net expenditures  
6922 by 20%, up to a maximum value of \$2,000;  
6923 (ii) issue a tax credit certificate to the taxpayer that states:  
6924 (A) the amount of the tax credit calculated in accordance with Subsection (5)(b)(i); and  
6925 (B) the date on which the taxpayer made the certified net expenditure; and  
6926 (iii) provide the information from the tax credit certificate electronically:  
6927 (A) to the commission; and  
6928 (B) in a manner prescribed by the commission.  
6929 (c) (i) The office may issue to a taxpayer that is eligible to claim a tax credit under both  
6930 Subsection 59-7-610(2) or 59-10-1007(2) and Subsection 59-7-610(3) or 59-10-1007(3) a  
6931 single tax credit certificate that:  
6932 (A) contains the information required by Subsections (5)(a)(ii) and (b)(ii);  
6933 (B) states that the tax credit certificate certifies that the taxpayer is eligible to claim a  
6934 tax credit under both Subsection 59-7-610(2) or 59-10-1007(2) and Subsection 59-7-610(3) or  
6935 59-10-1007(3); and  
6936 (C) clearly identifies the sum of the amounts of the tax credits that the taxpayer is  
6937 eligible to claim.  
6938 (ii) If the office issues a single tax credit certificate to a taxpayer, the office may not  
6939 provide the information required by Subsection (5)(a)(iii) or (b)(iii) but shall provide the  
6940 information from the single tax credit certificate electronically:  
6941 (A) to the commission; and  
6942 (B) in a manner prescribed by the commission.  
6943 (6) (a) If, after review of an application described in Subsection (3) or (4), the office  
6944 determines that the taxpayer has provided inadequate information to issue a tax credit



6945 certificate on some or all of the expenses for which the taxpayer seeks to claim a tax credit, the  
6946 office shall:

6947 (i) inform the taxpayer that the application is incomplete or inadequate; and

6948 (ii) request that the taxpayer submit additional documentation within a time frame  
6949 specified by the office.

6950 (b) If the taxpayer fails to comply with the request for additional documentation, the  
6951 office shall:

6952 (i) for an application that the office is able to certify some of the submitted expenses,  
6953 issue a tax credit certificate in accordance with Subsection (5) for certified purchase prices,  
6954 certified net expenditures, or both; or

6955 (ii) for an application that the office is unable to certify any of the submitted expenses,  
6956 deny a tax credit certificate.

6957 (7) A taxpayer shall retain a copy of the tax credit certificate issued under Subsection  
6958 (5) for the same time period the taxpayer is required to keep books and records under Section  
6959 59-1-1406.

6960 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
6961 office shall make rules describing:

6962 (a) the form of an application for a tax credit certificate under this section;

6963 (b) the documentation requirements for a taxpayer to receive a tax credit certificate  
6964 under this section; and

6965 (c) administration of the tax credit certificate issuance process, including relevant  
6966 timelines and deadlines.

6967 Section 52. Section **63N-2-901** is enacted to read:

6968 **Part 9. Research Expenses Tax Credit Act**

6969 **63N-2-901. Definitions.**

6970 (1) As used in this part:

6971 (a) "Basic research" means the same as that term is defined in Section 41(e)(7), Internal  
6972 Revenue Code, except that the term includes only basic research conducted in this state.

6973 (b) "Commission" means the State Tax Commission.

6974 (c) "Qualified organization" means the same as that term is defined in Section 41(e)(6),  
6975 Internal Revenue Code.

6976 (d) "Qualified research" means the same as that term is defined in Section 41(d),  
6977 Internal Revenue Code, except that the term includes only qualified research conducted in this  
6978 state.

6979 (e) "Qualified research expenses" means the same as that term is defined in Section  
6980 41(b), Internal Revenue Code, except that the term includes only:

6981 (i) in-house research expenses incurred in this state; and

6982 (ii) contract research expenses incurred in this state.

6983 (2) Except as provided in Subsections (1) and 63N-2-903(2), a term used in this part  
6984 that is defined in Section 41, Internal Revenue Code, means the same as that term is defined in  
6985 Section 41, Internal Revenue Code.

6986 Section 53. Section **63N-2-902** is enacted to read:

6987 **63N-2-902. Research expenses tax credit certificate.**

6988 (1) To claim a nonrefundable tax credit under Section 59-7-612 or 59-10-1012, a  
6989 taxpayer shall first receive a tax credit certificate in accordance with this section.

6990 (2) To receive a tax credit certificate, the taxpayer shall submit to the office an  
6991 application that includes:

6992 (a) proof of the taxpayer's:

6993 (i) qualified research expenses during the current taxable year;

6994 (ii) payment to a qualified organization for basic research during the current taxable  
6995 year; or

6996 (iii) both, if a taxpayer is applying for a tax credit certificate to claim more than one tax  
6997 credit under Section 59-7-612 or 59-10-1012;

6998 (b) information to verify the calculation of the taxpayer's base amount in accordance  
6999 with Section 63N-2-903;

7000 (c) for each tax credit for which the taxpayer applies to receive a tax credit certificate,  
7001 the taxpayer's calculation, on the form described in Subsection 59-7-612(5) or 59-10-1012(4),  
7002 of the amount of tax credit that the taxpayer is eligible to claim; and

7003 (d) any other information the office needs to verify the calculation of the amount of the  
7004 taxpayer's tax credit in accordance with Section 63N-2-903.

7005 (3) (a) If, after review of the application, the office determines that the taxpayer is  
7006 eligible for one or more tax credits under Section 59-7-612 or 59-10-1012, the office shall:

7007 (i) determine, in accordance with Section 63N-2-903, the amount of each tax credit that  
7008 the taxpayer is eligible to claim;  
7009 (ii) issue a tax credit certificate to the taxpayer that states:  
7010 (A) each tax credit that the office certifies that the taxpayer is eligible to claim; and  
7011 (B) the amount of each tax credit that the taxpayer may claim; and  
7012 (iii) provide the information from the tax credit certificate electronically:  
7013 (A) to the commission; and  
7014 (B) in a manner prescribed by the commission.  
7015 (b) (i) If, after review of the application, the office determines that the taxpayer has  
7016 provided inadequate information to issue a tax credit certificate on some or all of the expenses  
7017 or payments for which the taxpayer seeks to claim a tax credit, the office shall:  
7018 (A) inform the taxpayer that the application is incomplete or inadequate; and  
7019 (B) requests that the taxpayer submit additional documentation within a time frame  
7020 specified by the office.  
7021 (ii) If the taxpayer fails to comply with the request for additional documentation, the  
7022 office shall:  
7023 (A) for an application that the office is able to certify some of the submitted expenses  
7024 or payments, issue a tax credit certificate in accordance with Subsection (3)(a) for the qualified  
7025 research expenses or payment to a qualified organization for basic research that the office is  
7026 able to certify; or  
7027 (B) for an application that the office is unable to certify any of the submitted expenses  
7028 or payments, deny a tax credit certificate.  
7029 (4) A taxpayer shall retain a copy of the tax credit certificate issued under Subsection  
7030 (3) for the same time period the taxpayer is required to keep books and records under Section  
7031 59-1-1406.  
7032 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
7033 office shall make rules describing:  
7034 (a) the form of an application for a tax credit certificate under this section;  
7035 (b) the documentation requirements for a taxpayer to receive a tax credit certificate  
7036 under this section; and  
7037 (c) administration of the tax credit certificate issuance process, including relevant

7038 timelines and deadlines.

7039 Section 54. Section **63N-2-903** is enacted to read:

7040 **63N-2-903. State tax credit amount.**

7041 (1) (a) The research tax credit described in Subsection 59-7-612(2)(a)(i) or  
7042 59-10-1012(2)(a)(i) is equal to 5% of the taxpayer's qualified research expenses incurred during  
7043 the current taxable year that exceed the base amount calculated in accordance with Subsection  
7044 (2).

7045 (b) The tax credit described in Subsection 59-7-612(2)(a)(ii) or 59-10-1012(2)(a)(ii) is  
7046 equal to 5% of the payment to a qualified organization for basic research incurred during the  
7047 current taxable year that exceeds the base amount calculated in accordance with Subsection (2).

7048 (c) The additional research tax credit described in Subsection 59-7-612(2)(a)(iii) or  
7049 59-10-1012(2)(a)(iii) is equal to 7.5% of the taxpayer's qualified research expenses for the  
7050 current taxable year.

7051 (2) The office shall calculate the base amount as provided in Section 41(c), Internal  
7052 Revenue Code, except that:

7053 (a) the base amount does not include the calculation of the alternative incremental  
7054 credit provided for in Section 41(c)(4), Internal Revenue Code;

7055 (b) (i) for a taxpayer that files a tax return under Title 59, Chapter 7, Corporate  
7056 Franchise and Income Taxes, a taxpayer's gross receipts include only those gross receipts  
7057 attributable to sources within this state as provided in Title 59, Chapter 7, Part 3, Allocation  
7058 and Apportionment of Income - Utah UDITPA Provisions; or

7059 (ii) for a taxpayer that files a tax return under Title 59, Chapter 10, Individual Income  
7060 Tax Act, the taxpayer's gross receipts include only those gross receipts attributable to sources  
7061 within this state as provided in Section 59-10-118; and

7062 (c) notwithstanding Section 41(c), Internal Revenue Code, a taxpayer:

7063 (i) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B)  
7064 regardless of whether the taxpayer meets the requirements of Section 41(c)(3)(B)(i)(I) or (II);  
7065 and

7066 (ii) may not revoke an election to be treated as a start-up company under Subsection  
7067 (2)(c)(i).

7068 Section 55. Section **72-2-301** is enacted to read:

7069 **Part 3. Road Usage Charge Program**

7070 **72-2-301. Road Usage Charge Technical Advisory Committee -- Membership.**

7071 (1) There is created within the department a Road Usage Charge Technical Advisory  
7072 Committee consisting of members appointed by the executive director of the department.

7073 (2) Each member of the technical advisory committee shall represent individuals with  
7074 experience and expertise in the areas of:

7075 (a) telecommunications;

7076 (b) highway user groups;

7077 (c) data security and privacy;

7078 (d) privacy rights advocacy organizations;

7079 (e) transportation agencies with technical expertise;

7080 (f) national research;

7081 (g) members of the Legislature;

7082 (h) representatives from the State Tax Commission; and

7083 (h) other relevant stakeholders as determined by the executive director.

7084 (3) The committee shall elect its own chair and vice chair at the first regular meeting of  
7085 each calendar year.

7086 (4) A member may not receive compensation or benefits for the member's service, but  
7087 may receive per diem and travel expenses in accordance with:

7088 (a) Section 63A-3-106;

7089 (b) Section 63A-3-107; and

7090 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
7091 63A-3-107.

7092 (5) The department shall provide staff support to the committee.

7093 Section 56. Section **72-2-302** is enacted to read:

7094 **72-2-302. Powers and duties.**

7095 (1) The Road Usage Charge Technical Advisory Committee shall guide the  
7096 development and evaluation of a program to implement mileage-based revenue collection for  
7097 Utah's roads and highways as an alternative to the gas tax system.

7098 (2) The committee shall:

7099 (a) study a road usage charge program as an alternative to the gas tax;

7100 (b) gather public comment on issues and concerns related to a road usage charge  
7101 program; and

7102 (c) make recommendations to the department on the design of a program to implement  
7103 alternative road usage charge approaches.

7104 (3) The committee may also make recommendations on the criteria to be used to  
7105 evaluate the program.

7106 (4) In studying alternatives to the current gas tax system and developing  
7107 recommendations on the design of a program to implement road usage charge approaches  
7108 under Subsection (2), the committee shall take all of the following into consideration:

7109 (a) the availability, adaptability, reliability, and security of methods that might be used  
7110 in recording and reporting highway use;

7111 (b) the necessity of protecting all personally identifiable information used in reporting  
7112 highway use;

7113 (c) the ease and cost of recording and reporting highway use;

7114 (d) the ease and cost of administering the collection of taxes and fees as an alternative  
7115 to the current system of taxing highway use through motor vehicle fuel taxes;

7116 (e) effective methods of maintaining compliance;

7117 (f) The ease of reidentifying location data, even when personally identifiable  
7118 information has been removed from the data;

7119 (g) increased privacy concerns when location data is used in conjunction with other  
7120 technologies; and

7121 (h) public and private agency access, including law enforcement, to data collected and  
7122 stored for purposes of the road user charge to ensure individual privacy rights are protected.

7123 (5) The committee shall consult with highway users and transportation stakeholders,  
7124 including representatives of vehicle users, vehicle manufacturers, and fuel distributors as part  
7125 of its duties under this section.

7126 Section 57. Section **72-2-303** is enacted to read:

7127 **72-2-303. Department to implement Road Usage Charge Program --**

7128 **Requirements -- Restrictions.**

7129 (1) Based on the recommendations of the Road Usage Charge Technical Advisory  
7130 Committee, the department shall implement a Road Usage Charge Program by July 1, 2019.

- 7131 (2) At a minimum, the program shall accomplish all of the following:  
7132 (a) implement alternative means of collecting road usage data, including at least one  
7133 alternative that does not rely on electronic vehicle location data;  
7134 (b) collect a minimum amount of personal information including location tracking  
7135 information, necessary to implement a road usage charge program; and  
7136 (c) ensure that processes for collecting, managing, storing, transmitting, and destroying  
7137 data are in place to protect the integrity of the data and safeguard the privacy of drivers.  
7138 (3) The department may not disclose, distribute, make available, sell, access, or  
7139 otherwise provide for another purpose, personal information or data collected through the road  
7140 usage charge program to any private entity or individual unless:  
7141 (a) authorized by:  
7142 (i) a court order, as part of a civil case;  
7143 (ii) a subpoena issued on behalf of a defendant in a criminal case; or  
7144 (iii) a search warrant; or  
7145 (b) in aggregate form with all personal information removed for the purposes of  
7146 academic research.  
7147 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
7148 department may make rules to implement a road usage charge program under this section.  
7149 Section 58. Section **72-2-304** is enacted to read:  
7150 **72-2-304. Department report on Road Usage Charge Program.**  
7151 (1) The department shall prepare and submit a report of its findings based on the results  
7152 of the program to the Road Usage Charge Technical Advisory Committee, the Transportation  
7153 Commission, and the Transportation and Revenue and Taxation Committees of the Legislature  
7154 by no later than November 30, 2018.  
7155 (2) The report shall review the following issues:  
7156 (a) cost;  
7157 (b) privacy, including recommendations regarding public and private access, including  
7158 law enforcement, to data collected and stored for purposes of the road user charge to ensure  
7159 individual privacy rights are protected;  
7160 (b) jurisdictional issues;  
7161 (d) feasibility;

- 7162 (e) complexity;  
7163 (f) acceptance;  
7164 (g) use of revenues;  
7165 (h) security and compliance, including a discussion of processes and security measures  
7166 necessary to minimize fraud and tax evasion rates;  
7167 (i) data collection technology, including a discussion of the advantages and  
7168 disadvantages of various types of data collection equipment and the privacy implications and  
7169 considerations of the equipment;  
7170 (j) potential for additional driver services;  
7171 (k) implementation issues; and  
7172 (l) rules or legislation needed to implement a road usage charge program.  
7173 **Section 59. Effective date -- Retrospective operation.**  
7174 (1) Except as provided in Subsections (2) through (9), this bill has retrospective  
7175 operation for a taxable year beginning on or after January 1, 2018.  
7176 (2) The amendments to the following sections take effect on May 8, 2018:  
7177 (a) Section 53A-1a-106;  
7178 (b) Section 53A-2-214;  
7179 (c) Section 53A-16-110;  
7180 (d) Section 53A-16-113;  
7181 (e) Section 53A-17a-103;  
7182 (f) Section 53A-17a-124.5;  
7183 (g) Section 53A-17a-127;  
7184 (h) Section 53A-17a-135;  
7185 (i) Section 53A-17a-135.1;  
7186 (j) Section 53A-17a-150;  
7187 (k) Section 53A-17a-164;  
7188 (l) Section 53A-21-101.5;  
7189 (m) Section 59-2-102;  
7190 (n) Section 59-2-918.6;  
7191 (o) Section 59-2-919;  
7192 (p) Section 59-2-919.2;



- 7193 (q) Section 59-2-926;
- 7194 (r) Section 63I-2-272;
- 7195 (s) Section 63J-1-220;
- 7196 (t) Section 72-2-301;
- 7197 (u) Section 72-2-302;
- 7198 (v) Section 72-2-303; and
- 7199 (w) Section 72-2-304.
- 7200 (3) The repealers of the following sections take effect on May 8, 2018:
- 7201 (a) Section 53A-17a-134;
- 7202 (b) Section 53A-17a-145; and
- 7203 (c) Section 53A-17a-151.
- 7204 (4) The amendments to the following sections take effect on July 1, 2018:
- 7205 (a) Section 59-1-1503;
- 7206 (b) Section 59-12-102, except Subsections (55), industrial use definition, and (64),
- 7207 manufacturing facility definition;
- 7208 (c) Section 59-12-103;
- 7209 (d) Section 59-12-104, except Subsection (14);
- 7210 (e) Section 59-12-104.4;
- 7211 (f) Section 59-12-104.5;
- 7212 (g) Section 59-12-104.7;
- 7213 (h) Section 63M-4-702; and
- 7214 (i) Section 63N-1-302.
- 7215 (5) The amendments to Section 63I-1-263 take effect on January 1, 2019.
- 7216 (6) The amendments to the following sections take effect for a taxable year beginning
- 7217 on or after January 1, 2019:
- 7218 (a) Subsection 59-7-101(34), Utah net loss deduction definition;
- 7219 (b) Section 59-7-110;
- 7220 (c) Section 59-7-302;
- 7221 (d) Section 59-7-311;
- 7222 (e) Section 59-7-312;
- 7223 (f) Section 59-7-315;

- 7224 (g) Section 59-7-610;
- 7225 (h) Section 59-7-612;
- 7226 (i) Section 59-10-1007;
- 7227 (j) Section 59-10-1012; and
- 7228 (k) Section 63N-2-403.
- 7229 (7) The enactments of the following sections take effect for a taxable year beginning on
- 7230 or after January 1, 2019:
- 7231 (a) Section 63N-2-901;
- 7232 (b) Section 63N-2-902; and
- 7233 (c) Section 63N-2-903.
- 7234 (8) The repeal and reenactment of Section 63N-2-410 takes effect for a taxable year
- 7235 beginning or of after January 1, 2019.
- 7236 (9) The amendments to the following sections take effect on July 1, 2019:
- 7237 (a) Section 41-1a-102;
- 7238 (b) Section 41-1a-1206;
- 7239 (c) Subsections 59-12-102(55), industrial use definition, and (64), manufacturing
- 7240 facility definition;
- 7241 (d) Subsection 59-12-104(14);
- 7242 (e) Section 59-12-104.8;
- 7243 (f) Section 63I-2-259; and
- 7244 (g) Section 63I-2-263.
- 7245 Section 60. **Repealer.**
- 7246 This bill repeals:
- 7247 Section **53A-17a-134, Board-approved leeway -- Purpose -- State support --**
- 7248 **Disapproval.**
- 7249 Section **53A-17a-145, Additional levy by local school board for debt service, school**
- 7250 **sites, buildings, buses, textbooks, and supplies.**
- 7251 Section **53A-17a-151, Board leeway for reading improvement.**