

TAX REFORM

2018 GENERAL SESSION

STATE OF UTAH

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;
- ▶ exempts from taxation certain items of taxable tangible personal property;
- ▶ 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

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

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

87 **Money Appropriated in this Bill:**

88 None

89 **Other Special Clauses:**

90 This bill provides a special effective date.

91 This bill provides retrospective operation.

92 **Utah Code Sections Affected:**

93 AMENDS:

94 **19-2-104**, as last amended by Laws of Utah 2015, Chapter 154

95 **41-1a-102**, as last amended by Laws of Utah 2016, Chapter 40
96 **41-1a-1206 (Effective 01/01/18)**, as last amended by Laws of Utah 2017, Chapters 261,
97 406 and last amended by Coordination Clause, Laws of Utah 2017, Chapter 261
98 **53A-1a-106**, as last amended by Laws of Utah 2017, Chapters 173, 378, and 444
99 **53A-2-214**, as last amended by Laws of Utah 2017, Chapter 173
100 **53A-16-110**, as last amended by Laws of Utah 2011, Chapter 371
101 **53A-16-113**, as last amended by Laws of Utah 2017, Chapter 181
102 **53A-17a-103**, as last amended by Laws of Utah 2017, Chapter 173
103 **53A-17a-124.5**, as last amended by Laws of Utah 2017, Chapter 173
104 **53A-17a-127**, as last amended by Laws of Utah 2017, Chapter 173
105 **53A-17a-135**, as last amended by Laws of Utah 2017, Chapters 6 and 173
106 **53A-17a-135.1**, as enacted by Laws of Utah 2015, Chapter 287
107 **53A-17a-150**, as last amended by Laws of Utah 2017, Chapter 173
108 **53A-17a-164**, as last amended by Laws of Utah 2016, Chapters 229, 350, and 367
109 **53A-21-101.5**, as last amended by Laws of Utah 2011, Chapter 371
110 **59-1-1503**, as last amended by Laws of Utah 2012, Chapter 399
111 **59-2-102**, as last amended by Laws of Utah 2016, Chapters 98, 308, 367, and 368
112 **59-2-918.6**, as last amended by Laws of Utah 2016, Chapter 98
113 **59-2-919**, as last amended by Laws of Utah 2016, Chapters 341 and 367
114 **59-2-919.2**, as last amended by Laws of Utah 2010, Chapter 90
115 **59-2-926**, as last amended by Laws of Utah 2016, Chapter 367
116 **59-2-1115**, as last amended by Laws of Utah 2013, Chapters 19 and 147
117 **59-7-101**, as last amended by Laws of Utah 2011, Chapter 69
118 **59-7-104**, as repealed and reenacted by Laws of Utah 1993, Chapter 169
119 **59-7-110**, as last amended by Laws of Utah 2016, Chapters 311 and 323
120 **59-7-302 (Effective 01/01/18)**, as last amended by Laws of Utah 2017, Chapters 181
121 and 268
122 **59-7-311**, as last amended by Laws of Utah 2016, Chapters 311 and 323
123 **59-7-312**, as last amended by Laws of Utah 2008, Chapter 283
124 **59-7-315**, as last amended by Laws of Utah 2008, Chapter 283
125 **59-7-402**, as last amended by Laws of Utah 2009, Chapter 312

- 126 **59-7-605**, as last amended by Laws of Utah 2016, Chapters 369 and 375
- 127 **59-7-610**, as last amended by Laws of Utah 2015, Chapter 283
- 128 **59-7-612**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 129 **59-10-1007**, as last amended by Laws of Utah 2015, Chapter 283
- 130 **59-10-1009**, as last amended by Laws of Utah 2016, Chapters 369 and 375
- 131 **59-10-1012**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 132 **59-12-102**, as last amended by Laws of Utah 2017, Chapters 181, 382, and 422
- 133 **59-12-103**, as last amended by Laws of Utah 2017, Chapters 234, 421, and 422
- 134 **59-12-104 (Effective 01/01/18)**, as last amended by Laws of Utah 2017, Chapters 264,
- 135 268, and 429
- 136 **59-12-104.4**, as enacted by Laws of Utah 2011, Chapter 314
- 137 **59-12-104.5**, as last amended by Laws of Utah 2017, Chapter 268
- 138 **59-12-104.7**, as enacted by Laws of Utah 2017, Chapter 268
- 139 **63I-1-263 (Effective 01/01/18)**, as last amended by Laws of Utah 2017, Chapters 23,
- 140 47, 95, 166, 205, 469, and 470
- 141 **63I-2-259**, as last amended by Laws of Utah 2017, Chapter 181
- 142 **63I-2-263**, as last amended by Laws of Utah 2017, First Special Session, Chapter 1
- 143 **63I-2-272**, as last amended by Laws of Utah 2017, Chapter 427
- 144 **63J-1-220**, as last amended by Laws of Utah 2017, Chapter 173
- 145 **63M-4-702 (Effective 01/01/18)**, as enacted by Laws of Utah 2017, Chapter 429
- 146 **63N-1-302**, as enacted by Laws of Utah 2017, Chapter 268
- 147 **63N-2-403**, as renumbered and amended by Laws of Utah 2015, Chapter 283

148 ENACTS:

- 149 **59-12-104.8**, Utah Code Annotated 1953
- 150 **72-2-301**, Utah Code Annotated 1953
- 151 **72-2-302**, Utah Code Annotated 1953
- 152 **72-2-303**, Utah Code Annotated 1953
- 153 **72-2-304**, Utah Code Annotated 1953

154 REPEALS AND REENACTS:

- 155 **63N-2-410**, as renumbered and amended by Laws of Utah 2015, Chapter 283

156 REPEALS:

157 **53A-17a-134**, as last amended by Laws of Utah 2017, Chapter 173

158 **53A-17a-145**, as last amended by Laws of Utah 2017, Chapter 173

159 **53A-17a-151**, as last amended by Laws of Utah 2017, Chapter 173

160 **59-2-108**, as last amended by Laws of Utah 2013, Chapter 248

161

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

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

164 **19-2-104. Powers of board.**

165 (1) The board may make rules in accordance with Title 63G, Chapter 3, Utah

166 Administrative Rulemaking Act:

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

170 (b) establishing air quality standards;

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

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

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

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

177 (d) (i) implementing:

178 (A) Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency

179 Response, 15 U.S.C. 2601 et seq.;

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

181 (C) 40 C.F.R. Part 61, National Emission Standards for Hazardous Air Pollutants,

182 Subpart M, National Emission Standard for Asbestos; and

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

186 (e) establishing a requirement for a diesel emission opacity inspection and maintenance

187 program for diesel-powered motor vehicles;

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

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

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

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

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

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

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

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

206 (3) (a) The board may:

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

209 (ii) recommend that the director:

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

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

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

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

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

- 218 (A) receives relevant asbestos training, as defined by rule; and
219 (B) has acquired a minimum of 1,000 hours of asbestos project monitoring related
220 work experience.
- 221 (b) The board shall:
- 222 (i) to ensure compliance with applicable statutes and regulations:
- 223 (A) review a settlement negotiated by the director in accordance with Subsection
224 19-2-107(2)(b)(viii) that requires a civil penalty of \$25,000 or more; and
- 225 (B) approve or disapprove the settlement;
- 226 (ii) encourage voluntary cooperation by persons and affected groups to achieve the
227 purposes of this chapter;
- 228 (iii) meet the requirements of federal air pollution laws;
- 229 (iv) by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
230 Act, establish work practice and certification requirements for persons who:
- 231 (A) contract for hire to conduct demolition, renovation, salvage, encapsulation work
232 involving friable asbestos-containing materials, or asbestos inspections if:
- 233 (I) the contract work is done on a site other than a residential property with four or
234 fewer units; or
- 235 (II) the contract work is done on a residential property with four or fewer units where a
236 tested sample contained greater than 1% of asbestos;
- 237 (B) conduct work described in Subsection (3)(b)(iv)(A) in areas to which the general
238 public has unrestrained access or in school buildings that are subject to the federal Asbestos
239 Hazard Emergency Response Act of 1986;
- 240 (C) conduct asbestos inspections in facilities subject to 15 U.S.C. 2601 et seq., Toxic
241 Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response; or
- 242 (D) conduct lead-based paint inspections in facilities subject to 15 U.S.C. 2601 et seq.,
243 Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction;
- 244 (v) establish certification requirements for a person required under 15 U.S.C. 2601 et
245 seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to
246 be accredited as an inspector, management planner, abatement project designer, asbestos
247 abatement contractor and supervisor, or an asbestos abatement worker;
- 248 (vi) establish certification procedures and [~~requirements for certification of the~~

249 ~~conversion of a motor vehicle to a clean-fuel vehicle, certifying the vehicle]~~ the form for
250 submitting proof of purchase or lease of a vehicle that is eligible for the tax credit granted in
251 Section 59-7-605 or 59-10-1009;

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

256 (viii) assist the State Board of Education in adopting school bus idling reduction
257 standards and implementing an idling reduction program in accordance with Section
258 41-6a-1308.

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

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

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

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

268 (ii) the testing is for:

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

271 (B) asbestos cement siding or roofing materials;

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

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

275 (E) vermiculite type insulation materials.

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

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

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

280 (7) The board may not issue, amend, renew, modify, revoke, or terminate any of the
281 following that are subject to the authority granted to the director under Section 19-2-107 or
282 19-2-108:

- 283 (a) a permit;
- 284 (b) a license;
- 285 (c) a registration;
- 286 (d) a certification; or
- 287 (e) another administrative authorization made by the director.

288 (8) A board member may not speak or act for the board unless the board member is
289 authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

290 (9) Notwithstanding Subsection (7), the board may exercise all authority granted to the
291 board by a federally enforceable state implementation plan.

292 Section 2. Section **41-1a-102** is amended to read:

293 **41-1a-102. Definitions.**

294 As used in this chapter:

295 (1) "Actual miles" means the actual distance a vehicle has traveled while in operation.

296 (2) "Actual weight" means the actual unladen weight of a vehicle or combination of
297 vehicles as operated and certified to by a weighmaster.

298 (3) "All-terrain type I vehicle" has the same meaning provided in Section 41-22-2.

299 (4) "All-terrain type II vehicle" has the same meaning provided in Section 41-22-2.

300 (5) "Amateur radio operator" means any person licensed by the Federal
301 Communications Commission to engage in private and experimental two-way radio operation
302 on the amateur band radio frequencies.

303 (6) "Autocycle" means the same as that term is defined in Section 53-3-102.

304 (7) "Branded title" means a title certificate that is labeled:

- 305 (a) rebuilt and restored to operation;
- 306 (b) flooded and restored to operation; or
- 307 (c) not restored to operation.

308 (8) "Camper" means any structure designed, used, and maintained primarily to be
309 mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a
310 mobile dwelling, sleeping place, commercial space, or facilities for human habitation or for

311 camping.

312 (9) "Certificate of title" means a document issued by a jurisdiction to establish a record
313 of ownership between an identified owner and the described vehicle, vessel, or outboard motor.

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

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

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

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

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

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

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

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

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

334 [~~16~~] (17) "Farm tractor" means every motor vehicle designed and used primarily as a
335 farm implement for drawing plows, mowing machines, and other implements of husbandry.

336 [~~17~~] (18) (a) "Farm truck" means a truck used by the owner or operator of a farm
337 solely for his own use in the transportation of:

338 (i) farm products, including livestock and its products, poultry and its products,
339 floricultural and horticultural products;

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

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

344 (b) "Farm truck" does not include the operation of trucks by commercial processors of
345 agricultural products.

346 [~~(18)~~] (19) "Fleet" means one or more commercial vehicles.

347 [~~(19)~~] (20) "Foreign vehicle" means a vehicle of a type required to be registered,
348 brought into this state from another state, territory, or country other than in the ordinary course
349 of business by or through a manufacturer or dealer, and not registered in this state.

350 [~~(20)~~] (21) "Gross laden weight" means the actual weight of a vehicle or combination
351 of vehicles, equipped for operation, to which shall be added the maximum load to be carried.

352 [~~(21)~~] (22) "Highway" or "street" means the entire width between property lines of
353 every way or place of whatever nature when any part of it is open to the public, as a matter of
354 right, for purposes of vehicular traffic.

355 [~~(22)~~] (23) (a) "Identification number" means the identifying number assigned by the
356 manufacturer or by the division for the purpose of identifying the vehicle, vessel, or outboard
357 motor.

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

360 [~~(23)~~] (24) "Implement of husbandry" means every vehicle designed or adapted and
361 used exclusively for an agricultural operation and only incidentally operated or moved upon the
362 highways.

363 [~~(24)~~] (25) (a) "In-state miles" means the total number of miles operated in this state
364 during the preceding year by fleet power units.

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

368 [~~(25)~~] (26) "Interstate vehicle" means any commercial vehicle operated in more than
369 one state, province, territory, or possession of the United States or foreign country.

370 [~~(26)~~] (27) "Jurisdiction" means a state, district, province, political subdivision,
371 territory, or possession of the United States or any foreign country.

372 [~~(27)~~] (28) "Lienholder" means a person with a security interest in particular property.

373 ~~[(28)]~~ (29) "Manufactured home" means a transportable factory built housing unit
374 constructed on or after June 15, 1976, according to the Federal Home Construction and Safety
375 Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is
376 eight body feet or more in width or 40 body feet or more in length, or when erected on site, is
377 400 or more square feet, and which is built on a permanent chassis and designed to be used as a
378 dwelling with or without a permanent foundation when connected to the required utilities, and
379 includes the plumbing, heating, air-conditioning, and electrical systems.

380 ~~[(29)]~~ (30) "Manufacturer" means a person engaged in the business of constructing,
381 manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or
382 outboard motors for the purpose of sale or trade.

383 ~~[(30)]~~ (31) "Mobile home" means a transportable factory built housing unit built prior
384 to June 15, 1976, in accordance with a state mobile home code which existed prior to the
385 Federal Manufactured Housing and Safety Standards Act (HUD Code).

386 ~~[(31)]~~ (32) "Motorboat" has the same meaning as provided in Section 73-18-2.

387 ~~[(32)]~~ (33) "Motorcycle" means:

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

390 (b) an autocycle.

391 ~~[(33)]~~ (34) (a) "Motor vehicle" means a self-propelled vehicle intended primarily for
392 use and operation on the highways.

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

394 ~~[(34)]~~ (35) (a) "Nonresident" means a person who is not a resident of this state as
395 defined by Section 41-1a-202, and who does not engage in intrastate business within this state
396 and does not operate in that business any motor vehicle, trailer, or semitrailer within this state.

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

402 ~~[(35)]~~ (36) "Odometer" means a device for measuring and recording the actual distance
403 a vehicle travels while in operation, but does not include any auxiliary odometer designed to be

404 periodically reset.

405 ~~[(36)]~~ (37) "Off-highway implement of husbandry" has the same meaning as provided
406 in Section 41-22-2.

407 ~~[(37)]~~ (38) "Off-highway vehicle" has the same meaning as provided in Section
408 41-22-2.

409 ~~[(38)]~~ (39) "Operate" means to drive or be in actual physical control of a vehicle or to
410 navigate a vessel.

411 ~~[(39)]~~ (40) "Outboard motor" means a detachable self-contained propulsion unit,
412 excluding fuel supply, used to propel a vessel.

413 ~~[(40)]~~ (41) (a) "Owner" means a person, other than a lienholder, holding title to a
414 vehicle, vessel, or outboard motor whether or not the vehicle, vessel, or outboard motor is
415 subject to a security interest.

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

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

424 ~~[(41)]~~ (42) "Park model recreational vehicle" means a unit that:

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

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

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

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

431 ~~[(42)]~~ (43) "Personalized license plate" means a license plate that has displayed on it a
432 combination of letters, numbers, or both as requested by the owner of the vehicle and assigned
433 to the vehicle by the division.

434 ~~[(43)]~~ (44) (a) "Pickup truck" means a two-axle motor vehicle with motive power

435 manufactured, remanufactured, or materially altered to provide an open cargo area.

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

438 ~~[(44)]~~ (45) "Pneumatic tire" means every tire in which compressed air is designed to
439 support the load.

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

445 ~~[(46)]~~ (47) "Public garage" means every building or other place where vehicles or
446 vessels are kept and stored and where a charge is made for the storage and keeping of vehicles
447 and vessels.

448 ~~[(47)]~~ (48) "Receipt of surrender of ownership documents" means the receipt of
449 surrender of ownership documents described in Section 41-1a-503.

450 ~~[(48)]~~ (49) "Reconstructed vehicle" means every vehicle of a type required to be
451 registered in this state that is materially altered from its original construction by the removal,
452 addition, or substitution of essential parts, new or used.

453 ~~[(49)]~~ (50) "Recreational vehicle" has the same meaning as provided in Section
454 13-14-102.

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

459 ~~[(51)]~~ (52) (a) "Registration year" means a 12 consecutive month period commencing
460 with the completion of all applicable registration criteria.

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

463 ~~[(52)]~~ (53) "Repair or replacement" means the restoration of vehicles, vessels, or
464 outboard motors to a sound working condition by substituting any inoperative part of the
465 vehicle, vessel, or outboard motor, or by correcting the inoperative part.

466 ~~[(53)]~~ (54) "Replica vehicle" means:

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

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

469 41-6a-1507(1)(a)(i)(B).

470 ~~[(54)]~~ (55) "Road tractor" means every motor vehicle designed and used for drawing
471 other vehicles and constructed so it does not carry any load either independently or any part of
472 the weight of a vehicle or load that is drawn.

473 ~~[(55)]~~ (56) "Sailboat" means the same as that term is defined in Section 73-18-2.

474 ~~[(56)]~~ (57) "Security interest" means an interest that is reserved or created by a security
475 agreement to secure the payment or performance of an obligation and that is valid against third
476 parties.

477 ~~[(57)]~~ (58) "Semitrailer" means every vehicle without motive power designed for
478 carrying persons or property and for being drawn by a motor vehicle and constructed so that
479 some part of its weight and its load rests or is carried by another vehicle.

480 ~~[(58)]~~ (59) "Special group license plate" means a type of license plate designed for a
481 particular group of people or a license plate authorized and issued by the division in accordance
482 with Section 41-1a-418.

483 ~~[(59)]~~ (60) (a) "Special interest vehicle" means a vehicle used for general
484 transportation purposes and that is:

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

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

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

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

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

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

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

497 leisure pursuit.

498 ~~[(60)]~~ (61) (a) "Special mobile equipment" means every vehicle:

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

500 (ii) not designed to operate in traffic; and

501 (iii) only incidentally operated or moved over the highways.

502 (b) "Special mobile equipment" includes:

503 (i) farm tractors;

504 (ii) off-road motorized construction or maintenance equipment including backhoes,
505 bulldozers, compactors, graders, loaders, road rollers, tractors, and trenchers; and

506 (iii) ditch-digging apparatus.

507 (c) "Special mobile equipment" does not include a commercial vehicle as defined
508 under Section 72-9-102.

509 ~~[(61)]~~ (62) "Specially constructed vehicle" means every vehicle of a type required to be
510 registered in this state, not originally constructed under a distinctive name, make, model, or
511 type by a generally recognized manufacturer of vehicles, and not materially altered from its
512 original construction.

513 ~~[(62)]~~ (63) "Title" means the right to or ownership of a vehicle, vessel, or outboard
514 motor.

515 ~~[(63)]~~ (64) (a) "Total fleet miles" means the total number of miles operated in all
516 jurisdictions during the preceding year by power units.

517 (b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means
518 the number of miles that those vehicles were towed on the highways of all jurisdictions during
519 the preceding year.

520 ~~[(64)]~~ (65) "Trailer" means a vehicle without motive power designed for carrying
521 persons or property and for being drawn by a motor vehicle and constructed so that no part of
522 its weight rests upon the towing vehicle.

523 ~~[(65)]~~ (66) "Transferee" means a person to whom the ownership of property is
524 conveyed by sale, gift, or any other means except by the creation of a security interest.

525 ~~[(66)]~~ (67) "Transferor" means a person who transfers his ownership in property by
526 sale, gift, or any other means except by creation of a security interest.

527 ~~[(67)]~~ (68) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable

528 vehicle without motive power, designed as a temporary dwelling for travel, recreational, or
529 vacation use that does not require a special highway movement permit when drawn by a
530 self-propelled motor vehicle.

531 ~~[(68)]~~ (69) "Truck tractor" means a motor vehicle designed and used primarily for
532 drawing other vehicles and not constructed to carry a load other than a part of the weight of the
533 vehicle and load that is drawn.

534 ~~[(69)]~~ (70) "Vehicle" includes a motor vehicle, trailer, semitrailer, off-highway vehicle,
535 camper, park model recreational vehicle, manufactured home, and mobile home.

536 ~~[(70)]~~ (71) "Vessel" means the same as that term is defined in Section 73-18-2.

537 ~~[(71)]~~ (72) "Vintage vehicle" means the same as that term is defined in Section
538 41-21-1.

539 ~~[(72)]~~ (73) "Waters of this state" means the same as that term is defined in Section
540 73-18-2.

541 ~~[(73)]~~ (74) "Weighmaster" means a person, association of persons, or corporation
542 permitted to weigh vehicles under this chapter.

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

544 **41-1a-1206 (Effective 01/01/18). Registration fees -- Fees by gross laden weight.**

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

548 (a) \$46.00 for each motorcycle;

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

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

553 (A) \$344; or

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

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

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

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

561 (d) (i) \$53 for each farm truck over 12,000 pounds, but not exceeding 14,000 pounds
562 gross laden weight; plus

563 (ii) \$9 for each 2,000 pounds over 14,000 pounds gross laden weight;

564 (e) (i) \$69.50 for each motor vehicle or combination of motor vehicles, excluding farm
565 trucks, over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

566 (ii) \$19 for each 2,000 pounds over 14,000 pounds gross laden weight;

567 (f) (i) \$69.50 for each park model recreational vehicle over 12,000 pounds, but not
568 exceeding 14,000 pounds gross laden weight; plus

569 (ii) \$19 for each 2,000 pounds over 14,000 pounds gross laden weight; and

570 (g) \$45 for each vintage vehicle that is less than 40 years old.

571 (2) At the time application is made for registration or renewal of registration of a
572 vehicle under this chapter for a six-month registration period under Section 41-1a-215.5, a
573 registration fee shall be paid to the division as follows:

574 (a) \$34.50 for each motorcycle; and

575 (b) (i) except as provided in Subsection (2)(b)(ii), \$33.50 for each motor vehicle of
576 12,000 pounds or less gross laden weight, excluding motorcycles[-]; or

577 (ii) for a motor vehicle of 12,000 pounds or less gross laden weight that is an electric
578 vehicle;

579 (A) \$233.50; or

580 (B) \$33.50 plus an amount determined through participation in a road usage charge
581 program established in Title 72, Chapter 2, Part 3, Road Usage Charge Program.

582 (3) (a) The initial registration fee for a vintage vehicle that is 40 years old or older is
583 \$40.

584 (b) A vintage vehicle that is 40 years old or older is exempt from the renewal of
585 registration fees under Subsection (1).

586 (c) A vehicle with a Purple Heart special group license plate issued in accordance with
587 Section 41-1a-421 is exempt from the registration fees under Subsection (1).

588 (d) A camper is exempt from the registration fees under Subsection (1).

589 (4) If a motor vehicle is operated in combination with a semitrailer or trailer, each

590 motor vehicle shall register for the total gross laden weight of all units of the combination if the
591 total gross laden weight of the combination exceeds 12,000 pounds.

592 (5) (a) Registration fee categories under this section are based on the gross laden
593 weight declared in the licensee's application for registration.

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

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

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

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

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

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

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

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

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

612 **53A-1a-106. School district and individual school powers -- Plan for college and**
613 **career readiness definition.**

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

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

620 (i) develop and implement programs integrating technology into the curriculum,

621 instruction, and student assessment;

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

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

624 greater flexibility in designing and choosing among programs with different focuses through

625 schools within the same district and other districts, subject to space availability, demographics,

626 and legal and performance criteria;

627 (iv) establish strategic planning at both the district and school level and site-based

628 decision making programs at the school level;

629 (v) provide opportunities for each student to acquire and develop academic and

630 occupational knowledge, skills, and abilities;

631 (vi) participate in ongoing research and development projects primarily at the school

632 level aimed at improving the quality of education within the system; and

633 (vii) involve business and industry in the education process through the establishment

634 of partnerships with the business community at the district and school level.

635 (b) (i) As used in this title, "plan for college and career readiness" means a plan

636 developed by a student and the student's parent or guardian, in consultation with school

637 counselors, teachers, and administrators that:

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

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

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

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

642 (ii) Each local school board, in consultation with school personnel, parents, and school

643 community councils or similar entities shall establish policies to provide for the effective

644 implementation of an individual learning plan or a plan for college and career readiness for

645 each student at the school site.

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

647 (A) recognizing the student's accomplishments, strengths, and progress toward meeting

648 student achievement standards as defined in the core standards for Utah public schools;

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

650 (C) involving students, parents, and school personnel in preparing and implementing

651 an individual learning plan and a plan for college and career readiness.

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

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

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

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

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

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

666 **53A-2-214. Online students' participation in extracurricular activities.**

667 (1) As used in this section:

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

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

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

673 (ii) generates funding for the school district or school pursuant to Subsection
674 53A-17a-103[~~(7)~~](6) and rules of the State Board of Education.

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

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

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

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

682 (a) interschool competitions of athletic teams sponsored and supported by a public

683 school; or

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

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

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

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

693 (b) The rules shall provide that:

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

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

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

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

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

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

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

711 **53A-16-110. Special tax to buy school building sites, build and furnish**
712 **schoolhouses, or improve school property.**

713 (1) (a) Except as provided in Subsection (6), a local school board may, by following

714 the process for special elections established in Sections 20A-1-203 and 20A-1-204, call a
 715 special election to determine whether a special property tax should be levied for one or more
 716 years to buy building sites, build and furnish schoolhouses, or improve the school property
 717 under its control.

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

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

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

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

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

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

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

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

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

736 **53A-16-113. Capital local levy -- First class county required levy -- Allowable**
 737 **uses of collected revenue.**

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

740 [~~(b)~~] (2) A tax rate imposed by a school district pursuant to this section may not exceed
 741 .0030 per dollar of taxable value in any calendar year.

742 [~~(2)~~] A school district that imposes a capital local levy in the calendar year beginning on
 743 January 1, 2012, is exempt from the public notice and hearing requirements of Section
 744 59-2-919 if the school district budgets an amount of ad valorem property tax revenue equal to

745 or less than the sum of the following amounts:]

746 [(a) the amount of revenue generated during the calendar year beginning on January 1,
747 2011, from the sum of the following levies of a school district:]

748 [(i) a capital outlay levy imposed under Section 53A-16-107; and]

749 [(ii) the portion of the 10% of basic levy described in Section 53A-17a-145 that is
750 budgeted for debt service or capital outlay; and]

751 [(b) revenue from eligible new growth as defined in Section 59-2-924.]

752 [(3) (a) Subject to Subsections (3)(b), (c), and (d), for fiscal year 2013-14, a local
753 school board may utilize the proceeds of a maximum of .0024 per dollar of taxable value of the
754 local school board's annual capital local levy for general fund purposes if the proceeds are not
755 committed or dedicated to pay debt service or bond payments.]

756 [(b) If a local school board uses the proceeds described in Subsection (3)(a) for general
757 fund purposes, the local school board shall notify the public of the local school board's use of
758 the capital local levy proceeds for general fund purposes:]

759 [(i) before the local school board's budget hearing in accordance with the notification
760 requirements described in Section 53A-19-102; and]

761 [(ii) at a budget hearing required in Section 53A-19-102.]

762 [(c) A local school board may not use the proceeds described in Subsection (3)(a) to
763 fund the following accounting function classifications as provided in the Financial Accounting
764 for Local and State School Systems guidelines developed by the National Center for Education
765 Statistics:]

766 [(i) 2300 Support Services - General District Administration; or]

767 [(ii) 2500 Support Services - Central Services.]

768 Section 8. Section **53A-17a-103** is amended to read:

769 **53A-17a-103. Definitions.**

770 As used in this chapter:

771 (1) "Basic state-supported school program" or "basic program" means public education
772 programs for kindergarten, elementary, and secondary school students that are operated and
773 maintained for the amount derived by multiplying the number of weighted pupil units for each
774 school district or charter school by the value established each year in statute, except as
775 otherwise provided in this chapter.

776 ~~[(2) (a) "Certified revenue levy" means a property tax levy that provides an amount of~~
777 ~~ad valorem property tax revenue equal to the sum of:]~~

778 ~~[(i) the amount of ad valorem property tax revenue to be generated statewide in the~~
779 ~~previous year from imposing a minimum basic tax rate, as specified in Section 53A-17a-135;~~
780 ~~and]~~

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

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

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

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

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

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

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

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

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

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

799 ~~[(3)] (2) "Charter school governing board" means the governing board, as defined in~~
800 ~~Section 53A-1a-501.3, that governs a charter school.~~

801 ~~[(4)] (3) "Local education board" means a local school board or charter school~~
802 ~~governing board.~~

803 ~~[(5)] (4) "Local school board" means a board elected under Title 20A, Chapter 14, Part~~
804 ~~2, Election of Members of Local Boards of Education.~~

805 ~~[(6)] (5) "Pupil in average daily membership (ADM)" means a full-day equivalent~~
806 ~~pupil.~~

807 ~~(7)~~ (6) (a) "State-supported minimum school program" or "Minimum School
808 Program" means public school programs for kindergarten, elementary, and secondary schools
809 as described in this Subsection ~~(7)~~ (6).

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

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

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

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

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

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

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

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

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

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

836 (i) Basic School Program;

837 (ii) Related to Basic Programs;

838 (iii) Voted and Board Levy Programs; or

839 (iv) Minimum School Program.

840 [~~(8)~~] (7) "Weighted pupil unit or units or WPU or WPU's" means the unit of measure of
841 factors that is computed in accordance with this chapter for the purpose of determining the
842 costs of a program on a uniform basis for each school district or charter school.

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

844 **53A-17a-124.5. Appropriation for class size reduction.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

899 (i) the number of teachers employed using K-3 Reading Improvement Program money

900 received pursuant to [~~Sections~~] Section 53A-17a-150 [~~and 53A-17a-151~~];

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

902 (iii) the number of teachers employed in kindergarten through grade 8 using Title I
903 money;

904 (iv) the amount of Title I money expended for teachers in kindergarten through grade
905 8; and

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

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

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

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

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

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

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

922 **53A-17a-127. Eligibility for state-supported transportation -- Approved bus**
923 **routes -- Additional local tax.**

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

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

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

929 (c) a student enrolled in a special program offered by a school district and approved by
930 the State Board of Education for trainable, motor, multiple-disability, or other students with

931 severe disabilities who are incapable of walking to school or where it is unsafe for students to
932 walk because of their disabling condition, without reference to distance from school.

933 (2) If a school district implements double sessions as an alternative to new building
934 construction, with the approval of the State Board of Education, those affected elementary
935 school students residing less than 1-1/2 miles from school may be transported one way to or
936 from school because of safety factors relating to darkness or other hazardous conditions as
937 determined by the local school board.

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

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

943 (b) The State Board of Education shall distribute appropriated transportation funds
944 based on the prior year's eligible transportation costs as legally reported under Subsection
945 53A-17a-126(3).

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

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

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

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

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

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

961 ~~[(b) A local school board may use revenue from the tax described in Subsection~~

962 ~~(6)(a)(ii) to pay for transporting students and for the replacement of school buses.]~~

963 ~~[(c) (i) If a local school board levies a tax under Subsection (6)(a)(ii) of at least .0002,~~
964 ~~the state may contribute an amount not to exceed 85% of the state average cost per mile,~~
965 ~~contingent upon the Legislature appropriating funds for a state contribution.]~~

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

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

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

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

976 (7) (a) (i) If a local school board expends an amount of revenue equal to at least .0002
977 per dollar of taxable value of the school district's board local levy imposed under Section
978 53A-17a-164 ~~[for the uses described in Subsection (6)(b)]~~ to pay for transporting eligible
979 students to or from school, the state may contribute an amount not to exceed 85% of the state
980 average cost per mile, contingent upon the Legislature appropriating funds for a state
981 contribution.

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

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

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

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

991 **53A-17a-135. Minimum basic tax rate -- Combined basic and equity pupil tax**
992 **rate.**

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

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

996 ~~[(2)(a) To qualify for receipt of the state contribution toward the basic program and as
997 a school district's contribution toward the school district's costs of the basic program, each local
998 school board shall impose a minimum basic tax rate per dollar of taxable value that generates
999 \$399,041,300 in revenues statewide.]~~

1000 (b) "Combined basic and equity pupil tax rate" means a tax rate certified by the
1001 commission that will generate:

1002 (i) the minimum basic guarantee amount; and

1003 (ii) \$50,000,000.

1004 (c) "Commission" means the State Tax Commission.

1005 (d) "Equity pupil tax rate" means the tax rate that is:

1006 (i) calculated by subtracting the minimum basic tax rate from the rate floor; or

1007 (ii) zero, if the rate calculated in accordance with Subsection (1)(d)(i):

1008 (A) is zero or less; or

1009 (B) generated an amount of revenue statewide that is \$50,000,000 or more during the
1010 previous year.

1011 (e) "Minimum basic guarantee amount" means an amount that is:

1012 (i) equal to the sum of:

1013 (A) the amount needed to fund the school districts' contribution to the basic program;

1014 and

1015 (B) the amount generated by the basic levy increment rate; and

1016 (ii) set annually by the Legislature in Subsection (2)(a).

1017 (f) "Minimum basic tax rate" means a tax rate certified by the commission that will
1018 generate an amount of revenue equal to the minimum basic guarantee amount stated in
1019 Subsection (2)(a).

1020 (g) "Rate floor" means the greater of:

1021 (i) a .0016 tax rate; or

1022 (ii) the highest minimum basic tax rate imposed after fiscal year 2019.

1023 (2) (a) The minimum basic guarantee amount for fiscal year 2019 is \$408,073,800 in

1024 revenue statewide.

1025 (b) The preliminary estimate for the ~~[2017-18]~~ fiscal year 2019 minimum basic tax rate
1026 is ~~[:001596]~~ .001498.

1027 ~~[(The State Tax Commission)]~~ On or before June 22, the commission shall certify
1028 ~~[on or before June 22 the rate that generates \$399,041,300 in revenues statewide]~~ the minimum
1029 basic tax rate for the year.

1030 ~~[(d) If the minimum basic tax rate exceeds the certified revenue levy as defined in~~
1031 ~~Section 53A-17a-103, the state is subject to the notice requirements of Section 59-2-926.]~~

1032 (d) The estimate of the minimum basic tax rate provided in Subsection (2)(b) and the
1033 certified minimum basic tax rate described in Subsection (2)(c) are based on property values as
1034 of January 1 of the calendar year in which the fiscal year begins.

1035 (3) (a) To qualify for receipt of the state contribution toward the basic program and as a
1036 school district's contribution toward the school district's costs of the basic program, each local
1037 school board shall impose a property tax at the rate described in this Subsection (3).

1038 (b) Except as provided in Subsection (3)(c), a local district shall impose the greater of:

1039 (i) the rate floor; or

1040 (ii) the minimum basic tax rate.

1041 (c) Beginning the year after the year in which the equity pupil tax rate generates
1042 \$50,000,000 statewide, a local school board shall impose the combined basic and equity pupil
1043 tax rate.

1044 (d) (i) The state is not subject to the notice requirements of Section 59-2-926 before
1045 imposing the tax rates described in this Subsection (3).

1046 (ii) The state is subject to the notice requirements of Section 59-2-926 if the state
1047 authorizes a tax rate that exceeds the tax rates described in this Subsection (3).

1048 ~~[(3)]~~ (4) The state shall contribute to each school district toward the cost of the basic
1049 program in the school district that portion of the cost of the basic program that exceeds the
1050 proceeds of the difference between:

1051 (a) the minimum basic tax rate ~~[to be imposed under Subsection (2)]~~; and

1052 (b) the basic levy increment rate.

1053 ~~[(4)]~~ (5) (a) If the difference described in Subsection ~~[(3)]~~ (4) equals or exceeds the
1054 cost of the basic program in a school district, no state contribution shall be made to the basic

1055 program.

1056 (b) The proceeds of the difference described in Subsection [~~(3)~~] (4) that exceed the cost
1057 of the basic program shall be paid into the Uniform School Fund as provided by law.

1058 [~~(5)~~] (6) The State Board of Education shall:

1059 (a) deduct from state funds that a school district is authorized to receive under this
1060 chapter an amount equal to the sum of the proceeds generated within the school district by:

1061 (i) the basic levy increment rate; and

1062 (ii) the equity pupil tax rate; and

1063 (b) deposit the money described in Subsection [~~(5)~~] (6)(a) into the Minimum Basic
1064 Growth Account created in Section 53A-17a-135.1.

1065 Section 12. Section **53A-17a-135.1** is amended to read:

1066 **53A-17a-135.1. Minimum Basic Growth Account.**

1067 (1) As used in this section[,"account"]:

1068 (a) "Account" means the Minimum Basic Growth Account created in this section.

1069 (b) "Equity pupil tax rate" means the same as that term is defined in Section
1070 53A-17a-135.

1071 (2) There is created within the Education Fund a restricted account known as the
1072 "Minimum Basic Growth Account."

1073 (3) The account shall be funded by:

1074 (a) amounts deposited into the account in accordance with Section 53A-17a-135[;]; and

1075 (b) an annual appropriation by the Legislature from the Education Fund in an amount
1076 equal to the difference between \$50,000,000 and the revenue to be generated by the equity
1077 pupil tax rate for the year.

1078 (4) The account shall earn interest.

1079 (5) Interest earned on the account shall be deposited into the account.

1080 (6) Upon appropriation by the Legislature:

1081 (a) 75% of the money from the account shall be used to fund the state's contribution to
1082 the voted levy guarantee described in Subsection 53A-17a-133(4);

1083 (b) 20% of the money from the account shall be used to fund the Capital Outlay
1084 Foundation Program as provided in Title 53A, Chapter 21, Part 2, Capital Outlay Foundation
1085 Program; and

1086 (c) 5% of the money from the account shall be used to fund the Capital Outlay
1087 Enrollment Growth Program as provided in Title 53A, Chapter 21, Part 3, Capital Outlay
1088 Enrollment Growth Program.

1089 Section 13. Section **53A-17a-150** is amended to read:

1090 **53A-17a-150. K-3 Reading Improvement Program.**

1091 (1) As used in this section:

1092 (a) "Board" means the State Board of Education.

1093 (b) "Five domains of reading" include phonological awareness, phonics, fluency,
1094 comprehension, and vocabulary.

1095 (c) "Program" means the K-3 Reading Improvement Program.

1096 (d) "Program money" means:

1097 (i) school district revenue allocated to the program from other money available to the
1098 school district, except money provided by the state, for the purpose of receiving state funds
1099 under this section; and

1100 (ii) money appropriated by the Legislature to the program.

1101 (2) The K-3 Reading Improvement Program consists of program money and is created
1102 to supplement other school resources to achieve the state's goal of having third graders reading
1103 at or above grade level.

1104 (3) Subject to future budget constraints, the Legislature may annually appropriate
1105 money to the K-3 Reading Improvement Program.

1106 (4) (a) For a school district or charter school to receive program money, a local
1107 education board shall submit a plan to the board for reading proficiency improvement that
1108 incorporates the following components:

1109 (i) assessment;

1110 (ii) intervention strategies;

1111 (iii) professional development for classroom teachers in kindergarten through grade
1112 three;

1113 (iv) reading performance standards; and

1114 (v) specific measurable goals that include the following:

1115 (A) a growth goal for each school within a school district and each charter school
1116 based upon student learning gains as measured by benchmark assessments administered

1117 pursuant to Section 53A-1-606.6; and

1118 (B) a growth goal for each school district and charter school to increase the percentage
1119 of third grade students who read on grade level from year to year as measured by the third
1120 grade reading test administered pursuant to Section 53A-1-603.

1121 (b) The board shall provide model plans that a local education board may use, or the
1122 local education board may develop the local education board's own plan.

1123 (c) Plans developed by a local education board shall be approved by the board.

1124 (d) The board shall develop uniform standards for acceptable growth goals that a local
1125 education board adopts for a school district or charter school as described in this Subsection
1126 (4).

1127 (5) (a) There is created within the K-3 Reading Achievement Program three funding
1128 programs:

1129 (i) the Base Level Program;

1130 (ii) the Guarantee Program; and

1131 (iii) the Low Income Students Program.

1132 (b) The board may use no more than \$7,500,000 from an appropriation described in
1133 Subsection (3) for computer-assisted instructional learning and assessment programs.

1134 (6) Money appropriated to the board for the K-3 Reading Improvement Program and
1135 not used by the board for computer-assisted instructional learning and assessments as described
1136 in Subsection (5)(b), shall be allocated to the three funding programs as follows:

1137 (a) 8% to the Base Level Program;

1138 (b) 46% to the Guarantee Program; and

1139 (c) 46% to the Low Income Students Program.

1140 (7) (a) For a school district or charter school to participate in the Base Level Program,
1141 the local education board shall submit a reading proficiency improvement plan to the board as
1142 provided in Subsection (4) and must receive approval of the plan from the board.

1143 (b) (i) The local school board of a school district qualifying for Base Level Program
1144 funds and the governing boards of qualifying elementary charter schools combined shall
1145 receive a base amount.

1146 (ii) The base amount for the qualifying elementary charter schools combined shall be
1147 allocated among each charter school in an amount proportionate to:

1148 (A) each existing charter school's prior year fall enrollment in grades kindergarten
1149 through grade three; and

1150 (B) each new charter school's estimated fall enrollment in grades kindergarten through
1151 grade three.

1152 (8) (a) A local school board that applies for program money in excess of the Base Level
1153 Program funds shall choose to first participate in either the Guarantee Program or the Low
1154 Income Students Program.

1155 (b) A school district must fully participate in either the Guarantee Program or the Low
1156 Income Students Program before the local school board may elect for the school district to
1157 either fully or partially participate in the other program.

1158 (c) For a school district to fully participate in the Guarantee Program, the local school
1159 board shall allocate to the program money available to the school district, except money
1160 provided by the state, equal to the amount of revenue that would be generated by a tax rate of
1161 .000056.

1162 (d) For a school district to fully participate in the Low Income Students Program, the
1163 local school board shall allocate to the program money available to the school district, except
1164 money provided by the state, equal to the amount of revenue that would be generated by a tax
1165 rate of .000065.

1166 (e) (i) The board shall verify that a local school board allocates the money required in
1167 accordance with Subsections (8)(c) and (d) before the local school board distributes funds in
1168 accordance with this section.

1169 (ii) The State Tax Commission shall provide the board the information the board needs
1170 in order to comply with Subsection (8)(e)(i).

1171 (9) (a) Except as provided in Subsection (9)(c), the local school board of a school
1172 district that fully participates in the Guarantee Program shall receive state funds in an amount
1173 that is:

1174 (i) equal to the difference between \$21 multiplied by the school district's total WPUs
1175 and the revenue the local school board is required to allocate under Subsection (8)(c) for the
1176 school district to fully participate in the Guarantee Program; and

1177 (ii) not less than \$0.

1178 (b) Except as provided in Subsection (9)(c), an elementary charter school shall receive

1179 under the Guarantee Program an amount equal to \$21 times the elementary charter school's
1180 total WPUs.

1181 (c) The board may adjust the \$21 guarantee amount described in Subsections (9)(a) and
1182 (b) to account for actual appropriations and money used by the board for computer-assisted
1183 instructional learning and assessments.

1184 (10) The board shall distribute Low Income Students Program funds in an amount
1185 proportionate to the number of students in each school district or charter school who qualify for
1186 free or reduced price school lunch multiplied by two.

1187 (11) A school district that partially participates in the Guarantee Program or Low
1188 Income Students Program shall receive program funds based on the amount of school district
1189 revenue allocated to the program as a percentage of the amount of revenue that could have been
1190 allocated if the school district had fully participated in the program.

1191 (12) (a) A local education board shall use program money for reading proficiency
1192 improvement interventions in grades kindergarten through grade 3 that have proven to
1193 significantly increase the percentage of students reading at grade level, including:

1194 (i) reading assessments; and

1195 (ii) focused reading remediations that may include:

1196 (A) the use of reading specialists;

1197 (B) tutoring;

1198 (C) before or after school programs;

1199 (D) summer school programs; or

1200 (E) the use of reading software; or

1201 (F) the use of interactive computer software programs for literacy instruction and
1202 assessments for students.

1203 (b) A local education board may use program money for portable technology devices
1204 used to administer reading assessments.

1205 (c) Program money may not be used to supplant funds for existing programs, but may
1206 be used to augment existing programs.

1207 (13) (a) Each local education board shall annually submit a report to the board
1208 accounting for the expenditure of program money in accordance with its plan for reading
1209 proficiency improvement.

1210 (b) If a local education board uses program money in a manner that is inconsistent with
1211 Subsection (12), the school district or charter school is liable for reimbursing the board for the
1212 amount of program money improperly used, up to the amount of program money received from
1213 the board.

1214 (14) (a) The board shall make rules to implement the program.

1215 (b) (i) The rules under Subsection (14)(a) shall require each local education board to
1216 annually report progress in meeting goals stated in the school district's or charter school's plan
1217 for student reading proficiency.

1218 (ii) If a school does not meet or exceed the school's goals, the local education board
1219 shall prepare a new plan which corrects deficiencies.

1220 (iii) The new plan described in Subsection (14)(b)(ii) shall be approved by the board
1221 before the local education board receives an allocation for the next year.

1222 (15) (a) If for two consecutive school years, a school district fails to meet the school
1223 district's goal to increase the percentage of third grade students who read on grade level as
1224 measured by the third grade reading test administered pursuant to Section 53A-1-603, the
1225 school district [~~shall terminate any levy imposed under Section 53A-17a-151 and~~] may not
1226 receive money appropriated by the Legislature for the K-3 Reading Improvement Program.

1227 (b) If for two consecutive school years, a charter school fails to meet the charter
1228 school's goal to increase the percentage of third grade students who read on grade level as
1229 measured by the third grade reading test administered pursuant to Section 53A-1-603, the
1230 charter school may not receive money appropriated by the Legislature for the K-3 Reading
1231 Improvement Program.

1232 (16) The board shall make an annual report to the Public Education Appropriations
1233 Subcommittee that:

1234 (a) includes information on:

1235 (i) student learning gains in reading for the past school year and the five-year trend;

1236 (ii) the percentage of third grade students reading on grade level in the past school year
1237 and the five-year trend;

1238 (iii) the progress of schools and school districts in meeting goals stated in a school
1239 district's or charter school's plan for student reading proficiency; and

1240 (iv) the correlation between third grade students reading on grade level and results of

1241 third grade language arts scores on a criterion-referenced test or computer adaptive test; and

1242 (b) may include recommendations on how to increase the percentage of third grade
1243 students who read on grade level.

1244 Section 14. Section **53A-17a-164** is amended to read:

1245 **53A-17a-164. Board local levy -- State guarantee.**

1246 (1) Subject to the other requirements of this section, for a calendar year beginning on
1247 or after January 1, 2012, a local school board may levy a tax to fund the school district's
1248 general fund.

1249 (2) (a) For purposes of this Subsection (2), "combined rate" means the sum of:

1250 (i) the rate imposed by a local school board under Subsection (1); and

1251 (ii) the charter school levy rate, described in Section 53A-1a-513.1, for the local school
1252 board's school district.

1253 ~~[(b) Except as provided in Subsection (2)(c), beginning on January 1, 2017, a school
1254 district's combined rate may not exceed .0018 per dollar of taxable value in any calendar year.]~~

1255 ~~[(c) Beginning on January 1, 2017, a]~~

1256 (b) Beginning on January 1, 2018, a school district's combined rate may not exceed
1257 .0025 per dollar of taxable value in any calendar year [if, during the calendar year beginning on
1258 January 1, 2011, the school district's total tax rate for the following levies was greater than
1259 .0018 per dollar of taxable value:].

1260 ~~[(i) a recreation levy imposed under Section 11-2-7;]~~

1261 ~~[(ii) a transportation levy imposed under Section 53A-17a-127;]~~

1262 ~~[(iii) a board-authorized levy imposed under Section 53A-17a-134;]~~

1263 ~~[(iv) an impact aid levy imposed under Section 53A-17a-143;]~~

1264 ~~[(v) the portion of a 10% of basic levy imposed under Section 53A-17a-145 that is
1265 budgeted for purposes other than capital outlay or debt service;]~~

1266 ~~[(vi) a reading levy imposed under Section 53A-17a-151; and]~~

1267 ~~[(vii) a tort liability levy imposed under Section 63G-7-704.]~~

1268 (3) (a) In addition to the revenue a school district collects from the imposition of a levy
1269 pursuant to this section, the state shall contribute an amount sufficient to guarantee that each
1270 .0001 of the first .0004 per dollar of taxable value generates an amount equal to the state
1271 guarantee per weighted pupil unit described in Subsection 53A-17a-133(4).

1272 (b) (i) The amount of state guarantee money to which a school district would otherwise
1273 be entitled to under this Subsection (3) may not be reduced for the sole reason that the district's
1274 levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924
1275 pursuant to changes in property valuation.

1276 (ii) Subsection (3)(b)(i) applies for a period of five years following any changes in the
1277 certified tax rate.

1278 (4) (a) For a calendar year beginning on or after January 1, 2017, the State Tax
1279 Commission shall adjust a board local levy rate imposed by a local school board under this
1280 section by the amount necessary to offset the change in revenues from the charter school levy
1281 imposed under Section 53A-1a-513.1.

1282 (b) A local school board is not required to comply with the notice and public hearing
1283 requirements of Section 59-2-919 for an offset described in Subsection (4)(a) to the change in
1284 revenues from the charter school levy imposed under Section 53A-1a-513.1.

1285 (c) A local school board may not increase a board local levy rate under this section
1286 before December 31, 2016, if the local school board did not give public notice on or before
1287 March 4, 2016, of the local school board's intent to increase the board local levy rate.

1288 (d) So long as the charter school levy rate does not exceed 25% of the charter school
1289 levy per district revenues, a local school board may not increase a board local levy rate under
1290 this section if the purpose of increasing the board local levy rate is to capture the revenues
1291 assigned to the charter school levy through the adjustment in a board local levy rate under
1292 Subsection (4)(a).

1293 (e) Before a local school board takes action to increase a board local levy rate under
1294 this section, the local school board shall:

1295 (i) prepare a written statement that attests that the local school board is in compliance
1296 with Subsection (4)(d);

1297 (ii) read the statement described in Subsection (4)(e)(i) during a local school board
1298 public meeting where the local school board discusses increasing the board local levy rate; and

1299 (iii) send a copy of the statement described in Subsection (4)(e)(i) to the State Tax
1300 Commission.

1301 Section 15. Section **53A-21-101.5** is amended to read:

1302 **53A-21-101.5. Definitions.**

1303 As used in this chapter:

1304 (1) "ADM" or "pupil in average daily membership" is as defined in Section
1305 53A-17a-103.

1306 (2) "Base tax effort rate" means the average of:

1307 (a) the highest combined capital levy rate; and

1308 (b) the average combined capital levy rate for the school districts statewide.

1309 (3) "Combined capital levy rate" means a rate that includes the sum of the following
1310 property tax levies:

1311 (a) (i) the capital outlay levy authorized in Section 53A-16-107;

1312 [~~(ii) the portion of the 10% of basic levy described in Section 53A-17a-145 that is~~
1313 ~~budgeted for debt service or capital outlay;~~]

1314 [~~(iii)~~] (ii) the debt service levy authorized in Section 11-14-310; and

1315 [~~(iv)~~] (iii) the voted capital outlay leeway authorized in Section 53A-16-110; or

1316 (b) (i) the capital local levy authorized in Section 53A-16-113; and

1317 (ii) the debt service levy authorized in Section 11-14-310.

1318 (4) "Derived net taxable value" means the quotient of:

1319 (a) the total property tax collections from April 1 through the following March 31 for a
1320 school district for the calendar year preceding the March 31 date; divided by

1321 (b) the school district's total tax rate for the calendar year preceding the March 31
1322 referenced in Subsection (4)(a).

1323 (5) "Highest combined capital levy rate" means the highest combined capital levy rate
1324 imposed by a school district within the state for a fiscal year.

1325 (6) "Property tax base per ADM" means the quotient of:

1326 (a) a school district's derived net taxable value; divided by

1327 (b) the school district's ADM.

1328 (7) "Property tax yield per ADM" means:

1329 (a) the product of:

1330 (i) a school district's derived net taxable value; and

1331 (ii) the base tax effort rate; divided by

1332 (b) the school district's ADM.

1333 (8) "Statewide average property tax base per ADM" means the quotient of:

1334 (a) the sum of all school districts' derived net taxable value; divided by

1335 (b) the sum of all school districts' ADM.

1336 Section 16. Section **59-1-1503** is amended to read:

1337 **59-1-1503. Nonrefundable credit -- Sales and use tax exemption -- Sales and use**
1338 **tax remittance.**

1339 (1) A nonrefundable individual income tax credit is allowed as provided in Section
1340 59-10-1028 related to a capital gain on a transaction involving the exchange of one form of
1341 legal tender for another form of legal tender.

1342 (2) Sales of currency or coin are exempt from sales and use taxes as provided in
1343 Subsection 59-12-104[~~(50)~~](49).

1344 (3) The remittance of a sales and use tax on a transaction involving specie legal tender
1345 is as provided in Section 59-12-107.

1346 Section 17. Section **59-2-102** is amended to read:

1347 **59-2-102. Definitions.**

1348 As used in this chapter and title:

1349 (1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of
1350 engaging in dispensing activities directly affecting agriculture or horticulture with an
1351 airworthiness certificate from the Federal Aviation Administration certifying the aircraft or
1352 rotorcraft's use for agricultural and pest control purposes.

1353 (2) "Air charter service" means an air carrier operation that requires the customer to
1354 hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled
1355 trip.

1356 (3) "Air contract service" means an air carrier operation available only to customers
1357 that engage the services of the carrier through a contractual agreement and excess capacity on
1358 any trip and is not available to the public at large.

1359 (4) "Aircraft" means the same as that term is defined in Section 72-10-102.

1360 (5) (a) Except as provided in Subsection (5)(b), "airline" means an air carrier that:

1361 (i) operates:

1362 (A) on an interstate route; and

1363 (B) on a scheduled basis; and

1364 (ii) offers to fly one or more passengers or cargo on the basis of available capacity on a

1365 regularly scheduled route.

1366 (b) "Airline" does not include an:

1367 (i) air charter service; or

1368 (ii) air contract service.

1369 (6) "Assessment roll" means a permanent record of the assessment of property as
1370 assessed by the county assessor and the commission and may be maintained manually or as a
1371 computerized file as a consolidated record or as multiple records by type, classification, or
1372 categories.

1373 (7) "Base parcel" means a parcel of property that was legally:

1374 (a) subdivided into two or more lots, parcels, or other divisions of land; or

1375 (b) (i) combined with one or more other parcels of property; and

1376 (ii) subdivided into two or more lots, parcels, or other divisions of land.

1377 (8) (a) "Certified revenue levy" means a property tax levy that provides an amount of
1378 ad valorem property tax revenue equal to the sum of:

1379 (i) the amount of ad valorem property tax revenue to be generated statewide in the
1380 previous year from imposing a [~~school minimum basic tax rate, as specified in Section~~
1381 ~~53A-17a-135, or~~] multicounty assessing and collecting levy, as specified in Section 59-2-1602;
1382 and

1383 (ii) the product of:

1384 (A) eligible new growth, as defined in Section 59-2-924; and

1385 (B) the [~~school minimum basic tax rate or~~] multicounty assessing and collecting levy
1386 certified by the commission for the previous year.

1387 (b) For purposes of this Subsection (8), "ad valorem property tax revenue" does not
1388 include property tax revenue received by a taxing entity from personal property that is:

1389 (i) assessed by a county assessor in accordance with Part 3, County Assessment; and

1390 (ii) semiconductor manufacturing equipment.

1391 (c) For purposes of calculating the certified revenue levy described in this Subsection
1392 (8), the commission shall use:

1393 (i) the taxable value of real property assessed by a county assessor contained on the
1394 assessment roll;

1395 (ii) the taxable value of real and personal property assessed by the commission; and

1396 (iii) the taxable year end value of personal property assessed by a county assessor
1397 contained on the prior year's assessment roll.

1398 (9) "County-assessed commercial vehicle" means:

1399 (a) any commercial vehicle, trailer, or semitrailer that is not apportioned under Section
1400 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in
1401 furtherance of the owner's commercial enterprise;

1402 (b) any passenger vehicle owned by a business and used by its employees for
1403 transportation as a company car or vanpool vehicle; and

1404 (c) vehicles that are:

1405 (i) especially constructed for towing or wrecking, and that are not otherwise used to
1406 transport goods, merchandise, or people for compensation;

1407 (ii) used or licensed as taxicabs or limousines;

1408 (iii) used as rental passenger cars, travel trailers, or motor homes;

1409 (iv) used or licensed in this state for use as ambulances or hearses;

1410 (v) especially designed and used for garbage and rubbish collection; or

1411 (vi) used exclusively to transport students or their instructors to or from any private,
1412 public, or religious school or school activities.

1413 (10) (a) Except as provided in Subsection (10)(b), for purposes of Section 59-2-801,
1414 "designated tax area" means a tax area created by the overlapping boundaries of only the
1415 following taxing entities:

1416 (i) a county; and

1417 (ii) a school district.

1418 (b) "Designated tax area" includes a tax area created by the overlapping boundaries of
1419 the taxing entities described in Subsection (10)(a) and:

1420 (i) a city or town if the boundaries of the school district under Subsection (10)(a) and
1421 the boundaries of the city or town are identical; or

1422 (ii) a special service district if the boundaries of the school district under Subsection
1423 (10)(a) are located entirely within the special service district.

1424 (11) "Eligible judgment" means a final and unappealable judgment or order under
1425 Section 59-2-1330:

1426 (a) that became a final and unappealable judgment or order no more than 14 months

1427 before the day on which the notice described in Section 59-2-919.1 is required to be provided;
1428 and

1429 (b) for which a taxing entity's share of the final and unappealable judgment or order is
1430 greater than or equal to the lesser of:

1431 (i) \$5,000; or

1432 (ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the
1433 previous fiscal year.

1434 (12) (a) "Escaped property" means any property, whether personal, land, or any
1435 improvements to the property, that is subject to taxation and is:

1436 (i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed
1437 to the wrong taxpayer by the assessing authority;

1438 (ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to
1439 comply with the reporting requirements of this chapter; or

1440 (iii) undervalued because of errors made by the assessing authority based upon
1441 incomplete or erroneous information furnished by the taxpayer.

1442 (b) "Escaped property" does not include property that is undervalued because of the use
1443 of a different valuation methodology or because of a different application of the same valuation
1444 methodology.

1445 (13) "Fair market value" means the amount at which property would change hands
1446 between a willing buyer and a willing seller, neither being under any compulsion to buy or sell
1447 and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair
1448 market value" shall be determined using the current zoning laws applicable to the property in
1449 question, except in cases where there is a reasonable probability of a change in the zoning laws
1450 affecting that property in the tax year in question and the change would have an appreciable
1451 influence upon the value.

1452 (14) (a) "Farm machinery and equipment," for purposes of the exemption provided
1453 under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities,
1454 feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters,
1455 tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and
1456 cubers, and any other machinery or equipment used primarily for agricultural purposes.

1457 (b) "Farm machinery and equipment" does not include vehicles required to be

1458 registered with the Motor Vehicle Division or vehicles or other equipment used for business
1459 purposes other than farming.

1460 (15) "Geothermal fluid" means water in any form at temperatures greater than 120
1461 degrees centigrade naturally present in a geothermal system.

1462 (16) "Geothermal resource" means:

1463 (a) the natural heat of the earth at temperatures greater than 120 degrees centigrade;
1464 and

1465 (b) the energy, in whatever form, including pressure, present in, resulting from, created
1466 by, or which may be extracted from that natural heat, directly or through a material medium.

1467 (17) (a) "Goodwill" means:

1468 (i) acquired goodwill that is reported as goodwill on the books and records that a
1469 taxpayer maintains for financial reporting purposes; or

1470 (ii) the ability of a business to:

1471 (A) generate income that exceeds a normal rate of return on assets and that results from
1472 a factor described in Subsection (17)(b); or

1473 (B) obtain an economic or competitive advantage resulting from a factor described in
1474 Subsection (17)(b).

1475 (b) The following factors apply to Subsection (17)(a)(ii):

1476 (i) superior management skills;

1477 (ii) reputation;

1478 (iii) customer relationships;

1479 (iv) patronage; or

1480 (v) a factor similar to Subsections (17)(b)(i) through (iv).

1481 (c) "Goodwill" does not include:

1482 (i) the intangible property described in Subsection (21)(a) or (b);

1483 (ii) locational attributes of real property, including:

1484 (A) zoning;

1485 (B) location;

1486 (C) view;

1487 (D) a geographic feature;

1488 (E) an easement;

- 1489 (F) a covenant;
- 1490 (G) proximity to raw materials;
- 1491 (H) the condition of surrounding property; or
- 1492 (I) proximity to markets;
- 1493 (iii) value attributable to the identification of an improvement to real property,
- 1494 including:
- 1495 (A) reputation of the designer, builder, or architect of the improvement;
- 1496 (B) a name given to, or associated with, the improvement; or
- 1497 (C) the historic significance of an improvement; or
- 1498 (iv) the enhancement or assemblage value specifically attributable to the interrelation
- 1499 of the existing tangible property in place working together as a unit.
- 1500 (18) "Governing body" means:
- 1501 (a) for a county, city, or town, the legislative body of the county, city, or town;
- 1502 (b) for a local district under Title 17B, Limited Purpose Local Government Entities -
- 1503 Local Districts, the local district's board of trustees;
- 1504 (c) for a school district, the local board of education; or
- 1505 (d) for a special service district under Title 17D, Chapter 1, Special Service District
- 1506 Act:
- 1507 (i) the legislative body of the county or municipality that created the special service
- 1508 district, to the extent that the county or municipal legislative body has not delegated authority
- 1509 to an administrative control board established under Section 17D-1-301; or
- 1510 (ii) the administrative control board, to the extent that the county or municipal
- 1511 legislative body has delegated authority to an administrative control board established under
- 1512 Section 17D-1-301.
- 1513 (19) (a) For purposes of Section 59-2-103:
- 1514 (i) "household" means the association of individuals who live in the same dwelling,
- 1515 sharing its furnishings, facilities, accommodations, and expenses; and
- 1516 (ii) "household" includes married individuals, who are not legally separated, that have
- 1517 established domiciles at separate locations within the state.
- 1518 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1519 commission may make rules defining the term "domicile."

1520 (20) (a) Except as provided in Subsection (20)(c), "improvement" means a building,
1521 structure, fixture, fence, or other item that is permanently attached to land, regardless of
1522 whether the title has been acquired to the land, if:

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

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

1582 (25) "Mine" means a natural deposit of either metalliferous or nonmetalliferous
1583 valuable mineral.

1584 (26) "Mining" means the process of producing, extracting, leaching, evaporating, or
1585 otherwise removing a mineral from a mine.

1586 (27) (a) "Mobile flight equipment" means tangible personal property that is owned or
1587 operated by an air charter service, air contract service, or airline and:

1588 (i) is capable of flight or is attached to an aircraft that is capable of flight; or

1589 (ii) is contained in an aircraft that is capable of flight if the tangible personal property
1590 is intended to be used:

1591 (A) during multiple flights;

1592 (B) during a takeoff, flight, or landing; and

1593 (C) as a service provided by an air charter service, air contract service, or airline.

1594 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare
1595 engine that is rotated at regular intervals with an engine that is attached to the aircraft.

1596 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1597 commission may make rules defining the term "regular intervals."

1598 (28) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts,
1599 sand, rock, gravel, and all carboniferous materials.

1600 (29) "Part-year residential property" means property that is not residential property on
1601 January 1 of a calendar year but becomes residential property after January 1 of the calendar
1602 year.

1603 (30) "Personal property" includes:

1604 (a) every class of property as defined in Subsection (31) that is the subject of
1605 ownership and is not real estate or an improvement;

1606 (b) any pipe laid in or affixed to land whether or not the ownership of the pipe is
1607 separate from the ownership of the underlying land, even if the pipe meets the definition of an
1608 improvement;

1609 (c) bridges and ferries;

1610 (d) livestock; and

1611 (e) outdoor advertising structures as defined in Section 72-7-502.

1612 (31) (a) "Property" means property that is subject to assessment and taxation according

1613 to its value.

1614 (b) "Property" does not include intangible property as defined in this section.

1615 (32) "Public utility" means:

1616 (a) for purposes of this chapter, the operating property of a railroad, gas corporation, oil
1617 or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation,
1618 telephone corporation, sewerage corporation, or heat corporation where the company performs
1619 the service for, or delivers the commodity to, the public generally or companies serving the
1620 public generally, or in the case of a gas corporation or an electrical corporation, where the gas
1621 or electricity is sold or furnished to any member or consumers within the state for domestic,
1622 commercial, or industrial use; and

1623 (b) the operating property of any entity or person defined under Section 54-2-1 except
1624 water corporations.

1625 (33) (a) Subject to Subsection (33)(b), "qualifying exempt primary residential rental
1626 personal property" means household furnishings, furniture, and equipment that:

1627 (i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

1628 (ii) are owned by the owner of the dwelling unit that is the primary residence of a
1629 tenant; and

1630 (iii) after applying the residential exemption described in Section 59-2-103, are exempt
1631 from taxation under this chapter in accordance with Subsection 59-2-1115(2).

1632 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1633 commission may by rule define the term "dwelling unit" for purposes of this Subsection (33)
1634 and Subsection (36).

1635 (34) "Real estate" or "real property" includes:

1636 (a) the possession of, claim to, ownership of, or right to the possession of land;

1637 (b) all mines, minerals, and quarries in and under the land, all timber belonging to
1638 individuals or corporations growing or being on the lands of this state or the United States, and
1639 all rights and privileges appertaining to these; and

1640 (c) improvements.

1641 (35) (a) "Relationship with an owner of the property's land surface rights" means a
1642 relationship described in Subsection 267(b), Internal Revenue Code, except that the term 25%
1643 shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code.

1644 (b) For purposes of determining if a relationship described in Subsection 267(b),
1645 Internal Revenue Code, exists, the ownership of stock shall be determined using the ownership
1646 rules in Subsection 267(c), Internal Revenue Code.

1647 (36) (a) Subject to Subsection (36)(b), "residential property," for purposes of the
1648 reductions and adjustments under this chapter, means any property used for residential
1649 purposes as a primary residence.

1650 (b) Subject to Subsection (36)(c), "residential property":

1651 (i) except as provided in Subsection (36)(b)(ii), includes household furnishings,
1652 furniture, and equipment if the household furnishings, furniture, and equipment are:

1653 (A) used exclusively within a dwelling unit that is the primary residence of a tenant;

1654 and

1655 (B) owned by the owner of the dwelling unit that is the primary residence of a tenant;

1656 and

1657 (ii) does not include property used for transient residential use.

1658 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1659 commission may by rule define the term "dwelling unit" for purposes of Subsection (33) and
1660 this Subsection (36).

1661 (37) "Split estate mineral rights owner" means a person that:

1662 (a) has a legal right to extract a mineral from property;

1663 (b) does not hold more than a 25% interest in:

1664 (i) the land surface rights of the property where the wellhead is located; or

1665 (ii) an entity with an ownership interest in the land surface rights of the property where
1666 the wellhead is located;

1667 (c) is not an entity in which the owner of the land surface rights of the property where
1668 the wellhead is located holds more than a 25% interest; and

1669 (d) does not have a relationship with an owner of the land surface rights of the property
1670 where the wellhead is located.

1671 (38) (a) "State-assessed commercial vehicle" means:

1672 (i) any commercial vehicle, trailer, or semitrailer that operates interstate or intrastate to
1673 transport passengers, freight, merchandise, or other property for hire; or

1674 (ii) any commercial vehicle, trailer, or semitrailer that operates interstate and transports

1675 the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

1676 (b) "State-assessed commercial vehicle" does not include vehicles used for hire that are
1677 specified in Subsection (9)(c) as county-assessed commercial vehicles.

1678 (39) "Subdivided lot" means a lot, parcel, or other division of land, that is a division of
1679 a base parcel.

1680 (40) "Taxable value" means fair market value less any applicable reduction allowed for
1681 residential property under Section 59-2-103.

1682 (41) "Tax area" means a geographic area created by the overlapping boundaries of one
1683 or more taxing entities.

1684 (42) "Taxing entity" means any county, city, town, school district, special taxing
1685 district, local district under Title 17B, Limited Purpose Local Government Entities - Local
1686 Districts, or other political subdivision of the state with the authority to levy a tax on property.

1687 (43) (a) "Tax roll" means a permanent record of the taxes charged on property, as
1688 extended on the assessment roll, and may be maintained on the same record or records as the
1689 assessment roll or may be maintained on a separate record properly indexed to the assessment
1690 roll.

1691 (b) "Tax roll" includes tax books, tax lists, and other similar materials.

1692 Section 18. Section **59-2-918.6** is amended to read:

1693 **59-2-918.6. New and remaining school district budgets -- Advertisement -- Public**
1694 **hearing.**

1695 (1) As used in this section[~~,"existing school district," "new school district," and~~
1696 ~~"remaining school district" are as defined in Section 53A-2-117.];~~

1697 (a) "Existing school district" means the same as that term is defined in Section
1698 53A-2-117.

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

1700 (c) "Primary residence" means a residence that qualifies for the exemption described in
1701 Section 59-2-103.

1702 (d) "Remaining school district" means the same as that term is defined in Section
1703 53A-2-117.

1704 (e) "Secondary residence" means a residence that does not qualify for the exemption
1705 described in Section 59-2-103.

1706 (2) For the first fiscal year in which a new school district created under Section
 1707 53A-2-118.1 assumes responsibility for providing student instruction, the new school district
 1708 and ~~the~~ any remaining school district ~~[or districts]~~ may not impose a property tax unless the
 1709 district imposing the tax:

1710 (a) advertises ~~[its]~~ the district's intention to do so in accordance with Subsection (3);
 1711 and

1712 (b) holds a public hearing in accordance with Subsection (4).

1713 (3) The advertisement required by this section:

1714 (a) may be combined with the advertisement described in Section 59-2-919;

1715 (b) shall be at least 1/4 of a page in size and shall meet the type, placement, and
 1716 frequency requirements established under Section 59-2-919; ~~[and]~~

1717 (c) shall specify the date, time, and location of the public hearing at which the levy will
 1718 be considered; and

1719 (d) shall ~~[set forth]~~ state:

1720 (i) the total amount of the district's proposed property tax levy ~~[and the tax impact on~~
 1721 ~~an average residential and business property located within the taxing entity compared to the~~
 1722 ~~property tax levy imposed in the prior year by the existing school district.]~~;

1723 (ii) for a primary residence in the taxing entity, the dollar increase for each \$100,000 of
 1724 market value that the proposed tax increase will generate compared to the property tax levy
 1725 imposed in the prior year by the existing school district; and

1726 (iii) for a business or a secondary residence in the taxing entity, the dollar increase for
 1727 each \$100,000 of market value that the proposed tax increase will generate compared to the
 1728 property tax imposed in the prior year by the existing school district.

1729 (4) (a) The date, time, and place of public hearings required by this section shall be
 1730 included on the notice provided to property owners pursuant to Section 59-2-919.1.

1731 (b) If a final decision regarding the property tax levy is not made at the public hearing,
 1732 the school district shall announce at the public hearing the scheduled time and place for
 1733 consideration and adoption of the budget and property tax levies.

1734 Section 19. Section **59-2-919** is amended to read:

1735 **59-2-919. Notice and public hearing requirements for certain tax increases --**

1736 **Exceptions.**

- 1737 (1) As used in this section:
- 1738 (a) "Additional ad valorem tax revenue" means ad valorem property tax revenue
1739 generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.
- 1740 (b) "Ad valorem tax revenue" means ad valorem property tax revenue not including
1741 revenue from:
- 1742 (i) eligible new growth as that term is defined in Section 59-2-924; or
1743 (ii) personal property that is:
- 1744 (A) assessed by a county assessor in accordance with Part 3, County Assessment; and
1745 (B) semiconductor manufacturing equipment.
- 1746 (c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year
1747 that begins on January 1 and ends on December 31.
- 1748 (d) "County executive calendar year taxing entity" means a calendar year taxing entity
1749 that operates under the county executive-council form of government described in Section
1750 17-52-504.
- 1751 (e) "Current calendar year" means the calendar year immediately preceding the
1752 calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the
1753 calendar year taxing entity's certified tax rate.
- 1754 (f) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that
1755 begins on July 1 and ends on June 30.
- 1756 (g) "Last year's property tax budgeted revenue" does not include revenue received by a
1757 taxing entity from a debt service levy voted on by the public.
- 1758 (h) "Primary residence" means a residence that qualifies for the exemption described in
1759 Section 59-2-103.
- 1760 (i) "Secondary residence" means a residence that does not qualify for the exemption
1761 described in Section 59-2-103.
- 1762 (2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax
1763 rate unless the taxing entity meets:
- 1764 (a) the requirements of this section that apply to the taxing entity; and
1765 (b) all other requirements as may be required by law.
- 1766 (3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar
1767 year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax

1768 rate if the calendar year taxing entity:

1769 (i) 14 or more days before the date of the regular general election or municipal general
1770 election held in the current calendar year, states at a public meeting:

1771 (A) that the calendar year taxing entity intends to levy a tax rate that exceeds the
1772 calendar year taxing entity's certified tax rate;

1773 (B) the dollar amount of and purpose for additional ad valorem tax revenue that would
1774 be generated by the proposed increase in the certified tax rate; and

1775 (C) the approximate percentage increase in ad valorem tax revenue for the taxing entity
1776 based on the proposed increase described in Subsection (3)(a)(i)(B);

1777 (ii) provides notice for the public meeting described in Subsection (3)(a)(i) in
1778 accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a
1779 separate item on the meeting agenda that notifies the public that the calendar year taxing entity
1780 intends to make the statement described in Subsection (3)(a)(i);

1781 (iii) meets the advertisement requirements of Subsections (6) and (7) before the
1782 calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

1783 (iv) provides ~~[notice by mail:(A)]~~ the notice described in Subsection (3)(c) seven or
1784 more days before the regular general election or municipal general election held in the current
1785 calendar year; and

1786 ~~[(B) as provided in Subsection (3)(c); and]~~

1787 (v) conducts a public hearing that is held:

1788 (A) in accordance with Subsections (8) and (9); and

1789 (B) in conjunction with the public hearing required by Section 17-36-13 or 17B-1-610.

1790 (b) (i) For a county executive calendar year taxing entity, the statement described in
1791 Subsection (3)(a)(i) shall be made by the:

1792 (A) county council;

1793 (B) county executive; or

1794 (C) both the county council and county executive.

1795 (ii) If the county council makes the statement described in Subsection (3)(a)(i) or the
1796 county council states a dollar amount of additional ad valorem tax revenue that is greater than
1797 the amount of additional ad valorem tax revenue previously stated by the county executive in
1798 accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:

1799 (A) make the statement described in Subsection (3)(a)(i) 14 or more days before the
1800 county executive calendar year taxing entity conducts the public hearing under Subsection
1801 (3)(a)(v); and

1802 (B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the
1803 county executive calendar year taxing entity conducts the public hearing required by
1804 Subsection (3)(a)(v).

1805 (c) The notice described in Subsection (3)(a)(iv):

1806 (i) shall be mailed to each owner of property that is:

1807 (A) within the calendar year taxing entity; and

1808 (B) listed on the assessment roll;

1809 (ii) shall be printed on a separate form that:

1810 (A) is developed by the commission;

1811 (B) states at the top of the form, in bold upper-case type no smaller than 18 point

1812 "NOTICE OF PROPOSED TAX INCREASE"; and

1813 (C) may be mailed with the notice required by Section 59-2-1317;

1814 (iii) shall contain for each property described in Subsection (3)(c)(i):

1815 (A) the value of the property for the current calendar year;

1816 (B) the tax on the property for the current calendar year; and

1817 (C) subject to Subsection (3)(d), for the calendar year for which the calendar year

1818 taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax

1819 rate, the estimated tax on the property;

1820 (iv) shall contain the following statement:

1821 "[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar

1822 year]. This notice contains estimates of the tax on your property and the proposed tax increase

1823 on your property as a result of this tax increase. These estimates are calculated on the basis of

1824 [insert previous applicable calendar year] data. The actual tax on your property and proposed

1825 tax increase on your property may vary from this estimate.";

1826 (v) shall state the date, time, and place of the public hearing described in Subsection

1827 (3)(a)(v); and

1828 (vi) may contain other property tax information approved by the commission.

1829 (d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall

1830 calculate the estimated tax on property on the basis of:

1831 (i) data for the current calendar year; and

1832 (ii) the amount of additional ad valorem tax revenue stated in accordance with this
1833 section.

1834 (4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate
1835 that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

1836 (a) provides notice by meeting the advertisement requirements of Subsections (6) and
1837 (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year
1838 taxing entity's annual budget is adopted; and

1839 (b) conducts a public hearing in accordance with Subsections (8) and (9) before the
1840 fiscal year taxing entity's annual budget is adopted.

1841 (5) (a) A taxing entity is not required to meet the notice or public hearing requirements
1842 of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with
1843 the requirements of this section.

1844 (b) A taxing entity is not required to meet the notice requirements of Subsection (3) or
1845 (4) if:

1846 (i) Section 53A-17a-133 allows the taxing entity to levy a tax rate that exceeds that
1847 certified tax rate without having to comply with the notice provisions of this section; or

1848 (ii) the taxing entity:

1849 (A) budgeted less than \$20,000 in ad valorem tax revenues for the previous fiscal year;
1850 and

1851 (B) sets a budget during the current fiscal year of less than \$20,000 of ad valorem tax
1852 revenues.

1853 (6) (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this
1854 section shall be published:

1855 (i) subject to Section 45-1-101, in a newspaper or combination of newspapers of
1856 general circulation in the taxing entity;

1857 (ii) electronically in accordance with Section 45-1-101; and

1858 (iii) on the Utah Public Notice Website created in Section 63F-1-701.

1859 (b) The advertisement described in Subsection (6)(a)(i) shall:

1860 (i) be no less than 1/4 page in size;

- 1861 (ii) use type no smaller than 18 point; and
- 1862 (iii) be surrounded by a 1/4-inch border.
- 1863 (c) The advertisement described in Subsection (6)(a)(i) may not be placed in that
- 1864 portion of the newspaper where legal notices and classified advertisements appear.
- 1865 (d) It is the intent of the Legislature that:
- 1866 (i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a
- 1867 newspaper that is published at least one day per week; and
- 1868 (ii) the newspaper or combination of newspapers selected:
- 1869 (A) be of general interest and readership in the taxing entity; and
- 1870 (B) not be of limited subject matter.
- 1871 (e) (i) The advertisement described in Subsection (6)(a)(i) shall:
- 1872 (A) except as provided in Subsection (6)(f), be run once each week for the two weeks
- 1873 before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b);
- 1874 and
- 1875 (B) state that the taxing entity will meet on a certain day, time, and place fixed in the
- 1876 advertisement, which shall be seven or more days after the day on which the first advertisement
- 1877 is published, for the purpose of hearing comments regarding any proposed increase and to
- 1878 explain the reasons for the proposed increase.
- 1879 (ii) The advertisement described in Subsection (6)(a)(ii) shall:
- 1880 (A) be published two weeks before a taxing entity conducts a public hearing described
- 1881 in Subsection (3)(a)(v) or (4)(b); and
- 1882 (B) state that the taxing entity will meet on a certain day, time, and place fixed in the
- 1883 advertisement, which shall be seven or more days after the day on which the first advertisement
- 1884 is published, for the purpose of hearing comments regarding any proposed increase and to
- 1885 explain the reasons for the proposed increase.
- 1886 (f) If a fiscal year taxing entity's public hearing information is published by the county
- 1887 auditor in accordance with Section 59-2-919.2, the fiscal year taxing entity is not subject to the
- 1888 requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run
- 1889 the advertisement once during the week before the fiscal year taxing entity conducts a public
- 1890 hearing at which the taxing entity's annual budget is discussed.
- 1891 (g) For purposes of Subsection (3)(a)(iii) or (4)(a), the form and content of an

1892 advertisement shall be substantially as follows:

1893 "NOTICE OF PROPOSED TAX INCREASE

1894 (NAME OF TAXING ENTITY)

1895 The (name of the taxing entity) is proposing to increase its property tax revenue.

1896 [~~●~~—The (name of the taxing entity) tax on a (insert the average value of a residence
1897 in the taxing entity rounded to the nearest thousand dollars) residence would
1898 increase from \$_____ to \$_____, which is \$_____ per year.]

1899 [~~●~~—The (name of the taxing entity) tax on a (insert the value of a business having
1900 the same value as the average value of a residence in the taxing entity) business
1901 would increase from \$_____ to \$_____, which is \$_____ per year.]

1902 ● The (name of the taxing entity) tax on a primary residence in the taxing entity
1903 will increase from \$_____ to \$_____ for each \$100,000 of market value,
1904 which is a _____% increase per \$100,000 of market value.

1905 ● The (name of the taxing entity) tax on a business or a secondary residence in the
1906 taxing entity will increase from \$_____ to \$_____ for each \$100,000 of
1907 market value, which is a _____% increase per \$100,000 of market value.

1908 ● If the proposed budget is approved, (name of the taxing entity) would increase
1909 its property tax budgeted revenue by _____% above last year's property tax
1910 budgeted revenue excluding eligible new growth.

1911 All concerned citizens are invited to a public hearing on the tax increase.

1912 PUBLIC HEARING

1913 Date/Time: (date) (time)

1914 Location: (name of meeting place and address of meeting place)

1915 To obtain more information regarding the tax increase, citizens may contact the (name
1916 of the taxing entity) at (phone number of taxing entity)."

1917 (7) The commission:

1918 (a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative
1919 Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by
1920 two or more taxing entities; and

1921 (b) subject to Section 45-1-101, may authorize:

1922 (i) the use of a weekly newspaper:

1923 (A) in a county having both daily and weekly newspapers if the weekly newspaper
1924 would provide equal or greater notice to the taxpayer; and

1925 (B) if the county petitions the commission for the use of the weekly newspaper; or

1926 (ii) the use by a taxing entity of a commission approved direct notice to each taxpayer
1927 if:

1928 (A) the cost of the advertisement would cause undue hardship;

1929 (B) the direct notice is different and separate from that provided for in Section
1930 59-2-919.1; and

1931 (C) the taxing entity petitions the commission for the use of a commission approved
1932 direct notice.

1933 (8) (a) (i) (A) A fiscal year taxing entity shall, on or before March 1, notify the county
1934 legislative body in which the fiscal year taxing entity is located of the date, time, and place of
1935 the first public hearing at which the fiscal year taxing entity's annual budget will be discussed.

1936 (B) A county that receives notice from a fiscal year taxing entity under Subsection
1937 (8)(a)(i)(A) shall include on the notice required by Section 59-2-919.1 the date, time, and place
1938 of the public hearing described in Subsection (8)(a)(i)(A).

1939 (ii) A calendar year taxing entity shall, on or before October 1 of the current calendar
1940 year, notify the county legislative body in which the calendar year taxing entity is located of the
1941 date, time, and place of the first public hearing at which the calendar year taxing entity's annual
1942 budget will be discussed.

1943 (b) (i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be open to the
1944 public.

1945 (ii) The governing body of a taxing entity conducting a public hearing described in
1946 Subsection (3)(a)(v) or (4)(b) shall provide an interested party desiring to be heard an
1947 opportunity to present oral testimony within reasonable time limits.

1948 (c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a
1949 public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing
1950 of another overlapping taxing entity in the same county.

1951 (ii) The taxing entities in which the power to set tax levies is vested in the same
1952 governing board or authority may consolidate the public hearings described in Subsection
1953 (3)(a)(v) or (4)(b) into one public hearing.

1954 (d) A county legislative body shall resolve any conflict in public hearing dates and
1955 times after consultation with each affected taxing entity.

1956 (e) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or
1957 (4)(b) beginning at or after 6 p.m.

1958 (9) (a) If a taxing entity does not make a final decision on budgeting additional ad
1959 valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing
1960 entity shall announce at that public hearing the scheduled time and place of the next public
1961 meeting at which the taxing entity will consider budgeting the additional ad valorem tax
1962 revenue.

1963 (b) A calendar year taxing entity may not adopt a final budget that budgets an amount
1964 of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem
1965 tax revenue stated at a public meeting under Subsection (3)(a)(i).

1966 (c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's
1967 certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed
1968 annual budget.

1969 Section 20. Section **59-2-919.2** is amended to read:

1970 **59-2-919.2. Consolidated advertisement of public hearings.**

1971 (1) As used in this section:

1972 (a) "Primary residence" means a residence that qualifies for the exemption described in
1973 Section 59-2-103.

1974 (b) "Secondary residence" means a residence that does not qualify for the exemption
1975 described in Section 59-2-103.

1976 ~~(1)~~ (2) (a) Except as provided in Subsection ~~(1)~~ (2)(b), on the same day on which a
1977 taxing entity provides the notice to the county required under Subsection 59-2-919(8)(a)(i), the
1978 taxing entity shall provide to the county auditor the information required by Subsection
1979 59-2-919(8)(a)(i).

1980 (b) A taxing entity is not required to notify the county auditor of the taxing entity's
1981 public hearing in accordance with Subsection ~~(1)~~ (2)(a) if the taxing entity is exempt from the
1982 notice requirements ~~of~~ described in Section 59-2-919.

1983 ~~(2)~~ (3) If as of July 22, two or more taxing entities notify the county auditor under
1984 Subsection ~~(1)~~ (2), the county auditor shall by no later than July 22 of each year:

1985 (a) compile a list of the taxing entities that notify the county auditor under Subsection
1986 ~~[(1)]~~ (2);

1987 (b) include on the list described in Subsection ~~[(2)]~~ (3)(a)~~;~~ the following information
1988 for each taxing entity on the list:

1989 (i) the name of the taxing entity;

1990 (ii) the date, time, and location of the public hearing described in Subsection
1991 59-2-919(8)(a)(i);

1992 (iii) for a primary residence in the taxing entity, the [average] dollar increase [on a
1993 residence in the taxing entity] for each \$100,000 of market value that the proposed tax increase
1994 would generate; and

1995 (iv) for a business or a secondary residence in the taxing entity, the [average] dollar
1996 increase [on a business in the taxing entity] for each \$100,000 of market value that the
1997 proposed tax increase would generate;

1998 (c) provide a copy of the list described in Subsection ~~[(2)]~~ (3)(a) to each taxing entity
1999 that notifies the county auditor under Subsection ~~[(1)]~~ (2); and

2000 (d) in addition to the requirements of Subsection ~~[(3)]~~ (4), if the county has a webpage,
2001 publish a copy of the list described in Subsection ~~[(2)]~~ (3)(a) on the county's webpage until
2002 December 31.

2003 ~~[(3)]~~ (4) (a) At least two weeks before any public hearing included in the list under
2004 Subsection ~~[(2)]~~ (3) is held, the county auditor shall publish:

2005 (i) the list compiled under Subsection ~~[(2)]~~ (3); and

2006 (ii) a statement that:

2007 (A) the list is for informational purposes only;

2008 (B) the list should not be relied on to determine a ~~[person's]~~ taxpayer's tax liability
2009 under this chapter; and

2010 (C) for specific information related to the tax liability of a taxpayer, the taxpayer
2011 should review the taxpayer's tax notice received under Section 59-2-919.1.

2012 (b) Except as provided in Subsection ~~[(3)]~~ (4)(d)(ii), the information described in
2013 Subsection ~~[(3)]~~ (4)(a) shall be published:

2014 (i) in no less than 1/4 page in size;

2015 (ii) in type no smaller than 18 point; and

2016 (iii) surrounded by a 1/4-inch border.

2017 (c) The published information described in Subsection ~~[(3)]~~ (4)(a) and published in
2018 accordance with Subsection ~~[(3)]~~ (4)(d)(i) may not be placed in the portion of a newspaper
2019 where a legal notice or classified advertisement appears.

2020 (d) A county auditor shall publish the information described in Subsection ~~[(3)]~~ (4)(a):

2021 (i) (A) in a newspaper or combination of newspapers that are:

2022 (I) published at least one day per week;

2023 (II) of general interest and readership in the county; and

2024 (III) not of limited subject matter; and

2025 (B) once each week for the two weeks preceding the first hearing included in the list
2026 compiled under Subsection ~~[(2)]~~ (3); and

2027 (ii) for two weeks preceding the first hearing included in the list compiled under
2028 Subsection ~~[(2)]~~ (3):

2029 (A) as required in Section 45-1-101; and

2030 (B) on the Utah Public Notice Website created in Section 63F-1-701.

2031 ~~[(4)]~~ (5) A taxing entity that notifies the county auditor under Subsection ~~[(1)]~~ (2) shall
2032 provide the list described in Subsection ~~[(2)]~~ (3)(c) to ~~[a person]~~ an individual:

2033 (a) who attends the public hearing described in Subsection 59-2-919(8)(a)(i) of the
2034 taxing entity; or

2035 (b) who requests a copy of the list.

2036 ~~[(5)]~~ (6) (a) ~~[A] No later than 30 days after the day on which the last publication of the~~
2037 information required by Subsection (4)(a) is made, a county auditor shall ~~[by no later than 30~~
2038 ~~days from the day on which the last publication of the information required by Subsection~~
2039 ~~(3)(a) is made]~~:

2040 (i) determine the costs of compiling and publishing the list; and

2041 (ii) charge each taxing entity included on the list an amount calculated by dividing the
2042 amount determined under Subsection ~~[(5)]~~ (6)(a) by the number of taxing entities on the list.

2043 (b) A taxing entity shall pay the county auditor the amount charged under Subsection
2044 ~~[(5)]~~ (6)(a).

2045 ~~[(6)]~~ (7) The publication of the list under this section does not remove or change the
2046 notice requirements of Section 59-2-919 for a taxing entity.

2047 [(7)] (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
2048 Act, the commission may make rules:

2049 (a) relating to the publication of a consolidated advertisement [~~which~~] that includes the
2050 information described in Subsection [(2)] (3) for a taxing entity that overlaps two or more
2051 counties;

2052 (b) relating to the payment required in Subsection [(5)] (6)(b); and

2053 (c) to oversee the administration of this section and provide for uniform
2054 implementation.

2055 Section 21. Section **59-2-926** is amended to read:

2056 **59-2-926. Proposed tax increase by state -- Notice -- Contents -- Dates.**

2057 If the state authorizes a [~~levy pursuant to Section 53A-17a-135~~] tax rate that exceeds
2058 the [~~certified revenue levy as defined in Section 53A-17a-103~~] applicable tax rate described in
2059 Section 53A-17a-135 or authorizes a levy pursuant to Section 59-2-1602 that exceeds the
2060 certified revenue levy as defined in Section 59-2-102, the state shall publish a notice no later
2061 than 10 days after the last day of the annual legislative general session that meets the following
2062 requirements:

2063 (1) (a) The Office of the Legislative Fiscal Analyst shall advertise that the state
2064 authorized a tax rate or a levy that generates revenue in excess of the previous year's ad
2065 valorem tax revenue, plus eligible new growth as defined in Section 59-2-924, but exclusive of
2066 revenue from collections from redemptions, interest, and penalties:

2067 (i) in a newspaper of general circulation in the state; and

2068 (ii) as required in Section 45-1-101.

2069 (b) Except an advertisement published on a website, the advertisement described in
2070 Subsection (1)(a):

2071 (i) shall be no less than 1/4 page in size and the type used shall be no smaller than 18
2072 point, and surrounded by a 1/4-inch border;

2073 (ii) may not be placed in that portion of the newspaper where legal notices and
2074 classified advertisements appear; and

2075 (iii) shall be run once.

2076 (2) The form and content of the notice shall be substantially as follows:

2077 "NOTICE OF TAX INCREASE

2078 The state has budgeted an increase in its property tax revenue from \$_____ to
2079 \$_____ or ____%. The increase in property tax revenues will come from the following
2080 sources (include all of the following provisions):

2081 (a) \$_____ of the increase will come from (provide an explanation of the cause
2082 of adjustment or increased revenues, such as reappraisals or factoring orders);

2083 (b) \$_____ of the increase will come from natural increases in the value of the
2084 tax base due to (explain cause of eligible new growth, such as new building activity,
2085 annexation, etc.);

2086 (c) a home valued at \$100,000 in the state of Utah which based on last year's ([levy]
2087 applicable tax rate for the basic state-supported school program, levy for the Property Tax
2088 Valuation Agency Fund, or both) paid \$_____ in property taxes would pay the
2089 following:

2090 (i) \$_____ if the state of Utah did not budget an increase in property tax revenue
2091 exclusive of eligible new growth; and

2092 (ii) \$_____ under the increased property tax revenues exclusive of eligible new
2093 growth budgeted by the state of Utah."

2094 Section 22. Section **59-2-1115** is amended to read:

2095 **59-2-1115. Exemption of certain tangible personal property.**

2096 (1) For purposes of this section:

2097 (a) (i) "Acquisition cost" means all costs required to put an item of tangible personal
2098 property into service; and

2099 (ii) includes:

2100 (A) the purchase price for a new or used item;

2101 (B) the cost of freight and shipping;

2102 (C) the cost of installation, engineering, erection, or assembly; and

2103 (D) sales and use taxes.

2104 (b) (i) "Item of taxable tangible personal property" does not include an improvement to
2105 real property or a part that will become an improvement.

2106 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2107 commission may make rules defining the term "item of taxable tangible personal property."

2108 (c) (i) "Taxable tangible personal property" means tangible personal property that is

2109 subject to taxation under this chapter.

2110 (ii) "Taxable tangible personal property" does not include:

2111 (A) tangible personal property required by law to be registered with the state before it
2112 is used:

2113 (I) on a public highway;

2114 (II) on a public waterway;

2115 (III) on public land; or

2116 (IV) in the air;

2117 (B) a mobile home as defined in Section 41-1a-102; or

2118 (C) a manufactured home as defined in Section 41-1a-102.

2119 (2) (a) The taxable tangible personal property of a taxpayer is exempt from taxation if
2120 the taxable tangible personal property has a total aggregate taxable value per county of \$10,000
2121 or less.

2122 (b) In addition to the exemption under Subsection (2)(a), an item of taxable tangible
2123 personal property~~[-, except for an item of noncapitalized personal property as defined in Section~~
2124 ~~59-2-108,]~~ is exempt from taxation if the item of taxable tangible personal property~~[-(i)]~~ has
2125 an acquisition cost of \$1,000 or less~~[-;]~~.

2126 ~~[(ii) has reached a percent good of 15% or less according to a personal property~~
2127 ~~schedule published by the commission pursuant to Section 59-2-107; and]~~

2128 ~~[(iii) is in a personal property schedule with a residual value of 15% or less.]~~

2129 (3) (a) For calendar years beginning on or after January 1, 2015, the commission shall
2130 increase the dollar amount described in Subsection (2)(a):

2131 (i) by a percentage equal to the percentage difference between the consumer price
2132 index for the preceding calendar year and the consumer price index for calendar year 2013; and

2133 (ii) up to the nearest \$100 increment.

2134 (b) For purposes of this Subsection (3), the commission shall calculate the consumer
2135 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

2136 (c) If the percentage difference under Subsection (3)(a)(i) is zero or a negative
2137 percentage, the consumer price index increase for the year is zero.

2138 (4) (a) For the first calendar year in which a taxpayer qualifies for an exemption
2139 described in Subsection (2)(a) or (b), a county assessor may require the taxpayer to file a signed

2140 statement described in Section 59-2-306.

2141 (b) Notwithstanding Section 59-2-306 and subject to Subsection (5), for a calendar
2142 year in which a taxpayer qualifies for an exemption described in Subsection (2)(a) or (b) after
2143 the calendar year described in Subsection (4)(a), a signed statement described in Section
2144 59-2-306 with respect to the taxable tangible personal property that is exempt under Subsection
2145 (2)(a) or (b) may only require the taxpayer to certify, under penalty of perjury, that the taxpayer
2146 qualifies for ~~[the]~~ an exemption under Subsection (2)(a) or (b).

2147 (5) A signed statement with respect to qualifying exempt primary residential rental
2148 personal property is as provided in Section 59-2-103.5.

2149 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2150 commission may make rules to administer this section and provide for uniform
2151 implementation.

2152 Section 23. Section **59-7-101** is amended to read:

2153 **59-7-101. Definitions.**

2154 As used in this chapter:

2155 (1) "Adjusted income" means unadjusted income as modified by Sections 59-7-105
2156 and 59-7-106.

2157 (2) (a) "Affiliated group" means one or more chains of corporations that are connected
2158 through stock ownership with a common parent corporation that meet the following
2159 requirements:

2160 (i) at least 80% of the stock of each of the corporations in the group, excluding the
2161 common parent corporation, is owned by one or more of the other corporations in the group;
2162 and

2163 (ii) the common parent directly owns at least 80% of the stock of at least one of the
2164 corporations in the group.

2165 (b) "Affiliated group" does not include corporations that are qualified to do business
2166 but are not otherwise doing business in this state.

2167 (c) For purposes of this Subsection (2), "stock" does not include nonvoting stock which
2168 is limited and preferred as to dividends.

2169 (3) "Apportionable income" means adjusted income less nonbusiness income net of
2170 related expenses, to the extent included in adjusted income.

- 2171 (4) "Apportioned income" means apportionable income multiplied by the
2172 apportionment fraction as determined in Section 59-7-311.
- 2173 (5) "Business income" [~~is as~~] means the same as that term is defined in Section
2174 59-7-302.
- 2175 (6) (a) "Captive real estate investment trust" means a real estate investment trust if:
2176 (i) the shares or beneficial interests of the real estate investment trust are not regularly
2177 traded on an established securities market; and
2178 (ii) more than 50% of the voting power or value of the shares or beneficial interests of
2179 the real estate investment trust are directly, indirectly, or constructively:
2180 (A) owned by a controlling entity of the real estate investment trust; or
2181 (B) controlled by a controlling entity of the real estate investment trust.
- 2182 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2183 commission may make rules defining "established securities market."
- 2184 (7) (a) "Common ownership" means the direct or indirect control or ownership of more
2185 than 50% of the outstanding voting stock of:
2186 (i) a parent-subsidiary controlled group as that term is defined in Section 1563, Internal
2187 Revenue Code, except that 50% shall be substituted for 80%;
2188 (ii) a brother-sister controlled group as that term is defined in Section 1563, Internal
2189 Revenue Code; or
2190 (iii) three or more corporations each of which is a member of a group of corporations
2191 described in Subsection (2)(a)(i) or (ii), and one of which is:
2192 (A) a common parent corporation included in a group of corporations described in
2193 Subsection (2)(a)(i); and
2194 (B) included in a group of corporations described in Subsection (2)(a)(ii).
- 2195 (b) Ownership of outstanding voting stock shall be determined by Section 1563,
2196 Internal Revenue Code.
- 2197 (8) (a) "Controlling entity of a captive real estate investment trust" means an entity
2198 that:
2199 (i) is treated as an association taxable as a corporation under the Internal Revenue
2200 Code;
2201 (ii) is not exempt from federal income taxation under Section 501(a), Internal Revenue

2202 Code; and

2203 (iii) directly, indirectly, or constructively holds more than 50% of:

2204 (A) the voting power of a captive real estate investment trust; or

2205 (B) the value of the shares or beneficial interests of a captive real estate investment

2206 trust.

2207 (b) "Controlling entity of a captive real estate investment trust" does not include:

2208 (i) a real estate investment trust, except for a captive real estate investment trust;

2209 (ii) a qualified real estate investment subsidiary described in Section 856(i), Internal

2210 Revenue Code, except for a qualified real estate investment trust subsidiary of a captive real

2211 estate investment trust; or

2212 (iii) a foreign real estate investment trust.

2213 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2214 commission may make rules defining "established securities market."

2215 (9) "Corporate return" or "return" includes a combined report.

2216 (10) "Corporation" includes:

2217 (a) entities defined as corporations under Sections 7701(a) and 7704, Internal Revenue

2218 Code; and

2219 (b) other organizations that are taxed as corporations for federal income tax purposes

2220 under the Internal Revenue Code.

2221 (11) "Dividend" means any distribution, including money or other type of property,

2222 made by a corporation to its shareholders out of its earnings or profits accumulated after

2223 December 31, 1930.

2224 (12) (a) "Doing business" includes any transaction in the course of [~~its~~] business by a

2225 domestic corporation[;] or by a foreign corporation qualified to do or doing [~~intrastate~~]

2226 business in this state.

2227 (b) Except as provided in Subsection (12)(c) or Subsection 59-7-102(3), "doing

2228 business" includes:

2229 (i) the right to do business through incorporation or qualification;

2230 (ii) [~~the~~] owning, renting, or leasing of real or personal property within this state; [~~and~~]

2231 (iii) the participation in joint ventures, working and operating agreements, the

2232 performance of which takes place in this state[;];

2233 (iv) selling or performing services in this state if the customer receives the greater
 2234 benefit of the service in this state; and

2235 (v) earning income from the use of intangible property in this state.

2236 (c) "Doing business" does not include the business activity of a corporation if the
 2237 corporation's only business activity within the state is the solicitation of orders for sales of
 2238 tangible personal property that are protected under 15 U.S.C. Sec. 381.

2239 (13) "Domestic corporation" means a corporation that is incorporated or organized
 2240 under the laws of this state.

2241 (14) "Exercising a corporate franchise" does not include the business activity of a
 2242 corporation if the corporation's only business activity within the state is the solicitation of
 2243 orders for sales of tangible personal property that are protected under 15 U.S.C. Sec. 381.

2244 ~~[(14)]~~ (15) (a) "Farmers' cooperative" means an association, corporation, or other
 2245 organization that is:

2246 (i) (A) an association, corporation, or other organization of ~~[(14)]~~ farmers~~[:]~~ or ~~[(14)]~~ fruit
 2247 growers; or

2248 (B) an association, corporation, or other organization that is similar to an association,
 2249 corporation, or organization described in Subsection ~~[(14)]~~ (15)(a)(i)(A); and

2250 (ii) organized and operated on a cooperative basis to:

2251 (A) (I) market the products of members of the cooperative or the products of other
 2252 producers; and

2253 (II) return to the members of the cooperative or other producers the proceeds of sales
 2254 less necessary marketing expenses on the basis of the quantity of the products of a member or
 2255 producer or the value of the products of a member or producer; or

2256 (B) (I) purchase supplies and equipment for the use of members of the cooperative or
 2257 other persons; and

2258 (II) turn over the supplies and equipment described in Subsection ~~[(14)]~~
 2259 (15)(a)(ii)(B)(I) at actual costs plus necessary expenses to the members of the cooperative or
 2260 other persons.

2261 (b) (i) Subject to Subsection ~~[(14)]~~ (15)(b)(ii), for purposes of this Subsection ~~[(14)]~~
 2262 (15), the commission by rule, made in accordance with Title 63G, Chapter 3, Utah
 2263 Administrative Rulemaking Act, shall define:

2264 (A) the terms~~[(F)]~~ "member"~~[;]~~ and ~~[(H)]~~ "producer"; and

2265 (B) what constitutes an association, corporation, or other organization that is similar to

2266 an association, corporation, or organization described in Subsection ~~[(14)]~~ (15)(a)(i)(A).

2267 (ii) The rules made under this Subsection ~~[(14)]~~ (15)(b) shall be consistent with the

2268 filing requirements under federal law for a farmers' cooperative.

2269 ~~[(15)]~~ (16) "Foreign corporation" means a corporation that is not incorporated or

2270 organized under the laws of this state.

2271 ~~[(16)]~~ (17) (a) "Foreign operating company" means a corporation if:

2272 (i) the corporation is incorporated in the United States;

2273 (ii) at least 80% of the corporation's business activity, as determined under Section

2274 59-7-401, is conducted outside the United States; and

2275 (iii) as calculated in accordance with Part 3, Allocation and Apportionment of Income -

2276 Utah UDITPA Provisions, the corporation has:

2277 (A) at least \$1,000,000 of payroll located outside the United States; and

2278 (B) at least \$2,000,000 of property located outside the United States.

2279 (b) "Foreign operating company" does not include a corporation that qualifies for the

2280 Puerto Rico and possession tax credit as provided in Section 936, Internal Revenue Code.

2281 ~~[(17)]~~ (18) (a) "Foreign real estate investment trust" means:

2282 (i) a business entity organized outside the laws of the United States if:

2283 (A) at least 75% of the business entity's total asset value at the close of the business

2284 entity's taxable year is represented by:

2285 (I) real estate assets, as that term is defined in Section 856(c)(5)(B), Internal Revenue

2286 Code;

2287 (II) cash or cash equivalents; or

2288 (III) one or more securities issued or guaranteed by the United States;

2289 (B) the business entity is:

2290 (I) not subject to income taxation:

2291 (Aa) on amounts distributed to the business entity's beneficial owners; and

2292 (Bb) in the jurisdiction in which the business entity is organized; or

2293 (II) exempt from income taxation on an entity level in the jurisdiction in which the

2294 business entity is organized;

2295 (C) the business entity distributes at least 85% of the business entity's taxable income,
 2296 as computed in the jurisdiction in which the business entity is organized, to the holders of the
 2297 business entity's:

2298 (I) shares or beneficial interests; and

2299 (II) on an annual basis;

2300 (D) (I) not more than 10% of the following is held directly, indirectly, or constructively
 2301 by a single person:

2302 (Aa) the voting power of the business entity; or

2303 (Bb) the value of the shares or beneficial interests of the business entity; or

2304 (II) the shares of the business entity are regularly traded on an established securities
 2305 market; and

2306 (E) the business entity is organized in a country that has a tax treaty with the United
 2307 States; or

2308 (ii) a listed Australian property trust.

2309 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 2310 commission may make rules defining:

2311 (i) "cash or cash equivalents";

2312 (ii) "established securities market"; or

2313 (iii) "listed Australian property trust."

2314 [~~(18)~~] (19) "Income" includes losses.

2315 [~~(19)~~] (20) "Internal Revenue Code" means Title 26 of the United States Code as
 2316 effective during the year in which Utah taxable income is determined.

2317 [~~(20)~~] (21) "Nonbusiness income" [~~is as~~] means the same as that term is defined in
 2318 Section 59-7-302.

2319 [~~(21)~~] (22) "Real estate investment trust" [~~is as~~] means the same as that term is defined
 2320 in Section 856, Internal Revenue Code.

2321 [~~(22)~~] (23) "Related expenses" means:

2322 (a) expenses directly attributable to nonbusiness income; and

2323 (b) the portion of interest or other expense indirectly attributable to both nonbusiness

2324 and business income which bears the same ratio to the aggregate amount of such interest or

2325 other expense, determined without regard to this Subsection [~~(22)~~] (23), as the average amount

2326 of the asset producing the nonbusiness income bears to the average amount of all assets of the
2327 taxpayer within the taxable year.

2328 ~~[(23)]~~ (24) "Safe harbor lease" means a lease that qualified as a safe harbor lease under
2329 Section 168, Internal Revenue Code.

2330 ~~[(24)]~~ (25) "S corporation" means an S corporation as that term is defined in Section
2331 1361, Internal Revenue Code.

2332 ~~[(25)]~~ (26) "State of the United States" includes any of the 50 states or the District of
2333 Columbia.

2334 ~~[(26)]~~ (27) (a) "Taxable year" means the calendar year or the fiscal year ending during
2335 such calendar year upon the basis of which the adjusted income is computed.

2336 (b) In the case of a return made for a fractional part of a year under this chapter or
2337 under rules prescribed by the commission, "taxable year" includes the period for which such
2338 return is made.

2339 ~~[(27)]~~ (28) "Taxpayer" means any corporation subject to the tax imposed by this
2340 chapter.

2341 ~~[(28)]~~ (29) "Threshold level of business activity" means business activity in the United
2342 States equal to or greater than 20% of the corporation's total business activity as determined
2343 under Section 59-7-401.

2344 ~~[(29)]~~ (30) "Unadjusted income" means federal taxable income as determined on a
2345 separate return basis before intercompany eliminations as determined by the Internal Revenue
2346 Code, before the net operating loss deduction and special deductions for dividends received.

2347 ~~[(30)]~~ (31) (a) "Unitary group" means a group of corporations that:

2348 (i) are related through common ownership; and

2349 (ii) by a preponderance of the evidence as determined by a court of competent
2350 jurisdiction or the commission, are economically interdependent with one another as
2351 demonstrated by the following factors:

2352 (A) centralized management;

2353 (B) functional integration; and

2354 (C) economies of scale.

2355 (b) "Unitary group" includes a captive real estate investment trust.

2356 (c) "Unitary group" does not include an S corporation.

2357 ~~[(31)]~~ (32) "United States" includes the 50 states and the District of Columbia.

2358 ~~[(32)]~~ (33) "Utah net loss" means the current year Utah taxable income before Utah net
2359 loss deduction, if determined to be less than zero.

2360 ~~[(33)]~~ (34) "Utah net loss deduction" means the amount of Utah net losses from other
2361 taxable years that ~~[may be carried back or carried]~~ a taxpayer may carry forward to the current
2362 taxable year in accordance with Section 59-7-110.

2363 ~~[(34)]~~ (35) (a) "Utah taxable income" means Utah taxable income before net loss
2364 deduction less Utah net loss deduction.

2365 (b) "Utah taxable income" includes income from tangible or intangible property located
2366 or having situs in this state, regardless of whether carried on in intrastate, interstate, or foreign
2367 commerce.

2368 ~~[(35)]~~ (36) "Utah taxable income before net loss deduction" means apportioned income
2369 plus nonbusiness income allocable to Utah net of related expenses.

2370 ~~[(36)]~~ (37) (a) "Water's edge combined report" means a report combining the income
2371 and activities of:

2372 (i) all members of a unitary group that are:

2373 (A) corporations organized or incorporated in the United States, including those
2374 corporations qualifying for the Puerto Rico and Possession Tax Credit as provided in Section
2375 936, Internal Revenue Code, in accordance with Subsection ~~[(36)]~~ (37)(b); and

2376 (B) corporations organized or incorporated outside of the United States meeting the
2377 threshold level of business activity; and

2378 (ii) an affiliated group electing to file a water's edge combined report under Subsection
2379 59-7-402(2).

2380 (b) There is a rebuttable presumption that a corporation which qualifies for the Puerto
2381 Rico and possession tax credit provided in Section 936, Internal Revenue Code, is part of a
2382 unitary group.

2383 ~~[(37)]~~ (38) "Worldwide combined report" means the combination of the income and
2384 activities of all members of a unitary group irrespective of the country in which the
2385 corporations are incorporated or conduct business activity.

2386 Section 24. Section **59-7-104** is amended to read:

2387 **59-7-104. Tax -- Minimum tax.**

2388 (1) Each domestic and foreign corporation, except ~~[those]~~ a corporation exempted
 2389 under Section 59-7-102, shall pay an annual tax to the state based on ~~[its]~~ the corporation's
 2390 Utah taxable income for the taxable year for the privilege of exercising ~~[its]~~ a corporate
 2391 franchise, as that term is defined in Section 59-7-101, or for the privilege of doing business, as
 2392 that term is defined in Section 59-7-101, in the state.

2393 (2) The tax shall be 5% of a corporation's Utah taxable income.

2394 (3) The minimum tax a corporation shall pay under this chapter is \$100.

2395 Section 25. Section **59-7-110** is amended to read:

2396 **59-7-110. Utah net losses -- Carryforwards and carrybacks -- Deduction.**

2397 (1) ~~[The amount of Utah net loss that shall be carried back or]~~ A taxpayer shall
 2398 determine the amount of Utah net loss that the taxpayer may carry forward to offset income of
 2399 another taxable year ~~[is determined]~~ as provided in this section.

2400 ~~[(2)(a) Subject to the other provisions of this section, a Utah net loss from a taxable~~
 2401 ~~year beginning before January 1, 1994, shall be carried back three taxable years preceding the~~
 2402 ~~taxable year of the loss and any remaining loss shall be carried forward five taxable years~~
 2403 ~~following the taxable year of the loss.]~~

2404 ~~[(b)(i) (2) Subject to the other provisions of this section, a [Utah net loss from a~~
 2405 ~~taxable year beginning on or after January 1, 1994, may be carried back three taxable years~~
 2406 ~~preceding the taxable year of the loss and carried forward] taxpayer:~~

2407 (a) may carry forward a Utah net loss from a taxable year for 15 taxable years
 2408 following the taxable year of the loss~~[-]; and~~

2409 (b) may not carry back a Utah net loss from a taxable year.

2410 ~~[(ii) If an election is made to forego the federal net operating loss carryback, a Utah net~~
 2411 ~~loss is not eligible to be carried back unless an election is made for state purposes:]~~

2412 (3) A taxpayer that carries forward a Utah net loss shall carry forward the Utah net loss
 2413 ~~[shall be carried]~~ to the earliest eligible year for which the Utah taxable income before net loss
 2414 deduction, minus Utah net losses from previous years that ~~[were applied or required to be~~
 2415 ~~applied]~~ a taxpayer applied or was required to apply to offset income, is not less than zero.

2416 (4) ~~[(a) Except as provided in Subsection (4)(b), the]~~ The amount of Utah net loss that
 2417 ~~[shall be carried]~~ a taxpayer may carry to the year identified in Subsection (3) is the lesser of:

2418 ~~[(i)]~~ (a) the remaining Utah net loss after deduction of any amounts of the Utah net loss

2419 that ~~[were]~~ a taxpayer carried to previous years; or

2420 ~~[(iii)]~~ (b) the remaining Utah taxable income before net loss deduction of the year
2421 identified in Subsection (3) after deduction of Utah net losses from previous years that ~~[were]~~
2422 ~~carried or required to be carried]~~ a taxpayer carried or was required to carry to the year
2423 identified in Subsection (3).

2424 ~~[(b) (i) The amount of Utah net loss carried back from a taxable year may not exceed~~
2425 ~~\$1,000,000 in Utah taxable income for each return filed under this chapter in a taxable year.]~~

2426 ~~[(ii) A Utah net loss in excess of \$1,000,000 may be carried forward.]~~

2427 ~~[(iii) A remaining Utah net loss shall be available to be carried to one or more taxable~~
2428 ~~years in accordance with this section.]~~

2429 (5) (a) (i) Subject to Subsection (5)(a)(ii), a corporation acquiring the assets or stock of
2430 another corporation may not deduct any net loss incurred by the acquired corporation prior to
2431 the date of acquisition.

2432 (ii) Subsection (5)(a)(i) does not apply if the only change in the corporation is that of
2433 the state of incorporation.

2434 (b) An acquired corporation may deduct the acquired corporation's net losses incurred
2435 before the date of acquisition against the acquired corporation's separate income as calculated
2436 under Subsections (6) and (7) if the acquired corporation has continued to carry on a trade or
2437 business substantially the same as that conducted before the acquisition.

2438 (6) For purposes of Subsection (5)(b), the amount of net loss an acquired corporation
2439 that is acquired by a unitary group may deduct is calculated by:

2440 (a) subject to Subsection (7):

2441 (i) except as provided in Subsection (6)(a)(ii), calculating the sum of:

2442 (A) an amount determined by dividing the average value of the acquired corporation's
2443 real and tangible personal property owned or rented and used in this state during the taxable
2444 year by the average value of all of the unitary group's real and tangible personal property owned
2445 or rented and used during the taxable year;

2446 (B) an amount determined by dividing the total amount paid in this state during the
2447 taxable year by the acquired corporation for compensation by the total compensation paid
2448 everywhere by the unitary group during the taxable year; and

2449 (C) an amount determined by ~~[-(F)]~~ dividing the total sales of the acquired corporation

2450 in this state during the taxable year by the total sales of the unitary group everywhere during the
 2451 taxable year; ~~and~~ or

2452 ~~[(H) if the unitary group elects to calculate the fraction for apportioning business~~
 2453 ~~income to this state using the method described in Subsection 59-7-311(2)(b), multiplying the~~
 2454 ~~amount calculated under Subsection (6)(a)(i)(C)(I) by two; or]~~

2455 (ii) if the unitary group is required or elects to calculate the fraction for apportioning
 2456 business income to this state using the method described in Subsection 59-7-311~~(3)~~(2),
 2457 calculating an amount determined by dividing the total sales of the acquired corporation in this
 2458 state during the taxable year by the total sales of the unitary group everywhere during the
 2459 taxable year;

2460 (b) dividing the amount calculated under Subsection (6)(a) by the same denominator of
 2461 the fraction the unitary group uses to apportion business income to this state~~[(i)]~~ for that
 2462 taxable year~~[(i)]~~ in accordance with Section 59-7-311;

2463 (c) multiplying the amount calculated under Subsection (6)(b) by the business income
 2464 of the unitary group for the taxable year that is subject to apportionment under Section
 2465 59-7-311; and

2466 (d) calculating the sum of:

2467 (i) the amount calculated under Subsection (6)(c); and

2468 (ii) the following amounts allocable to the acquired corporation for the taxable year:

2469 (A) nonbusiness income allocable to this state; or

2470 (B) nonbusiness loss allocable to this state.

2471 (7) The amounts calculated under Subsection (6)(a) shall be derived in the same
 2472 manner as those amounts are derived for purposes of apportioning the unitary group's business
 2473 income before deducting the net loss, including a modification made in accordance with
 2474 Section 59-7-320.

2475 Section 26. Section **59-7-302 (Effective 01/01/18)** is amended to read:

2476 **59-7-302 (Effective 01/01/18). Definitions -- Determination of taxpayer status.**

2477 (1) As used in this part, unless the context otherwise requires:

2478 (a) "Aircraft type" means a particular model of aircraft as designated by the
 2479 manufacturer of the aircraft.

2480 (b) "Airline" means the same as that term is defined in Section 59-2-102.

2481 (c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during
2482 the airline's tax period.

2483 (d) "Business income" means income arising from transactions and activity in the
2484 regular course of the taxpayer's trade or business and includes income from tangible and
2485 intangible property if the acquisition, management, and disposition of the property constitutes
2486 integral parts of the taxpayer's regular trade or business operations.

2487 (e) "Commercial domicile" means the principal place from which the trade or business
2488 of the taxpayer is directed or managed.

2489 (f) "Compensation" means wages, salaries, commissions, and any other form of
2490 remuneration paid to employees for personal services.

2491 (g) "Excluded NAICS code" means a NAICS code of the 2017 North American
2492 Industry Classification System of the federal Executive Office of the President, Office of
2493 Management and Budget, within:

2494 (i) NAICS Code 211120, Crude Petroleum Extraction;

2495 (ii) NAICS Industry Group 2121, Coal Mining;

2496 (iii) NAICS Industry Group 2212, Natural Gas Distribution;

2497 (iv) NAICS Subsector 311, Food Manufacturing;

2498 (v) NAICS Industry Group 3121, Beverage Manufacturing;

2499 (vi) NAICS Code 327310, Cement Manufacturing;

2500 (vii) NAICS Subsector 482, Rail Transportation; or

2501 (viii) NAICS Code 522110, Commercial Banking.

2502 [~~(g)~~] (h) (i) Except as provided in Subsection (1)[~~(g)~~](h)(ii), "mobile flight equipment"
2503 means the same as that term is defined in Section 59-2-102.

2504 (ii) "Mobile flight equipment" does not include:

2505 (A) a spare engine; or

2506 (B) tangible personal property described in Subsection 59-2-102(27) owned by an air
2507 charter service or an air contract service.

2508 [~~(h)~~] (i) "Nonbusiness income" means all income other than business income.

2509 [~~(i)~~ Subject to Subsection (2), "optional sales factor weighted taxpayer" means:]

2510 [~~(i)~~ for a taxpayer that is not a unitary group, regardless of the number of economic

2511 activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer's total sales

2512 everywhere generated by economic activities performed by the taxpayer if the economic
 2513 activities are classified in a NAICS code within NAICS Subsector 334, Computer and
 2514 Electronic Product Manufacturing, of the 2002 or 2007 North American Industry Classification
 2515 System of the federal Executive Office of the President, Office of Management and Budget; or]
 2516 [(ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the
 2517 taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if
 2518 the economic activities are classified in a NAICS code within NAICS Subsector 334,
 2519 Computer and Electronic Product Manufacturing, of the 2002 or 2007 North American
 2520 Industry Classification System of the federal Executive Office of the President, Office of
 2521 Management and Budget.]

2522 (j) "Optional apportionment taxpayer" means a taxpayer described in Subsection (3).

2523 (k) "Phased-in sales factor weighted taxpayer" means a taxpayer that:

2524 (i) is not a sales factor weighted taxpayer;

2525 (ii) except as provided in Subsection (1)(k)(iii), does not meet the definition of an
 2526 optional apportionment taxpayer; or

2527 (iii) (A) meets the definition of an optional apportionment taxpayer; and

2528 (B) apportioned business income using the method described in Subsection
 2529 59-7-311(4) during the previous taxable year.

2530 [(j)] (l) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.

2531 [(k)] (m) "Sales" means all gross receipts of the taxpayer not allocated under Sections
 2532 59-7-306 through 59-7-310.

2533 [(h)] (n) [~~Subject to Subsection (2), "sales]~~ "Sales factor weighted taxpayer" means[:] a
 2534 taxpayer described in Subsection (2).

2535 [(i) for a taxpayer that is not a unitary group, regardless of the number of economic
 2536 activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer's total sales
 2537 everywhere generated by economic activities performed by the taxpayer if the economic
 2538 activities are classified in a NAICS code of the 2002 or 2007 North American Industry
 2539 Classification System of the federal Executive Office of the President, Office of Management
 2540 and Budget, except for:]

2541 [(A) a NAICS code within NAICS Sector 21, Mining;]

2542 [(B) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;]

- 2543 ~~[(C) a NAICS code within NAICS Sector 31-33, Manufacturing, other than NAICS~~
 2544 ~~Code 336111, Automobile Manufacturing;]~~
- 2545 ~~[(D) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;]~~
- 2546 ~~[(E) a NAICS code within NAICS Sector 51, Information, other than NAICS Subsector~~
 2547 ~~519, Other Information Services; or]~~
- 2548 ~~[(F) a NAICS code within NAICS Sector 52, Finance and Insurance; or]~~
- 2549 ~~[(ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the~~
 2550 ~~taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if~~
 2551 ~~the economic activities are classified in a NAICS code of the 2002 or 2007 North American~~
 2552 ~~Industry Classification System of the federal Executive Office of the President, Office of~~
 2553 ~~Management and Budget, except for a NAICS code under Subsections (1)(i)(A) through (F).]~~
- 2554 ~~[(m)]~~ (o) "State" means any state of the United States, the District of Columbia, the
 2555 Commonwealth of Puerto Rico, any territory or possession of the United States, and any
 2556 foreign country or political subdivision thereof.
- 2557 ~~[(n)]~~ (p) "Transportation revenue" means revenue an airline earns from:
 2558 (i) transporting a passenger or cargo; or
 2559 (ii) from miscellaneous sales of merchandise as part of providing transportation
 2560 services.
- 2561 ~~[(o)]~~ (q) "Utah revenue ton miles" means, for an airline, the total revenue ton miles
 2562 within the borders of this state:
 2563 (i) during the airline's tax period; and
 2564 (ii) from flight stages that originate or terminate in this state.
- 2565 ~~[(2) The following apply to Subsections (1)(i) and (1):]~~
- 2566 ~~[(a) (i) Subject to the other provisions of this Subsection (2), for each taxable year, a~~
 2567 ~~taxpayer shall determine whether the taxpayer is a sales factor weighted taxpayer.]~~
- 2568 (2) (a) A taxpayer is a sales factor weighted taxpayer if, regardless of the number of
 2569 economic activities the taxpayer performs, the taxpayer generates greater than 50% of the
 2570 taxpayer's total sales everywhere from economic activities that are classified in a NAICS code
 2571 of the 2002 or 2007 North American Industry Classification System of the federal Executive
 2572 Office of the President, Office of Management and Budget, other than:
- 2573 (i) a NAICS code within NAICS Sector 21, Mining;

2574 (ii) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;

2575 (iii) a NAICS code within NAICS Sector 31-33, Manufacturing, except NAICS Code

2576 336111, Automobile Manufacturing;

2577 (iv) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;

2578 (v) a NAICS code within NAICS Sector 51, Information, except NAICS Subsector

2579 519, Other Information Services; or

2580 (vi) a NAICS code within NAICS Sector 52, Finance and Insurance.

2581 ~~[(ii)]~~ (b) A taxpayer shall ~~[make the determination required by Subsection (2)(a)(i)]~~

2582 determine if the taxpayer is a sales factor weighted taxpayer each year before the due date for

2583 filing the taxpayer's return under this chapter for the taxable year, including extensions.

2584 ~~[(iii)]~~ (c) For purposes of making the determination required by Subsection (2)(a)~~[(i)]~~,

2585 total sales everywhere include only the total sales everywhere:

2586 ~~[(A)]~~ (i) as determined in accordance with this part; and

2587 ~~[(B)]~~ (ii) made during the taxable year for which a taxpayer makes the determination

2588 required by Subsection (2)(a)~~[(i)]~~.

2589 (3) (a) A taxpayer is an optional apportionment taxpayer if the average calculated in
2590 accordance with Subsection (3)(b) is greater than .50.

2591 (b) To calculate the average described in Subsection (3)(a), a taxpayer shall:

2592 (i) calculate the following two fractions:

2593 (A) the property factor fraction as described in Subsection 59-7-312(3); and

2594 (B) the payroll factor fraction as described in Subsection 59-7-315(3);

2595 (ii) add together the fractions described in Subsection (3)(b)(i); and

2596 (iii) divide the sum calculated in Subsection (3)(b)(ii):

2597 (A) except as provided in Subsection (3)(b)(iii)(B), by two; or

2598 (B) if either the property factor fraction or the payroll factor fraction has a denominator
2599 of zero or is excluded in accordance with Subsection 59-7-312(3)(b) or 59-7-315(3)(b), by one.

2600 (c) A taxpayer shall determine if the taxpayer is an optional apportionment taxpayer
2601 before the due date for filing the taxpayer's return under this chapter for the taxable year,
2602 including extensions.

2603 ~~[(b) (i) (A) Subject to other provisions of this Subsection (2), for each taxable year, a~~

2604 ~~taxpayer that is not a sales factor weighted taxpayer may determine whether the taxpayer is an~~

2605 ~~optional sales factor weighted taxpayer.]~~

2606 ~~[(B) A taxpayer that is not a sales factor weighted taxpayer shall determine that the~~
 2607 ~~taxpayer is an optional sales factor weighted taxpayer before the taxpayer may use the~~
 2608 ~~apportionment options described in Subsection 59-7-311(4).]~~

2609 ~~[(ii) A taxpayer making the determination described in Subsection (2)(b)(i) shall make~~
 2610 ~~the determination before the due date for filing the taxpayer's return under this chapter for the~~
 2611 ~~taxable year, including extensions.]~~

2612 ~~[(iii) For purposes of making the determination described in Subsection (2)(b)(i), total~~
 2613 ~~sales everywhere include only the total sales everywhere.]~~

2614 ~~[(A) as determined in accordance with this part; and]~~

2615 ~~[(B) made during the taxable year for which a taxpayer makes a determination~~
 2616 ~~described in Subsection (2)(b)(i).]~~

2617 ~~[(c)] (4) A taxpayer that files a return as a unitary group for a taxable year is considered~~
 2618 ~~to be a unitary group for that taxable year.~~

2619 ~~[(d)] (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking~~
 2620 ~~Act, the commission may define the term "economic activity" consistent with the use of the~~
 2621 ~~term "activity" in the 2007 North American Industry Classification System of the federal~~
 2622 ~~Executive Office of the President, Office of Management and Budget.~~

2623 Section 27. Section **59-7-311** is amended to read:

2624 **59-7-311. Method of apportionment of business income.**

2625 (1) For a taxable year, a taxpayer shall apportion all business income [~~shall be~~
 2626 ~~apportioned~~] to this state by multiplying the business income by a fraction calculated as
 2627 provided in this section.

2628 ~~[(2) Subject to the other provisions of this part, a taxpayer, except for a sales factor~~
 2629 ~~weighted taxpayer and an optional sales factor weighted taxpayer, shall calculate the fraction~~
 2630 ~~for apportioning business income to this state using one of the following fractions.]:~~

2631 ~~[(a) a fraction where:]~~

2632 ~~[(i) the numerator of the fraction is the sum of:]~~

2633 ~~[(A) the property factor as calculated under Section 59-7-312;]~~

2634 ~~[(B) the payroll factor as calculated under Section 59-7-315; and]~~

2635 ~~[(C) the sales factor as calculated under Section 59-7-317; and]~~

2636 ~~[(ii) the denominator of the fraction is three; or]~~
2637 ~~[(b) a fraction where:]~~
2638 ~~[(i) the numerator of the fraction is the sum of:]~~
2639 ~~[(A) the property factor as calculated under Section 59-7-312;]~~
2640 ~~[(B) the payroll factor as calculated under Section 59-7-315; and]~~
2641 ~~[(C) the sales factor as calculated under Section 59-7-317 multiplied by two; and]~~
2642 ~~[(ii) the denominator of the fraction is four.]~~
2643 ~~[(3)]~~ (2) Subject to the other provisions of this part, a sales factor weighted taxpayer
2644 shall calculate the fraction for apportioning business income to this state using a fraction
2645 where:
2646 (a) the numerator of the fraction is the sales factor as calculated under Section
2647 59-7-317; and
2648 (b) the denominator of the fraction is one.
2649 ~~[(4)]~~ (3) Subject to the other provisions of this part, an optional ~~[sales factor weighted~~
2650 ~~taxpayer]~~ apportionment taxpayer that is not a phased-in sales factor weighted taxpayer shall
2651 calculate the fraction for apportioning business income to this state [using a method described
2652 in Subsection (2)(a), (2)(b), or (3).] using one of the following fractions:
2653 (a) the fraction described in Subsection (4); or
2654 (b) the fraction where:
2655 (i) the numerator of the fraction is the sum of:
2656 (A) the property factor as calculated under Section 59-7-312;
2657 (B) the payroll factor as calculated under Section 59-7-315; and
2658 (C) the sales factor as calculated under Section 59-7-317; and
2659 (ii) the denominator of the fraction is three.
2660 (4) (a) Subject to other provisions of this part, a phased-in sales factor weighted
2661 taxpayer shall calculate the fraction for apportioning business income to this state as provided
2662 in Subsections (4)(b) through (d).
2663 (b) For the taxable year that begins on or after January 1, 2019, but begins on or before
2664 December 31, 2019:
2665 (i) the numerator of the fraction is the sum of:
2666 (A) the property factor as calculated under Section 59-7-312;

- 2667 (B) the payroll factor as calculated under Section 59-7-315; and
2668 (C) the sales factor as calculated under Subsection (4)(e)(i); and
2669 (ii) the denominator of the fraction is six.
2670 (c) For the taxable year that begins on or after January 1, 2020, but begins on or before
2671 December 31, 2020:
2672 (i) the numerator of the fraction is the sum of:
2673 (A) the property factor as calculated under Section 59-7-312;
2674 (B) the payroll factor as calculated under Section 59-7-315; and
2675 (C) the sales factor as calculated under Subsection (4)(e)(ii); and
2676 (ii) the denominator of the fraction is 10.
2677 (d) For a taxable year that begins on or after January 1, 2021, a phased-in sales factor
2678 weighted taxpayer shall calculate the fraction as described in Subsection (2).
2679 (e) (i) For the taxable year that begins on or after January 1, 2019, but begins on or
2680 before December 31, 2019, the sales factor shall be:
2681 (A) calculated as described in Section 59-7-317; and
2682 (B) multiplied by four.
2683 (ii) For the taxable year that begins on or after January 1, 2020, but begins on or before
2684 December 31, 2020, the sales factor shall be:
2685 (A) calculated as described in Section 59-7-317; and
2686 (B) multiplied by eight.
2687 (5) (a) The taxpayer shall determine the method for calculating the fraction for
2688 apportioning business income to this state under this section on or before the due date for filing
2689 the taxpayer's return under this chapter for the taxable year, including extensions.
2690 (b) The method described in Subsection (5)(a) is in effect for the taxable year.
2691 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2692 commission may make rules providing procedures for a taxpayer to make the election required
2693 by [~~Subsections (2) and (4)~~] Subsection (3).
2694 Section 28. Section **59-7-312** is amended to read:
2695 **59-7-312. Property factor for apportionment of business income -- Mobile flight**
2696 **equipment of an airline.**
2697 (1) Except as provided in [~~Subsection (2)~~] Subsections (2) and (3), the property factor

2698 is a fraction[;];

2699 (a) the numerator of which is the average value of the taxpayer's real and tangible
2700 personal property owned or rented and used in this state during the tax period; and

2701 (b) the denominator of which is the average value of all the taxpayer's real and tangible
2702 personal property owned or rented and used during the tax period.

2703 (2) The average value of an airline's real and tangible personal property owned or
2704 rented and used in this state attributable to mobile flight equipment for purposes of the
2705 numerator of the fraction described in Subsection (1) shall be calculated for each aircraft type
2706 by ~~[determining the product of]~~ multiplying:

2707 (a) the total average value of the airline's mobile flight equipment of the aircraft type
2708 owned or rented and used during the tax period; and

2709 (b) a fraction[;];

2710 (i) the numerator of which is the Utah revenue ton miles for the aircraft type; and

2711 (ii) the denominator of which is the airline revenue ton miles for the aircraft type.

2712 (3) (a) For purposes of Subsection 59-7-302(3)(b)(i)(A) and subject to Subsection
2713 (3)(b), the property factor is a fraction:

2714 (i) the numerator of which is the value of the property in this state that is attributable to
2715 economic activities that are classified in an excluded NAICS code; and

2716 (ii) the denominator of which is the value of all property in this state.

2717 (b) A taxpayer shall exclude property from the calculation of the property factor
2718 fraction in Subsection (3)(a) if the property may be attributed to economic activities in both
2719 excluded NAICS codes and NAICS codes that are not excluded NAICS codes.

2720 Section 29. Section **59-7-315** is amended to read:

2721 **59-7-315. Payroll factor for apportionment of business income -- Compensation**
2722 **of flight personnel by an airline.**

2723 (1) Except as provided in ~~[Subsection (2)]~~ Subsections (2) and (3), the payroll factor is
2724 a fraction[;];

2725 (a) the numerator of which is the total amount paid in this state during the tax period by
2726 the taxpayer for compensation[;]; and

2727 (b) the denominator of which is the total compensation paid everywhere during the tax
2728 period.

2729 (2) The total amount paid in this state during the tax period by an airline for
 2730 compensation attributable to the compensation of flight personnel for purposes of the
 2731 numerator of the fraction described in Subsection (1) shall be calculated for each aircraft type
 2732 by ~~[determining the product of]~~ multiplying:

2733 (a) the total amount paid during the tax period by the airline to flight personnel for
 2734 compensation for the aircraft type; and

2735 (b) a fraction~~[;]~~:

2736 (i) the numerator of which is the Utah revenue ton miles for the aircraft type; and

2737 (ii) the denominator of which is the airline revenue ton miles for the aircraft type.

2738 (3) (a) For purposes of Subsection 59-7-302(3)(b)(i)(B) and subject to Subsection
 2739 (3)(b), the payroll factor is a fraction:

2740 (i) the numerator of which is the amount of the payroll in this state that is attributable
 2741 to economic activities that are classified in an excluded NAICS code; and

2742 (ii) the denominator of which is the total amount of the payroll in this state.

2743 (b) A taxpayer engaged in economic activities that are classified in an excluded NAICS
 2744 code shall exclude an individual's payroll from the calculation of the payroll factor fraction in
 2745 Subsection (3)(a) if the individual's payroll may be attributed:

2746 (i) to economic activities in both excluded NAICS codes and NAICS codes that are not
 2747 excluded NAICS codes; or

2748 (ii) to providing management, information technology, finance, accounting, legal, or
 2749 human resource services.

2750 Section 30. Section **59-7-402** is amended to read:

2751 **59-7-402. Water's edge combined report.**

2752 (1) Except as provided in Section 59-7-403, if any corporation listed in Subsection
 2753 59-7-101~~(36)~~(37)(a) is doing business in Utah, the unitary group shall file a water's edge
 2754 combined report.

2755 (2) (a) A group of corporations that are not otherwise a unitary group may elect to file a
 2756 water's edge combined report if each member of the group is:

2757 (i) doing business in Utah;

2758 (ii) part of the same affiliated group; and

2759 (iii) qualified, under Section 1501, Internal Revenue Code, to file a federal

2760 consolidated return.

2761 (b) (i) Each corporation within the affiliated group that is doing business in Utah

2762 [~~must~~] shall consent to filing a combined report.

2763 (ii) If an affiliated group elects to file a combined report, each corporation within the

2764 affiliated group that is doing business in Utah must file a combined report.

2765 (c) Corporations that elect to file a water's edge combined report under this section may

2766 not thereafter elect to file a separate return without the consent of the commission.

2767 Section 31. Section **59-7-605** is amended to read:

2768 **59-7-605. Definitions -- Tax credits related to energy efficient vehicles.**

2769 (1) As used in this section:

2770 (a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than

2771 the standards established in bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

2772 (b) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air

2773 Conservation Act.

2774 (c) "Committee" means the Revenue and Taxation Interim Committee.

2775 (d) "Director" means the director of the Division of Air Quality appointed under

2776 Section 19-2-107.

2777 (e) "Election statement" means a document that:

2778 (i) is executed by:

2779 (A) a qualifying taxpayer; and

2780 (B) the financing entity, the financing entity's agent, or the financing entity's designee;

2781 (ii) identifies the vehicle identification number of the vehicle that qualifies for a tax

2782 credit under this section; and

2783 (iii) affirms that the requirements described in Subsection (7) have been met.

2784 (f) "Financing entity" means the entity that finances the purchase or lease of a vehicle

2785 that qualifies for a tax credit under this section.

2786 [~~(e)~~] (g) "OEM vehicle" means the same as that term is defined in Section 19-1-402.

2787 [~~(d)~~] (h) "Original purchase" means the purchase of a vehicle that has never been titled

2788 or registered and has been driven less than 7,500 miles.

2789 [~~(e)~~] (i) "Qualifying electric motorcycle" means a vehicle that:

2790 (i) has a seat or saddle for the use of the rider;

- 2791 (ii) is designed to travel with not more than three wheels in contact with the ground;
- 2792 (iii) may lawfully be operated on a freeway, as defined in Section 41-6a-102;
- 2793 [~~(iv) is not fueled by natural gas;~~]
- 2794 [~~(v)~~] (iv) is fueled by electricity only; and
- 2795 [~~(v+)~~] (v) is an OEM vehicle except that the vehicle is fueled by a fuel described in
- 2796 Subsection [~~(f)(e)(v)~~] (1)(i)(iv).
- 2797 [~~(f)~~] (j) "Qualifying long-range electric vehicle" means a vehicle that:
- 2798 (i) meets air quality standards;
- 2799 [~~(ii) is not fueled by natural gas;~~]
- 2800 [~~(iii) draws propulsion energy from]~~
- 2801 (ii) has a battery [~~with~~] capacity of at least 10 kilowatt hours [~~of capacity; and~~];
- 2802 (iii) is fueled by electricity only; and
- 2803 (iv) is an OEM vehicle except that the vehicle is fueled by a fuel described in
- 2804 Subsection (1)[~~(f)~~](j)(iii).
- 2805 [~~(g)~~] (k) "Qualifying [~~plug-in hybrid~~] short-range electric vehicle" means a vehicle that:
- 2806 (i) meets air quality standards;
- 2807 [~~(ii) is not fueled by natural gas or propane;~~]
- 2808 [~~(iii)~~] (ii) has a battery capacity that meets or exceeds the battery capacity described in
- 2809 Section 30D(b)(3), Internal Revenue Code[~~; and~~], but has less than 10 kilowatt hours of battery
- 2810 capacity;
- 2811 [~~(iv)~~] (iii) is fueled by [~~a combination of electricity and;~~] electricity only; and
- 2812 [~~(A) diesel fuel;~~]
- 2813 [~~(B) gasoline; or~~]
- 2814 [~~(C) a mixture of gasoline and ethanol;~~]
- 2815 (iv) is an OEM vehicle except that the vehicle is fueled as described in Subsection
- 2816 (1)(k)(iii).
- 2817 (l) "Qualifying taxpayer" means a taxpayer that operates in a part of the state where air
- 2818 quality is determined to exceed the National Ambient Air Quality Standards, as defined in the
- 2819 Clean Air Amendments of 1970, Pub. L. No. 91-604, Sec. 109, for fine particulate matter (PM
- 2820 2.5).
- 2821 (2) For a taxable year beginning on or after January 1, [~~2015~~] 2018, but beginning on

2822 or before December 31, ~~[2016]~~ 2018, a qualifying taxpayer may claim a nonrefundable tax
 2823 credit against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain
 2824 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in an amount equal
 2825 to:

2826 (a) ~~[(i)]~~ for the original purchase of a new qualifying long-range electric vehicle that is
 2827 registered in this state, ~~[the lesser of:]~~ \$1,500;

2828 ~~[(A) \$1,500; or]~~

2829 ~~[(B) 35% of the purchase price of the vehicle; or]~~

2830 ~~[(ii)]~~ (b) for the original purchase of a new qualifying ~~[plug-in hybrid]~~ short-range
 2831 electric vehicle that is registered in this state, \$1,000;

2832 ~~[(b) for the original purchase of a new vehicle fueled by natural gas or propane that is~~
 2833 ~~registered in this state, the lesser of:]~~

2834 ~~[(i) \$1,500; or]~~

2835 ~~[(ii) 35% of the purchase price of the vehicle;]~~

2836 (c) for the original purchase of a new qualifying electric motorcycle that is registered in
 2837 this state, ~~[the lesser of:]~~ \$750; and

2838 ~~[(i) \$750; or]~~

2839 ~~[(ii) 35% of the purchase price of the vehicle; and]~~

2840 (d) for a lease of a vehicle described in Subsection (2)(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 (2)(a), (b), or (c) had the qualifying taxpayer purchased the vehicle~~[-except~~
 2844 ~~that the purchase price described in Subsection (2)(a)(i)(B), (2)(b)(ii), or (2)(c)(ii) is considered~~
 2845 ~~to be the value of the vehicle at the beginning of the lease]; and~~

2846 (ii) a percentage calculated by:

2847 (A) determining the difference between the value of the vehicle at the beginning of the
 2848 lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as
 2849 stated in the lease agreement; and

2850 (B) dividing the difference determined under Subsection (2)(d)(ii)(A) by the value of
 2851 the vehicle at the beginning of the lease, as stated in the lease agreement.

2852 ~~[(3)(a) The board shall:]~~

2853 ~~[(i) determine the amount of tax credit a taxpayer is allowed under this section; and]~~
2854 ~~[(ii) provide the taxpayer with a written certification of the amount of tax credit the~~
2855 ~~taxpayer is allowed under this section.]~~
2856 ~~[(b) A taxpayer shall provide proof of the purchase or lease of an item for which a tax~~
2857 ~~credit is allowed under this section by:]~~
2858 ~~[(i) providing proof to the board in the form the board requires by rule;]~~
2859 ~~[(ii) receiving a written statement from the board acknowledging receipt of the proof;~~
2860 ~~and]~~
2861 ~~[(iii) retaining the written statement described in Subsection (3)(b)(ii).]~~
2862 ~~[(c) A taxpayer shall retain the written certification described in Subsection (3)(a)(ii).]~~
2863 ~~[(4) Except as provided by Subsection (5), the tax credit under this section is allowed~~
2864 ~~only.]~~
2865 ~~[(a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain~~
2866 ~~Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year~~
2867 ~~by the taxpayer;]~~
2868 ~~[(b) for the taxable year in which a vehicle described in Subsection (2)(a), (b), or (c) is~~
2869 ~~purchased or a vehicle described in Subsection (2)(d) is leased; and]~~
2870 ~~[(c) once per vehicle.]~~
2871 ~~[(5) A taxpayer may not assign a tax credit under this section to another person.]~~
2872 (3) For a taxable year beginning on or after January 1, 2019, but beginning on or before
2873 December 31, 2019, a qualifying taxpayer may claim a nonrefundable tax credit against tax
2874 otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not
2875 Required to Pay Corporate Franchise or Income Tax Act, in an amount equal to:
2876 (a) for the original purchase of a new qualifying long-range electric vehicle that is
2877 registered in this state, \$1,500;
2878 (b) for the original purchase of a new qualifying short-range electric vehicle that is
2879 registered in this state, \$1,000;
2880 (c) for the original purchase of a new qualifying electric motorcycle that is registered in
2881 this state, \$750; and
2882 (d) for a lease of a vehicle described in Subsection (3)(a), (b), or (c), an amount equal
2883 to the product of:

2884 (i) the amount of tax credit the qualifying taxpayer would otherwise qualify to claim
2885 under Subsection (3)(a), (b), or (c) had the qualifying taxpayer purchased the vehicle; and

2886 (ii) a percentage calculated by:

2887 (A) determining the difference between the value of the vehicle at the beginning of the
2888 lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as
2889 stated in the lease agreement; and

2890 (B) dividing the difference determined under Subsection (3)(d)(ii)(A) by the value of
2891 the vehicle at the beginning of the lease, as stated in the lease agreement.

2892 (4) For a taxable year beginning on or after January 1, 2020, but beginning on or before
2893 December 31, 2020, a qualifying taxpayer may claim a nonrefundable tax credit against tax
2894 otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not
2895 Required to Pay Corporate Franchise or Income Tax Act, in an amount equal to:

2896 (a) for the original purchase of a new qualifying long-range electric vehicle that is
2897 registered in this state, \$1,000;

2898 (b) for the original purchase of a new qualifying short-range electric vehicle that is
2899 registered in this state, \$750;

2900 (c) for the original purchase of a new qualifying electric motorcycle that is registered in
2901 this state, \$550; and

2902 (d) for a lease of a vehicle described in Subsection (4)(a), (b), or (c), an amount equal
2903 to the product of:

2904 (i) the amount of tax credit the qualifying taxpayer would otherwise qualify to claim
2905 under Subsection (4)(a), (b), or (c) had the qualifying taxpayer purchased the vehicle; and

2906 (ii) a percentage calculated by:

2907 (A) determining the difference between the value of the vehicle at the beginning of the
2908 lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as
2909 stated in the lease agreement; and

2910 (B) dividing the difference determined under Subsection (4)(d)(ii)(A) by the value of
2911 the vehicle at the beginning of the lease, as stated in the lease agreement.

2912 (5) For a taxable year beginning on or after January 1, 2021, but beginning on or before
2913 December 31, 2021, a qualifying taxpayer may claim a nonrefundable tax credit against tax
2914 otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not

2915 Required to Pay Corporate Franchise or Income Tax Act, in an amount equal to:
2916 (a) for the original purchase of a new qualifying long-range electric vehicle that is
2917 registered in this state, \$750;
2918 (b) for the original purchase of a new qualifying short-range electric vehicle that is
2919 registered in this state, \$500;
2920 (c) for the original purchase of a new qualifying electric motorcycle that is registered in
2921 this state, \$375; and
2922 (d) for a lease of a vehicle described in Subsection (5)(a), (b), or (c), an amount equal
2923 to the product of:
2924 (i) the amount of tax credit the qualifying taxpayer would otherwise qualify to claim
2925 under Subsection (5)(a), (b), or (c) had the qualifying taxpayer purchased the vehicle; and
2926 (ii) a percentage calculated by:
2927 (A) determining the difference between the value of the vehicle at the beginning of the
2928 lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as
2929 stated in the lease agreement; and
2930 (B) dividing the difference determined under Subsection (5)(d)(ii)(A) by the value of
2931 the vehicle at the beginning of the lease, as stated in the lease agreement.
2932 (6) For a taxable year beginning on or after January 1, 2022, but beginning on or before
2933 December 31, 2022, a qualifying taxpayer may claim a nonrefundable tax credit against tax
2934 otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not
2935 Required to Pay Corporate Franchise or Income Tax Act, in an amount equal to:
2936 (a) for the original purchase of a new qualifying long-range electric vehicle that is
2937 registered in this state, \$350;
2938 (b) for the original purchase of a new qualifying short-range electric vehicle that is
2939 registered in this state, \$150;
2940 (c) for the original purchase of a new qualifying electric motorcycle that is registered in
2941 this state, \$100; and
2942 (d) for a lease of a vehicle described in Subsection (6)(a), (b), or (c), an amount equal
2943 to the product of:
2944 (i) the amount of tax credit the qualifying taxpayer would otherwise qualify to claim
2945 under Subsection (6)(a), (b), or (c) had the qualifying taxpayer purchased the vehicle; and

2946 (ii) a percentage calculated by:
2947 (A) determining the difference between the value of the vehicle at the beginning of the
2948 lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as
2949 stated in the lease agreement; and
2950 (B) dividing the difference determined under Subsection (6)(d)(ii)(A) by the value of
2951 the vehicle at the beginning of the lease, as stated in the lease agreement.
2952 (7) (a) Except as provided in Subsection (7)(b), a qualifying taxpayer may not assign a
2953 tax credit under this section to another person.
2954 (b) A qualifying taxpayer may assign a tax credit under this section to a financing
2955 entity as follows:
2956 (i) in exchange for the consideration described in Subsection (7)(b)(iv), the qualifying
2957 taxpayer shall assign the tax credit to the financing entity and forfeit the right to claim the tax
2958 credit on the qualifying taxpayer's income tax return;
2959 (ii) the qualifying taxpayer shall assign the tax credit to the financing entity by
2960 executing an election statement described in Subsection (7)(c) at the time of the purchase or
2961 lease of a new qualifying long-range electric vehicle, a new qualifying short-range electric
2962 vehicle, or a new qualifying electric motorcycle;
2963 (iii) the qualifying taxpayer shall title and register the vehicle in the state as required by
2964 Title 41, Chapter 1a, Part 5, Titling Requirement, and Title 41, Chapter 1a, Part 2, Registration;
2965 and
2966 (iv) the financing entity shall compensate the qualifying taxpayer the applicable
2967 amount of the tax credit described in Subsection (2), (3), (4), (5), or (6) for the type of vehicle
2968 purchased or leased, except that the financing entity may collect an administrative fee equal to
2969 or less than \$150.
2970 (c) The board shall develop a model election statement on or before July 1, 2018.
2971 (8) (a) A qualifying taxpayer may claim the tax credit under this section only:
2972 (i) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain
2973 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year;
2974 and
2975 (ii) for the taxable year in which a qualifying taxpayer purchases or leases a new
2976 qualifying long-range electric vehicle, a new qualifying short-range electric vehicle, or a new

2977 qualifying electric motorcycle.

2978 (b) A financing entity may claim a tax credit assigned to the financing entity under
2979 Subsection (7)(b):

2980 (i) against a tax owed under this chapter, Chapter 8, Gross Receipts Tax on Certain
2981 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter 10,
2982 Individual Income Tax Act; and

2983 (ii) for the taxable year in which the qualifying taxpayer purchases or leases a new
2984 qualifying long-range electric vehicle, a new qualifying short-range electric vehicle, or a new
2985 qualifying electric motorcycle.

2986 (c) This section only allows one tax credit per vehicle.

2987 (9) Before claiming a tax credit under this section, a qualifying taxpayer or a financing
2988 entity described in Subsection (7)(b) shall obtain the written certification described in
2989 Subsection (10).

2990 (10) (a) The director shall:

2991 (i) verify that only one written certification is issued per vehicle;

2992 (ii) determine the amount of tax credit a qualifying taxpayer or a financing entity
2993 described in Subsection (7)(b) is allowed under this section; and

2994 (iii) provide the qualifying taxpayer or the financing entity described in Subsection
2995 (7)(b) with a written certification of the amount of tax credit allowed under this section.

2996 (b) (i) A qualifying taxpayer shall provide proof of the purchase or lease of a vehicle
2997 that qualifies for a tax credit under this section by:

2998 (A) providing proof to the director in the form established by the board;

2999 (B) obtaining a written statement from the director acknowledging receipt of the proof;

3000 and

3001 (C) retaining the written statement described in Subsection (10)(b)(i)(B) for the same
3002 time period a person is required to keep books and records under Section 59-1-1406.

3003 (ii) A financing entity shall provide proof of assignment of a tax credit for a vehicle
3004 that qualifies for a tax credit under this section by:

3005 (A) providing a copy of the election statement to the director;

3006 (B) providing proof, in the form established by the board, of the qualifying taxpayer's
3007 purchase or lease of a vehicle that qualifies for a tax credit under this section;

3008 (C) obtaining a written statement from the director acknowledging receipt of the
3009 election statement; and

3010 (D) retaining the written statement described in Subsection (10)(b)(ii)(C) for the same
3011 time period a person is required to keep books and records under Section 59-1-1406.

3012 (c) A qualifying taxpayer or a financing entity described in Subsection (7)(b) shall
3013 retain the written certification described in Subsection (10)(a)(iii).

3014 ~~[(6)]~~ (11) (a) If the amount of a tax credit claimed by a taxpayer under this section
3015 exceeds the qualifying taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts
3016 Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for
3017 a taxable year, a qualifying taxpayer may carry forward the amount of the tax credit exceeding
3018 the tax liability [may be carried forward] for a period that does not exceed the next five taxable
3019 years.

3020 (b) If the amount of a tax credit claimed by a financing entity under this section
3021 exceeds the financing entity's tax liability under this chapter, Chapter 8, Gross Receipts Tax on
3022 Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter
3023 10, Individual Income Tax Act, for a taxable year, the financing entity may carry forward the
3024 amount of the tax credit exceeding the liability for a period that does not exceed the next five
3025 taxable years.

3026 ~~[(7)]~~ (12) In accordance with any rules prescribed by the commission under Subsection
3027 ~~[(8)]~~ (13), the Division of Finance shall transfer at least annually from the General Fund into
3028 the Education Fund the amount by which the amount of tax credit claimed under this section
3029 for a fiscal year exceeds [~~\$500,000~~] \$125,000.

3030 ~~[(8)]~~ (13) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
3031 Act, the commission may make rules for making a transfer from the General Fund into the
3032 Education Fund as required by Subsection [~~(7)~~] (12).

3033 (14) (a) On or before November 30, the committee shall study the tax credit described
3034 in this section and make recommendations concerning whether the tax credit should be
3035 continued, modified, or repealed.

3036 (b) In conducting the review required under Subsection (14)(a), the committee shall:

3037 (i) schedule time on at least one committee agenda to conduct the review;

3038 (ii) invite state agencies, individuals, and organizations concerned with the tax credit

3039 under review to provide testimony:

3040 (iii) ensure that the committee's recommendations described in this section include an
3041 evaluation of:

3042 (A) the cost of the tax credit to the state;

3043 (B) the purpose and effectiveness of the tax credit; and

3044 (C) the extent to which the state benefits from the tax credit; and

3045 (iv) undertake other review efforts as determined by the committee chairs or as
3046 otherwise required by law.

3047 (c) If the committee conducts a review in accordance with Section 59-7-159, the
3048 committee need not conduct the review required by this Subsection (14).

3049 Section 32. Section **59-7-610** is amended to read:

3050 **59-7-610. Recycling market development zones tax credit.**

3051 [~~(1) For taxable years beginning on or after January 1, 1996, a business]~~

3052 (1) As used in this section:

3053 (a) "Composting" means the same as that term is defined in Section 63N-2-402.

3054 (b) "Recycling" means the same as that term is defined in Section 63N-2-402.

3055 (c) "Recycling market development zone" means the same as that term is defined in
3056 Section 63N-2-402.

3057 (2) (a) Except as provided in Subsection (5)(b), if a taxpayer operating in a recycling
3058 market development zone[~~as defined in Section 63N-2-402~~] receives a tax credit certificate in
3059 accordance with Section 63N-2-410, the taxpayer may claim a nonrefundable tax credit [as
3060 provided in this section:] for purchases of machinery and equipment that are integral to the
3061 composting or recycling process and are used directly in:

3062 ~~[(a) (i) There shall be allowed a nonrefundable tax credit of 5% of the purchase price~~
3063 ~~paid for machinery and equipment used directly in:]~~

3064 ~~[(A)]~~ (i) commercial composting; or

3065 ~~[(B)]~~ (ii) manufacturing facilities or plant units that:

3066 ~~[(1)]~~ (A) manufacture, process, compound, or produce recycled items of tangible
3067 personal property for sale; or

3068 ~~[(2)]~~ (B) reduce or reuse postconsumer waste material.

3069 (b) Subject to Subsection (4), the tax credit under this Subsection (2) is equal to the

3070 amount stated on a tax credit certificate issued in accordance with Section 63N-2-410.

3071 ~~[(ii) The Governor's Office of Economic Development shall certify that the machinery~~
3072 ~~and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling~~
3073 ~~process:]~~

3074 ~~[(A) on a form provided by the commission; and]~~

3075 ~~[(B) before a taxpayer is allowed a tax credit under this section.]~~

3076 ~~[(iii) The Governor's Office of Economic Development shall provide a taxpayer~~
3077 ~~seeking to claim a tax credit under this section with a copy of the form described in Subsection~~
3078 ~~(1)(a)(ii).]~~

3079 ~~[(iv) The taxpayer described in Subsection (1)(a)(iii) shall retain a copy of the form~~
3080 ~~received under Subsection (1)(a)(iii).]~~

3081 ~~[(b) There shall be allowed a nonrefundable tax credit equal to 20% of net expenditures~~
3082 ~~up to \$10,000 to third parties for]~~

3083 (3) (a) Except as provided in Subsection (6)(b), if a taxpayer receives a tax credit
3084 certificate in accordance with Section 63N-2-410, the taxpayer may claim a nonrefundable tax
3085 credit for expenditures to third parties for rent, wages, supplies, tools, test inventory, and
3086 utilities [made by the taxpayer] for establishing and operating recycling or composting
3087 technology in Utah[, with an annual maximum tax credit of \$2,000].

3088 (b) Subject to Subsection (4), the tax credit under this Subsection (3) is equal to the
3089 amount stated on a tax credit certificate issued in accordance with Section 63N-2-410.

3090 ~~[(2) The] (4) A taxpayer's total nonrefundable tax credit [allowed] under this section~~
3091 ~~may not exceed 40% of the taxpayer's Utah income tax liability [of the taxpayer prior to] before~~
3092 ~~the taxpayer claims any tax credits [in] for the taxable year [of purchase prior to claiming the~~
3093 ~~tax credit authorized by this section].~~

3094 ~~[(3) (a) Any tax credit not used for the taxable year in which the purchase price on~~
3095 ~~composting or recycling machinery and equipment was paid may be carried over for credit~~
3096 ~~against the business' income taxes in the three succeeding taxable years until the total tax credit~~
3097 ~~amount is used.]~~

3098 ~~[(b) Tax credits not claimed by a business on the business' state income tax return~~
3099 ~~within three years are forfeited.]~~

3100 ~~[(4) The commission shall make rules governing what information shall be filed with~~

3101 ~~the commission to verify the entitlement to and amount of a tax credit.]~~

3102 ~~[(5)(a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after~~
 3103 ~~January 1, 2001, a]~~

3104 ~~(5) (a) Except as provided in Subsection (5)(b), a taxpayer:~~

3105 ~~(i) may carry forward the amount of the tax credit described in Subsection (2) that~~
 3106 ~~exceeds the taxpayer's liability for the taxable year for the next three taxable years; and~~

3107 ~~(ii) may not carry back the amount of the tax credit described in Subsection (2) that~~
 3108 ~~exceeds the taxpayer's liability.~~

3109 ~~(b) A taxpayer may not claim or carry forward a tax credit described in Subsection~~
 3110 ~~[(1)(a)] (2) in a taxable year during which the taxpayer claims or carries forward a tax credit~~
 3111 ~~under Section 63N-2-213 or claims a tax credit under Section 63N-2-305.~~

3112 ~~[(b) For a taxable year other than a taxable year during which the taxpayer may not~~
 3113 ~~claim or carry forward a tax credit in accordance with Subsection (5)(a), a taxpayer may claim~~
 3114 ~~or carry forward a tax credit described in Subsection (1)(a):]~~

3115 ~~[(i) if the taxpayer may claim or carry forward the tax credit in accordance with~~
 3116 ~~Subsections (1) and (2); and]~~

3117 ~~[(ii) subject to Subsections (3) and (4).]~~

3118 ~~[(6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January~~
 3119 ~~1, 2001, a]~~

3120 ~~(6) (a) A taxpayer may not carry forward or carry back a tax credit described in~~
 3121 ~~Subsection (3).~~

3122 ~~(b) A taxpayer may not claim a tax credit described in Subsection [(1)(b)] (3) in a~~
 3123 ~~taxable year during which the taxpayer claims or carries forward a tax credit under Section~~
 3124 ~~63N-2-213[-(7) A taxpayer may not claim or carry forward a tax credit available under this~~
 3125 ~~section for a taxable year during which the taxpayer has claimed the targeted business income~~
 3126 ~~tax credit available] or claims a tax credit under Section 63N-2-305.~~

3127 Section 33. Section **59-7-612** is amended to read:

3128 **59-7-612. Tax credits for research activities conducted in the state -- Carry**
 3129 **forward -- Commission to report modification or repeal of certain federal provisions --**
 3130 **Revenue and Taxation Interim Committee study.**

3131 (1) (a) As used in this section:

3132 (i) "Basic research" means the same as that term is defined in Section 41(e)(7), Internal
3133 Revenue Code, except that the term includes only basic research conducted in this state.

3134 (ii) "Qualified organization" means the same as that term is defined in Section 41(e)(6),
3135 Internal Revenue Code.

3136 (iii) "Qualified research expenses" means the same as that term is defined in Section
3137 41(b), Internal Revenue Code, except that the term includes only:

3138 (A) in-house research expenses incurred in this state; and

3139 (B) contract research expenses incurred in this state.

3140 (b) Except as provided in Subsection (1)(a), a term used in this section that is defined
3141 in Section 41, Internal Revenue Code, means the same as that term is defined in Section 41,
3142 Internal Revenue Code.

3143 ~~(1)~~ (2) (a) A taxpayer meeting the requirements of this section may claim the
3144 following nonrefundable tax credits:

3145 (i) a research tax credit of 5% of the taxpayer's qualified research expenses for the
3146 current taxable year that exceed the base amount provided for under Subsection ~~(4)~~ (5);

3147 (ii) a tax credit for a payment to a qualified organization for basic research as provided
3148 in Section 41(e), Internal Revenue Code, of 5% for the current taxable year that exceed the
3149 base amount provided for under Subsection ~~(4)~~ (5); and

3150 (iii) a tax credit equal to 7.5% of the taxpayer's qualified research expenses for the
3151 current taxable year .

3152 (b) Subject to Subsection ~~(5)~~ (6), a taxpayer may claim a tax credit under:

3153 (i) Subsection ~~(1)~~ (2)(a)(i) or ~~(1)~~ (2)(a)(iii), for the taxable year for which the
3154 taxpayer incurs the qualified research expenses; or

3155 (ii) Subsection ~~(1)~~ (2)(a)(ii), for the taxable year for which the taxpayer makes the
3156 payment to the qualified organization.

3157 (c) The tax credits provided for in this section:

3158 (i) do not include the alternative incremental credit provided for in Section 41(c)(4),
3159 Internal Revenue Code~~[-]; and~~

3160 (ii) are not terminated if a credit terminates under Section 41, Internal Revenue Code.

3161 (d) (i) The commission shall develop a form for a taxpayer to calculate, in accordance
3162 with this section, the amount a taxpayer may claim for each tax credit described in this section.

3163 (ii) As a condition of claiming a tax credit under this section, a taxpayer shall complete
 3164 and submit to the commission the form described under Subsection (2)(d)(i).

3165 ~~[(2)]~~ (3) For purposes of claiming a tax credit under this section, a unitary group as that
 3166 term is defined in Section 59-7-101 is considered to be one taxpayer.

3167 ~~[(3)]~~ (4) Except as specifically provided for in this section:

3168 (a) the tax credits authorized under Subsection ~~[(1)]~~ (2) shall be calculated as provided
 3169 in Section 41, Internal Revenue Code; and

3170 (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating
 3171 the tax credits authorized under Subsection ~~[(1)]~~ (2).

3172 ~~[(4)]~~ (5) For purposes of this section~~[-(a)]~~, the base amount shall be calculated as
 3173 provided in Sections 41(c) and 41(h), Internal Revenue Code, except that:

3174 ~~[(i)]~~ (a) the base amount does not include the calculation of the alternative incremental
 3175 credit provided for in Section 41(c)(4), Internal Revenue Code;

3176 ~~[(ii)]~~ (b) a taxpayer's gross receipts include only those gross receipts attributable to
 3177 sources within this state as provided in Part 3, Allocation and Apportionment of Income - Utah
 3178 UDITPA Provisions; and

3179 ~~[(iii)]~~ (c) notwithstanding Section 41(c), Internal Revenue Code, for purposes of
 3180 calculating the base amount, a taxpayer:

3181 ~~[(A)]~~ (i) may elect to be treated as a start-up company as provided in Section
 3182 41(c)(3)(B) regardless of whether the taxpayer meets the requirements of Section
 3183 41(c)(3)(B)(i)(I) or (II); and

3184 ~~[(B)]~~ (ii) may not revoke an election to be treated as a start-up company under
 3185 Subsection ~~[(4)(a)(iii)(A);]~~ (5)(c)(i).

3186 ~~[(b) "basic research" is as defined in Section 41(c)(7), Internal Revenue Code, except~~
 3187 ~~that the term includes only basic research conducted in this state;]~~

3188 ~~[(c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except~~
 3189 ~~that the term includes only qualified research conducted in this state;]~~

3190 ~~[(d) "qualified research expenses" is as defined and calculated in Section 41(b);~~
 3191 ~~Internal Revenue Code, except that the term includes only:]~~

3192 ~~[(i) in-house research expenses incurred in this state; and]~~

3193 ~~[(ii) contract research expenses incurred in this state; and]~~

3194 ~~[(c) a tax credit provided for in this section is not terminated if a credit terminates~~
3195 ~~under Section 41, Internal Revenue Code.]~~

3196 ~~[(5)]~~ (6) (a) If the amount of a tax credit ~~[claimed by a taxpayer]~~ that a taxpayer claims
3197 under Subsection ~~[(1)]~~ (2) (a)(i) or (ii) exceeds the taxpayer's tax liability under this chapter for
3198 a taxable year, the ~~[amount of the tax credit exceeding the tax liability]~~ taxpayer:

3199 (i) may ~~[be carried forward]~~ carry forward the amount of the tax credit that exceeds the
3200 taxpayer's tax liability for a period that does not exceed the next 14 taxable years; and

3201 (ii) may not ~~[be carried back]~~ carry back the amount of the tax credit that exceeds the
3202 taxpayer's tax liability to a taxable year preceding the current taxable year.

3203 (b) A taxpayer may not carry forward or carry back the tax credit allowed by
3204 Subsection ~~[(1)]~~ (2) (a)(iii).

3205 ~~[(6)]~~ (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
3206 Act, the commission may make rules for purposes of this section prescribing a certification
3207 process for qualified organizations to ensure that amounts paid to the qualified organizations
3208 are for basic research conducted in this state.

3209 ~~[(7)]~~ (8) If a provision of Section 41, Internal Revenue Code, is modified or repealed,
3210 the commission shall provide an electronic report of the modification or repeal to the Revenue
3211 and Taxation Interim Committee within 60 days after the day on which the modification or
3212 repeal becomes effective.

3213 ~~[(8)]~~ (9) (a) The Revenue and Taxation Interim Committee shall review the tax credits
3214 provided for in this section on or before October 1 of the year after the year in which the
3215 commission reports under Subsection ~~[(7)]~~ (8) a modification or repeal of a provision of
3216 Section 41, Internal Revenue Code.

3217 (b) The review described in Subsection ~~[(8)]~~ (9) (a) is in addition to the review
3218 required by Section 59-7-159.

3219 (c) Notwithstanding Subsection ~~[(8)]~~ (9)(a), the Revenue and Taxation Interim
3220 Committee is not required to review the tax credits provided for in this section if the only
3221 modification to a provision of Section 41, Internal Revenue Code, is the extension of the
3222 termination date provided for in Section 41(h), Internal Revenue Code.

3223 (d) The Revenue and Taxation Interim Committee shall address in a review under this
3224 ~~[section]~~ Subsection (9):

3225 (i) the cost of the tax credits provided for in this section;
 3226 (ii) the purpose and effectiveness of the tax credits provided for in this section;
 3227 (iii) whether the tax credits provided for in this section benefit the state; and
 3228 (iv) whether the tax credits provided for in this section should be~~[(A)]~~ continued~~;~~
 3229 ~~(B)]~~, modified~~;~~, or ~~(C)]~~ repealed.

3230 (e) If the Revenue and Taxation Interim Committee ~~[reviews the tax credits provided~~
 3231 ~~for in this section, the committee]~~ conducts a review under this Subsection (9), the Revenue
 3232 and Taxation Interim Committee shall issue a report of the Revenue and Taxation Interim
 3233 Committee's findings.

3234 Section 34. Section **59-10-1007** is amended to read:

3235 **59-10-1007. Recycling market development zones tax credit.**

3236 ~~[(1) For taxable years beginning on or after January 1, 1996, a]~~

3237 (1) As used in this section:

3238 (a) "Composting" means the same as that term is defined in Section 63N-2-402.

3239 (b) "Recycling" means the same as that term is defined in Section 63N-2-402.

3240 (c) "Recycling market development zone" means the same as that term is defined in
 3241 Section 63N-2-402.

3242 (2) (a) Except as provided in Subsection (5)(b), if a claimant, estate, or trust in a
 3243 recycling market development zone [as defined in Section 63N-2-402] receives a tax credit
 3244 certificate in accordance with Section 63N-2-410, the claimant, estate, or trust may claim a
 3245 nonrefundable tax credit [as provided in this section.] for purchases of machinery and
 3246 equipment that are integral to the composting or recycling process and are used directly in:

3247 ~~[(a) (i) There shall be allowed a tax credit of 5% of the purchase price paid for~~
 3248 ~~machinery and equipment used directly in:]~~

3249 ~~[(A)]~~ (i) commercial composting; or

3250 ~~[(B)]~~ (ii) manufacturing facilities or plant units that:

3251 ~~[(H)]~~ (A) manufacture, process, compound, or produce recycled items of tangible
 3252 personal property for sale; or

3253 ~~[(H)]~~ (B) reduce or reuse postconsumer waste material.

3254 (b) Subject to Subsection (4), the tax credit under this Subsection (2) is equal to the
 3255 amount stated on a tax credit certificate issued in accordance with Section 63N-2-410.

3256 ~~[(ii) The Governor's Office of Economic Development shall certify that the machinery~~
 3257 ~~and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling~~
 3258 ~~process:]~~

3259 ~~[(A) on a form provided by the commission; and]~~

3260 ~~[(B) before a claimant, estate, or trust is allowed a tax credit under this section.]~~

3261 ~~[(iii) The Governor's Office of Economic Development shall provide a claimant, estate,~~
 3262 ~~or trust seeking to claim a tax credit under this section with a copy of the form described in~~
 3263 ~~Subsection (1)(a)(ii).]~~

3264 ~~[(iv) The claimant, estate, or trust described in Subsection (1)(a)(iii) shall retain a copy~~
 3265 ~~of the form received under Subsection (1)(a)(iii).]~~

3266 ~~[(b) There shall be allowed a tax credit equal to 20% of net expenditures up to \$10,000~~
 3267 ~~to third parties for]~~

3268 (3) (a) Except as provided in Subsection (6)(b), if a claimant, estate, or trust receives a
 3269 tax credit certificate in accordance with Section 63N-2-410, the claimant, estate, or trust may
 3270 claim a nonrefundable tax credit for expenditures to third parties for rent, wages, supplies,
 3271 tools, test inventory, and utilities [made by the claimant, estate, or trust] for establishing and
 3272 operating recycling or composting technology in Utah[; with an annual maximum tax credit of
 3273 \$2,000].

3274 (b) Subject to Subsection (4), the tax credit under this Subsection (3) is equal to the
 3275 amount stated on a tax credit certificate issued in accordance with Section 63N-2-410.

3276 ~~[(2) The]~~ (4) A claimant's, estate's, or trust's total tax credit [allowed] under this section
 3277 may not exceed 40% of the claimant's, estate's, or trust's Utah income tax liability [of the
 3278 claimant, estate, or trust prior to] before the claimant, estate, or trust claims any tax credits in
 3279 the taxable year [of purchase prior to claiming the tax credit authorized by this section].

3280 ~~[(3) (a) Any tax credit not used for the taxable year in which the purchase price on~~
 3281 ~~composting or recycling machinery and equipment was paid may be carried forward against the~~
 3282 ~~claimant's, estate's, or trusts's tax liability under this chapter in the three succeeding taxable~~
 3283 ~~years until the total tax credit amount is used.]~~

3284 ~~[(b) Tax credits not claimed by a claimant, estate, or trust on the claimant's, estate's, or~~
 3285 ~~trust's tax return under this chapter within three years are forfeited.]~~

3286 ~~[(4) The commission shall make rules governing what information shall be filed with~~

3287 ~~the commission to verify the entitlement to and amount of a tax credit.]~~

3288 ~~[(5)(a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after~~
 3289 ~~January 1, 2001, a]~~

3290 ~~(5) (a) Except as provided in Subsection (5)(b), a claimant, estate, or trust:~~

3291 ~~(i) may carry forward the amount of the tax credit described in Subsection (2) that~~
 3292 ~~exceeds the claimant's, estate's, or trust's tax liability for the taxable year for the next three~~
 3293 ~~taxable years; and~~

3294 ~~(ii) may not carry back the amount of the tax credit described in Subsection (2) that~~
 3295 ~~exceeds the claimant's, estate's, or trust's tax liability.~~

3296 ~~(b) A claimant, estate, or trust may not claim or carry forward a tax credit described in~~
 3297 ~~Subsection [(1)(a)] (2) in a taxable year during which the claimant, estate, or trust claims or~~
 3298 ~~carries forward a tax credit under Section 63N-2-213 or claims a tax credit under Section~~
 3299 ~~63N-2-305.~~

3300 ~~[(b) For a taxable year other than a taxable year during which the claimant, estate, or~~
 3301 ~~trust may not claim or carry forward a tax credit in accordance with Subsection (5)(a), a~~
 3302 ~~claimant, estate, or trust may claim or carry forward a tax credit described in Subsection~~
 3303 ~~(1)(a):]~~

3304 ~~[(i) if the claimant, estate, or trust may claim or carry forward the tax credit in~~
 3305 ~~accordance with Subsections (1) and (2); and]~~

3306 ~~[(ii) subject to Subsections (3) and (4).]~~

3307 ~~[(6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January~~
 3308 ~~1, 2001, a]~~

3309 ~~(6) (a) A claimant, estate, or trust may not carry forward or carry back a tax credit~~
 3310 ~~described in Subsection (3).~~

3311 ~~(b) A claimant, estate, or trust may not claim a tax credit described in Subsection~~
 3312 ~~[(1)(b)] (3) in a taxable year during which the claimant, estate, or trust claims or carries~~
 3313 ~~forward a tax credit under Section 63N-2-213[.-(7) A claimant, estate, or trust may not claim or~~
 3314 ~~carry forward a tax credit available under this section for a taxable year during which the~~
 3315 ~~claimant, estate, or trust has claimed the targeted business income tax credit available] or~~
 3316 ~~claims a tax credit under Section 63N-2-305.~~

3317 Section 35. Section **59-10-1009** is amended to read:

3318 **59-10-1009. Definitions -- Tax credits related to energy efficient vehicles.**

3319 (1) As used in this section:

3320 (a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than
3321 the standards established in bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).3322 (b) "Board" means the Air Quality Board created in Title 19, Chapter 2, Air
3323 Conservation Act.3324 (c) "Committee" means the Revenue and Taxation Interim Committee.3325 (d) "Director" means the director of the Division of Air Quality appointed under
3326 Section 19-2-107.3327 (e) "Election statement" means a document that:3328 (i) is executed by:3329 (A) a qualifying claimant, estate, or trust; and3330 (B) the financing entity, the financing entity's agent, or the financing entity's designee;3331 (ii) identifies the vehicle identification number of the vehicle that qualifies for a tax
3332 credit under this section; and3333 (iii) affirms that the requirements described in Subsection (7) have been met.3334 (f) "Financing entity" means the entity that finances the purchase or lease of a vehicle
3335 that qualifies for a tax credit under this section.3336 [~~(g)~~] (g) "OEM vehicle" means the same as that term is defined in Section 19-1-402.3337 [~~(h)~~] (h) "Original purchase" means the purchase of a vehicle that has never been titled
3338 or registered and has been driven less than 7,500 miles.3339 (i) "Qualifying claimant, estate, or trust" means a claimant, estate, or trust that:3340 (i) for a claimant, lives or lived, at the time of the purchase or lease of a vehicle
3341 described in Subsection (2), in a part of the state where air quality is determined to exceed the
3342 National Ambient Air Quality Standards, as defined in the Clean Air Amendments of 1970,
3343 Pub. L. No. 91-604, Sec. 109, for fine particulate matter (PM 2.5);3344 (ii) for an estate, had a decedent that lived, at the time of the purchase or lease of a
3345 vehicle described in Subsection (2), in a part of the state where air quality is determined to
3346 exceed the National Ambient Air Quality Standards, as defined in the Clean Air Amendments
3347 of 1970, Pub. L. No. 91-604, Sec. 109, for fine particulate matter (PM 2.5); or3348 (iii) for a trust, had a trustee that lives or lived, at the time of the purchase or lease of a

3349 vehicle described in Subsection (2), in a part of the state where air quality is determined to
 3350 exceed the National Ambient Air Quality Standards, as defined in the Clean Air Amendments
 3351 of 1970, Pub. L. No. 91-604, Sec. 109, for fine particulate matter (PM 2.5).

3352 ~~[(e)]~~ (j) "Qualifying electric motorcycle" means a vehicle that:

3353 (i) has a seat or saddle for the use of the rider;

3354 (ii) is designed to travel with not more than three wheels in contact with the ground;

3355 (iii) may lawfully be operated on a freeway, as defined in Section 41-6a-102;

3356 ~~[(iv) is not fueled by natural gas;]~~

3357 ~~[(v)]~~ (iv) is fueled by electricity only; and

3358 ~~[(vi)]~~ (v) is an OEM vehicle except that the vehicle is fueled by a fuel described in

3359 Subsection ~~[(1)(e)(v)]~~ (1)(j)(iv).

3360 ~~[(f)]~~ (k) "Qualifying long-range electric vehicle" means a vehicle that:

3361 (i) meets air quality standards;

3362 ~~[(ii) is not fueled by natural gas;]~~

3363 ~~[(iii) draws propulsion energy from]~~

3364 (ii) has a battery [with] capacity of at least 10 kilowatt hours ~~[of capacity; and];~~

3365 (iii) is fueled by electricity only; and

3366 (iv) is an OEM vehicle except that the vehicle is fueled by a fuel described in

3367 Subsection (1)~~[(f)]~~(k)(iii).

3368 ~~[(g)]~~ (l) "Qualifying ~~[plug-in hybrid]~~ short-range electric vehicle" means a vehicle that:

3369 (i) meets air quality standards;

3370 ~~[(ii) is not fueled by natural gas or propane;]~~

3371 ~~[(iii)]~~ (ii) has a battery capacity that meets or exceeds the battery capacity described in

3372 Section 30D(b)(3), Internal Revenue Code~~[-and]~~, but has less than 10 kilowatt hours of battery
 3373 capacity;

3374 ~~[(iv)]~~ (iii) is fueled by ~~[a combination of electricity and:]~~ electricity only; and

3375 ~~[(A) diesel fuel;]~~

3376 ~~[(B) gasoline; or]~~

3377 ~~[(C) a mixture of gasoline and ethanol.]~~

3378 (iv) is an OEM vehicle except that the vehicle is fueled as described in Subsection

3379 (1)(l)(iii).

3380 (2) For a taxable year beginning on or after January 1, ~~[2015]~~ 2018, but beginning on
 3381 or before December 31, ~~[2016]~~ 2018, a qualifying claimant, estate, or trust may claim a
 3382 nonrefundable tax credit against tax otherwise due under this chapter in an amount equal to:

3383 (a) ~~[(i)]~~ for the original purchase of a new qualifying long-range electric vehicle that is
 3384 registered in this state, ~~[the lesser of:]~~ \$1,500;

3385 ~~[(A) \$1,500; or]~~

3386 ~~[(B) 35% of the purchase price of the vehicle; or]~~

3387 ~~[(ii)]~~ (b) for the original purchase of a new qualifying ~~[plug-in hybrid]~~ short-range
 3388 electric vehicle that is registered in this state, \$1,000;

3389 ~~[(b) for the original purchase of a new vehicle fueled by natural gas or propane that is~~
 3390 ~~registered in this state, the lesser of:]~~

3391 ~~[(i) \$1,500; or]~~

3392 ~~[(ii) 35% of the purchase price of the vehicle;]~~

3393 (c) for the original purchase of a new qualifying electric motorcycle that is registered in
 3394 this state, ~~[the lesser of:]~~ \$750; and

3395 ~~[(i) \$750; or]~~

3396 ~~[(ii) 35% of the purchase price of the vehicle; and]~~

3397 (d) for a lease of a vehicle described in Subsection (2)(a), (b), or (c), an amount equal
 3398 to the product of:

3399 (i) the amount of tax credit the qualifying claimant, estate, or trust would otherwise
 3400 qualify to claim under Subsection (2)(a), (b), or (c) had the qualifying claimant, estate, or trust
 3401 purchased the vehicle~~[-except that the purchase price described in Subsection (2)(a)(i)(B);~~
 3402 ~~(2)(b)(ii), or (2)(c)(ii) is considered to be the value of the vehicle at the beginning of the lease];~~
 3403 and

3404 (ii) a percentage calculated by:

3405 (A) determining the difference between the value of the vehicle at the beginning of the
 3406 lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as
 3407 stated in the lease agreement; and

3408 (B) dividing the difference determined under Subsection (2)(d)(ii)(A) by the value of
 3409 the vehicle at the beginning of the lease, as stated in the lease agreement.

3410 ~~[(3)(a) The board shall:]~~

3411 ~~[(i) determine the amount of tax credit a claimant, estate, or trust is allowed under this~~
3412 ~~section; and]~~

3413 ~~[(ii) provide the claimant, estate, or trust with a written certification of the amount of~~
3414 ~~tax credit the claimant, estate, or trust is allowed under this section.]~~

3415 ~~[(b) A claimant, estate, or trust shall provide proof of the purchase or lease of an item~~
3416 ~~for which a tax credit is allowed under this section by:]~~

3417 ~~[(i) providing proof to the board in the form the board requires by rule;]~~

3418 ~~[(ii) receiving a written statement from the board acknowledging receipt of the proof;~~
3419 ~~and]~~

3420 ~~[(iii) retaining the written statement described in Subsection (3)(b)(ii).]~~

3421 ~~[(c) A claimant, estate, or trust shall retain the written certification described in~~
3422 ~~Subsection (3)(a)(ii).]~~

3423 ~~[(4) Except as provided by Subsection (5), the tax credit under this section is allowed~~
3424 ~~only:]~~

3425 ~~[(a) against a tax owed under this chapter in the taxable year by the claimant, estate, or~~
3426 ~~trust;]~~

3427 ~~[(b) for the taxable year in which a vehicle described in Subsection (2)(a), (b), or (c) is~~
3428 ~~purchased or a vehicle described in Subsection (2)(d) is leased; and]~~

3429 ~~[(c) once per vehicle.]~~

3430 ~~[(5) A claimant, estate, or trust may not assign a tax credit under this section to another~~
3431 ~~person.]~~

3432 (3) For a taxable year beginning on or after January 1, 2019, but beginning on or before
3433 December 31, 2019, a qualifying claimant, estate, or trust may claim a nonrefundable tax credit
3434 against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain
3435 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in an amount equal
3436 to:

3437 (a) for the original purchase of a new qualifying long-range electric vehicle that is
3438 registered in this state, \$1,500;

3439 (b) for the original purchase of a new qualifying short-range electric vehicle that is
3440 registered in this state, \$1,000;

3441 (c) for the original purchase of a new qualifying electric motorcycle that is registered in

3442 this state, \$750; and

3443 (d) for a lease of a vehicle described in Subsection (3)(a), (b), or (c), an amount equal

3444 to the product of:

3445 (i) the amount of tax credit the qualifying claimant, estate, or trust would otherwise

3446 qualify to claim under Subsection (3)(a), (b), or (c) had the qualifying claimant, estate, or trust

3447 purchased the vehicle; and

3448 (ii) a percentage calculated by:

3449 (A) determining the difference between the value of the vehicle at the beginning of the

3450 lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as

3451 stated in the lease agreement; and

3452 (B) dividing the difference determined under Subsection (3)(d)(ii)(A) by the value of

3453 the vehicle at the beginning of the lease, as stated in the lease agreement.

3454 (4) For a taxable year beginning on or after January 1, 2020, but beginning on or before

3455 December 31, 2020, a qualifying claimant, estate, or trust may claim a nonrefundable tax credit

3456 against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain

3457 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in an amount equal

3458 to:

3459 (a) for the original purchase of a new qualifying long-range electric vehicle that is

3460 registered in this state, \$1,000;

3461 (b) for the original purchase of a new qualifying short-range electric vehicle that is

3462 registered in this state, \$750;

3463 (c) for the original purchase of a new qualifying electric motorcycle that is registered in

3464 this state, \$550; and

3465 (d) for a lease of a vehicle described in Subsection (4)(a), (b), or (c), an amount equal

3466 to the product of:

3467 (i) the amount of tax credit the qualifying claimant, estate, or trust would otherwise

3468 qualify to claim under Subsection (4)(a), (b), or (c) had the qualifying claimant, estate, or trust

3469 purchased the vehicle; and

3470 (ii) a percentage calculated by:

3471 (A) determining the difference between the value of the vehicle at the beginning of the

3472 lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as

3473 stated in the lease agreement; and

3474 (B) dividing the difference determined under Subsection (4)(d)(ii)(A) by the value of
3475 the vehicle at the beginning of the lease, as stated in the lease agreement.

3476 (5) For a taxable year beginning on or after January 1, 2021, but beginning on or before
3477 December 31, 2021, a qualifying claimant, estate, or trust may claim a nonrefundable tax credit
3478 against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain
3479 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in an amount equal
3480 to:

3481 (a) for the original purchase of a new qualifying long-range electric vehicle that is
3482 registered in this state, \$750;

3483 (b) for the original purchase of a new qualifying short-range electric vehicle that is
3484 registered in this state, \$500;

3485 (c) for the original purchase of a new qualifying electric motorcycle that is registered in
3486 this state, \$375; and

3487 (d) for a lease of a vehicle described in Subsection (5)(a), (b), or (c), an amount equal
3488 to the product of:

3489 (i) the amount of tax credit the qualifying claimant, estate, or trust would otherwise
3490 qualify to claim under Subsection (5)(a), (b), or (c) had the qualifying claimant, estate, or trust
3491 purchased the vehicle; and

3492 (ii) a percentage calculated by:

3493 (A) determining the difference between the value of the vehicle at the beginning of the
3494 lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as
3495 stated in the lease agreement; and

3496 (B) dividing the difference determined under Subsection (5)(d)(ii)(A) by the value of
3497 the vehicle at the beginning of the lease, as stated in the lease agreement.

3498 (6) For a taxable year beginning on or after January 1, 2022, but beginning on or before
3499 December 31, 2022, a qualifying claimant, estate, or trust may claim a nonrefundable tax credit
3500 against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain
3501 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in an amount equal
3502 to:

3503 (a) for the original purchase of a new qualifying long-range electric vehicle that is

3504 registered in this state, \$350;

3505 (b) for the original purchase of a new qualifying short-range electric vehicle that is
3506 registered in this state, \$150;

3507 (c) for the original purchase of a new qualifying electric motorcycle that is registered in
3508 this state, \$100; and

3509 (d) for a lease of a vehicle described in Subsection (6)(a), (b), or (c), an amount equal
3510 to the product of:

3511 (i) the amount of tax credit the qualifying claimant, estate, or trust would otherwise
3512 qualify to claim under Subsection (6)(a), (b), or (c) had the qualifying claimant, estate, or trust
3513 purchased the vehicle; and

3514 (ii) a percentage calculated by:

3515 (A) determining the difference between the value of the vehicle at the beginning of the
3516 lease, as stated in the lease agreement, and the value of the vehicle at the end of the lease, as
3517 stated in the lease agreement; and

3518 (B) dividing the difference determined under Subsection (6)(d)(ii)(A) by the value of
3519 the vehicle at the beginning of the lease, as stated in the lease agreement.

3520 (7) (a) Except as provided in Subsection (7)(b), a qualifying claimant, estate, or trust
3521 may not assign a tax credit under this section to another person.

3522 (b) A qualifying claimant, estate, or trust may assign a tax credit under this section to a
3523 financing entity as follows:

3524 (i) in exchange for the consideration described in Subsection (7)(b)(iv), the qualifying
3525 claimant, estate, or trust shall assign the tax credit to the financing entity and forfeit the right to
3526 claim the tax credit on the qualifying claimant's, estate's, or trust's income tax return;

3527 (ii) the qualifying claimant, estate, or trust shall assign the tax credit to the financing
3528 entity by executing an election statement described in Subsection (7)(c) at the time of the
3529 purchase or lease of a new qualifying long-range electric vehicle, a new qualifying short-range
3530 electric vehicle, or a new qualifying electric motorcycle;

3531 (iii) the qualifying claimant, estate, or trust shall title and register the vehicle in the
3532 state as required by Title 41, Chapter 1a, Part 5, Titling Requirement, and Title 41, Chapter 1a,
3533 Part 2, Registration; and

3534 (iv) the financing entity shall compensate the qualifying claimant, estate, or trust the

3535 applicable amount of the tax credit described in Subsection (2), (3), (4), (5), or (6) for the type
3536 of vehicle purchased or leased, except that the financing entity may collect an administrative
3537 fee equal to or less than \$150.

3538 (c) The board shall develop a model election statement on or before July 1, 2018.

3539 (8) (a) A qualifying claimant, estate, or trust may claim the tax credit under this section
3540 only:

3541 (i) against a tax owed under this chapter; and

3542 (ii) for the taxable year in which a qualifying claimant, estate, or trust purchases or
3543 leases a new qualifying long-range electric vehicle, a new qualifying short-range electric
3544 vehicle, or a new qualifying electric motorcycle.

3545 (b) A financing entity may claim a tax credit assigned to the financing entity under
3546 Subsection (7)(b):

3547 (i) against a tax owed under this chapter, Chapter 7, Corporate Franchise and Income
3548 Taxes, or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay
3549 Corporate Franchise or Income Tax Act; and

3550 (ii) for the taxable year in which the qualifying claimant, estate, or trust purchases or
3551 leases a new qualifying long-range electric vehicle, a new qualifying short-range electric
3552 vehicle, or a new qualifying electric motorcycle.

3553 (c) This section only allows one tax credit per vehicle.

3554 (9) Before claiming a tax credit under this section, a qualifying claimant, estate, or trust
3555 or the financing entity described in Subsection (7)(b) shall obtain the written certification
3556 described in Subsection (10).

3557 (10) (a) The director shall:

3558 (i) verify that only one written certification is issued per vehicle;

3559 (ii) determine the amount of tax credit a qualifying claimant, estate, or trust or a
3560 financing entity described in Subsection (7)(b) is allowed under this section; and

3561 (iii) provide the qualifying claimant, estate, or trust or financing entity described in
3562 Subsection (7)(b) with a written certification of the amount of tax credit allowed under this
3563 section.

3564 (b) (i) A qualifying claimant, estate, or trust shall provide proof of the purchase or lease
3565 of a vehicle that qualifies for a tax credit under this section by:

3566 (A) providing proof to the director in the form established by the board;
3567 (B) obtaining a written statement from the director acknowledging receipt of the proof;
3568 and
3569 (C) retaining the written statement described in Subsection (10)(b)(i)(B) for the same
3570 time period a person is required to keep books and records under Section 59-1-1406.
3571 (ii) A financing entity shall provide proof of assignment of a tax credit for a vehicle
3572 that qualifies for a tax credit under this section by:
3573 (A) providing a copy of the election statement to the director;
3574 (B) providing proof, in the form established by the board, of the qualifying claimant's,
3575 estate's, or trust's purchase or lease of a vehicle that qualifies for a tax credit under this section;
3576 (C) obtaining a written statement from the director acknowledging receipt of the
3577 election statement; and
3578 (D) retaining the written statement described in Subsection (10)(b)(ii)(C) for the same
3579 time period a person is required to keep books and records under Section 59-1-1406.
3580 (c) A qualifying claimant, estate, or trust or a financing entity described in Subsection
3581 (7)(b) shall retain the written certification described in Subsection (10)(a)(iii).
3582 ~~[(6)]~~ (11) (a) If the amount of a tax credit claimed by a qualifying claimant, estate, or
3583 trust under this section exceeds the qualifying claimant's, estate's, or trust's tax liability under
3584 this chapter for a taxable year, the qualifying claimant, estate, or trust may carry forward the
3585 amount of the tax credit exceeding the tax liability [may be carried forward] for a period that
3586 does not exceed the next five taxable years.
3587 (b) If the amount of a tax credit claimed by a financing entity under this section
3588 exceeds the financing entity's tax liability under this chapter, Chapter 7, Corporate Franchise
3589 and Income Taxes, or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to
3590 Pay Corporate Franchise or Income Tax Act, for a taxable year, the financing entity may carry
3591 forward the amount of the tax credit exceeding the tax liability for a period that does not
3592 exceed the next five taxable years.
3593 ~~[(7)]~~ (12) In accordance with any rules prescribed by the commission under Subsection
3594 ~~[(8)]~~ (13), the Division of Finance shall transfer at least annually from the General Fund into
3595 the Education Fund the amount by which the amount of tax credit claimed under this section
3596 for a fiscal year exceeds [\$500,000] \$125,000.

3597 ~~[(8)]~~ (13) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
3598 Act, the commission may make rules for making a transfer from the General Fund into the
3599 Education Fund as required by Subsection ~~[(7)]~~ 12.

3600 (14) (a) On or before November 30, the committee shall study the tax credit described
3601 in this section and make recommendations concerning whether the tax credit should be
3602 continued, modified, or repealed.

3603 (b) In conducting the review required under Subsection (14)(a), the committee shall:

3604 (i) schedule time on at least one committee agenda to conduct the review;

3605 (ii) invite state agencies, individuals, and organizations concerned with the tax credit
3606 under review to provide testimony;

3607 (iii) ensure that the committee's recommendations described in this section include an
3608 evaluation of:

3609 (A) the cost of the tax credit to the state;

3610 (B) the purpose and effectiveness of the tax credit; and

3611 (C) the extent to which the state benefits from the tax credit; and

3612 (iv) undertake other review efforts as determined by the committee chairs or as
3613 otherwise required by law.

3614 (c) If the committee conducts a review in accordance with Section 59-10-137, the
3615 committee need not conduct the review required by this Subsection (14).

3616 Section 36. Section **59-10-1012** is amended to read:

3617 **59-10-1012. Tax credits for research activities conducted in the state -- Carry**
3618 **forward -- Commission to report modification or repeal of certain federal provisions --**
3619 **Revenue and Taxation Interim Committee study.**

3620 (1) (a) As used in this section:

3621 (i) "Basic research" means the same as that term is defined in Section 41(e)(7), Internal
3622 Revenue Code, except that the term includes only basic research conducted in this state.

3623 (ii) "Qualified organization" means the same as that term is defined in Section 41(e)(6),
3624 Internal Revenue Code.

3625 (iii) "Qualified research expenses" means the same as that term is defined in Section
3626 41(b), Internal Revenue Code, except that the term includes only:

3627 (A) in-house research expenses incurred in this state; and

3628 (B) contract research expenses incurred in this state.

3629 (b) Except as provided in Subsection (1)(a), a term used in this section that is defined
 3630 in Section 41, Internal Revenue Code, means the same as that term is defined in Section 41,
 3631 Internal Revenue Code.

3632 ~~[(1)]~~ (2) (a) A claimant, estate, or trust meeting the requirements of this section may
 3633 claim the following nonrefundable tax credits:

3634 (i) a research tax credit of 5% of the claimant's, estate's, or trust's qualified research
 3635 expenses for the current taxable year that exceed the base amount provided for under
 3636 Subsection ~~[(3)]~~ (4);

3637 (ii) a tax credit for a payment to a qualified organization for basic research as provided
 3638 in Section 41(e), Internal Revenue Code of 5% for the current taxable year that exceed the base
 3639 amount provided for under Subsection ~~[(3)]~~ (4); and

3640 (iii) a tax credit equal to 7.5% of the claimant's, estate's, or trust's qualified research
 3641 expenses for the current taxable year .

3642 (b) Subject to Subsection ~~[(4)]~~ (5), a claimant, estate, or trust may claim a tax credit
 3643 under:

3644 (i) Subsection ~~[(1)]~~ (2)(a)(i) or ~~[(1)]~~ (2)(a)(iii), for the taxable year for which the
 3645 claimant, estate, or trust incurs the qualified research expenses; or

3646 (ii) Subsection ~~[(1)]~~ (2)(a)(ii), for the taxable year for which the claimant, estate, or
 3647 trust makes the payment to the qualified organization.

3648 (c) The tax credits provided for in this section:

3649 (i) do not include the alternative incremental credit provided for in Section 41(c)(4),
 3650 Internal Revenue Code[-]; and

3651 (ii) are not terminated if a credit terminates under Section 41, Internal Revenue Code.

3652 (d) (i) The commission shall develop a form for a claimant, estate, or trust to calculate,
 3653 in accordance with this section, the amount a claimant, estate, or trust may claim for each tax
 3654 credit described in this section.

3655 (ii) As a condition of claiming a tax credit under this section, a claimant, estate, or trust
 3656 shall complete and submit to the commission the form described under Subsection (2)(d)(i).

3657 ~~[(2)]~~ (3) Except as specifically provided for in this section:

3658 (a) the tax credits authorized under Subsection ~~[(1)]~~ (2) shall be calculated as provided

3659 in Section 41, Internal Revenue Code; and

3660 (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating
3661 the tax credits authorized under Subsection ~~[(1)]~~ (2).

3662 ~~[(3)]~~ (4) For purposes of this section~~[(a)]~~, the base amount shall be calculated as
3663 provided in Sections 41(c) and 41(h), Internal Revenue Code, except that:

3664 ~~[(i)]~~ (a) the base amount does not include the calculation of the alternative incremental
3665 credit provided for in Section 41(c)(4), Internal Revenue Code;

3666 ~~[(ii)]~~ (b) a claimant's, estate's, or trust's gross receipts include only those gross receipts
3667 attributable to sources within this state as provided in Section 59-10-118; and

3668 ~~[(iii)]~~ (c) notwithstanding Section 41(c), Internal Revenue Code, for purposes of
3669 calculating the base amount, a claimant, estate, or trust:

3670 ~~[(A)]~~ (i) may elect to be treated as a start-up company as provided in Section
3671 41(c)(3)(B), Internal Revenue Code, regardless of whether the claimant, estate, or trust meets
3672 the requirements of Section 41(c)(3)(B)(i)(I) or (II), Internal Revenue Code; and

3673 ~~[(B)]~~ (ii) may not revoke an election to be treated as a start-up company under
3674 Subsection ~~[(3)(a)(iii)(A);]~~ (4)(c)(i).

3675 ~~[(b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except
3676 that the term includes only basic research conducted in this state;]~~

3677 ~~[(c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except
3678 that the term includes only qualified research conducted in this state;]~~

3679 ~~[(d) "qualified research expenses" is as defined and calculated in Section 41(b),
3680 Internal Revenue Code, except that the term includes only:]~~

3681 ~~[(i) in-house research expenses incurred in this state; and]~~

3682 ~~[(ii) contract research expenses incurred in this state; and]~~

3683 ~~[(e) a tax credit provided for in this section is not terminated if a credit terminates
3684 under Section 41, Internal Revenue Code.]~~

3685 ~~[(4)]~~ (5) (a) If the amount of a tax credit ~~[claimed by a claimant, estate, or trust]~~ that a
3686 claimant, estate, or trust claims under Subsection ~~[(1)]~~ (2)(a)(i) or (ii) exceeds the claimant's,
3687 estate's, or trust's tax liability under this chapter for a taxable year, the ~~[amount of the tax credit~~
3688 ~~exceeding the tax liability]~~ claimant, estate, or trust:

3689 (i) may ~~[be carried forward]~~ carry forward the amount of the tax credit that exceeds the

3690 claimant, estate, or trust's tax liability for a period that does not exceed the next 14 taxable
3691 years; and

3692 (ii) may not ~~[be carried back]~~ carry forward the amount of the tax credit that exceeds
3693 the claimant, estate, or trust's tax liability to a taxable year preceding the current taxable year.

3694 (b) A claimant, estate, or trust may not carry forward or carry back the tax credit
3695 allowed by Subsection ~~[(+)]~~ (2)(a)(iii).

3696 ~~[(5)]~~ (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
3697 Act, the commission may make rules for purposes of this section prescribing a certification
3698 process for qualified organizations to ensure that amounts paid to the qualified organizations
3699 are for basic research conducted in this state.

3700 ~~[(6)]~~ (7) If a provision of Section 41, Internal Revenue Code, is modified or repealed,
3701 the commission shall report the modification or repeal by electronic means to the Revenue and
3702 Taxation Interim Committee within 60 days after the day on which the modification or repeal
3703 becomes effective.

3704 ~~[(7)]~~ (8) (a) The Revenue and Taxation Interim Committee shall review the tax credits
3705 provided for in this section on or before October 1 of the year after the year in which the
3706 commission reports under Subsection ~~[(6)]~~ (7) a modification or repeal of a provision of
3707 Section 41, Internal Revenue Code.

3708 (b) The review described in Subsection ~~[(7)]~~ (8)(a) is in addition to the review required
3709 by Section 59-10-137.

3710 (c) Notwithstanding Subsection ~~[(7)]~~ (8)(a), the Revenue and Taxation Interim
3711 Committee is not required to review the tax credits provided for in this section if the only
3712 modification to a provision of Section 41, Internal Revenue Code, is the extension of the
3713 termination date provided for in Section 41(h), Internal Revenue Code.

3714 (d) The Revenue and Taxation Interim Committee shall address in a review under this
3715 ~~[section]~~ Subsection (8):

3716 (i) the cost of the tax credits provided for in this section;

3717 (ii) the purpose and effectiveness of the tax credits provided for in this section;

3718 (iii) whether the tax credits provided for in this section benefit the state; and

3719 (iv) whether the tax credits provided for in this section should be ~~[-(A)]~~ continued[;

3720 ~~(B)]~~, modified[;], or ~~[(C)]~~ repealed.

3721 (e) If the Revenue and Taxation Interim Committee [~~reviews the tax credits provided~~
3722 ~~for in this section, the committee~~] conducts a review under this Subsection (8), the Revenue
3723 and Taxation Interim Committee shall issue a report of the Revenue and Taxation Interim
3724 Committee's findings.

3725 Section 37. Section **59-12-102** is amended to read:

3726 **59-12-102. Definitions.**

3727 As used in this chapter:

3728 (1) "800 service" means a telecommunications service that:

3729 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

3730 (b) is typically marketed:

3731 (i) under the name 800 toll-free calling;

3732 (ii) under the name 855 toll-free calling;

3733 (iii) under the name 866 toll-free calling;

3734 (iv) under the name 877 toll-free calling;

3735 (v) under the name 888 toll-free calling; or

3736 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
3737 Federal Communications Commission.

3738 (2) (a) "900 service" means an inbound toll telecommunications service that:

3739 (i) a subscriber purchases;

3740 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
3741 the subscriber's:

3742 (A) prerecorded announcement; or

3743 (B) live service; and

3744 (iii) is typically marketed:

3745 (A) under the name 900 service; or

3746 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
3747 Communications Commission.

3748 (b) "900 service" does not include a charge for:

3749 (i) a collection service a seller of a telecommunications service provides to a
3750 subscriber; or

3751 (ii) the following a subscriber sells to the subscriber's customer:

- 3752 (A) a product; or
3753 (B) a service.
- 3754 (3) (a) "Admission or user fees" includes season passes.
3755 (b) "Admission or user fees" does not include annual membership dues to private
3756 organizations.
- 3757 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
3758 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
3759 Agreement after November 12, 2002.
- 3760 (5) "Agreement combined tax rate" means the sum of the tax rates:
3761 (a) listed under Subsection (6); and
3762 (b) that are imposed within a local taxing jurisdiction.
- 3763 (6) "Agreement sales and use tax" means a tax imposed under:
3764 (a) Subsection 59-12-103(2)(a)(i)(A);
3765 (b) Subsection 59-12-103(2)(b)(i);
3766 (c) Subsection 59-12-103(2)(c)(i);
3767 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
3768 (e) Section 59-12-204;
3769 (f) Section 59-12-401;
3770 (g) Section 59-12-402;
3771 (h) Section 59-12-402.1;
3772 (i) Section 59-12-703;
3773 (j) Section 59-12-802;
3774 (k) Section 59-12-804;
3775 (l) Section 59-12-1102;
3776 (m) Section 59-12-1302;
3777 (n) Section 59-12-1402;
3778 (o) Section 59-12-1802;
3779 (p) Section 59-12-2003;
3780 (q) Section 59-12-2103;
3781 (r) Section 59-12-2213;
3782 (s) Section 59-12-2214;

- 3783 (t) Section 59-12-2215;
- 3784 (u) Section 59-12-2216;
- 3785 (v) Section 59-12-2217;
- 3786 (w) Section 59-12-2218; or
- 3787 (x) Section 59-12-2219.
- 3788 (7) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 3789 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 3790 (a) except for:
- 3791 (i) an airline as defined in Section 59-2-102; or
- 3792 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 3793 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 3794 state, of an airline; and
- 3795 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 3796 whether the business entity performs the following in this state:
- 3797 (i) check, diagnose, overhaul, and repair:
- 3798 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 3799 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 3800 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 3801 engine;
- 3802 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 3803 aircraft:
- 3804 (A) an inspection;
- 3805 (B) a repair, including a structural repair or modification;
- 3806 (C) changing landing gear; and
- 3807 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 3808 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 3809 completely apply new paint to the fixed wing turbine powered aircraft; and
- 3810 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 3811 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 3812 authority that certifies the fixed wing turbine powered aircraft.
- 3813 (9) "Alcoholic beverage" means a beverage that:

- 3814 (a) is suitable for human consumption; and
3815 (b) contains .5% or more alcohol by volume.
- 3816 (10) "Alternative energy" means:
3817 (a) biomass energy;
3818 (b) geothermal energy;
3819 (c) hydroelectric energy;
3820 (d) solar energy;
3821 (e) wind energy; or
3822 (f) energy that is derived from:
3823 (i) coal-to-liquids;
3824 (ii) nuclear fuel;
3825 (iii) oil-impregnated diatomaceous earth;
3826 (iv) oil sands;
3827 (v) oil shale;
3828 (vi) petroleum coke; or
3829 (vii) waste heat from:
3830 (A) an industrial facility; or
3831 (B) a power station in which an electric generator is driven through a process in which
3832 water is heated, turns into steam, and spins a steam turbine.
- 3833 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
3834 facility" means a facility that:
3835 (i) uses alternative energy to produce electricity; and
3836 (ii) has a production capacity of two megawatts or greater.
- 3837 (b) A facility is an alternative energy electricity production facility regardless of
3838 whether the facility is:
3839 (i) connected to an electric grid; or
3840 (ii) located on the premises of an electricity consumer.
- 3841 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
3842 provision of telecommunications service.
- 3843 (b) "Ancillary service" includes:
3844 (i) a conference bridging service;

3845 (ii) a detailed communications billing service;

3846 (iii) directory assistance;

3847 (iv) a vertical service; or

3848 (v) a voice mail service.

3849 (13) "Area agency on aging" means the same as that term is defined in Section

3850 62A-3-101.

3851 [~~(14)~~ "Assisted amusement device" means an amusement device, skill device, or ride
3852 device that is started and stopped by an individual:]

3853 [~~(a) who is not the purchaser or renter of the right to use or operate the amusement
3854 device, skill device, or ride device; and]~~

3855 [~~(b) at the direction of the seller of the right to use the amusement device, skill device,
3856 or ride device.~~]

3857 [~~(15)~~ (14) "Assisted cleaning or washing of tangible personal property" means
3858 cleaning or washing of tangible personal property if the cleaning or washing labor is primarily
3859 performed by an individual:

3860 (a) who is not the purchaser of the cleaning or washing of the tangible personal
3861 property; and

3862 (b) at the direction of the seller of the cleaning or washing of the tangible personal
3863 property.

3864 [~~(16)~~ (15) "Authorized carrier" means:

3865 (a) in the case of vehicles operated over public highways, the holder of credentials
3866 indicating that the vehicle is or will be operated pursuant to both the International Registration
3867 Plan and the International Fuel Tax Agreement;

3868 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
3869 certificate or air carrier's operating certificate; or

3870 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
3871 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
3872 stock in more than one state.

3873 [~~(17)~~ (16) (a) Except as provided in Subsection [~~(17)~~ (16)(b), "biomass energy"
3874 means any of the following that is used as the primary source of energy to produce fuel or
3875 electricity:

- 3876 (i) material from a plant or tree; or
- 3877 (ii) other organic matter that is available on a renewable basis, including:
- 3878 (A) slash and brush from forests and woodlands;
- 3879 (B) animal waste;
- 3880 (C) waste vegetable oil;
- 3881 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
- 3882 wastewater residuals, or through the conversion of a waste material through a nonincineration,
- 3883 thermal conversion process;
- 3884 (E) aquatic plants; and
- 3885 (F) agricultural products.
- 3886 (b) "Biomass energy" does not include:
- 3887 (i) black liquor; or
- 3888 (ii) treated woods.
- 3889 [~~(18)~~] (17) (a) "Bundled transaction" means the sale of two or more items of tangible
- 3890 personal property, products, or services if the tangible personal property, products, or services
- 3891 are:
- 3892 (i) distinct and identifiable; and
- 3893 (ii) sold for one nonitemized price.
- 3894 (b) "Bundled transaction" does not include:
- 3895 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 3896 the basis of the selection by the purchaser of the items of tangible personal property included in
- 3897 the transaction;
- 3898 (ii) the sale of real property;
- 3899 (iii) the sale of services to real property;
- 3900 (iv) the retail sale of tangible personal property and a service if:
- 3901 (A) the tangible personal property:
- 3902 (I) is essential to the use of the service; and
- 3903 (II) is provided exclusively in connection with the service; and
- 3904 (B) the service is the true object of the transaction;
- 3905 (v) the retail sale of two services if:
- 3906 (A) one service is provided that is essential to the use or receipt of a second service;

- 3907 (B) the first service is provided exclusively in connection with the second service; and
3908 (C) the second service is the true object of the transaction;
- 3909 (vi) a transaction that includes tangible personal property or a product subject to
3910 taxation under this chapter and tangible personal property or a product that is not subject to
3911 taxation under this chapter if the:
- 3912 (A) seller's purchase price of the tangible personal property or product subject to
3913 taxation under this chapter is de minimis; or
- 3914 (B) seller's sales price of the tangible personal property or product subject to taxation
3915 under this chapter is de minimis; and
- 3916 (vii) the retail sale of tangible personal property that is not subject to taxation under
3917 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 3918 (A) that retail sale includes:
- 3919 (I) food and food ingredients;
- 3920 (II) a drug;
- 3921 (III) durable medical equipment;
- 3922 (IV) mobility enhancing equipment;
- 3923 (V) an over-the-counter drug;
- 3924 (VI) a prosthetic device; or
- 3925 (VII) a medical supply; and
- 3926 (B) subject to Subsection [~~(18)~~] (17)(f):
- 3927 (I) the seller's purchase price of the tangible personal property subject to taxation under
3928 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 3929 (II) the seller's sales price of the tangible personal property subject to taxation under
3930 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 3931 (c) (i) For purposes of Subsection [~~(18)~~] (17)(a)(i), tangible personal property, a
3932 product, or a service that is distinct and identifiable does not include:
- 3933 (A) packaging that:
- 3934 (I) accompanies the sale of the tangible personal property, product, or service; and
3935 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
3936 service;
- 3937 (B) tangible personal property, a product, or a service provided free of charge with the

3938 purchase of another item of tangible personal property, a product, or a service; or

3939 (C) an item of tangible personal property, a product, or a service included in the
3940 definition of "purchase price."

3941 (ii) For purposes of Subsection [~~(18)~~] (17)(c)(i)(B), an item of tangible personal
3942 property, a product, or a service is provided free of charge with the purchase of another item of
3943 tangible personal property, a product, or a service if the sales price of the purchased item of
3944 tangible personal property, product, or service does not vary depending on the inclusion of the
3945 tangible personal property, product, or service provided free of charge.

3946 (d) (i) For purposes of Subsection [~~(18)~~] (17)(a)(ii), property sold for one nonitemized
3947 price does not include a price that is separately identified by tangible personal property,
3948 product, or service on the following, regardless of whether the following is in paper format or
3949 electronic format:

3950 (A) a binding sales document; or

3951 (B) another supporting sales-related document that is available to a purchaser.

3952 (ii) For purposes of Subsection [~~(18)~~] (17)(d)(i), a binding sales document or another
3953 supporting sales-related document that is available to a purchaser includes:

3954 (A) a bill of sale;

3955 (B) a contract;

3956 (C) an invoice;

3957 (D) a lease agreement;

3958 (E) a periodic notice of rates and services;

3959 (F) a price list;

3960 (G) a rate card;

3961 (H) a receipt; or

3962 (I) a service agreement.

3963 (e) (i) For purposes of Subsection [~~(18)~~] (17)(b)(vi), the sales price of tangible personal
3964 property or a product subject to taxation under this chapter is de minimis if:

3965 (A) the seller's purchase price of the tangible personal property or product is 10% or
3966 less of the seller's total purchase price of the bundled transaction; or

3967 (B) the seller's sales price of the tangible personal property or product is 10% or less of
3968 the seller's total sales price of the bundled transaction.

3969 (ii) For purposes of Subsection [~~(18)~~] (17)(b)(vi), a seller:

3970 (A) shall use the seller's purchase price or the seller's sales price to determine if the
3971 purchase price or sales price of the tangible personal property or product subject to taxation
3972 under this chapter is de minimis; and

3973 (B) may not use a combination of the seller's purchase price and the seller's sales price
3974 to determine if the purchase price or sales price of the tangible personal property or product
3975 subject to taxation under this chapter is de minimis.

3976 (iii) For purposes of Subsection [~~(18)~~] (17)(b)(vi), a seller shall use the full term of a
3977 service contract to determine if the sales price of tangible personal property or a product is de
3978 minimis.

3979 (f) For purposes of Subsection [~~(18)~~] (17)(b)(vii)(B), a seller may not use a
3980 combination of the seller's purchase price and the seller's sales price to determine if tangible
3981 personal property subject to taxation under this chapter is 50% or less of the seller's total
3982 purchase price or sales price of that retail sale.

3983 [~~(19)~~] (18) "Certified automated system" means software certified by the governing
3984 board of the agreement that:

3985 (a) calculates the agreement sales and use tax imposed within a local taxing
3986 jurisdiction:

3987 (i) on a transaction; and

3988 (ii) in the states that are members of the agreement;

3989 (b) determines the amount of agreement sales and use tax to remit to a state that is a
3990 member of the agreement; and

3991 (c) maintains a record of the transaction described in Subsection [~~(19)~~] (18)(a)(i).

3992 [~~(20)~~] (19) "Certified service provider" means an agent certified:

3993 (a) by the governing board of the agreement; and

3994 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
3995 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
3996 own purchases.

3997 [~~(21)~~] (20) (a) Subject to Subsection [~~(21)~~] (20)(b), "clothing" means all human
3998 wearing apparel suitable for general use.

3999 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

4000 commission shall make rules:

4001 (i) listing the items that constitute "clothing"; and

4002 (ii) that are consistent with the list of items that constitute "clothing" under the
4003 agreement.

4004 [~~(22)~~] (21) "Coal-to-liquid" means the process of converting coal into a liquid synthetic
4005 fuel.

4006 [~~(23)~~] (22) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or
4007 other fuels that does not constitute industrial use under Subsection [~~(56)~~] (55) or residential use
4008 under Subsection (106).

4009 [~~(24)~~] (23) (a) "Common carrier" means a person engaged in or transacting the
4010 business of transporting passengers, freight, merchandise, or other property for hire within this
4011 state.

4012 (b) (i) "Common carrier" does not include a person who, at the time the person is
4013 traveling to or from that person's place of employment, transports a passenger to or from the
4014 passenger's place of employment.

4015 (ii) For purposes of Subsection [~~(24)~~] (23)(b)(i), in accordance with Title 63G, Chapter
4016 3, Utah Administrative Rulemaking Act, the commission may make rules defining what
4017 constitutes a person's place of employment.

4018 (c) "Common carrier" does not include a person that provides transportation network
4019 services, as defined in Section 13-51-102.

4020 [~~(25)~~] (24) "Component part" includes:

4021 (a) poultry, dairy, and other livestock feed, and their components;

4022 (b) baling ties and twine used in the baling of hay and straw;

4023 (c) fuel used for providing temperature control of orchards and commercial
4024 greenhouses doing a majority of their business in wholesale sales, and for providing power for
4025 off-highway type farm machinery; and

4026 (d) feed, seeds, and seedlings.

4027 [~~(26)~~] (25) "Computer" means an electronic device that accepts information:

4028 (a) (i) in digital form; or

4029 (ii) in a form similar to digital form; and

4030 (b) manipulates that information for a result based on a sequence of instructions.

4031 ~~[(27)]~~ (26) "Computer software" means a set of coded instructions designed to cause:

4032 (a) a computer to perform a task; or

4033 (b) automatic data processing equipment to perform a task.

4034 ~~[(28)]~~ (27) "Computer software maintenance contract" means a contract that obligates a
4035 seller of computer software to provide a customer with:

4036 (a) future updates or upgrades to computer software;

4037 (b) support services with respect to computer software; or

4038 (c) a combination of Subsections ~~[(28)]~~ (27)(a) and (b).

4039 ~~[(29)]~~ (28) (a) "Conference bridging service" means an ancillary service that links two
4040 or more participants of an audio conference call or video conference call.

4041 (b) "Conference bridging service" may include providing a telephone number as part of
4042 the ancillary service described in Subsection ~~[(29)]~~ (28)(a).

4043 (c) "Conference bridging service" does not include a telecommunications service used
4044 to reach the ancillary service described in Subsection ~~[(29)]~~ (28)(a).

4045 ~~[(30)]~~ (29) "Construction materials" means any tangible personal property that will be
4046 converted into real property.

4047 ~~[(31)]~~ (30) "Delivered electronically" means delivered to a purchaser by means other
4048 than tangible storage media.

4049 ~~[(32)]~~ (31) (a) "Delivery charge" means a charge:

4050 (i) by a seller of:

4051 (A) tangible personal property;

4052 (B) a product transferred electronically; or

4053 (C) services; and

4054 (ii) for preparation and delivery of the tangible personal property, product transferred
4055 electronically, or services described in Subsection ~~[(32)]~~ (31)(a)(i) to a location designated by
4056 the purchaser.

4057 (b) "Delivery charge" includes a charge for the following:

4058 (i) transportation;

4059 (ii) shipping;

4060 (iii) postage;

4061 (iv) handling;

- 4062 (v) crating; or
- 4063 (vi) packing.
- 4064 [~~(33)~~] (32) "Detailed telecommunications billing service" means an ancillary service of
- 4065 separately stating information pertaining to individual calls on a customer's billing statement.
- 4066 [~~(34)~~] (33) "Dietary supplement" means a product, other than tobacco, that:
- 4067 (a) is intended to supplement the diet;
- 4068 (b) contains one or more of the following dietary ingredients:
- 4069 (i) a vitamin;
- 4070 (ii) a mineral;
- 4071 (iii) an herb or other botanical;
- 4072 (iv) an amino acid;
- 4073 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 4074 dietary intake; or
- 4075 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 4076 described in Subsections [~~(34)~~] (33)(b)(i) through (v);
- 4077 (c) (i) except as provided in Subsection [~~(34)~~] (33)(c)(ii), is intended for ingestion in:
- 4078 (A) tablet form;
- 4079 (B) capsule form;
- 4080 (C) powder form;
- 4081 (D) softgel form;
- 4082 (E) gelcap form; or
- 4083 (F) liquid form; or
- 4084 (ii) if the product is not intended for ingestion in a form described in Subsections [~~(34)~~]
- 4085 (33)(c)(i)(A) through (F), is not represented:
- 4086 (A) as conventional food; and
- 4087 (B) for use as a sole item of:
- 4088 (I) a meal; or
- 4089 (II) the diet; and
- 4090 (d) is required to be labeled as a dietary supplement:
- 4091 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 4092 (ii) as required by 21 C.F.R. Sec. 101.36.

4093 ~~[(35)]~~ (34) "Digital audio-visual work" means a series of related images which, when
4094 shown in succession, imparts an impression of motion, together with accompanying sounds, if
4095 any.

4096 ~~[(36)]~~ (35) (a) "Digital audio work" means a work that results from the fixation of a
4097 series of musical, spoken, or other sounds.

4098 (b) "Digital audio work" includes a ringtone.

4099 ~~[(37)]~~ (36) "Digital book" means a work that is generally recognized in the ordinary
4100 and usual sense as a book.

4101 ~~[(38)]~~ (37) (a) "Direct mail" means printed material delivered or distributed by United
4102 States mail or other delivery service:

4103 (i) to:

4104 (A) a mass audience; or

4105 (B) addressees on a mailing list provided:

4106 (I) by a purchaser of the mailing list; or

4107 (II) at the discretion of the purchaser of the mailing list; and

4108 (ii) if the cost of the printed material is not billed directly to the recipients.

4109 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
4110 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

4111 (c) "Direct mail" does not include multiple items of printed material delivered to a
4112 single address.

4113 ~~[(39)]~~ (38) "Directory assistance" means an ancillary service of providing:

4114 (a) address information; or

4115 (b) telephone number information.

4116 ~~[(40)]~~ (39) (a) "Disposable home medical equipment or supplies" means medical
4117 equipment or supplies that:

4118 (i) cannot withstand repeated use; and

4119 (ii) are purchased by, for, or on behalf of a person other than:

4120 (A) a health care facility as defined in Section 26-21-2;

4121 (B) a health care provider as defined in Section 78B-3-403;

4122 (C) an office of a health care provider described in Subsection ~~[(40)]~~ (39)(a)(ii)(B); or

4123 (D) a person similar to a person described in Subsections ~~[(40)]~~ (39)(a)(ii)(A) through

- 4124 (C).
- 4125 (b) "Disposable home medical equipment or supplies" does not include:
- 4126 (i) a drug;
- 4127 (ii) durable medical equipment;
- 4128 (iii) a hearing aid;
- 4129 (iv) a hearing aid accessory;
- 4130 (v) mobility enhancing equipment; or
- 4131 (vi) tangible personal property used to correct impaired vision, including:
- 4132 (A) eyeglasses; or
- 4133 (B) contact lenses.
- 4134 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 4135 commission may by rule define what constitutes medical equipment or supplies.
- 4136 [~~(41)~~] (40) "Drilling equipment manufacturer" means a facility:
- 4137 (a) located in the state;
- 4138 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 4139 consist of manufacturing component parts of drilling equipment;
- 4140 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 4141 manufacturing process; and
- 4142 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 4143 manufacturing process.
- 4144 [~~(42)~~] (41) (a) "Drug" means a compound, substance, or preparation, or a component of
- 4145 a compound, substance, or preparation that is:
- 4146 (i) recognized in:
- 4147 (A) the official United States Pharmacopoeia;
- 4148 (B) the official Homeopathic Pharmacopoeia of the United States;
- 4149 (C) the official National Formulary; or
- 4150 (D) a supplement to a publication listed in Subsections [~~(42)~~] (41)(a)(i)(A) through
- 4151 (C);
- 4152 (ii) intended for use in the:
- 4153 (A) diagnosis of disease;
- 4154 (B) cure of disease;

- 4155 (C) mitigation of disease;
- 4156 (D) treatment of disease; or
- 4157 (E) prevention of disease; or
- 4158 (iii) intended to affect:
- 4159 (A) the structure of the body; or
- 4160 (B) any function of the body.
- 4161 (b) "Drug" does not include:
- 4162 (i) food and food ingredients;
- 4163 (ii) a dietary supplement;
- 4164 (iii) an alcoholic beverage; or
- 4165 (iv) a prosthetic device.
- 4166 [~~(43)~~] (42) (a) Except as provided in Subsection [~~(43)~~] (42)(c), "durable medical
- 4167 equipment" means equipment that:
- 4168 (i) can withstand repeated use;
- 4169 (ii) is primarily and customarily used to serve a medical purpose;
- 4170 (iii) generally is not useful to a person in the absence of illness or injury; and
- 4171 (iv) is not worn in or on the body.
- 4172 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 4173 equipment described in Subsection [~~(43)~~] (42)(a).
- 4174 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 4175 [~~(44)~~] (43) "Electronic" means:
- 4176 (a) relating to technology; and
- 4177 (b) having:
- 4178 (i) electrical capabilities;
- 4179 (ii) digital capabilities;
- 4180 (iii) magnetic capabilities;
- 4181 (iv) wireless capabilities;
- 4182 (v) optical capabilities;
- 4183 (vi) electromagnetic capabilities; or
- 4184 (vii) capabilities similar to Subsections [~~(44)~~] (43)(b)(i) through (vi).
- 4185 [~~(45)~~] (44) "Electronic financial payment service" means an establishment:

4186 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
 4187 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
 4188 federal Executive Office of the President, Office of Management and Budget; and

4189 (b) that performs electronic financial payment services.

4190 [~~(46)~~] (45) "Employee" means the same as that term is defined in Section 59-10-401.

4191 [~~(47)~~] (46) "Fixed guideway" means a public transit facility that uses and occupies:

4192 (a) rail for the use of public transit; or

4193 (b) a separate right-of-way for the use of public transit.

4194 [~~(48)~~] (47) "Fixed wing turbine powered aircraft" means an aircraft that:

4195 (a) is powered by turbine engines;

4196 (b) operates on jet fuel; and

4197 (c) has wings that are permanently attached to the fuselage of the aircraft.

4198 [~~(49)~~] (48) "Fixed wireless service" means a telecommunications service that provides
 4199 radio communication between fixed points.

4200 [~~(50)~~] (49) (a) "Food and food ingredients" means substances:

4201 (i) regardless of whether the substances are in:

4202 (A) liquid form;

4203 (B) concentrated form;

4204 (C) solid form;

4205 (D) frozen form;

4206 (E) dried form; or

4207 (F) dehydrated form; and

4208 (ii) that are:

4209 (A) sold for:

4210 (I) ingestion by humans; or

4211 (II) chewing by humans; and

4212 (B) consumed for the substance's:

4213 (I) taste; or

4214 (II) nutritional value.

4215 (b) "Food and food ingredients" includes an item described in Subsection [~~(91)~~]

4216 (90)(b)(iii).

- 4217 (c) "Food and food ingredients" does not include:
- 4218 (i) an alcoholic beverage;
- 4219 (ii) tobacco; or
- 4220 (iii) prepared food.
- 4221 [~~(51)~~] (50) (a) "Fundraising sales" means sales:
- 4222 (i) (A) made by a school; or
- 4223 (B) made by a school student;
- 4224 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 4225 materials, or provide transportation; and
- 4226 (iii) that are part of an officially sanctioned school activity.
- 4227 (b) For purposes of Subsection [~~(51)~~] (50)(a)(iii), "officially sanctioned school activity"
- 4228 means a school activity:
- 4229 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 4230 district governing the authorization and supervision of fundraising activities;
- 4231 (ii) that does not directly or indirectly compensate an individual teacher or other
- 4232 educational personnel by direct payment, commissions, or payment in kind; and
- 4233 (iii) the net or gross revenues from which are deposited in a dedicated account
- 4234 controlled by the school or school district.
- 4235 [~~(52)~~] (51) "Geothermal energy" means energy contained in heat that continuously
- 4236 flows outward from the earth that is used as the sole source of energy to produce electricity.
- 4237 [~~(53)~~] (52) "Governing board of the agreement" means the governing board of the
- 4238 agreement that is:
- 4239 (a) authorized to administer the agreement; and
- 4240 (b) established in accordance with the agreement.
- 4241 [~~(54)~~] (53) (a) For purposes of Subsection 59-12-104[~~(41)~~](40), "governmental entity"
- 4242 means:
- 4243 (i) the executive branch of the state, including all departments, institutions, boards,
- 4244 divisions, bureaus, offices, commissions, and committees;
- 4245 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
- 4246 Office of the Court Administrator, and similar administrative units in the judicial branch;
- 4247 (iii) the legislative branch of the state, including the House of Representatives, the

4248 Senate, the Legislative Printing Office, the Office of Legislative Research and General
4249 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
4250 Analyst;

4251 (iv) the National Guard;

4252 (v) an independent entity as defined in Section 63E-1-102; or

4253 (vi) a political subdivision as defined in Section 17B-1-102.

4254 (b) "Governmental entity" does not include the state systems of public and higher
4255 education, including:

4256 (i) a school;

4257 (ii) the State Board of Education;

4258 (iii) the State Board of Regents; or

4259 (iv) an institution of higher education described in Section 53B-1-102.

4260 [~~55~~] (54) "Hydroelectric energy" means water used as the sole source of energy to
4261 produce electricity.

4262 [~~56~~] (55) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
4263 or other fuels:

4264 (a) in mining or extraction of minerals;

4265 (b) in agricultural operations to produce an agricultural product up to the time of
4266 harvest or placing the agricultural product into a storage facility, including:

4267 (i) commercial greenhouses;

4268 (ii) irrigation pumps;

4269 (iii) farm machinery;

4270 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
4271 under Title 41, Chapter 1a, Part 2, Registration; and

4272 (v) other farming activities;

4273 (c) in manufacturing tangible personal property at an establishment described in:

4274 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
4275 the federal Executive Office of the President, Office of Management and Budget; or

4276 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
4277 American Industry Classification System of the federal Executive Office of the President,

4278 Office of Management and Budget;

- 4279 (d) by a scrap recycler if:
- 4280 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 4281 one or more of the following items into prepared grades of processed materials for use in new
- 4282 products:
- 4283 (A) iron;
- 4284 (B) steel;
- 4285 (C) nonferrous metal;
- 4286 (D) paper;
- 4287 (E) glass;
- 4288 (F) plastic;
- 4289 (G) textile; or
- 4290 (H) rubber; and
- 4291 (ii) the new products under Subsection [~~(56)~~] (55)(d)(i) would otherwise be made with
- 4292 nonrecycled materials; or
- 4293 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
- 4294 cogeneration facility as defined in Section 54-2-1.
- 4295 [~~(57)~~] (56) (a) Except as provided in Subsection [~~(57)~~] (56)(b), "installation charge"
- 4296 means a charge for installing:
- 4297 (i) tangible personal property; or
- 4298 (ii) a product transferred electronically.
- 4299 (b) "Installation charge" does not include a charge for:
- 4300 (i) repairs or renovations of:
- 4301 (A) tangible personal property; or
- 4302 (B) a product transferred electronically; or
- 4303 (ii) attaching tangible personal property or a product transferred electronically:
- 4304 (A) to other tangible personal property; and
- 4305 (B) as part of a manufacturing or fabrication process.
- 4306 [~~(58)~~] (57) "Institution of higher education" means an institution of higher education
- 4307 listed in Section 53B-2-101.
- 4308 [~~(59)~~] (58) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 4309 personal property or a product transferred electronically for:

- 4310 (i) (A) a fixed term; or
4311 (B) an indeterminate term; and
4312 (ii) consideration.
- 4313 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
4314 amount of consideration may be increased or decreased by reference to the amount realized
4315 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
4316 Code.
- 4317 (c) "Lease" or "rental" does not include:
- 4318 (i) a transfer of possession or control of property under a security agreement or
4319 deferred payment plan that requires the transfer of title upon completion of the required
4320 payments;
- 4321 (ii) a transfer of possession or control of property under an agreement that requires the
4322 transfer of title:
- 4323 (A) upon completion of required payments; and
4324 (B) if the payment of an option price does not exceed the greater of:
- 4325 (I) \$100; or
4326 (II) 1% of the total required payments; or
- 4327 (iii) providing tangible personal property along with an operator for a fixed period of
4328 time or an indeterminate period of time if the operator is necessary for equipment to perform as
4329 designed.
- 4330 (d) For purposes of Subsection [~~(59)~~] (58)(c)(iii), an operator is necessary for
4331 equipment to perform as designed if the operator's duties exceed the:
- 4332 (i) set-up of tangible personal property;
4333 (ii) maintenance of tangible personal property; or
4334 (iii) inspection of tangible personal property.
- 4335 [~~(60)~~] (59) "Life science establishment" means an establishment in this state that is
4336 classified under the following NAICS codes of the 2007 North American Industry
4337 Classification System of the federal Executive Office of the President, Office of Management
4338 and Budget:
- 4339 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
4340 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

- 4341 Manufacturing; or
- 4342 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 4343 ~~[(61)]~~ (60) "Life science research and development facility" means a facility owned,
- 4344 leased, or rented by a life science establishment if research and development is performed in
- 4345 51% or more of the total area of the facility.
- 4346 ~~[(62)]~~ (61) "Load and leave" means delivery to a purchaser by use of a tangible storage
- 4347 media if the tangible storage media is not physically transferred to the purchaser.
- 4348 ~~[(63)]~~ (62) "Local taxing jurisdiction" means a:
- 4349 (a) county that is authorized to impose an agreement sales and use tax;
- 4350 (b) city that is authorized to impose an agreement sales and use tax; or
- 4351 (c) town that is authorized to impose an agreement sales and use tax.
- 4352 ~~[(64)]~~ (63) "Manufactured home" means the same as that term is defined in Section
- 4353 15A-1-302.
- 4354 ~~[(65)]~~ (64) "Manufacturing facility" means:
- 4355 (a) an establishment described in:
- 4356 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
- 4357 the federal Executive Office of the President, Office of Management and Budget; or
- 4358 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
- 4359 American Industry Classification System of the federal Executive Office of the President,
- 4360 Office of Management and Budget;
- 4361 (b) a scrap recycler if:
- 4362 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 4363 one or more of the following items into prepared grades of processed materials for use in new
- 4364 products:
- 4365 (A) iron;
- 4366 (B) steel;
- 4367 (C) nonferrous metal;
- 4368 (D) paper;
- 4369 (E) glass;
- 4370 (F) plastic;
- 4371 (G) textile; or

- 4372 (H) rubber; and
- 4373 (ii) the new products under Subsection [~~(65)~~] (64)(b)(i) would otherwise be made with
4374 nonrecycled materials; or
- 4375 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
4376 placed in service on or after May 1, 2006.
- 4377 [~~(66)~~] (65) "Member of the immediate family of the producer" means a person who is
4378 related to a producer described in Subsection 59-12-104(20)(a) as a:
- 4379 (a) child or stepchild, regardless of whether the child or stepchild is:
- 4380 (i) an adopted child or adopted stepchild; or
- 4381 (ii) a foster child or foster stepchild;
- 4382 (b) grandchild or stepgrandchild;
- 4383 (c) grandparent or stepgrandparent;
- 4384 (d) nephew or stepnephew;
- 4385 (e) niece or stepniece;
- 4386 (f) parent or stepparent;
- 4387 (g) sibling or stepsibling;
- 4388 (h) spouse;
- 4389 (i) person who is the spouse of a person described in Subsections [~~(66)~~] (65)(a) through
4390 (g); or
- 4391 (j) person similar to a person described in Subsections [~~(66)~~] (65)(a) through (i) as
4392 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
4393 Administrative Rulemaking Act.
- 4394 [~~(67)~~] (66) "Mobile home" means the same as that term is defined in Section
4395 15A-1-302.
- 4396 [~~(68)~~] (67) "Mobile telecommunications service" [~~is as~~] means the same as that term is
4397 defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 4398 [~~(69)~~] (68) (a) "Mobile wireless service" means a telecommunications service,
4399 regardless of the technology used, if:
- 4400 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 4401 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 4402 (iii) the origination point described in Subsection [~~(69)~~] (68)(a)(i) and the termination

4403 point described in Subsection [~~(69)~~] (68)(a)(ii) are not fixed.

4404 (b) "Mobile wireless service" includes a telecommunications service that is provided
4405 by a commercial mobile radio service provider.

4406 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4407 commission may by rule define "commercial mobile radio service provider."

4408 [~~(70)~~] (69) (a) Except as provided in Subsection [~~(70)~~] (69)(c), "mobility enhancing
4409 equipment" means equipment that is:

4410 (i) primarily and customarily used to provide or increase the ability to move from one
4411 place to another;

4412 (ii) appropriate for use in a:

4413 (A) home; or

4414 (B) motor vehicle; and

4415 (iii) not generally used by persons with normal mobility.

4416 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
4417 the equipment described in Subsection [~~(70)~~] (69)(a).

4418 (c) "Mobility enhancing equipment" does not include:

4419 (i) a motor vehicle;

4420 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
4421 vehicle manufacturer;

4422 (iii) durable medical equipment; or

4423 (iv) a prosthetic device.

4424 [~~(71)~~] (70) "Model 1 seller" means a seller registered under the agreement that has
4425 selected a certified service provider as the seller's agent to perform all of the seller's sales and
4426 use tax functions for agreement sales and use taxes other than the seller's obligation under
4427 Section 59-12-124 to remit a tax on the seller's own purchases.

4428 [~~(72)~~] (71) "Model 2 seller" means a seller registered under the agreement that:

4429 (a) except as provided in Subsection [~~(72)~~] (71)(b), has selected a certified automated
4430 system to perform the seller's sales tax functions for agreement sales and use taxes; and

4431 (b) retains responsibility for remitting all of the sales tax:

4432 (i) collected by the seller; and

4433 (ii) to the appropriate local taxing jurisdiction.

4434 ~~(73)~~ (72) (a) Subject to Subsection ~~(73)~~ (72)(b), "model 3 seller" means a seller
4435 registered under the agreement that has:

4436 (i) sales in at least five states that are members of the agreement;

4437 (ii) total annual sales revenues of at least \$500,000,000;

4438 (iii) a proprietary system that calculates the amount of tax:

4439 (A) for an agreement sales and use tax; and

4440 (B) due to each local taxing jurisdiction; and

4441 (iv) entered into a performance agreement with the governing board of the agreement.

4442 (b) For purposes of Subsection ~~(73)~~ (72)(a), "model 3 seller" includes an affiliated
4443 group of sellers using the same proprietary system.

4444 ~~(74)~~ (73) "Model 4 seller" means a seller that is registered under the agreement and is
4445 not a model 1 seller, model 2 seller, or model 3 seller.

4446 ~~(75)~~ (74) "Modular home" means a modular unit as that term is defined in Section
4447 15A-1-302.

4448 ~~(76)~~ (75) "Motor vehicle" means the same as that term is defined in Section
4449 41-1a-102.

4450 ~~(77)~~ (76) "Oil sands" means impregnated bituminous sands that:

4451 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
4452 other hydrocarbons, or otherwise treated;

4453 (b) yield mixtures of liquid hydrocarbon; and

4454 (c) require further processing other than mechanical blending before becoming finished
4455 petroleum products.

4456 ~~(78)~~ (77) "Oil shale" means a group of fine black to dark brown shales containing
4457 kerogen material that yields petroleum upon heating and distillation.

4458 ~~(79)~~ (78) "Optional computer software maintenance contract" means a computer
4459 software maintenance contract that a customer is not obligated to purchase as a condition to the
4460 retail sale of computer software.

4461 ~~(80)~~ (79) (a) "Other fuels" means products that burn independently to produce heat or
4462 energy.

4463 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
4464 personal property.

4465 ~~[(81)]~~ (80) (a) "Paging service" means a telecommunications service that provides
4466 transmission of a coded radio signal for the purpose of activating a specific pager.

4467 (b) For purposes of Subsection ~~[(81)]~~ (80)(a), the transmission of a coded radio signal
4468 includes a transmission by message or sound.

4469 ~~[(82)]~~ (81) "Pawnbroker" means the same as that term is defined in Section
4470 13-32a-102.

4471 ~~[(83)]~~ (82) "Pawn transaction" means the same as that term is defined in Section
4472 13-32a-102.

4473 ~~[(84)]~~ (83) (a) "Permanently attached to real property" means that for tangible personal
4474 property attached to real property:

4475 (i) the attachment of the tangible personal property to the real property:

4476 (A) is essential to the use of the tangible personal property; and

4477 (B) suggests that the tangible personal property will remain attached to the real
4478 property in the same place over the useful life of the tangible personal property; or

4479 (ii) if the tangible personal property is detached from the real property, the detachment
4480 would:

4481 (A) cause substantial damage to the tangible personal property; or

4482 (B) require substantial alteration or repair of the real property to which the tangible
4483 personal property is attached.

4484 (b) "Permanently attached to real property" includes:

4485 (i) the attachment of an accessory to the tangible personal property if the accessory is:

4486 (A) essential to the operation of the tangible personal property; and

4487 (B) attached only to facilitate the operation of the tangible personal property;

4488 (ii) a temporary detachment of tangible personal property from real property for a
4489 repair or renovation if the repair or renovation is performed where the tangible personal
4490 property and real property are located; or

4491 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
4492 Subsection ~~[(84)]~~ (83)(c)(iii) or (iv).

4493 (c) "Permanently attached to real property" does not include:

4494 (i) the attachment of portable or movable tangible personal property to real property if
4495 that portable or movable tangible personal property is attached to real property only for:

- 4496 (A) convenience;
- 4497 (B) stability; or
- 4498 (C) for an obvious temporary purpose;
- 4499 (ii) the detachment of tangible personal property from real property except for the
- 4500 detachment described in Subsection [~~(84)~~] (83)(b)(ii);
- 4501 (iii) an attachment of the following tangible personal property to real property if the
- 4502 attachment to real property is only through a line that supplies water, electricity, gas,
- 4503 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 4504 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 4505 (A) a computer;
- 4506 (B) a telephone;
- 4507 (C) a television; or
- 4508 (D) tangible personal property similar to Subsections [~~(84)~~] (83)(c)(iii)(A) through (C)
- 4509 as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 4510 Administrative Rulemaking Act; or
- 4511 (iv) an item listed in Subsection [~~(125)~~] (124)(c).
- 4512 [~~(85)~~] (84) "Person" includes any individual, firm, partnership, joint venture,
- 4513 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
- 4514 city, municipality, district, or other local governmental entity of the state, or any group or
- 4515 combination acting as a unit.
- 4516 [~~(86)~~] (85) "Place of primary use":
- 4517 (a) for telecommunications service other than mobile telecommunications service,
- 4518 means the street address representative of where the customer's use of the telecommunications
- 4519 service primarily occurs, which shall be:
- 4520 (i) the residential street address of the customer; or
- 4521 (ii) the primary business street address of the customer; or
- 4522 (b) for mobile telecommunications service, [~~is as~~] means the same as that term is
- 4523 defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 4524 [~~(87)~~] (86) (a) "Postpaid calling service" means a telecommunications service a person
- 4525 obtains by making a payment on a call-by-call basis:
- 4526 (i) through the use of a:

- 4527 (A) bank card;
- 4528 (B) credit card;
- 4529 (C) debit card; or
- 4530 (D) travel card; or
- 4531 (ii) by a charge made to a telephone number that is not associated with the origination
- 4532 or termination of the telecommunications service.
- 4533 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
- 4534 service, that would be a prepaid wireless calling service if the service were exclusively a
- 4535 telecommunications service.
- 4536 ~~[(88)]~~ (87) "Postproduction" means an activity related to the finishing or duplication of
- 4537 a medium described in Subsection 59-12-104~~[(54)]~~(53)(a).
- 4538 ~~[(89)]~~ (88) "Prepaid calling service" means a telecommunications service:
- 4539 (a) that allows a purchaser access to telecommunications service that is exclusively
- 4540 telecommunications service;
- 4541 (b) that:
- 4542 (i) is paid for in advance; and
- 4543 (ii) enables the origination of a call using an:
- 4544 (A) access number; or
- 4545 (B) authorization code;
- 4546 (c) that is dialed:
- 4547 (i) manually; or
- 4548 (ii) electronically; and
- 4549 (d) sold in predetermined units or dollars that decline:
- 4550 (i) by a known amount; and
- 4551 (ii) with use.
- 4552 ~~[(90)]~~ (89) "Prepaid wireless calling service" means a telecommunications service:
- 4553 (a) that provides the right to utilize:
- 4554 (i) mobile wireless service; and
- 4555 (ii) other service that is not a telecommunications service, including:
- 4556 (A) the download of a product transferred electronically;
- 4557 (B) a content service; or

- 4558 (C) an ancillary service;
- 4559 (b) that:
- 4560 (i) is paid for in advance; and
- 4561 (ii) enables the origination of a call using an:
- 4562 (A) access number; or
- 4563 (B) authorization code;
- 4564 (c) that is dialed:
- 4565 (i) manually; or
- 4566 (ii) electronically; and
- 4567 (d) sold in predetermined units or dollars that decline:
- 4568 (i) by a known amount; and
- 4569 (ii) with use.
- 4570 [~~(91)~~ (90) (a) "Prepared food" means:
- 4571 (i) food:
- 4572 (A) sold in a heated state; or
- 4573 (B) heated by a seller;
- 4574 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 4575 item; or
- 4576 (iii) except as provided in Subsection [~~(91)~~ (90)(c), food sold with an eating utensil
- 4577 provided by the seller, including a:
- 4578 (A) plate;
- 4579 (B) knife;
- 4580 (C) fork;
- 4581 (D) spoon;
- 4582 (E) glass;
- 4583 (F) cup;
- 4584 (G) napkin; or
- 4585 (H) straw.
- 4586 (b) "Prepared food" does not include:
- 4587 (i) food that a seller only:
- 4588 (A) cuts;

- 4589 (B) repackages; or
4590 (C) pasteurizes; or
4591 (ii) (A) the following:
4592 (I) raw egg;
4593 (II) raw fish;
4594 (III) raw meat;
4595 (IV) raw poultry; or
4596 (V) a food containing an item described in Subsections [~~91~~] (90)(b)(ii)(A)(I) through
4597 (IV); and
4598 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
4599 Food and Drug Administration's Food Code that a consumer cook the items described in
4600 Subsection [~~91~~] (90)(b)(ii)(A) to prevent food borne illness; or
4601 (iii) the following if sold without eating utensils provided by the seller:
4602 (A) food and food ingredients sold by a seller if the seller's proper primary
4603 classification under the 2002 North American Industry Classification System of the federal
4604 Executive Office of the President, Office of Management and Budget, is manufacturing in
4605 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
4606 Manufacturing;
4607 (B) food and food ingredients sold in an unheated state:
4608 (I) by weight or volume; and
4609 (II) as a single item; or
4610 (C) a bakery item, including:
4611 (I) a bagel;
4612 (II) a bar;
4613 (III) a biscuit;
4614 (IV) bread;
4615 (V) a bun;
4616 (VI) a cake;
4617 (VII) a cookie;
4618 (VIII) a croissant;
4619 (IX) a danish;

- 4620 (X) a donut;
- 4621 (XI) a muffin;
- 4622 (XII) a pastry;
- 4623 (XIII) a pie;
- 4624 (XIV) a roll;
- 4625 (XV) a tart;
- 4626 (XVI) a torte; or
- 4627 (XVII) a tortilla.
- 4628 (c) An eating utensil provided by the seller does not include the following used to
- 4629 transport the food:
- 4630 (i) a container; or
- 4631 (ii) packaging.
- 4632 [~~(92)~~] (91) "Prescription" means an order, formula, or recipe that is issued:
- 4633 (a) (i) orally;
- 4634 (ii) in writing;
- 4635 (iii) electronically; or
- 4636 (iv) by any other manner of transmission; and
- 4637 (b) by a licensed practitioner authorized by the laws of a state.
- 4638 [~~(93)~~] (92) (a) Except as provided in Subsection [~~(93)~~] (92)(b)(ii) or (iii), "prewritten
- 4639 computer software" means computer software that is not designed and developed:
- 4640 (i) by the author or other creator of the computer software; and
- 4641 (ii) to the specifications of a specific purchaser.
- 4642 (b) "Prewritten computer software" includes:
- 4643 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 4644 software is not designed and developed:
- 4645 (A) by the author or other creator of the computer software; and
- 4646 (B) to the specifications of a specific purchaser;
- 4647 (ii) computer software designed and developed by the author or other creator of the
- 4648 computer software to the specifications of a specific purchaser if the computer software is sold
- 4649 to a person other than the purchaser; or
- 4650 (iii) except as provided in Subsection [~~(93)~~] (92)(c), prewritten computer software or a

4651 prewritten portion of prewritten computer software:

4652 (A) that is modified or enhanced to any degree; and

4653 (B) if the modification or enhancement described in Subsection [~~93~~] (92)(b)(iii)(A) is
4654 designed and developed to the specifications of a specific purchaser.

4655 (c) "Prewritten computer software" does not include a modification or enhancement
4656 described in Subsection [~~93~~] (92)(b)(iii) if the charges for the modification or enhancement
4657 are:

4658 (i) reasonable; and

4659 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
4660 invoice or other statement of price provided to the purchaser at the time of sale or later, as
4661 demonstrated by:

4662 (A) the books and records the seller keeps at the time of the transaction in the regular
4663 course of business, including books and records the seller keeps at the time of the transaction in
4664 the regular course of business for nontax purposes;

4665 (B) a preponderance of the facts and circumstances at the time of the transaction; and

4666 (C) the understanding of all of the parties to the transaction.

4667 [~~94~~] (93) (a) "Private communications service" means a telecommunications service:

4668 (i) that entitles a customer to exclusive or priority use of one or more communications
4669 channels between or among termination points; and

4670 (ii) regardless of the manner in which the one or more communications channels are
4671 connected.

4672 (b) "Private communications service" includes the following provided in connection
4673 with the use of one or more communications channels:

4674 (i) an extension line;

4675 (ii) a station;

4676 (iii) switching capacity; or

4677 (iv) another associated service that is provided in connection with the use of one or
4678 more communications channels as defined in Section 59-12-215.

4679 [~~95~~] (94) (a) Except as provided in Subsection [~~95~~] (94)(b), "product transferred
4680 electronically" means a product transferred electronically that would be subject to a tax under
4681 this chapter if that product was transferred in a manner other than electronically.

- 4682 (b) "Product transferred electronically" does not include:
- 4683 (i) an ancillary service;
- 4684 (ii) computer software; or
- 4685 (iii) a telecommunications service.
- 4686 [~~96~~] (95) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 4687 (i) artificially replace a missing portion of the body;
- 4688 (ii) prevent or correct a physical deformity or physical malfunction; or
- 4689 (iii) support a weak or deformed portion of the body.
- 4690 (b) "Prosthetic device" includes:
- 4691 (i) parts used in the repairs or renovation of a prosthetic device;
- 4692 (ii) replacement parts for a prosthetic device;
- 4693 (iii) a dental prosthesis; or
- 4694 (iv) a hearing aid.
- 4695 (c) "Prosthetic device" does not include:
- 4696 (i) corrective eyeglasses; or
- 4697 (ii) contact lenses.
- 4698 [~~97~~] (96) (a) "Protective equipment" means an item:
- 4699 (i) for human wear; and
- 4700 (ii) that is:
- 4701 (A) designed as protection:
- 4702 (I) to the wearer against injury or disease; or
- 4703 (II) against damage or injury of other persons or property; and
- 4704 (B) not suitable for general use.
- 4705 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 4706 commission shall make rules:
- 4707 (i) listing the items that constitute "protective equipment"; and
- 4708 (ii) that are consistent with the list of items that constitute "protective equipment"
- 4709 under the agreement.
- 4710 [~~98~~] (97) (a) For purposes of Subsection 59-12-104[~~(41)~~](40), "publication" means
- 4711 any written or printed matter, other than a photocopy:
- 4712 (i) regardless of:

- 4713 (A) characteristics;
- 4714 (B) copyright;
- 4715 (C) form;
- 4716 (D) format;
- 4717 (E) method of reproduction; or
- 4718 (F) source; and
- 4719 (ii) made available in printed or electronic format.
- 4720 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 4721 commission may by rule define the term "photocopy."
- 4722 [~~99~~] 98 (a) "Purchase price" and "sales price" mean the total amount of
- 4723 consideration:
- 4724 (i) valued in money; and
- 4725 (ii) for which tangible personal property, a product transferred electronically, or
- 4726 services are:
- 4727 (A) sold;
- 4728 (B) leased; or
- 4729 (C) rented.
- 4730 (b) "Purchase price" and "sales price" include:
- 4731 (i) the seller's cost of the tangible personal property, a product transferred
- 4732 electronically, or services sold;
- 4733 (ii) expenses of the seller, including:
- 4734 (A) the cost of materials used;
- 4735 (B) a labor cost;
- 4736 (C) a service cost;
- 4737 (D) interest;
- 4738 (E) a loss;
- 4739 (F) the cost of transportation to the seller; or
- 4740 (G) a tax imposed on the seller;
- 4741 (iii) a charge by the seller for any service necessary to complete the sale; or
- 4742 (iv) consideration a seller receives from a person other than the purchaser if:
- 4743 (A) (I) the seller actually receives consideration from a person other than the purchaser;

4744 and

4745 (II) the consideration described in Subsection [~~(99)~~] (98)(b)(iv)(A)(I) is directly related
4746 to a price reduction or discount on the sale;

4747 (B) the seller has an obligation to pass the price reduction or discount through to the
4748 purchaser;

4749 (C) the amount of the consideration attributable to the sale is fixed and determinable by
4750 the seller at the time of the sale to the purchaser; and

4751 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
4752 seller to claim a price reduction or discount; and

4753 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
4754 coupon, or other documentation with the understanding that the person other than the seller
4755 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

4756 (II) the purchaser identifies that purchaser to the seller as a member of a group or
4757 organization allowed a price reduction or discount, except that a preferred customer card that is
4758 available to any patron of a seller does not constitute membership in a group or organization
4759 allowed a price reduction or discount; or

4760 (III) the price reduction or discount is identified as a third party price reduction or
4761 discount on the:

4762 (Aa) invoice the purchaser receives; or

4763 (Bb) certificate, coupon, or other documentation the purchaser presents.

4764 (c) "Purchase price" and "sales price" do not include:

4765 (i) a discount:

4766 (A) in a form including:

4767 (I) cash;

4768 (II) term; or

4769 (III) coupon;

4770 (B) that is allowed by a seller;

4771 (C) taken by a purchaser on a sale; and

4772 (D) that is not reimbursed by a third party; or

4773 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
4774 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of

4775 sale or later, as demonstrated by the books and records the seller keeps at the time of the
4776 transaction in the regular course of business, including books and records the seller keeps at the
4777 time of the transaction in the regular course of business for nontax purposes, by a
4778 preponderance of the facts and circumstances at the time of the transaction, and by the
4779 understanding of all of the parties to the transaction:

4780 (A) the following from credit extended on the sale of tangible personal property or
4781 services:

4782 (I) a carrying charge;

4783 (II) a financing charge; or

4784 (III) an interest charge;

4785 (B) a delivery charge;

4786 (C) an installation charge;

4787 (D) a manufacturer rebate on a motor vehicle; or

4788 (E) a tax or fee legally imposed directly on the consumer.

4789 [~~(100)~~] (99) "Purchaser" means a person to whom:

4790 (a) a sale of tangible personal property is made;

4791 (b) a product is transferred electronically; or

4792 (c) a service is furnished.

4793 [~~(101)~~] (100) "Qualifying enterprise data center" means an establishment that will:

4794 (a) own and operate a data center facility that will house a group of networked server
4795 computers in one physical location in order to centralize the dissemination, management, and
4796 storage of data and information;

4797 (b) be located in the state;

4798 (c) be a new operation constructed on or after July 1, 2016;

4799 (d) consist of one or more buildings that total 150,000 or more square feet;

4800 (e) be owned or leased by:

4801 (i) the establishment; or

4802 (ii) a person under common ownership, as defined in Section 59-7-101, of the
4803 establishment; and

4804 (f) be located on one or more parcels of land that are owned or leased by:

4805 (i) the establishment; or

4806 (ii) a person under common ownership, as defined in Section 59-7-101, of the
4807 establishment.

4808 [~~(102)~~] (101) "Regularly rented" means:

4809 (a) rented to a guest for value three or more times during a calendar year; or

4810 (b) advertised or held out to the public as a place that is regularly rented to guests for
4811 value.

4812 [~~(103)~~] (102) "Rental" means the same as that term is defined in Subsection [~~(59)~~] (58).

4813 [~~(104)~~] (103) (a) Except as provided in Subsection [~~(104)~~] (103)(b), "repairs or
4814 renovations of tangible personal property" means:

4815 (i) a repair or renovation of tangible personal property that is not permanently attached
4816 to real property; or

4817 (ii) attaching tangible personal property or a product transferred electronically to other
4818 tangible personal property or detaching tangible personal property or a product transferred
4819 electronically from other tangible personal property if:

4820 (A) the other tangible personal property to which the tangible personal property or
4821 product transferred electronically is attached or from which the tangible personal property or
4822 product transferred electronically is detached is not permanently attached to real property; and

4823 (B) the attachment of tangible personal property or a product transferred electronically
4824 to other tangible personal property or detachment of tangible personal property or a product
4825 transferred electronically from other tangible personal property is made in conjunction with a
4826 repair or replacement of tangible personal property or a product transferred electronically.

4827 (b) "Repairs or renovations of tangible personal property" does not include:

4828 (i) attaching prewritten computer software to other tangible personal property if the
4829 other tangible personal property to which the prewritten computer software is attached is not
4830 permanently attached to real property; or

4831 (ii) detaching prewritten computer software from other tangible personal property if the
4832 other tangible personal property from which the prewritten computer software is detached is
4833 not permanently attached to real property.

4834 [~~(105)~~] (104) "Research and development" means the process of inquiry or
4835 experimentation aimed at the discovery of facts, devices, technologies, or applications and the
4836 process of preparing those devices, technologies, or applications for marketing.

4837 [~~(106)~~] (105) (a) "Residential telecommunications services" means a
4838 telecommunications service or an ancillary service that is provided to an individual for personal
4839 use:

4840 (i) at a residential address; or

4841 (ii) at an institution, including a nursing home or a school, if the telecommunications
4842 service or ancillary service is provided to and paid for by the individual residing at the
4843 institution rather than the institution.

4844 (b) For purposes of Subsection [~~(106)~~] (105)(a)(i), a residential address includes an:

4845 (i) apartment; or

4846 (ii) other individual dwelling unit.

4847 [~~(107)~~] (106) "Residential use" means the use in or around a home, apartment building,
4848 sleeping quarters, and similar facilities or accommodations.

4849 [~~(108)~~] (107) (a) "Retailer" means any person engaged in a regularly organized
4850 business in tangible personal property or any other taxable transaction under Subsection
4851 59-12-103(1), and who is selling to the user or consumer and not for resale.

4852 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
4853 engaged in the business of selling to users or consumers within the state.

4854 [~~(109)~~] (108) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
4855 other than:

4856 (a) resale;

4857 (b) sublease; or

4858 (c) subrent.

4859 [~~(110)~~] (109) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
4860 otherwise, in any manner, of tangible personal property or any other taxable transaction under
4861 Subsection 59-12-103(1), for consideration.

4862 (b) "Sale" includes:

4863 (i) installment and credit sales;

4864 (ii) any closed transaction constituting a sale;

4865 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
4866 chapter;

4867 (iv) any transaction if the possession of property is transferred but the seller retains the

4868 title as security for the payment of the price; and

4869 (v) any transaction under which right to possession, operation, or use of any article of
4870 tangible personal property is granted under a lease or contract and the transfer of possession
4871 would be taxable if an outright sale were made.

4872 [~~(111)~~] (110) "Sale at retail" means the same as that term is defined in Subsection
4873 [~~(109)~~] (108).

4874 [~~(112)~~] (111) "Sale-leaseback transaction" means a transaction by which title to
4875 tangible personal property or a product transferred electronically that is subject to a tax under
4876 this chapter is transferred:

4877 (a) by a purchaser-lessee;

4878 (b) to a lessor;

4879 (c) for consideration; and

4880 (d) if:

4881 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
4882 of the tangible personal property or product transferred electronically;

4883 (ii) the sale of the tangible personal property or product transferred electronically to the
4884 lessor is intended as a form of financing:

4885 (A) for the tangible personal property or product transferred electronically; and

4886 (B) to the purchaser-lessee; and

4887 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
4888 is required to:

4889 (A) capitalize the tangible personal property or product transferred electronically for
4890 financial reporting purposes; and

4891 (B) account for the lease payments as payments made under a financing arrangement.

4892 [~~(113)~~] (112) "Sales price" means the same as that term is defined in Subsection [~~(99)~~]
4893 (98).

4894 [~~(114)~~] (113) (a) "Sales relating to schools" means the following sales by, amounts
4895 paid to, or amounts charged by a school:

4896 (i) sales that are directly related to the school's educational functions or activities
4897 including:

4898 (A) the sale of:

- 4899 (I) textbooks;
- 4900 (II) textbook fees;
- 4901 (III) laboratory fees;
- 4902 (IV) laboratory supplies; or
- 4903 (V) safety equipment;
- 4904 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 4905 that:
- 4906 (I) a student is specifically required to wear as a condition of participation in a
- 4907 school-related event or school-related activity; and
- 4908 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 4909 place of ordinary clothing;
- 4910 (C) sales of the following if the net or gross revenues generated by the sales are
- 4911 deposited into a school district fund or school fund dedicated to school meals:
- 4912 (I) food and food ingredients; or
- 4913 (II) prepared food; or
- 4914 (D) transportation charges for official school activities; or
- 4915 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 4916 event or school-related activity.
- 4917 (b) "Sales relating to schools" does not include:
- 4918 (i) bookstore sales of items that are not educational materials or supplies;
- 4919 (ii) except as provided in Subsection [~~(114)~~] (113)(a)(i)(B):
- 4920 (A) clothing;
- 4921 (B) clothing accessories or equipment;
- 4922 (C) protective equipment; or
- 4923 (D) sports or recreational equipment; or
- 4924 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 4925 event or school-related activity if the amounts paid or charged are passed through to a person:
- 4926 (A) other than a:
- 4927 (I) school;
- 4928 (II) nonprofit organization authorized by a school board or a governing body of a
- 4929 private school to organize and direct a competitive secondary school activity; or

- 4930 (III) nonprofit association authorized by a school board or a governing body of a
 4931 private school to organize and direct a competitive secondary school activity; and
- 4932 (B) that is required to collect sales and use taxes under this chapter.
- 4933 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 4934 commission may make rules defining the term "passed through."
- 4935 [~~(115)~~] (114) For purposes of this section and Section 59-12-104, "school":
- 4936 (a) means:
- 4937 (i) an elementary school or a secondary school that:
- 4938 (A) is a:
- 4939 (I) public school; or
- 4940 (II) private school; and
- 4941 (B) provides instruction for one or more grades kindergarten through 12; or
- 4942 (ii) a public school district; and
- 4943 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 4944 [~~(116)~~] (115) "Seller" means a person that makes a sale, lease, or rental of:
- 4945 (a) tangible personal property;
- 4946 (b) a product transferred electronically; or
- 4947 (c) a service.
- 4948 [~~(117)~~] (116) (a) "Semiconductor fabricating, processing, research, or development
 4949 materials" means tangible personal property or a product transferred electronically if the
 4950 tangible personal property or product transferred electronically is:
- 4951 (i) used primarily in the process of:
- 4952 (A) (I) manufacturing a semiconductor;
- 4953 (II) fabricating a semiconductor; or
- 4954 (III) research or development of a:
- 4955 (Aa) semiconductor; or
- 4956 (Bb) semiconductor manufacturing process; or
- 4957 (B) maintaining an environment suitable for a semiconductor; or
- 4958 (ii) consumed primarily in the process of:
- 4959 (A) (I) manufacturing a semiconductor;
- 4960 (II) fabricating a semiconductor; or

- 4961 (III) research or development of a:
4962 (Aa) semiconductor; or
4963 (Bb) semiconductor manufacturing process; or
4964 (B) maintaining an environment suitable for a semiconductor.
4965 (b) "Semiconductor fabricating, processing, research, or development materials"
4966 includes:
4967 (i) parts used in the repairs or renovations of tangible personal property or a product
4968 transferred electronically described in Subsection [~~(117)~~] (116)(a); or
4969 (ii) a chemical, catalyst, or other material used to:
4970 (A) produce or induce in a semiconductor a:
4971 (I) chemical change; or
4972 (II) physical change;
4973 (B) remove impurities from a semiconductor; or
4974 (C) improve the marketable condition of a semiconductor.
4975 [~~(118)~~] (117) "Senior citizen center" means a facility having the primary purpose of
4976 providing services to the aged as defined in Section 62A-3-101.
4977 [~~(119)~~] (118) (a) Subject to Subsections [~~(119)~~] (118)(b) and (c), "short-term lodging
4978 consumable" means tangible personal property that:
4979 (i) a business that provides accommodations and services described in Subsection
4980 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
4981 to a purchaser;
4982 (ii) is intended to be consumed by the purchaser; and
4983 (iii) is:
4984 (A) included in the purchase price of the accommodations and services; and
4985 (B) not separately stated on an invoice, bill of sale, or other similar document provided
4986 to the purchaser.
4987 (b) "Short-term lodging consumable" includes:
4988 (i) a beverage;
4989 (ii) a brush or comb;
4990 (iii) a cosmetic;
4991 (iv) a hair care product;

- 4992 (v) lotion;
- 4993 (vi) a magazine;
- 4994 (vii) makeup;
- 4995 (viii) a meal;
- 4996 (ix) mouthwash;
- 4997 (x) nail polish remover;
- 4998 (xi) a newspaper;
- 4999 (xii) a notepad;
- 5000 (xiii) a pen;
- 5001 (xiv) a pencil;
- 5002 (xv) a razor;
- 5003 (xvi) saline solution;
- 5004 (xvii) a sewing kit;
- 5005 (xviii) shaving cream;
- 5006 (xix) a shoe shine kit;
- 5007 (xx) a shower cap;
- 5008 (xxi) a snack item;
- 5009 (xxii) soap;
- 5010 (xxiii) toilet paper;
- 5011 (xxiv) a toothbrush;
- 5012 (xxv) toothpaste; or
- 5013 (xxvi) an item similar to Subsections [~~(119)~~] (118)(b)(i) through (xxv) as the
- 5014 commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah
- 5015 Administrative Rulemaking Act.
- 5016 (c) "Short-term lodging consumable" does not include:
- 5017 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 5018 property to be reused; or
- 5019 (ii) a product transferred electronically.
- 5020 [~~(120)~~] (119) "Simplified electronic return" means the electronic return:
- 5021 (a) described in Section 318(C) of the agreement; and
- 5022 (b) approved by the governing board of the agreement.

5023 [~~(121)~~] (120) "Solar energy" means the sun used as the sole source of energy for
5024 producing electricity.

5025 [~~(122)~~] (121) (a) "Sports or recreational equipment" means an item:

5026 (i) designed for human use; and

5027 (ii) that is:

5028 (A) worn in conjunction with:

5029 (I) an athletic activity; or

5030 (II) a recreational activity; and

5031 (B) not suitable for general use.

5032 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5033 commission shall make rules:

5034 (i) listing the items that constitute "sports or recreational equipment"; and

5035 (ii) that are consistent with the list of items that constitute "sports or recreational
5036 equipment" under the agreement.

5037 [~~(123)~~] (122) "State" means the state of Utah, its departments, and agencies.

5038 [~~(124)~~] (123) "Storage" means any keeping or retention of tangible personal property or
5039 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
5040 except sale in the regular course of business.

5041 [~~(125)~~] (124) (a) Except as provided in Subsection [~~(125)~~] (124)(d) or (e), "tangible
5042 personal property" means personal property that:

5043 (i) may be:

5044 (A) seen;

5045 (B) weighed;

5046 (C) measured;

5047 (D) felt; or

5048 (E) touched; or

5049 (ii) is in any manner perceptible to the senses.

5050 (b) "Tangible personal property" includes:

5051 (i) electricity;

5052 (ii) water;

5053 (iii) gas;

- 5054 (iv) steam; or
- 5055 (v) prewritten computer software, regardless of the manner in which the prewritten
- 5056 computer software is transferred.
- 5057 (c) "Tangible personal property" includes the following regardless of whether the item
- 5058 is attached to real property:
- 5059 (i) a dishwasher;
- 5060 (ii) a dryer;
- 5061 (iii) a freezer;
- 5062 (iv) a microwave;
- 5063 (v) a refrigerator;
- 5064 (vi) a stove;
- 5065 (vii) a washer; or
- 5066 (viii) an item similar to Subsections [~~125~~] (124)(c)(i) through (vii) as determined by
- 5067 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 5068 Rulemaking Act.
- 5069 (d) "Tangible personal property" does not include a product that is transferred
- 5070 electronically.
- 5071 (e) "Tangible personal property" does not include the following if attached to real
- 5072 property, regardless of whether the attachment to real property is only through a line that
- 5073 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
- 5074 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 5075 Rulemaking Act:
- 5076 (i) a hot water heater;
- 5077 (ii) a water filtration system; or
- 5078 (iii) a water softener system.
- 5079 [~~126~~] (125) (a) "Telecommunications enabling or facilitating equipment, machinery,
- 5080 or software" means an item listed in Subsection [~~126~~] (125)(b) if that item is purchased or
- 5081 leased primarily to enable or facilitate one or more of the following to function:
- 5082 (i) telecommunications switching or routing equipment, machinery, or software; or
- 5083 (ii) telecommunications transmission equipment, machinery, or software.
- 5084 (b) The following apply to Subsection [~~126~~] (125)(a):

5085 (i) a pole;
5086 (ii) software;
5087 (iii) a supplementary power supply;
5088 (iv) temperature or environmental equipment or machinery;
5089 (v) test equipment;
5090 (vi) a tower; or
5091 (vii) equipment, machinery, or software that functions similarly to an item listed in
5092 Subsections ~~[(126)]~~ (125)(b)(i) through (vi) as determined by the commission by rule made in
5093 accordance with Subsection ~~[(126)]~~ (125)(c).

5094 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5095 commission may by rule define what constitutes equipment, machinery, or software that
5096 functions similarly to an item listed in Subsections ~~[(126)]~~ (125)(b)(i) through (vi).

5097 ~~[(127)]~~ (126) "Telecommunications equipment, machinery, or software required for
5098 911 service" means equipment, machinery, or software that is required to comply with 47
5099 C.F.R. Sec. 20.18.

5100 ~~[(128)]~~ (127) "Telecommunications maintenance or repair equipment, machinery, or
5101 software" means equipment, machinery, or software purchased or leased primarily to maintain
5102 or repair one or more of the following, regardless of whether the equipment, machinery, or
5103 software is purchased or leased as a spare part or as an upgrade or modification to one or more
5104 of the following:

5105 (a) telecommunications enabling or facilitating equipment, machinery, or software;
5106 (b) telecommunications switching or routing equipment, machinery, or software; or
5107 (c) telecommunications transmission equipment, machinery, or software.

5108 ~~[(129)]~~ (128) (a) "Telecommunications service" means the electronic conveyance,
5109 routing, or transmission of audio, data, video, voice, or any other information or signal to a
5110 point, or among or between points.

5111 (b) "Telecommunications service" includes:

5112 (i) an electronic conveyance, routing, or transmission with respect to which a computer
5113 processing application is used to act:

5114 (A) on the code, form, or protocol of the content;

5115 (B) for the purpose of electronic conveyance, routing, or transmission; and

- 5116 (C) regardless of whether the service:
- 5117 (I) is referred to as voice over Internet protocol service; or
- 5118 (II) is classified by the Federal Communications Commission as enhanced or value
- 5119 added;
- 5120 (ii) an 800 service;
- 5121 (iii) a 900 service;
- 5122 (iv) a fixed wireless service;
- 5123 (v) a mobile wireless service;
- 5124 (vi) a postpaid calling service;
- 5125 (vii) a prepaid calling service;
- 5126 (viii) a prepaid wireless calling service; or
- 5127 (ix) a private communications service.
- 5128 (c) "Telecommunications service" does not include:
- 5129 (i) advertising, including directory advertising;
- 5130 (ii) an ancillary service;
- 5131 (iii) a billing and collection service provided to a third party;
- 5132 (iv) a data processing and information service if:
- 5133 (A) the data processing and information service allows data to be:
- 5134 (I) (Aa) acquired;
- 5135 (Bb) generated;
- 5136 (Cc) processed;
- 5137 (Dd) retrieved; or
- 5138 (Ee) stored; and
- 5139 (II) delivered by an electronic transmission to a purchaser; and
- 5140 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 5141 or information;
- 5142 (v) installation or maintenance of the following on a customer's premises:
- 5143 (A) equipment; or
- 5144 (B) wiring;
- 5145 (vi) Internet access service;
- 5146 (vii) a paging service;

- 5147 (viii) a product transferred electronically, including:
- 5148 (A) music;
- 5149 (B) reading material;
- 5150 (C) a ring tone;
- 5151 (D) software; or
- 5152 (E) video;
- 5153 (ix) a radio and television audio and video programming service:
- 5154 (A) regardless of the medium; and
- 5155 (B) including:
- 5156 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 5157 programming service by a programming service provider;
- 5158 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 5159 (III) audio and video programming services delivered by a commercial mobile radio
- 5160 service provider as defined in 47 C.F.R. Sec. 20.3;
- 5161 (x) a value-added nonvoice data service; or
- 5162 (xi) tangible personal property.
- 5163 [~~(130)~~] (129) (a) "Telecommunications service provider" means a person that:
- 5164 (i) owns, controls, operates, or manages a telecommunications service; and
- 5165 (ii) engages in an activity described in Subsection [~~(130)~~] (129)(a)(i) for the shared use
- 5166 with or resale to any person of the telecommunications service.
- 5167 (b) A person described in Subsection [~~(130)~~] (129)(a) is a telecommunications service
- 5168 provider whether or not the Public Service Commission of Utah regulates:
- 5169 (i) that person; or
- 5170 (ii) the telecommunications service that the person owns, controls, operates, or
- 5171 manages.
- 5172 [~~(131)~~] (130) (a) "Telecommunications switching or routing equipment, machinery, or
- 5173 software" means an item listed in Subsection [~~(131)~~] (130)(b) if that item is purchased or
- 5174 leased primarily for switching or routing:
- 5175 (i) an ancillary service;
- 5176 (ii) data communications;
- 5177 (iii) voice communications; or

5178 (iv) telecommunications service.

5179 (b) The following apply to Subsection [~~(131)~~] (130)(a):

5180 (i) a bridge;

5181 (ii) a computer;

5182 (iii) a cross connect;

5183 (iv) a modem;

5184 (v) a multiplexer;

5185 (vi) plug in circuitry;

5186 (vii) a router;

5187 (viii) software;

5188 (ix) a switch; or

5189 (x) equipment, machinery, or software that functions similarly to an item listed in

5190 Subsections [~~(131)~~] (130)(b)(i) through (ix) as determined by the commission by rule made in

5191 accordance with Subsection [~~(131)~~] (130)(c).

5192 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

5193 commission may by rule define what constitutes equipment, machinery, or software that

5194 functions similarly to an item listed in Subsections [~~(131)~~] (130)(b)(i) through (ix).

5195 [~~(132)~~] (131) (a) "Telecommunications transmission equipment, machinery, or

5196 software" means an item listed in Subsection [~~(132)~~] (131)(b) if that item is purchased or

5197 leased primarily for sending, receiving, or transporting:

5198 (i) an ancillary service;

5199 (ii) data communications;

5200 (iii) voice communications; or

5201 (iv) telecommunications service.

5202 (b) The following apply to Subsection [~~(132)~~] (131)(a):

5203 (i) an amplifier;

5204 (ii) a cable;

5205 (iii) a closure;

5206 (iv) a conduit;

5207 (v) a controller;

5208 (vi) a duplexer;

- 5209 (vii) a filter;
- 5210 (viii) an input device;
- 5211 (ix) an input/output device;
- 5212 (x) an insulator;
- 5213 (xi) microwave machinery or equipment;
- 5214 (xii) an oscillator;
- 5215 (xiii) an output device;
- 5216 (xiv) a pedestal;
- 5217 (xv) a power converter;
- 5218 (xvi) a power supply;
- 5219 (xvii) a radio channel;
- 5220 (xviii) a radio receiver;
- 5221 (xix) a radio transmitter;
- 5222 (xx) a repeater;
- 5223 (xxi) software;
- 5224 (xxii) a terminal;
- 5225 (xxiii) a timing unit;
- 5226 (xxiv) a transformer;
- 5227 (xxv) a wire; or
- 5228 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 5229 Subsections [~~(132)~~] (131)(b)(i) through (xxv) as determined by the commission by rule made in
- 5230 accordance with Subsection [~~(132)~~] (131)(c).
- 5231 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 5232 commission may by rule define what constitutes equipment, machinery, or software that
- 5233 functions similarly to an item listed in Subsections [~~(132)~~] (131)(b)(i) through (xxv).
- 5234 [~~(133)~~] (132) (a) "Textbook for a higher education course" means a textbook or other
- 5235 printed material that is required for a course:
- 5236 (i) offered by an institution of higher education; and
- 5237 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 5238 (b) "Textbook for a higher education course" includes a textbook in electronic format.
- 5239 [~~(134)~~] (133) "Tobacco" means:

5240 (a) a cigarette;

5241 (b) a cigar;

5242 (c) chewing tobacco;

5243 (d) pipe tobacco; or

5244 (e) any other item that contains tobacco.

5245 ~~[(135) "Unassisted amusement device" means an amusement device, skill device, or~~
5246 ~~ride device that is started and stopped by the purchaser or renter of the right to use or operate~~
5247 ~~the amusement device, skill device, or ride device.]~~

5248 ~~[(136)]~~ (134) (a) "Use" means the exercise of any right or power over tangible personal
5249 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
5250 incident to the ownership or the leasing of that tangible personal property, product transferred
5251 electronically, or service.

5252 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
5253 property, a product transferred electronically, or a service in the regular course of business and
5254 held for resale.

5255 ~~[(137)]~~ (135) "Value-added nonvoice data service" means a service:

5256 (a) that otherwise meets the definition of a telecommunications service except that a
5257 computer processing application is used to act primarily for a purpose other than conveyance,
5258 routing, or transmission; and

5259 (b) with respect to which a computer processing application is used to act on data or
5260 information:

5261 (i) code;

5262 (ii) content;

5263 (iii) form; or

5264 (iv) protocol.

5265 ~~[(138)]~~ (136) (a) Subject to Subsection ~~[(138)]~~ (136)(b), "vehicle" means the following
5266 that are required to be titled, registered, or titled and registered:

5267 (i) an aircraft as defined in Section 72-10-102;

5268 (ii) a vehicle as defined in Section 41-1a-102;

5269 (iii) an off-highway vehicle as defined in Section 41-22-2; or

5270 (iv) a vessel as defined in Section 41-1a-102.

- 5271 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 5272 (i) a vehicle described in Subsection [~~(138)~~] (136)(a); or
- 5273 (ii) (A) a locomotive;
- 5274 (B) a freight car;
- 5275 (C) railroad work equipment; or
- 5276 (D) other railroad rolling stock.
- 5277 [~~(139)~~] (137) "Vehicle dealer" means a person engaged in the business of buying,
- 5278 selling, or exchanging a vehicle as defined in Subsection [~~(138)~~] (136).
- 5279 [~~(140)~~] (138) (a) "Vertical service" means an ancillary service that:
- 5280 (i) is offered in connection with one or more telecommunications services; and
- 5281 (ii) offers an advanced calling feature that allows a customer to:
- 5282 (A) identify a caller; and
- 5283 (B) manage multiple calls and call connections.
- 5284 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 5285 conference bridging service.
- 5286 [~~(141)~~] (139) (a) "Voice mail service" means an ancillary service that enables a
- 5287 customer to receive, send, or store a recorded message.
- 5288 (b) "Voice mail service" does not include a vertical service that a customer is required
- 5289 to have in order to utilize a voice mail service.
- 5290 [~~(142)~~] (140) (a) Except as provided in Subsection [~~(142)~~] (140)(b), "waste energy
- 5291 facility" means a facility that generates electricity:
- 5292 (i) using as the primary source of energy waste materials that would be placed in a
- 5293 landfill or refuse pit if it were not used to generate electricity, including:
- 5294 (A) tires;
- 5295 (B) waste coal;
- 5296 (C) oil shale; or
- 5297 (D) municipal solid waste; and
- 5298 (ii) in amounts greater than actually required for the operation of the facility.
- 5299 (b) "Waste energy facility" does not include a facility that incinerates:
- 5300 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 5301 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

5302 [~~(143)~~] (141) "Watercraft" means a vessel as defined in Section 73-18-2.

5303 [~~(144)~~] (142) "Wind energy" means wind used as the sole source of energy to produce
5304 electricity.

5305 [~~(145)~~] (143) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
5306 geographic location by the United States Postal Service.

5307 Section 38. Section **59-12-103** is amended to read:

5308 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
5309 **tax revenues.**

5310 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
5311 sales price for amounts paid or charged for the following transactions:

5312 (a) retail sales of tangible personal property made within the state;

5313 (b) amounts paid for:

5314 (i) telecommunications service, other than mobile telecommunications service, that
5315 originates and terminates within the boundaries of this state;

5316 (ii) mobile telecommunications service that originates and terminates within the
5317 boundaries of one state only to the extent permitted by the Mobile Telecommunications
5318 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

5319 (iii) an ancillary service associated with a:

5320 (A) telecommunications service described in Subsection (1)(b)(i); or

5321 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

5322 (c) sales of the following for commercial use:

5323 (i) gas;

5324 (ii) electricity;

5325 (iii) heat;

5326 (iv) coal;

5327 (v) fuel oil; or

5328 (vi) other fuels;

5329 (d) sales of the following for residential use:

5330 (i) gas;

5331 (ii) electricity;

5332 (iii) heat;

- 5333 (iv) coal;
- 5334 (v) fuel oil; or
- 5335 (vi) other fuels;
- 5336 (e) sales of prepared food;
- 5337 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 5338 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 5339 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 5340 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 5341 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 5342 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 5343 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 5344 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 5345 exhibition, cultural, or athletic activity;
- 5346 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 5347 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 5348 (i) the tangible personal property; and
- 5349 (ii) parts used in the repairs or renovations of the tangible personal property described
- 5350 in Subsection (1)(g)(i), regardless of whether:
- 5351 (A) any parts are actually used in the repairs or renovations of that tangible personal
- 5352 property; or
- 5353 (B) the particular parts used in the repairs or renovations of that tangible personal
- 5354 property are exempt from a tax under this chapter;
- 5355 (h) except as provided in [~~Subsection~~] Subsections 59-12-104(7) and (87), amounts
- 5356 paid or charged for assisted cleaning or washing of tangible personal property;
- 5357 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 5358 accommodations and services that are regularly rented for less than 30 consecutive days;
- 5359 (j) amounts paid or charged for laundry or dry cleaning services;
- 5360 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 5361 this state the tangible personal property is:
- 5362 (i) stored;
- 5363 (ii) used; or

- 5364 (iii) otherwise consumed;
- 5365 (l) amounts paid or charged for tangible personal property if within this state the
- 5366 tangible personal property is:
- 5367 (i) stored;
- 5368 (ii) used; or
- 5369 (iii) consumed; [~~and~~]
- 5370 (m) amounts paid or charged for a sale:
- 5371 (i) (A) of a product transferred electronically; or
- 5372 (B) of a repair or renovation of a product transferred electronically; and
- 5373 (ii) regardless of whether the sale provides:
- 5374 (A) a right of permanent use of the product; or
- 5375 (B) a right to use the product that is less than a permanent use, including a right:
- 5376 (I) for a definite or specified length of time; and
- 5377 (II) that terminates upon the occurrence of a condition[-]; and
- 5378 (n) amounts paid or charged for access:
- 5379 (i) to digital audio-visual works, digital audio works, digital books, or gaming services,
- 5380 including the streaming of or subscription for access to digital audio-visual works, digital audio
- 5381 works, digital books, or gaming services;
- 5382 (ii) regardless of the method of delivery; and
- 5383 (iii) regardless of whether the amount paid or charged for access provides:
- 5384 (A) a right to single-use access to the digital audio-visual works, digital audio works,
- 5385 digital books, or gaming services; or
- 5386 (B) a right to access the digital audio-visual works, digital audio works, digital books,
- 5387 or gaming services through a subscription, including a right that terminates upon the
- 5388 occurrence of a condition.
- 5389 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
- 5390 is imposed on a transaction described in Subsection (1) equal to the sum of:
- 5391 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
- 5392 (A) 4.70%; and
- 5393 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
- 5394 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

5395 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
5396 State Sales and Use Tax Act; and

5397 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
5398 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
5399 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
5400 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

5401 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
5402 transaction under this chapter other than this part.

5403 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
5404 on a transaction described in Subsection (1)(d) equal to the sum of:

5405 (i) a state tax imposed on the transaction at a tax rate of 2%; and

5406 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
5407 transaction under this chapter other than this part.

5408 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
5409 on amounts paid or charged for food and food ingredients equal to the sum of:

5410 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
5411 a tax rate of 1.75%; and

5412 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
5413 amounts paid or charged for food and food ingredients under this chapter other than this part.

5414 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
5415 tangible personal property other than food and food ingredients, a state tax and a local tax is
5416 imposed on the entire bundled transaction equal to the sum of:

5417 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

5418 (I) the tax rate described in Subsection (2)(a)(i)(A); and

5419 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
5420 Sales and Use Tax Act, if the location of the transaction as determined under Sections
5421 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
5422 Additional State Sales and Use Tax Act; and

5423 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
5424 Sales and Use Tax Act, if the location of the transaction as determined under Sections

5425 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which

5426 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

5427 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
5428 described in Subsection (2)(a)(ii).

5429 (ii) If an optional computer software maintenance contract is a bundled transaction that
5430 consists of taxable and nontaxable products that are not separately itemized on an invoice or
5431 similar billing document, the purchase of the optional computer software maintenance contract
5432 is 40% taxable under this chapter and 60% nontaxable under this chapter.

5433 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
5434 transaction described in Subsection (2)(d)(i) or (ii):

5435 (A) if the sales price of the bundled transaction is attributable to tangible personal
5436 property, a product, or a service that is subject to taxation under this chapter and tangible
5437 personal property, a product, or service that is not subject to taxation under this chapter, the
5438 entire bundled transaction is subject to taxation under this chapter unless:

5439 (I) the seller is able to identify by reasonable and verifiable standards the tangible
5440 personal property, product, or service that is not subject to taxation under this chapter from the
5441 books and records the seller keeps in the seller's regular course of business; or

5442 (II) state or federal law provides otherwise; or

5443 (B) if the sales price of a bundled transaction is attributable to two or more items of
5444 tangible personal property, products, or services that are subject to taxation under this chapter
5445 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
5446 higher tax rate unless:

5447 (I) the seller is able to identify by reasonable and verifiable standards the tangible
5448 personal property, product, or service that is subject to taxation under this chapter at the lower
5449 tax rate from the books and records the seller keeps in the seller's regular course of business; or

5450 (II) state or federal law provides otherwise.

5451 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
5452 seller's regular course of business includes books and records the seller keeps in the regular
5453 course of business for nontax purposes.

5454 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
5455 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
5456 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental

5457 of tangible personal property, other property, a product, or a service that is not subject to
5458 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
5459 the seller, at the time of the transaction:

5460 (A) separately states the portion of the transaction that is not subject to taxation under
5461 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

5462 (B) is able to identify by reasonable and verifiable standards, from the books and
5463 records the seller keeps in the seller's regular course of business, the portion of the transaction
5464 that is not subject to taxation under this chapter.

5465 (ii) A purchaser and a seller may correct the taxability of a transaction if:

5466 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
5467 the transaction that is not subject to taxation under this chapter was not separately stated on an
5468 invoice, bill of sale, or similar document provided to the purchaser because of an error or
5469 ignorance of the law; and

5470 (B) the seller is able to identify by reasonable and verifiable standards, from the books
5471 and records the seller keeps in the seller's regular course of business, the portion of the
5472 transaction that is not subject to taxation under this chapter.

5473 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
5474 in the seller's regular course of business includes books and records the seller keeps in the
5475 regular course of business for nontax purposes.

5476 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
5477 personal property, products, or services that are subject to taxation under this chapter at
5478 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
5479 unless the seller, at the time of the transaction:

5480 (A) separately states the items subject to taxation under this chapter at each of the
5481 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

5482 (B) is able to identify by reasonable and verifiable standards the tangible personal
5483 property, product, or service that is subject to taxation under this chapter at the lower tax rate
5484 from the books and records the seller keeps in the seller's regular course of business.

5485 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
5486 seller's regular course of business includes books and records the seller keeps in the regular
5487 course of business for nontax purposes.

5488 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
5489 rate imposed under the following shall take effect on the first day of a calendar quarter:

5490 (i) Subsection (2)(a)(i)(A);

5491 (ii) Subsection (2)(b)(i);

5492 (iii) Subsection (2)(c)(i); or

5493 (iv) Subsection (2)(d)(i)(A)(I).

5494 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
5495 begins on or after the effective date of the tax rate increase if the billing period for the
5496 transaction begins before the effective date of a tax rate increase imposed under:

5497 (A) Subsection (2)(a)(i)(A);

5498 (B) Subsection (2)(b)(i);

5499 (C) Subsection (2)(c)(i); or

5500 (D) Subsection (2)(d)(i)(A)(I).

5501 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
5502 statement for the billing period is rendered on or after the effective date of the repeal of the tax
5503 or the tax rate decrease imposed under:

5504 (A) Subsection (2)(a)(i)(A);

5505 (B) Subsection (2)(b)(i);

5506 (C) Subsection (2)(c)(i); or

5507 (D) Subsection (2)(d)(i)(A)(I).

5508 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
5509 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
5510 change in a tax rate takes effect:

5511 (A) on the first day of a calendar quarter; and

5512 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

5513 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

5514 (A) Subsection (2)(a)(i)(A);

5515 (B) Subsection (2)(b)(i);

5516 (C) Subsection (2)(c)(i); or

5517 (D) Subsection (2)(d)(i)(A)(I).

5518 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

5519 the commission may by rule define the term "catalogue sale."
5520 (3) (a) The following state taxes shall be deposited into the General Fund:
5521 (i) the tax imposed by Subsection (2)(a)(i)(A);
5522 (ii) the tax imposed by Subsection (2)(b)(i);
5523 (iii) the tax imposed by Subsection (2)(c)(i); or
5524 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
5525 (b) The following local taxes shall be distributed to a county, city, or town as provided
5526 in this chapter:
5527 (i) the tax imposed by Subsection (2)(a)(ii);
5528 (ii) the tax imposed by Subsection (2)(b)(ii);
5529 (iii) the tax imposed by Subsection (2)(c)(ii); and
5530 (iv) the tax imposed by Subsection (2)(d)(i)(B).
5531 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
5532 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
5533 through (g):
5534 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
5535 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
5536 (B) for the fiscal year; or
5537 (ii) \$17,500,000.
5538 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
5539 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
5540 Department of Natural Resources to:
5541 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
5542 protect sensitive plant and animal species; or
5543 (B) award grants, up to the amount authorized by the Legislature in an appropriations
5544 act, to political subdivisions of the state to implement the measures described in Subsections
5545 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.
5546 (ii) Money transferred to the Department of Natural Resources under Subsection
5547 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
5548 person to list or attempt to have listed a species as threatened or endangered under the
5549 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

5550 (iii) At the end of each fiscal year:

5551 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources

5552 Conservation and Development Fund created in Section 73-10-24;

5553 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

5554 Program Subaccount created in Section 73-10c-5; and

5555 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

5556 Program Subaccount created in Section 73-10c-5.

5557 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in

5558 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund

5559 created in Section 4-18-106.

5560 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described

5561 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water

5562 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of

5563 water rights.

5564 (ii) At the end of each fiscal year:

5565 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources

5566 Conservation and Development Fund created in Section 73-10-24;

5567 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

5568 Program Subaccount created in Section 73-10c-5; and

5569 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

5570 Program Subaccount created in Section 73-10c-5.

5571 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described

5572 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and

5573 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

5574 (ii) In addition to the uses allowed of the Water Resources Conservation and

5575 Development Fund under Section 73-10-24, the Water Resources Conservation and

5576 Development Fund may also be used to:

5577 (A) conduct hydrologic and geotechnical investigations by the Division of Water

5578 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of

5579 quantifying surface and ground water resources and describing the hydrologic systems of an

5580 area in sufficient detail so as to enable local and state resource managers to plan for and

5581 accommodate growth in water use without jeopardizing the resource;

5582 (B) fund state required dam safety improvements; and

5583 (C) protect the state's interest in interstate water compact allocations, including the
5584 hiring of technical and legal staff.

5585 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
5586 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
5587 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

5588 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
5589 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
5590 created in Section 73-10c-5 for use by the Division of Drinking Water to:

5591 (i) provide for the installation and repair of collection, treatment, storage, and
5592 distribution facilities for any public water system, as defined in Section 19-4-102;

5593 (ii) develop underground sources of water, including springs and wells; and

5594 (iii) develop surface water sources.

5595 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
5596 2006, the difference between the following amounts shall be expended as provided in this
5597 Subsection (5), if that difference is greater than \$1:

5598 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
5599 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

5600 (ii) \$17,500,000.

5601 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

5602 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
5603 credits; and

5604 (B) expended by the Department of Natural Resources for watershed rehabilitation or
5605 restoration.

5606 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
5607 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
5608 created in Section 73-10-24.

5609 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
5610 remaining difference described in Subsection (5)(a) shall be:

5611 (A) transferred each fiscal year to the Division of Water Resources as dedicated

5612 credits; and

5613 (B) expended by the Division of Water Resources for cloud-seeding projects

5614 authorized by Title 73, Chapter 15, Modification of Weather.

5615 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described

5616 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund

5617 created in Section 73-10-24.

5618 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the

5619 remaining difference described in Subsection (5)(a) shall be deposited into the Water

5620 Resources Conservation and Development Fund created in Section 73-10-24 for use by the

5621 Division of Water Resources for:

5622 (i) preconstruction costs:

5623 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter

5624 26, Bear River Development Act; and

5625 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project

5626 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

5627 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,

5628 Chapter 26, Bear River Development Act;

5629 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project

5630 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

5631 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and

5632 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

5633 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to

5634 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be

5635 transferred each year as dedicated credits to the Division of Water Rights to cover the costs

5636 incurred for employing additional technical staff for the administration of water rights.

5637 (f) At the end of each fiscal year, any unexpended dedicated credits described in

5638 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development

5639 Fund created in Section 73-10-24.

5640 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the

5641 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection

5642 (1) for the fiscal year shall be deposited as follows:

5643 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)
5644 shall be deposited into the Transportation Investment Fund of 2005 created by Section
5645 72-2-124;

5646 (b) for fiscal year 2017-18 only:

5647 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the
5648 Transportation Investment Fund of 2005 created by Section 72-2-124; and

5649 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the
5650 Water Infrastructure Restricted Account created by Section 73-10g-103;

5651 (c) for fiscal year 2018-19 only:

5652 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the
5653 Transportation Investment Fund of 2005 created by Section 72-2-124; and

5654 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the
5655 Water Infrastructure Restricted Account created by Section 73-10g-103;

5656 (d) for fiscal year 2019-20 only:

5657 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the
5658 Transportation Investment Fund of 2005 created by Section 72-2-124; and

5659 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the
5660 Water Infrastructure Restricted Account created by Section 73-10g-103;

5661 (e) for fiscal year 2020-21 only:

5662 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
5663 Transportation Investment Fund of 2005 created by Section 72-2-124; and

5664 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
5665 Water Infrastructure Restricted Account created by Section 73-10g-103; and

5666 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
5667 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
5668 created by Section 73-10g-103.

5669 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
5670 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
5671 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
5672 created by Section 72-2-124:

5673 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of

5674 the revenues collected from the following taxes, which represents a portion of the
5675 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
5676 on vehicles and vehicle-related products:

5677 (A) the tax imposed by Subsection (2)(a)(i)(A);

5678 (B) the tax imposed by Subsection (2)(b)(i);

5679 (C) the tax imposed by Subsection (2)(c)(i); and

5680 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

5681 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
5682 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
5683 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
5684 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

5685 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
5686 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total
5687 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
5688 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
5689 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
5690 (7)(a) equal to the product of:

5691 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
5692 previous fiscal year; and

5693 (B) the total sales and use tax revenue generated by the taxes described in Subsections
5694 (7)(a)(i)(A) through (D) in the current fiscal year.

5695 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
5696 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes
5697 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of
5698 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
5699 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

5700 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
5701 from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited
5702 under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues
5703 collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the
5704 current fiscal year under Subsection (7)(a).

5705 (8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited
5706 under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall
5707 deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into
5708 the Transportation Investment Fund of 2005 created by Section 72-2-124.

5709 (b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
5710 Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit
5711 \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the
5712 Transportation Investment Fund of 2005 created by Section 72-2-124.

5713 (c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under
5714 Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning on or
5715 after July 1, 2018, the commission shall annually deposit into the Transportation Investment
5716 Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a)
5717 in an amount equal to 3.68% of the revenues collected from the following taxes:

5718 (A) the tax imposed by Subsection (2)(a)(i)(A);

5719 (B) the tax imposed by Subsection (2)(b)(i);

5720 (C) the tax imposed by Subsection (2)(c)(i); and

5721 (D) the tax imposed by Subsection (2)(d)(i)(A)(I).

5722 (ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually
5723 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i)
5724 by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year
5725 by the portion of the tax imposed on motor and special fuel that is sold, used, or received for
5726 sale or use in this state that exceeds 29.4 cents per gallon.

5727 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
5728 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
5729 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

5730 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),
5731 in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17
5732 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund
5733 of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on
5734 the transactions described in Subsection (1).

5735 (b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in

5736 addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance
5737 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
5738 amount of revenue described as follows:

5739 (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%
5740 tax rate on the transactions described in Subsection (1);

5741 (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05%
5742 tax rate on the transactions described in Subsection (1);

5743 (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%
5744 tax rate on the transactions described in Subsection (1);

5745 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
5746 .05% tax rate on the transactions described in Subsection (1); and

5747 (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%
5748 tax rate on the transactions described in Subsection (1).

5749 (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not
5750 deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts
5751 paid or charged for food and food ingredients, except for tax revenue generated by a bundled
5752 transaction attributable to food and food ingredients and tangible personal property other than
5753 food and food ingredients described in Subsection (2)(d).

5754 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
5755 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
5756 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
5757 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue
5758 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,
5759 created in Section 63N-2-512.

5760 (12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the
5761 Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed
5762 under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

5763 (b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of
5764 Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under
5765 Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

5766 (13) Notwithstanding Subsections (4) through (12), an amount required to be expended

5767 or deposited in accordance with Subsections (4) through (12) may not include an amount the
5768 Division of Finance deposits in accordance with Section 59-12-103.2.

5769 Section 39. Section **59-12-104 (Effective 01/01/18)** is amended to read:

5770 **59-12-104 (Effective 01/01/18). Exemptions.**

5771 Exemptions from the taxes imposed by this chapter are as follows:

5772 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
5773 under Chapter 13, Motor and Special Fuel Tax Act;

5774 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
5775 subdivisions; however, this exemption does not apply to sales of:

5776 (a) construction materials except:

5777 (i) construction materials purchased by or on behalf of institutions of the public
5778 education system as defined in Utah Constitution, Article X, Section 2, provided the
5779 construction materials are clearly identified and segregated and installed or converted to real
5780 property which is owned by institutions of the public education system; and

5781 (ii) construction materials purchased by the state, its institutions, or its political
5782 subdivisions which are installed or converted to real property by employees of the state, its
5783 institutions, or its political subdivisions; or

5784 (b) tangible personal property in connection with the construction, operation,
5785 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
5786 providing additional project capacity, as defined in Section 11-13-103;

5787 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

5788 (i) the proceeds of each sale do not exceed \$1; and

5789 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
5790 the cost of the item described in Subsection (3)(b) as goods consumed; and

5791 (b) Subsection (3)(a) applies to:

5792 (i) food and food ingredients; or

5793 (ii) prepared food;

5794 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

5795 (i) alcoholic beverages;

5796 (ii) food and food ingredients; or

5797 (iii) prepared food;

5798 (b) sales of tangible personal property or a product transferred electronically:
5799 (i) to a passenger;
5800 (ii) by a commercial airline carrier; and
5801 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
5802 (c) services related to Subsection (4)(a) or (b);
5803 ~~[(5)(a)(i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts~~
5804 ~~and equipment:]~~
5805 ~~[(A)(I) by an establishment described in NAICS Code 336411 or 336412 of the 2002~~
5806 ~~North American Industry Classification System of the federal Executive Office of the~~
5807 ~~President, Office of Management and Budget, and]~~
5808 ~~[(H) for:]~~
5809 ~~[(Aa) installation in an aircraft, including services relating to the installation of parts or~~
5810 ~~equipment in the aircraft;]~~
5811 ~~[(Bb) renovation of an aircraft; or]~~
5812 ~~[(Cc) repair of an aircraft; or]~~
5813 ~~[(B) for installation in an aircraft operated by a common carrier in interstate or foreign~~
5814 ~~commerce; or]~~
5815 ~~[(ii) beginning on October 1, 2008;]~~
5816 (5) sales of parts and equipment for installation in an aircraft operated by a common
5817 carrier in interstate or foreign commerce; [and]
5818 ~~[(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund;~~
5819 ~~a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a~~
5820 ~~refund:]~~
5821 ~~[(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;]~~
5822 ~~[(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;]~~
5823 ~~[(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for~~
5824 ~~the sale prior to filing for the refund;]~~
5825 ~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~
5826 ~~[(v) in accordance with Section 59-1-1410; and]~~
5827 ~~[(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410;~~
5828 ~~if the person files for the refund on or before September 30, 2011;]~~

5829 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
5830 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
5831 exhibitor, distributor, or commercial television or radio broadcaster;

5832 (7) (a) except as provided in Subsection [~~(88)~~] (87) and subject to Subsection (7)(b),
5833 sales of cleaning or washing of tangible personal property if the cleaning or washing of the
5834 tangible personal property is not assisted cleaning or washing of tangible personal property;

5835 (b) if a seller that sells at the same business location assisted cleaning or washing of
5836 tangible personal property and cleaning or washing of tangible personal property that is not
5837 assisted cleaning or washing of tangible personal property, the exemption described in
5838 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
5839 or washing of the tangible personal property; and

5840 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
5841 Utah Administrative Rulemaking Act, the commission may make rules:

5842 (i) governing the circumstances under which sales are at the same business location;
5843 and

5844 (ii) establishing the procedures and requirements for a seller to separately account for
5845 sales of assisted cleaning or washing of tangible personal property;

5846 (8) sales made to or by religious or charitable institutions in the conduct of their regular
5847 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
5848 fulfilled;

5849 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
5850 this state if the vehicle is:

5851 (a) not registered in this state; and

5852 (b) (i) not used in this state; or

5853 (ii) used in this state:

5854 (A) if the vehicle is not used to conduct business, for a time period that does not
5855 exceed the longer of:

5856 (I) 30 days in any calendar year; or

5857 (II) the time period necessary to transport the vehicle to the borders of this state; or

5858 (B) if the vehicle is used to conduct business, for the time period necessary to transport
5859 the vehicle to the borders of this state;

- 5860 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
- 5861 (i) the item is intended for human use; and
- 5862 (ii) (A) a prescription was issued for the item; or
- 5863 (B) the item was purchased by a hospital or other medical facility; and
- 5864 (b) (i) Subsection (10)(a) applies to:
- 5865 (A) a drug;
- 5866 (B) a syringe; or
- 5867 (C) a stoma supply; and
- 5868 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 5869 commission may by rule define the terms:
- 5870 (A) "syringe"; or
- 5871 (B) "stoma supply";
- 5872 (11) purchases or leases exempt under Section 19-12-201;
- 5873 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 5874 (i) the following if the item described in Subsection (12)(c) is not available to the
- 5875 general public:
- 5876 (A) a church; or
- 5877 (B) a charitable institution;
- 5878 (ii) an institution of higher education if:
- 5879 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 5880 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 5881 offered by the institution of higher education; or
- 5882 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 5883 (i) a medical facility; or
- 5884 (ii) a nursing facility; and
- 5885 (c) Subsections (12)(a) and (b) apply to:
- 5886 (i) food and food ingredients;
- 5887 (ii) prepared food; or
- 5888 (iii) alcoholic beverages;
- 5889 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 5890 or a product transferred electronically by a person:

5891 (i) regardless of the number of transactions involving the sale of that tangible personal
5892 property or product transferred electronically by that person; and

5893 (ii) not regularly engaged in the business of selling that type of tangible personal
5894 property or product transferred electronically;

5895 (b) this Subsection (13) does not apply if:

5896 (i) the sale is one of a series of sales of a character to indicate that the person is
5897 regularly engaged in the business of selling that type of tangible personal property or product
5898 transferred electronically;

5899 (ii) the person holds that person out as regularly engaged in the business of selling that
5900 type of tangible personal property or product transferred electronically;

5901 (iii) the person sells an item of tangible personal property or product transferred
5902 electronically that the person purchased as a sale that is exempt under Subsection (25); or

5903 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
5904 this state in which case the tax is based upon:

5905 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
5906 sold; or

5907 (B) in the absence of a bill of sale or other written evidence of value, the fair market
5908 value of the vehicle or vessel being sold at the time of the sale as determined by the
5909 commission; and

5910 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5911 commission shall make rules establishing the circumstances under which:

5912 (i) a person is regularly engaged in the business of selling a type of tangible personal
5913 property or product transferred electronically;

5914 (ii) a sale of tangible personal property or a product transferred electronically is one of
5915 a series of sales of a character to indicate that a person is regularly engaged in the business of
5916 selling that type of tangible personal property or product transferred electronically; or

5917 (iii) a person holds that person out as regularly engaged in the business of selling a type
5918 of tangible personal property or product transferred electronically;

5919 (14) except as provided in Subsections (83), (85), (86), and (88) and subject to Section
5920 59-12-104.8, amounts paid or charged for a purchase or lease of machinery, equipment, [or]
5921 normal operating repair or replacement parts [~~with an economic life of three or more years~~], or

5922 materials, except for office equipment or office supplies, by:

5923 (a) a manufacturing facility~~[-except as provided in Subsection (86);]~~ that:

5924 (i) is located in the state; and

5925 (ii) uses or consumes the machinery, equipment, [~~or~~] normal operating repair or
5926 replacement parts, or materials:

5927 (A) in the manufacturing process to manufacture an item sold as tangible personal
5928 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
5929 Utah Administrative Rulemaking Act; or

5930 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
5931 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
5932 Administrative Rulemaking Act;

5933 (b) an establishment, as the commission defines that term in accordance with Title 63G,
5934 Chapter 3, Utah Administrative Rulemaking Act, that:

5935 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
5936 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
5937 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
5938 2002 North American Industry Classification System of the federal Executive Office of the
5939 President, Office of Management and Budget;

5940 (ii) is located in the state; and

5941 (iii) uses or consumes the machinery, equipment, [~~or~~] normal operating repair or
5942 replacement parts, or materials in:

5943 (A) the production process to produce an item sold as tangible personal property, as the
5944 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
5945 Administrative Rulemaking Act;

5946 (B) research and development, as the commission may define that phrase in accordance
5947 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

5948 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
5949 produced from mining;

5950 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
5951 mining; or

5952 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

5953 (c) an establishment, as the commission defines that term in accordance with Title 63G,
5954 Chapter 3, Utah Administrative Rulemaking Act, that:

5955 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
5956 American Industry Classification System of the federal Executive Office of the President,
5957 Office of Management and Budget;

5958 (ii) is located in the state; and

5959 (iii) uses or consumes the machinery, equipment, [~~or~~] normal operating repair or
5960 replacement parts, or materials in the operation of the web search portal;

5961 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

5962 (i) tooling;

5963 (ii) special tooling;

5964 (iii) support equipment;

5965 (iv) special test equipment; or

5966 (v) parts used in the repairs or renovations of tooling or equipment described in

5967 Subsections (15)(a)(i) through (iv); and

5968 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

5969 (i) the tooling, equipment, or parts are used or consumed exclusively in the
5970 performance of any aerospace or electronics industry contract with the United States
5971 government or any subcontract under that contract; and

5972 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
5973 title to the tooling, equipment, or parts is vested in the United States government as evidenced
5974 by:

5975 (A) a government identification tag placed on the tooling, equipment, or parts; or

5976 (B) listing on a government-approved property record if placing a government
5977 identification tag on the tooling, equipment, or parts is impractical;

5978 (16) sales of newspapers or newspaper subscriptions;

5979 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
5980 product transferred electronically traded in as full or part payment of the purchase price, except
5981 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
5982 trade-ins are limited to other vehicles only, and the tax is based upon:

5983 (i) the bill of sale or other written evidence of value of the vehicle being sold and the

5984 vehicle being traded in; or

5985 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
5986 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
5987 commission; and

5988 (b) Subsection (17)(a) does not apply to the following items of tangible personal
5989 property or products transferred electronically traded in as full or part payment of the purchase
5990 price:

5991 (i) money;

5992 (ii) electricity;

5993 (iii) water;

5994 (iv) gas; or

5995 (v) steam;

5996 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
5997 or a product transferred electronically used or consumed primarily and directly in farming
5998 operations, regardless of whether the tangible personal property or product transferred
5999 electronically:

6000 (A) becomes part of real estate; or

6001 (B) is installed by a~~[-(F)]~~ farmer~~[-(H)]~~, contractor~~[-(I)]~~, or ~~[(H)]~~ subcontractor; or

6002 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
6003 product transferred electronically if the tangible personal property or product transferred
6004 electronically is exempt under Subsection (18)(a)(i); and

6005 (b) amounts paid or charged for the following are subject to the taxes imposed by this
6006 chapter:

6007 (i) (A) subject to Subsection (18)(b)(i)(B), ~~[the following]~~ machinery, equipment,
6008 materials, or supplies if used in a manner that is incidental to farming~~[-(I)]~~; and

6009 ~~[(F) machinery;]~~

6010 ~~[(H) equipment;]~~

6011 ~~[(H) materials; or]~~

6012 ~~[(FV) supplies; and]~~

6013 (B) tangible personal property that is considered to be used in a manner that is

6014 incidental to farming includes:

- 6015 (I) hand tools; or
- 6016 (II) maintenance and janitorial equipment and supplies;
- 6017 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
- 6018 transferred electronically if the tangible personal property or product transferred electronically
- 6019 is used in an activity other than farming; and
- 6020 (B) tangible personal property or a product transferred electronically that is considered
- 6021 to be used in an activity other than farming includes:
- 6022 (I) office equipment and supplies; or
- 6023 (II) equipment and supplies used in:
- 6024 (Aa) the sale or distribution of farm products;
- 6025 (Bb) research; or
- 6026 (Cc) transportation; or
- 6027 (iii) a vehicle required to be registered by the laws of this state during the period
- 6028 ending two years after the date of the vehicle's purchase;
- 6029 (19) sales of hay;
- 6030 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
- 6031 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
- 6032 garden, farm, or other agricultural produce is sold by:
- 6033 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
- 6034 agricultural produce;
- 6035 (b) an employee of the producer described in Subsection (20)(a); or
- 6036 (c) a member of the immediate family of the producer described in Subsection (20)(a);
- 6037 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
- 6038 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 6039 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
- 6040 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
- 6041 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
- 6042 manufacturer, processor, wholesaler, or retailer;
- 6043 (23) a product stored in the state for resale;
- 6044 (24) (a) purchases of a product if:
- 6045 (i) the product is:

- 6046 (A) purchased outside of this state;
- 6047 (B) brought into this state:
- 6048 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
- 6049 (II) by a nonresident person who is not living or working in this state at the time of the
- 6050 purchase;
- 6051 (C) used for the personal use or enjoyment of the nonresident person described in
- 6052 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
- 6053 (D) not used in conducting business in this state; and
- 6054 (ii) for:
- 6055 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
- 6056 the product for a purpose for which the product is designed occurs outside of this state;
- 6057 (B) a boat, the boat is registered outside of this state; or
- 6058 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
- 6059 outside of this state;
- 6060 (b) the exemption provided for in Subsection (24)(a) does not apply to:
- 6061 (i) a lease or rental of a product; or
- 6062 (ii) a sale of a vehicle exempt under Subsection (33); and
- 6063 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
- 6064 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
- 6065 following:
- 6066 (i) conducting business in this state if that phrase has the same meaning in this
- 6067 Subsection (24) as in Subsection [~~(63)~~] (62);
- 6068 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
- 6069 as in Subsection [~~(63)~~] (62); or
- 6070 (iii) a purpose for which a product is designed if that phrase has the same meaning in
- 6071 this Subsection (24) as in Subsection [~~(63)~~] (62);
- 6072 (25) a product purchased for resale in this state, in the regular course of business, either
- 6073 in its original form or as an ingredient or component part of a manufactured or compounded
- 6074 product;
- 6075 (26) a product upon which a sales or use tax was paid to some other state, or one of its
- 6076 subdivisions, except that the state shall be paid any difference between the tax paid and the tax

6077 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
6078 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
6079 Act;

6080 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
6081 person for use in compounding a service taxable under the subsections;

6082 (28) purchases made in accordance with the special supplemental nutrition program for
6083 women, infants, and children established in 42 U.S.C. Sec. 1786;

6084 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
6085 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
6086 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
6087 the President, Office of Management and Budget;

6088 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
6089 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

6090 (a) not registered in this state; and

6091 (b) (i) not used in this state; or

6092 (ii) used in this state:

6093 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
6094 time period that does not exceed the longer of:

6095 (I) 30 days in any calendar year; or

6096 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
6097 the borders of this state; or

6098 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
6099 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
6100 state;

6101 (31) sales of aircraft manufactured in Utah;

6102 (32) amounts paid for the purchase of telecommunications service for purposes of
6103 providing telecommunications service;

6104 (33) sales, leases, or uses of the following:

6105 (a) a vehicle by an authorized carrier; or

6106 (b) tangible personal property that is installed on a vehicle:

6107 (i) sold or leased to or used by an authorized carrier; and

6108 (ii) before the vehicle is placed in service for the first time;

6109 (34) (a) 45% of the sales price of any new manufactured home; and

6110 (b) 100% of the sales price of any used manufactured home;

6111 (35) sales relating to schools and fundraising sales;

6112 (36) sales or rentals of durable medical equipment if:

6113 (a) a person presents a prescription for the durable medical equipment; and

6114 (b) the durable medical equipment is used for home use only;

6115 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in

6116 Section 72-11-102; and

6117 (b) the commission shall by rule determine the method for calculating sales exempt

6118 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

6119 (38) sales to a ski resort of:

6120 (a) snowmaking equipment;

6121 (b) ski slope grooming equipment;

6122 (c) passenger ropeways as defined in Section 72-11-102; or

6123 (d) parts used in the repairs or renovations of equipment or passenger ropeways

6124 described in Subsections (38)(a) through (c);

6125 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

6126 ~~[(40)(a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for~~

6127 ~~amusement, entertainment, or recreation an unassisted amusement device as defined in Section~~

6128 ~~59-12-102;]~~

6129 ~~[(b) if a seller that sells or rents at the same business location the right to use or operate~~

6130 ~~for amusement, entertainment, or recreation one or more unassisted amusement devices and~~

6131 ~~one or more assisted amusement devices, the exemption described in Subsection (40)(a)~~

6132 ~~applies if the seller separately accounts for the sales or rentals of the right to use or operate for~~

6133 ~~amusement, entertainment, or recreation for the assisted amusement devices; and]~~

6134 ~~[(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,~~

6135 ~~Utah Administrative Rulemaking Act, the commission may make rules:]~~

6136 ~~[(i) governing the circumstances under which sales are at the same business location;~~

6137 ~~and]~~

6138 ~~[(ii) establishing the procedures and requirements for a seller to separately account for~~

6139 ~~the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for~~
6140 ~~assisted amusement devices;]~~

6141 ~~[(41)]~~ (40) (a) sales of photocopies by:

6142 (i) a governmental entity; or

6143 (ii) an entity within the state system of public education, including:

6144 (A) a school; or

6145 (B) the State Board of Education; or

6146 (b) sales of publications by a governmental entity;

6147 ~~[(42)]~~ (41) amounts paid for admission to an athletic event at an institution of higher
6148 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
6149 20 U.S.C. Sec. 1681 et seq.;

6150 ~~[(43)]~~ (42) (a) sales made to or by:

6151 (i) an area agency on aging; or

6152 (ii) a senior citizen center owned by a county, city, or town; or

6153 (b) sales made by a senior citizen center that contracts with an area agency on aging;

6154 ~~[(44)]~~ (43) sales or leases of semiconductor fabricating, processing, research, or
6155 development materials regardless of whether the semiconductor fabricating, processing,
6156 research, or development materials:

6157 (a) actually come into contact with a semiconductor; or

6158 (b) ultimately become incorporated into real property;

6159 ~~[(45)]~~ (44) an amount paid by or charged to a purchaser for accommodations and
6160 services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under
6161 Section 59-12-104.2;

6162 ~~[(46) beginning on September 1, 2001;]~~

6163 (45) the lease or use of a vehicle issued a temporary sports event registration certificate
6164 in accordance with Section 41-3-306 for the event period specified on the temporary sports
6165 event registration certificate;

6166 ~~[(47)]~~ (46) (a) sales or uses of electricity, if the sales or uses are made under a retail
6167 tariff adopted by the Public Service Commission only for purchase of electricity produced from
6168 a new alternative energy source built after January 1, 2016, as designated in the tariff by the
6169 Public Service Commission;

6170 (b) for a residential use customer only, the exemption under Subsection [~~(47)~~] (46)(a)
6171 applies only to the portion of the tariff rate a customer pays under the tariff described in
6172 Subsection [~~(47)~~] (46)(a) that exceeds the tariff rate under the tariff described in Subsection
6173 [~~(47)~~] (46)(a) that the customer would have paid absent the tariff;
6174 [~~(48)~~] (47) sales or rentals of mobility enhancing equipment if a person presents a
6175 prescription for the mobility enhancing equipment;
6176 [~~(49)~~] (48) sales of water in a:
6177 (a) pipe;
6178 (b) conduit;
6179 (c) ditch; or
6180 (d) reservoir;
6181 [~~(50)~~] (49) sales of currency or coins that constitute legal tender of a state, the United
6182 States, or a foreign nation;
6183 [~~(51)~~] (50) (a) sales of an item described in Subsection [~~(51)~~] (50)(b) if the item:
6184 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
6185 (ii) has a gold, silver, or platinum content of 50% or more; and
6186 (b) Subsection [~~(51)~~] (50)(a) applies to a gold, silver, or platinum:
6187 (i) ingot;
6188 (ii) bar;
6189 (iii) medallion; or
6190 (iv) decorative coin;
6191 [~~(52)~~] (51) amounts paid on a sale-leaseback transaction;
6192 [~~(53)~~] (52) sales of a prosthetic device:
6193 (a) for use on or in a human; and
6194 (b) (i) for which a prescription is required; or
6195 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
6196 [~~(54)~~] (53) (a) except as provided in Subsection [~~(54)~~] (53)(b), purchases, leases, or
6197 rentals of machinery or equipment by an establishment described in Subsection [~~(54)~~] (53)(c) if
6198 the machinery or equipment is primarily used in the production or postproduction of the
6199 following media for commercial distribution:
6200 (i) a motion picture;

- 6201 (ii) a television program;
- 6202 (iii) a movie made for television;
- 6203 (iv) a music video;
- 6204 (v) a commercial;
- 6205 (vi) a documentary; or
- 6206 (vii) a medium similar to Subsections [~~54~~] (53)(a)(i) through (vi) as determined by
- 6207 the commission by administrative rule made in accordance with Subsection [~~54~~] (53)(d); or
- 6208 (b) purchases, leases, or rentals of machinery or equipment by an establishment
- 6209 described in Subsection [~~54~~] (53)(c) that is used for the production or postproduction of the
- 6210 following are subject to the taxes imposed by this chapter:
- 6211 (i) a live musical performance;
- 6212 (ii) a live news program; or
- 6213 (iii) a live sporting event;
- 6214 (c) the following establishments listed in the 1997 North American Industry
- 6215 Classification System of the federal Executive Office of the President, Office of Management
- 6216 and Budget, apply to Subsections [~~54~~] (53)(a) and (b):
- 6217 (i) NAICS Code 512110; or
- 6218 (ii) NAICS Code 51219; and
- 6219 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 6220 commission may by rule:
- 6221 (i) prescribe what constitutes a medium similar to Subsections [~~54~~] (53)(a)(i) through
- 6222 (vi); or
- 6223 (ii) define:
- 6224 (A) "commercial distribution";
- 6225 (B) "live musical performance";
- 6226 (C) "live news program"; or
- 6227 (D) "live sporting event";
- 6228 [~~55~~] (54) (a) leases of seven or more years or purchases made on or after July 1,
- 6229 2004, but on or before June 30, 2027, of tangible personal property that:
- 6230 (i) is leased or purchased for or by a facility that:
- 6231 (A) is an alternative energy electricity production facility;

6232 (B) is located in the state; and

6233 (C) (I) becomes operational on or after July 1, 2004; or

6234 (II) has its generation capacity increased by one or more megawatts on or after July 1,

6235 2004, as a result of the use of the tangible personal property;

6236 (ii) has an economic life of five or more years; and

6237 (iii) is used to make the facility or the increase in capacity of the facility described in

6238 Subsection [~~(55)~~] (54)(a)(i) operational up to the point of interconnection with an existing

6239 transmission grid including:

6240 (A) a wind turbine;

6241 (B) generating equipment;

6242 (C) a control and monitoring system;

6243 (D) a power line;

6244 (E) substation equipment;

6245 (F) lighting;

6246 (G) fencing;

6247 (H) pipes; or

6248 (I) other equipment used for locating a power line or pole; and

6249 (b) this Subsection [~~(55)~~] (54) does not apply to:

6250 (i) tangible personal property used in construction of:

6251 (A) a new alternative energy electricity production facility; or

6252 (B) the increase in the capacity of an alternative energy electricity production facility;

6253 (ii) contracted services required for construction and routine maintenance activities;

6254 and

6255 (iii) unless the tangible personal property is used or acquired for an increase in capacity

6256 of the facility described in Subsection [~~(55)~~] (54)(a)(i)(C)(II), tangible personal property used

6257 or acquired after:

6258 (A) the alternative energy electricity production facility described in Subsection [~~(55)~~]

6259 (54)(a)(i) is operational as described in Subsection [~~(55)~~] (54)(a)(iii); or

6260 (B) the increased capacity described in Subsection [~~(55)~~] (54)(a)(i) is operational as

6261 described in Subsection [~~(55)~~] (54)(a)(iii);

6262 [~~(56)~~] (55) (a) leases of seven or more years or purchases made on or after July 1,

6263 2004, but on or before June 30, 2027, of tangible personal property that:

6264 (i) is leased or purchased for or by a facility that:

6265 (A) is a waste energy production facility;

6266 (B) is located in the state; and

6267 (C) (I) becomes operational on or after July 1, 2004; or

6268 (II) has its generation capacity increased by one or more megawatts on or after July 1,

6269 2004, as a result of the use of the tangible personal property;

6270 (ii) has an economic life of five or more years; and

6271 (iii) is used to make the facility or the increase in capacity of the facility described in

6272 Subsection [~~(56)~~] (55)(a)(i) operational up to the point of interconnection with an existing

6273 transmission grid including:

6274 (A) generating equipment;

6275 (B) a control and monitoring system;

6276 (C) a power line;

6277 (D) substation equipment;

6278 (E) lighting;

6279 (F) fencing;

6280 (G) pipes; or

6281 (H) other equipment used for locating a power line or pole; and

6282 (b) this Subsection [~~(56)~~] (55) does not apply to:

6283 (i) tangible personal property used in construction of:

6284 (A) a new waste energy facility; or

6285 (B) the increase in the capacity of a waste energy facility;

6286 (ii) contracted services required for construction and routine maintenance activities;

6287 and

6288 (iii) unless the tangible personal property is used or acquired for an increase in capacity

6289 described in Subsection [~~(56)~~] (55)(a)(i)(C)(II), tangible personal property used or acquired

6290 after:

6291 (A) the waste energy facility described in Subsection [~~(56)~~] (55)(a)(i) is operational as

6292 described in Subsection [~~(56)~~] (55)(a)(iii); or

6293 (B) the increased capacity described in Subsection [~~(56)~~] (55)(a)(i) is operational as

6294 described in Subsection [~~(56)~~] (55)(a)(iii);

6295 [~~(57)~~] (56) (a) leases of five or more years or purchases made on or after July 1, 2004,

6296 but on or before June 30, 2027, of tangible personal property that:

6297 (i) is leased or purchased for or by a facility that:

6298 (A) is located in the state;

6299 (B) produces fuel from alternative energy, including [~~(57)~~] methanol[;] or [~~(57)~~] ethanol;

6300 and

6301 (C) (I) becomes operational on or after July 1, 2004; or

6302 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as

6303 a result of the installation of the tangible personal property;

6304 (ii) has an economic life of five or more years; and

6305 (iii) is installed on the facility described in Subsection [~~(57)~~] (56)(a)(i);

6306 (b) this Subsection [~~(57)~~] (56) does not apply to:

6307 (i) tangible personal property used in construction of:

6308 (A) a new facility described in Subsection [~~(57)~~] (56)(a)(i); or

6309 (B) the increase in capacity of the facility described in Subsection [~~(57)~~] (56)(a)(i); or

6310 (ii) contracted services required for construction and routine maintenance activities;

6311 and

6312 (iii) unless the tangible personal property is used or acquired for an increase in capacity

6313 described in Subsection [~~(57)~~] (56)(a)(i)(C)(II), tangible personal property used or acquired

6314 after:

6315 (A) the facility described in Subsection [~~(57)~~] (56)(a)(i) is operational; or

6316 (B) the increased capacity described in Subsection [~~(57)~~] (56)(a)(i) is operational;

6317 [~~(58)~~] (57) (a) subject to Subsection [~~(58)(b) or (c)~~] (57)(b), sales of tangible personal

6318 property or a product transferred electronically to a person within this state if that tangible

6319 personal property or product transferred electronically is subsequently shipped outside the state

6320 and incorporated pursuant to contract into and becomes a part of real property located outside

6321 of this state; and

6322 (b) the exemption under Subsection [~~(58)~~] (57)(a) is not allowed to the extent that the

6323 other state or political entity to which the tangible personal property is shipped imposes a sales,

6324 use, gross receipts, or other similar transaction excise tax on the transaction against which the

6325 other state or political entity allows a credit for sales and use taxes imposed by this chapter;

6326 [and]

6327 ~~[(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~

6328 ~~a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a~~

6329 ~~refund;]~~

6330 ~~[(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;]~~

6331 ~~[(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on~~

6332 ~~which the sale is made;]~~

6333 ~~[(iii) if the person did not claim the exemption allowed by this Subsection (58) for the~~

6334 ~~sale prior to filing for the refund;]~~

6335 ~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~

6336 ~~[(v) in accordance with Section 59-1-1410; and]~~

6337 ~~[(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410;~~

6338 ~~if the person files for the refund on or before June 30, 2011;]~~

6339 ~~[(59)] (58) purchases:~~

6340 (a) of one or more of the following items in printed or electronic format:

6341 (i) a list containing information that includes one or more~~[-(A)]~~ names~~[:]~~ or ~~[(B)]~~

6342 addresses; or

6343 (ii) a database containing information that includes one or more~~[-(A)]~~ names~~[:]~~ or

6344 ~~[(B)]~~ addresses; and

6345 (b) used to send direct mail;

6346 ~~[(60)] (59) redemptions or repurchases of a product by a person if that product was:~~

6347 (a) delivered to a pawnbroker as part of a pawn transaction; and

6348 (b) redeemed or repurchased within the time period established in a written agreement

6349 between the person and the pawnbroker for redeeming or repurchasing the product;

6350 ~~[(61)] (60) (a) purchases or leases of an item described in Subsection [(61)] (60)(b) if~~

6351 the item:

6352 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;

6353 and

6354 (ii) has a useful economic life of one or more years; and

6355 (b) the following apply to Subsection ~~[(61)]~~ (60)(a):

6356 (i) telecommunications enabling or facilitating equipment, machinery, or software;
6357 (ii) telecommunications equipment, machinery, or software required for 911 service;
6358 (iii) telecommunications maintenance or repair equipment, machinery, or software;
6359 (iv) telecommunications switching or routing equipment, machinery, or software; or
6360 (v) telecommunications transmission equipment, machinery, or software;
6361 ~~[(62)]~~ (61) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of
6362 tangible personal property or a product transferred electronically that are used in the research
6363 and development of alternative energy technology; and
6364 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6365 commission may, for purposes of Subsection ~~[(62)]~~ (61)(a), make rules defining what
6366 constitutes purchases of tangible personal property or a product transferred electronically that
6367 are used in the research and development of alternative energy technology;
6368 ~~[(63)]~~ (62) (a) purchases of tangible personal property or a product transferred
6369 electronically if:
6370 (i) the tangible personal property or product transferred electronically is:
6371 (A) purchased outside of this state;
6372 (B) brought into this state at any time after the purchase described in Subsection ~~[(63)]~~
6373 (62)(a)(i)(A); and
6374 (C) used in conducting business in this state; and
6375 (ii) for:
6376 (A) tangible personal property or a product transferred electronically other than the
6377 tangible personal property described in Subsection ~~[(63)]~~ (62)(a)(ii)(B), the first use of the
6378 property for a purpose for which the property is designed occurs outside of this state; or
6379 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
6380 outside of this state;
6381 (b) the exemption provided for in Subsection ~~[(63)]~~ (62)(a) does not apply to:
6382 (i) a lease or rental of tangible personal property or a product transferred electronically;
6383 or
6384 (ii) a sale of a vehicle exempt under Subsection (33); and
6385 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
6386 purposes of Subsection ~~[(63)]~~ (62)(a), the commission may by rule define what constitutes the

6387 following:

6388 (i) conducting business in this state if that phrase has the same meaning in this

6389 Subsection [~~(63)~~] (62) as in Subsection (24);

6390 (ii) the first use of tangible personal property or a product transferred electronically if

6391 that phrase has the same meaning in this Subsection [~~(63)~~] (62) as in Subsection (24); or

6392 (iii) a purpose for which tangible personal property or a product transferred

6393 electronically is designed if that phrase has the same meaning in this Subsection [~~(63)~~] (62) as

6394 in Subsection (24);

6395 [~~(64)~~] (63) sales of disposable home medical equipment or supplies if:

6396 (a) a person presents a prescription for the disposable home medical equipment or
6397 supplies;

6398 (b) the disposable home medical equipment or supplies are used exclusively by the
6399 person to whom the prescription described in Subsection [~~(64)~~] (63)(a) is issued; and

6400 (c) the disposable home medical equipment and supplies are listed as eligible for
6401 payment under:

6402 (i) Title XVIII, federal Social Security Act; or

6403 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

6404 [~~(65)~~] (64) sales:

6405 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
6406 District Act; or

6407 (b) of tangible personal property to a subcontractor of a public transit district, if the
6408 tangible personal property is:

6409 (i) clearly identified; and

6410 (ii) installed or converted to real property owned by the public transit district;

6411 [~~(66)~~] (65) sales of construction materials:

6412 (a) purchased on or after July 1, 2010;

6413 (b) purchased by, on behalf of, or for the benefit of an international airport:

6414 (i) located within a county of the first class; and

6415 (ii) that has a United States customs office on its premises; and

6416 (c) if the construction materials are:

6417 (i) clearly identified;

- 6418 (ii) segregated; and
- 6419 (iii) installed or converted to real property:
- 6420 (A) owned or operated by the international airport described in Subsection [~~(66)~~]
- 6421 (65)(b); and
- 6422 (B) located at the international airport described in Subsection [~~(66)~~] (65)(b);
- 6423 [~~(67)~~] (66) sales of construction materials:
- 6424 (a) purchased on or after July 1, 2008;
- 6425 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 6426 (i) located within a county of the second class; and
- 6427 (ii) that is owned or operated by a city in which an airline as defined in Section
- 6428 59-2-102 is headquartered; and
- 6429 (c) if the construction materials are:
- 6430 (i) clearly identified;
- 6431 (ii) segregated; and
- 6432 (iii) installed or converted to real property:
- 6433 (A) owned or operated by the new airport described in Subsection [~~(67)~~] (66)(b);
- 6434 (B) located at the new airport described in Subsection [~~(67)~~] (66)(b); and
- 6435 (C) as part of the construction of the new airport described in Subsection [~~(67)~~]
- 6436 (66)(b);
- 6437 [~~(68)~~] (67) sales of fuel to a common carrier that is a railroad for use in a locomotive
- 6438 engine;
- 6439 [~~(69)~~] (68) purchases and sales described in Section 63H-4-111;
- 6440 [~~(70)~~] (69) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 6441 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 6442 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 6443 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 6444 powered aircraft; or
- 6445 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 6446 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 6447 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 6448 lists a state or country other than this state as the location of registry of the fixed wing turbine

6449 powered aircraft;

6450 ~~[(71)]~~ (70) subject to Section 59-12-104.4, sales of a textbook for a higher education

6451 course:

6452 (a) to a person admitted to an institution of higher education; and

6453 (b) by a seller, other than a bookstore owned by an institution of higher education, if

6454 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a

6455 textbook for a higher education course;

6456 ~~[(72)]~~ (71) a license fee or tax a municipality imposes in accordance with Subsection

6457 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced

6458 level of municipal services;

6459 ~~[(73)]~~ (72) amounts paid or charged for construction materials used in the construction

6460 of a new or expanding life science research and development facility in the state, if the

6461 construction materials are:

6462 (a) clearly identified;

6463 (b) segregated; and

6464 (c) installed or converted to real property;

6465 ~~[(74)]~~ (73) amounts paid or charged for:

6466 (a) a purchase or lease of machinery and equipment that:

6467 (i) are used in performing qualified research:

6468 (A) as defined in Section 41(d), Internal Revenue Code; and

6469 (B) in the state; and

6470 (ii) have an economic life of three or more years; and

6471 (b) normal operating repair or replacement parts:

6472 (i) for the machinery and equipment described in Subsection ~~[(74)]~~ (73)(a); and

6473 (ii) that have an economic life of three or more years;

6474 ~~[(75)]~~ (74) a sale or lease of tangible personal property used in the preparation of

6475 prepared food if:

6476 (a) for a sale:

6477 (i) the ownership of the seller and the ownership of the purchaser are identical; and

6478 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that

6479 tangible personal property prior to making the sale; or

- 6480 (b) for a lease:
- 6481 (i) the ownership of the lessor and the ownership of the lessee are identical; and
- 6482 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
- 6483 personal property prior to making the lease;
- 6484 [~~76~~] (75) (a) purchases of machinery or equipment if:
- 6485 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
- 6486 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
- 6487 System of the federal Executive Office of the President, Office of Management and Budget;
- 6488 (ii) the machinery or equipment:
- 6489 (A) has an economic life of three or more years; and
- 6490 (B) is used by one or more persons who pay admission or user fees described in
- 6491 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- 6492 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- 6493 (A) amounts paid or charged as admission or user fees described in Subsection
- 6494 59-12-103(1)(f); and
- 6495 (B) subject to taxation under this chapter; and
- 6496 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 6497 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
- 6498 previous calendar quarter is:
- 6499 (i) amounts paid or charged as admission or user fees described in Subsection
- 6500 59-12-103(1)(f); and
- 6501 (ii) subject to taxation under this chapter;
- 6502 [~~77~~] (76) purchases of a short-term lodging consumable by a business that provides
- 6503 accommodations and services described in Subsection 59-12-103(1)(i);
- 6504 [~~78~~] (77) amounts paid or charged to access a database:
- 6505 (a) if the primary purpose for accessing the database is to view or retrieve information
- 6506 from the database; and
- 6507 (b) not including amounts paid or charged for a:
- 6508 (i) digital audiowork;
- 6509 (ii) digital audio-visual work; or
- 6510 (iii) digital book;

6511 ~~[(79)]~~ (78) amounts paid or charged for a purchase or lease made by an electronic
 6512 financial payment service, of:

6513 (a) machinery and equipment that:

6514 (i) are used in the operation of the electronic financial payment service; and

6515 (ii) have an economic life of three or more years; and

6516 (b) normal operating repair or replacement parts that:

6517 (i) are used in the operation of the electronic financial payment service; and

6518 (ii) have an economic life of three or more years;

6519 ~~[(80)]~~ (79) ~~[beginning on April 1, 2013,]~~ sales of a fuel cell as that term is defined in
 6520 Section 54-15-102;

6521 ~~[(81)]~~ (80) amounts paid or charged for a purchase or lease of tangible personal
 6522 property or a product transferred electronically if the tangible personal property or product
 6523 transferred electronically:

6524 (a) is stored, used, or consumed in the state; and

6525 (b) is temporarily brought into the state from another state:

6526 (i) during a disaster period as defined in Section 53-2a-1202;

6527 (ii) by an out-of-state business as defined in Section 53-2a-1202;

6528 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

6529 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

6530 ~~[(82)]~~ (81) sales of goods and services at a morale, welfare, and recreation facility, as
 6531 defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
 6532 Recreation Program;

6533 ~~[(83)]~~ (82) amounts paid or charged for a purchase or lease of molten magnesium;

6534 ~~[(84)]~~ (83) ~~[(a) except as provided in Subsection (84)(b);]~~ amounts paid or charged for
 6535 a purchase or lease made by a drilling equipment manufacturer of machinery, equipment,
 6536 ~~[materials, or]~~ normal operating repair or replacement parts~~[-(i)], or materials, except for office~~
 6537 equipment or office supplies, that are used or consumed exclusively in the drilling equipment
 6538 manufacturer's manufacturing process; ~~[and]~~

6539 ~~[(ii) except for office:]~~

6540 ~~[(A) equipment; or]~~

6541 ~~[(B) supplies; and]~~

6542 ~~[(b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an~~
 6543 ~~exemption described in Subsection (84)(a) only by filing for a refund:]~~

6544 ~~[(i) of 50% of the tax paid on the amounts paid or charged; and]~~

6545 ~~[(ii) in accordance with Section 59-1-1410;]~~

6546 ~~[(85)]~~ (84) amounts paid or charged for a purchase or lease made by a qualifying
 6547 enterprise data center of machinery, equipment, or normal operating repair or replacement
 6548 parts, if the machinery, equipment, or normal operating repair or replacement parts:

6549 (a) are used in the operation of the establishment; and

6550 (b) have an economic life of one or more years; ~~[and]~~

6551 ~~[(86)]~~ (85) amounts paid or charged for a purchase or lease of machinery, equipment,
 6552 or normal operating repair or replacement parts by a manufacturing facility that:

6553 (a) is an establishment, as the commission defines that term in accordance with Title
 6554 63G, Chapter 3, Utah Administrative Rulemaking Act;

6555 (b) is described in NAICS Code 336111, Automobile Manufacturing, of the 2002
 6556 North American Industry Classification System of the federal Executive Office of the
 6557 President, Office of Management and Budget;

6558 (c) is located in the state; and

6559 (d) uses the machinery, equipment, or normal operating repair or replacement parts in
 6560 the manufacturing process to manufacture an item sold as tangible personal property, as the
 6561 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
 6562 Administrative Rulemaking Act;

6563 ~~[(87)]~~ (86) amounts paid or charged for a purchase or lease of equipment or normal
 6564 operating repair or replacement parts with an economic life of less than three years by a
 6565 manufacturing facility that:

6566 (a) is an establishment, as the commission defines that term in accordance with Title
 6567 63G, Chapter 3, Utah Administrative Rulemaking Act;

6568 (b) is described in NAICS Code 325120, Industrial Gas Manufacturing, of the 2002
 6569 North American Industry Classification System of the federal Executive Office of the
 6570 President, Office of Management and Budget;

6571 (c) is located in the state; and

6572 (d) uses the equipment or normal operating repair or replacement parts to manufacture

6573 hydrogen;

6574 ~~[(88)]~~ (87) sales of cleaning or washing of a vehicle, except for cleaning or washing of
6575 a vehicle that includes cleaning or washing of the interior of the vehicle; ~~[and]~~

6576 ~~[(89)]~~ (88) amounts paid or charged for a purchase or lease of machinery, equipment,
6577 normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or
6578 supplies used or consumed:

6579 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
6580 in Section 63M-4-701 located in the state;

6581 (b) if the machinery, equipment, normal operating repair or replacement parts,
6582 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

6583 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
6584 added to gasoline or diesel fuel;

6585 (ii) research and development;

6586 (iii) transporting, storing, or managing raw materials, work in process, finished
6587 products, and waste materials produced from refining gasoline or diesel fuel, or adding
6588 blendstock to gasoline or diesel fuel;

6589 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
6590 refining; or

6591 (v) preventing, controlling, or reducing pollutants from refining; and

6592 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office
6593 of Energy Development under Subsection 63M-4-702(2)~~[-]~~; and

6594 (89) amounts paid or charged for multi-channel video or audio services provided by a
6595 multi-channel video or audio service provider if a tax under Chapter 26, Multi-Channel Video
6596 or Audio Service Tax Act, is paid on the multi-channel video or audio services.

6597 Section 40. Section **59-12-104.4** is amended to read:

6598 **59-12-104.4. Seller recordkeeping for purposes of higher education textbook**
6599 **exemption -- Rulemaking authority.**

6600 (1) If a seller described in Subsection 59-12-104~~[(7+)]~~(70)(b) makes a sale of a
6601 textbook for a higher education course that is exempt under Subsection 59-12-104~~[(7+)]~~(70),
6602 the seller shall keep a record verifying that the textbook is a textbook for a higher education
6603 course.

6604 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6605 commission may make rules:

6606 (a) prescribing the records a seller shall keep to verify that a textbook is a textbook for
6607 a higher education course; or

6608 (b) to verify that 51% or more of a seller's sales revenue for the previous calendar
6609 quarter are sales of a textbook for a higher education course.

6610 Section 41. Section **59-12-104.5** is amended to read:

6611 **59-12-104.5. Revenue and Taxation Interim Committee review of sales and use**
6612 **taxes.**

6613 The Revenue and Taxation Interim Committee shall:

6614 (1) review Subsection 59-12-104(28) before October 1 of the year after the year in
6615 which Congress permits a state to participate in the special supplemental nutrition program
6616 under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on
6617 purchases of food under that program;

6618 (2) review Subsection 59-12-104(21) before October 1 of the year after the year in
6619 which Congress permits a state to participate in the SNAP as defined in Section 35A-1-102,
6620 even if state or local sales taxes are collected within the state on purchases of food under that
6621 program; and

6622 (3) on or before November 30:

6623 (a) require the Governor's Office of Economic Development to provide the report
6624 described in Section 63N-1-302(2);

6625 (b) review for each exemption described in [~~Subsection~~] Subsections
6626 59-12-104[~~(86)~~](85) and [~~(87)~~] (86):

6627 (i) the cost of the exemption;

6628 (ii) the purpose and effectiveness of the exemption; and

6629 (iii) the extent to which the state benefits from the exemption; and

6630 (c) make recommendations concerning whether the exemptions described in
6631 Subsections 59-12-104[~~(86)~~](85) and [~~(87)~~] (86) should be continued, modified, or repealed.

6632 Section 42. Section **59-12-104.7** is amended to read:

6633 **59-12-104.7. Reporting by purchaser of certain sales and use tax exempt**
6634 **purchases.**

6635 A purchaser that receives a sales and use tax exemption under Subsection
6636 59-12-104[(86)](85) or [(87)] (86) shall make the report described in Section 63N-1-302.

6637 Section 43. Section **59-12-104.8** is enacted to read:

6638 **59-12-104.8. Exemption for machinery, equipment, normal operating repair or**
6639 **replacement parts, and materials.**

6640 (1) A person may claim the sales and use tax exemption described in Subsection
6641 59-12-104(14) at the point of sale for an amount paid or charged for a purchase or lease of
6642 machinery, equipment, or normal operating repair or replacement parts that have an economic
6643 life of three years or more.

6644 (2) (a) On or after July 1, 2019, and on or before June 30, 2021, a person may file for a
6645 refund from the commission to claim the sales and use tax exemption described in Subsection
6646 59-12-104(14) for an amount paid or charged for a purchase or lease of:

6647 (i) machinery, equipment, or normal operating repair or replacement parts that have an
6648 economic life of less than three years; or

6649 (ii) materials, except for office equipment or office supplies.

6650 (b) The amount of the refund described in Subsection (2)(a) is as follows:

6651 (i) on or after July 1, 2019, and on or before June 30, 2020, 33% of the sales and use
6652 tax on the amount paid or charged for the purchase or lease; and

6653 (ii) on or after July 1, 2020, and on or before June 30, 2021, 66% of the sales and use
6654 tax on the amount paid or charged for the purchase or lease.

6655 (c) A person shall file for a refund under this Subsection (2):

6656 (i) in an electronic format prescribed by the commission; and

6657 (ii) no more frequently than once per month.

6658 (3) (a) On or after July 1, 2021, a person may claim the sales and use tax exemption
6659 described in Subsection 59-12-104(14) at the point of sale for an amount paid or charged for a
6660 purchase or lease of:

6661 (i) machinery, equipment, or normal operating repair or replacement parts that have an
6662 economic life of less than three years; or

6663 (ii) materials, except for office equipment or office supplies.

6664 (b) The amount of the exemption described in Subsection (3)(a) is 100% of the sales
6665 and use tax on the amount paid or charged for the purchase or lease.

6666 Section 44. Section **63I-1-263 (Effective 01/01/18)** is amended to read:

6667 **63I-1-263 (Effective 01/01/18). Repeal dates, Titles 63A to 63N.**

6668 (1) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

6669 (2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

6670 [~~(3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July~~

6671 ~~1, 2018.~~]

6672 [~~(4)~~ (3)] Title 63C, Chapter 4b, Commission for the Stewardship of Public Lands, is

6673 repealed November 30, 2019.

6674 [~~(5)~~ (4)] Title 63C, Chapter 16, Prison Development Commission Act, is repealed July

6675 1, 2020.

6676 [~~(6)~~ (5)] Title 63C, Chapter 17, Point of the Mountain Development Commission Act,

6677 is repealed July 1, 2021.

6678 [~~(7) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed July 1,~~

6679 ~~2018.~~]

6680 [~~(8)~~ (6)] Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July

6681 1, 2023.

6682 [~~(9)~~ (7)] Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed

6683 July 1, 2020.

6684 [~~(10)~~ (8)] Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1,

6685 2026.

6686 [~~(11)~~ (9)] On July 1, 2025:

6687 (a) in Subsection 17-27a-404(3)(c)(ii), the language that states "the Resource

6688 Development Coordinating Committee," is repealed;

6689 (b) Subsection 23-14-21(2)(c) is amended to read "(c) provide notification of proposed

6690 sites for the transplant of species to local government officials having jurisdiction over areas

6691 that may be affected by a transplant.";

6692 (c) in Subsection 23-14-21(3), the language that states "and the Resource Development

6693 Coordinating Committee" is repealed;

6694 (d) in Subsection 23-21-2.3(1), the language that states "the Resource Development

6695 Coordinating Committee created in Section 63J-4-501 and" is repealed;

6696 (e) in Subsection 23-21-2.3(2), the language that states "the Resource Development

6697 Coordinating Committee and" is repealed;

6698 (f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered
6699 accordingly;

6700 (g) Subsections 63J-4-401(5)(a) and (c) are repealed;

6701 (h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the
6702 word "and" is inserted immediately after the semicolon;

6703 (i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

6704 (j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed;

6705 and

6706 (k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are
6707 renumbered accordingly.

6708 ~~[(12)]~~ (10) (a) Subsection 63J-1-602.4(15) is repealed July 1, 2022.

6709 (b) When repealing Subsection 63J-1-602.4(15), 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 ~~[(13)]~~ (11) The Crime Victim Reparations and Assistance Board, created in Section
6713 63M-7-504, is repealed July 1, 2027.

6714 ~~[(14)]~~ (12) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1,
6715 2027.

6716 ~~[(15) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2018.]~~

6717 ~~[(16)]~~ (13) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act,
6718 is repealed January 1, 2021.

6719 (b) Subject to Subsection ~~[(16)]~~ (13)(c), Sections 59-7-610 and 59-10-1007 regarding
6720 tax credits for certain persons in recycling market development zones, are repealed for taxable
6721 years beginning on or after January 1, 2021.

6722 (c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

6723 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or
6724 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

6725 (ii) for an expenditure described in Subsection 59-7-610~~[(1)(b)]~~(3) or
6726 59-10-1007~~[(1)(b)]~~(3), if the expenditure is made on or after January 1, 2021.

6727 (d) Notwithstanding Subsections ~~[(16)]~~ (13)(b) and (c), a person may carry forward a

6728 tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

6729 (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

6730 (ii) (A) for the purchase price of machinery or equipment described in Section
6731 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31,
6732 2020; or

6733 (B) for an expenditure described in Subsection 59-7-610~~(1)(b)~~(3) or
6734 59-10-1007~~(1)(b)~~(3), the expenditure is made on or before December 31, 2020.

6735 ~~(17)~~ (14) Section 63N-2-512 is repealed on July 1, 2021.

6736 ~~(18)~~ (15) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed
6737 January 1, 2021.

6738 (b) Section 59-9-107 regarding tax credits against premium taxes is repealed for
6739 calendar years beginning on or after January 1, 2021.

6740 (c) Notwithstanding Subsection ~~(18)~~ (15)(b), an entity may carry forward a tax credit
6741 in accordance with Section 59-9-107 if:

6742 (i) the person is entitled to a tax credit under Section 59-9-107 on or before December
6743 31, 2020; and

6744 (ii) the qualified equity investment that is the basis of the tax credit is certified under
6745 Section 63N-2-603 on or before December 31, 2023.

6746 ~~(19)~~ (16) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant
6747 Program, is repealed January 1, 2023.

6748 ~~(20) Title 63N, Chapter 12, Part 3, Utah Broadband Outreach Center, is repealed July~~
6749 ~~1, 2018.]~~

6750 ~~(21) Title 63N, Chapter 12, Part 4, Career and Technical Education Board, is repealed~~
6751 ~~July 1, 2018.]~~

6752 Section 45. Section **63I-2-259** is amended to read:

6753 **63I-2-259. Repeal dates -- Title 59.**

6754 ~~[Subsection 59-2-1007(14) is repealed on December 31, 2018.]~~

6755 (1) Subsection 59-12-102(40), drilling equipment manufacturer definition, is repealed
6756 on July 1, 2021.

6757 (2) In Subsection 59-12-104(14), the language "except as provided in Subsections (83),
6758 (85), (86), and (88)" is repealed on July 1, 2021, and replaced with "except as provided in

6759 Subsections (86) and (88)" except that the references to Subsections (86) and (88) shall be
6760 updated to make necessary changes to subsection numbering.

6761 (3) In Subsection 59-12-104(14), the language "and subject to Section 59-12-104.8" is
6762 repealed on December 31, 2021.

6763 (4) (a) Subsection 59-12-104(83) is repealed on July 1, 2021.

6764 (b) When repealing Subsection 59-12-104(83), the Office of Legislative Research and
6765 General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make
6766 necessary changes to subsection numbering and cross-references.

6767 (5) (a) Subsection 59-12-104(85) is repealed on July 1, 2021.

6768 (b) When repealing Subsection 59-12-104(85), the Office of Legislative Research and
6769 General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make
6770 necessary changes to subsection numbering and cross-references.

6771 (6) (a) In Subsection 59-12-104.5(3), the language "(85) and" is repealed on July 1,
6772 2021.

6773 (b) When repealing the language "(85) and" in Subsection 59-12-104.5(3), the Office
6774 of Legislative Research and General Counsel shall, in addition to the office's authority under
6775 Subsection 36-12-12(3), make necessary changes to subsection numbering and
6776 cross-references.

6777 (7) In Section 59-12-104.7, the language "A purchaser that receives a sales and use tax
6778 exemption under Subsection 59-12-104(85) or (86) shall make the report described in Section
6779 63N-1-302." shall be repealed on July 1, 2021, and replaced with "A purchaser that receives a
6780 sales and use tax exemption under Subsection 59-12-104(86) shall make the report described in
6781 Section 63N-1-302", except that the reference to Subsection 59-12-104(86) shall be updated to
6782 make necessary changes to subsection numbering.

6783 (8) Section 59-12-104.8 is repealed on December 31, 2021.

6784 Section 46. Section **63I-2-263** is amended to read:

6785 **63I-2-263. Repeal dates, Title 63A to Title 63N.**

6786 [~~(1)~~ Section 63A-5-227 is repealed on January 1, 2018.]

6787 [~~(2)~~ (1) Section 63H-7a-303 is repealed on July 1, 2022.

6788 [~~(3)~~ (2) On July 1, 2019:

6789 (a) in Subsection 63J-1-206(3)(c)(i), the language that states "(i) Except as provided in

- 6790 Subsection (3)(c)(ii)" is repealed; and
- 6791 (b) Subsection 63J-1-206(3)(c)(ii) is repealed.
- 6792 (3) Subsection 63N-1-302(1)(a) is repealed on July 1, 2021.
- 6793 (4) Subsection 63N-3-109(2)(f)(i)(B) is repealed July 1, 2020.
- 6794 (5) Section 63N-3-110 is repealed July 1, 2020.
- 6795 Section 47. Section **63I-2-272** is amended to read:
- 6796 **63I-2-272. Repeal dates, Title 72.**
- 6797 (1) On July 1, 2018:
- 6798 (a) in Subsection 72-2-108(2), the language that states "and except as provided in
- 6799 Subsection (10)" is repealed;
- 6800 (b) in Subsection 72-2-108(4)(c)(ii)(A), the language that states ", excluding any
- 6801 amounts appropriated as additional support for class B and class C roads under Subsection
- 6802 (10)," is repealed; and
- 6803 (c) Subsection 72-2-108(10) is repealed.
- 6804 (2) Section 72-2-304 is repealed January 1, 2019.
- 6805 [~~(2)~~] (3) Section 72-3-113 is repealed January 1, 2020.
- 6806 [~~(3)~~] (4) Section 72-15-101 is repealed on March 31, 2018.
- 6807 Section 48. Section **63J-1-220** is amended to read:
- 6808 **63J-1-220. Reporting related to pass through money distributed by state**
- 6809 **agencies.**
- 6810 (1) As used in this section:
- 6811 (a) "Local government entity" means a county, municipality, school district, local
- 6812 district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special
- 6813 service district under Title 17D, Chapter 1, Special Service District Act, or any other political
- 6814 subdivision of the state.
- 6815 (b) (i) "Pass through funding" means money appropriated by the Legislature to a state
- 6816 agency that is intended to be passed through the state agency to one or more:
- 6817 (A) local government entities;
- 6818 (B) private organizations, including not-for-profit organizations; or
- 6819 (C) persons in the form of a loan or grant.
- 6820 (ii) "Pass through funding" may be:

6821 (A) general funds, dedicated credits, or any combination of state funding sources; and

6822 (B) ongoing or one-time.

6823 (c) "Recipient entity" means a local government entity or private entity, including a
6824 nonprofit entity, that receives money by way of pass through funding from a state agency.

6825 (d) "State agency" means a department, commission, board, council, agency,
6826 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,
6827 unit, bureau, panel, or other administrative unit of the executive branch of the state.

6828 (e) (i) "State money" means money that is owned, held, or administered by a state
6829 agency and derived from state fees or tax revenues.

6830 (ii) "State money" does not include contributions or donations received by a state
6831 agency.

6832 (2) A state agency may not provide a recipient entity state money through pass through
6833 funding unless:

6834 (a) the state agency enters into a written agreement with the recipient entity; and

6835 (b) the written agreement described in Subsection (2)(a) requires the recipient entity to
6836 provide the state agency:

6837 (i) a written description and an itemized report at least annually detailing the
6838 expenditure of the state money, or the intended expenditure of any state money that has not
6839 been spent; and

6840 (ii) a final written itemized report when all the state money is spent.

6841 (3) A state agency shall provide to the Governor's Office of Management and Budget a
6842 copy of a written description or itemized report received by the state agency under Subsection
6843 (2).

6844 (4) Notwithstanding Subsection (2), a state agency is not required to comply with this
6845 section to the extent that the pass through funding is issued:

6846 (a) under a competitive award process;

6847 (b) in accordance with a formula enacted in statute;

6848 (c) in accordance with a state program under parameters in statute or rule that guides
6849 the distribution of the pass through funding; or

6850 (d) under the authority of the minimum school program, as defined in Subsection
6851 53A-17a-103[~~(7)~~](6)(e).

6852 Section 49. Section **63M-4-702 (Effective 01/01/18)** is amended to read:

6853 **63M-4-702 (Effective 01/01/18). Refiner gasoline standard reporting -- Office of**
6854 **Energy Development certification of sales and use tax exemption eligibility.**

6855 (1) (a) Beginning on July 1, 2021, a refiner that seeks to be eligible for a sales and use
6856 tax exemption under Subsection 59-12-104[~~(89)~~](88) shall annually report to the office
6857 whether the refiner's facility that is located within the state will have an average gasoline sulfur
6858 level of 10 parts per million (ppm) or less using the formulas prescribed in 40 C.F.R. Sec.
6859 80.1603, excluding the offset for credit use and transfer as prescribed in 40 C.F.R. Sec.
6860 80.1616.

6861 (b) Fuels for which a final destination outside Utah can be demonstrated or that are not
6862 subject to the standards and requirements of 40 C.F.R. Sec. 80.1603 as specified in 40 C.F.R.
6863 Sec. 80.1601 are not subject to the reporting provisions under Subsection (1)(a).

6864 (2) (a) Beginning on July 1, 2021, the office shall annually certify that the refiner is
6865 eligible for the sales and use tax exemption under Subsection 59-12-104[~~(89)~~](88):

6866 (i) on a form provided by the State Tax Commission that shall be retained by the
6867 refiner claiming the sales and use tax exemption under Subsection 59-12-104[~~(89)~~](88);

6868 (ii) if the refiner's refinery that is located within the state had an average sulfur level of
6869 10 parts per million (ppm) or less as reported under Subsection (1) in the previous calendar
6870 year; and

6871 (iii) before a taxpayer is allowed the sales and use tax exemption under Subsection
6872 59-12-104[~~(89)~~](88).

6873 (b) The certification provided by the office under Subsection (2)(a) shall be renewed
6874 annually.

6875 (c) The office:

6876 (i) shall accept a copy of a report submitted by a refiner to the Environmental
6877 Protection Agency under 40 C.F.R. Sec. 80.1652 as sufficient evidence of the refiner's average
6878 gasoline sulfur level; or

6879 (ii) may establish another reporting mechanism through rules made under Subsection
6880 (3).

6881 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6882 office may make rules to implement this section.

6883 Section 50. Section **63N-1-302** is amended to read:

6884 **63N-1-302. Reporting of certain sales and use tax exempt purchases.**

6885 (1) (a) On or before October 1, a purchaser that receives a sales and use tax exemption
6886 under Subsection 59-12-104[~~(86)~~](85) for the previous calendar year shall report to the office:

6887 (i) the total purchase or lease price for all machinery, equipment, or normal operating
6888 repair or replacement parts for which the purchaser received the sales and use tax exemption
6889 under Subsection 59-12-104[~~(86)~~](85); and

6890 (ii) the total amount of sales and use tax that the purchaser would have owed on the
6891 purchase or lease price but for the exemption in Subsection 59-12-104[~~(86)~~](85).

6892 (b) On or before October 1, a purchaser that receives a sales and use tax exemption
6893 under Subsection 59-12-104[~~(87)~~](86) for the previous calendar year shall report to the office:

6894 (i) the total purchase or lease price for all equipment or normal operating repair or
6895 replacement parts for which the purchaser received the sales and use tax exemption under
6896 Subsection 59-12-104[~~(87)~~](86); and

6897 (ii) the total amount of sales and use tax that the purchaser would have owed on the
6898 purchase or lease price but for the exemption in Subsection 59-12-104[~~(87)~~](86).

6899 (2) On or before November 30, the office shall report the information received under
6900 Subsection (1) to the Revenue and Taxation Interim Committee:

6901 (a) for each exemption; and

6902 (b) in the aggregate for all purchasers that make a report in accordance with this
6903 section.

6904 Section 51. Section **63N-2-403** is amended to read:

6905 **63N-2-403. Duties of the office.**

6906 The office shall:

6907 (1) facilitate recycling development zones through state support of county incentives
6908 which encourage development of manufacturing enterprises that use recycling materials
6909 currently collected;

6910 (2) evaluate an application from a county or municipality executive authority to be
6911 designated as a recycling market development zone and determine if the county or municipality
6912 qualifies for that designation;

6913 (3) provide technical assistance to municipalities and counties in developing

- 6914 applications for designation as a recycling market development zone;
- 6915 (4) assist counties and municipalities designated as recycling market development
- 6916 zones in obtaining assistance from the federal government and agencies of the state;
- 6917 (5) assist a qualified business in obtaining the benefits of an incentive or inducement
- 6918 program authorized by this part;
- 6919 (6) monitor the implementation and operation of this part and conduct a continuing
- 6920 evaluation of the progress made in the recycling market development zone; ~~and~~
- 6921 (7) include in the annual written report described in Section ~~[63N-2-301,]~~ 63N-1-301
- 6922 an evaluation of the effectiveness of the program and recommendations for legislation~~[-]; and~~
- 6923 (8) review applications and issue tax credit certificates in accordance with Section
- 6924 63N-2-410.

6925 Section 52. Section **63N-2-410** is repealed and reenacted to read:

6926 **63N-2-410. Recycling market development zone credit.**

6927 (1) As used in this section:

6928 (a) "Certified net expenditures" means net expenditures to third parties for rent, wages,

6929 supplies, tools, test inventory, or utilities that the office certifies that the taxpayer paid.

6930 (b) "Certified purchase price" means the purchase price of composting or recycling

6931 machinery or equipment that the office certifies that the taxpayer paid.

6932 (c) "Commission" means the State Tax Commission.

6933 (2) To claim a nonrefundable tax credit under Section 59-7-610 or 59-10-1007, a

6934 taxpayer shall first apply for and receive a tax credit certificate in accordance with this section.

6935 (3) To receive a tax credit certificate to claim a tax credit under Subsection

6936 59-7-610(2) or 59-10-1007(2), a taxpayer shall submit to the office an application that

6937 includes:

6938 (a) proof of the date the taxpayer purchased composting or recycling machinery or

6939 equipment;

6940 (b) proof of the purchase price of the composting or recycling machinery or equipment;

6941 (c) documentation that the purchased machinery or equipment is used directly in:

6942 (i) commercial composting; or

6943 (ii) manufacturing facilities or plant units that:

6944 (A) manufacture, process, compound, or produce recycled items of tangible personal

6945 property for sale; or
6946 (B) reduce or reuse postconsumer waste material; and
6947 (d) documentation that the machinery or equipment purchased is integral to the
6948 composting or recycling process.
6949 (4) To receive a tax credit certificate to claim a tax credit under Subsection
6950 59-7-610(3) or 59-10-1007(3), a taxpayer shall submit to the office an application that
6951 includes:
6952 (a) a list of each net expenditure that the taxpayer made to a third party for rent, wages,
6953 supplies, tools, test inventory, and utilities for establishing and operating recycling or
6954 composting technology in the state; and
6955 (b) for each payment:
6956 (i) the date of payment;
6957 (ii) the amount paid; and
6958 (iii) the name of the third party whom the taxpayer paid.
6959 (5) (a) If, after review of the application described in Subsection (3), the office
6960 determines that the taxpayer is eligible to claim a tax credit under Subsection 59-7-610(2) or
6961 59-10-1007(2), the office shall:
6962 (i) determine the amount of the tax credit by multiplying the certified purchase price of
6963 the composting or recycling machinery or equipment by 5%;
6964 (ii) issue to the taxpayer a tax credit certificate that:
6965 (A) states the amount of the tax credit calculated in accordance with Subsection
6966 (5)(a)(i);
6967 (B) states the date that the taxpayer purchased the machinery or equipment; and
6968 (C) certifies that the machinery or equipment is integral to the composting or recycling
6969 process; and
6970 (iii) provide the information from the tax credit certificate electronically:
6971 (A) to the commission; and
6972 (B) in a manner prescribed by the commission.
6973 (b) If, after review of the application described in Subsection (4), the office determines
6974 that the taxpayer is eligible to claim a tax credit under Subsection 59-7-610(3) or
6975 59-10-1007(3), the office shall:

6976 (i) determine the amount of the tax credit by multiplying the certified net expenditures
6977 by 20%, up to a maximum value of \$2,000;

6978 (ii) issue a tax credit certificate to the taxpayer that states:

6979 (A) the amount of the tax credit calculated in accordance with Subsection (5)(b)(i); and
6980 (B) the date on which the taxpayer made the certified net expenditure; and

6981 (iii) provide the information from the tax credit certificate electronically:

6982 (A) to the commission; and
6983 (B) in a manner prescribed by the commission.

6984 (c) (i) The office may issue to a taxpayer that is eligible to claim a tax credit under both
6985 Subsection 59-7-610(2) or 59-10-1007(2) and Subsection 59-7-610(3) or 59-10-1007(3) a
6986 single tax credit certificate that:

6987 (A) contains the information required by Subsections (5)(a)(ii) and (b)(ii);
6988 (B) states that the tax credit certificate certifies that the taxpayer is eligible to claim a
6989 tax credit under both Subsection 59-7-610(2) or 59-10-1007(2) and Subsection 59-7-610(3) or
6990 59-10-1007(3); and

6991 (C) clearly identifies the sum of the amounts of the tax credits that the taxpayer is
6992 eligible to claim.

6993 (ii) If the office issues a single tax credit certificate to a taxpayer, the office may not
6994 provide the information required by Subsection (5)(a)(iii) or (b)(iii) but shall provide the
6995 information from the single tax credit certificate electronically:

6996 (A) to the commission; and
6997 (B) in a manner prescribed by the commission.

6998 (6) (a) If, after review of an application described in Subsection (3) or (4), the office
6999 determines that the taxpayer has provided inadequate information to issue a tax credit
7000 certificate on some or all of the expenses for which the taxpayer seeks to claim a tax credit, the
7001 office shall:

7002 (i) inform the taxpayer that the application is incomplete or inadequate; and
7003 (ii) request that the taxpayer submit additional documentation within a time frame
7004 specified by the office.

7005 (b) If the taxpayer fails to comply with the request for additional documentation, the
7006 office shall:

7007 (i) for an application that the office is able to certify some of the submitted expenses,
7008 issue a tax credit certificate in accordance with Subsection (5) for certified purchase prices,
7009 certified net expenditures, or both; or

7010 (ii) for an application that the office is unable to certify any of the submitted expenses,
7011 deny a tax credit certificate.

7012 (7) A taxpayer shall retain a copy of the tax credit certificate issued under Subsection
7013 (5) for the same time period the taxpayer is required to keep books and records under Section
7014 59-1-1406.

7015 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
7016 office shall make rules describing:

7017 (a) the form of an application for a tax credit certificate under this section;

7018 (b) the documentation requirements for a taxpayer to receive a tax credit certificate
7019 under this section; and

7020 (c) administration of the tax credit certificate issuance process, including relevant
7021 timelines and deadlines.

7022 Section 53. Section **72-2-301** is enacted to read:

7023 **Part 3. Road Usage Charge Program**

7024 **72-2-301. Road Usage Charge Technical Advisory Committee -- Membership.**

7025 (1) There is created within the department a Road Usage Charge Technical Advisory
7026 Committee consisting of members appointed by the executive director of the department.

7027 (2) Each member of the technical advisory committee shall represent individuals with
7028 experience and expertise in the areas of:

7029 (a) telecommunications;

7030 (b) highway user groups;

7031 (c) data security and privacy;

7032 (d) privacy rights advocacy organizations;

7033 (e) transportation agencies with technical expertise;

7034 (f) national research;

7035 (g) members of the Legislature;

7036 (h) representatives from the State Tax Commission; and

7037 (i) other relevant stakeholders as determined by the executive director.

7038 (3) The committee shall elect its own chair and vice chair at the first regular meeting of
7039 each calendar year.

7040 (4) A member may not receive compensation or benefits for the member's service, but
7041 may receive per diem and travel expenses in accordance with:

7042 (a) Section 63A-3-106;

7043 (b) Section 63A-3-107; and

7044 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
7045 63A-3-107.

7046 (5) The department shall provide staff support to the committee.

7047 Section 54. Section **72-2-302** is enacted to read:

7048 **72-2-302. Powers and duties.**

7049 (1) The Road Usage Charge Technical Advisory Committee shall guide the
7050 development and evaluation of a program to implement mileage-based revenue collection for
7051 Utah's roads and highways as an alternative to the gas tax system.

7052 (2) The committee shall:

7053 (a) study a road usage charge program as an alternative to the gas tax;

7054 (b) gather public comment on issues and concerns related to a road usage charge
7055 program; and

7056 (c) make recommendations to the department on the design of a program to implement
7057 alternative road usage charge approaches.

7058 (3) The committee may also make recommendations on the criteria to be used to
7059 evaluate the program.

7060 (4) In studying alternatives to the current gas tax system and developing
7061 recommendations on the design of a program to implement road usage charge approaches
7062 under Subsection (2), the committee shall take all of the following into consideration:

7063 (a) the availability, adaptability, reliability, and security of methods that might be used
7064 in recording and reporting highway use;

7065 (b) the necessity of protecting all personally identifiable information used in reporting
7066 highway use;

7067 (c) the ease and cost of recording and reporting highway use;

7068 (d) the ease and cost of administering the collection of taxes and fees as an alternative

7069 to the current system of taxing highway use through motor vehicle fuel taxes;

7070 (e) effective methods of maintaining compliance;

7071 (f) the ease of reidentifying location data, even when personally identifiable

7072 information has been removed from the data;

7073 (g) increased privacy concerns when location data is used in conjunction with other

7074 technologies; and

7075 (h) public and private agency access, including law enforcement, to data collected and

7076 stored for purposes of the road user charge to ensure individual privacy rights are protected.

7077 (5) The committee shall consult with highway users and transportation stakeholders,

7078 including representatives of vehicle users, vehicle manufacturers, and fuel distributors as part

7079 of the committee's duties under this section.

7080 Section 55. Section **72-2-303** is enacted to read:

7081 **72-2-303. Department to implement Road Usage Charge Program --**

7082 **Requirements -- Restrictions.**

7083 (1) Based on the recommendations of the Road Usage Charge Technical Advisory

7084 Committee, the department shall implement a road usage charge program by July 1, 2019.

7085 (2) At a minimum, the program shall accomplish all of the following:

7086 (a) implement alternative means of collecting road usage data, including at least one

7087 alternative that does not rely on electronic vehicle location data;

7088 (b) collect a minimum amount of personal information including location tracking

7089 information necessary to implement a road usage charge program; and

7090 (c) ensure that processes for collecting, managing, storing, transmitting, and destroying

7091 data are in place to protect the integrity of the data and safeguard the privacy of drivers.

7092 (3) The department may not disclose, distribute, make available, sell, access, or

7093 otherwise provide for another purpose, personal information or data collected through a road

7094 usage charge program to any private entity or individual unless:

7095 (a) authorized by:

7096 (i) a court order, as part of a civil case;

7097 (ii) a subpoena issued on behalf of a defendant in a criminal case; or

7098 (iii) a search warrant; or

7099 (b) in aggregate form with all personal information removed for the purposes of

7100 academic research.

7101 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
7102 department may make rules to implement a road usage charge program under this section.

7103 Section 56. Section **72-2-304** is enacted to read:

7104 **72-2-304. Department report on Road Usage Charge Program.**

7105 (1) The department shall prepare and submit a report of its findings based on the results
7106 of the program to the Road Usage Charge Technical Advisory Committee, the Transportation
7107 Commission, and the Transportation and Revenue and Taxation Committees of the Legislature
7108 by no later than November 30, 2018.

7109 (2) The report shall review the following issues:

7110 (a) cost;

7111 (b) privacy, including recommendations regarding public and private access, including
7112 law enforcement, to data collected and stored for purposes of the road user charge to ensure
7113 individual privacy rights are protected;

7114 (c) jurisdictional issues;

7115 (d) feasibility;

7116 (e) complexity;

7117 (f) acceptance;

7118 (g) use of revenues;

7119 (h) security and compliance, including a discussion of processes and security measures
7120 necessary to minimize fraud and tax evasion rates;

7121 (i) data collection technology, including a discussion of the advantages and
7122 disadvantages of various types of data collection equipment and the privacy implications and
7123 considerations of the equipment;

7124 (j) potential for additional driver services;

7125 (k) implementation issues; and

7126 (l) rules or legislation needed to implement a road usage charge program.

7127 Section 57. **Repealer.**

7128 This bill repeals:

7129 Section **53A-17a-134, Board-approved leeway -- Purpose -- State support --**

7130 **Disapproval.**

7131 Section **53A-17a-145, Additional levy by local school board for debt service, school**
7132 **sites, buildings, buses, textbooks, and supplies.**

7133 Section **53A-17a-151, Board leeway for reading improvement.**

7134 Section **59-2-108, Election for assessment and taxation of noncapitalized personal**
7135 **property according to a schedule.**

7136 Section 58. **Effective date -- Retrospective operation.**

7137 (1) Except as provided in Subsections (2) through (9), this bill has retrospective
7138 operation for a taxable year beginning on or after January 1, 2018.

7139 (2) The amendments to the following sections take effect on May 8, 2018:

7140 (a) Section 53A-1a-106;

7141 (b) Section 53A-2-214;

7142 (c) Section 53A-16-110;

7143 (d) Section 53A-16-113;

7144 (e) Section 53A-17a-103;

7145 (f) Section 53A-17a-124.5;

7146 (g) Section 53A-17a-127;

7147 (h) Section 53A-17a-135;

7148 (i) Section 53A-17a-135.1;

7149 (j) Section 53A-17a-150;

7150 (k) Section 53A-17a-164;

7151 (l) Section 53A-21-101.5;

7152 (m) Section 59-2-102;

7153 (n) Section 59-2-918.6;

7154 (o) Section 59-2-919;

7155 (p) Section 59-2-919.2;

7156 (q) Section 59-2-926;

7157 (r) Section 63I-2-272;

7158 (s) Section 63J-1-220;

7159 (t) Section 72-2-301;

7160 (u) Section 72-2-302;

7161 (v) Section 72-2-303; and

- 7162 (w) Section 72-2-304.
- 7163 (3) The repealers of the following sections take effect on May 8, 2018:
- 7164 (a) Section 53A-17a-134;
- 7165 (b) Section 53A-17a-145; and
- 7166 (c) Section 53A-17a-151.
- 7167 (4) The amendments to the following sections take effect on July 1, 2018:
- 7168 (a) Section 59-1-1503;
- 7169 (b) Section 59-12-102, except Subsections (55), industrial use definition, and (64),
- 7170 manufacturing facility definition;
- 7171 (c) Section 59-12-103;
- 7172 (d) Section 59-12-104, except Subsection (14);
- 7173 (e) Section 59-12-104.4;
- 7174 (f) Section 59-12-104.5;
- 7175 (g) Section 59-12-104.7;
- 7176 (h) Section 63M-4-702; and
- 7177 (i) Section 63N-1-302.
- 7178 (5) The amendments to Section 63I-1-263 take effect on January 1, 2019.
- 7179 (6) The repealer of Section 59-2-108 takes effect on January 1, 2019.
- 7180 (7) The amendments to the following sections take effect for a taxable year beginning
- 7181 on or after January 1, 2019:
- 7182 (a) Section 59-2-1115;
- 7183 (b) Subsection 59-7-101(34), Utah net loss deduction definition;
- 7184 (c) Section 59-7-110;
- 7185 (d) Section 59-7-302;
- 7186 (e) Section 59-7-311;
- 7187 (f) Section 59-7-312;
- 7188 (g) Section 59-7-315;
- 7189 (h) Section 59-7-610;
- 7190 (i) Section 59-7-612;
- 7191 (j) Section 59-10-1007;
- 7192 (k) Section 59-10-1012; and

- 7193 (l) Section 63N-2-403.
- 7194 (8) The repeal and reenactment of Section 63N-2-410 takes effect for a taxable year
- 7195 beginning on or after January 1, 2019.
- 7196 (9) The amendments to the following sections take effect on July 1, 2019:
- 7197 (a) Section 41-1a-102;
- 7198 (b) Section 41-1a-1206;
- 7199 (c) Subsections 59-12-102(55), industrial use definition, and (64), manufacturing
- 7200 facility definition;
- 7201 (d) Subsection 59-12-104(14);
- 7202 (e) Section 59-12-104.8;
- 7203 (f) Section 63I-2-259; and
- 7204 (g) Section 63I-2-263.