

SALES TAX

Tax Restructuring and Equalization Task Force

October 10, 2019



UTAH STATE
LEGISLATURE

KEY CONCERNS



**KEY
CONCERNS
HEARD DURING
TOWNHALL
MEETINGS**

- “Tax pyramiding will make Utah less competitive”
- “Taxing services would make Utah an outlier”
- “Compliance burden is too high for service providers”

WHAT WE HEARD: TAX PYRAMIDING

What is Tax Pyramiding?

- Situation where business inputs are subject to sales tax, and the price of the final product or service is then raised to account for the higher cost of the inputs.
- If final product is subject to sales tax and sold to another business to be used as a business input, the process continues and the taxes compound or pyramid.

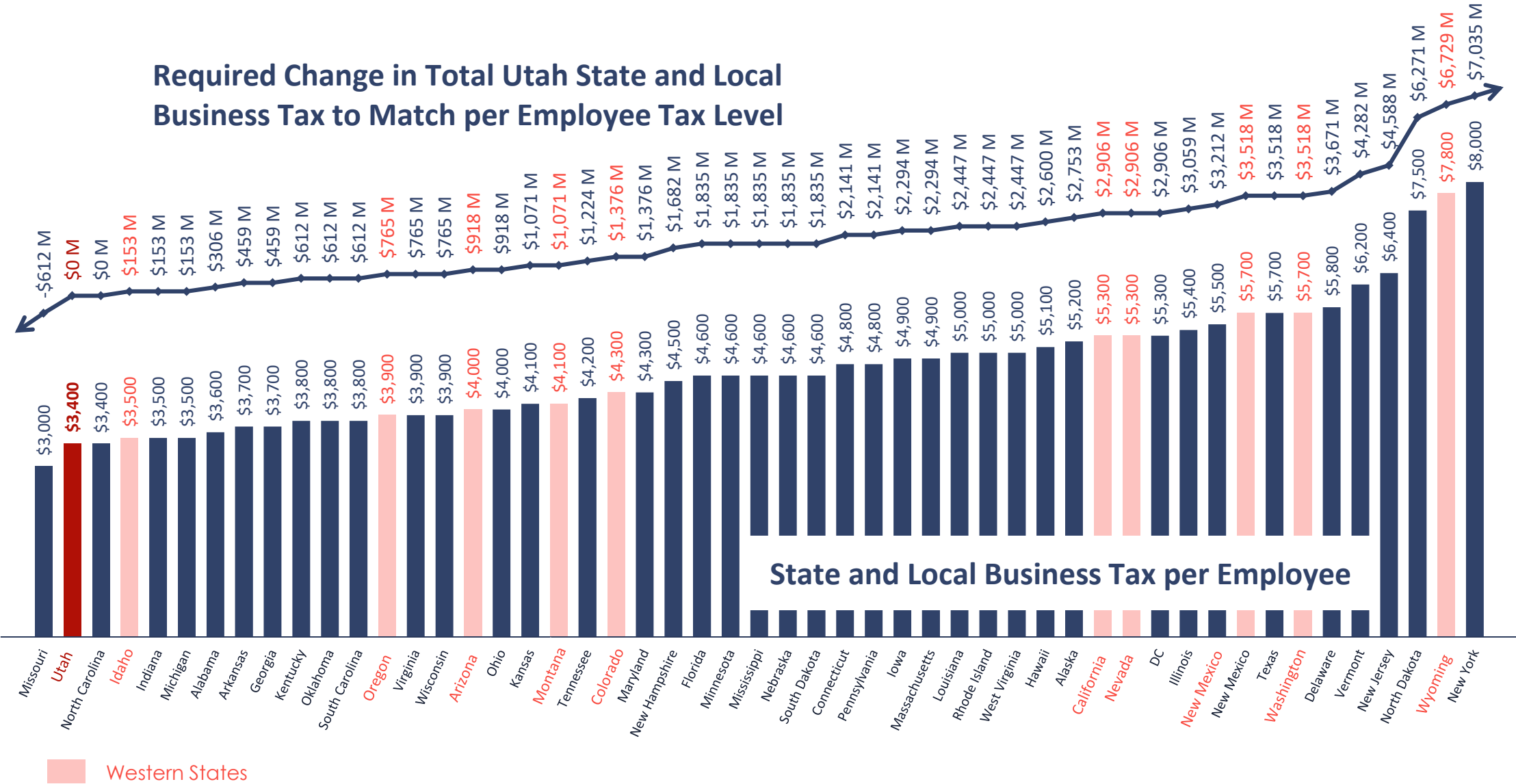
WHAT WE HEARD: TAX PYRAMIDING

Legislative Action to Reduce Pyramiding

- 2017 – SB 132
 - Expanded single sales factor eligibility
- 2018 – HB 293
 - Expanded single sales factor eligibility
- 2018 – SB 2001
 - Sales tax exemption for machinery and equipment with greater than 1-year economic life for manufacturers, mining establishments, web portal providers, and medical laboratories

TAX PYRAMIDING

Required Change in Total Utah State and Local Business Tax to Match per Employee Tax Level



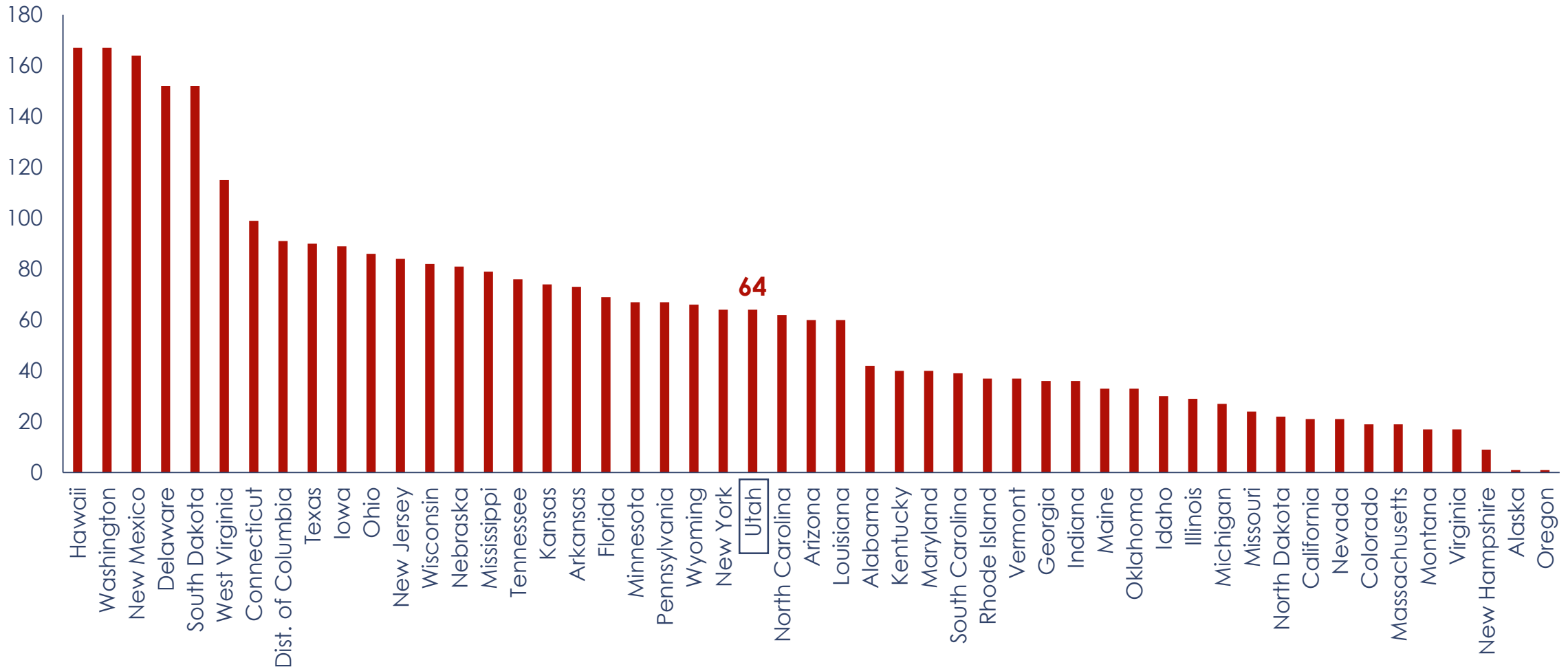
Source: Ernst and Young - Total State and Local Business Taxes - November 2018

WHAT WE HEARD: TAXING SERVICES WOULD MAKE UTAH AN OUTLIER

Services Currently Taxed in Utah Include:

- **Repair or Maintenance of Tangible Personal Property**
 - Car repair services
 - Maintenance agreements
 - Dry cleaning and assisted laundry services
 - Assisted car washes
 - Pet services, except veterinary
 - Labor to repair, upgrade, or maintain products transferred electronically
 - Labor to repair, renovate, or clean tangible personal property
- **Accommodations and Rentals**
 - Accommodations, including short-term leasing
 - Motor vehicle rental
- **Amusement and Recreation**
 - Use of assisted amusement devices
 - Event admissions
- **Other**
 - Memberships to discount clubs
 - Sexually explicit businesses and escort services
 - In-state telecommunications services
 - Multi-channel video and audio services

TAXATION OF SERVICES BY STATE



WHAT WE HEARD: COMPLIANCE BURDEN TOO HIGH

Small Business

- Tax commission tools available to ease compliance burden on small businesses
- For very small businesses, the cost of compliance and administration may outweigh the tax revenue generated
- [https://tap.tax.utah.gov/taxexpress/ /](https://tap.tax.utah.gov/taxexpress/)

WHAT WE HEARD: COMPLIANCE BURDEN TOO HIGH

Vendor Discount

- Utah allows vendors that collect and remit sales taxes to keep 1.31% of taxes collected to offset administrative burden

POLICY OPTIONS



ELIMINATE CERTAIN SALES TAX EXEMPTIONS

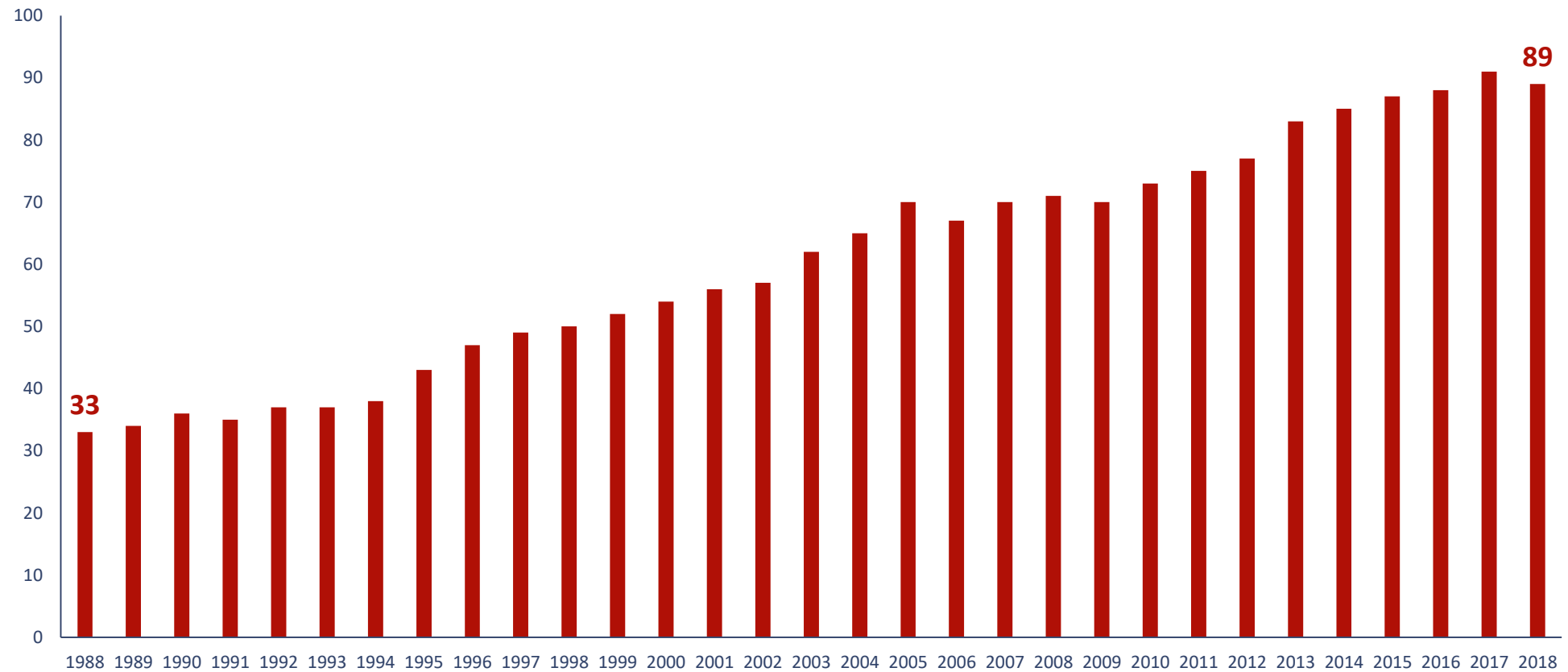
Policy Description

- The Legislature could eliminate existing sales tax exemptions on certain transactions to broaden the sales tax base.
- There are currently 89 sales tax exemptions that remove certain transactions that would otherwise be subject to sales tax from the sales tax base.
- The estimated value of these exemptions is approximately \$1B.
- The likely policy goals of these transactions include: eliminating tax pyramiding, promoting charitable organizations, enabling an efficient collection system, and incentivizing or reducing costs for certain transactions such as health care purchases.

National Comparison

- Utah ranks 27th in the United States* for sales tax breadth or percent of consumption subject to sales tax (~34%).

NUMBER OF SALES TAX EXEMPTIONS



SALES TAX EXEMPTIONS

Exemption	Year Enacted	FY 2017 Est. Value	Estimate Quality	Utah Code Section 59-12-104:
Specific good/service, use, and purchaser				
Machinery, equipment, parts, materials, or repair for manufacturers, mining, and web search providers	1985	\$59,447,000**	Med	(14)
Vehicle or products installed on a vehicle used by an authorized carrier	1995	\$15,200,000	Low	(33)
Construction materials for Salt Lake International Airport (material converted to real property only)	2008	\$6,980,000	High	(66)
Machinery or equipment purchased by the film industry and used to produce certain media	2004	\$3,500,000	Low	(54)
Fuel sold to a common carrier railroad and used in a locomotive engine	2008	\$2,500,000	Med	(68)
Machinery, equipment, etc. purchased by a refinery and used in a specified activity	2017	\$2,135,100*	N/A	(86)
Certain products purchased by airlines for in-flight use or consumption	1983	\$1,900,000	Med	(4)
Machinery, equipment, or parts used for electronic financial payment services (three-year life)	2013	\$1,700,000	Low	(79)
Construction materials for life science research facility (material converted to real property only)	2012	\$650,000	Low	(73)
Amusement and recreation machinery or equipment (three-year life; business must charge fee to use)	2013	\$480,000	Low	(76)
Electricity to ski resorts for lifts	1996	\$250,000	Low	(37)
Machinery, equipment, normal operating repair or replacement parts, purchased by a medical lab	2018	\$210,000**	Med	(88)
Construction materials for new airport in 2nd class county (material converted to real property only)	2008	\$0	N/A	(67)
Machinery, equipment, or parts purchased by certain data centers (one-year economic life)	2016	\$0	N/A	(84)
Non-returnable containers, labels, casings for use in packaging TPP	1969	Insufficient Data	N/A	(22)

*FY2019 Estimate

**FY2021 Estimate

Source: Utah Tax Commission

Prepared by: Office of Legislative Research and General Counsel

SALES TAX EXEMPTIONS

Exemption	Year Enacted	FY 2017 Est. Value	Estimate Quality	Utah Code Section 59-12-104:
Specific good/service and purchaser				
Certain machinery, equipment, or software purchased by or for a telecommunications service provider	2006	\$11,900,000	Low	(61)
Commercials, films, and other audio / video sold to broadcasters and others	1981	\$6,200,000	Low	(6)
Short-term lodging consumables	2013	\$2,200,000	Low	(77)
Certain products used by a steel mill	1987	\$210,000	Med	(29)
Ski resort equipment and parts	1996	\$72,000	Low	(38)
Specific good/service and use				
Natural gas, electricity, coal, fuel oil, and other fuels for industrial use	1996	\$44,100,000	Med	(39)
Machinery, equipment, or parts used in qualified research (three-year life)	2012	\$13,800,000	Med	(74)
Intrastate telecommunications services or fuel for use in compounding a taxable service	1933	\$7,500,000	Low	(27)
Certain equipment under certain aerospace or electronics contracts with the federal government	1986	\$7,200,000	Low	(15)
Telecommunications service for purposes of providing telecommunications service	1990	\$3,700,000	Low	(32)
Address list or database used to send direct mail	2005	\$1,500,000	Low	(59)
Database access (viewing or retrieval of information)	2013	\$1,100,000	Low	(78)
Vehicles used for temporary sporting events	2001	Less Than \$1,000	Low	(46)

SALES TAX EXEMPTIONS

Exemption	Year Enacted	FY 2017 Est. Value	Estimate Quality	Utah Code Section 59-12-104:
Specific use and purchaser				
Aircraft parts and equipment for installation in certain aircraft	1984	\$7,400,000	Low	(5)
Pollution control equipment (includes consumables)	1973	\$6,300,000	Med	(11)
Products to an aircraft repair provider if used to repair aircraft not registered in Utah	2010	\$250,000	Med	(70)
Business property temporarily brought into the state by an out-of-state business for disaster-related work	2014	\$0	N/A	(81)
Product used in preparation of food if seller and purchaser are the same (seller already paid sales tax)	2013	Insufficient Data	N/A	(75)
Certain machinery, equipment, etc. for or by an alternative energy electricity production facility	2002	Insufficient Data	N/A	(55)
Certain machinery, equipment, etc. for or by a waste energy production facility	2004	Insufficient Data	N/A	(56)
Certain purchases for or by a facility that produces fuel from alternative energy	2004	Insufficient Data	N/A	(57)
Specific good/service				
Hay	1995	\$10,300,000	Med	(19)
Semiconductor fabricating, processing, research, or development materials	2001	\$7,000,000	Low	(44)
Molten magnesium	2015	\$610,000	Med	(83)
Fuel cell	2013	\$47,000	Med	(80)
Specific use				
Products primarily used in farming operations	1979	\$65,300,000	Low	(18)
Property stored in the state for resale	1937	Insufficient Data	N/A	(23)
Product purchased for resale in its original form or as a component part of a manufactured good	1937	Insufficient Data	N/A	(25)
Sale-leaseback transactions	2003	Insufficient Data	N/A	(52)
Building materials shipped out of state and incorporated into real property	1989	Insufficient Data	N/A	(58)
Products used in the research and development of alternative energy technology	2006	Insufficient Data	N/A	(62)
Business property purchased outside the state and brought into the state after first use	2007	Insufficient Data	N/A	(63)

SALES TAX EXEMPTIONS

Exemption	Year Enacted	FY 2017 Est. Value	Estimate Quality	Utah Code Section 59-12-104:
Charitable/Non-profit/Government				
State and local government purchases except for certain construction materials	1933	\$47,800,000	Low	(2)
Sales to or by religious or charitable organizations	1933	\$11,900,000	Low	(8)
Food stamp purchases	1986	\$5,100,000	High	(21)
Certain food or alcohol served by religious, charitable, medical or higher education	1939	\$1,700,000	Low	(12)
Copies and publications by a government entity	1997	\$450,000	Low	(41)
WIC purchases	1987	\$450,000	High	(28)
Sales to a public transit district (includes construction materials converted to real property)	2007	\$310,000	Med	(65)
Sales relating to schools and fundraising sales	1995	\$140,000	Low	(35)
Sales to or by Heber Valley Railroad	2010	\$120,000	Med	(69)
Sales of goods and services at a National Guard morale, welfare, and recreation facility	2014	\$20,000	Med	(82)
Health Care				
Prescription drugs, syringes, and stoma supplies	1976	\$154,700,000	Low	(10)
Prescribed durable medical equipment for home use	1995	\$4,000,000	Low	(36)
Prescribed disposable home medical supplies	1995	\$2,100,000	Low	(64)
Sales to or by a nonprofit that provides certain services to persons age 60+	1999	\$1,400,000	Med	(43)
Prescribed mobility enhancing equipment	1995	\$1,060,000	Low	(48)
Prosthetic device (prescribed or purchased by medical facility)	1995	\$800,000	Low	(53)
Medical cannabis	2018	Insufficient Data	N/A	(89)

SALES TAX EXEMPTIONS

Exemption	Year Enacted	FY 2017 Est. Value	Estimate Quality	Utah Code Section 59-12-104:
Economic Efficiency- Other Tax Considerations				
Aviation, motor, special fuels (jet, gas, diesel, etc.)	1933	\$205,500,000	Med	(1)
Non-resident vehicle that is not registered or used in the state except under specified circumstances	1957	\$7,800,000	Med	(9)
Non-resident boat that is not registered or used in the state except under specified circumstances	1988	\$110,000	Med	(30)
Hotel accommodations and services taxed by the Navajo Nation	2001	\$63,000	Low	(45)
Product brought in by a nonresident for use (product may not be used for business in the state)	1937	Insufficient Data	N/A	(24)
Product for which sales tax was paid to another state (must pay difference if Utah tax is greater)	1937	Insufficient Data	N/A	(26)
Accommodations and services if the proprietor is subject to the MIDA accommodations tax	2018	Insufficient Data	N/A	(87)
Economic Efficiency- Historically Coin Operated				
Primarily unassisted cleaning of property (coin operated laundry, etc.)	1975	\$3,100,000	Med	(7)
Use of unassisted amusement device	1996	\$670,000	Low	(40)
Vending machine food sold for \$1 or less under certain circumstances	1965	\$85,000	Med	(3)
Car wash that does not include cleaning the interior of the vehicle	2017	\$0	N/A	(85)

SALES TAX EXEMPTIONS

Exemption	Year Enacted	FY 2017 Est. Value	Estimate Quality	Utah Code Section 59-12-104:
Other				
Vehicle trade-ins and other trades as part payment for a purchase	1933	\$69,600,000	Med	(17)
Water in a pipe, conduit, ditch or reservoir	2003	\$21,600,000	Med	(49)
45% of a new and 100% of a used manufactured home (based on sales price)	1995	\$3,700,000	Low	(34)
Newspapers or newspaper subscriptions	1937	\$1,780,000	Low	(16)
Admissions to college athletic events	1998	\$1,260,000	Med	(42)
Pawnbroker repurchases or redemptions	2005	\$1,220,000	Low	(60)
Exclusive sale of seasonal crops and plants if sold during the harvest season by the producer	1937	\$510,000	Med	(20)
Textbooks purchased by a student (not including a college book store; seller sales primarily textbooks)	2011	\$190,000	Low	(71)
Certain electricity produced from a new alternative energy source	2002	\$115,000	Med	(47)
Municipal taxes or fees levied on purchaser for enhanced level of municipal service	2011	\$9,000	Med	(72)
Aircraft manufactured in Utah	1990	\$0	N/A	(31)
Isolated or occasional sales if not regularly engaged in business	1937	Insufficient Data	N/A	(13)
Currency or coinage that is legal tender	1983	Insufficient Data	N/A	(50)
Gold, silver, platinum (bars, coins, etc.; not legal tender; content 50%+ gold, silver, or platinum)	2003	Insufficient Data	N/A	(51)

POLICY CONSIDERATIONS

- **Scope**

- Any number of existing exemptions could be eliminated or modified to scale this policy change to meet the legislature's goals.

- **Budgetary impact**

- Eliminating or reducing sales tax exemptions would broaden the sales tax base and increase General Fund revenue.

- **Reporting**

- The state has little data on the actual costs of sales tax exemptions because reporting requirements have been repealed. Prior to their repeal, the quality of data the reporting requirements provided was low.

INCLUDE ADDITIONAL SERVICES IN SALES TAX BASE

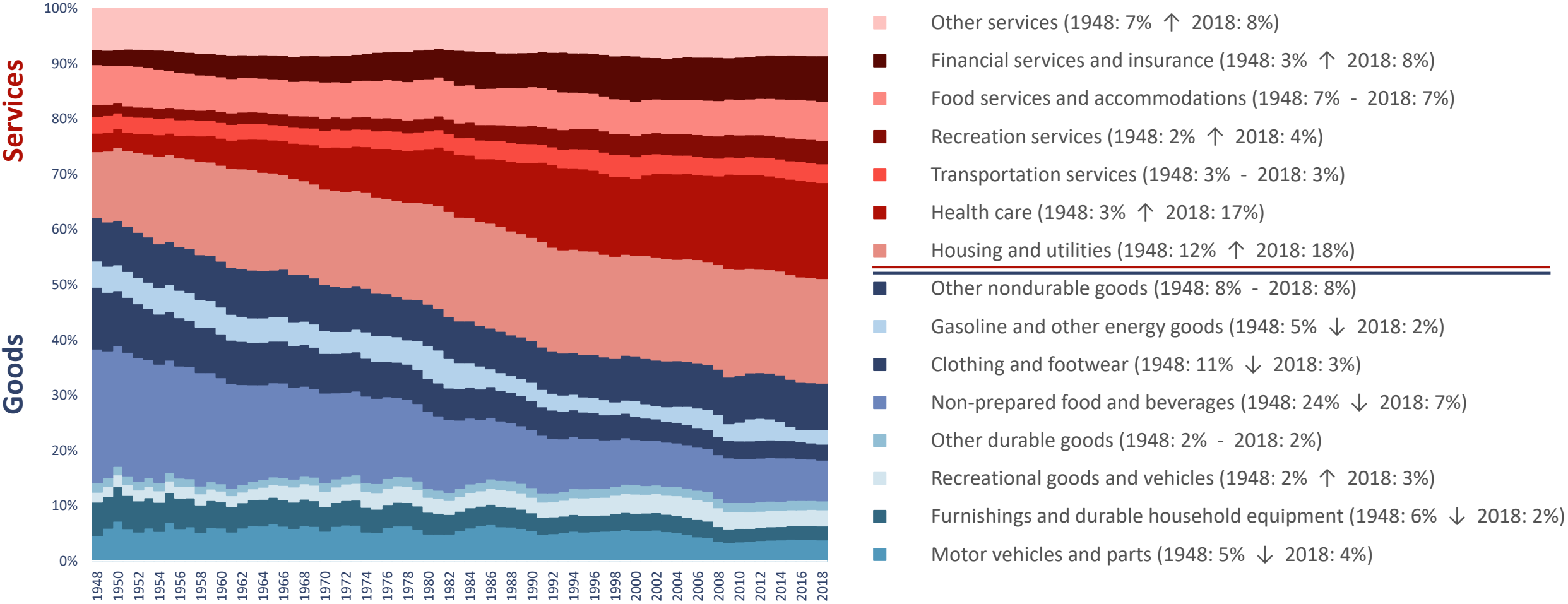
Policy Description

- The Legislature could expand the sales tax base to include additional services.
- Utah currently taxes most services related to maintenance, repair, and rental of tangible personal property, accommodations, recreation, utilities, and telecommunications

National Comparison

- According to a 2017 survey by the Federation of Tax Administrators, 21 states and the District of Columbia tax more services than Utah.

US PERSONAL CONSUMPTION EXPENDITURE BY TYPE OF PRODUCT



Source: BEA

POLICY CONSIDERATIONS

- **Scope**

- The legislature could opt to broadly add services to the sales tax base, or narrowly add certain services to the sales tax base.

- **Stability**

- Including services would add stability to the sales tax base as consumer patterns shift to favor services.

- **Efficiency**

- Sales taxes are the most efficient types of tax. Expanding the sales tax bases generates revenue with smaller distortions to the overall economy than other tax types.

- **Pyramiding**

- Expanding the sales tax base to include more business inputs can make the actual tax burden higher than implied by the tax rate due to intermediate taxes being passed along to the consumer in the form of higher prices.

- **Simplicity**

- Expanding the sales tax base can increase the compliance burden on some businesses and the administration burden on the Tax Commission.

- **Local Impact**

- Expanding the sales tax base may have unequal impacts at the local level depending upon how the policy is crafted by the legislature.

INCLUDE ADDITIONAL SERVICES IN SALES TAX BASE



Inconsistent Treatment



New Economy



Traditional Consumer Services



High Growth Services



Value Added Tax



Gross Receipts Tax

Narrow

Broad

ADDRESS INCONSISTENT TREATMENT

Policy Description

- A number of services are currently treated inconsistently in the tax code. For example:
 - Downloaded media is taxed, but streaming media is not
 - Some car washes are taxed, but others are not
 - Dry cleaning is taxed, but coin operated laundry is not
- The legislature could expand the sales tax base by taxing those services similar to currently taxed services.

ADDRESS INCONSISTENT TREATMENT

Est. Revenue (FY21)	Est. Growth Trend (CAGR)	Stability Over Time
\$6 million	4.6%	Cyclical with the economy

POLICY CONSIDERATIONS

- **Scope**

- The legislature could address as many or as few inconsistencies as meet its policy goals.

- **Simplicity**

- Treating similar services consistently could increase simplicity for consumers and vendors.

INCLUDE NEW ECONOMY SERVICES IN SALES TAX BASE

Policy Description

- The legislature could expand the sales tax base by including services that have appeared in recent years as part of the “new economy,” including:
 - Peer to peer ride sharing
 - Software as a service
 - Streaming media

National Comparison

- 13 states and several municipalities currently tax peer to peer ride sharing
- 14 states currently tax software as a service
- 26 states currently tax streaming media (including Utah in some cases)

INCLUDE NEW ECONOMY SERVICES IN SALES TAX BASE

Est. Revenue (FY21)	Est. Growth Trend (CAGR)	Stability Over Time
\$3.7 million	<ul style="list-style-type: none">• Variable, perhaps between 5% and 45% and up	Generally cyclical with the economy

POLICY CONSIDERATIONS

- **Scope**

- The legislature could include as many or as few new economy services as meet its policy goals.

- **Stability**

- Including new economy services would add stability to the sales tax base as consumption of such services replace currently taxed transactions.

- **Simplicity**

- In several instances, including new economy services would address inconsistencies in how these services are treated compared to traditional services.

INCLUDE TRADITIONAL CONSUMER SERVICES IN SALES TAX BASE

Policy Description

- The legislature could expand the sales tax base by taxing services purchased by end users, including:
 - Professional services
 - Legal services
 - Accounting services
 - Architecture, Landscape Architecture, Engineering, and Design services
 - Veterinary Services
 - Transportation and warehousing services
 - Towing services
 - Parking services
 - Self-storage services
 - Other services
 - Repair and maintenance of real property
 - Flight, fine art, sports and recreation instruction
 - Personal care services
 - Travel and tour services

National Comparison

- Approximate number of states currently taxing these service categories:
 - Professional services – 5 states
 - Transportation and warehousing services – 12 to 20 states, depending on service
 - Repair and maintenance of real property – 14 states
 - Personal care – 6 to 23 states, depending on service

**INCLUDE
TRADITIONAL
CONSUMER
SERVICES IN
SALES TAX
BASE**

Est. Revenue (FY21)	Est. Growth Trend (CAGR)	Stability Over Time
<p data-bbox="937 518 1327 586">\$496 million</p> <ul data-bbox="805 686 1378 1125" style="list-style-type: none"><li data-bbox="805 686 1276 822">• Professional: \$381m<li data-bbox="805 836 1378 972">• Transp/storage: \$33m<li data-bbox="805 986 1098 1125">• Other: \$82m	<p data-bbox="1653 789 1809 851">4.6%</p>	<p data-bbox="2038 708 2364 936">Cyclical with the economy</p>

POLICY CONSIDERATIONS

- **Scope**

- The legislature could include as many or as few consumer services as meet its policy goals.

- **Simplicity**

- Treating the sales of goods and services the same under the tax code would simplify transactions in some cases.

- **Stability**

- Including consumer services would add stability to the sales tax base as consumer patterns shift to favor services.

INCLUDE HIGH GROWTH SERVICES IN SALES TAX BASE

Policy Description

- The legislature could expand the sales tax base by taxing services that have seen high rates of growth in recent years, including:
 - Medical services
 - Housing services
 - Financial services

National Comparison

- Utah is one of 18 states that does not require non-profit health plans to pay insurance premium tax*
- Utah is one of 12 states that does not charge a real estate transfer tax
- 6 states currently tax bank service charges, investment advice, or loan broker fees.

*Non-profit health insurance providers are also exempt from corporate income tax

INCLUDE HIGH GROWTH SERVICES IN SALES TAX BASE

Est. Revenue (FY21)	Est. Growth Trend (CAGR)	Stability Over Time
<p>\$2.5 billion</p> <ul style="list-style-type: none">• Medical: \$1.4b• Housing: \$803m• Financial: \$296m	<p>8%</p>	<p>Generally more stable than the overall economy, although still cyclical</p>

POLICY CONSIDERATIONS

- **Scope**

- The legislature could include as many or as few high growth services as meet its policy goals.

- **Stability**

- Including high growth services would add stability to the sales tax base as consumption of such services continue to grow.

- **Financial Burden**

- In the case of medical and housing services, high growth has resulted in high prices, which could be exacerbated with the imposition of a sales tax on these services.

IMPLEMENT A VALUE ADDED TAX TO REPLACE SALES TAX

Policy Description

- The legislature could replace the current sales tax with a value added tax.
- A value added tax requires tax to be paid at each level of production, but only on the value added at each level.
- The end result of a value added tax is a tax on all final consumption.

National Comparison

- No other states currently employ a value added tax
- Value added taxes are, however, common throughout the rest of the world.

IMPLEMENT A VALUE-ADDED TAX TO REPLACE SALES TAX

Est. Revenue (FY21)	Est. Growth Trend (CAGR)	Stability Over Time
\$1.4b per 1%	5.6%	Cyclical with the economy

POLICY CONSIDERATIONS

- **Scope**

- A value added tax would be a large policy shift requiring a replacement of the current sales tax structure.

- **Stability**

- A value added tax would grow with consumption providing a stable tax base.

- **Simplicity**

- Cross-border transactions could complicate the implementation of a value-added tax as purchasers of business inputs would need to keep record of in state vs out of state sales taxes paid.

IMPLEMENT A GROSS RECEIPTS TAX TO REPLACE SALES TAX

Policy Description

- The legislature could replace the current sales tax with a gross receipts tax.
- A gross receipts tax requires businesses to pay a tax on their gross revenues, with no exclusions for business expenses.
- The end result of a gross receipts tax is a tax on all final and intermediate consumption.

National Comparison

- Depending upon how the term is defined, between 5-8 states currently impose a gross receipts tax.

**IMPLEMENT A
GROSS
RECEIPTS TAX
TO REPLACE
SALES TAX**

Est. Revenue (FY21)	Est. Growth Trend (CAGR)	Stability Over Time
\$3.25b per 1%	5.6%	Cyclical with the economy

POLICY CONSIDERATIONS

- **Scope**

- A gross receipts tax would be a large policy shift requiring a replacement of the current sales tax structure.

- **Stability**

- A gross receipts tax would grow with the economy providing a stable tax base.

- **Pyramiding**

- Because all intermediate and final transactions are subject to tax under a gross receipts tax, the tax rate paid by the final consumer does not capture the full tax burden the consumer is paying.
- Typically, states attempt to minimize pyramiding in a gross receipts system by imposing a low tax rate.

POLICY OPTIONS TO AVOID PYRAMIDING

Targeted Options

- **Exemption certificate**
 - Require businesses to present certificate to all vendors
- **Income tax credit for sales tax paid**
 - Require businesses to record all sales taxes paid and report to tax commission

Mitigating Option

- **Identify services primarily consumed by end user rather than businesses**
 - Some pyramiding would occur, but would be mitigated by avoiding sectors primarily composed of business inputs

POLICY OPTIONS TO LIMIT BURDEN ON VERY SMALL BUSINESSES

Age Exemption

- Exempt sales by an individual under a specified age if the service is performed solely by that individual

Single Remittance with Income Tax

- If a seller has less than a threshold amount of taxable sales allow the seller to remit sales tax collections annually on an income tax return

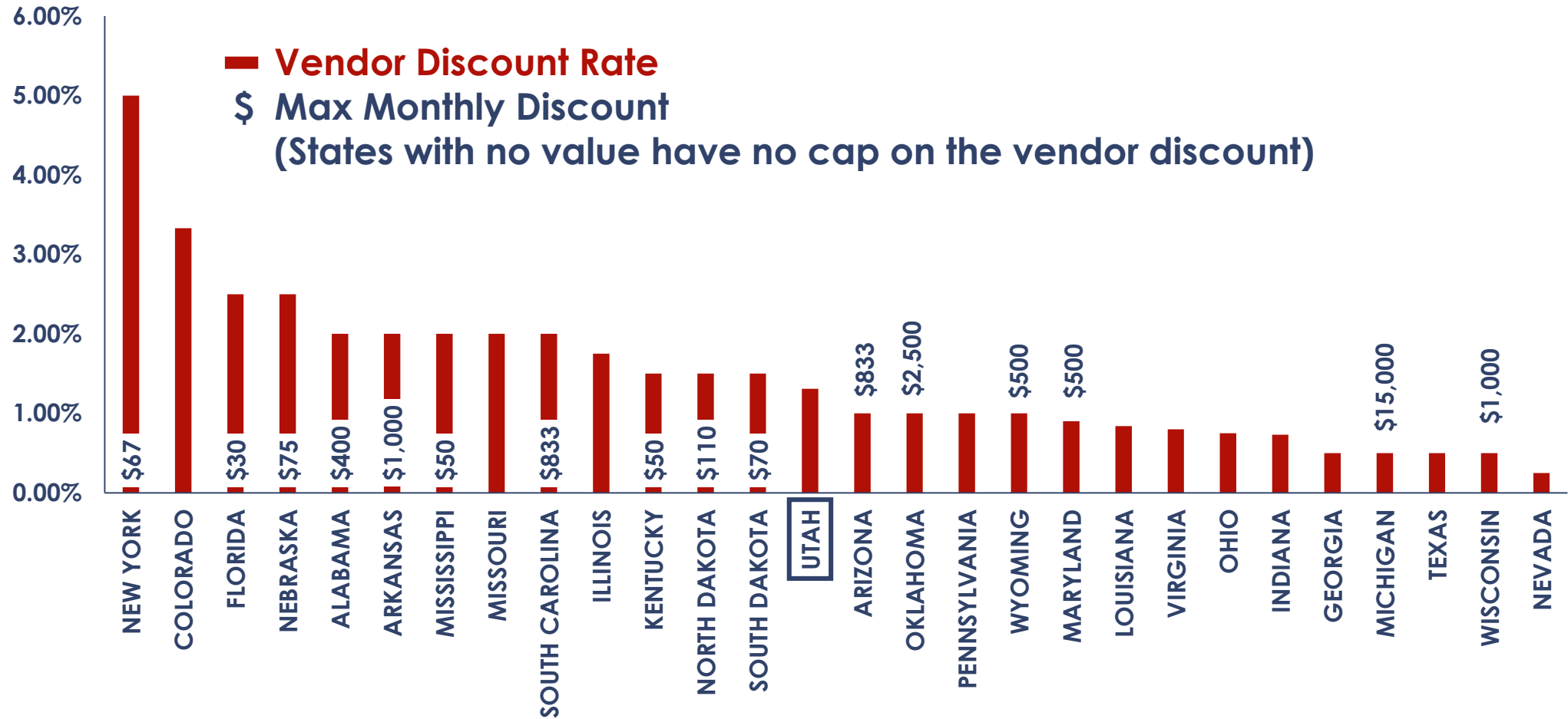
Vendor Discount

- Modify the vendor discount to mitigate compliance burden on very small businesses

VENDOR DISCOUNT HISTORY



VENDOR DISCOUNT



POLICY OPTIONS TO ADDRESS LOCAL IMPACT

GENERAL SALES TAX RATES

	4.85%	State Rate
	1.00%	Statewide Local Option
	0.25%	Statewide County Option
+	0% to 2.1%	Other Local/County Options
<hr/>		
	6.10% to 8.2%	Total Rate

POLICY OPTIONS TO ADDRESS LOCAL IMPACT

Expanding the sales tax base would increase local option sales tax revenues to counties and municipalities

- **Local sales tax revenue increases would equal approximately 40% of state sales tax revenue increases**

POLICY OPTIONS TO ADDRESS LOCAL IMPACT

Maintain Current Local Option Sales Tax Revenue

- Exclude local option sales taxes from expanded base
- Include local option sales taxes in expanded base and reduce B&C road fund distribution

Increase Current Local Option Sales Tax Revenue

- Include local option sales taxes in expanded base



UTAH STATE

LEGISLATURE