

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

3 2009 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Julie Fisher**

6 Senate Sponsor: Curtis S. Bramble

8 **LONG TITLE**

9 **General Description:**

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

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ repeals the requirement for an owner or purchaser to report transactions exempt
16 from state and local sales and use taxes with respect to:
- 17 • exemptions for certain machinery, equipment, or parts; and
 - 18 • the exemption relating to semiconductors;
- 19 ▶ repeals penalty provisions relating to the transaction reporting requirements that are
20 repealed;
- 21 ▶ repeals the requirement that the State Tax Commission provide to the Legislature
22 the total amount of sales or uses:
- 23 • exempt under the exemption relating to semiconductors; and
 - 24 • reported to the commission in accordance with the transaction reporting
25 requirements that are repealed;
- 26 ▶ requires the State Tax Commission to estimate the cost of the exemptions for
27 certain machinery, equipment, or parts for purposes of reviewing the exemptions
28 and reporting to the Revenue and Taxation Interim Committee; and
- 29 ▶ makes technical changes.

30 **Monies Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 This bill takes effect on July 1, 2009.

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **59-1-401**, as last amended by Laws of Utah 2008, Chapter 382

37 **59-1-403**, as last amended by Laws of Utah 2008, Chapters 3, 382, and 384

38 **59-12-104**, as last amended by Laws of Utah 2008, Second Special Session, Chapter 2

39 **62A-11-328**, as last amended by Laws of Utah 2007, Chapter 250

40 REPEALS:

41 **59-12-105**, as last amended by Laws of Utah 2008, Chapter 384



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

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

45 **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**
46 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**
47 **interest.**

48 (1) As used in this section:

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

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

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

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

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

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

57 (ii) May 1, 2008.

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

86 of:

87 (A) \$20; or

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

89 (c) (i) A penalty in the amount described in Subsection (2)(c)(ii) is imposed if a

90 person:

91 (A) (I) is required to file a return:

92 (Aa) on or after the phase I activation date; and

93 (Bb) with respect to a phase I obligation; and

94 (II) files the return after the due date described in Subsection (2)(a); or

95 (B) (I) is required to file a return:

96 (Aa) on or after the phase II activation date; and

97 (Bb) with respect to a phase II obligation; and

98 (II) files the return after the due date described in Subsection (2)(a).

99 (ii) For purposes of Subsection (2)(c)(i), the penalty is an amount equal to the greater

100 of:

101 (A) \$20; or

102 (B) (I) 2% of the unpaid phase I obligation or phase II obligation due on the return if
103 the return is filed no later than five days after the due date described in Subsection (2)(a);

104 (II) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
105 return is filed more than five days after the due date but no later than 15 days after the due
106 date described in Subsection (2)(a); or

107 (III) 10% of the unpaid phase I obligation or phase II obligation due on the return if
108 the return is filed more than 15 days after the due date described in Subsection (2)(a).

109 (d) This Subsection (2) does not apply to:

110 (i) an amended return; or

111 (ii) a return with no tax due.

112 (3) (a) If a person fails to pay a tax, fee, or charge due, the person is subject to a
113 penalty as provided in this Subsection (3).

114 (b) (i) A penalty in the amount described in Subsection (3)(b)(ii) is imposed if:
115 (A) a person files a return with respect to a nonqualifying obligation on or before the
116 due date for filing a return described in Subsection (2)(a), but fails to pay the nonqualifying
117 obligation due on the return on or before that due date;
118 (B) a person:
119 (I) is subject to a penalty under Subsection (2)(b); and
120 (II) fails to pay a nonqualifying obligation due on a return within a 90-day period after
121 the due date for filing a return described in Subsection (2)(a);
122 (C) a person:
123 (I) is mailed a notice of deficiency; and
124 (II) within a 30-day period after the day on which the notice of deficiency described in
125 Subsection (3)(b)(i)(C)(I) is mailed:
126 (Aa) does not file a petition for redetermination or a request for agency action; and
127 (Bb) fails to pay a nonqualifying obligation due on a return;
128 (D) (I) the commission:
129 (Aa) issues an order constituting final agency action resulting from a timely filed
130 petition for redetermination or a timely filed request for agency action; or
131 (Bb) is considered to have denied a request for reconsideration under Subsection
132 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed
133 request for agency action; and
134 (II) a person fails to pay a nonqualifying obligation due on a return within a 30-day
135 period after the date the commission:
136 (Aa) issues the order constituting final agency action described in Subsection
137 (3)(b)(i)(D)(I)(Aa); or
138 (Bb) is considered to have denied the request for reconsideration described in
139 Subsection (3)(b)(i)(D)(I)(Bb); or
140 (E) a person fails to pay a nonqualifying obligation within a 30-day period after the
141 date of a final judicial decision resulting from a timely filed petition for judicial review.

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

144 (A) \$20; or

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

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

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

148 or

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

150 obligation.

151 (ii) (A) The penalty described in Subsection (3)(c)(ii)(B) applies if a person:

152 (I) with respect to a phase I obligation:

153 (Aa) files a return on or before the due date for filing a return described in Subsection
154 (2)(a); and

155 (Bb) fails to pay the phase I obligation due on the return on or before the due date
156 described in Subsection (2)(a); or

157 (II) with respect to a phase II obligation:

158 (Aa) files a return on or before the due date for filing a return described in Subsection
159 (2)(a); and

160 (Bb) fails to pay the phase II obligation due on the return on or before the due date
161 described in Subsection (2)(a).

162 (B) For purposes of Subsection (3)(c)(ii)(A), the penalty is an amount equal to the
163 greater of:

164 (I) \$20; or

165 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
166 the phase I obligation or phase II obligation due on the return is paid no later than five days
167 after the due date for filing a return described in Subsection (2)(a);

168 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
169 phase I obligation or phase II obligation due on the return is paid more than five days after the

170 due date for filing a return described in Subsection (2)(a) but no later than 15 days after that
171 due date; or

172 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if
173 the phase I obligation or phase II obligation due on the return is paid more than 15 days after
174 the due date for filing a return described in Subsection (2)(a).

175 (iii) (A) A person is subject to a penalty as provided in Subsection (3)(c)(iii)(B) if the
176 person:

177 (I) is subject to a penalty under Subsection (2)(c); and

178 (II) fails to pay a phase I obligation or phase II obligation due on a return within a
179 90-day period after the due date for filing a return described in Subsection (2)(a).

180 (B) For purposes of Subsection (3)(c)(iii)(A), the penalty is an amount equal to the
181 greater of:

182 (I) \$20; or

183 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
184 the phase I obligation or phase II obligation due on the return is paid no later than five days
185 after the last day of the 90-day period described in Subsection (3)(c)(iii)(A)(II);

186 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
187 phase I obligation or phase II obligation due on the return is paid more than five days after the
188 last day of the 90-day period described in Subsection (3)(c)(iii)(A)(II) but no later than 15
189 days after the last day of the 90-day period described in Subsection (3)(c)(iii)(A)(II); or

190 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if
191 the phase I obligation or phase II obligation due on the return is paid more than 15 days after
192 the last day of the 90-day period described in Subsection (3)(c)(iii)(A)(II).

193 (iv) (A) A person is subject to a penalty as provided in Subsection (3)(c)(iv)(B) if the
194 person:

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

196 (II) within a 30-day period after the day on which the notice of deficiency described in
197 Subsection (3)(c)(iv)(A)(I) is mailed:

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

199 (Bb) fails to pay a phase I obligation or phase II obligation due on a return.

200 (B) For purposes of Subsection (3)(c)(iv)(A), the penalty is an amount equal to the
201 greater of:

202 (I) \$20; or

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

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

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

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

214 (I) the commission:

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

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

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

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

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

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

228 (I) \$20; or

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

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

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

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

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

244 (I) \$20; or

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

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

252 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if
253 the phase I obligation or phase II obligation due on the return is paid more than 15 days after

254 the last day of the 30-day period described in Subsection (3)(c)(vi)(A).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

290 (A) \$20; or

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

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

293 (A) \$20; or

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

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

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

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

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

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

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

308 (i) The notice of proposed penalty shall:

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

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

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

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

314 or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

356 (9) If any taxpayer, in furtherance of a frivolous position, has a prima facie intent to
357 delay or impede administration of the tax law and files a purported return that fails to contain
358 information from which the correctness of reported tax liability can be determined or that
359 clearly indicates that the tax liability shown must be substantially incorrect, the penalty is
360 \$500.

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

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

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

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

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

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

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

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

375 (A) a return;

376 (B) an affidavit;

377 (C) a claim; or

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

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

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

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

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

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

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

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

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

393 (vi) assisting in the preparation or presentation of any portion of a document described

394 in Subsection (11)(a)(i); or

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

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

398 (i) shall be imposed by the commission;

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

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

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

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

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

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

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

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

416 (B) exceed \$1,000.

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

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

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

425 (B) exceed \$5,000.

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

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

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

432 (B) exceed \$25,000.

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

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

436 (I) a return;

437 (II) an affidavit;

438 (III) a claim; or

439 (IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and

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

442 (I) is false or fraudulent as to any material matter; and

443 (II) could be used in connection with any material matter administered by the
444 commission.

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

446 (A) preparing any portion of a document described in Subsection (12)(e)(i)(A);

447 (B) presenting any portion of a document described in Subsection (12)(e)(i)(A);

448 (C) procuring any portion of a document described in Subsection (12)(e)(i)(A);

449 (D) advising in the preparation or presentation of any portion of a document described

450 in Subsection (12)(e)(i)(A);
451 (E) aiding in the preparation or presentation of any portion of a document described in
452 Subsection (12)(e)(i)(A);
453 (F) assisting in the preparation or presentation of any portion of a document described
454 in Subsection (12)(e)(i)(A); or
455 (G) counseling in the preparation or presentation of any portion of a document
456 described in Subsection (12)(e)(i)(A).
457 (iii) This Subsection (12)(e) applies:
458 (A) regardless of whether the person for which the document described in Subsection
459 (12)(e)(i)(A) is prepared or presented:
460 (I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or
461 (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and
462 (B) in addition to any other penalty provided by law.
463 (iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the
464 penalty may not:
465 (A) be less than \$1,500; or
466 (B) exceed \$25,000.
467 (v) The commission may seek a court order to enjoin a person from engaging in
468 conduct that is subject to a penalty under this Subsection (12)(e).
469 (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
470 the commission may make rules prescribing the documents that are similar to Subsections
471 (12)(e)(i)(A)(I) through (III).
472 (f) The statute of limitations for prosecution for a violation of this Subsection (12) is
473 the later of six years:
474 (i) from the date the tax should have been remitted; or
475 (ii) after the day on which the person commits the criminal offense.
476 (13) Upon making a record of its actions, and upon reasonable cause shown, the
477 commission may waive, reduce, or compromise any of the penalties or interest imposed under

478 this part.

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

480 **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

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

483 (i) a tax commissioner;

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

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

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

490 (i) in accordance with judicial order;

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

492 (A) this title; or

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

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

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

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

501 (2) This section does not prohibit:

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

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

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

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

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

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

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

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

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

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

524 (c) Notwithstanding Subsection (1) and for all taxes except individual income tax and
525 corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3,
526 Utah Administrative Rulemaking Act, provide for the issuance of information concerning the
527 identity and other information of taxpayers who have failed to file tax returns or to pay any tax
528 due.

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

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

537 (i) Chapter 13, Part 2, Motor Fuel; or

538 (ii) Chapter 13, Part 4, Aviation Fuel.

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

542 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
543 manufacturer and reported to the commission for the previous calendar year under Section
544 59-14-407; and

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

548 (g) Notwithstanding Subsection (1), the commission shall notify manufacturers,
549 distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is
550 prohibited from selling cigarettes to consumers within the state under Subsection
551 59-14-210(2).

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

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

555 (A) reported to the commission under Section 59-14-212; or

556 (B) related to a violation under Section 59-14-211; and

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

559 (i) Notwithstanding Subsection (1), the commission shall, at the request of a
560 committee of the Legislature, Office of the Legislative Fiscal Analyst, or Governor's Office of
561 Planning and Budget, provide to the committee or office the total amount of revenues

562 collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the
563 time period specified by the committee or office.

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

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

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

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

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

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

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

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

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

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

590 (B) Office of Legislative Research and General Counsel.
591 (ii) Notwithstanding Subsection (1) and except as provided in Subsection
592 (3)[(p)](o)(iii), the commission shall at the request of an office provide to the office all
593 information:
594 (A) gained by the commission; and
595 (B) required to be attached to or included in returns filed with the commission.
596 (iii) (A) An office may not request and the commission may not provide to an office a
597 person's:
598 (I) address;
599 (II) name;
600 (III) Social Security number; or
601 (IV) taxpayer identification number.
602 (B) The commission shall in all instances protect the privacy of a person as required
603 by Subsection (3)[(p)](o)(iii)(A).
604 (iv) An office may provide information received from the commission in accordance
605 with this Subsection (3)[(p)](o) only:
606 (A) as:
607 (I) a fiscal estimate;
608 (II) fiscal note information; or
609 (III) statistical information; and
610 (B) if the information is classified to prevent the identification of a particular return.
611 (v) (A) A person may not request information from an office under Title 63G, Chapter
612 2, Government Records Access and Management Act, or this section, if that office received
613 the information from the commission in accordance with this Subsection (3)[(p)](o).
614 (B) An office may not provide to a person that requests information in accordance
615 with Subsection (3)[(p)](o)(v)(A) any information other than the information the office
616 provides in accordance with Subsection (3)[(p)](o)(iv).
617 [(p)] (p) Notwithstanding Subsection (1), the commission may provide to the

618 governing board of the agreement or a taxing official of another state, the District of
619 Columbia, the United States, or a territory of the United States:

- 620 (i) the following relating to an agreement sales and use tax:
 - 621 (A) information contained in a return filed with the commission;
 - 622 (B) information contained in a report filed with the commission;
 - 623 (C) a schedule related to Subsection (3)~~(p)~~(p)(i)(A) or (B); or
 - 624 (D) a document filed with the commission; or
- 625 (ii) a report of an audit or investigation made with respect to an agreement sales and
626 use tax.

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

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

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

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

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

- 637 (i) is not guilty of a class A misdemeanor; and
- 638 (ii) is not subject to:
 - 639 (A) dismissal from office in accordance with Subsection (5)(b); or
 - 640 (B) disqualification from holding public office in accordance with Subsection (5)(b).
- 641 (6) Except as provided in Section 59-1-404, this part does not apply to the property

642 tax.

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

644 **59-12-104. Exemptions.**

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

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

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

650 (a) construction materials except:

651 (i) construction materials purchased by or on behalf of institutions of the public
652 education system as defined in Utah Constitution Article X, Section 2, provided the
653 construction materials are clearly identified and segregated and installed or converted to real
654 property which is owned by institutions of the public education system; and

655 (ii) construction materials purchased by the state, its institutions, or its political
656 subdivisions which are installed or converted to real property by employees of the state, its
657 institutions, or its political subdivisions; or

658 (b) tangible personal property in connection with the construction, operation,
659 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
660 providing additional project capacity, as defined in Section 11-13-103;

661 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

662 (i) the proceeds of each sale do not exceed \$1; and

663 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
664 the cost of the item described in Subsection (3)(b) as goods consumed; and

665 (b) Subsection (3)(a) applies to:

666 (i) food and food ingredients; or

667 (ii) prepared food;

668 (4) sales of the following to a commercial airline carrier for in-flight consumption:

669 (a) food and food ingredients;

670 (b) prepared food; or

671 (c) services related to Subsection (4)(a) or (b);

672 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of
673 parts and equipment:

674 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
675 North American Industry Classification System of the federal Executive Office of the
676 President, Office of Management and Budget; and

677 (II) for:

678 (Aa) installation in an aircraft, including services relating to the installation of parts or
679 equipment in the aircraft;

680 (Bb) renovation of an aircraft; or

681 (Cc) repair of an aircraft; or

682 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
683 commerce; or

684 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
685 aircraft operated by a common carrier in interstate or foreign commerce; and

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

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

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

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

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

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

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

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

700 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
701 property if the cleaning or washing of the tangible personal property is not assisted cleaning or

702 washing of tangible personal property;

703 (b) if a seller that sells at the same business location assisted cleaning or washing of
704 tangible personal property and cleaning or washing of tangible personal property that is not
705 assisted cleaning or washing of tangible personal property, the exemption described in
706 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
707 or washing of the tangible personal property; and

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

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

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

714 (8) sales made to or by religious or charitable institutions in the conduct of their
715 regular religious or charitable functions and activities, if the requirements of Section
716 59-12-104.1 are fulfilled;

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

719 (a) not registered in this state; and

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

721 (ii) used in this state:

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

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

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

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

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

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

730 (ii) (A) a prescription was issued for the item; or
731 (B) the item was purchased by a hospital or other medical facility; and
732 (b) (i) Subsection (10)(a) applies to:
733 (A) a drug;
734 (B) a syringe; or
735 (C) a stoma supply; and
736 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
737 the commission may by rule define the terms:
738 (A) "syringe"; or
739 (B) "stoma supply";
740 (11) sales or use of property, materials, or services used in the construction of or
741 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
742 (12) (a) sales of an item described in Subsection (12)(c) served by:
743 (i) the following if the item described in Subsection (12)(c) is not available to the
744 general public:
745 (A) a church; or
746 (B) a charitable institution;
747 (ii) an institution of higher education if:
748 (A) the item described in Subsection (12)(c) is not available to the general public; or
749 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
750 offered by the institution of higher education; or
751 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
752 (i) a medical facility; or
753 (ii) a nursing facility; and
754 (c) Subsections (12)(a) and (b) apply to:
755 (i) food and food ingredients;
756 (ii) prepared food; or
757 (iii) alcoholic beverages;

758 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal
759 property or a product transferred electronically by a person:

760 (i) regardless of the number of transactions involving the sale of that tangible personal
761 property or product transferred electronically by that person; and

762 (ii) not regularly engaged in the business of selling that type of tangible personal
763 property or product transferred electronically;

764 (b) this Subsection (13) does not apply if:

765 (i) the sale is one of a series of sales of a character to indicate that the person is
766 regularly engaged in the business of selling that type of tangible personal property or product
767 transferred electronically;

768 (ii) the person holds that person out as regularly engaged in the business of selling that
769 type of tangible personal property or product transferred electronically;

770 (iii) the person sells an item of tangible personal property or product transferred
771 electronically that the person purchased as a sale that is exempt under Subsection (25); or

772 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
773 this state in which case the tax is based upon:

774 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
775 sold; or

776 (B) in the absence of a bill of sale or other written evidence of value, the fair market
777 value of the vehicle or vessel being sold at the time of the sale as determined by the
778 commission; and

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

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

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

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

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

791 (i) machinery and equipment that:

792 (A) is used:

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

795 (Aa) in the manufacturing process; and
796 (Bb) to manufacture an item sold as tangible personal property; or
797 (II) for a manufacturing facility that is a scrap recycler described in Subsection
798 59-12-102(52)(b), to process an item sold as tangible personal property; and
799 (B) has an economic life of three or more years; and

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

801 (A) have an economic life of three or more years; and
802 (B) are used:

803 (I) for a manufacturing facility in the state other than a manufacturing facility that is a
804 scrap recycler described in Subsection 59-12-102 (52)(b), in the manufacturing process; or
805 (II) for a manufacturing facility in the state that is a scrap recycler described in
806 Subsection 59-12-102 (52)(b), to process an item sold as tangible personal property;

807 (b) (i) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
808 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
809 for the following:

810 (A) machinery and equipment that:

811 (I) is used:

812 (Aa) in the manufacturing process; and
813 (Bb) to manufacture an item sold as tangible personal property; and

814 (II) has an economic life of three or more years; and
815 (B) normal operating repair or replacement parts that:
816 (I) are used in the manufacturing process in a manufacturing facility in the state; and
817 (II) have an economic life of three or more years; and
818 (ii) for amounts paid or charged on or after July 1, 2005, but on or before June 30,
819 2006, for a purchase or lease described in Subsection (14)(b)(i), a cogeneration facility may
820 claim the exemption allowed by Subsection (14)(b)(i) by filing for a refund:
821 (A) for sales and use taxes paid under this chapter on the purchase or lease payment;
822 and
823 (B) in accordance with Section 59-12-110;
824 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
825 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
826 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
827 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
828 of the 2002 North American Industry Classification System of the federal Executive Office of
829 the President, Office of Management and Budget:
830 (i) machinery and equipment that:
831 (A) are used in:
832 (I) the production process, other than the production of real property; or
833 (II) research and development; and
834 (B) have an economic life of three or more years; and
835 (ii) normal operating repair or replacement parts that:
836 (A) have an economic life of three or more years; and
837 (B) are used in:
838 (I) the production process, other than the production of real property, in an
839 establishment described in this Subsection (14)(c) in the state; or
840 (II) research and development in an establishment described in this Subsection (14)(c)
841 in the state;

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

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

845 (ii) may by rule define what constitutes:

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

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

848 (C) research and development; and

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

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

854 (ii) include in its report:

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

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

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

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

859 (i) tooling;

860 (ii) special tooling;

861 (iii) support equipment;

862 (iv) special test equipment; or

863 (v) parts used in the repairs or renovations of tooling or equipment described in
864 Subsections (15)(a)(i) through (iv); and

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

866 (i) the tooling, equipment, or parts are used or consumed exclusively in the
867 performance of any aerospace or electronics industry contract with the United States
868 government or any subcontract under that contract; and

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

870 title to the tooling, equipment, or parts is vested in the United States government as evidenced
871 by:

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

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

875 (16) sales of newspapers or newspaper subscriptions;

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

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

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

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

888 (i) money;

889 (ii) electricity;

890 (iii) water;

891 (iv) gas; or

892 (v) steam;

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

897 (A) becomes part of real estate; or

898 (B) is installed by a:
899 (I) farmer;
900 (II) contractor; or
901 (III) subcontractor; or
902 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
903 product transferred electronically if the tangible personal property or product transferred
904 electronically is exempt under Subsection (18)(a)(i); and
905 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following are
906 subject to the taxes imposed by this chapter:
907 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is
908 incidental to farming:
909 (I) machinery;
910 (II) equipment;
911 (III) materials; or
912 (IV) supplies; and
913 (B) tangible personal property that is considered to be used in a manner that is
914 incidental to farming includes:
915 (I) hand tools; or
916 (II) maintenance and janitorial equipment and supplies;
917 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
918 transferred electronically if the tangible personal property or product transferred electronically
919 is used in an activity other than farming; and
920 (B) tangible personal property or a product transferred electronically that is considered
921 to be used in an activity other than farming includes:
922 (I) office equipment and supplies; or
923 (II) equipment and supplies used in:
924 (Aa) the sale or distribution of farm products;
925 (Bb) research; or

- 926 (Cc) transportation; or
- 927 (iii) a vehicle required to be registered by the laws of this state during the period
- 928 ending two years after the date of the vehicle's purchase;
- 929 (19) sales of hay;
- 930 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
- 931 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
- 932 garden, farm, or other agricultural produce is sold by:
- 933 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
- 934 agricultural produce;
- 935 (b) an employee of the producer described in Subsection (20)(a); or
- 936 (c) a member of the immediate family of the producer described in Subsection (20)(a);
- 937 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
- 938 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 939 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
- 940 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
- 941 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
- 942 manufacturer, processor, wholesaler, or retailer;
- 943 (23) a product stored in the state for resale;
- 944 (24) (a) purchases of a product if:
- 945 (i) the product is:
- 946 (A) purchased outside of this state;
- 947 (B) brought into this state:
- 948 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
- 949 (II) by a nonresident person who is not living or working in this state at the time of the
- 950 purchase;
- 951 (C) used for the personal use or enjoyment of the nonresident person described in
- 952 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
- 953 (D) not used in conducting business in this state; and

954 (ii) for:

955 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of

956 the product for a purpose for which the product is designed occurs outside of this state;

957 (B) a boat, the boat is registered outside of this state; or

958 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

959 outside of this state;

960 (b) the exemption provided for in Subsection (24)(a) does not apply to:

961 (i) a lease or rental of a product; or

962 (ii) a sale of a vehicle exempt under Subsection (33); and

963 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

964 purposes of Subsection (24)(a), the commission may by rule define what constitutes the

965 following:

966 (i) conducting business in this state if that phrase has the same meaning in this

967 Subsection (24) as in Subsection (64);

968 (ii) the first use of a product if that phrase has the same meaning in this Subsection

969 (24) as in Subsection (64); or

970 (iii) a purpose for which a product is designed if that phrase has the same meaning in

971 this Subsection (24) as in Subsection (64);

972 (25) a product purchased for resale in this state, in the regular course of business, either

973 in its original form or as an ingredient or component part of a manufactured or compounded

974 product;

975 (26) a product upon which a sales or use tax was paid to some other state, or one of its

976 subdivisions, except that the state shall be paid any difference between the tax paid and the tax

977 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if

978 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax

979 Act;

980 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a

981 person for use in compounding a service taxable under the subsections;

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

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

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

991 (a) not registered in this state; and

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

993 (ii) used in this state:

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

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

997 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
998 the borders of this state; or

999 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
1000 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
1001 state;

1002 (31) sales of aircraft manufactured in Utah;

1003 (32) amounts paid for the purchase of telecommunications service for purposes of
1004 providing telecommunications service;

1005 (33) sales, leases, or uses of the following:

1006 (a) a vehicle by an authorized carrier; or

1007 (b) tangible personal property that is installed on a vehicle:

1008 (i) sold or leased to or used by an authorized carrier; and

1009 (ii) before the vehicle is placed in service for the first time;

1010 (34) (a) 45% of the sales price of any new manufactured home; and
1011 (b) 100% of the sales price of any used manufactured home;
1012 (35) sales relating to schools and fundraising sales;
1013 (36) sales or rentals of durable medical equipment if:
1014 (a) a person presents a prescription for the durable medical equipment; and
1015 (b) the durable medical equipment is used for home use only;
1016 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
1017 Section 72-11-102; and
1018 (b) the commission shall by rule determine the method for calculating sales exempt
1019 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
1020 (38) sales to a ski resort of:
1021 (a) snowmaking equipment;
1022 (b) ski slope grooming equipment;
1023 (c) passenger ropeways as defined in Section 72-11-102; or
1024 (d) parts used in the repairs or renovations of equipment or passenger ropeways
1025 described in Subsections (38)(a) through (c);
1026 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial
1027 use;
1028 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
1029 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
1030 59-12-102;
1031 (b) if a seller that sells or rents at the same business location the right to use or operate
1032 for amusement, entertainment, or recreation one or more unassisted amusement devices and
1033 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
1034 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
1035 amusement, entertainment, or recreation for the assisted amusement devices; and
1036 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
1037 Utah Administrative Rulemaking Act, the commission may make rules:

- 1038 (i) governing the circumstances under which sales are at the same business location;
1039 and
- 1040 (ii) establishing the procedures and requirements for a seller to separately account for
1041 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation
1042 for assisted amusement devices;
- 1043 (41) (a) sales of photocopies by:
- 1044 (i) a governmental entity; or
- 1045 (ii) an entity within the state system of public education, including:
- 1046 (A) a school; or
- 1047 (B) the State Board of Education; or
- 1048 (b) sales of publications by a governmental entity;
- 1049 (42) amounts paid for admission to an athletic event at an institution of higher
1050 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
1051 20 U.S.C. Sec. 1681 et seq.;
- 1052 (43) sales of telecommunications service charged to a prepaid telephone calling card;
- 1053 (44) (a) sales made to or by:
- 1054 (i) an area agency on aging; or
- 1055 (ii) a senior citizen center owned by a county, city, or town; or
- 1056 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 1057 (45) sales or leases of semiconductor fabricating, processing, research, or development
1058 materials regardless of whether the semiconductor fabricating, processing, research, or
1059 development materials:
- 1060 (a) actually come into contact with a semiconductor; or
- 1061 (b) ultimately become incorporated into real property;
- 1062 (46) an amount paid by or charged to a purchaser for accommodations and services
1063 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
1064 59-12-104.2;
- 1065 (47) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary

1066 sports event registration certificate in accordance with Section 41-3-306 for the event period
1067 specified on the temporary sports event registration certificate;

1068 (48) sales or uses of electricity, if the sales or uses are:

1069 (a) made under a tariff adopted by the Public Service Commission of Utah only for
1070 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
1071 source, as designated in the tariff by the Public Service Commission of Utah; and

1072 (b) for an amount of electricity that is:

1073 (i) unrelated to the amount of electricity used by the person purchasing the electricity
1074 under the tariff described in Subsection (48)(a); and

1075 (ii) equivalent to the number of kilowatthours specified in the tariff described in
1076 Subsection (48)(a) that may be purchased under the tariff described in Subsection (48)(a);

1077 (49) sales or rentals of mobility enhancing equipment if a person presents a
1078 prescription for the mobility enhancing equipment;

1079 (50) sales of water in a:

1080 (a) pipe;

1081 (b) conduit;

1082 (c) ditch; or

1083 (d) reservoir;

1084 (51) sales of currency or coinage that constitute legal tender of the United States or of
1085 a foreign nation;

1086 (52) (a) sales of an item described in Subsection (52)(b) if the item:

1087 (i) does not constitute legal tender of any nation; and

1088 (ii) has a gold, silver, or platinum content of 80% or more; and

1089 (b) Subsection (52)(a) applies to a gold, silver, or platinum:

1090 (i) ingot;

1091 (ii) bar;

1092 (iii) medallion; or

1093 (iv) decorative coin;

- 1094 (53) amounts paid on a sale-leaseback transaction;
- 1095 (54) sales of a prosthetic device:
- 1096 (a) for use on or in a human; and
- 1097 (b) (i) for which a prescription is required; or
- 1098 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 1099 (55) (a) except as provided in Subsection (55)(b), purchases, leases, or rentals of
- 1100 machinery or equipment by an establishment described in Subsection (55)(c) if the machinery
- 1101 or equipment is primarily used in the production or postproduction of the following media for
- 1102 commercial distribution:
- 1103 (i) a motion picture;
- 1104 (ii) a television program;
- 1105 (iii) a movie made for television;
- 1106 (iv) a music video;
- 1107 (v) a commercial;
- 1108 (vi) a documentary; or
- 1109 (vii) a medium similar to Subsections (55)(a)(i) through (vi) as determined by the
- 1110 commission by administrative rule made in accordance with Subsection (55)(d); or
- 1111 (b) notwithstanding Subsection (55)(a), purchases, leases, or rentals of machinery or
- 1112 equipment by an establishment described in Subsection (55)(c) that is used for the production
- 1113 or postproduction of the following are subject to the taxes imposed by this chapter:
- 1114 (i) a live musical performance;
- 1115 (ii) a live news program; or
- 1116 (iii) a live sporting event;
- 1117 (c) the following establishments listed in the 1997 North American Industry
- 1118 Classification System of the federal Executive Office of the President, Office of Management
- 1119 and Budget, apply to Subsections (55)(a) and (b):
- 1120 (i) NAICS Code 512110; or
- 1121 (ii) NAICS Code 51219; and

1122 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1123 the commission may by rule:

1124 (i) prescribe what constitutes a medium similar to Subsections (55)(a)(i) through (vi);
1125 or

1126 (ii) define:

1127 (A) "commercial distribution";
1128 (B) "live musical performance";
1129 (C) "live news program"; or
1130 (D) "live sporting event";

1131 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004 but
1132 on or before June 30, 2019, of machinery or equipment that:

1133 (i) is leased or purchased for or by a facility that:

1134 (A) is a renewable energy production facility;
1135 (B) is located in the state; and
1136 (C) (I) becomes operational on or after July 1, 2004; or
1137 (II) has its generation capacity increased by one or more megawatts on or after July 1,
1138 2004 as a result of the use of the machinery or equipment;

1139 (ii) has an economic life of five or more years; and
1140 (iii) is used to make the facility or the increase in capacity of the facility described in
1141 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
1142 transmission grid including:

1143 (A) a wind turbine;
1144 (B) generating equipment;
1145 (C) a control and monitoring system;
1146 (D) a power line;
1147 (E) substation equipment;
1148 (F) lighting;
1149 (G) fencing;

- 1150 (H) pipes; or
- 1151 (I) other equipment used for locating a power line or pole; and
- 1152 (b) this Subsection (56) does not apply to:
 - 1153 (i) machinery or equipment used in construction of:
 - 1154 (A) a new renewable energy production facility; or
 - 1155 (B) the increase in the capacity of a renewable energy production facility;
 - 1156 (ii) contracted services required for construction and routine maintenance activities;
- 1157 and
 - 1158 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
 - 1159 of the facility described in Subsection (56)(a)(i)(C)(II), machinery or equipment used or
 - 1160 acquired after:
 - 1161 (A) the renewable energy production facility described in Subsection (56)(a)(i) is
 - 1162 operational as described in Subsection (56)(a)(iii); or
 - 1163 (B) the increased capacity described in Subsection (56)(a)(i) is operational as
 - 1164 described in Subsection (56)(a)(iii);
 - 1165 (57) (a) leases of seven or more years or purchases made on or after July 1, 2004 but
 - 1166 on or before June 30, 2019, of machinery or equipment that:
 - 1167 (i) is leased or purchased for or by a facility that:
 - 1168 (A) is a waste energy production facility;
 - 1169 (B) is located in the state; and
 - 1170 (C) (I) becomes operational on or after July 1, 2004; or
 - 1171 (II) has its generation capacity increased by one or more megawatts on or after July 1,
 - 1172 2004 as a result of the use of the machinery or equipment;
 - 1173 (ii) has an economic life of five or more years; and
 - 1174 (iii) is used to make the facility or the increase in capacity of the facility described in
 - 1175 Subsection (57)(a)(i) operational up to the point of interconnection with an existing
 - 1176 transmission grid including:
 - 1177 (A) generating equipment;

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

1206 as a result of the installation of the machinery or equipment;

1207 (ii) has an economic life of five or more years; and

1208 (iii) is installed on the facility described in Subsection (58)(a)(i);

1209 (b) this Subsection (58) does not apply to:

1210 (i) machinery or equipment used in construction of:

1211 (A) a new facility described in Subsection (58)(a)(i); or

1212 (B) the increase in capacity of the facility described in Subsection (58)(a)(i); or

1213 (ii) contracted services required for construction and routine maintenance activities;

1214 and

1215 (iii) unless the machinery or equipment is used or acquired for an increase in capacity

1216 described in Subsection (58)(a)(i)(C)(II), machinery or equipment used or acquired after:

1217 (A) the facility described in Subsection (58)(a)(i) is operational; or

1218 (B) the increased capacity described in Subsection (58)(a)(i) is operational;

1219 (59) (a) subject to Subsection (59)(b) or (c), sales of tangible personal property or a

1220 product transferred electronically to a person within this state if that tangible personal property

1221 or product transferred electronically is subsequently shipped outside the state and incorporated

1222 pursuant to contract into and becomes a part of real property located outside of this state;

1223 (b) the exemption under Subsection (59)(a) is not allowed to the extent that the other

1224 state or political entity to which the tangible personal property is shipped imposes a sales, use,

1225 gross receipts, or other similar transaction excise tax on the transaction against which the other

1226 state or political entity allows a credit for sales and use taxes imposed by this chapter; and

1227 (c) notwithstanding the time period of Subsection 59-12-110(2)(b) for filing for a

1228 refund, a person may claim the exemption allowed by this Subsection (59) for a sale by filing

1229 for a refund:

1230 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

1231 (ii) as if this Subsection (59) as in effect on July 1, 2008, were in effect on the day on

1232 which the sale is made;

1233 (iii) if the person did not claim the exemption allowed by this Subsection (59) for the

- 1234 sale prior to filing for the refund;
- 1235 (iv) for sales and use taxes paid under this chapter on the sale;
- 1236 (v) in accordance with Section 59-12-110; and
- 1237 (vi) subject to any extension allowed for filing for a refund under Section 59-12-110,
- 1238 if the person files for the refund on or before June 30, 2011;
- 1239 (60) purchases:
- 1240 (a) of one or more of the following items in printed or electronic format:
- 1241 (i) a list containing information that includes one or more:
- 1242 (A) names; or
- 1243 (B) addresses; or
- 1244 (ii) a database containing information that includes one or more:
- 1245 (A) names; or
- 1246 (B) addresses; and
- 1247 (b) used to send direct mail;
- 1248 (61) redemptions or repurchases of a product by a person if that product was:
- 1249 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 1250 (b) redeemed or repurchased within the time period established in a written agreement
- 1251 between the person and the pawnbroker for redeeming or repurchasing the product;
- 1252 (62) (a) purchases or leases of an item described in Subsection (62)(b) if the item:
- 1253 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
- 1254 and
- 1255 (ii) has a useful economic life of one or more years; and
- 1256 (b) the following apply to Subsection (62)(a):
- 1257 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 1258 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 1259 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 1260 (iv) telecommunications switching or routing equipment, machinery, or software; or
- 1261 (v) telecommunications transmission equipment, machinery, or software;

1262 (63) (a) beginning on July 1, 2006, and ending on June 30, 2016, purchases of
1263 tangible personal property or a product transferred electronically that are used in the research
1264 and development of coal-to-liquids, oil shale, or tar sands technology; and

1265 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1266 the commission may, for purposes of Subsection (63)(a), make rules defining what constitutes
1267 purchases of tangible personal property or a product transferred electronically that are used in
1268 the research and development of coal-to-liquids, oil shale, and tar sands technology;

1269 (64) (a) purchases of tangible personal property or a product transferred electronically
1270 if:

1271 (i) the tangible personal property or product transferred electronically is:

1272 (A) purchased outside of this state;

1273 (B) brought into this state at any time after the purchase described in Subsection
1274 (64)(a)(i)(A); and

1275 (C) used in conducting business in this state; and

1276 (ii) for:

1277 (A) tangible personal property or a product transferred electronically other than the
1278 tangible personal property described in Subsection (64)(a)(ii)(B), the first use of the property
1279 for a purpose for which the property is designed occurs outside of this state; or

1280 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
1281 outside of this state;

1282 (b) the exemption provided for in Subsection (64)(a) does not apply to:

1283 (i) a lease or rental of tangible personal property or a product transferred
1284 electronically; or

1285 (ii) a sale of a vehicle exempt under Subsection (33); and

1286 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
1287 purposes of Subsection (64)(a), the commission may by rule define what constitutes the
1288 following:

1289 (i) conducting business in this state if that phrase has the same meaning in this

1290 Subsection (64) as in Subsection (24);

1291 (ii) the first use of tangible personal property or a product transferred electronically if

1292 that phrase has the same meaning in this Subsection (64) as in Subsection (24); or

1293 (iii) a purpose for which tangible personal property or a product transferred

1294 electronically is designed if that phrase has the same meaning in this Subsection (64) as in

1295 Subsection (24);

1296 (65) sales of disposable home medical equipment or supplies if:

1297 (a) a person presents a prescription for the disposable home medical equipment or

1298 supplies;

1299 (b) the disposable home medical equipment or supplies are used exclusively by the

1300 person to whom the prescription described in Subsection (65)(a) is issued; and

1301 (c) the disposable home medical equipment and supplies are listed as eligible for

1302 payment under:

1303 (i) Title XVIII, federal Social Security Act; or

1304 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

1305 (66) sales:

1306 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit

1307 District Act; or

1308 (b) of tangible personal property to a subcontractor of a public transit district, if the

1309 tangible personal property is:

1310 (i) clearly identified; and

1311 (ii) installed or converted to real property owned by the public transit district;

1312 (67) sales of construction materials:

1313 (a) purchased on or after July 1, 2010;

1314 (b) purchased by, on behalf of, or for the benefit of an international airport:

1315 (i) located within a county of the first class; and

1316 (ii) that has a United States customs office on its premises; and

1317 (c) if the construction materials are:

1318 (i) clearly identified;
1319 (ii) segregated; and
1320 (iii) installed or converted to real property:
1321 (A) owned or operated by the international airport described in Subsection (67)(b);
1322 and
1323 (B) located at the international airport described in Subsection (67)(b);
1324 (68) sales of construction materials:
1325 (a) purchased on or after July 1, 2008;
1326 (b) purchased by, on behalf of, or for the benefit of a new airport:
1327 (i) located within a county of the second class; and
1328 (ii) that is owned or operated by a city in which an airline as defined in Section
1329 59-2-102 is headquartered; and
1330 (c) if the construction materials are:
1331 (i) clearly identified;
1332 (ii) segregated; and
1333 (iii) installed or converted to real property:
1334 (A) owned or operated by the new airport described in Subsection (68)(b);
1335 (B) located at the new airport described in Subsection (68)(b); and
1336 (C) as part of the construction of the new airport described in Subsection (68)(b); and
1337 (69) sales of fuel to a common carrier that is a railroad for use in a locomotive engine.
1338 Section 4. Section **62A-11-328** is amended to read:
1339 **62A-11-328. Information received from State Tax Commission provided to other**
1340 **states' child support collection agencies.**
1341 The office shall, upon request, provide to any other state's child support collection
1342 agency the information which it receives from the State Tax Commission under Subsection
1343 59-1-403(3)[~~(m)~~] (l), with regard to a support debt which that agency is involved in enforcing.
1344 Section 5. **Repealer.**
1345 This bill repeals:

1346 Section **59-12-105, Certain exempt sales to be reported -- Penalties.**

1347 Section 6. **Effective date.**

1348 This bill takes effect on July 1, 2009.