

1 **REVENUE AND TAXATION INTERIM COMMITTEE REPORT**

2 **AMENDMENTS**

3 2016 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Daniel McCay**

6 Senate Sponsor: Deidre M. Henderson

7

8 **LONG TITLE**

9 **Committee Note:**

10 The Revenue and Taxation Interim Committee recommended this bill.

11 **General Description:**

12 This bill addresses reports to and by the Revenue and Taxation Interim Committee.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ repeals certain reports to and by the Revenue and Taxation Interim Committee;
- 16 ▶ requires that certain reports be provided electronically to the committee;
- 17 ▶ addresses requirements of reports made by the Governor's Office of Economic

18 Development to the committee; and

- 19 ▶ makes technical and conforming changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **35A-5-306**, as enacted by Laws of Utah 2014, Chapter 315

27 **59-1-213**, as enacted by Laws of Utah 2004, Chapter 176



- 28 **59-1-304**, as last amended by Laws of Utah 2008, Chapter 382
- 29 **59-2-303.1**, as last amended by Laws of Utah 2010, Chapter 131
- 30 **59-2-1308.5**, as enacted by Laws of Utah 2011, Chapter 325
- 31 **59-5-102**, as last amended by Laws of Utah 2013, Chapter 310
- 32 **59-7-607**, as last amended by Laws of Utah 2006, Chapter 223
- 33 **59-7-612**, as last amended by Laws of Utah 2012, Chapter 405
- 34 **59-7-613**, as last amended by Laws of Utah 2011, Chapter 384
- 35 **59-7-614.2**, as last amended by Laws of Utah 2015, Chapter 283
- 36 **59-7-614.5**, as last amended by Laws of Utah 2015, Chapter 283
- 37 **59-7-614.7**, as enacted by Laws of Utah 2012, Chapter 410
- 38 **59-7-614.8**, as last amended by Laws of Utah 2015, Chapter 283
- 39 **59-7-701**, as last amended by Laws of Utah 2009, Chapter 312
- 40 **59-7-903**, as last amended by Laws of Utah 2015, Chapter 41
- 41 **59-9-101**, as last amended by Laws of Utah 2011, Chapter 266
- 42 **59-10-1002.1**, as last amended by Laws of Utah 2015, Chapters 30 and 41
- 43 **59-10-1010**, as renumbered and amended by Laws of Utah 2006, Chapter 223
- 44 **59-10-1012**, as last amended by Laws of Utah 2012, Chapter 405
- 45 **59-10-1013**, as last amended by Laws of Utah 2011, Chapter 384
- 46 **59-10-1029**, as enacted by Laws of Utah 2012, Chapter 410
- 47 **59-10-1030**, as last amended by Laws of Utah 2015, Chapter 283
- 48 **59-10-1107**, as last amended by Laws of Utah 2015, Chapter 283
- 49 **59-10-1108**, as last amended by Laws of Utah 2015, Chapter 283
- 50 **59-10-1304**, as last amended by Laws of Utah 2015, Chapters 30 and 41
- 51 **59-12-103.1**, as last amended by Laws of Utah 2013, Chapter 150
- 52 **59-12-104**, as last amended by Laws of Utah 2015, Chapters 11, 294, and 353
- 53 **59-12-104.2**, as last amended by Laws of Utah 2009, Chapter 203
- 54 **59-12-104.5**, as last amended by Laws of Utah 2012, Chapter 41
- 55 **59-23-4**, as last amended by Laws of Utah 2010, Chapter 105
- 56 **63M-4-505**, as enacted by Laws of Utah 2012, Chapter 410
- 57 **63N-2-810**, as renumbered and amended by Laws of Utah 2015, Chapter 283

58 REPEALS:

59 **59-26-110**, as enacted by Laws of Utah 2004, Chapter 300

60

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

62 Section 1. Section **35A-5-306** is amended to read:

63 **35A-5-306. Report to the Legislature.**

64 Beginning with the 2016 interim, the department shall [~~report~~] annually provide an
65 electronic report to the Economic Development and Workforce Services Interim Committee
66 and the Revenue and Taxation Interim Committee:

67 (1) on or before the November interim meeting; and

68 (2) on the amount of tax credits the department grants under this part.

69 Section 2. Section **59-1-213** is amended to read:

70 **59-1-213. Annual report on Internal Revenue Code changes.**

71 The commission shall annually provide an electronic report to the Revenue and
72 Taxation Interim Committee on or before the October interim meeting concerning the impacts
73 of the reliance of this title on the Internal Revenue Code, including:

74 (1) any modification to the Internal Revenue Code that is likely to have a fiscal impact
75 on state revenues:

76 (a) that became effective:

77 (i) if the commission is preparing its initial report in accordance with this section,
78 during the previous calendar year; or

79 (ii) if the commission has prepared a previous report in accordance with this section,
80 after the most recent report prepared in accordance with this section; or

81 (b) that have been enacted and will become effective prior to the end of the calendar
82 year that begins January 1 following the current report prepared in accordance with this
83 section;

84 (2) the fiscal impacts a modification described in Subsection (1) may have on state
85 revenues; and

86 (3) statutory or administrative options to:

87 (a) implement the effects on this title of a modification described in Subsection (1); or

88 (b) change this title to prevent this title from implementing a modification described in
89 Subsection (1).

90 Section 3. Section **59-1-304** is amended to read:

91 **59-1-304. Definition -- Limitations on maintaining a class action that relates to a**
92 **tax or fee -- Requirements for a person to be included as a member of a class in a class**
93 **action -- Rulemaking authority -- Limitations on recovery by members of a class --**
94 **Severability.**

95 (1) As used in this section, "tax or fee" means a tax or fee administered by the
96 commission.

97 (2) A class action that relates to a tax or fee may not be maintained in any court if a
98 claim sought by a representative party seeking to maintain the class action arises as a result of:

99 (a) a person collecting a tax or fee from the representative party if the representative
100 party is not required by law to pay the tax or fee; or

101 (b) any of the following that requires a change in the manner in which a tax or fee is
102 required to be collected or paid:

103 (i) an administrative rule made by the commission;

104 (ii) a private letter ruling issued by the commission; or

105 (iii) a decision issued by:

106 (A) the commission; or

107 (B) a court of competent jurisdiction.

108 (3) (a) A person may be included as a member of a class in a class action relating to a
109 tax or fee only if the person:

110 (i) exhausts all administrative remedies with the commission; and

111 (ii) requests in writing to be included as a member of the class.

112 (b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
113 the commission shall make rules to simplify and expedite the administrative remedies a person
114 shall exhaust as required by Subsection (3)(a).

115 (ii) The rules required by Subsection (3)(b)(i) may include rules providing for:

116 (A) expedited filing procedures and forms;

117 (B) consolidation of hearings procedures as may be reasonably needed to accommodate
118 potential inclusion of similarly situated persons; and

119 (C) the designation of test or sample cases to avoid multiple hearings.

120 [~~(iii) The commission shall report to the Revenue and Taxation Interim Committee on~~

121 ~~the status of the rules required by this Subsection (3)(b) on or before the October 2004 interim~~
122 ~~meeting.]~~

123 (4) Subject to Subsection (5), in a class action brought under this section against the
124 state or its political subdivisions in which members of the class are awarded a refund or credit
125 of a tax or fee by a court of competent jurisdiction, the total amount that may be recovered by
126 members of the class may not exceed the difference between:

127 (a) the sum of:

128 (i) the amount of the refund or credit awarded to members of the class; and

129 (ii) interest as provided in Section 59-1-402; and

130 (b) if awarded in accordance with Subsection (5), the sum of:

131 (i) reasonable costs; and

132 (ii) reasonable attorney fees.

133 (5) (a) For purposes of Subsection (4), at the discretion of the court, the court may
134 award:

135 (i) reasonable costs as determined by the court; and

136 (ii) reasonable attorney fees determined under Subsection (5)(b).

137 (b) Reasonable attorney fees awarded in a class action may not exceed a reasonable
138 hourly rate for work actually performed:

139 (i) as determined by the court; and

140 (ii) taking into account all facts and circumstances that the court considers reasonable.

141 (6) If any provision of this section, or the application of any provision of this section to
142 any person or circumstance is held unconstitutional or invalid by a court of competent
143 jurisdiction, the remainder of the section shall be given effect without the invalid provision or
144 application.

145 Section 4. Section 59-2-303.1 is amended to read:

146 **59-2-303.1. Mandatory cyclical appraisals.**

147 (1) For purposes of this section:

148 (a) "Corrective action" includes:

149 (i) factoring pursuant to Section 59-2-704;

150 (ii) notifying the state auditor that the county failed to comply with the requirements of
151 this section; or

- 152 (iii) filing a petition for a court order requiring a county to take action.
- 153 (b) "Mass appraisal system" means a computer assisted mass appraisal system that:
- 154 (i) a county assessor uses to value real property; and
- 155 (ii) includes at least the following system features:
- 156 (A) has the ability to update all parcels of real property located within the county each
- 157 year;
- 158 (B) can be programmed with specialized criteria;
- 159 (C) provides uniform and equal treatment of parcels within the same class of real
- 160 property throughout the county; and
- 161 (D) annually updates all parcels of residential real property within the county using
- 162 accepted valuation methodologies as determined by rule.
- 163 (c) "Property review date" means the date a county assessor completes a detailed
- 164 review of the property characteristics of a parcel of real property in accordance with Subsection
- 165 (3)(a).
- 166 (2) (a) The county assessor shall annually update property values of property as
- 167 provided in Section [59-2-301](#) based on a systematic review of current market data.
- 168 (b) The county assessor shall conduct the annual update described in Subsection (2)(a)
- 169 by using a mass appraisal system on or before the following:
- 170 (i) for a county of the first class, January 1, 2009;
- 171 (ii) for a county of the second class, January 1, 2011;
- 172 (iii) for a county of the third class, January 1, 2014; and
- 173 (iv) for a county of the fourth, fifth, or sixth class, January 1, 2015.
- 174 (c) The county assessor and the commission shall jointly certify that the county's mass
- 175 appraisal system meets the requirements:
- 176 (i) described in Subsection (1)(b); and
- 177 (ii) of the commission.
- 178 (3) (a) In addition to the requirements in Subsection (2), the county assessor shall
- 179 complete a detailed review of property characteristics for each property at least once every five
- 180 years.
- 181 (b) The county assessor shall maintain on the county's computer system, a record of the
- 182 last property review date for each parcel of real property located within the county assessor's

183 county.

184 (4) (a) The commission shall take corrective action if the commission determines that:

185 (i) a county assessor has not satisfactorily followed the current mass appraisal
186 standards, as provided by law;

187 (ii) the sales-assessment ratio, coefficients of dispersion, or other statistical measures
188 of appraisal performance related to the studies required by Section 59-2-704 are not within the
189 standards provided by law; or

190 (iii) the county assessor has failed to comply with the requirements of this section.

191 (b) If a county assessor fails to comply with the requirements of this section for one
192 year, the commission shall assist the county assessor in fulfilling the requirements of
193 Subsections (2) and (3).

194 (c) If a county assessor fails to comply with the requirements of this section for two
195 consecutive years, the county will lose the county's allocation of the revenue generated
196 statewide from the imposition of the multicounty assessing and collecting levy authorized in
197 Sections 59-2-1602 and 59-2-1603.

198 (d) If a county loses its allocation of the revenue generated statewide from the
199 imposition of the multicounty assessing and collecting levy described in Subsection (4)(c), the
200 revenue the county would have received shall be distributed to the Multicounty Appraisal Trust
201 created by interlocal agreement by all counties in the state.

202 (5) (a) On or before July 1, 2008, the county assessor shall prepare a five-year plan to
203 comply with the requirements of Subsections (2) and (3).

204 (b) The plan shall be available in the county assessor's office for review by the public
205 upon request.

206 (c) The plan shall be annually reviewed and revised as necessary.

207 (6) ~~(a)~~ A county assessor shall create, maintain, and regularly update a database
208 containing the following information that the county assessor may use to enhance the county's
209 ability to accurately appraise and assess property on an annual basis:

210 ~~(i)~~ (a) fee and other appraisals;

211 ~~(ii)~~ (b) property characteristics and features;

212 ~~(iii)~~ (c) property surveys;

213 ~~(iv)~~ (d) sales data; and

214 [~~(v)~~] (e) any other data or information on sales, studies, transfers, changes to property,
215 or property characteristics.

216 [~~(b) A county assessor shall submit a report to the commission on or before September~~
217 ~~1 stating the progress of the county assessor to meet the requirements of Subsection (6)(a).]~~

218 [~~(c) The commission shall report to the Revenue and Taxation Interim Committee on~~
219 ~~or before the October interim meeting concerning the information received from the county~~
220 ~~assessors pursuant to Subsection (6)(b).]~~

221 Section 5. Section **59-2-1308.5** is amended to read:

222 **59-2-1308.5. Equal payment agreements.**

223 (1) (a) The commission may enter into an agreement with a commercial or industrial
224 taxpayer to provide for equal, or approximately equal, property tax payments over a reasonable
225 period of years, not to exceed 20 years, if:

226 (i) the payment schedule is based on an accepted valuation methodology that
227 reasonably estimates the property's anticipated fair market value over the period of the
228 proposed equal payments;

229 (ii) the agreement includes a provision making the initial equal payment schedule
230 subject to an annual adjustment, as necessary, to account for differences between the property's
231 fair market value as of the annual lien date and the property's fair market value that formed the
232 basis of the initial equal payment schedule;

233 (iii) the commission, the taxpayer, and each affected taxing entity approve the
234 agreement; and

235 (iv) the total amount the taxpayer pays under the agreement is no less than the amount
236 the taxpayer would have paid in the absence of the agreement.

237 (b) A taxing entity may not approve an agreement under this section on behalf of
238 another taxing entity.

239 (2) (a) Subject to Subsection (2)(b), a tax lien under this chapter against the taxpayer's
240 property is not affected by a payment pursuant to an agreement under this section to the extent
241 of the difference between the amount the taxpayer would have been required to pay in the
242 absence of the agreement and the amount of the payment under the agreement.

243 (b) For purposes of enforcing a tax lien under this chapter, a taxpayer's failure to pay
244 the full amount of taxes that the taxpayer would have been required to pay in the absence of an

245 agreement under this section does not constitute a failure to pay the full amount of taxes owing:

246 (i) if the taxpayer pays the full amount of the payment owing under the agreement; and

247 (ii) unless the taxpayer:

248 (A) files for bankruptcy;

249 (B) transfers ownership of the property that is the subject of the property taxes; or

250 (C) has a change in ownership and the new owner does not assume all responsibility

251 and liability under the agreement.

252 (3) (a) The commission may revise, accelerate, or cancel an equal payment agreement

253 under this section to the same extent and for the same reasons that the commission may revise,

254 accelerate, or cancel an installment agreement under Section 59-1-1004.

255 (b) The commission shall give the taxpayer reasonable notice of its intent to revise or

256 cancel an equal payment agreement under this section.

257 (4) The commission shall promulgate rules to ensure that tax revenue derived from

258 payments pursuant to an agreement under this section do not affect the calculation of the

259 certified tax rate under Section 59-2-924.

260 (5) ~~[(a) The]~~ If the commission or a taxing entity enters into an equal payment

261 agreement under this section:

262 (a) the commission shall annually provide an electronic report to the Revenue and

263 Taxation Interim Committee ~~[an assessment of]~~ on the effects of equal payment agreements

264 under this section~~[-]; and~~

265 (b) the Revenue and Taxation Interim Committee shall annually review and assess the

266 effects of equal payment agreements under this section.

267 Section 6. Section 59-5-102 is amended to read:

268 **59-5-102. Severance tax -- Rate -- Computation -- Annual exemption -- Tax credit**

269 **-- Tax rate reduction.**

270 (1) (a) Subject to Subsection (1)(b), a person owning an interest in oil or gas produced

271 from a well in the state, including a working interest, royalty interest, payment out of

272 production, or any other interest, or in the proceeds of the production of oil or gas, shall pay to

273 the state a severance tax on the basis of the value determined under Section 59-5-103.1 of the

274 oil or gas:

275 (i) produced; and

276 (ii) (A) saved;
277 (B) sold; or
278 (C) transported from the field where the substance was produced.
279 (b) This section applies to an interest in oil or gas produced from a well in the state or
280 in the proceeds of the production of oil or gas produced from a well in the state except for:
281 (i) an interest of the United States in oil or gas or in the proceeds of the production of
282 oil or gas;
283 (ii) an interest of the state or a political subdivision of the state in oil or gas or in the
284 proceeds of the production of oil or gas; or
285 (iii) an interest of an Indian or Indian tribe as defined in Section 9-9-101 in oil or gas or
286 in the proceeds of the production of oil or gas produced from land under the jurisdiction of the
287 United States.
288 (2) (a) ~~[Subject to Subsection (2)(d), the]~~ The severance tax rate for oil is as follows:
289 (i) 3% of the value of the oil up to and including the first \$13 per barrel for oil; and
290 (ii) 5% of the value of the oil from \$13.01 and above per barrel for oil.
291 (b) ~~[Subject to Subsection (2)(d), the]~~ The severance tax rate for natural gas is as
292 follows:
293 (i) 3% of the value of the natural gas up to and including the first \$1.50 per MCF for
294 gas; and
295 (ii) 5% of the value of the natural gas from \$1.51 and above per MCF for gas.
296 (c) ~~[Subject to Subsection (2)(d), the]~~ The severance tax rate for natural gas liquids is
297 4% of the value of the natural gas liquids.
298 ~~[(d) (i) On or before December 15, 2004, the Office of the Legislative Fiscal Analyst~~
299 ~~and the Governor's Office of Management and Budget shall prepare a revenue forecast~~
300 ~~estimating the amount of revenues that:]~~
301 ~~[(A) would be generated by the taxes imposed by this part for the calendar year~~
302 ~~beginning on January 1, 2004 had 2004 General Session S.B. 191 not taken effect; and]~~
303 ~~[(B) will be generated by the taxes imposed by this part for the calendar year beginning~~
304 ~~on January 1, 2004.]~~
305 ~~[(ii) Effective on January 1, 2005, the tax rates described in Subsections (2)(a) through~~
306 ~~(c) shall be:]~~

307 ~~[(A) increased as provided in Subsection (2)(d)(iii) if the amount of revenues estimated~~
308 ~~under Subsection (2)(d)(i)(B) is less than the amount of revenues estimated under Subsection~~
309 ~~(2)(d)(i)(A); or]~~

310 ~~[(B) decreased as provided in Subsection (2)(d)(iii) if the amount of revenues~~
311 ~~estimated under Subsection (2)(d)(i)(B) is greater than the amount of revenues estimated under~~
312 ~~Subsection (2)(d)(i)(A).]~~

313 ~~[(iii) For purposes of Subsection (2)(d)(ii):]~~

314 ~~[(A) subject to Subsection (2)(d)(iv)(B):]~~

315 ~~[(F) if an increase is required under Subsection (2)(d)(ii)(A), the total increase in the tax~~
316 ~~rates shall be by the amount necessary to generate for the calendar year beginning on January 1,~~
317 ~~2005 revenues equal to the amount by which the revenues estimated under Subsection~~
318 ~~(2)(d)(i)(A) exceed the revenues estimated under Subsection (2)(d)(i)(B); or]~~

319 ~~[(H) if a decrease is required under Subsection (2)(d)(ii)(B), the total decrease in the~~
320 ~~tax rates shall be by the amount necessary to reduce for the calendar year beginning on January~~
321 ~~1, 2005 revenues equal to the amount by which the revenues estimated under Subsection~~
322 ~~(2)(d)(i)(B) exceed the revenues estimated under Subsection (2)(d)(i)(A); and]~~

323 ~~[(B) an increase or decrease in each tax rate under Subsection (2)(d)(ii) shall be in~~
324 ~~proportion to the amount of revenues generated by each tax rate under this part for the calendar~~
325 ~~year beginning on January 1, 2003.]~~

326 ~~[(iv) (A) The commission shall calculate any tax rate increase or decrease required by~~
327 ~~Subsection (2)(d)(ii) using the best information available to the commission.]~~

328 ~~[(B) If the tax rates described in Subsections (2)(a) through (c) are increased or~~
329 ~~decreased as provided in this Subsection (2)(d), the commission shall mail a notice to each~~
330 ~~person required to file a return under this part stating the tax rate in effect on January 1, 2005~~
331 ~~as a result of the increase or decrease.]~~

332 (3) If oil or gas is shipped outside the state:

333 (a) the shipment constitutes a sale; and

334 (b) the oil or gas is subject to the tax imposed by this section.

335 (4) (a) Except as provided in Subsection (4)(b), if the oil or gas is stockpiled, the tax is
336 not imposed until the oil or gas is:

337 (i) sold;

338 (ii) transported; or

339 (iii) delivered.

340 (b) Notwithstanding Subsection (4)(a), if oil or gas is stockpiled for more than two
341 years, the oil or gas is subject to the tax imposed by this section.

342 (5) A tax is not imposed under this section upon:

343 (a) stripper wells, unless the exemption prevents the severance tax from being treated
344 as a deduction for federal tax purposes;

345 (b) the first 12 months of production for wildcat wells started after January 1, 1990; or

346 (c) the first six months of production for development wells started after January 1,
347 1990.

348 (6) (a) Subject to Subsections (6)(b) and (c), a working interest owner who pays for all
349 or part of the expenses of a recompletion or workover may claim a nonrefundable tax credit
350 equal to 20% of the amount paid.

351 (b) The tax credit under Subsection (6)(a) for each recompletion or workover may not
352 exceed \$30,000 per well during each calendar year.

353 (c) If any amount of tax credit a taxpayer is allowed under this Subsection (6) exceeds
354 the taxpayer's tax liability under this part for the calendar year for which the taxpayer claims
355 the tax credit, the amount of tax credit exceeding the taxpayer's tax liability for the calendar
356 year may be carried forward for the next three calendar years.

357 (7) A 50% reduction in the tax rate is imposed upon the incremental production
358 achieved from an enhanced recovery project.

359 (8) The taxes imposed by this section are:

360 (a) in addition to all other taxes provided by law; and

361 (b) delinquent, unless otherwise deferred, on June 1 next succeeding the calendar year
362 when the oil or gas is:

363 (i) produced; and

364 (ii) (A) saved;

365 (B) sold; or

366 (C) transported from the field.

367 (9) With respect to the tax imposed by this section on each owner of oil or gas or in the
368 proceeds of the production of those substances produced in the state, each owner is liable for

369 the tax in proportion to the owner's interest in the production or in the proceeds of the
370 production.

371 (10) The tax imposed by this section shall be reported and paid by each producer that
372 takes oil or gas in kind pursuant to agreement on behalf of the producer and on behalf of each
373 owner entitled to participate in the oil or gas sold by the producer or transported by the
374 producer from the field where the oil or gas is produced.

375 (11) Each producer shall deduct the tax imposed by this section from the amounts due
376 to other owners for the production or the proceeds of the production.

377 ~~[(12)(a) The Revenue and Taxation Interim Committee shall review the applicability~~
378 ~~of the tax provided for in this chapter to coal-to-liquids, oil shale, and tar sands technology on~~
379 ~~or before the October 2011 interim meeting.]~~

380 ~~[(b) The Revenue and Taxation Interim Committee shall address in its review the cost~~
381 ~~and benefit of not applying the tax provided for in this chapter to coal-to-liquids, oil shale, and~~
382 ~~tar sands technology.]~~

383 ~~[(c) The Revenue and Taxation Interim Committee shall report its findings and~~
384 ~~recommendations under this Subsection (12) to the Legislative Management Committee on or~~
385 ~~before the November 2011 interim meeting.]~~

386 Section 7. Section **59-7-607** is amended to read:

387 **59-7-607. Utah low-income housing tax credit.**

388 (1) As used in this section:

389 (a) "Allocation certificate" means:

390 (i) the certificate prescribed by the commission and issued by the Utah Housing
391 Corporation to each taxpayer that specifies the percentage of the annual federal low-income
392 housing tax credit that each taxpayer may take as an annual credit against state income tax; or

393 (ii) a copy of the allocation certificate that the housing sponsor provides to the
394 taxpayer.

395 (b) "Building" means a qualified low-income building as defined in Section 42(c),
396 Internal Revenue Code.

397 (c) "Federal low-income housing tax credit" means the tax credit under Section 42,
398 Internal Revenue Code.

399 (d) "Housing sponsor" means a corporation in the case of a C corporation, a partnership

400 in the case of a partnership, a corporation in the case of an S corporation, or a limited liability
401 company in the case of a limited liability company.

402 (e) "Qualified allocation plan" means the qualified allocation plan adopted by the Utah
403 Housing Corporation pursuant to Section 42(m), Internal Revenue Code.

404 (f) "Special low-income housing tax credit certificate" means a certificate:

405 (i) prescribed by the commission;

406 (ii) that a housing sponsor issues to a taxpayer for a taxable year; and

407 (iii) that specifies the amount of tax credit a taxpayer may claim under this section if
408 the taxpayer meets the requirements of this section.

409 (g) "Taxpayer" means a person that is allowed a tax credit in accordance with this
410 section which is the corporation in the case of a C corporation, the partners in the case of a
411 partnership, the shareholders in the case of an S corporation, and the members in the case of a
412 limited liability company.

413 (2) (a) For taxable years beginning on or after January 1, 1995, there is allowed a
414 nonrefundable tax credit against taxes otherwise due under this chapter or Chapter 8, Gross
415 Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax
416 Act, for taxpayers issued an allocation certificate.

417 (b) The tax credit shall be in an amount equal to the greater of the amount of:

418 (i) federal low-income housing tax credit to which the taxpayer is allowed during that
419 year multiplied by the percentage specified in an allocation certificate issued by the Utah
420 Housing Corporation; or

421 (ii) tax credit specified in the special low-income housing tax credit certificate that the
422 housing sponsor issues to the taxpayer as provided in Subsection (2)(c).

423 (c) For purposes of Subsection (2)(b)(ii), the tax credit is equal to the product of:

424 (i) the total amount of low-income housing tax credit under this section that:

425 (A) a housing sponsor is allowed for a building; and

426 (B) all of the taxpayers may claim with respect to the building if the taxpayers meet the
427 requirements of this section; and

428 (ii) the percentage of tax credit a taxpayer may claim:

429 (A) under this section if the taxpayer meets the requirements of this section; and

430 (B) as provided in the agreement between the taxpayer and the housing sponsor.

431 (d) (i) For the calendar year beginning on January 1, 1995, through the calendar year
432 beginning on January 1, 2015, the aggregate annual tax credit that the Utah Housing
433 Corporation may allocate for the credit period described in Section 42(f), Internal Revenue
434 Code, pursuant to this section and Section 59-10-1010 is an amount equal to the product of:

435 (A) 12.5 cents; and

436 (B) the population of Utah.

437 (ii) For purposes of this section, the population of Utah shall be determined in
438 accordance with Section 146(j), Internal Revenue Code.

439 (3) (a) By October 1, 1994, the Utah Housing Corporation shall determine criteria and
440 procedures for allocating the tax credit under this section and Section 59-10-1010 and
441 incorporate the criteria and procedures into the Utah Housing Corporation's qualified allocation
442 plan.

443 (b) The Utah Housing Corporation shall create the criteria under Subsection (3)(a)
444 based on:

445 (i) the number of affordable housing units to be created in Utah for low and moderate
446 income persons in the residential housing development of which the building is a part;

447 (ii) the level of area median income being served by the development;

448 (iii) the need for the tax credit for the economic feasibility of the development; and

449 (iv) the extended period for which the development commits to remain as affordable
450 housing.

451 (4) (a) The following may apply to the Utah Housing Corporation for a tax credit under
452 this section:

453 (i) any housing sponsor that has received an allocation of the federal low-income
454 housing tax credit; or

455 (ii) any applicant for an allocation of the federal low-income housing tax credit.

456 (b) The Utah Housing Corporation may not require fees for applications of the tax
457 credit under this section in addition to those fees required for applications for the federal
458 low-income housing tax credit.

459 (5) (a) The Utah Housing Corporation shall determine the amount of the tax credit to
460 allocate to a qualifying housing sponsor in accordance with the qualified allocation plan of the
461 Utah Housing Corporation.

462 (b) (i) The Utah Housing Corporation shall allocate the tax credit to housing sponsors
463 by issuing an allocation certificate to qualifying housing sponsors.

464 (ii) The allocation certificate under Subsection (5)(b)(i) shall specify the allowed
465 percentage of the federal low-income housing tax credit as determined by the Utah Housing
466 Corporation.

467 (c) The percentage specified in an allocation certificate may not exceed 100% of the
468 federal low-income housing tax credit.

469 (6) A housing sponsor shall provide a copy of the allocation certificate to each taxpayer
470 that is issued a special low-income housing tax credit certificate.

471 (7) (a) A housing sponsor shall provide to the commission a list of:

472 (i) the taxpayers issued a special low-income housing tax credit certificate; and

473 (ii) for each taxpayer described in Subsection (7)(a)(i), the amount of tax credit listed
474 on the special low-income housing tax credit certificate.

475 (b) A housing sponsor shall provide the list required by Subsection (7)(a):

476 (i) to the commission;

477 (ii) on a form provided by the commission; and

478 (iii) with the housing sponsor's tax return for each taxable year for which the housing
479 sponsor issues a special low-income housing tax credit certificate described in this Subsection
480 (7).

481 (8) (a) All elections made by the taxpayer pursuant to Section 42, Internal Revenue
482 Code, shall apply to this section.

483 (b) (i) If a taxpayer is required to recapture a portion of any federal low-income
484 housing tax credit, the taxpayer shall also be required to recapture a portion of any state tax
485 credits authorized by this section.

486 (ii) The state recapture amount shall be equal to the percentage of the state tax credit
487 that equals the proportion the federal recapture amount bears to the original federal low-income
488 housing tax credit amount subject to recapture.

489 (9) (a) Any tax credits returned to the Utah Housing Corporation in any year may be
490 reallocated within the same time period as provided in Section 42, Internal Revenue Code.

491 (b) Tax credits that are unallocated by the Utah Housing Corporation in any year may
492 be carried over for allocation in the subsequent year.

493 (10) (a) Amounts otherwise qualifying for the tax credit, but not allowable because the
494 tax credit exceeds the tax, may be carried back three years or may be carried forward five years
495 as a credit against the tax.

496 (b) Carryover tax credits under Subsection (10)(a) shall be applied against the tax:

497 (i) before the application of the tax credits earned in the current year; and

498 (ii) on a first-earned first-used basis.

499 (11) Any tax credit taken in this section may be subject to an annual audit by the
500 commission.

501 (12) The Utah Housing Corporation shall annually provide an [~~annual~~] electronic
502 report to the Revenue and Taxation Interim Committee which shall include at least:

503 (a) the purpose and effectiveness of the tax credits; and

504 (b) the benefits of the tax credits to the state.

505 (13) The commission may, in consultation with the Utah Housing Corporation,
506 promulgate rules to implement this section.

507 Section 8. Section **59-7-612** is amended to read:

508 **59-7-612. Tax credits for research activities conducted in the state -- Carry**
509 **forward -- Commission to report modification or repeal of certain federal provisions --**
510 **Revenue and Taxation Interim Committee study.**

511 (1) (a) A taxpayer meeting the requirements of this section may claim the following
512 nonrefundable tax credits:

513 (i) a research tax credit of 5% of the taxpayer's qualified research expenses for the
514 current taxable year that exceed the base amount provided for under Subsection (4);

515 (ii) a tax credit for a payment to a qualified organization for basic research as provided
516 in Section 41(e), Internal Revenue Code, of 5% for the current taxable year that exceed the
517 base amount provided for under Subsection (4); and

518 (iii) a tax credit equal to 7.5% of the taxpayer's qualified research expenses for the
519 current taxable year.

520 (b) Subject to Subsection (5), a taxpayer may claim a tax credit under:

521 (i) Subsection (1)(a)(i) or (1)(a)(iii), for the taxable year for which the taxpayer incurs
522 the qualified research expenses; or

523 (ii) Subsection (1)(a)(ii), for the taxable year for which the taxpayer makes the payment

524 to the qualified organization.

525 (c) The tax credits provided for in this section do not include the alternative
526 incremental credit provided for in Section 41(c)(4), Internal Revenue Code.

527 (2) For purposes of claiming a tax credit under this section, a unitary group as defined
528 in Section 59-7-101 is considered to be one taxpayer.

529 (3) Except as specifically provided for in this section:

530 (a) the tax credits authorized under Subsection (1) shall be calculated as provided in
531 Section 41, Internal Revenue Code; and

532 (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating
533 the tax credits authorized under Subsection (1).

534 (4) For purposes of this section:

535 (a) the base amount shall be calculated as provided in Sections 41(c) and 41(h),
536 Internal Revenue Code, except that:

537 (i) the base amount does not include the calculation of the alternative incremental
538 credit provided for in Section 41(c)(4), Internal Revenue Code;

539 (ii) a taxpayer's gross receipts include only those gross receipts attributable to sources
540 within this state as provided in Part 3, Allocation and Apportionment of Income - Utah
541 UDITPA Provisions; and

542 (iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating
543 the base amount, a taxpayer:

544 (A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B)
545 regardless of whether the taxpayer meets the requirements of Section 41(c)(3)(B)(i)(I) or (II);
546 and

547 (B) may not revoke an election to be treated as a start-up company under Subsection
548 (4)(a)(iii)(A);

549 (b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except
550 that the term includes only basic research conducted in this state;

551 (c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except
552 that the term includes only qualified research conducted in this state;

553 (d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal
554 Revenue Code, except that the term includes only:

555 (i) in-house research expenses incurred in this state; and
556 (ii) contract research expenses incurred in this state; and
557 (e) a tax credit provided for in this section is not terminated if a credit terminates under
558 Section 41, Internal Revenue Code.

559 (5) (a) If the amount of a tax credit claimed by a taxpayer under Subsection (1)(a)(i) or
560 (ii) exceeds the taxpayer's tax liability under this chapter for a taxable year, the amount of the
561 tax credit exceeding the tax liability:

562 (i) may be carried forward for a period that does not exceed the next 14 taxable years;

563 and

564 (ii) may not be carried back to a taxable year preceding the current taxable year.

565 (b) A taxpayer may not carry forward the tax credit allowed by Subsection (1)(a)(iii).

566 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
567 commission may make rules for purposes of this section prescribing a certification process for
568 qualified organizations to ensure that amounts paid to the qualified organizations are for basic
569 research conducted in this state.

570 (7) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the
571 commission shall provide an electronic report of the modification or repeal to the Revenue and
572 Taxation Interim Committee within 60 days after the day on which the modification or repeal
573 becomes effective.

574 (8) (a) The Revenue and Taxation Interim Committee shall review the tax credits
575 provided for in this section on or before October 1 of the year after the year in which the
576 commission reports under Subsection (7) a modification or repeal of a provision of Section 41,
577 Internal Revenue Code.

578 (b) Notwithstanding Subsection (8)(a), the Revenue and Taxation Interim Committee is
579 not required to review the tax credits provided for in this section if the only modification to a
580 provision of Section 41, Internal Revenue Code, is the extension of the termination date
581 provided for in Section 41(h), Internal Revenue Code.

582 (c) The Revenue and Taxation Interim Committee shall address in a review under this
583 section:

584 (i) the cost of the tax credits provided for in this section;

585 (ii) the purpose and effectiveness of the tax credits provided for in this section;

- 586 (iii) whether the tax credits provided for in this section benefit the state; and
- 587 (iv) whether the tax credits provided for in this section should be:
- 588 (A) continued;
- 589 (B) modified; or
- 590 (C) repealed.
- 591 (d) If the Revenue and Taxation Interim Committee reviews the tax credits provided
- 592 for in this section, the committee shall report its findings to the Legislative Management
- 593 Committee on or before the November interim meeting of the year in which the Revenue and
- 594 Taxation Interim Committee reviews the tax credits.

595 Section 9. Section **59-7-613** is amended to read:

596 **59-7-613. Tax credits for machinery, equipment, or both primarily used for**
597 **conducting qualified research or basic research -- Carry forward -- Commission to report**
598 **modification or repeal of certain federal provisions -- Revenue and Taxation Interim**
599 **Committee study.**

600 (1) As used in this section:

601 (a) "Basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except
602 that the term includes only basic research conducted in this state.

603 (b) "Equipment" includes:

- 604 (i) a computer;
- 605 (ii) computer equipment; and
- 606 (iii) computer software.

607 (c) "Purchase price":

- 608 (i) includes the cost of installing an item of machinery or equipment; and
- 609 (ii) does not include a tax imposed under Chapter 12, Sales and Use Tax Act, on an
610 item of machinery or equipment.

611 (d) "Qualified organization" is as defined in Section 41(e)(6), Internal Revenue Code.

612 (e) "Qualified research" is as defined in Section 41(d), Internal Revenue Code, except
613 that the term includes only qualified research conducted in this state.

614 (2) (a) Except as provided in Subsection (2)(c), for taxable years beginning on or after
615 January 1, 1999, but beginning before December 31, 2010, a taxpayer meeting the requirements
616 of this section may claim the following nonrefundable tax credits:

- 617 (i) a tax credit of 6% of the purchase price of machinery, equipment, or both:
618 (A) purchased by the taxpayer during the taxable year;
619 (B) that is subject to a tax under Chapter 12, Sales and Use Tax Act; and
620 (C) that is primarily used to conduct qualified research in this state; and
621 (ii) a tax credit of 6% of the purchase price of machinery, equipment, or both:
622 (A) purchased by the taxpayer during the taxable year;
623 (B) that is subject to a tax under Chapter 12, Sales and Use Tax Act;
624 (C) that is donated to a qualified organization; and
625 (D) that is primarily used to conduct basic research in this state.
- 626 (b) Subject to Subsection (5), a taxpayer may claim a tax credit under this section for
627 the taxable year for which the taxpayer purchases the machinery, equipment, or both.
- 628 (c) If a taxpayer qualifies for a tax credit under Subsection (2)(a) for a purchase of
629 machinery, equipment, or both, the taxpayer may not claim the tax credit or carry the tax credit
630 forward if the machinery, equipment, or both, is primarily used to conduct qualified research in
631 the state for a time period that is less than 12 consecutive months.
- 632 (3) For purposes of claiming a tax credit under this section, a unitary group as defined
633 in Section 59-7-101 is considered to be one taxpayer.
- 634 (4) Notwithstanding Section 41(h), Internal Revenue Code, a tax credit provided for in
635 this section is not terminated if a credit terminates under Section 41, Internal Revenue Code.
- 636 (5) If the amount of a tax credit claimed by a taxpayer under this section exceeds the
637 taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit
638 exceeding the tax liability:
- 639 (a) may be carried forward for a period that does not exceed the next 14 taxable years;
640 and
641 (b) may not be carried back to a taxable year preceding the current taxable year.
- 642 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
643 commission may make rules for purposes of this section prescribing a certification process for
644 qualified organizations to ensure that machinery, equipment, or both provided to the qualified
645 organization is to be primarily used to conduct basic research in this state.
- 646 (7) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the
647 commission shall provide an electronic report of the modification or repeal to the Revenue and

648 Taxation Interim Committee within 60 days after the day on which the modification or repeal
649 becomes effective.

650 (8) (a) The Revenue and Taxation Interim Committee shall review the tax credits
651 provided for in this section on or before October 1 of the year after the year in which the
652 commission reports under Subsection (7) a modification or repeal of a provision of Section 41,
653 Internal Revenue Code.

654 (b) Notwithstanding Subsection (8)(a), the Revenue and Taxation Interim Committee is
655 not required to review the tax credits provided for in this section if the only modification to a
656 provision of Section 41, Internal Revenue Code, is the extension of the termination date
657 provided for in Section 41(h), Internal Revenue Code.

658 (c) The Revenue and Taxation Interim Committee shall address in a review under this
659 section the:

- 660 (i) cost of the tax credits provided for in this section;
- 661 (ii) purpose and effectiveness of the tax credits provided for in this section;
- 662 (iii) whether the tax credits provided for in this section benefit the state; and
- 663 (iv) whether the tax credits provided for in this section should be:
 - 664 (A) continued;
 - 665 (B) modified; or
 - 666 (C) repealed.

667 (d) If the Revenue and Taxation Interim Committee reviews the tax credits provided
668 for in this section, the committee shall report its findings to the Legislative Management
669 Committee on or before the November interim meeting of the year in which the Revenue and
670 Taxation Interim Committee reviews the tax credits.

671 Section 10. Section **59-7-614.2** is amended to read:

672 **59-7-614.2. Refundable economic development tax credit.**

673 (1) As used in this section:

674 (a) "Business entity" means a taxpayer that meets the definition of "business entity" as
675 defined in Section [63N-2-103](#).

676 (b) "Community development and renewal agency" [~~is as~~] means the same as that term
677 is defined in Section [17C-1-102](#).

678 (c) "Local government entity" [~~is as~~] means the same as that term is defined in Section

679 [63N-2-103](#).

680 (d) "New incremental jobs" means the same as that term is defined in Section

681 [63N-2-103](#).

682 (e) "New state revenues" means the same as that term is defined in Section [63N-2-103](#).

683 [~~(d)~~] (f) "Office" means the Governor's Office of Economic Development.

684 (2) Subject to the other provisions of this section, a business entity, local government
685 entity, or community development and renewal agency may claim a refundable tax credit for
686 economic development.

687 (3) The tax credit under this section is the amount listed as the tax credit amount on the
688 tax credit certificate that the office issues to the business entity, local government entity, or
689 community development and renewal agency for the taxable year.

690 (4) A community development and renewal agency may claim a tax credit under this
691 section only if a local government entity assigns the tax credit to the community development
692 and renewal agency in accordance with Section [63N-2-104](#).

693 (5) (a) In accordance with any rules prescribed by the commission under Subsection
694 (5)(b), the commission shall make a refund to the following that claim a tax credit under this
695 section:

696 (i) a local government entity;

697 (ii) a community development and renewal agency; or

698 (iii) a business entity if the amount of the tax credit exceeds the business entity's tax
699 liability for a taxable year.

700 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
701 commission may make rules providing procedures for making a refund to a business entity,
702 local government entity, or community development and renewal agency as required by
703 Subsection (5)(a).

704 (6) (a) On or before October 1, 2013, and every five years after October 1, 2013, the
705 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
706 make recommendations to the Legislative Management Committee concerning whether the tax
707 credit should be continued, modified, or repealed.

708 (b) For purposes of the study required by this Subsection (6), the office shall provide
709 the following information to the Revenue and Taxation Interim Committee by electronic

710 means:

711 (i) the amount of tax credit that the office grants to each business entity, local
712 government entity, or community development and renewal agency for each calendar year;

713 (ii) the criteria that the office uses in granting a tax credit;

714 (iii) (A) for a business entity, the new state revenues generated by the business entity
715 for the calendar year; or

716 (B) for a local government entity, regardless of whether the local government entity
717 assigns the tax credit in accordance with Section 63N-2-104, the new state revenues generated
718 as a result of a new commercial project within the local government entity for each calendar
719 year;

720 (iv) estimates for each of the next five calendar years of the following:

721 (A) the amount of tax credits that the office will grant;

722 (B) the amount of new state revenues that will be generated; and

723 (C) the number of new incremental jobs within the state that will be generated;

724 [~~(iv)~~] (v) the information contained in the office's latest report to the Legislature under
725 Section 63N-2-106; and

726 [~~(v)~~] (vi) any other information that the Revenue and Taxation Interim Committee
727 requests.

728 (c) The Revenue and Taxation Interim Committee shall ensure that its
729 recommendations under Subsection (6)(a) include an evaluation of:

730 (i) the cost of the tax credit to the state;

731 (ii) the purpose and effectiveness of the tax credit; and

732 (iii) the extent to which the state benefits from the tax credit.

733 Section 11. Section 59-7-614.5 is amended to read:

734 **59-7-614.5. Refundable motion picture tax credit.**

735 (1) As used in this section:

736 (a) "Motion picture company" means a taxpayer that meets the definition of a motion
737 picture company under Section 63N-8-102.

738 (b) "Office" means the Governor's Office of Economic Development.

739 (c) "State-approved production" has the same meaning as defined in Section
740 63N-8-102.

741 (2) For taxable years beginning on or after January 1, 2009, a motion picture company
742 may claim a refundable tax credit for a state-approved production.

743 (3) The tax credit under this section is the amount listed as the tax credit amount on the
744 tax credit certificate that the office issues to a motion picture company under Section
745 [63N-8-103](#) for the taxable year.

746 (4) (a) In accordance with any rules prescribed by the commission under Subsection
747 (4)(b), the commission shall make a refund to a motion picture company that claims a tax
748 credit under this section if the amount of the tax credit exceeds the motion picture company's
749 tax liability for a taxable year.

750 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
751 commission may make rules providing procedures for making a refund to a motion picture
752 company as required by Subsection (4)(a).

753 (5) (a) On or before October 1, 2014, and every five years after October 1, 2014, the
754 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
755 make recommendations to the Legislative Management Committee concerning whether the tax
756 credit should be continued, modified, or repealed.

757 (b) For purposes of the study required by this Subsection (5), the office shall provide
758 the following information to the Revenue and Taxation Interim Committee by electronic
759 means:

760 (i) (A) the amount of tax credit that the office grants to each motion picture company
761 for each calendar year; and

762 (B) estimates of the amount of tax credit that the office will grant for each of the next
763 five calendar years;

764 (ii) the criteria that the office uses in granting the tax credit;

765 (iii) the dollars left in the state, as defined in Section [63N-8-102](#), by each motion
766 picture company for each calendar year;

767 (iv) the information contained in the office's latest report to the Legislature under
768 Section [63N-8-105](#); and

769 (v) any other information requested by the Revenue and Taxation Interim Committee.

770 (c) The Revenue and Taxation Interim Committee shall ensure that its
771 recommendations under Subsection (5)(a) include an evaluation of:

- 772 (i) the cost of the tax credit to the state;
- 773 (ii) the effectiveness of the tax credit; and
- 774 (iii) the extent to which the state benefits from the tax credit.

775 Section 12. Section **59-7-614.7** is amended to read:

776 **59-7-614.7. Nonrefundable alternative energy development tax credit.**

777 (1) As used in this section:

- 778 (a) "Alternative energy entity" is as defined in Section [63M-4-502](#).
- 779 (b) "Alternative energy project" is as defined in Section [63M-4-502](#).
- 780 (c) "Office" is as defined in Section [63M-4-401](#).

781 (2) Subject to the other provisions of this section, an alternative energy entity may
782 claim a nonrefundable tax credit for alternative energy development as provided in this section.

783 (3) The tax credit under this section is the amount listed as the tax credit amount on a
784 tax credit certificate that the office issues under Title 63M, Chapter 4, Part 5, Alternative
785 Energy Development Tax Credit Act, to the alternative energy entity for the taxable year.

786 (4) An alternative energy entity may carry forward a tax credit under this section for a
787 period that does not exceed the next seven taxable years if:

- 788 (a) the alternative energy entity is allowed to claim a tax credit under this section for a
789 taxable year; and
- 790 (b) the amount of the tax credit exceeds the alternative energy entity's tax liability
791 under this chapter for that taxable year.

792 (5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the
793 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
794 make recommendations to the Legislative Management Committee concerning whether the tax
795 credit should be continued, modified, or repealed.

796 (b) For purposes of the study required by this Subsection (5), the office shall provide
797 the following information to the Revenue and Taxation Interim Committee by electronic
798 means:

- 799 (i) the amount of tax credit that the office grants to each alternative energy entity for
800 each taxable year;
- 801 (ii) the new state revenues generated by each alternative energy project;
- 802 (iii) the information contained in the office's latest report to the Legislature under

803 Section [63M-4-505](#); and

804 (iv) any other information that the Revenue and Taxation Interim Committee requests.

805 (c) The Revenue and Taxation Interim Committee shall ensure that its

806 recommendations under Subsection (5)(a) include an evaluation of:

807 (i) the cost of the tax credit to the state;

808 (ii) the purpose and effectiveness of the tax credit; and

809 (iii) the extent to which the state benefits from the tax credit.

810 Section 13. Section **59-7-614.8** is amended to read:

811 **59-7-614.8. Nonrefundable alternative energy manufacturing tax credit.**

812 (1) As used in this section:

813 (a) "Alternative energy entity" [~~is as~~] means the same as that term is defined in Section
814 [63N-2-702](#).

815 (b) "Alternative energy manufacturing project" [~~is as~~] means the same as that term is
816 defined in Section [63N-2-702](#).

817 (c) "New incremental job within the state" means the same as that term is defined in
818 Section [63N-2-702](#).

819 (d) "New state revenues" means the same as that term is defined in Section [63N-2-702](#).

820 [~~e~~] (e) "Office" means the Governor's Office of Economic Development.

821 (2) Subject to the other provisions of this section, an alternative energy entity may
822 claim a nonrefundable tax credit for alternative energy manufacturing as provided in this
823 section.

824 (3) The tax credit under this section is the amount listed as the tax credit amount on a
825 tax credit certificate that the office issues under Title 63N, Chapter 2, Part 7, Alternative
826 Energy Manufacturing Tax Credit Act, to the alternative energy entity for the taxable year.

827 (4) An alternative energy entity may carry forward a tax credit under this section for a
828 period that does not exceed the next seven taxable years if:

829 (a) the alternative energy entity is allowed to claim a tax credit under this section for a
830 taxable year; and

831 (b) the amount of the tax credit exceeds the alternative energy entity's tax liability
832 under this chapter for that taxable year.

833 (5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the

834 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
835 make recommendations to the Legislative Management Committee concerning whether the tax
836 credit should be continued, modified, or repealed.

837 (b) For purposes of the study required by this Subsection (5), the office shall provide
838 the following information to the Revenue and Taxation Interim Committee by electronic
839 means:

840 (i) the amount of tax credit that the office grants to each alternative energy entity for
841 each taxable year;

842 (ii) the new state revenues generated by each alternative energy manufacturing project;

843 (iii) estimates for each of the next five calendar years of the following:

844 (A) the amount of tax credits that the office will grant;

845 (B) the amount of new state revenues that will be generated; and

846 (C) the number of new incremental jobs within the state that will be generated;

847 ~~[(iii)]~~ (iv) the information contained in the office's latest report to the Legislature under
848 Section [63N-2-705](#); and

849 ~~[(iv)]~~ (v) any other information that the Revenue and Taxation Interim Committee
850 requests.

851 (c) The Revenue and Taxation Interim Committee shall ensure that its
852 recommendations under Subsection (5)(a) include an evaluation of:

853 (i) the cost of the tax credit to the state;

854 (ii) the purpose and effectiveness of the tax credit; and

855 (iii) the extent to which the state benefits from the tax credit.

856 Section 14. Section **59-7-701** is amended to read:

857 **59-7-701. Taxation of S corporations.**

858 (1) Except as provided in Section [59-7-102](#) and subject to the other provisions of this
859 part, beginning on July 1, 1994, and ending on the last day of the taxable year that begins on or
860 after January 1, 2012, but begins on or before December 31, 2012, an S corporation is subject
861 to taxation in the same manner as that S corporation is taxed under Subchapter S - Tax
862 Treatment of S Corporations and Their Shareholders, Sec. 1361 et seq., Internal Revenue Code.

863 (2) An S corporation is taxed at the tax rate provided in Section [59-7-104](#).

864 (3) The business income and nonbusiness income of an S corporation is subject to Part

865 3, Allocation and Apportionment of Income - Utah UDITPA Provisions.

866 (4) An S corporation having income derived from or connected with Utah sources shall
867 make a return in accordance with Section 59-10-507.

868 (5) An S corporation shall make payments of estimated tax as required by Section
869 59-7-504.

870 (6) An S corporation is subject to Chapter 10, Part 14, Pass-Through Entities and
871 Pass-Through Entity Taxpayers Act.

872 (7) A pass-through entity taxpayer as defined in Section 59-10-1402 of an S
873 corporation is subject to Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity
874 Taxpayers Act.

875 (8) Provisions under this chapter governing the following apply to an S corporation:

876 (a) an assessment;

877 (b) a penalty;

878 (c) a refund; or

879 (d) a record required for an S corporation.

880 ~~[(9)(a) During the 2011 interim, the Revenue and Taxation Interim Committee shall~~
881 ~~study the fiscal impacts of:]~~

882 ~~[(i) the enactment of Laws of Utah 2009, Chapter 312; and]~~

883 ~~[(ii) the taxation of S corporations under this part.]~~

884 ~~[(b) On or before November 30, 2011, the Revenue and Taxation Interim Committee~~
885 ~~shall report its findings and recommendations on the study to the Executive Appropriations~~
886 ~~Committee.]~~

887 Section 15. Section 59-7-903 is amended to read:

888 **59-7-903. Removal of tax credit from tax return -- Prohibition on claiming or**
889 **carrying forward a tax credit -- Commission publishing requirements.**

890 (1) Subject to Subsection (2), the commission shall remove a tax credit from a tax
891 return and a person filing a tax return may not claim or carry forward the tax credit if:

892 (a) the total amount of tax credit claimed or carried forward by all persons who file a
893 tax return is less than \$10,000 per taxable year for three consecutive taxable years; and

894 (b) less than 10 persons per year for the three consecutive taxable years described in
895 Subsection (1)(a) file a tax return claiming or carrying forward the tax credit.

896 (2) If the commission determines the requirements of Subsection (1) are met, the
897 commission shall remove a tax credit from a tax return and a person filing a tax return may not
898 claim or carry forward the tax credit beginning two taxable years after the January 1
899 immediately following the date the commission determines the requirements of Subsection (1)
900 are met.

901 (3) The commission shall, on or before the November interim meeting of the year after
902 the taxable year in which the commission determines the requirements of Subsection (1) are
903 met, report to the Revenue and Taxation Interim Committee by electronic means that, in
904 accordance with this section:

905 (a) the commission is required to remove a tax credit from a return on which the tax
906 credit appears; and

907 (b) a person filing a tax return may not claim or carry forward the tax credit.

908 (4) (a) Within a 30-day period after making the report required by Subsection (3), the
909 commission shall publish a list in accordance with Subsection (4)(b) stating each tax credit that
910 the commission will remove from a return on which the tax credit appears.

911 (b) The list shall:

912 (i) be published on:

913 (A) the commission's website; and

914 (B) the public legal notice website in accordance with Section 45-1-101;

915 (ii) include a statement that:

916 (A) the commission is required to remove the tax credit from each return on which the
917 tax credit appears; and

918 (B) the tax credit may not be claimed or carried forward on a return;

919 (iii) state the taxable year for which the removal described in Subsection (4)(a) takes
920 effect; and

921 (iv) remain available for viewing and searching until the commission publishes a new
922 list in accordance with this Subsection (4).

923 Section 16. Section **59-9-101** is amended to read:

924 **59-9-101. Tax basis -- Rates -- Exemptions -- Rate reductions.**

925 (1) (a) Except as provided in Subsection (1)(b), (1)(d), or (5), an admitted insurer shall
926 pay to the commission on or before March 31 in each year, a tax of 2-1/4% of the total

927 premiums received by it during the preceding calendar year from insurance covering property
928 or risks located in this state.

929 (b) This Subsection (1) does not apply to:

930 (i) workers' compensation insurance, assessed under Subsection (2);

931 (ii) title insurance premiums taxed under Subsection (3);

932 (iii) annuity considerations;

933 (iv) insurance premiums paid by an institution within the state system of higher
934 education as specified in Section 53B-1-102; and

935 (v) ocean marine insurance.

936 (c) The taxable premium under this Subsection (1) shall be reduced by:

937 (i) the premiums returned or credited to policyholders on direct business subject to tax
938 in this state;

939 (ii) the premiums received for reinsurance of property or risks located in this state; and

940 (iii) the dividends, including premium reduction benefits maturing within the year:

941 (A) paid or credited to policyholders in this state; or

942 (B) applied in abatement or reduction of premiums due during the preceding calendar
943 year.

944 (d) (i) For purposes of this Subsection (1)(d):

945 (A) "Utah variable life insurance premium" means an insurance premium paid:

946 (I) by:

947 (Aa) a corporation; or

948 (Bb) a trust established or funded by a corporation; and

949 (II) for variable life insurance covering risks located within the state.

950 (B) "Variable life insurance" means an insurance policy that provides for life
951 insurance, the amount or duration of which varies according to the investment experience of
952 one or more separate accounts that are established and maintained by the insurer pursuant to
953 Title 31A, Insurance Code.

954 (ii) Notwithstanding Subsection (1)(a), beginning on January 1, 2006, the tax on that
955 portion of the total premiums subject to a tax under Subsection (1)(a) that is a Utah variable
956 life insurance premium shall be calculated as follows:

957 (A) 2-1/4% of the first \$100,000 of Utah variable life insurance premiums:

958 (I) paid for each variable life insurance policy; and
959 (II) received by the admitted insurer in the preceding calendar year; and
960 (B) 0.08% of the Utah variable life insurance premiums that exceed \$100,000:
961 (I) paid for the policy described in Subsection (1)(d)(ii)(A); and
962 (II) received by the admitted insurer in the preceding calendar year.
963 ~~[(iii) (A) On or before October 1, 2009, and every three years after October 1, 2009, the~~
964 ~~Revenue and Taxation Interim Committee shall study the rate reduction contained in this~~
965 ~~Subsection (1)(d).]~~
966 ~~[(B) As part of the study required by Subsection (1)(d)(iii)(A) the Revenue and~~
967 ~~Taxation Interim Committee shall:]~~
968 ~~[(I) hear testimony from the commission and industry representatives;]~~
969 ~~[(H) make recommendations concerning whether the rate reduction should be~~
970 ~~continued, modified, or repealed; and]~~
971 ~~[(III) make findings regarding:]~~
972 ~~[(Aa) the cost of the rate reduction;]~~
973 ~~[(Bb) the purpose and effectiveness of the rate reduction; and]~~
974 ~~[(Cc) any benefits of the rate reduction to the state.]~~
975 (2) (a) An admitted insurer writing workers' compensation insurance in this state,
976 including the Workers' Compensation Fund created under Title 31A, Chapter 33, Workers'
977 Compensation Fund, shall pay to the tax commission, on or before March 31 in each year, a
978 premium assessment on the basis of the total workers' compensation premium income received
979 by the insurer from workers' compensation insurance in this state during the preceding calendar
980 year as follows:
981 (i) on or before December 31, 2010, an amount of equal to or greater than 1%, but
982 equal to or less than 5.75% of the total workers' compensation premium income described in
983 this Subsection (2);
984 (ii) on and after January 1, 2011, but on or before December 31, 2017, an amount of
985 equal to or greater than 1%, but equal to or less than 4.25% of the total workers' compensation
986 premium income described in this Subsection (2); and
987 (iii) on and after January 1, 2018, an amount equal to 1.25% of the total workers'
988 compensation premium income described in this Subsection (2).

989 (b) Total workers' compensation premium income means the net written premium as
990 calculated before any premium reduction for any insured employer's deductible, retention, or
991 reimbursement amounts and also those amounts equivalent to premiums as provided in Section
992 [34A-2-202](#).

993 (c) The percentage of premium assessment applicable for a calendar year shall be
994 determined by the Labor Commission under Subsection (2)(d). The total premium income
995 shall be reduced in the same manner as provided in Subsections (1)(c)(i) and (1)(c)(ii), but not
996 as provided in Subsection (1)(c)(iii). The commission shall promptly remit from the premium
997 assessment collected under this Subsection (2):

998 (i) income to the state treasurer for credit to the Employers' Reinsurance Fund created
999 under Subsection [34A-2-702](#)(1) as follows:

1000 (A) on or before December 31, 2009, an amount of up to 5% of the total workers'
1001 compensation premium income;

1002 (B) on and after January 1, 2010, but on or before December 31, 2010, an amount of up
1003 to 4.5% of the total workers' compensation premium income;

1004 (C) on and after January 1, 2011, but on or before December 31, 2017, an amount of up
1005 to 3% of the total workers' compensation premium income; and

1006 (D) on and after January 1, 2018, 0% of the total workers' compensation premium
1007 income;

1008 (ii) an amount equal to 0.25% of the total workers' compensation premium income to
1009 the state treasurer for credit to the Workplace Safety Account created by Section [34A-2-701](#);

1010 (iii) an amount of up to 0.5% and any remaining assessed percentage of the total
1011 workers' compensation premium income to the state treasurer for credit to the Uninsured
1012 Employers' Fund created under Section [34A-2-704](#); and

1013 (iv) beginning on January 1, 2010, 0.5% of the total workers' compensation premium
1014 income to the state treasurer for credit to the Industrial Accident Restricted Account created in
1015 Section [34A-2-705](#).

1016 (d) (i) The Labor Commission shall determine the amount of the premium assessment
1017 for each year on or before each October 15 of the preceding year. The Labor Commission shall
1018 make this determination following a public hearing. The determination shall be based upon the
1019 recommendations of a qualified actuary.

1020 (ii) The actuary shall recommend a premium assessment rate sufficient to provide
1021 payments of benefits and expenses from the Employers' Reinsurance Fund and to project a
1022 funded condition with assets greater than liabilities by no later than June 30, 2025.

1023 (iii) The actuary shall recommend a premium assessment rate sufficient to provide
1024 payments of benefits and expenses from the Uninsured Employers' Fund and to maintain it at a
1025 funded condition with assets equal to or greater than liabilities.

1026 (iv) At the end of each fiscal year the minimum approximate assets in the Employers'
1027 Reinsurance Fund shall be \$5,000,000 which amount shall be adjusted each year beginning in
1028 1990 by multiplying by the ratio that the total workers' compensation premium income for the
1029 preceding calendar year bears to the total workers' compensation premium income for the
1030 calendar year 1988.

1031 (v) The requirements of Subsection (2)(d)(iv) cease when the future annual
1032 disbursements from the Employers' Reinsurance Fund are projected to be less than the
1033 calculations of the corresponding future minimum required assets. The Labor Commission
1034 shall, after a public hearing, determine if the future annual disbursements are less than the
1035 corresponding future minimum required assets from projections provided by the actuary.

1036 (vi) At the end of each fiscal year the minimum approximate assets in the Uninsured
1037 Employers' Fund shall be \$2,000,000, which amount shall be adjusted each year beginning in
1038 1990 by multiplying by the ratio that the total workers' compensation premium income for the
1039 preceding calendar year bears to the total workers' compensation premium income for the
1040 calendar year 1988.

1041 (e) A premium assessment that is to be transferred into the General Fund may be
1042 collected on premiums received from Utah public agencies.

1043 (3) An admitted insurer writing title insurance in this state shall pay to the commission,
1044 on or before March 31 in each year, a tax of .45% of the total premium received by either the
1045 insurer or by its agents during the preceding calendar year from title insurance concerning
1046 property located in this state. In calculating this tax, "premium" includes the charges made to
1047 an insured under or to an applicant for a policy or contract of title insurance for:

1048 (a) the assumption by the title insurer of the risks assumed by the issuance of the policy
1049 or contract of title insurance; and

1050 (b) abstracting title, title searching, examining title, or determining the insurability of

1051 title, and every other activity, exclusive of escrow, settlement, or closing charges, whether
1052 denominated premium or otherwise, made by a title insurer, an agent of a title insurer, a title
1053 insurance producer, or any of them.

1054 (4) Beginning July 1, 1986, a former county mutual and a former mutual benefit
1055 association shall pay the premium tax or assessment due under this chapter. Premiums
1056 received after July 1, 1986, shall be considered in determining the tax or assessment.

1057 (5) The following insurers are not subject to the premium tax on health care insurance
1058 that would otherwise be applicable under Subsection (1):

1059 (a) an insurer licensed under Title 31A, Chapter 5, Domestic Stock and Mutual
1060 Insurance Corporations;

1061 (b) an insurer licensed under Title 31A, Chapter 7, Nonprofit Health Service Insurance
1062 Corporations;

1063 (c) an insurer licensed under Title 31A, Chapter 8, Health Maintenance Organizations
1064 and Limited Health Plans;

1065 (d) an insurer licensed under Title 31A, Chapter 9, Insurance Fraternal;

1066 (e) an insurer licensed under Title 31A, Chapter 11, Motor Clubs;

1067 (f) an insurer licensed under Title 31A, Chapter 13, Employee Welfare Funds and
1068 Plans; and

1069 (g) an insurer licensed under Title 31A, Chapter 14, Foreign Insurers.

1070 (6) An insurer issuing multiple policies to an insured may not artificially allocate the
1071 premiums among the policies for purposes of reducing the aggregate premium tax or
1072 assessment applicable to the policies.

1073 (7) The retaliatory provisions of Title 31A, Chapter 3, Department Funding, Fees, and
1074 Taxes, apply to the tax or assessment imposed under this chapter.

1075 Section 17. Section **59-10-1002.1** is amended to read:

1076 **59-10-1002.1. Removal of tax credit from tax return and prohibition on claiming**
1077 **or carrying forward a tax credit -- Conditions for removal and prohibition on claiming or**
1078 **carrying forward a tax credit -- Commission publishing requirements.**

1079 (1) As used in this section, "tax return" means a tax return filed in accordance with this
1080 chapter.

1081 (2) Except as provided in Subsection (4), beginning two taxable years after the

1082 requirements of Subsection (3) are met:

1083 (a) the commission shall remove a tax credit allowed under this part from each tax
1084 return on which the tax credit appears; and

1085 (b) a claimant, estate, or trust filing a tax return may not claim or carry forward the tax
1086 credit.

1087 (3) Except as provided in Subsection (4), the commission shall remove a tax credit
1088 allowed under this part from a tax return and a claimant, estate, or trust filing a tax return may
1089 not claim or carry forward the tax credit as provided in Subsection (2) if:

1090 (a) the total amount of the tax credit claimed or carried forward by all claimants,
1091 estates, or trusts filing tax returns is less than \$10,000 per year for three consecutive taxable
1092 years beginning on or after January 1, 2002; and

1093 (b) less than 10 claimants, estates, and trusts per year for the three consecutive taxable
1094 years described in Subsection (3)(a), file a tax return claiming or carrying forward the tax
1095 credit.

1096 (4) This section does not apply to a tax credit under Section [59-10-1027](#).

1097 (5) The commission shall, on or before the November interim meeting of the year after
1098 the taxable year in which the requirements of Subsection (3) are met, report to the Revenue and
1099 Taxation Interim Committee by electronic means that in accordance with this section:

1100 (a) the commission is required to remove a tax credit from each tax return on which the
1101 tax credit appears; and

1102 (b) a claimant, estate, or trust filing a tax return may not claim or carry forward the tax
1103 credit.

1104 (6) (a) Within a 30-day period after making the report required by Subsection (5), the
1105 commission shall publish a list in accordance with Subsection (6)(b) stating each tax credit that
1106 the commission will remove from a return on which the tax credit appears.

1107 (b) The list shall:

1108 (i) be published on:

1109 (A) the commission's website; and

1110 (B) the public legal notice website in accordance with Section [45-1-101](#);

1111 (ii) include a statement that:

1112 (A) the commission is required to remove the tax credit from each return on which the

- 1113 tax credit appears; and
- 1114 (B) the tax credit may not be claimed or carried forward on a return;
- 1115 (iii) state the taxable year for which the removal described in Subsection (6)(a) takes
- 1116 effect; and
- 1117 (iv) remain available for viewing and searching until the commission publishes a new
- 1118 list in accordance with this Subsection (6).
- 1119 Section 18. Section **59-10-1010** is amended to read:
- 1120 **59-10-1010. Utah low-income housing tax credit.**
- 1121 (1) As used in this section:
- 1122 (a) "Allocation certificate" means:
- 1123 (i) the certificate prescribed by the commission and issued by the Utah Housing
- 1124 Corporation to each claimant, estate, or trust that specifies the percentage of the annual federal
- 1125 low-income housing credit that each claimant, estate, or trust may take as an annual tax credit
- 1126 against a tax imposed by this chapter; or
- 1127 (ii) a copy of the allocation certificate that the housing sponsor provides to the
- 1128 claimant, estate, or trust.
- 1129 (b) "Building" means a qualified low-income building as defined in Section 42(c),
- 1130 Internal Revenue Code.
- 1131 (c) "Federal low-income housing credit" means the low-income housing credit under
- 1132 Section 42, Internal Revenue Code.
- 1133 (d) "Housing sponsor" means a corporation in the case of a C corporation, a partnership
- 1134 in the case of a partnership, a corporation in the case of an S corporation, or a limited liability
- 1135 company in the case of a limited liability company.
- 1136 (e) "Qualified allocation plan" means the qualified allocation plan adopted by the Utah
- 1137 Housing Corporation pursuant to Section 42(m), Internal Revenue Code.
- 1138 (f) "Special low-income housing tax credit certificate" means a certificate:
- 1139 (i) prescribed by the commission;
- 1140 (ii) that a housing sponsor issues to a claimant, estate, or trust for a taxable year; and
- 1141 (iii) that specifies the amount of a tax credit a claimant, estate, or trust may claim under
- 1142 this section if the claimant, estate, or trust meets the requirements of this section.
- 1143 (2) (a) For taxable years beginning on or after January 1, 1995, there is allowed a

1144 nonrefundable tax credit against taxes otherwise due under this chapter for a claimant, estate,
1145 or trust issued an allocation certificate.

1146 (b) The tax credit shall be in an amount equal to the greater of the amount of:

1147 (i) federal low-income housing credit to which the claimant, estate, or trust is allowed
1148 during that year multiplied by the percentage specified in an allocation certificate issued by the
1149 Utah Housing Corporation; or

1150 (ii) tax credit specified in the special low-income housing tax credit certificate that the
1151 housing sponsor issues to the claimant, estate, or trust as provided in Subsection (2)(c).

1152 (c) For purposes of Subsection (2)(b)(ii), the tax credit is equal to the product of:

1153 (i) the total amount of low-income housing tax credit under this section that:

1154 (A) a housing sponsor is allowed for a building; and

1155 (B) all of the claimants, estates, and trusts may claim with respect to the building if the
1156 claimants, estates, and trusts meet the requirements of this section; and

1157 (ii) the percentage of tax credit a claimant, estate, or trust may claim:

1158 (A) under this section if the claimant, estate, or trust meets the requirements of this
1159 section; and

1160 (B) as provided in the agreement between the claimant, estate, or trust and the housing
1161 sponsor.

1162 (d) (i) For the calendar year beginning on January 1, 1995, through the calendar year
1163 beginning on January 1, 2015, the aggregate annual tax credit that the Utah Housing
1164 Corporation may allocate for the credit period described in Section 42(f), Internal Revenue
1165 Code, pursuant to this section and Section 59-7-607 is an amount equal to the product of:

1166 (A) 12.5 cents; and

1167 (B) the population of Utah.

1168 (ii) For purposes of this section, the population of Utah shall be determined in
1169 accordance with Section 146(j), Internal Revenue Code.

1170 (3) (a) By October 1, 1994, the Utah Housing Corporation shall determine criteria and
1171 procedures for allocating the tax credit under this section and Section 59-7-607 and incorporate
1172 the criteria and procedures into the Utah Housing Corporation's qualified allocation plan.

1173 (b) The Utah Housing Corporation shall create the criteria under Subsection (3)(a)
1174 based on:

1175 (i) the number of affordable housing units to be created in Utah for low and moderate
1176 income persons in the residential housing development of which the building is a part;

1177 (ii) the level of area median income being served by the development;

1178 (iii) the need for the tax credit for the economic feasibility of the development; and

1179 (iv) the extended period for which the development commits to remain as affordable
1180 housing.

1181 (4) (a) The following may apply to the Utah Housing Corporation for a tax credit under
1182 this section:

1183 (i) any housing sponsor that is a claimant, estate, or trust if that housing sponsor has
1184 received an allocation of the federal low-income housing credit; or

1185 (ii) any applicant for an allocation of the federal low-income housing credit if that
1186 applicant is a claimant, estate, or trust.

1187 (b) The Utah Housing Corporation may not require fees for applications of the tax
1188 credit under this section in addition to those fees required for applications for the federal
1189 low-income housing credit.

1190 (5) (a) The Utah Housing Corporation shall determine the amount of the tax credit to
1191 allocate to a qualifying housing sponsor in accordance with the qualified allocation plan of the
1192 Utah Housing Corporation.

1193 (b) (i) The Utah Housing Corporation shall allocate the tax credit to housing sponsors
1194 by issuing an allocation certificate to qualifying housing sponsors.

1195 (ii) The allocation certificate under Subsection (5)(b)(i) shall specify the allowed
1196 percentage of the federal low-income housing credit as determined by the Utah Housing
1197 Corporation.

1198 (c) The percentage specified in an allocation certificate may not exceed 100% of the
1199 federal low-income housing credit.

1200 (6) A housing sponsor shall provide a copy of the allocation certificate to each
1201 claimant, estate, or trust that is issued a special low-income housing tax credit certificate.

1202 (7) (a) A housing sponsor shall provide to the commission a list of:

1203 (i) the claimants, estates, and trusts issued a special low-income housing tax credit
1204 certificate; and

1205 (ii) for each claimant, estate, or trust described in Subsection (7)(a)(i), the amount of

1206 tax credit listed on the special low-income housing tax credit certificate.

1207 (b) A housing sponsor shall provide the list required by Subsection (7)(a):

1208 (i) to the commission;

1209 (ii) on a form provided by the commission; and

1210 (iii) with the housing sponsor's tax return for each taxable year for which the housing
1211 sponsor issues a special low-income housing tax credit certificate described in this Subsection
1212 (7).

1213 (8) (a) All elections made by the claimant, estate, or trust pursuant to Section 42,
1214 Internal Revenue Code, shall apply to this section.

1215 (b) (i) If a claimant, estate, or trust is required to recapture a portion of any federal
1216 low-income housing credit, the claimant, estate, or trust shall also be required to recapture a
1217 portion of any state tax credits authorized by this section.

1218 (ii) The state recapture amount shall be equal to the percentage of the state tax credit
1219 that equals the proportion the federal recapture amount bears to the original federal low-income
1220 housing credit amount subject to recapture.

1221 (9) (a) Any tax credits returned to the Utah Housing Corporation in any year may be
1222 reallocated within the same time period as provided in Section 42, Internal Revenue Code.

1223 (b) Tax credits that are unallocated by the Utah Housing Corporation in any year may
1224 be carried over for allocation in the subsequent year.

1225 (10) (a) Amounts otherwise qualifying for the tax credit, but not allowable because the
1226 tax credit exceeds the tax, may be carried back three years or may be carried forward five years
1227 as a tax credit.

1228 (b) Carryover tax credits under Subsection (10)(a) shall be applied against the tax:

1229 (i) before the application of the tax credits earned in the current year; and

1230 (ii) on a first-earned first-used basis.

1231 (11) Any tax credit taken in this section may be subject to an annual audit by the
1232 commission.

1233 (12) The Utah Housing Corporation shall annually provide an [~~annual~~] electronic
1234 report to the Revenue and Taxation Interim Committee which shall include at least:

1235 (a) the purpose and effectiveness of the tax credits; and

1236 (b) the benefits of the tax credits to the state.

1237 (13) The commission may, in consultation with the Utah Housing Corporation,
1238 promulgate rules to implement this section.

1239 Section 19. Section **59-10-1012** is amended to read:

1240 **59-10-1012. Tax credits for research activities conducted in the state -- Carry**
1241 **forward -- Commission to report modification or repeal of certain federal provisions --**
1242 **Revenue and Taxation Interim Committee study.**

1243 (1) (a) A claimant, estate, or trust meeting the requirements of this section may claim
1244 the following nonrefundable tax credits:

1245 (i) a research tax credit of 5% of the claimant's, estate's, or trust's qualified research
1246 expenses for the current taxable year that exceed the base amount provided for under
1247 Subsection (3);

1248 (ii) a tax credit for a payment to a qualified organization for basic research as provided
1249 in Section 41(e), Internal Revenue Code of 5% for the current taxable year that exceed the base
1250 amount provided for under Subsection (3); and

1251 (iii) a tax credit equal to 7.5% of the claimant's, estate's, or trust's qualified research
1252 expenses for the current taxable year.

1253 (b) Subject to Subsection (4), a claimant, estate, or trust may claim a tax credit under:

1254 (i) Subsection (1)(a)(i) or (1)(a)(iii), for the taxable year for which the claimant, estate,
1255 or trust incurs the qualified research expenses; or

1256 (ii) Subsection (1)(a)(ii), for the taxable year for which the claimant, estate, or trust
1257 makes the payment to the qualified organization.

1258 (c) The tax credits provided for in this section do not include the alternative
1259 incremental credit provided for in Section 41(c)(4), Internal Revenue Code.

1260 (2) Except as specifically provided for in this section:

1261 (a) the tax credits authorized under Subsection (1) shall be calculated as provided in
1262 Section 41, Internal Revenue Code; and

1263 (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating
1264 the tax credits authorized under Subsection (1).

1265 (3) For purposes of this section:

1266 (a) the base amount shall be calculated as provided in Sections 41(c) and 41(h),
1267 Internal Revenue Code, except that:

1268 (i) the base amount does not include the calculation of the alternative incremental
1269 credit provided for in Section 41(c)(4), Internal Revenue Code;

1270 (ii) a claimant's, estate's, or trust's gross receipts include only those gross receipts
1271 attributable to sources within this state as provided in Section 59-10-118; and

1272 (iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating
1273 the base amount, a claimant, estate, or trust:

1274 (A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B),
1275 Internal Revenue Code, regardless of whether the claimant, estate, or trust meets the
1276 requirements of Section 41(c)(3)(B)(i)(I) or (II), Internal Revenue Code; and

1277 (B) may not revoke an election to be treated as a start-up company under Subsection
1278 (3)(a)(iii)(A);

1279 (b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except
1280 that the term includes only basic research conducted in this state;

1281 (c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except
1282 that the term includes only qualified research conducted in this state;

1283 (d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal
1284 Revenue Code, except that the term includes only:

1285 (i) in-house research expenses incurred in this state; and

1286 (ii) contract research expenses incurred in this state; and

1287 (e) a tax credit provided for in this section is not terminated if a credit terminates under
1288 Section 41, Internal Revenue Code.

1289 (4) (a) If the amount of a tax credit claimed by a claimant, estate, or trust under
1290 Subsection (1)(a)(i) or (ii) exceeds the claimant's, estate's, or trust's tax liability under this
1291 chapter for a taxable year, the amount of the tax credit exceeding the tax liability:

1292 (i) may be carried forward for a period that does not exceed the next 14 taxable years;
1293 and

1294 (ii) may not be carried back to a taxable year preceding the current taxable year.

1295 (b) A claimant, estate, or trust may not carry forward the tax credit allowed by
1296 Subsection (1)(a)(iii).

1297 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1298 commission may make rules for purposes of this section prescribing a certification process for

1299 qualified organizations to ensure that amounts paid to the qualified organizations are for basic
1300 research conducted in this state.

1301 (6) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the
1302 commission shall report the modification or repeal by electronic means to the Revenue and
1303 Taxation Interim Committee within 60 days after the day on which the modification or repeal
1304 becomes effective.

1305 (7) (a) The Revenue and Taxation Interim Committee shall review the tax credits
1306 provided for in this section on or before October 1 of the year after the year in which the
1307 commission reports under Subsection (6) a modification or repeal of a provision of Section 41,
1308 Internal Revenue Code.

1309 (b) Notwithstanding Subsection (7)(a), the Revenue and Taxation Interim Committee is
1310 not required to review the tax credits provided for in this section if the only modification to a
1311 provision of Section 41, Internal Revenue Code, is the extension of the termination date
1312 provided for in Section 41(h), Internal Revenue Code.

1313 (c) The Revenue and Taxation Interim Committee shall address in a review under this
1314 section:

1315 (i) the cost of the tax credits provided for in this section;

1316 (ii) the purpose and effectiveness of the tax credits provided for in this section;

1317 (iii) whether the tax credits provided for in this section benefit the state; and

1318 (iv) whether the tax credits provided for in this section should be:

1319 (A) continued;

1320 (B) modified; or

1321 (C) repealed.

1322 (d) If the Revenue and Taxation Interim Committee reviews the tax credits provided
1323 for in this section, the committee shall report its findings to the Legislative Management
1324 Committee on or before the November interim meeting of the year in which the Revenue and
1325 Taxation Interim Committee reviews the tax credits.

1326 Section 20. Section **59-10-1013** is amended to read:

1327 **59-10-1013. Tax credits for machinery, equipment, or both primarily used for**
1328 **conducting qualified research or basic research -- Carry forward -- Commission to report**
1329 **modification or repeal of certain federal provisions -- Revenue and Taxation Interim**

1330 **Committee study.**

1331 (1) As used in this section:

1332 (a) "Basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except
1333 that the term includes only basic research conducted in this state.

1334 (b) "Equipment" includes:

1335 (i) a computer;

1336 (ii) computer equipment; and

1337 (iii) computer software.

1338 (c) "Purchase price":

1339 (i) includes the cost of installing an item of machinery or equipment; and

1340 (ii) does not include a tax imposed under Chapter 12, Sales and Use Tax Act, on an
1341 item of machinery or equipment.

1342 (d) "Qualified organization" is as defined in Section 41(e)(6), Internal Revenue Code.

1343 (e) "Qualified research" is as defined in Section 41(d), Internal Revenue Code, except
1344 that the term includes only qualified research conducted in this state.

1345 (2) (a) Except as provided in Subsection (2)(c), for taxable years beginning on or after
1346 January 1, 1999, but beginning before December 31, 2010, a claimant, estate, or trust meeting
1347 the requirements of this section may claim the following nonrefundable tax credits:

1348 (i) a tax credit of 6% of the purchase price of machinery, equipment, or both:

1349 (A) purchased by the claimant, estate, or trust during the taxable year;

1350 (B) that is subject to a tax under Chapter 12, Sales and Use Tax Act; and

1351 (C) that is primarily used to conduct qualified research in this state; and

1352 (ii) a tax credit of 6% of the purchase price paid by the claimant, estate, or trust for
1353 machinery, equipment, or both:

1354 (A) purchased by the claimant, estate, or trust during the taxable year;

1355 (B) that is subject to a tax under Chapter 12, Sales and Use Tax Act;

1356 (C) that is donated to a qualified organization; and

1357 (D) that is primarily used to conduct basic research in this state.

1358 (b) Subject to Subsection (4), a claimant, estate, or trust may claim a tax credit under
1359 this section for the taxable year for which the claimant, estate, or trust purchases the machinery,
1360 equipment, or both.

1361 (c) If a claimant, estate, or trust qualifies for a tax credit under Subsection (2)(a) for a
1362 purchase of machinery, equipment, or both, the claimant, estate, or trust may not claim the tax
1363 credit or carry the tax credit forward if the machinery, equipment, or both, is primarily used to
1364 conduct qualified research in the state for a time period that is less than 12 consecutive months.

1365 (3) Notwithstanding Section 41(h), Internal Revenue Code, a tax credit provided for in
1366 this section is not terminated if a credit terminates under Section 41, Internal Revenue Code.

1367 (4) If the amount of a tax credit claimed by a claimant, estate, or trust under this section
1368 exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the
1369 amount of the tax credit exceeding the tax liability:

1370 (a) may be carried forward for a period that does not exceed the next 14 taxable years;
1371 and

1372 (b) may not be carried back to a taxable year preceding the current taxable year.

1373 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1374 commission may make rules for purposes of this section prescribing a certification process for
1375 qualified organizations to ensure that machinery, equipment, or both provided to the qualified
1376 organization is to be primarily used to conduct basic research in this state.

1377 (6) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the
1378 commission shall report the modification or repeal by electronic means to the Revenue and
1379 Taxation Interim Committee within 60 days after the day on which the modification or repeal
1380 becomes effective.

1381 (7) (a) The Revenue and Taxation Interim Committee shall review the tax credits
1382 provided for in this section on or before October 1 of the year after the year in which the
1383 commission reports under Subsection (6) a modification or repeal of a provision of Section 41,
1384 Internal Revenue Code.

1385 (b) Notwithstanding Subsection (7)(a), the Revenue and Taxation Interim Committee is
1386 not required to review the tax credits provided for in this section if the only modification to a
1387 provision of Section 41, Internal Revenue Code, is the extension of the termination date
1388 provided for in Section 41(h), Internal Revenue Code.

1389 (c) The Revenue and Taxation Interim Committee shall address in a review under this
1390 section the:

1391 (i) cost of the tax credits provided for in this section;

- 1392 (ii) purpose and effectiveness of the tax credits provided for in this section;
1393 (iii) whether the tax credits provided for in this section benefit the state; and
1394 (iv) whether the tax credits provided for in this section should be:
1395 (A) continued;
1396 (B) modified; or
1397 (C) repealed.
1398 (d) If the Revenue and Taxation Interim Committee reviews the tax credits provided
1399 for in this section, the committee shall report its findings to the Legislative Management
1400 Committee on or before the November interim meeting of the year in which the Revenue and
1401 Taxation Interim Committee reviews the tax credits.

1402 Section 21. Section **59-10-1029** is amended to read:

1403 **59-10-1029. Nonrefundable alternative energy development tax credit.**

1404 (1) As used in this section:

1405 (a) "Alternative energy entity" is as defined in Section [63M-4-502](#).

1406 (b) "Alternative energy project" is as defined in Section [63M-4-502](#).

1407 (c) "Office" is as defined in Section [63M-4-401](#).

1408 (2) Subject to the other provisions of this section, an alternative energy entity may
1409 claim a nonrefundable tax credit for alternative energy development as provided in this section.

1410 (3) The tax credit under this section is the amount listed as the tax credit amount on a
1411 tax credit certificate that the office issues under Title 63M, Chapter 4, Part 5, Alternative
1412 Energy Development Tax Credit Act, to the alternative energy entity for the taxable year.

1413 (4) An alternative energy entity may carry forward a tax credit under this section for a
1414 period that does not exceed the next seven taxable years if:

1415 (a) the alternative energy entity is allowed to claim a tax credit under this section for a
1416 taxable year; and

1417 (b) the amount of the tax credit exceeds the alternative energy entity's tax liability
1418 under this chapter for that taxable year.

1419 (5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the
1420 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
1421 make recommendations to the Legislative Management Committee concerning whether the tax
1422 credit should be continued, modified, or repealed.

1423 (b) For purposes of the study required by this Subsection (5), the office shall provide
1424 the following information to the Revenue and Taxation Interim Committee by electronic
1425 means:

1426 (i) the amount of tax credit that the office grants to each alternative energy entity for
1427 each taxable year;

1428 (ii) the new state revenues generated by each alternative energy project;

1429 (iii) the information contained in the office's latest report to the Legislature under
1430 Section [63M-4-505](#); and

1431 (iv) any other information that the Revenue and Taxation Interim Committee requests.

1432 (c) The Revenue and Taxation Interim Committee shall ensure that its
1433 recommendations under Subsection (5)(a) include an evaluation of:

1434 (i) the cost of the tax credit to the state;

1435 (ii) the purpose and effectiveness of the tax credit; and

1436 (iii) the extent to which the state benefits from the tax credit.

1437 Section 22. Section **59-10-1030** is amended to read:

1438 **59-10-1030. Nonrefundable alternative energy manufacturing tax credit.**

1439 (1) As used in this section:

1440 (a) "Alternative energy entity" [~~is as~~] means the same as that term is defined in Section
1441 [63N-2-702](#).

1442 (b) "Alternative energy manufacturing project" [~~is as~~] means the same as that term is
1443 defined in Section [63N-2-702](#).

1444 (c) "New incremental job with the state" means the same as that term is defined in
1445 Section [63N-2-702](#).

1446 (d) "New state revenues" means the same as that term is defined in Section [63N-2-702](#).

1447 [~~(e)~~] (e) "Office" means the Governor's Office of Economic Development.

1448 (2) Subject to the other provisions of this section, an alternative energy entity may
1449 claim a nonrefundable tax credit for alternative energy manufacturing as provided in this
1450 section.

1451 (3) The tax credit under this section is the amount listed as the tax credit amount on a
1452 tax credit certificate that the office issues under Title 63N, Chapter 2, Part 7, Alternative
1453 Energy Manufacturing Tax Credit Act, to the alternative energy entity for the taxable year.

1454 (4) An alternative energy entity may carry forward a tax credit under this section for a
1455 period that does not exceed the next seven taxable years if:

1456 (a) the alternative energy entity is allowed to claim a tax credit under this section for a
1457 taxable year; and

1458 (b) the amount of the tax credit exceeds the alternative energy entity's tax liability
1459 under this chapter for that taxable year.

1460 (5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the
1461 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
1462 make recommendations to the Legislative Management Committee concerning whether the tax
1463 credit should be continued, modified, or repealed.

1464 (b) For purposes of the study required by this Subsection (5), the office shall provide
1465 the following information to the Revenue and Taxation Interim Committee by electronic
1466 means:

1467 (i) the amount of tax credit that the office grants to each alternative energy entity for
1468 each taxable year;

1469 (ii) the new state revenues generated by each alternative energy manufacturing project;

1470 (iii) estimates for each of the next five calendar years of the following:

1471 (A) the amount of tax credits that the office will grant;

1472 (B) the amount of new state revenues that will be generated; and

1473 (C) the number of new incremental jobs within the state that will be generated;

1474 ~~[(iii)]~~ (iv) the information contained in the office's latest report to the Legislature under
1475 Section 63N-2-705; and

1476 ~~[(iv)]~~ (v) any other information that the Revenue and Taxation Interim Committee
1477 requests.

1478 (c) The Revenue and Taxation Interim Committee shall ensure that its
1479 recommendations under Subsection (5)(a) include an evaluation of:

1480 (i) the cost of the tax credit to the state;

1481 (ii) the purpose and effectiveness of the tax credit; and

1482 (iii) the extent to which the state benefits from the tax credit.

1483 Section 23. Section **59-10-1107** is amended to read:

1484 **59-10-1107. Refundable economic development tax credit.**

1485 (1) As used in this section:

1486 (a) "Business entity" means a claimant, estate, or trust that meets the definition of
1487 "business entity" as defined in Section [63N-2-103](#).

1488 (b) "New incremental jobs" means the same as that term is defined in Section
1489 [63N-2-103](#).

1490 (c) "New state revenues" means the same as that term is defined in Section [63N-2-103](#).

1491 [~~(b)~~] (d) "Office" means the Governor's Office of Economic Development.

1492 (2) Subject to the other provisions of this section, a business entity may claim a
1493 refundable tax credit for economic development.

1494 (3) The tax credit under this section is the amount listed as the tax credit amount on the
1495 tax credit certificate that the office issues to the business entity for the taxable year.

1496 (4) (a) In accordance with any rules prescribed by the commission under Subsection
1497 (4)(b), the commission shall make a refund to a business entity that claims a tax credit under
1498 this section if the amount of the tax credit exceeds the business entity's tax liability for a
1499 taxable year.

1500 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1501 commission may make rules providing procedures for making a refund to a business entity as
1502 required by Subsection (4)(a).

1503 (5) (a) On or before October 1, 2013, and every five years after October 1, 2013, the
1504 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
1505 make recommendations to the Legislative Management Committee concerning whether the tax
1506 credit should be continued, modified, or repealed.

1507 (b) For purposes of the study required by this Subsection (5), the office shall provide
1508 the following information to the Revenue and Taxation Interim Committee by electronic
1509 means:

1510 (i) the amount of tax credit the office grants to each taxpayer for each calendar year;

1511 (ii) the criteria the office uses in granting a tax credit;

1512 (iii) the new state revenues generated by each taxpayer for each calendar year;

1513 (iv) estimates for each of the next five calendar years of the following:

1514 (A) the amount of tax credits that the office will grant;

1515 (B) the amount of new state revenues that will be generated; and

- 1516 (C) the number of new incremental jobs within the state that will be generated;
1517 [~~(iv)~~] (v) the information contained in the office's latest report to the Legislature under
1518 Section 63N-2-106; and
1519 [~~(v)~~] (vi) any other information that the Revenue and Taxation Interim Committee
1520 requests.
- 1521 (c) The Revenue and Taxation Interim Committee shall ensure that its
1522 recommendations under Subsection (5)(a) include an evaluation of:
- 1523 (i) the cost of the tax credit to the state;
1524 (ii) the purpose and effectiveness of the tax credit; and
1525 (iii) the extent to which the state benefits from the tax credit.
- 1526 Section 24. Section 59-10-1108 is amended to read:
1527 **59-10-1108. Refundable motion picture tax credit.**
- 1528 (1) As used in this section:
- 1529 (a) "Motion picture company" means a claimant, estate, or trust that meets the
1530 definition of a motion picture company under Section 63N-8-102.
1531 (b) "Office" means the Governor's Office of Economic Development.
1532 (c) "State-approved production" has the same meaning as defined in Section
1533 63N-8-102.
- 1534 (2) For taxable years beginning on or after January 1, 2009, a motion picture company
1535 may claim a refundable tax credit for a state-approved production.
- 1536 (3) The tax credit under this section is the amount listed as the tax credit amount on the
1537 tax credit certificate that the office issues to a motion picture company under Section
1538 63N-8-103 for the taxable year.
- 1539 (4) (a) In accordance with any rules prescribed by the commission under Subsection
1540 (4)(b), the commission shall make a refund to a motion picture company that claims a tax
1541 credit under this section if the amount of the tax credit exceeds the motion picture company's
1542 tax liability for the taxable year.
- 1543 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1544 commission may make rules providing procedures for making a refund to a motion picture
1545 company as required by Subsection (4)(a).
- 1546 (5) (a) On or before October 1, 2014, and every five years after October 1, 2014, the

1547 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
1548 make recommendations to the Legislative Management Committee concerning whether the tax
1549 credit should be continued, modified, or repealed.

1550 (b) For purposes of the study required by this Subsection (5), the office shall provide
1551 the following information to the Revenue and Taxation Interim Committee by electronic
1552 means:

1553 (i) (A) the amount of tax credit the office grants to each taxpayer for each calendar
1554 year; and

1555 (B) estimates of the amount of tax credit that the office will grant for each of the next
1556 five calendar years;

1557 (ii) the criteria the office uses in granting a tax credit;

1558 (iii) the dollars left in the state, as defined in Section 63N-8-102, by each motion
1559 picture company for each calendar year;

1560 (iv) the information contained in the office's latest report to the Legislature under
1561 Section 63N-8-105; and

1562 (v) any other information requested by the Revenue and Taxation Interim Committee.

1563 (c) The Revenue and Taxation Interim Committee shall ensure that its
1564 recommendations under Subsection (5)(a) include an evaluation of:

1565 (i) the cost of the tax credit to the state;

1566 (ii) the effectiveness of the tax credit; and

1567 (iii) the extent to which the state benefits from the tax credit.

1568 Section 25. Section 59-10-1304 is amended to read:

1569 **59-10-1304. Removal of designation and prohibitions on collection for certain**
1570 **contributions on income tax return -- Conditions for removal and prohibitions on**
1571 **collection -- Commission publication requirements.**

1572 (1) (a) If a contribution or combination of contributions described in Subsection (1)(b)
1573 generate less than \$30,000 per year for three consecutive years, the commission shall remove
1574 the designation for the contribution from the individual income tax return and may not collect
1575 the contribution from a resident or nonresident individual beginning two taxable years after the
1576 three-year period for which the contribution generates less than \$30,000 per year.

1577 (b) The following contributions apply to Subsection (1)(a):

- 1578 (i) the contribution provided for in Section 59-10-1306;
- 1579 (ii) the sum of the contributions provided for in Subsection 59-10-1307(1);
- 1580 (iii) the contribution provided for in Section 59-10-1308;
- 1581 (iv) the contribution provided for in Section 59-10-1310;
- 1582 (v) the contribution provided for in Section 59-10-1315;
- 1583 (vi) the sum of the contributions provided for in:
- 1584 (A) Section 59-10-1316; and
- 1585 (B) Section 59-10-1317; or
- 1586 (vii) the contribution provided for in Section 59-10-1318.

1587 (2) If the commission removes the designation for a contribution under Subsection (1),
 1588 the commission shall report to the Revenue and Taxation Interim Committee by electronic
 1589 means that the commission removed the designation on or before the November interim
 1590 meeting of the year in which the commission determines to remove the designation.

1591 (3) (a) Within a 30-day period after making the report required by Subsection (2), the
 1592 commission shall publish a list in accordance with Subsection (3)(b) stating each contribution
 1593 that the commission will remove from the individual income tax return.

- 1594 (b) The list shall:
- 1595 (i) be published on:
- 1596 (A) the commission's website; and
- 1597 (B) the public legal notice website in accordance with Section 45-1-101;
- 1598 (ii) include a statement that the commission:
- 1599 (A) is required to remove the contribution from the individual income tax return; and
- 1600 (B) may not collect the contribution;
- 1601 (iii) state the taxable year for which the removal described in Subsection (3)(a) takes
 1602 effect; and
- 1603 (iv) remain available for viewing and searching until the commission publishes a new
 1604 list in accordance with this Subsection (3).

1605 Section 26. Section 59-12-103.1 is amended to read:

1606 **59-12-103.1. Action by Supreme Court of the United States authorizing or action**
 1607 **by Congress permitting a state to require certain sellers to collect a sales or use tax --**
 1608 **Collection of tax by commission -- Commission report to Revenue and Taxation Interim**

1609 **Committee -- Revenue and Taxation Interim Committee study -- Division of Finance**
1610 **requirement to make certain deposits.**

1611 (1) Except as provided in Section 59-12-107.1, a seller shall remit a tax to the
1612 commission as provided in Section 59-12-107 if:

1613 (a) the Supreme Court of the United States issues a decision authorizing a state to
1614 require the following sellers to collect a sales or use tax:

1615 (i) a seller that does not meet one or more of the criteria described in Subsection
1616 59-12-107(2)(a); or

1617 (ii) a seller that is not a seller required to pay or collect and remit sales and use taxes
1618 under Subsection 59-12-107(2)(b); or

1619 (b) Congress permits the state to require the following sellers to collect a sales or use
1620 tax:

1621 (i) a seller that does not meet one or more of the criteria described in Subsection
1622 59-12-107(2)(a); or

1623 (ii) a seller that is not a seller required to pay or collect and remit sales and use taxes
1624 under Subsection 59-12-107(2)(b).

1625 (2) The commission shall:

1626 (a) collect the tax described in Subsection (1) from the seller:

1627 (i) to the extent:

1628 (A) authorized by the Supreme Court of the United States; or

1629 (B) permitted by Congress; and

1630 (ii) beginning on the first day of a calendar quarter as prescribed by the Revenue and
1631 Taxation Interim Committee; and

1632 (b) make a report to the Revenue and Taxation Interim Committee by electronic
1633 means:

1634 (i) regarding the actions taken by:

1635 (A) the Supreme Court of the United States; or

1636 (B) Congress; and

1637 (ii) (A) stating the amount of state revenue collected at the time of the report, if any;

1638 and

1639 (B) estimating the state sales and use tax rate reduction that would offset the amount of

1640 state revenue estimated to be collected for the current fiscal year and the next fiscal year; and
 1641 ~~[(iii)(A) at]~~ (c) report to the Revenue and Taxation Interim Committee at:
 1642 (i) the Revenue and Taxation Interim Committee meeting immediately following the
 1643 day on which the actions of the Supreme Court of the United States or Congress become
 1644 effective; and
 1645 ~~[(B)]~~ (ii) any other meeting of the Revenue and Taxation Interim Committee as
 1646 requested by the chairs of the committee.

1647 (3) The Revenue and Taxation Interim Committee shall after ~~[hearing]~~ receiving the
 1648 commission's ~~[report]~~ reports under ~~[Subsection]~~ Subsections (2)(b) and (c):

1649 (a) review the actions taken by:

- 1650 (i) the Supreme Court of the United States; or
- 1651 (ii) Congress;

1652 (b) direct the commission regarding the day on which the commission is required to
 1653 collect the tax described in Subsection (1); and

1654 (c) make recommendations to the Legislative Management Committee:

- 1655 (i) regarding whether as a result of the actions of the Supreme Court of the United
 1656 States or Congress any provisions of this chapter should be amended or repealed; and
- 1657 (ii) within a one-year period after the day on which the commission makes a report
 1658 under Subsection (2)~~[(b)]~~(c).

1659 (4) The Division of Finance shall deposit a portion of the revenue collected under this
 1660 section into the Remote Sales Restricted Account as required by Section [59-12-103.2](#).

1661 Section 27. Section **59-12-104** is amended to read:

1662 **59-12-104. Exemptions.**

1663 Exemptions from the taxes imposed by this chapter are as follows:

1664 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
 1665 under Chapter 13, Motor and Special Fuel Tax Act;

1666 (2) subject to Section [59-12-104.6](#), sales to the state, its institutions, and its political
 1667 subdivisions; however, this exemption does not apply to sales of:

1668 (a) construction materials except:

- 1669 (i) construction materials purchased by or on behalf of institutions of the public
 1670 education system as defined in Utah Constitution Article X, Section 2, provided the

1671 construction materials are clearly identified and segregated and installed or converted to real
1672 property which is owned by institutions of the public education system; and
1673 (ii) construction materials purchased by the state, its institutions, or its political
1674 subdivisions which are installed or converted to real property by employees of the state, its
1675 institutions, or its political subdivisions; or
1676 (b) tangible personal property in connection with the construction, operation,
1677 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
1678 providing additional project capacity, as defined in Section 11-13-103;
1679 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
1680 (i) the proceeds of each sale do not exceed \$1; and
1681 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
1682 the cost of the item described in Subsection (3)(b) as goods consumed; and
1683 (b) Subsection (3)(a) applies to:
1684 (i) food and food ingredients; or
1685 (ii) prepared food;
1686 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
1687 (i) alcoholic beverages;
1688 (ii) food and food ingredients; or
1689 (iii) prepared food;
1690 (b) sales of tangible personal property or a product transferred electronically:
1691 (i) to a passenger;
1692 (ii) by a commercial airline carrier; and
1693 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
1694 (c) services related to Subsection (4)(a) or (b);
1695 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
1696 and equipment:
1697 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
1698 North American Industry Classification System of the federal Executive Office of the
1699 President, Office of Management and Budget; and
1700 (II) for:
1701 (Aa) installation in an aircraft, including services relating to the installation of parts or

1702 equipment in the aircraft;

1703 (Bb) renovation of an aircraft; or

1704 (Cc) repair of an aircraft; or

1705 (B) for installation in an aircraft operated by a common carrier in interstate or foreign

1706 commerce; or

1707 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an

1708 aircraft operated by a common carrier in interstate or foreign commerce; and

1709 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,

1710 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a

1711 refund:

1712 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

1713 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

1714 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for

1715 the sale prior to filing for the refund;

1716 (iv) for sales and use taxes paid under this chapter on the sale;

1717 (v) in accordance with Section 59-1-1410; and

1718 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if

1719 the person files for the refund on or before September 30, 2011;

1720 (6) sales of commercials, motion picture films, prerecorded audio program tapes or

1721 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture

1722 exhibitor, distributor, or commercial television or radio broadcaster;

1723 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal

1724 property if the cleaning or washing of the tangible personal property is not assisted cleaning or

1725 washing of tangible personal property;

1726 (b) if a seller that sells at the same business location assisted cleaning or washing of

1727 tangible personal property and cleaning or washing of tangible personal property that is not

1728 assisted cleaning or washing of tangible personal property, the exemption described in

1729 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning

1730 or washing of the tangible personal property; and

1731 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,

1732 Utah Administrative Rulemaking Act, the commission may make rules:

- 1733 (i) governing the circumstances under which sales are at the same business location;
1734 and
- 1735 (ii) establishing the procedures and requirements for a seller to separately account for
1736 sales of assisted cleaning or washing of tangible personal property;
- 1737 (8) sales made to or by religious or charitable institutions in the conduct of their regular
1738 religious or charitable functions and activities, if the requirements of Section [59-12-104.1](#) are
1739 fulfilled;
- 1740 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
1741 this state if the vehicle is:
- 1742 (a) not registered in this state; and
- 1743 (b) (i) not used in this state; or
1744 (ii) used in this state:
- 1745 (A) if the vehicle is not used to conduct business, for a time period that does not
1746 exceed the longer of:
- 1747 (I) 30 days in any calendar year; or
1748 (II) the time period necessary to transport the vehicle to the borders of this state; or
1749 (B) if the vehicle is used to conduct business, for the time period necessary to transport
1750 the vehicle to the borders of this state;
- 1751 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
- 1752 (i) the item is intended for human use; and
1753 (ii) (A) a prescription was issued for the item; or
1754 (B) the item was purchased by a hospital or other medical facility; and
- 1755 (b) (i) Subsection (10)(a) applies to:
- 1756 (A) a drug;
1757 (B) a syringe; or
1758 (C) a stoma supply; and
- 1759 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1760 commission may by rule define the terms:
- 1761 (A) "syringe"; or
1762 (B) "stoma supply";
- 1763 (11) purchases or leases exempt under Section [19-12-201](#);

- 1764 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 1765 (i) the following if the item described in Subsection (12)(c) is not available to the
- 1766 general public:
 - 1767 (A) a church; or
 - 1768 (B) a charitable institution;
 - 1769 (ii) an institution of higher education if:
 - 1770 (A) the item described in Subsection (12)(c) is not available to the general public; or
 - 1771 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
 - 1772 offered by the institution of higher education; or
 - 1773 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
 - 1774 (i) a medical facility; or
 - 1775 (ii) a nursing facility; and
 - 1776 (c) Subsections (12)(a) and (b) apply to:
 - 1777 (i) food and food ingredients;
 - 1778 (ii) prepared food; or
 - 1779 (iii) alcoholic beverages;
- 1780 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 1781 or a product transferred electronically by a person:
 - 1782 (i) regardless of the number of transactions involving the sale of that tangible personal
 - 1783 property or product transferred electronically by that person; and
 - 1784 (ii) not regularly engaged in the business of selling that type of tangible personal
 - 1785 property or product transferred electronically;
 - 1786 (b) this Subsection (13) does not apply if:
 - 1787 (i) the sale is one of a series of sales of a character to indicate that the person is
 - 1788 regularly engaged in the business of selling that type of tangible personal property or product
 - 1789 transferred electronically;
 - 1790 (ii) the person holds that person out as regularly engaged in the business of selling that
 - 1791 type of tangible personal property or product transferred electronically;
 - 1792 (iii) the person sells an item of tangible personal property or product transferred
 - 1793 electronically that the person purchased as a sale that is exempt under Subsection (25); or
 - 1794 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of

1795 this state in which case the tax is based upon:

1796 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
1797 sold; or

1798 (B) in the absence of a bill of sale or other written evidence of value, the fair market
1799 value of the vehicle or vessel being sold at the time of the sale as determined by the
1800 commission; and

1801 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1802 commission shall make rules establishing the circumstances under which:

1803 (i) a person is regularly engaged in the business of selling a type of tangible personal
1804 property or product transferred electronically;

1805 (ii) a sale of tangible personal property or a product transferred electronically is one of
1806 a series of sales of a character to indicate that a person is regularly engaged in the business of
1807 selling that type of tangible personal property or product transferred electronically; or

1808 (iii) a person holds that person out as regularly engaged in the business of selling a type
1809 of tangible personal property or product transferred electronically;

1810 (14) (a) amounts paid or charged for a purchase or lease:

1811 (i) by a manufacturing facility located in the state; and

1812 (ii) of machinery, equipment, or normal operating repair or replacement parts if the
1813 machinery, equipment, or normal operating repair or replacement parts have an economic life
1814 of three or more years and are used:

1815 (A) in the manufacturing process to manufacture an item sold as tangible personal
1816 property; or

1817 (B) for a scrap recycler, to process an item sold as tangible personal property;

1818 (b) amounts paid or charged for a purchase or lease:

1819 (i) by an establishment:

1820 (A) described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code
1821 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or
1822 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North
1823 American Industry Classification System of the federal Executive Office of the President,
1824 Office of Management and Budget; and

1825 (B) located in the state; and

1826 (ii) of machinery, equipment, or normal operating repair or replacement parts if the
1827 machinery, equipment, or normal operating repair or replacement parts have an economic life
1828 of three or more years and are used in:

1829 (A) the production process to produce an item sold as tangible personal property;

1830 (B) research and development;

1831 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
1832 produced from mining;

1833 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
1834 mining; or

1835 (E) preventing, controlling, or reducing dust or other pollutants from mining;

1836 (c) amounts paid or charged for a purchase or lease:

1837 (i) by an establishment:

1838 (A) described in NAICS Code 518112, Web Search Portals, of the 2002 North
1839 American Industry Classification System of the federal Executive Office of the President,
1840 Office of Management and Budget; and

1841 (B) located in the state; and

1842 (ii) of machinery, equipment, or normal operating repair or replacement parts if the
1843 machinery, equipment, or normal operating repair or replacement parts:

1844 (A) are used in the operation of the web search portal; and

1845 (B) have an economic life of three or more years; and

1846 (d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,
1847 Utah Administrative Rulemaking Act, the commission:

1848 (i) shall by rule define the term "establishment"; and

1849 (ii) may by rule define what constitutes:

1850 (A) processing an item sold as tangible personal property;

1851 (B) the production process, to produce an item sold as tangible personal property; or

1852 (C) research and development; [~~and~~]

1853 [~~(e) on or before October 1, 2016, and every five years after October 1, 2016, the~~
1854 ~~commission shall:~~]

1855 [~~(i) review the exemptions described in this Subsection (14) and make~~

1856 ~~recommendations to the Revenue and Taxation Interim Committee concerning whether the~~

1857 ~~exemptions should be continued, modified, or repealed; and]~~
1858 ~~[(ii) include in its report:]~~
1859 ~~[(A) an estimate of the cost of the exemptions;]~~
1860 ~~[(B) the purpose and effectiveness of the exemptions; and]~~
1861 ~~[(C) the benefits of the exemptions to the state;]~~
1862 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
1863 (i) tooling;
1864 (ii) special tooling;
1865 (iii) support equipment;
1866 (iv) special test equipment; or
1867 (v) parts used in the repairs or renovations of tooling or equipment described in
1868 Subsections (15)(a)(i) through (iv); and
1869 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
1870 (i) the tooling, equipment, or parts are used or consumed exclusively in the
1871 performance of any aerospace or electronics industry contract with the United States
1872 government or any subcontract under that contract; and
1873 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
1874 title to the tooling, equipment, or parts is vested in the United States government as evidenced
1875 by:
1876 (A) a government identification tag placed on the tooling, equipment, or parts; or
1877 (B) listing on a government-approved property record if placing a government
1878 identification tag on the tooling, equipment, or parts is impractical;
1879 (16) sales of newspapers or newspaper subscriptions;
1880 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
1881 product transferred electronically traded in as full or part payment of the purchase price, except
1882 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
1883 trade-ins are limited to other vehicles only, and the tax is based upon:
1884 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
1885 vehicle being traded in; or
1886 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
1887 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the

1888 commission; and

1889 (b) Subsection (17)(a) does not apply to the following items of tangible personal
1890 property or products transferred electronically traded in as full or part payment of the purchase
1891 price:

- 1892 (i) money;
- 1893 (ii) electricity;
- 1894 (iii) water;
- 1895 (iv) gas; or
- 1896 (v) steam;

1897 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
1898 or a product transferred electronically used or consumed primarily and directly in farming
1899 operations, regardless of whether the tangible personal property or product transferred
1900 electronically:

- 1901 (A) becomes part of real estate; or
- 1902 (B) is installed by a:
 - 1903 (I) farmer;
 - 1904 (II) contractor; or
 - 1905 (III) subcontractor; or
- 1906 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
1907 product transferred electronically if the tangible personal property or product transferred
1908 electronically is exempt under Subsection (18)(a)(i); and

1909 (b) amounts paid or charged for the following are subject to the taxes imposed by this
1910 chapter:

- 1911 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is
1912 incidental to farming:
 - 1913 (I) machinery;
 - 1914 (II) equipment;
 - 1915 (III) materials; or
 - 1916 (IV) supplies; and
- 1917 (B) tangible personal property that is considered to be used in a manner that is
1918 incidental to farming includes:

- 1919 (I) hand tools; or
- 1920 (II) maintenance and janitorial equipment and supplies;
- 1921 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
- 1922 transferred electronically if the tangible personal property or product transferred electronically
- 1923 is used in an activity other than farming; and
- 1924 (B) tangible personal property or a product transferred electronically that is considered
- 1925 to be used in an activity other than farming includes:
- 1926 (I) office equipment and supplies; or
- 1927 (II) equipment and supplies used in:
- 1928 (Aa) the sale or distribution of farm products;
- 1929 (Bb) research; or
- 1930 (Cc) transportation; or
- 1931 (iii) a vehicle required to be registered by the laws of this state during the period
- 1932 ending two years after the date of the vehicle's purchase;
- 1933 (19) sales of hay;
- 1934 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
- 1935 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
- 1936 garden, farm, or other agricultural produce is sold by:
- 1937 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
- 1938 agricultural produce;
- 1939 (b) an employee of the producer described in Subsection (20)(a); or
- 1940 (c) a member of the immediate family of the producer described in Subsection (20)(a);
- 1941 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
- 1942 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 1943 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
- 1944 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
- 1945 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
- 1946 manufacturer, processor, wholesaler, or retailer;
- 1947 (23) a product stored in the state for resale;
- 1948 (24) (a) purchases of a product if:
- 1949 (i) the product is:

- 1950 (A) purchased outside of this state;
- 1951 (B) brought into this state:
- 1952 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
- 1953 (II) by a nonresident person who is not living or working in this state at the time of the
- 1954 purchase;
- 1955 (C) used for the personal use or enjoyment of the nonresident person described in
- 1956 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
- 1957 (D) not used in conducting business in this state; and
- 1958 (ii) for:
- 1959 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
- 1960 the product for a purpose for which the product is designed occurs outside of this state;
- 1961 (B) a boat, the boat is registered outside of this state; or
- 1962 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
- 1963 outside of this state;
- 1964 (b) the exemption provided for in Subsection (24)(a) does not apply to:
- 1965 (i) a lease or rental of a product; or
- 1966 (ii) a sale of a vehicle exempt under Subsection (33); and
- 1967 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
- 1968 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
- 1969 following:
- 1970 (i) conducting business in this state if that phrase has the same meaning in this
- 1971 Subsection (24) as in Subsection (63);
- 1972 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
- 1973 as in Subsection (63); or
- 1974 (iii) a purpose for which a product is designed if that phrase has the same meaning in
- 1975 this Subsection (24) as in Subsection (63);
- 1976 (25) a product purchased for resale in this state, in the regular course of business, either
- 1977 in its original form or as an ingredient or component part of a manufactured or compounded
- 1978 product;
- 1979 (26) a product upon which a sales or use tax was paid to some other state, or one of its
- 1980 subdivisions, except that the state shall be paid any difference between the tax paid and the tax

1981 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
1982 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
1983 Act;

1984 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
1985 person for use in compounding a service taxable under the subsections;

1986 (28) purchases made in accordance with the special supplemental nutrition program for
1987 women, infants, and children established in 42 U.S.C. Sec. 1786;

1988 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
1989 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
1990 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
1991 the President, Office of Management and Budget;

1992 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
1993 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

1994 (a) not registered in this state; and

1995 (b) (i) not used in this state; or

1996 (ii) used in this state:

1997 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
1998 time period that does not exceed the longer of:

1999 (I) 30 days in any calendar year; or

2000 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
2001 the borders of this state; or

2002 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
2003 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
2004 state;

2005 (31) sales of aircraft manufactured in Utah;

2006 (32) amounts paid for the purchase of telecommunications service for purposes of
2007 providing telecommunications service;

2008 (33) sales, leases, or uses of the following:

2009 (a) a vehicle by an authorized carrier; or

2010 (b) tangible personal property that is installed on a vehicle:

2011 (i) sold or leased to or used by an authorized carrier; and

2012 (ii) before the vehicle is placed in service for the first time;

2013 (34) (a) 45% of the sales price of any new manufactured home; and

2014 (b) 100% of the sales price of any used manufactured home;

2015 (35) sales relating to schools and fundraising sales;

2016 (36) sales or rentals of durable medical equipment if:

2017 (a) a person presents a prescription for the durable medical equipment; and

2018 (b) the durable medical equipment is used for home use only;

2019 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in

2020 Section [72-11-102](#); and

2021 (b) the commission shall by rule determine the method for calculating sales exempt

2022 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

2023 (38) sales to a ski resort of:

2024 (a) snowmaking equipment;

2025 (b) ski slope grooming equipment;

2026 (c) passenger ropeways as defined in Section [72-11-102](#); or

2027 (d) parts used in the repairs or renovations of equipment or passenger ropeways

2028 described in Subsections (38)(a) through (c);

2029 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

2030 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for

2031 amusement, entertainment, or recreation an unassisted amusement device as defined in Section

2032 [59-12-102](#);

2033 (b) if a seller that sells or rents at the same business location the right to use or operate

2034 for amusement, entertainment, or recreation one or more unassisted amusement devices and

2035 one or more assisted amusement devices, the exemption described in Subsection (40)(a)

2036 applies if the seller separately accounts for the sales or rentals of the right to use or operate for

2037 amusement, entertainment, or recreation for the assisted amusement devices; and

2038 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,

2039 Utah Administrative Rulemaking Act, the commission may make rules:

2040 (i) governing the circumstances under which sales are at the same business location;

2041 and

2042 (ii) establishing the procedures and requirements for a seller to separately account for

2043 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
2044 assisted amusement devices;

2045 (41) (a) sales of photocopies by:

2046 (i) a governmental entity; or

2047 (ii) an entity within the state system of public education, including:

2048 (A) a school; or

2049 (B) the State Board of Education; or

2050 (b) sales of publications by a governmental entity;

2051 (42) amounts paid for admission to an athletic event at an institution of higher

2052 education that is subject to the provisions of Title IX of the Education Amendments of 1972,

2053 20 U.S.C. Sec. 1681 et seq.;

2054 (43) (a) sales made to or by:

2055 (i) an area agency on aging; or

2056 (ii) a senior citizen center owned by a county, city, or town; or

2057 (b) sales made by a senior citizen center that contracts with an area agency on aging;

2058 (44) sales or leases of semiconductor fabricating, processing, research, or development

2059 materials regardless of whether the semiconductor fabricating, processing, research, or

2060 development materials:

2061 (a) actually come into contact with a semiconductor; or

2062 (b) ultimately become incorporated into real property;

2063 (45) an amount paid by or charged to a purchaser for accommodations and services

2064 described in Subsection [59-12-103\(1\)\(i\)](#) to the extent the amount is exempt under Section

2065 [59-12-104.2](#);

2066 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary

2067 sports event registration certificate in accordance with Section [41-3-306](#) for the event period

2068 specified on the temporary sports event registration certificate;

2069 (47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted

2070 by the Public Service Commission of Utah only for purchase of electricity produced from a

2071 new alternative energy source, as designated in the tariff by the Public Service Commission of

2072 Utah; and

2073 (b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a

2074 customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under
2075 the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;
2076 (48) sales or rentals of mobility enhancing equipment if a person presents a
2077 prescription for the mobility enhancing equipment;
2078 (49) sales of water in a:
2079 (a) pipe;
2080 (b) conduit;
2081 (c) ditch; or
2082 (d) reservoir;
2083 (50) sales of currency or coins that constitute legal tender of a state, the United States,
2084 or a foreign nation;
2085 (51) (a) sales of an item described in Subsection (51)(b) if the item:
2086 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
2087 (ii) has a gold, silver, or platinum content of 50% or more; and
2088 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
2089 (i) ingot;
2090 (ii) bar;
2091 (iii) medallion; or
2092 (iv) decorative coin;
2093 (52) amounts paid on a sale-leaseback transaction;
2094 (53) sales of a prosthetic device:
2095 (a) for use on or in a human; and
2096 (b) (i) for which a prescription is required; or
2097 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
2098 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
2099 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
2100 or equipment is primarily used in the production or postproduction of the following media for
2101 commercial distribution:
2102 (i) a motion picture;
2103 (ii) a television program;
2104 (iii) a movie made for television;

- 2105 (iv) a music video;
- 2106 (v) a commercial;
- 2107 (vi) a documentary; or
- 2108 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
- 2109 commission by administrative rule made in accordance with Subsection (54)(d); or
- 2110 (b) purchases, leases, or rentals of machinery or equipment by an establishment
- 2111 described in Subsection (54)(c) that is used for the production or postproduction of the
- 2112 following are subject to the taxes imposed by this chapter:
- 2113 (i) a live musical performance;
- 2114 (ii) a live news program; or
- 2115 (iii) a live sporting event;
- 2116 (c) the following establishments listed in the 1997 North American Industry
- 2117 Classification System of the federal Executive Office of the President, Office of Management
- 2118 and Budget, apply to Subsections (54)(a) and (b):
- 2119 (i) NAICS Code 512110; or
- 2120 (ii) NAICS Code 51219; and
- 2121 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2122 commission may by rule:
- 2123 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
- 2124 or
- 2125 (ii) define:
- 2126 (A) "commercial distribution";
- 2127 (B) "live musical performance";
- 2128 (C) "live news program"; or
- 2129 (D) "live sporting event";
- 2130 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
- 2131 on or before June 30, 2027, of tangible personal property that:
- 2132 (i) is leased or purchased for or by a facility that:
- 2133 (A) is an alternative energy electricity production facility;
- 2134 (B) is located in the state; and
- 2135 (C) (I) becomes operational on or after July 1, 2004; or

2136 (II) has its generation capacity increased by one or more megawatts on or after July 1,
2137 2004, as a result of the use of the tangible personal property;

2138 (ii) has an economic life of five or more years; and

2139 (iii) is used to make the facility or the increase in capacity of the facility described in
2140 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
2141 transmission grid including:

2142 (A) a wind turbine;

2143 (B) generating equipment;

2144 (C) a control and monitoring system;

2145 (D) a power line;

2146 (E) substation equipment;

2147 (F) lighting;

2148 (G) fencing;

2149 (H) pipes; or

2150 (I) other equipment used for locating a power line or pole; and

2151 (b) this Subsection (55) does not apply to:

2152 (i) tangible personal property used in construction of:

2153 (A) a new alternative energy electricity production facility; or

2154 (B) the increase in the capacity of an alternative energy electricity production facility;

2155 (ii) contracted services required for construction and routine maintenance activities;

2156 and

2157 (iii) unless the tangible personal property is used or acquired for an increase in capacity
2158 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
2159 acquired after:

2160 (A) the alternative energy electricity production facility described in Subsection
2161 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

2162 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
2163 in Subsection (55)(a)(iii);

2164 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
2165 on or before June 30, 2027, of tangible personal property that:

2166 (i) is leased or purchased for or by a facility that:

2167 (A) is a waste energy production facility;
2168 (B) is located in the state; and
2169 (C) (I) becomes operational on or after July 1, 2004; or
2170 (II) has its generation capacity increased by one or more megawatts on or after July 1,
2171 2004, as a result of the use of the tangible personal property;
2172 (ii) has an economic life of five or more years; and
2173 (iii) is used to make the facility or the increase in capacity of the facility described in
2174 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
2175 transmission grid including:
2176 (A) generating equipment;
2177 (B) a control and monitoring system;
2178 (C) a power line;
2179 (D) substation equipment;
2180 (E) lighting;
2181 (F) fencing;
2182 (G) pipes; or
2183 (H) other equipment used for locating a power line or pole; and
2184 (b) this Subsection (56) does not apply to:
2185 (i) tangible personal property used in construction of:
2186 (A) a new waste energy facility; or
2187 (B) the increase in the capacity of a waste energy facility;
2188 (ii) contracted services required for construction and routine maintenance activities;
2189 and
2190 (iii) unless the tangible personal property is used or acquired for an increase in capacity
2191 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
2192 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
2193 described in Subsection (56)(a)(iii); or
2194 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
2195 in Subsection (56)(a)(iii);
2196 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
2197 or before June 30, 2027, of tangible personal property that:

2198 (i) is leased or purchased for or by a facility that:
2199 (A) is located in the state;
2200 (B) produces fuel from alternative energy, including:
2201 (I) methanol; or
2202 (II) ethanol; and
2203 (C) (I) becomes operational on or after July 1, 2004; or
2204 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
2205 a result of the installation of the tangible personal property;
2206 (ii) has an economic life of five or more years; and
2207 (iii) is installed on the facility described in Subsection (57)(a)(i);
2208 (b) this Subsection (57) does not apply to:
2209 (i) tangible personal property used in construction of:
2210 (A) a new facility described in Subsection (57)(a)(i); or
2211 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
2212 (ii) contracted services required for construction and routine maintenance activities;
2213 and
2214 (iii) unless the tangible personal property is used or acquired for an increase in capacity
2215 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
2216 (A) the facility described in Subsection (57)(a)(i) is operational; or
2217 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
2218 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
2219 product transferred electronically to a person within this state if that tangible personal property
2220 or product transferred electronically is subsequently shipped outside the state and incorporated
2221 pursuant to contract into and becomes a part of real property located outside of this state;
2222 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
2223 state or political entity to which the tangible personal property is shipped imposes a sales, use,
2224 gross receipts, or other similar transaction excise tax on the transaction against which the other
2225 state or political entity allows a credit for sales and use taxes imposed by this chapter; and
2226 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
2227 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
2228 refund:

- 2229 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;
- 2230 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
- 2231 which the sale is made;
- 2232 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
- 2233 sale prior to filing for the refund;
- 2234 (iv) for sales and use taxes paid under this chapter on the sale;
- 2235 (v) in accordance with Section 59-1-1410; and
- 2236 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
- 2237 the person files for the refund on or before June 30, 2011;
- 2238 (59) purchases:
- 2239 (a) of one or more of the following items in printed or electronic format:
- 2240 (i) a list containing information that includes one or more:
- 2241 (A) names; or
- 2242 (B) addresses; or
- 2243 (ii) a database containing information that includes one or more:
- 2244 (A) names; or
- 2245 (B) addresses; and
- 2246 (b) used to send direct mail;
- 2247 (60) redemptions or repurchases of a product by a person if that product was:
- 2248 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 2249 (b) redeemed or repurchased within the time period established in a written agreement
- 2250 between the person and the pawnbroker for redeeming or repurchasing the product;
- 2251 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
- 2252 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
- 2253 and
- 2254 (ii) has a useful economic life of one or more years; and
- 2255 (b) the following apply to Subsection (61)(a):
- 2256 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 2257 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 2258 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 2259 (iv) telecommunications switching or routing equipment, machinery, or software; or

2260 (v) telecommunications transmission equipment, machinery, or software;
2261 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
2262 personal property or a product transferred electronically that are used in the research and
2263 development of alternative energy technology; and
2264 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2265 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
2266 purchases of tangible personal property or a product transferred electronically that are used in
2267 the research and development of alternative energy technology;
2268 (63) (a) purchases of tangible personal property or a product transferred electronically
2269 if:
2270 (i) the tangible personal property or product transferred electronically is:
2271 (A) purchased outside of this state;
2272 (B) brought into this state at any time after the purchase described in Subsection
2273 (63)(a)(i)(A); and
2274 (C) used in conducting business in this state; and
2275 (ii) for:
2276 (A) tangible personal property or a product transferred electronically other than the
2277 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
2278 for a purpose for which the property is designed occurs outside of this state; or
2279 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
2280 outside of this state;
2281 (b) the exemption provided for in Subsection (63)(a) does not apply to:
2282 (i) a lease or rental of tangible personal property or a product transferred electronically;
2283 or
2284 (ii) a sale of a vehicle exempt under Subsection (33); and
2285 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
2286 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
2287 following:
2288 (i) conducting business in this state if that phrase has the same meaning in this
2289 Subsection (63) as in Subsection (24);
2290 (ii) the first use of tangible personal property or a product transferred electronically if

2291 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
2292 (iii) a purpose for which tangible personal property or a product transferred
2293 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
2294 Subsection (24);

2295 (64) sales of disposable home medical equipment or supplies if:
2296 (a) a person presents a prescription for the disposable home medical equipment or
2297 supplies;
2298 (b) the disposable home medical equipment or supplies are used exclusively by the
2299 person to whom the prescription described in Subsection (64)(a) is issued; and
2300 (c) the disposable home medical equipment and supplies are listed as eligible for
2301 payment under:

2302 (i) Title XVIII, federal Social Security Act; or
2303 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

2304 (65) sales:
2305 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
2306 District Act; or
2307 (b) of tangible personal property to a subcontractor of a public transit district, if the
2308 tangible personal property is:

2309 (i) clearly identified; and
2310 (ii) installed or converted to real property owned by the public transit district;

2311 (66) sales of construction materials:
2312 (a) purchased on or after July 1, 2010;
2313 (b) purchased by, on behalf of, or for the benefit of an international airport:
2314 (i) located within a county of the first class; and
2315 (ii) that has a United States customs office on its premises; and
2316 (c) if the construction materials are:
2317 (i) clearly identified;
2318 (ii) segregated; and
2319 (iii) installed or converted to real property:
2320 (A) owned or operated by the international airport described in Subsection (66)(b); and
2321 (B) located at the international airport described in Subsection (66)(b);

- 2322 (67) sales of construction materials:
- 2323 (a) purchased on or after July 1, 2008;
- 2324 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 2325 (i) located within a county of the second class; and
- 2326 (ii) that is owned or operated by a city in which an airline as defined in Section
- 2327 [59-2-102](#) is headquartered; and
- 2328 (c) if the construction materials are:
- 2329 (i) clearly identified;
- 2330 (ii) segregated; and
- 2331 (iii) installed or converted to real property:
- 2332 (A) owned or operated by the new airport described in Subsection (67)(b);
- 2333 (B) located at the new airport described in Subsection (67)(b); and
- 2334 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 2335 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 2336 (69) purchases and sales described in Section [63H-4-111](#);
- 2337 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 2338 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 2339 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 2340 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 2341 powered aircraft; or
- 2342 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 2343 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 2344 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 2345 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 2346 powered aircraft;
- 2347 (71) subject to Section [59-12-104.4](#), sales of a textbook for a higher education course:
- 2348 (a) to a person admitted to an institution of higher education; and
- 2349 (b) by a seller, other than a bookstore owned by an institution of higher education, if
- 2350 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
- 2351 textbook for a higher education course;
- 2352 (72) a license fee or tax a municipality imposes in accordance with Subsection

2353 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
2354 level of municipal services;

2355 (73) amounts paid or charged for construction materials used in the construction of a
2356 new or expanding life science research and development facility in the state, if the construction
2357 materials are:

2358 (a) clearly identified;

2359 (b) segregated; and

2360 (c) installed or converted to real property;

2361 (74) amounts paid or charged for:

2362 (a) a purchase or lease of machinery and equipment that:

2363 (i) are used in performing qualified research:

2364 (A) as defined in Section 41(d), Internal Revenue Code; and

2365 (B) in the state; and

2366 (ii) have an economic life of three or more years; and

2367 (b) normal operating repair or replacement parts:

2368 (i) for the machinery and equipment described in Subsection (74)(a); and

2369 (ii) that have an economic life of three or more years;

2370 (75) a sale or lease of tangible personal property used in the preparation of prepared
2371 food if:

2372 (a) for a sale:

2373 (i) the ownership of the seller and the ownership of the purchaser are identical; and

2374 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
2375 tangible personal property prior to making the sale; or

2376 (b) for a lease:

2377 (i) the ownership of the lessor and the ownership of the lessee are identical; and

2378 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
2379 personal property prior to making the lease;

2380 (76) (a) purchases of machinery or equipment if:

2381 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
2382 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
2383 System of the federal Executive Office of the President, Office of Management and Budget;

2384 (ii) the machinery or equipment:
2385 (A) has an economic life of three or more years; and
2386 (B) is used by one or more persons who pay admission or user fees described in
2387 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
2388 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
2389 (A) amounts paid or charged as admission or user fees described in Subsection
2390 59-12-103(1)(f); and
2391 (B) subject to taxation under this chapter; and
2392 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2393 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
2394 previous calendar quarter is:
2395 (i) amounts paid or charged as admission or user fees described in Subsection
2396 59-12-103(1)(f); and
2397 (ii) subject to taxation under this chapter; ~~[and]~~
2398 ~~[(c) on or before the November 2018 interim meeting, and every five years after the~~
2399 ~~November 2018 interim meeting, the commission shall review the exemption provided in this~~
2400 ~~Subsection (76) and report to the Revenue and Taxation Interim Committee on:]~~
2401 ~~[(i) the revenue lost to the state and local taxing jurisdictions as a result of the~~
2402 ~~exemption;]~~
2403 ~~[(ii) the purpose and effectiveness of the exemption; and]~~
2404 ~~[(iii) whether the exemption benefits the state;]~~
2405 (77) purchases of a short-term lodging consumable by a business that provides
2406 accommodations and services described in Subsection 59-12-103(1)(i);
2407 (78) amounts paid or charged to access a database:
2408 (a) if the primary purpose for accessing the database is to view or retrieve information
2409 from the database; and
2410 (b) not including amounts paid or charged for a:
2411 (i) digital audiowork;
2412 (ii) digital audio-visual work; or
2413 (iii) digital book;
2414 (79) amounts paid or charged for a purchase or lease made by an electronic financial

2415 payment service, of:

2416 (a) machinery and equipment that:

2417 (i) are used in the operation of the electronic financial payment service; and

2418 (ii) have an economic life of three or more years; and

2419 (b) normal operating repair or replacement parts that:

2420 (i) are used in the operation of the electronic financial payment service; and

2421 (ii) have an economic life of three or more years;

2422 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;

2423 (81) amounts paid or charged for a purchase or lease of tangible personal property or a

2424 product transferred electronically if the tangible personal property or product transferred

2425 electronically:

2426 (a) is stored, used, or consumed in the state; and

2427 (b) is temporarily brought into the state from another state:

2428 (i) during a disaster period as defined in Section 53-2a-1202;

2429 (ii) by an out-of-state business as defined in Section 53-2a-1202;

2430 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

2431 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

2432 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined

2433 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and

2434 Recreation Program;

2435 (83) amounts paid or charged for a purchase or lease of molten magnesium; and

2436 (84) (a) except as provided in Subsection (84)(b), amounts paid or charged for a

2437 purchase or lease made by a drilling equipment manufacturer of machinery, equipment,

2438 materials, or normal operating repair or replacement parts:

2439 (i) that are used or consumed exclusively in the drilling equipment manufacturer's

2440 manufacturing process; and

2441 (ii) except for office:

2442 (A) equipment; or

2443 (B) supplies; and

2444 (b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an

2445 exemption described in Subsection (84)(a) only by filing for a refund:

2446 (i) of 50% of the tax paid on the amounts paid or charged; and
2447 (ii) in accordance with Section 59-1-1410.

2448 Section 28. Section 59-12-104.2 is amended to read:

2449 **59-12-104.2. Exemption for accommodations and services taxed by the Navajo**

2450 **Nation.**

2451 (1) As used in this section "tribal taxing area" means the geographical area that:

2452 (a) is subject to the taxing authority of the Navajo Nation; and

2453 (b) consists of:

2454 (i) notwithstanding the issuance of a patent, all land:

2455 (A) within the limits of an Indian reservation under the jurisdiction of the federal

2456 government; and

2457 (B) including any rights-of-way running through the reservation; and

2458 (ii) all Indian allotments the Indian titles to which have not been extinguished,

2459 including any rights-of-way running through an Indian allotment.

2460 (2) (a) Beginning July 1, 2001, amounts paid by or charged to a purchaser for

2461 accommodations and services described in Subsection 59-12-103(1)(i) are exempt from the tax

2462 imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I) to the extent permitted under

2463 Subsection (2)(b) if:

2464 (i) the accommodations and services described in Subsection 59-12-103(1)(i) are
2465 provided within:

2466 (A) the state; and

2467 (B) a tribal taxing area;

2468 (ii) the Navajo Nation imposes and collects a tax on the amounts paid by or charged to
2469 the purchaser for the accommodations and services described in Subsection 59-12-103(1)(i);

2470 (iii) the Navajo Nation imposes the tax described in Subsection (2)(a)(ii) without

2471 regard to whether or not the purchaser that pays or is charged for the accommodations and

2472 services is an enrolled member of the Navajo Nation; and

2473 (iv) the requirements of Subsection (4) are met.

2474 (b) If but for Subsection (2)(a) the amounts paid by or charged to a purchaser for

2475 accommodations and services described in Subsection (2)(a) are subject to a tax imposed by

2476 Subsection 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I):

2477 (i) the seller shall collect and pay to the state the difference described in Subsection (3)
2478 if that difference is greater than \$0; and

2479 (ii) a person may not require the state to provide a refund, a credit, or similar tax relief
2480 if the difference described in Subsection (3) is equal to or less than \$0.

2481 (3) The difference described in Subsection (2)(b) is equal to the difference between:

2482 (a) the amount of tax imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I)
2483 on the amounts paid by or charged to a purchaser for accommodations and services described
2484 in Subsection 59-12-103(1)(i); less

2485 (b) the tax imposed and collected by the Navajo Nation on the amounts paid by or
2486 charged to a purchaser for the accommodations and services described in Subsection
2487 59-12-103(1)(i).

2488 (4) (a) If, on or after July 1, 2001, the Navajo Nation changes the tax rate of a tax
2489 imposed on amounts paid by or charged to a purchaser for accommodations and services
2490 described in Subsection 59-12-103(1)(i), any change in the amount of the exemption under
2491 Subsection (2) as a result of the change in the tax rate is not effective until the first day of the
2492 calendar quarter after a 90-day period beginning on the date the commission receives notice
2493 meeting the requirements of Subsection (4)(b) from the Navajo Nation.

2494 (b) The notice described in Subsection (4)(a) shall state:

2495 (i) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
2496 amounts paid by or charged to a purchaser for accommodations and services described in
2497 Subsection 59-12-103(1)(i);

2498 (ii) the effective date of the rate change on the tax described in Subsection (4)(b)(i);
2499 and

2500 (iii) the new rate of the tax described in Subsection (4)(b)(i).

2501 [~~(5) Beginning with the 2006 interim, the Revenue and Taxation Interim Committee:]~~

2502 [~~(a) shall review the exemption provided for in this section one or more times every~~
2503 ~~five years;]~~

2504 [~~(b) shall determine on or before the November interim meeting of the year in which~~
2505 ~~the Revenue and Taxation Interim Committee reviews the exemption provided for in this~~
2506 ~~section whether the exemption should be:]~~

2507 [(i) continued;]

2508 ~~[(ii) modified; or]~~
 2509 ~~[(iii) repealed; and]~~
 2510 ~~[(c) may review any other issue related to the exemption provided for in this section as~~
 2511 ~~determined by the Revenue and Taxation Interim Committee.]~~

2512 Section 29. Section **59-12-104.5** is amended to read:

2513 **59-12-104.5. Revenue and Taxation Interim Committee review of sales and use**
 2514 **taxes.**

2515 The Revenue and Taxation Interim Committee shall:

2516 (1) review Subsection **59-12-104**(28) before October 1 of the year after the year in
 2517 which Congress permits a state to participate in the special supplemental nutrition program
 2518 under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on
 2519 purchases of food under that program; and

2520 (2) review Subsection **59-12-104**(21) before October 1 of the year after the year in
 2521 which Congress permits a state to participate in the SNAP as defined in Section **35A-1-102**,
 2522 even if state or local sales taxes are collected within the state on purchases of food under that
 2523 program~~[-and].~~

2524 ~~[(3) review Subsection **59-12-104**(62) before the October 2011 interim meeting.]~~

2525 Section 30. Section **59-23-4** is amended to read:

2526 **59-23-4. Brine shrimp royalty -- Royalty rate -- Commission to prepare billing**
 2527 **statement -- Deposit of revenue.**

2528 (1) A person shall pay for each tax year a brine shrimp royalty of 3.75 cents multiplied
 2529 by the total number of pounds of unprocessed brine shrimp eggs that the person harvests within
 2530 the state during the tax year.

2531 (2) (a) A person that harvests unprocessed brine shrimp eggs shall report to the
 2532 Department of Natural Resources the total number of pounds of unprocessed brine shrimp eggs
 2533 harvested by that person for that tax year on or before the February 15 immediately following
 2534 the last day of that tax year.

2535 (b) The Department of Natural Resources shall provide the following information to
 2536 the commission on or before the March 1 immediately following the last day of a tax year:

2537 (i) the total number of pounds of unprocessed brine shrimp eggs harvested for that tax
 2538 year; and

2539 (ii) for each person that harvested unprocessed brine shrimp eggs for that tax year:
2540 (A) the total number of pounds of unprocessed brine shrimp eggs harvested by that
2541 person for that tax year; and
2542 (B) a current billing address for that person; and
2543 (iii) any additional information required by the commission.
2544 (c) (i) The commission shall prepare and mail a billing statement to each person that
2545 harvested unprocessed brine shrimp eggs in a tax year by the March 30 immediately following
2546 the last day of a tax year.
2547 (ii) The billing statement under Subsection (2)(c)(i) shall specify:
2548 (A) the total number of pounds of unprocessed brine shrimp eggs harvested by that
2549 person for that tax year;
2550 (B) the brine shrimp royalty that the person owes; and
2551 (C) the date that the brine shrimp royalty payment is due as provided in Section
2552 [59-23-5](#).
2553 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2554 commission may make rules prescribing the information required under Subsection (2)(b)(iii).
2555 (3) Revenue generated by the brine shrimp royalty shall be deposited in the Species
2556 Protection Account created in Section [79-2-303](#).
2557 ~~[(4) Beginning with the 2004 interim, the Revenue and Taxation Interim Committee:]~~
2558 ~~[(a) shall review the brine shrimp royalty imposed under this section at least every five~~
2559 ~~years;]~~
2560 ~~[(b) shall determine on or before the November interim meeting of the year in which~~
2561 ~~the Revenue and Taxation Interim Committee reviews the brine shrimp royalty imposed under~~
2562 ~~this section whether the brine shrimp royalty should be continued, modified, or repealed; and]~~
2563 ~~[(c) may review any other issue related to the brine shrimp royalty imposed under this~~
2564 ~~part.]~~
2565 Section 31. Section **63M-4-505** is amended to read:
2566 **63M-4-505. Report to the Legislature.**
2567 The office shall annually provide an electronic report [~~annually~~] to the Public Utilities
2568 and Technology Interim Committee and the Revenue and Taxation Interim Committee
2569 describing:

2570 (1) its success in attracting alternative energy projects to the state and the resulting
2571 increase in new state revenues under this part;

2572 (2) the amount of tax credits the office has granted or will grant and the time period
2573 during which the tax credits have been or will be granted; and

2574 (3) the economic impact on the state by comparing new state revenues to tax credits
2575 that have been or will be granted under this part.

2576 Section 32. Section **63N-2-810** is amended to read:

2577 **63N-2-810. Reports on tax credit certificates -- Study by legislative committees.**

2578 (1) The office shall include the following information in the annual written report
2579 described in Section **63N-1-301**:

2580 (a) the total amount listed on tax credit certificates the office issues under this part;

2581 (b) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax
2582 credit applicants under this part; and

2583 (c) the economic impact on the state related to providing tax credits under this part.

2584 (2) (a) On or before November 1, 2016, and every five years after November 1, 2016,
2585 the Revenue and Taxation Interim Committee shall:

2586 (i) study the tax credits allowed under Sections **59-7-614.6**, **59-10-1025**, and
2587 **59-10-1109**; and

2588 (ii) make recommendations concerning whether the tax credits should be continued,
2589 modified, or repealed.

2590 (b) The study under Subsection (2)(a) shall include an evaluation of:

2591 (i) the cost of the tax credits under Sections **59-7-614.6**, **59-10-1025**, and **59-10-1109**;

2592 (ii) the purposes and effectiveness of the tax credits; and

2593 (iii) the extent to which the state benefits from the tax credits.

2594 (c) For purposes of the study required by this Subsection (2), the office shall provide
2595 the following information to the Revenue and Taxation Interim Committee by electronic
2596 means:

2597 (i) the amount of tax credits that the office grants to each eligible business entity for
2598 each taxable year;

2599 (ii) the amount of eligible new state tax revenues generated by each eligible product or
2600 project;

- 2601 (iii) estimates for each of the next five calendar years of the following:
2602 (A) the amount of tax credits that the office will grant;
2603 (B) the amount of eligible new state tax revenues that will be generated; and
2604 (C) the number of new incremental jobs within the state that will be generated;
2605 (iv) the information contained in the office's latest report to the Legislature under
2606 Section [63N-2-705](#); and
2607 (v) any other information that the Revenue and Taxation Interim Committee requests.
2608 Section 33. **Repealer.**
2609 This bill repeals:
2610 Section [59-26-110](#), Revenue and Taxation Interim Committee study.
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Legislative Review Note
Office of Legislative Research and General Counsel