

Representative Joel K. Briscoe proposes the following substitute bill:

TAX MODIFICATIONS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Joel K. Briscoe

Senate Sponsor: _____

Cosponsor: Rebecca P. Edwards

LONG TITLE

General Description:

This bill addresses tax provisions.

Highlighted Provisions:

This bill:

- ▶ addresses Department of Environmental Quality certifying emissions by certain taxpayers;
- ▶ addresses collection of an administration charge by the State Tax Commission;
- ▶ creates an individual income and corporate franchise tax credit for mining and manufacturing;
- ▶ enacts a refundable state earned income tax credit related to intergenerational poverty and provides for apportionment of that tax credit;
- ▶ modifies definitions;
- ▶ eliminates the state sales and use tax on food;
- ▶ eliminates the state sales and use tax on residential and commercial fuels;
- ▶ repeals the economic life provision of the sales and use tax exemption for the purchase or lease of machinery, equipment, or normal operating repair or



25 replacement parts by a manufacturing facility, certain mining establishments, or a web search
26 portal for use in certain business activities;

27 ▶ creates a sales and use tax exemption for the purchase or lease by a manufacturing
28 facility, certain mining establishments, or a web search portal of materials used or
29 consumed in certain business activities;

30 ▶ repeals obsolete sales and use tax provisions;

31 ▶ imposes a carbon emissions tax, including:

32 • defining terms;

33 • requiring records;

34 • addressing motor fuel, special fuel, aviation fuel, natural gas, and large emitters;

35 • granting rulemaking authority; and

36 • creating the Carbon Emissions Tax Expendable Revenue Fund; and

37 ▶ makes technical and conforming changes.

38 **Money Appropriated in this Bill:**

39 None

40 **Other Special Clauses:**

41 This bill provides a special effective date.

42 **Utah Code Sections Affected:**

43 AMENDS:

44 10-1-405, as last amended by Laws of Utah 2012, Chapter 424

45 11-41-102, as last amended by Laws of Utah 2016, Chapter 176

46 59-1-306, as last amended by Laws of Utah 2017, Chapter 430

47 59-1-401, as last amended by Laws of Utah 2017, Chapter 430

48 59-10-529.1, as enacted by Laws of Utah 2015, Chapter 369

49 59-12-102, as last amended by Laws of Utah 2017, Chapters 181, 382, and 422

50 59-12-103, as last amended by Laws of Utah 2017, Chapters 234, 421, and 422

51 59-12-104, as last amended by Laws of Utah 2017, Chapters 264, 268, and 429

52 59-12-104.2, as last amended by Laws of Utah 2016, Chapter 135

53 59-12-108, as last amended by Laws of Utah 2017, Chapter 430

54 63N-2-502, as last amended by Laws of Utah 2016, Chapter 350

55 63N-7-301, as last amended by Laws of Utah 2015, Chapter 301 and renumbered and

56 amended by Laws of Utah 2015, Chapter 283
57 **76-8-1101**, as last amended by Laws of Utah 2014, Chapter 52

58 ENACTS:

- 59 **19-1-207**, Utah Code Annotated 1953
- 60 **35A-9-202**, Utah Code Annotated 1953
- 61 **59-7-623**, Utah Code Annotated 1953
- 62 **59-10-138**, Utah Code Annotated 1953
- 63 **59-10-1102.1**, Utah Code Annotated 1953
- 64 **59-10-1112**, Utah Code Annotated 1953
- 65 **59-12-104.8**, Utah Code Annotated 1953
- 66 **59-29-101**, Utah Code Annotated 1953
- 67 **59-29-102**, Utah Code Annotated 1953
- 68 **59-29-103**, Utah Code Annotated 1953
- 69 **59-29-201**, Utah Code Annotated 1953
- 70 **59-29-202**, Utah Code Annotated 1953
- 71 **59-29-203**, Utah Code Annotated 1953
- 72 **59-29-204**, Utah Code Annotated 1953
- 73 **59-29-205**, Utah Code Annotated 1953
- 74 **59-29-206**, Utah Code Annotated 1953
- 75 **59-29-301**, Utah Code Annotated 1953



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

78 Section 1. Section **10-1-405** is amended to read:

79 **10-1-405. Collection of taxes by commission -- Uniform interlocal agreement --**
80 **Administrative charge -- Rulemaking authority.**

81 (1) Subject to the other provisions of this section, the commission shall collect,
82 enforce, and administer any municipal telecommunications license tax imposed under this part
83 pursuant to:

84 (a) the same procedures used in the administration, collection, and enforcement of the
85 state sales and use tax under:

86 (i) Title 59, Chapter 1, General Taxation Policies; and

87 (ii) Title 59, Chapter 12, Part 1, Tax Collection:

88 (A) except for:

89 (I) Subsection 59-12-103(2)(~~†~~)(j);

90 (II) Section 59-12-104;

91 (III) Section 59-12-104.1;

92 (IV) Section 59-12-104.2;

93 (V) Section 59-12-104.3;

94 (VI) Section 59-12-107.1; and

95 (VII) Section 59-12-123; and

96 (B) except that for purposes of Section 59-1-1410, the term "person" may include a
97 customer from whom a municipal telecommunications license tax is recovered in accordance
98 with Subsection 10-1-403(2); and

99 (b) a uniform interlocal agreement between the municipality that imposes the
100 municipal telecommunications license tax and the commission:

101 (i) that is executed under Title 11, Chapter 13, Interlocal Cooperation Act;

102 (ii) that complies with Subsection (2)(a); and

103 (iii) that is developed by rule in accordance with Subsection (2)(b).

104 (2) (a) The uniform interlocal agreement described in Subsection (1) shall provide that
105 the commission shall:

106 (i) transmit money collected under this part monthly by electronic funds transfer by the
107 commission to the municipality;

108 (ii) conduct audits of the municipal telecommunications license tax;

109 (iii) retain and deposit an administrative charge in accordance with Section 59-1-306
110 from revenues the commission collects from a tax under this part; and

111 (iv) collect, enforce, and administer the municipal telecommunications license tax
112 authorized under this part pursuant to the same procedures used in the administration,
113 collection, and enforcement of the state sales and use tax as provided in Subsection (1)(a).

114 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
115 commission shall develop a uniform interlocal agreement that meets the requirements of this
116 section.

117 (3) If a telecommunications provider pays a municipal telecommunications license tax

118 to the commission, the telecommunications provider shall pay the municipal
119 telecommunications license tax to the commission:

120 (a) monthly on or before the last day of the month immediately following the last day
121 of the previous month if:

122 (i) the telecommunications provider is required to file a sales and use tax return with
123 the commission monthly under Section 59-12-108; or

124 (ii) the telecommunications provider is not required to file a sales and use tax return
125 under Title 59, Chapter 12, Sales and Use Tax Act; or

126 (b) quarterly on or before the last day of the month immediately following the last day
127 of the previous quarter if the telecommunications provider is required to file a sales and use tax
128 return with the commission quarterly under Section 59-12-108.

129 (4) If, on July 1, 2007, a municipality has in effect an ordinance that levies a municipal
130 telecommunications license tax under this part at a rate that exceeds 3.5%:

131 (a) except as provided in Subsection (4)(b), beginning on July 1, 2007, the commission
132 shall collect the municipal telecommunications license tax:

133 (i) within the municipality;

134 (ii) at a rate of 3.5%; and

135 (iii) from a telecommunications provider required to pay the municipal
136 telecommunications license tax on or after July 1, 2007; and

137 (b) the commission shall collect a municipal telecommunications license tax within the
138 municipality at the rate imposed by the municipality if:

139 (i) after July 1, 2007, the municipality has in effect an ordinance that levies a municipal
140 telecommunications license tax under this part at a rate of up to 3.5%;

141 (ii) the municipality meets the requirements of Subsection 10-1-403(3)(b) in changing
142 the rate of the municipal telecommunications license tax; and

143 (iii) a telecommunications provider is required to pay the municipal
144 telecommunications license tax on or after the day on which the ordinance described in
145 Subsection (4)(b)(ii) takes effect.

146 Section 2. Section 11-41-102 is amended to read:

147 **11-41-102. Definitions.**

148 As used in this chapter:

- 149 (1) "Agreement" means an oral or written agreement between a:
150 (a) (i) county; or
151 (ii) municipality; and
152 (b) person.
- 153 (2) "Municipality" means a:
154 (a) city;
155 (b) town; or
156 (c) metro township.
- 157 (3) "Payment" includes:
158 (a) a payment;
159 (b) a rebate;
160 (c) a refund; or
161 (d) an amount similar to Subsections (3)(a) through (c).
- 162 (4) "Regional retail business" means a:
163 (a) retail business that occupies a floor area of more than 80,000 square feet;
164 (b) dealer as defined in Section 41-1a-102;
165 (c) retail shopping facility that has at least two anchor tenants if the total number of
166 anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square
167 feet; or
168 (d) grocery store that occupies a floor area of more than 30,000 square feet.
- 169 (5) (a) "Sales and use tax" means a tax:
170 (i) imposed on transactions within a:
171 (A) county; or
172 (B) municipality; and
173 (ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12,
174 Sales and Use Tax Act.
- 175 (b) [~~Notwithstanding Subsection (5)(a)(ii), "sales]~~ "Sales and use tax" does not include
176 a tax authorized under:
177 (i) Subsection 59-12-103(2)(a)(i);
178 (ii) Subsection 59-12-103(2)(b)(i);
179 (iii) Subsection 59-12-103(2)(c)(i);

- 180 (iv) Subsection 59-12-103(2)(d)(i);
- 181 [~~(iv)~~] (v) Subsection 59-12-103(2)[~~(d)~~](e)(i)(A);
- 182 [~~(v)~~] (vi) Section 59-12-301;
- 183 [~~(vi)~~] (vii) Section 59-12-352;
- 184 [~~(vii)~~] (viii) Section 59-12-353;
- 185 [~~(viii)~~] (ix) Section 59-12-603; or
- 186 [~~(ix)~~] (x) Section 59-12-1201.

- 187 (6) (a) "Sales and use tax incentive payment" means a payment of revenues:
- 188 (i) to a person;
- 189 (ii) by a:
- 190 (A) county; or
- 191 (B) municipality;
- 192 (iii) to induce the person to locate or relocate a regional retail business within the:
- 193 (A) county; or
- 194 (B) municipality; and
- 195 (iv) that are derived from a sales and use tax.
- 196 (b) "Sales and use tax incentive payment" does not include funding for public
- 197 infrastructure.

198 Section 3. Section 19-1-207 is enacted to read:

199 **19-1-207. Certification of large emitters for tax purposes.**

200 (1) As used in this section:

201 (a) "Large emitter" means the same as that term is defined in Section 59-29-102.

202 (b) "Operator" means the same as that term is defined in Section 59-2-102.

203 (2) (a) An operator of a large emitter shall annually obtain from the department a
204 certification of the amount of carbon dioxide emitted by a large emitter in a calendar year on a
205 form provided by the State Tax Commission.

206 (b) In providing the certification described in this Subsection (2), the department may
207 consider measurements of carbon dioxide emissions of large emitters from the United States
208 Energy Information Administration or the United States Environmental Protection Agency.

209 (3) On or before September 30, the department shall provide the State Tax
210 Commission with an electronic report listing the name and address of each person who

211 obtained a certificate under Subsection (2) for the previous calendar year.

212 Section 4. Section **35A-9-202** is enacted to read:

213 **35A-9-202. Tax credit notification -- Intergenerational poverty report to tax**
214 **commission.**

215 (1) As used in this section, "commission" means the State Tax Commission.

216 (2) (a) On or before January 31, the department shall provide notice of the tax credit
217 available under Section [59-10-1112](#) to an individual who the department identifies as
218 experiencing intergenerational poverty due to:

219 (i) the individual's receipt of public assistance during the previous calendar year;

220 (ii) the individual's receipt of public assistance for not less than 12 months since the
221 individual reached age 18; and

222 (iii) the individual's or the individual's family's receipt of public assistance for not less
223 than 12 months during the individual's childhood.

224 (b) The notice described in Subsection (2)(a) shall explain the eligibility requirements
225 and the method for claiming a tax credit under Section [59-10-1112](#).

226 (3) (a) On or before March 1, the department shall provide the commission with an
227 electronic report stating, for each individual to whom the department sent the notice described
228 in Subsection (2):

229 (i) the name of the individual; and

230 (ii) the social security number of the individual.

231 (b) The department and the commission shall provide for the security and
232 confidentiality of the information contained in the electronic report.

233 Section 5. Section **59-1-306** is amended to read:

234 **59-1-306. Definition -- State Tax Commission Administrative Charge Account --**
235 **Amount of administrative charge -- Deposit of revenues into the restricted account --**
236 **Interest deposited into General Fund -- Expenditure of money deposited into the**
237 **restricted account.**

238 (1) As used in this section, "qualifying tax, fee, or charge" means a tax, fee, or charge
239 the commission administers under:

240 (a) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

241 (b) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

- 242 (c) Section [19-6-714](#);
- 243 (d) Section [19-6-805](#);
- 244 (e) Chapter 12, Sales and Use Tax Act, other than a tax under Chapter 12, Part 1, Tax
245 Collection, or Chapter 12, Part 18, Additional State Sales and Use Tax Act;
- 246 (f) Section [59-27-105](#); ~~[or]~~
- 247 (g) Chapter 29, Carbon Emissions Tax Act, when deposited into the Carbon Emissions
248 Tax Expendable Revenue Fund; or
- 249 ~~[(g)]~~ (h) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges.

250 (2) There is created a restricted account within the General Fund known as the "State
251 Tax Commission Administrative Charge Account."

252 (3) Subject to the other provisions of this section, the restricted account shall consist of
253 administrative charges the commission retains and deposits in accordance with this section.

254 (4) For purposes of this section, the administrative charge is a percentage of ~~[revenues]~~
255 revenue the commission collects from each qualifying tax, fee, or charge of not to exceed the
256 lesser of:

257 (a) 1.5%; or

258 (b) an equal percentage of ~~[revenues]~~ revenue the commission collects from each
259 qualifying tax, fee, or charge sufficient to cover the cost to the commission of administering the
260 qualifying taxes, fees, or charges.

261 (5) The commission shall deposit an administrative charge into the restricted account.

262 (6) Interest earned on the restricted account shall be deposited into the General Fund.

263 (7) The commission shall expend money appropriated by the Legislature to the
264 commission from the restricted account to administer qualifying taxes, fees, or charges.

265 Section 6. Section **59-1-401** is amended to read:

266 **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**
267 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**
268 **interest.**

269 (1) As used in this section:

270 ~~[(a) "Activated tax, fee, or charge" means a tax, fee, or charge with respect to which the~~
271 ~~commission:]~~

272 ~~[(i) has implemented the commission's GenTax system; and]~~

273 ~~[(ii) at least 30 days before implementing the commission's GenTax system as~~
 274 ~~described in Subsection (1)(a)(i), has provided notice in a conspicuous place on the~~
 275 ~~commission's website stating:]~~

276 ~~[(A) the date the commission will implement the GenTax system with respect to the~~
 277 ~~tax, fee, or charge; and]~~

278 ~~[(B) that, at the time the commission implements the GenTax system with respect to~~
 279 ~~the tax, fee, or charge:]~~

280 ~~[(I) a person that files a return after the due date as described in Subsection (2)(a) is~~
 281 ~~subject to the penalty described in Subsection (2)(c)(ii); and]~~

282 ~~[(H) a person that fails to pay the tax, fee, or charge as described in Subsection (3)(a) is~~
 283 ~~subject to the penalty described in Subsection (3)(b)(ii).]~~

284 ~~[(b) "Activation date for a tax, fee, or charge" means with respect to a tax, fee, or~~
 285 ~~charge, the later of:]~~

286 ~~[(i) the date on which the commission implements the commission's GenTax system~~
 287 ~~with respect to the tax, fee, or charge; or]~~

288 ~~[(ii) 30 days after the date the commission provides the notice described in Subsection~~
 289 ~~(1)(a)(ii) with respect to the tax, fee, or charge.]~~

290 ~~[(c)(i) (a) Except as provided in Subsection [(1)(c)(ii)] (1)(b), "tax, fee, or charge"~~
 291 ~~means:~~

292 ~~[(A) (i) a tax, fee, or charge the commission administers under:~~

293 ~~[(F) (A) this title;~~

294 ~~[(H) (B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;~~

295 ~~[(H) (C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;~~

296 ~~[(IV) (D) Section 19-6-410.5;~~

297 ~~[(V) (E) Section 19-6-714;~~

298 ~~[(VI) (F) Section 19-6-805;~~

299 ~~[(VII) (G) Section 32B-2-304;~~

300 ~~[(VIII) (H) Section 34A-2-202;~~

301 ~~[(IX) (I) Section 40-6-14; or~~

302 ~~[(X) (J) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or~~

303 ~~[(B) (ii) another amount that by statute is subject to a penalty imposed under this~~

304 section.

305 ~~[(ii)]~~ (b) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:

306 ~~[(A)]~~ (i) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

307 ~~[(B)]~~ (ii) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

308 ~~[(C)]~~ (iii) Chapter 2, Property Tax Act, except for Section 59-2-1309;

309 ~~[(D)]~~ (iv) Chapter 3, Tax Equivalent Property Act; or

310 ~~[(E)]~~ (v) Chapter 4, Privilege Tax.

311 ~~[(d)] "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an~~

312 ~~activated tax, fee, or charge.]~~

313 (2) (a) The due date for filing a return is:

314 (i) if the person filing the return is not allowed by law an extension of time for filing
315 the return, the day on which the return is due as provided by law; or

316 (ii) if the person filing the return is allowed by law an extension of time for filing the
317 return, the earlier of:

318 (A) the date the person files the return; or

319 (B) the last day of that extension of time as allowed by law.

320 (b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a
321 return after the due date described in Subsection (2)(a).

322 (c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:

323 ~~[(i) if the return described in Subsection (2)(b) is filed with respect to an unactivated~~
324 ~~tax, fee, or charge:]~~

325 ~~[(A) \$20; or]~~

326 ~~[(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or]~~

327 ~~[(ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax,~~
328 ~~fee, or charge, beginning on the activation date for the tax, fee, or charge:]~~

329 ~~[(A)]~~ (i) \$20; or

330 ~~[(B)-(F)]~~ (ii) (A) 2% of the unpaid [activated] tax, fee, or charge due on the return if the
331 return is filed no later than five days after the due date described in Subsection (2)(a);

332 ~~[(H)]~~ (B) 5% of the unpaid [activated] tax, fee, or charge due on the return if the return
333 is filed more than five days after the due date but no later than 15 days after the due date

334 described in Subsection (2)(a); or

335 ~~[(H)]~~ (C) 10% of the unpaid ~~[activated]~~ tax, fee, or charge due on the return if the
336 return is filed more than 15 days after the due date described in Subsection (2)(a).

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

338 (i) an amended return; or

339 (ii) a return with no tax due.

340 (3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:

341 (i) the person files a return on or before the due date for filing a return described in
342 Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due
343 date;

344 (ii) the person:

345 (A) is subject to a penalty under Subsection (2)(b); and

346 (B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the
347 due date for filing a return described in Subsection (2)(a);

348 (iii) (A) the person is subject to a penalty under Subsection (2)(b); and

349 (B) the commission estimates an amount of tax due for that person in accordance with
350 Subsection [59-1-1406](#)(2);

351 (iv) the person:

352 (A) is mailed a notice of deficiency; and

353 (B) within a 30-day period after the day on which the notice of deficiency described in
354 Subsection (3)(a)(iv)(A) is mailed:

355 (I) does not file a petition for redetermination or a request for agency action; and

356 (II) fails to pay the tax, fee, or charge due on a return;

357 (v) (A) the commission:

358 (I) issues an order constituting final agency action resulting from a timely filed petition
359 for redetermination or a timely filed request for agency action; or

360 (II) is considered to have denied a request for reconsideration under Subsection
361 [63G-4-302](#)(3)(b) resulting from a timely filed petition for redetermination or a timely filed
362 request for agency action; and

363 (B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period
364 after the ~~[date]~~ day on which the commission:

365 (I) issues the order constituting final agency action described in Subsection

366 (3)(a)(v)(A)(I); or

367 (II) is considered to have denied the request for reconsideration described in

368 Subsection (3)(a)(v)(A)(II); or

369 (vi) the person fails to pay the tax, fee, or charge within [~~a 30-day period~~] 30 days after
370 the [~~date of~~] day on which a court issues a final judicial decision resulting from a timely filed
371 petition for judicial review.

372 (b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:

373 [~~(i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with~~
374 ~~respect to an unactivated tax, fee, or charge:]~~

375 [~~(A) \$20; or~~]

376 [~~(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or~~]

377 [~~(ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with~~
378 ~~respect to an activated tax, fee, or charge, beginning on the activation date:]~~

379 [~~(A)~~] (i) \$20; or

380 [~~(B)~~] (ii) (A) 2% of the unpaid [~~activated~~] tax, fee, or charge due on the return if the
381 [~~activated~~] tax, fee, or charge due on the return is paid no later than five days after the due date
382 for filing a return described in Subsection (2)(a);

383 [~~(B)~~] (B) 5% of the unpaid [~~activated~~] tax, fee, or charge due on the return if the
384 [~~activated~~] tax, fee, or charge due on the return is paid more than five days after the due date
385 for filing a return described in Subsection (2)(a) but no later than 15 days after that due date; or

386 [~~(C)~~] (C) 10% of the unpaid [~~activated~~] tax, fee, or charge due on the return if the
387 [~~activated~~] tax, fee, or charge due on the return is paid more than 15 days after the due date for
388 filing a return described in Subsection (2)(a).

389 (4) (a) [~~Beginning January 1, 1995, in~~] In the case of any underpayment of estimated
390 tax or quarterly installments required by Sections [59-5-107](#), [59-5-207](#), [59-7-504](#), and [59-9-104](#),
391 there shall be added a penalty in an amount determined by applying the interest rate provided
392 under Section [59-1-402](#) plus four percentage points to the amount of the underpayment for the
393 period of the underpayment.

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

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

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

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

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

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

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

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

415 (b) For purposes of Subsection (5)(a), the penalty per month during the period of the
416 extension of time for filing the return is an amount equal to 2% of the tax due on the return,
417 unpaid as of the day on which the return is due as provided by law.

418 (6) If a person does not file a return within an extension of time allowed by Section
419 59-7-505 or 59-10-516, the person:

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

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

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

423 (A) \$20; or

424 (B) 10% of the tax due on the return, unpaid as of the day on which the return is due as
425 provided by law, not including the extension of time; and

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

427 (A) \$20; or

428 (B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is
429 due as provided by law, not including the extension of time.

430 (7) (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided
431 in this Subsection (7)(a).

432 (i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax,
433 fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that
434 is due to negligence.

435 (ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of a
436 tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the entire
437 underpayment.

438 (iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge,
439 the penalty is the greater of \$500 per period or 50% of the entire underpayment.

440 (iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or
441 charge, the penalty is the greater of \$500 per period or 100% of the entire underpayment.

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

445 (i) The notice of proposed penalty shall:

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

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

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

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

451 or

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

453 (iii) A person against whom a penalty is proposed in accordance with this Subsection
454 (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with
455 the commission.

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

459 (B) The commission shall mail the notice and demand for payment described in
460 Subsection (7)(b)(iv)(A):

- 461 (I) to the person's last-known address; and
- 462 (II) in accordance with Section 59-1-1404.

463 (c) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not
464 subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

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

- 467 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
- 468 or is a seller required to pay or collect and remit sales and use taxes under Subsection
- 469 59-12-107(2)(b); and

470 (B) the commission or a county, city, or town may require the seller to collect a tax
471 under Subsections 59-12-103(2)(a) through ~~(d)~~ (e); or

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

- 473 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
- 474 or is a seller required to pay or collect and remit sales and use taxes under Subsection
- 475 59-12-107(2)(b); and

476 (B) the commission or a county, city, or town may require the seller to collect a tax
477 under Subsections 59-12-103(2)(a) through ~~(d)~~ (e).

478 (d) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not
479 subject to the penalty under Subsection (7)(a)(ii) if:

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

- 482 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
- 483 or is a seller required to pay or collect and remit sales and use taxes under Subsection
- 484 59-12-107(2)(b); and

485 (II) the commission or a county, city, or town may require the seller to collect a tax
486 under Subsections 59-12-103(2)(a) through ~~(d)~~ (e); or

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

- 488 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
- 489 or is a seller required to pay or collect and remit sales and use taxes under Subsection

490 59-12-107(2)(b); and

491 (II) the commission or a county, city, or town may require the seller to collect a tax
492 under Subsections 59-12-103(2)(a) through ~~(d)~~ (e); and

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

496 (8) (a) Subject to Subsections (8)(b) and (c), the penalty for failure to file an
497 information return, information report, or a complete supporting schedule is \$50 for each
498 information return, information report, or supporting schedule up to a maximum of \$1,000.

499 (b) If an employer is subject to a penalty under Subsection (13), the employer may not
500 be subject to a penalty under Subsection (8)(a).

501 (c) If an employer is subject to a penalty under this Subsection (8) for failure to file a
502 return in accordance with Subsection 59-10-406(3) on or before the due date described in
503 Subsection 59-10-406(3)(b)(ii), the commission may not impose a penalty under this
504 Subsection (8) unless the return is filed more than 14 days after the due date described in
505 Subsection 59-10-406(3)(b)(ii).

506 (9) If a person, in furtherance of a frivolous position, has a prima facie intent to delay
507 or impede administration of a law relating to a tax, fee, or charge and files a purported return
508 that fails to contain information from which the correctness of reported tax, fee, or charge
509 liability can be determined or that clearly indicates that the tax, fee, or charge liability shown is
510 substantially incorrect, the penalty is \$500.

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

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

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

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

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

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

521 (11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:
522 (i) commits an act described in Subsection (11)(b) with respect to one or more of the
523 following documents:
524 (A) a return;
525 (B) an affidavit;
526 (C) a claim; or
527 (D) a document similar to Subsections (11)(a)(i)(A) through (C);
528 (ii) knows or has reason to believe that the document described in Subsection (11)(a)(i)
529 will be used in connection with any material matter administered by the commission; and
530 (iii) knows that the document described in Subsection (11)(a)(i), if used in connection
531 with any material matter administered by the commission, would result in an understatement of
532 another person's liability for a tax, fee, or charge.
533 (b) The following acts apply to Subsection (11)(a)(i):
534 (i) preparing any portion of a document described in Subsection (11)(a)(i);
535 (ii) presenting any portion of a document described in Subsection (11)(a)(i);
536 (iii) procuring any portion of a document described in Subsection (11)(a)(i);
537 (iv) advising in the preparation or presentation of any portion of a document described
538 in Subsection (11)(a)(i);
539 (v) aiding in the preparation or presentation of any portion of a document described in
540 Subsection (11)(a)(i);
541 (vi) assisting in the preparation or presentation of any portion of a document described
542 in Subsection (11)(a)(i); or
543 (vii) counseling in the preparation or presentation of any portion of a document
544 described in Subsection (11)(a)(i).
545 (c) For purposes of Subsection (11)(a), the penalty:
546 (i) shall be imposed by the commission;
547 (ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which
548 the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and
549 (iii) is in addition to any other penalty provided by law.
550 (d) The commission may seek a court order to enjoin a person from engaging in
551 conduct that is subject to a penalty under this Subsection (11).

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

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

557 (b) (i) A person ~~[who]~~ is guilty of a class B misdemeanor if the person:

558 (A) is required by this title or any laws the commission administers or regulates to
559 register with or obtain a license or permit from the commission~~[-, who]; and~~

560 (B) operates without having registered or secured a license or permit~~[-, or who] or~~
561 operates when the registration, license, or permit is expired or not current~~[-, is guilty of a class~~
562 ~~B misdemeanor].~~

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

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

566 (B) exceed \$1,000.

567 (c) (i) With respect to a tax, fee, or charge, a person ~~[who]~~ is guilty of a third degree
568 felony if a person:

569 (A) knowingly and intentionally, and without a reasonable good faith basis, fails to
570 make, render, sign, or verify a return within the time required by law or to supply information
571 within the time required by law~~[-, or who];~~

572 (B) makes, renders, signs, or verifies a false or fraudulent return or statement~~[-, or who];~~
573 or

574 (C) supplies false or fraudulent information~~[-, is guilty of a third degree felony].~~

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

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

578 (B) exceed \$5,000.

579 (d) (i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or
580 charge or the payment of a tax, fee, or charge is, in addition to other penalties provided by law,
581 guilty of a second degree felony.

582 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the

583 penalty may not:

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

585 (B) exceed \$25,000.

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

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

589 (I) a return;

590 (II) an affidavit;

591 (III) a claim; or

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

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

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

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

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

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

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

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

602 (D) advising in the preparation or presentation of any portion of a document described
603 in Subsection (12)(e)(i)(A);

604 (E) aiding in the preparation or presentation of any portion of a document described in
605 Subsection (12)(e)(i)(A);

606 (F) assisting in the preparation or presentation of any portion of a document described
607 in Subsection (12)(e)(i)(A); or

608 (G) counseling in the preparation or presentation of any portion of a document
609 described in Subsection (12)(e)(i)(A).

610 (iii) This Subsection (12)(e) applies:

611 (A) regardless of whether the person for which the document described in Subsection
612 (12)(e)(i)(A) is prepared or presented:

613 (I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or

614 (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and
615 (B) in addition to any other penalty provided by law.

616 (iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the
617 penalty may not:

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

619 (B) exceed \$25,000.

620 (v) The commission may seek a court order to enjoin a person from engaging in
621 conduct that is subject to a penalty under this Subsection (12)(e).

622 (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
623 the commission may make rules prescribing the documents that are similar to Subsections
624 (12)(e)(i)(A)(I) through (III).

625 (f) The statute of limitations for prosecution for a violation of this Subsection (12) is
626 the later of six years:

627 (i) from the date the tax should have been remitted; or

628 (ii) after the day on which the person commits the criminal offense.

629 (13) (a) Subject to Subsection (13)(b), an employer that is required to file a form with
630 the commission in accordance with Subsection 59-10-406(8) is subject to a penalty described
631 in Subsection (13)(b) if the employer:

632 (i) fails to file the form with the commission in an electronic format approved by the
633 commission as required by Subsection 59-10-406(8);

634 (ii) fails to file the form on or before the due date provided in Subsection 59-10-406(8);

635 (iii) fails to provide accurate information on the form; or

636 (iv) fails to provide all of the information required by the Internal Revenue Service to
637 be contained on the form.

638 (b) For purposes of Subsection (13)(a), the penalty is:

639 (i) \$30 per form, not to exceed \$75,000 in a calendar year, if the employer files the
640 form in accordance with Subsection 59-10-406(8), more than 14 days after the due date
641 provided in Subsection 59-10-406(8) but no later than 30 days after the due date provided in
642 Subsection 59-10-406(8);

643 (ii) \$60 per form, not to exceed \$200,000 in a calendar year, if the employer files the
644 form in accordance with Subsection 59-10-406(8), more than 30 days after the due date

645 provided in Subsection 59-10-406(8) but on or before June 1; or

646 (iii) \$100 per form, not to exceed \$500,000 in a calendar year, if the employer:

647 (A) files the form in accordance with Subsection 59-10-406(8) after June 1; or

648 (B) fails to file the form.

649 (14) Upon making a record of its actions, and upon reasonable cause shown, the
650 commission may waive, reduce, or compromise any of the penalties or interest imposed under
651 this part.

652 Section 7. Section 59-7-623 is enacted to read:

653 **59-7-623. Tax credit for mining and manufacturing.**

654 (1) As used in this section:

655 (a) "Eligible corporation" means a corporation generating taxable income primarily
656 from economic activities classified in one or more of the following NAICS codes of the 2017
657 North American Industry Classification System of the federal Executive Office of the
658 President, Office of Management and Budget:

659 (i) NAICS Sector 21, Mining; or

660 (ii) NAICS Sector 31-33, Manufacturing.

661 (b) "Remaining tax liability" means a corporation's tax liability as provided in this
662 chapter after all other credits and adjustments have been taken into account.

663 (2) For a taxable year beginning on or after January 1, 2020, an eligible corporation
664 may claim a nonrefundable tax credit in an amount equal to the corporation's remaining tax
665 liability.

666 (3) A corporation may not carry forward or carry back a tax credit under this section.

667 (4) (a) The Division of Finance shall transfer at least annually from the Carbon
668 Emissions Tax Expendable Revenue Fund into the Education Fund an amount equal to the
669 amount of tax credit claimed under this section.

670 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
671 commission may make rules for making the transfer described in Subsection (4)(a).

672 Section 8. Section 59-10-138 is enacted to read:

673 **59-10-138. Tax credit for mining and manufacturing.**

674 (1) As used in this section:

675 (a) "Eligible pass-through entity taxpayer" means a pass-through entity taxpayer

676 generating taxable income primarily from establishments classified in one or more of the
677 following NAICS codes of the 2017 North American Industry Classification System of the
678 federal Executive Office of the President, Office of Management and Budget:

679 (i) NAICS Sector 21, Mining; or

680 (ii) NAICS Sector 31-33, Manufacturing.

681 (b) "Pass-through entity taxpayer" means the same as that term is defined in Section
682 59-10-1402.

683 (c) "Remaining tax liability" means a pass-through entity taxpayer's tax liability as
684 provided in this chapter after all other credits and adjustments have been taken into account.

685 (2) For a taxable year beginning on or after January 1, 2020, an eligible pass-through
686 entity taxpayer may claim a nonrefundable tax credit in an amount equal to the eligible
687 pass-through entity taxpayer's remaining tax liability.

688 (3) An eligible pass-through entity taxpayer may not carry forward or carry back a tax
689 credit under this section.

690 (4) (a) The Division of Finance shall transfer at least annually from the Carbon
691 Emissions Tax Expendable Revenue Fund into the Education Fund an amount equal to the
692 amount of tax credit claimed under this section.

693 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
694 commission may make rules for making the transfer described in Subsection (4)(a).

695 Section 9. Section **59-10-529.1** is amended to read:

696 **59-10-529.1. Time period for commission to issue a refund.**

697 (1) Except as provided in Subsection (2), the commission may not issue a refund
698 before March 1.

699 (2) The commission may issue a refund before March 1 if, before March 1, the
700 commission determines that:

701 (a) (i) an employer has filed the one or more forms in accordance with Subsection
702 59-10-406(8) the employer is required to file with respect to an individual; and

703 (ii) for a refund of a tax credit described in Section 59-10-1112, the Department of
704 Workforce Services has submitted the electronic report required by Section 35A-9-202; and

705 (b) the individual has filed a return in accordance with this chapter.

706 Section 10. Section **59-10-1102.1** is enacted to read:

707 **59-10-1102.1. Apportionment of tax credit.**

708 A nonresident individual or a part-year resident individual who claims the tax credit
709 described in Section 59-10-1112 may only claim an apportioned amount of the tax credit equal
710 to the product of:

711 (1) the state income tax percentage for a nonresident individual or the state income tax
712 percentage for a part-year resident individual; and

713 (2) the amount of the tax credit that the nonresident individual or the part-year resident
714 individual would have been allowed to claim but for the apportionment requirement of this
715 section.

716 Section 11. Section 59-10-1112 is enacted to read:

717 **59-10-1112. Refundable state earned income tax credit -- Definition -- Tax credit**
718 **calculation -- Transfers from General Fund.**

719 (1) As used in this section:

720 (a) "Department" means the Department of Workforce Services created in Section
721 35A-1-103.

722 (b) "Federal earned income tax credit" means the federal earned income tax credit
723 described in Section 32, Internal Revenue Code.

724 (c) "Intergenerational poverty" means the same as that term is defined in Section
725 35A-9-102.

726 (d) "Qualifying claimant" means a resident or nonresident individual who:

727 (i) is identified by the department as experiencing intergenerational poverty; and

728 (ii) claimed the federal earned income tax credit for the previous taxable year.

729 (2) Except as provided in Section 59-10-1102.1, a qualifying claimant may claim a
730 nonrefundable earned income tax credit equal to 75% of the amount of the federal earned
731 income tax credit that the qualifying claimant was entitled to claim on a federal income tax
732 return in the previous taxable year.

733 (3) (a) The commission shall use the electronic report described in Section 35A-9-202
734 to verify that a qualifying claimant is identified as experiencing intergenerational poverty.

735 (b) The commission may not use the electronic report described in Section 35A-9-202
736 for any other purpose.

737 (4) (a) The Division of Finance shall transfer at least annually from the Carbon

738 Emissions Tax Expendable Revenue Fund into the Education Fund an amount equal to the
739 amount of tax credit claimed under this section.

740 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
741 commission may make rules for making the transfer described in Subsection (4)(a).

742 Section 12. Section **59-12-102** is amended to read:

743 **59-12-102. Definitions.**

744 As used in this chapter:

745 (1) "800 service" means a telecommunications service that:

746 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

747 (b) is typically marketed:

748 (i) under the name 800 toll-free calling;

749 (ii) under the name 855 toll-free calling;

750 (iii) under the name 866 toll-free calling;

751 (iv) under the name 877 toll-free calling;

752 (v) under the name 888 toll-free calling; or

753 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the

754 Federal Communications Commission.

755 (2) (a) "900 service" means an inbound toll telecommunications service that:

756 (i) a subscriber purchases;

757 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to

758 the subscriber's:

759 (A) prerecorded announcement; or

760 (B) live service; and

761 (iii) is typically marketed:

762 (A) under the name 900 service; or

763 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal

764 Communications Commission.

765 (b) "900 service" does not include a charge for:

766 (i) a collection service a seller of a telecommunications service provides to a

767 subscriber; or

768 (ii) the following a subscriber sells to the subscriber's customer:

- 769 (A) a product; or
770 (B) a service.
771 (3) (a) "Admission or user fees" includes season passes.
772 (b) "Admission or user fees" does not include annual membership dues to private
773 organizations.
774 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
775 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
776 Agreement after November 12, 2002.
777 (5) "Agreement combined tax rate" means the sum of the tax rates:
778 (a) listed under Subsection (6); and
779 (b) that are imposed within a local taxing jurisdiction.
780 (6) "Agreement sales and use tax" means a tax imposed under:
781 (a) Subsection 59-12-103(2)(a)(i)(A);
782 (b) Subsection 59-12-103(2)(b)(i);
783 (c) Subsection 59-12-103(2)(c)(i);
784 (d) Subsection 59-12-103(2)(d)(i)~~[(A)(f)]~~;
785 (e) Subsection 59-12-103(2)(e)(i)(A)(I);
786 ~~[(e)]~~ (f) Section 59-12-204;
787 ~~[(f)]~~ (g) Section 59-12-401;
788 ~~[(g)]~~ (h) Section 59-12-402;
789 ~~[(h)]~~ (i) Section 59-12-402.1;
790 ~~[(i)]~~ (j) Section 59-12-703;
791 ~~[(j)]~~ (k) Section 59-12-802;
792 ~~[(k)]~~ (l) Section 59-12-804;
793 ~~[(l)]~~ (m) Section 59-12-1102;
794 ~~[(m)]~~ (n) Section 59-12-1302;
795 ~~[(n)]~~ (o) Section 59-12-1402;
796 ~~[(o)]~~ (p) Section 59-12-1802;
797 ~~[(p)]~~ (q) Section 59-12-2003;
798 ~~[(q)]~~ (r) Section 59-12-2103;
799 ~~[(r)]~~ (s) Section 59-12-2213;

800 ~~(s)~~ (t) Section 59-12-2214;

801 ~~(t)~~ (u) Section 59-12-2215;

802 ~~(u)~~ (v) Section 59-12-2216;

803 ~~(v)~~ (w) Section 59-12-2217;

804 ~~(w)~~ (x) Section 59-12-2218; or

805 ~~(x)~~ (y) Section 59-12-2219.

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

807 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

808 (a) except for:

809 (i) an airline as defined in Section 59-2-102; or

810 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"

811 includes a corporation that is qualified to do business but is not otherwise doing business in the

812 state, of an airline; and

813 (b) that has the workers, expertise, and facilities to perform the following, regardless of

814 whether the business entity performs the following in this state:

815 (i) check, diagnose, overhaul, and repair:

816 (A) an onboard system of a fixed wing turbine powered aircraft; and

817 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

818 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft

819 engine;

820 (iii) perform at least the following maintenance on a fixed wing turbine powered

821 aircraft:

822 (A) an inspection;

823 (B) a repair, including a structural repair or modification;

824 (C) changing landing gear; and

825 (D) addressing issues related to an aging fixed wing turbine powered aircraft;

826 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and

827 completely apply new paint to the fixed wing turbine powered aircraft; and

828 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that

829 results in a change in the fixed wing turbine powered aircraft's certification requirements by the

830 authority that certifies the fixed wing turbine powered aircraft.

- 831 (9) "Alcoholic beverage" means a beverage that:
832 (a) is suitable for human consumption; and
833 (b) contains .5% or more alcohol by volume.
- 834 (10) "Alternative energy" means:
835 (a) biomass energy;
836 (b) geothermal energy;
837 (c) hydroelectric energy;
838 (d) solar energy;
839 (e) wind energy; or
840 (f) energy that is derived from:
841 (i) coal-to-liquids;
842 (ii) nuclear fuel;
843 (iii) oil-impregnated diatomaceous earth;
844 (iv) oil sands;
845 (v) oil shale;
846 (vi) petroleum coke; or
847 (vii) waste heat from:
848 (A) an industrial facility; or
849 (B) a power station in which an electric generator is driven through a process in which
850 water is heated, turns into steam, and spins a steam turbine.
- 851 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
852 facility" means a facility that:
853 (i) uses alternative energy to produce electricity; and
854 (ii) has a production capacity of two megawatts or greater.
855 (b) A facility is an alternative energy electricity production facility regardless of
856 whether the facility is:
857 (i) connected to an electric grid; or
858 (ii) located on the premises of an electricity consumer.
- 859 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
860 provision of telecommunications service.
861 (b) "Ancillary service" includes:

862 (i) a conference bridging service;

863 (ii) a detailed communications billing service;

864 (iii) directory assistance;

865 (iv) a vertical service; or

866 (v) a voice mail service.

867 (13) "Area agency on aging" means the same as that term is defined in Section

868 [62A-3-101](#).

869 (14) "Assisted amusement device" means an amusement device, skill device, or ride

870 device that is started and stopped by an individual:

871 (a) who is not the purchaser or renter of the right to use or operate the amusement

872 device, skill device, or ride device; and

873 (b) at the direction of the seller of the right to use the amusement device, skill device,

874 or ride device.

875 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or

876 washing of tangible personal property if the cleaning or washing labor is primarily performed

877 by an individual:

878 (a) who is not the purchaser of the cleaning or washing of the tangible personal

879 property; and

880 (b) at the direction of the seller of the cleaning or washing of the tangible personal

881 property.

882 (16) "Authorized carrier" means:

883 (a) in the case of vehicles operated over public highways, the holder of credentials

884 indicating that the vehicle is or will be operated pursuant to both the International Registration

885 Plan and the International Fuel Tax Agreement;

886 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating

887 certificate or air carrier's operating certificate; or

888 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling

889 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling

890 stock in more than one state.

891 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the

892 following that is used as the primary source of energy to produce fuel or electricity:

- 893 (i) material from a plant or tree; or
- 894 (ii) other organic matter that is available on a renewable basis, including:
- 895 (A) slash and brush from forests and woodlands;
- 896 (B) animal waste;
- 897 (C) waste vegetable oil;
- 898 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
- 899 wastewater residuals, or through the conversion of a waste material through a nonincineration,
- 900 thermal conversion process;
- 901 (E) aquatic plants; and
- 902 (F) agricultural products.
- 903 (b) "Biomass energy" does not include:
- 904 (i) black liquor; or
- 905 (ii) treated woods.
- 906 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 907 property, products, or services if the tangible personal property, products, or services are:
- 908 (i) distinct and identifiable; and
- 909 (ii) sold for one nonitemized price.
- 910 (b) "Bundled transaction" does not include:
- 911 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 912 the basis of the selection by the purchaser of the items of tangible personal property included in
- 913 the transaction;
- 914 (ii) the sale of real property;
- 915 (iii) the sale of services to real property;
- 916 (iv) the retail sale of tangible personal property and a service if:
- 917 (A) the tangible personal property:
- 918 (I) is essential to the use of the service; and
- 919 (II) is provided exclusively in connection with the service; and
- 920 (B) the service is the true object of the transaction;
- 921 (v) the retail sale of two services if:
- 922 (A) one service is provided that is essential to the use or receipt of a second service;
- 923 (B) the first service is provided exclusively in connection with the second service; and

- 924 (C) the second service is the true object of the transaction;
- 925 (vi) a transaction that includes tangible personal property or a product subject to
926 taxation under this chapter and tangible personal property or a product that is not subject to
927 taxation under this chapter if the:
- 928 (A) seller's purchase price of the tangible personal property or product subject to
929 taxation under this chapter is de minimis; or
- 930 (B) seller's sales price of the tangible personal property or product subject to taxation
931 under this chapter is de minimis; and
- 932 (vii) the retail sale of tangible personal property that is not subject to taxation under
933 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 934 (A) that retail sale includes:
- 935 (I) food and food ingredients;
- 936 (II) a drug;
- 937 (III) durable medical equipment;
- 938 (IV) mobility enhancing equipment;
- 939 (V) an over-the-counter drug;
- 940 (VI) a prosthetic device; or
- 941 (VII) a medical supply; and
- 942 (B) subject to Subsection (18)(f):
- 943 (I) the seller's purchase price of the tangible personal property subject to taxation under
944 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 945 (II) the seller's sales price of the tangible personal property subject to taxation under
946 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 947 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
948 service that is distinct and identifiable does not include:
- 949 (A) packaging that:
- 950 (I) accompanies the sale of the tangible personal property, product, or service; and
- 951 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
952 service;
- 953 (B) tangible personal property, a product, or a service provided free of charge with the
954 purchase of another item of tangible personal property, a product, or a service; or

955 (C) an item of tangible personal property, a product, or a service included in the
956 definition of "purchase price."

957 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
958 product, or a service is provided free of charge with the purchase of another item of tangible
959 personal property, a product, or a service if the sales price of the purchased item of tangible
960 personal property, product, or service does not vary depending on the inclusion of the tangible
961 personal property, product, or service provided free of charge.

962 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
963 does not include a price that is separately identified by tangible personal property, product, or
964 service on the following, regardless of whether the following is in paper format or electronic
965 format:

966 (A) a binding sales document; or

967 (B) another supporting sales-related document that is available to a purchaser.

968 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
969 supporting sales-related document that is available to a purchaser includes:

970 (A) a bill of sale;

971 (B) a contract;

972 (C) an invoice;

973 (D) a lease agreement;

974 (E) a periodic notice of rates and services;

975 (F) a price list;

976 (G) a rate card;

977 (H) a receipt; or

978 (I) a service agreement.

979 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
980 property or a product subject to taxation under this chapter is de minimis if:

981 (A) the seller's purchase price of the tangible personal property or product is 10% or
982 less of the seller's total purchase price of the bundled transaction; or

983 (B) the seller's sales price of the tangible personal property or product is 10% or less of
984 the seller's total sales price of the bundled transaction.

985 (ii) For purposes of Subsection (18)(b)(vi), a seller:

986 (A) shall use the seller's purchase price or the seller's sales price to determine if the
987 purchase price or sales price of the tangible personal property or product subject to taxation
988 under this chapter is de minimis; and

989 (B) may not use a combination of the seller's purchase price and the seller's sales price
990 to determine if the purchase price or sales price of the tangible personal property or product
991 subject to taxation under this chapter is de minimis.

992 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
993 contract to determine if the sales price of tangible personal property or a product is de minimis.

994 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
995 the seller's purchase price and the seller's sales price to determine if tangible personal property
996 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
997 price of that retail sale.

998 (19) "Certified automated system" means software certified by the governing board of
999 the agreement that:

1000 (a) calculates the agreement sales and use tax imposed within a local taxing
1001 jurisdiction:

1002 (i) on a transaction; and

1003 (ii) in the states that are members of the agreement;

1004 (b) determines the amount of agreement sales and use tax to remit to a state that is a
1005 member of the agreement; and

1006 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

1007 (20) "Certified service provider" means an agent certified:

1008 (a) by the governing board of the agreement; and

1009 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
1010 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
1011 own purchases.

1012 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel
1013 suitable for general use.

1014 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1015 commission shall make rules:

1016 (i) listing the items that constitute "clothing"; and

1017 (ii) that are consistent with the list of items that constitute "clothing" under the
1018 agreement.

1019 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

1020 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
1021 fuels that does not constitute industrial use under Subsection (56) or residential use under
1022 Subsection [~~(106)~~] (107).

1023 (24) (a) "Common carrier" means a person engaged in or transacting the business of
1024 transporting passengers, freight, merchandise, or other property for hire within this state.

1025 (b) (i) "Common carrier" does not include a person who, at the time the person is
1026 traveling to or from that person's place of employment, transports a passenger to or from the
1027 passenger's place of employment.

1028 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
1029 Utah Administrative Rulemaking Act, the commission may make rules defining what
1030 constitutes a person's place of employment.

1031 (c) "Common carrier" does not include a person that provides transportation network
1032 services, as defined in Section 13-51-102.

1033 (25) "Component part" includes:

1034 (a) poultry, dairy, and other livestock feed, and their components;

1035 (b) baling ties and twine used in the baling of hay and straw;

1036 (c) fuel used for providing temperature control of orchards and commercial
1037 greenhouses doing a majority of their business in wholesale sales, and for providing power for
1038 off-highway type farm machinery; and

1039 (d) feed, seeds, and seedlings.

1040 (26) "Computer" means an electronic device that accepts information:

1041 (a) (i) in digital form; or

1042 (ii) in a form similar to digital form; and

1043 (b) manipulates that information for a result based on a sequence of instructions.

1044 (27) "Computer software" means a set of coded instructions designed to cause:

1045 (a) a computer to perform a task; or

1046 (b) automatic data processing equipment to perform a task.

1047 (28) "Computer software maintenance contract" means a contract that obligates a seller

1048 of computer software to provide a customer with:

- 1049 (a) future updates or upgrades to computer software;
- 1050 (b) support services with respect to computer software; or
- 1051 (c) a combination of Subsections (28)(a) and (b).

1052 (29) (a) "Conference bridging service" means an ancillary service that links two or
1053 more participants of an audio conference call or video conference call.

1054 (b) "Conference bridging service" may include providing a telephone number as part of
1055 the ancillary service described in Subsection (29)(a).

1056 (c) "Conference bridging service" does not include a telecommunications service used
1057 to reach the ancillary service described in Subsection (29)(a).

1058 (30) "Construction materials" means any tangible personal property that will be
1059 converted into real property.

1060 (31) "Delivered electronically" means delivered to a purchaser by means other than
1061 tangible storage media.

1062 (32) (a) "Delivery charge" means a charge:

1063 (i) by a seller of:

- 1064 (A) tangible personal property;
- 1065 (B) a product transferred electronically; or
- 1066 (C) services; and

1067 (ii) for preparation and delivery of the tangible personal property, product transferred
1068 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
1069 purchaser.

1070 (b) "Delivery charge" includes a charge for the following:

- 1071 (i) transportation;
- 1072 (ii) shipping;
- 1073 (iii) postage;
- 1074 (iv) handling;
- 1075 (v) crating; or
- 1076 (vi) packing.

1077 (33) "Detailed telecommunications billing service" means an ancillary service of
1078 separately stating information pertaining to individual calls on a customer's billing statement.

- 1079 (34) "Dietary supplement" means a product, other than tobacco, that:
- 1080 (a) is intended to supplement the diet;
- 1081 (b) contains one or more of the following dietary ingredients:
- 1082 (i) a vitamin;
- 1083 (ii) a mineral;
- 1084 (iii) an herb or other botanical;
- 1085 (iv) an amino acid;
- 1086 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 1087 dietary intake; or
- 1088 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 1089 described in Subsections (34)(b)(i) through (v);
- 1090 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
- 1091 (A) tablet form;
- 1092 (B) capsule form;
- 1093 (C) powder form;
- 1094 (D) softgel form;
- 1095 (E) gelcap form; or
- 1096 (F) liquid form; or
- 1097 (ii) if the product is not intended for ingestion in a form described in Subsections
- 1098 (34)(c)(i)(A) through (F), is not represented:
- 1099 (A) as conventional food; and
- 1100 (B) for use as a sole item of:
- 1101 (I) a meal; or
- 1102 (II) the diet; and
- 1103 (d) is required to be labeled as a dietary supplement:
- 1104 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 1105 (ii) as required by 21 C.F.R. Sec. 101.36.
- 1106 (35) "Digital audio-visual work" means a series of related images which, when shown
- 1107 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 1108 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 1109 musical, spoken, or other sounds.

- 1110 (b) "Digital audio work" includes a ringtone.
- 1111 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
1112 sense as a book.
- 1113 (38) (a) "Direct mail" means printed material delivered or distributed by United States
1114 mail or other delivery service:
- 1115 (i) to:
- 1116 (A) a mass audience; or
- 1117 (B) addressees on a mailing list provided:
- 1118 (I) by a purchaser of the mailing list; or
- 1119 (II) at the discretion of the purchaser of the mailing list; and
- 1120 (ii) if the cost of the printed material is not billed directly to the recipients.
- 1121 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
1122 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 1123 (c) "Direct mail" does not include multiple items of printed material delivered to a
1124 single address.
- 1125 (39) "Directory assistance" means an ancillary service of providing:
- 1126 (a) address information; or
- 1127 (b) telephone number information.
- 1128 (40) (a) "Disposable home medical equipment or supplies" means medical equipment
1129 or supplies that:
- 1130 (i) cannot withstand repeated use; and
- 1131 (ii) are purchased by, for, or on behalf of a person other than:
- 1132 (A) a health care facility as defined in Section 26-21-2;
- 1133 (B) a health care provider as defined in Section 78B-3-403;
- 1134 (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or
- 1135 (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).
- 1136 (b) "Disposable home medical equipment or supplies" does not include:
- 1137 (i) a drug;
- 1138 (ii) durable medical equipment;
- 1139 (iii) a hearing aid;
- 1140 (iv) a hearing aid accessory;

- 1141 (v) mobility enhancing equipment; or
- 1142 (vi) tangible personal property used to correct impaired vision, including:
- 1143 (A) eyeglasses; or
- 1144 (B) contact lenses.
- 1145 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1146 commission may by rule define what constitutes medical equipment or supplies.
- 1147 (41) "Drilling equipment manufacturer" means a facility:
- 1148 (a) located in the state;
- 1149 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 1150 consist of manufacturing component parts of drilling equipment;
- 1151 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 1152 manufacturing process; and
- 1153 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 1154 manufacturing process.
- 1155 (42) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 1156 compound, substance, or preparation that is:
- 1157 (i) recognized in:
- 1158 (A) the official United States Pharmacopoeia;
- 1159 (B) the official Homeopathic Pharmacopoeia of the United States;
- 1160 (C) the official National Formulary; or
- 1161 (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);
- 1162 (ii) intended for use in the:
- 1163 (A) diagnosis of disease;
- 1164 (B) cure of disease;
- 1165 (C) mitigation of disease;
- 1166 (D) treatment of disease; or
- 1167 (E) prevention of disease; or
- 1168 (iii) intended to affect:
- 1169 (A) the structure of the body; or
- 1170 (B) any function of the body.
- 1171 (b) "Drug" does not include:

- 1172 (i) food and food ingredients;
- 1173 (ii) a dietary supplement;
- 1174 (iii) an alcoholic beverage; or
- 1175 (iv) a prosthetic device.
- 1176 (43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means
- 1177 equipment that:
 - 1178 (i) can withstand repeated use;
 - 1179 (ii) is primarily and customarily used to serve a medical purpose;
 - 1180 (iii) generally is not useful to a person in the absence of illness or injury; and
 - 1181 (iv) is not worn in or on the body.
- 1182 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 1183 equipment described in Subsection (43)(a).
- 1184 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 1185 (44) "Electronic" means:
 - 1186 (a) relating to technology; and
 - 1187 (b) having:
 - 1188 (i) electrical capabilities;
 - 1189 (ii) digital capabilities;
 - 1190 (iii) magnetic capabilities;
 - 1191 (iv) wireless capabilities;
 - 1192 (v) optical capabilities;
 - 1193 (vi) electromagnetic capabilities; or
 - 1194 (vii) capabilities similar to Subsections (44)(b)(i) through (vi).
- 1195 (45) "Electronic financial payment service" means an establishment:
 - 1196 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
 - 1197 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
 - 1198 federal Executive Office of the President, Office of Management and Budget; and
 - 1199 (b) that performs electronic financial payment services.
- 1200 (46) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 1201 (47) "Fixed guideway" means a public transit facility that uses and occupies:
 - 1202 (a) rail for the use of public transit; or

- 1203 (b) a separate right-of-way for the use of public transit.
- 1204 (48) "Fixed wing turbine powered aircraft" means an aircraft that:
- 1205 (a) is powered by turbine engines;
- 1206 (b) operates on jet fuel; and
- 1207 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 1208 (49) "Fixed wireless service" means a telecommunications service that provides radio
- 1209 communication between fixed points.
- 1210 (50) (a) "Food and food ingredients" means substances:
- 1211 (i) regardless of whether the substances are in:
- 1212 (A) liquid form;
- 1213 (B) concentrated form;
- 1214 (C) solid form;
- 1215 (D) frozen form;
- 1216 (E) dried form; or
- 1217 (F) dehydrated form; and
- 1218 (ii) that are:
- 1219 (A) sold for:
- 1220 (I) ingestion by humans; or
- 1221 (II) chewing by humans; and
- 1222 (B) consumed for the substance's:
- 1223 (I) taste; or
- 1224 (II) nutritional value.
- 1225 (b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).
- 1226 (c) "Food and food ingredients" does not include:
- 1227 (i) an alcoholic beverage;
- 1228 (ii) tobacco; or
- 1229 (iii) prepared food.
- 1230 (51) (a) "Fundraising sales" means sales:
- 1231 (i) (A) made by a school; or
- 1232 (B) made by a school student;
- 1233 (ii) that are for the purpose of raising funds for the school to purchase equipment,

1234 materials, or provide transportation; and

1235 (iii) that are part of an officially sanctioned school activity.

1236 (b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity"

1237 means a school activity:

1238 (i) that is conducted in accordance with a formal policy adopted by the school or school
1239 district governing the authorization and supervision of fundraising activities;

1240 (ii) that does not directly or indirectly compensate an individual teacher or other
1241 educational personnel by direct payment, commissions, or payment in kind; and

1242 (iii) the net or gross revenues from which are deposited in a dedicated account
1243 controlled by the school or school district.

1244 (52) "Geothermal energy" means energy contained in heat that continuously flows
1245 outward from the earth that is used as the sole source of energy to produce electricity.

1246 (53) "Governing board of the agreement" means the governing board of the agreement
1247 that is:

1248 (a) authorized to administer the agreement; and

1249 (b) established in accordance with the agreement.

1250 (54) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

1251 (i) the executive branch of the state, including all departments, institutions, boards,
1252 divisions, bureaus, offices, commissions, and committees;

1253 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
1254 Office of the Court Administrator, and similar administrative units in the judicial branch;

1255 (iii) the legislative branch of the state, including the House of Representatives, the
1256 Senate, the Legislative Printing Office, the Office of Legislative Research and General
1257 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
1258 Analyst;

1259 (iv) the National Guard;

1260 (v) an independent entity as defined in Section 63E-1-102; or

1261 (vi) a political subdivision as defined in Section 17B-1-102.

1262 (b) "Governmental entity" does not include the state systems of public and higher
1263 education, including:

1264 (i) a school;

- 1265 (ii) the State Board of Education;
- 1266 (iii) the State Board of Regents; or
- 1267 (iv) an institution of higher education described in Section [53B-1-102](#).
- 1268 (55) "Hydroelectric energy" means water used as the sole source of energy to produce
- 1269 electricity.
- 1270 (56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 1271 other fuels:
- 1272 (a) in mining or extraction of minerals;
- 1273 (b) in agricultural operations to produce an agricultural product up to the time of
- 1274 harvest or placing the agricultural product into a storage facility, including:
- 1275 (i) commercial greenhouses;
- 1276 (ii) irrigation pumps;
- 1277 (iii) farm machinery;
- 1278 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered
- 1279 under Title 41, Chapter 1a, Part 2, Registration; and
- 1280 (v) other farming activities;
- 1281 (c) in manufacturing tangible personal property at an establishment described in:
- 1282 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
- 1283 the federal Executive Office of the President, Office of Management and Budget; or
- 1284 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
- 1285 American Industry Classification System of the federal Executive Office of the President,
- 1286 Office of Management and Budget;
- 1287 (d) by a scrap recycler if:
- 1288 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 1289 one or more of the following items into prepared grades of processed materials for use in new
- 1290 products:
- 1291 (A) iron;
- 1292 (B) steel;
- 1293 (C) nonferrous metal;
- 1294 (D) paper;
- 1295 (E) glass;

- 1296 (F) plastic;
- 1297 (G) textile; or
- 1298 (H) rubber; and
- 1299 (ii) the new products under Subsection (56)(d)(i) would otherwise be made with
- 1300 nonrecycled materials; or
- 1301 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
- 1302 cogeneration facility as defined in Section 54-2-1.
- 1303 (57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge
- 1304 for installing:
 - 1305 (i) tangible personal property; or
 - 1306 (ii) a product transferred electronically.
- 1307 (b) "Installation charge" does not include a charge for:
 - 1308 (i) repairs or renovations of:
 - 1309 (A) tangible personal property; or
 - 1310 (B) a product transferred electronically; or
 - 1311 (ii) attaching tangible personal property or a product transferred electronically:
 - 1312 (A) to other tangible personal property; and
 - 1313 (B) as part of a manufacturing or fabrication process.
- 1314 (58) "Institution of higher education" means an institution of higher education listed in
- 1315 Section 53B-2-101.
- 1316 (59) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 1317 personal property or a product transferred electronically for:
 - 1318 (i) (A) a fixed term; or
 - 1319 (B) an indeterminate term; and
 - 1320 (ii) consideration.
- 1321 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
- 1322 amount of consideration may be increased or decreased by reference to the amount realized
- 1323 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
- 1324 Code.
- 1325 (c) "Lease" or "rental" does not include:
 - 1326 (i) a transfer of possession or control of property under a security agreement or

1327 deferred payment plan that requires the transfer of title upon completion of the required
1328 payments;

1329 (ii) a transfer of possession or control of property under an agreement that requires the
1330 transfer of title:

1331 (A) upon completion of required payments; and

1332 (B) if the payment of an option price does not exceed the greater of:

1333 (I) \$100; or

1334 (II) 1% of the total required payments; or

1335 (iii) providing tangible personal property along with an operator for a fixed period of
1336 time or an indeterminate period of time if the operator is necessary for equipment to perform as
1337 designed.

1338 (d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to
1339 perform as designed if the operator's duties exceed the:

1340 (i) set-up of tangible personal property;

1341 (ii) maintenance of tangible personal property; or

1342 (iii) inspection of tangible personal property.

1343 (60) "Life science establishment" means an establishment in this state that is classified
1344 under the following NAICS codes of the 2007 North American Industry Classification System
1345 of the federal Executive Office of the President, Office of Management and Budget:

1346 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

1347 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
1348 Manufacturing; or

1349 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

1350 (61) "Life science research and development facility" means a facility owned, leased,
1351 or rented by a life science establishment if research and development is performed in 51% or
1352 more of the total area of the facility.

1353 (62) "Load and leave" means delivery to a purchaser by use of a tangible storage media
1354 if the tangible storage media is not physically transferred to the purchaser.

1355 (63) "Local taxing jurisdiction" means a:

1356 (a) county that is authorized to impose an agreement sales and use tax;

1357 (b) city that is authorized to impose an agreement sales and use tax; or

- 1358 (c) town that is authorized to impose an agreement sales and use tax.
- 1359 (64) "Manufactured home" means the same as that term is defined in Section
- 1360 [15A-1-302](#).
- 1361 (65) "Manufacturing facility" means:
- 1362 (a) an establishment described in:
- 1363 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
- 1364 the federal Executive Office of the President, Office of Management and Budget; or
- 1365 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
- 1366 American Industry Classification System of the federal Executive Office of the President,
- 1367 Office of Management and Budget;
- 1368 (b) a scrap recycler if:
- 1369 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 1370 one or more of the following items into prepared grades of processed materials for use in new
- 1371 products:
- 1372 (A) iron;
- 1373 (B) steel;
- 1374 (C) nonferrous metal;
- 1375 (D) paper;
- 1376 (E) glass;
- 1377 (F) plastic;
- 1378 (G) textile; or
- 1379 (H) rubber; and
- 1380 (ii) the new products under Subsection (65)(b)(i) would otherwise be made with
- 1381 nonrecycled materials; or
- 1382 (c) a cogeneration facility as defined in Section [54-2-1](#) if the cogeneration facility is
- 1383 placed in service on or after May 1, 2006.
- 1384 (66) "Member of the immediate family of the producer" means a person who is related
- 1385 to a producer described in Subsection [59-12-104\(20\)\(a\)](#) as a:
- 1386 (a) child or stepchild, regardless of whether the child or stepchild is:
- 1387 (i) an adopted child or adopted stepchild; or
- 1388 (ii) a foster child or foster stepchild;

- 1389 (b) grandchild or stepgrandchild;
- 1390 (c) grandparent or stepgrandparent;
- 1391 (d) nephew or stepnephew;
- 1392 (e) niece or stepniece;
- 1393 (f) parent or stepparent;
- 1394 (g) sibling or stepsibling;
- 1395 (h) spouse;
- 1396 (i) person who is the spouse of a person described in Subsections (66)(a) through (g);

1397 or

- 1398 (j) person similar to a person described in Subsections (66)(a) through (i) as
- 1399 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 1400 Administrative Rulemaking Act.

1401 (67) "Mobile home" means the same as that term is defined in Section [15A-1-302](#).

1402 (68) "Mobile telecommunications service" is as defined in the Mobile

1403 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1404 (69) (a) "Mobile wireless service" means a telecommunications service, regardless of

1405 the technology used, if:

- 1406 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 1407 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 1408 (iii) the origination point described in Subsection (69)(a)(i) and the termination point
- 1409 described in Subsection (69)(a)(ii) are not fixed.

1410 (b) "Mobile wireless service" includes a telecommunications service that is provided

1411 by a commercial mobile radio service provider.

1412 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1413 commission may by rule define "commercial mobile radio service provider."

1414 (70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment"

1415 means equipment that is:

- 1416 (i) primarily and customarily used to provide or increase the ability to move from one
- 1417 place to another;
- 1418 (ii) appropriate for use in a:
- 1419 (A) home; or

- 1420 (B) motor vehicle; and
- 1421 (iii) not generally used by persons with normal mobility.
- 1422 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
- 1423 the equipment described in Subsection (70)(a).
- 1424 (c) "Mobility enhancing equipment" does not include:
- 1425 (i) a motor vehicle;
- 1426 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
- 1427 vehicle manufacturer;
- 1428 (iii) durable medical equipment; or
- 1429 (iv) a prosthetic device.
- 1430 (71) "Model 1 seller" means a seller registered under the agreement that has selected a
- 1431 certified service provider as the seller's agent to perform all of the seller's sales and use tax
- 1432 functions for agreement sales and use taxes other than the seller's obligation under Section
- 1433 [59-12-124](#) to remit a tax on the seller's own purchases.
- 1434 (72) "Model 2 seller" means a seller registered under the agreement that:
- 1435 (a) except as provided in Subsection (72)(b), has selected a certified automated system
- 1436 to perform the seller's sales tax functions for agreement sales and use taxes; and
- 1437 (b) retains responsibility for remitting all of the sales tax:
- 1438 (i) collected by the seller; and
- 1439 (ii) to the appropriate local taxing jurisdiction.
- 1440 (73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under
- 1441 the agreement that has:
- 1442 (i) sales in at least five states that are members of the agreement;
- 1443 (ii) total annual sales revenues of at least \$500,000,000;
- 1444 (iii) a proprietary system that calculates the amount of tax:
- 1445 (A) for an agreement sales and use tax; and
- 1446 (B) due to each local taxing jurisdiction; and
- 1447 (iv) entered into a performance agreement with the governing board of the agreement.
- 1448 (b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of
- 1449 sellers using the same proprietary system.
- 1450 (74) "Model 4 seller" means a seller that is registered under the agreement and is not a

1451 model 1 seller, model 2 seller, or model 3 seller.

1452 (75) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

1453 (76) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).

1454 (77) "Oil sands" means impregnated bituminous sands that:

1455 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
1456 other hydrocarbons, or otherwise treated;

1457 (b) yield mixtures of liquid hydrocarbon; and

1458 (c) require further processing other than mechanical blending before becoming finished
1459 petroleum products.

1460 (78) "Oil shale" means a group of fine black to dark brown shales containing kerogen
1461 material that yields petroleum upon heating and distillation.

1462 (79) "Optional computer software maintenance contract" means a computer software
1463 maintenance contract that a customer is not obligated to purchase as a condition to the retail
1464 sale of computer software.

1465 (80) (a) "Other fuels" means products that burn independently to produce heat or
1466 energy.

1467 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
1468 personal property.

1469 (81) (a) "Paging service" means a telecommunications service that provides
1470 transmission of a coded radio signal for the purpose of activating a specific pager.

1471 (b) For purposes of Subsection (81)(a), the transmission of a coded radio signal
1472 includes a transmission by message or sound.

1473 (82) "Pawnbroker" means the same as that term is defined in Section [13-32a-102](#).

1474 (83) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).

1475 (84) (a) "Permanently attached to real property" means that for tangible personal
1476 property attached to real property:

1477 (i) the attachment of the tangible personal property to the real property:

1478 (A) is essential to the use of the tangible personal property; and

1479 (B) suggests that the tangible personal property will remain attached to the real
1480 property in the same place over the useful life of the tangible personal property; or

1481 (ii) if the tangible personal property is detached from the real property, the detachment

1482 would:

1483 (A) cause substantial damage to the tangible personal property; or

1484 (B) require substantial alteration or repair of the real property to which the tangible
1485 personal property is attached.

1486 (b) "Permanently attached to real property" includes:

1487 (i) the attachment of an accessory to the tangible personal property if the accessory is:

1488 (A) essential to the operation of the tangible personal property; and

1489 (B) attached only to facilitate the operation of the tangible personal property;

1490 (ii) a temporary detachment of tangible personal property from real property for a
1491 repair or renovation if the repair or renovation is performed where the tangible personal
1492 property and real property are located; or

1493 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
1494 Subsection (84)(c)(iii) or (iv).

1495 (c) "Permanently attached to real property" does not include:

1496 (i) the attachment of portable or movable tangible personal property to real property if
1497 that portable or movable tangible personal property is attached to real property only for:

1498 (A) convenience;

1499 (B) stability; or

1500 (C) for an obvious temporary purpose;

1501 (ii) the detachment of tangible personal property from real property except for the
1502 detachment described in Subsection (84)(b)(ii);

1503 (iii) an attachment of the following tangible personal property to real property if the
1504 attachment to real property is only through a line that supplies water, electricity, gas,
1505 telecommunications, cable, or supplies a similar item as determined by the commission by rule
1506 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

1507 (A) a computer;

1508 (B) a telephone;

1509 (C) a television; or

1510 (D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as
1511 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
1512 Administrative Rulemaking Act; or

1513 (iv) an item listed in Subsection (125)(c).

1514 (85) "Person" includes any individual, firm, partnership, joint venture, association,
1515 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
1516 municipality, district, or other local governmental entity of the state, or any group or
1517 combination acting as a unit.

1518 (86) "Place of primary use":

1519 (a) for telecommunications service other than mobile telecommunications service,
1520 means the street address representative of where the customer's use of the telecommunications
1521 service primarily occurs, which shall be:

1522 (i) the residential street address of the customer; or

1523 (ii) the primary business street address of the customer; or

1524 (b) for mobile telecommunications service, is as defined in the Mobile
1525 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1526 (87) (a) "Postpaid calling service" means a telecommunications service a person
1527 obtains by making a payment on a call-by-call basis:

1528 (i) through the use of a:

1529 (A) bank card;

1530 (B) credit card;

1531 (C) debit card; or

1532 (D) travel card; or

1533 (ii) by a charge made to a telephone number that is not associated with the origination
1534 or termination of the telecommunications service.

1535 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
1536 service, that would be a prepaid wireless calling service if the service were exclusively a
1537 telecommunications service.

1538 (88) "Postproduction" means an activity related to the finishing or duplication of a
1539 medium described in Subsection [59-12-104\(54\)\(a\)](#).

1540 (89) "Prepaid calling service" means a telecommunications service:

1541 (a) that allows a purchaser access to telecommunications service that is exclusively
1542 telecommunications service;

1543 (b) that:

- 1544 (i) is paid for in advance; and
- 1545 (ii) enables the origination of a call using an:
 - 1546 (A) access number; or
 - 1547 (B) authorization code;
- 1548 (c) that is dialed:
 - 1549 (i) manually; or
 - 1550 (ii) electronically; and
- 1551 (d) sold in predetermined units or dollars that decline:
 - 1552 (i) by a known amount; and
 - 1553 (ii) with use.
- 1554 (90) "Prepaid wireless calling service" means a telecommunications service:
 - 1555 (a) that provides the right to utilize:
 - 1556 (i) mobile wireless service; and
 - 1557 (ii) other service that is not a telecommunications service, including:
 - 1558 (A) the download of a product transferred electronically;
 - 1559 (B) a content service; or
 - 1560 (C) an ancillary service;
 - 1561 (b) that:
 - 1562 (i) is paid for in advance; and
 - 1563 (ii) enables the origination of a call using an:
 - 1564 (A) access number; or
 - 1565 (B) authorization code;
 - 1566 (c) that is dialed:
 - 1567 (i) manually; or
 - 1568 (ii) electronically; and
 - 1569 (d) sold in predetermined units or dollars that decline:
 - 1570 (i) by a known amount; and
 - 1571 (ii) with use.
 - 1572 (91) (a) "Prepared food" means:
 - 1573 (i) food:
 - 1574 (A) sold in a heated state; or

1575 (B) heated by a seller;
1576 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
1577 item; or
1578 (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided
1579 by the seller, including a:
1580 (A) plate;
1581 (B) knife;
1582 (C) fork;
1583 (D) spoon;
1584 (E) glass;
1585 (F) cup;
1586 (G) napkin; or
1587 (H) straw.
1588 (b) "Prepared food" does not include:
1589 (i) food that a seller only:
1590 (A) cuts;
1591 (B) repackages; or
1592 (C) pasteurizes; or
1593 (ii) (A) the following:
1594 (I) raw egg;
1595 (II) raw fish;
1596 (III) raw meat;
1597 (IV) raw poultry; or
1598 (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);
1599 and
1600 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
1601 Food and Drug Administration's Food Code that a consumer cook the items described in
1602 Subsection (91)(b)(ii)(A) to prevent food borne illness; or
1603 (iii) the following if sold without eating utensils provided by the seller:
1604 (A) food and food ingredients sold by a seller if the seller's proper primary
1605 classification under the 2002 North American Industry Classification System of the federal

1606 Executive Office of the President, Office of Management and Budget, is manufacturing in
1607 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
1608 Manufacturing;

1609 (B) food and food ingredients sold in an unheated state:

1610 (I) by weight or volume; and

1611 (II) as a single item; or

1612 (C) a bakery item, including:

1613 (I) a bagel;

1614 (II) a bar;

1615 (III) a biscuit;

1616 (IV) bread;

1617 (V) a bun;

1618 (VI) a cake;

1619 (VII) a cookie;

1620 (VIII) a croissant;

1621 (IX) a danish;

1622 (X) a donut;

1623 (XI) a muffin;

1624 (XII) a pastry;

1625 (XIII) a pie;

1626 (XIV) a roll;

1627 (XV) a tart;

1628 (XVI) a torte; or

1629 (XVII) a tortilla.

1630 (c) An eating utensil provided by the seller does not include the following used to
1631 transport the food:

1632 (i) a container; or

1633 (ii) packaging.

1634 (92) "Prescription" means an order, formula, or recipe that is issued:

1635 (a) (i) orally;

1636 (ii) in writing;

- 1637 (iii) electronically; or
- 1638 (iv) by any other manner of transmission; and
- 1639 (b) by a licensed practitioner authorized by the laws of a state.
- 1640 (93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer
- 1641 software" means computer software that is not designed and developed:
- 1642 (i) by the author or other creator of the computer software; and
- 1643 (ii) to the specifications of a specific purchaser.
- 1644 (b) "Prewritten computer software" includes:
- 1645 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 1646 software is not designed and developed:
- 1647 (A) by the author or other creator of the computer software; and
- 1648 (B) to the specifications of a specific purchaser;
- 1649 (ii) computer software designed and developed by the author or other creator of the
- 1650 computer software to the specifications of a specific purchaser if the computer software is sold
- 1651 to a person other than the purchaser; or
- 1652 (iii) except as provided in Subsection (93)(c), prewritten computer software or a
- 1653 prewritten portion of prewritten computer software:
- 1654 (A) that is modified or enhanced to any degree; and
- 1655 (B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is
- 1656 designed and developed to the specifications of a specific purchaser.
- 1657 (c) "Prewritten computer software" does not include a modification or enhancement
- 1658 described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:
- 1659 (i) reasonable; and
- 1660 (ii) subject to Subsections 59-12-103(2)(~~f~~)(f)(ii) and (2)(~~f~~)(g)(i), separately stated
- 1661 on the invoice or other statement of price provided to the purchaser at the time of sale or later,
- 1662 as demonstrated by:
- 1663 (A) the books and records the seller keeps at the time of the transaction in the regular
- 1664 course of business, including books and records the seller keeps at the time of the transaction in
- 1665 the regular course of business for nontax purposes;
- 1666 (B) a preponderance of the facts and circumstances at the time of the transaction; and
- 1667 (C) the understanding of all of the parties to the transaction.

1668 (94) (a) "Private communications service" means a telecommunications service:

1669 (i) that entitles a customer to exclusive or priority use of one or more communications
1670 channels between or among termination points; and

1671 (ii) regardless of the manner in which the one or more communications channels are
1672 connected.

1673 (b) "Private communications service" includes the following provided in connection
1674 with the use of one or more communications channels:

1675 (i) an extension line;

1676 (ii) a station;

1677 (iii) switching capacity; or

1678 (iv) another associated service that is provided in connection with the use of one or
1679 more communications channels as defined in Section [59-12-215](#).

1680 (95) (a) Except as provided in Subsection (95)(b), "product transferred electronically"
1681 means a product transferred electronically that would be subject to a tax under this chapter if
1682 that product was transferred in a manner other than electronically.

1683 (b) "Product transferred electronically" does not include:

1684 (i) an ancillary service;

1685 (ii) computer software; or

1686 (iii) a telecommunications service.

1687 (96) (a) "Prosthetic device" means a device that is worn on or in the body to:

1688 (i) artificially replace a missing portion of the body;

1689 (ii) prevent or correct a physical deformity or physical malfunction; or

1690 (iii) support a weak or deformed portion of the body.

1691 (b) "Prosthetic device" includes:

1692 (i) parts used in the repairs or renovation of a prosthetic device;

1693 (ii) replacement parts for a prosthetic device;

1694 (iii) a dental prosthesis; or

1695 (iv) a hearing aid.

1696 (c) "Prosthetic device" does not include:

1697 (i) corrective eyeglasses; or

1698 (ii) contact lenses.

- 1699 (97) (a) "Protective equipment" means an item:
- 1700 (i) for human wear; and
- 1701 (ii) that is:
- 1702 (A) designed as protection:
- 1703 (I) to the wearer against injury or disease; or
- 1704 (II) against damage or injury of other persons or property; and
- 1705 (B) not suitable for general use.
- 1706 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1707 commission shall make rules:
- 1708 (i) listing the items that constitute "protective equipment"; and
- 1709 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1710 under the agreement.
- 1711 (98) (a) For purposes of Subsection [59-12-104\(41\)](#), "publication" means any written or
- 1712 printed matter, other than a photocopy:
- 1713 (i) regardless of:
- 1714 (A) characteristics;
- 1715 (B) copyright;
- 1716 (C) form;
- 1717 (D) format;
- 1718 (E) method of reproduction; or
- 1719 (F) source; and
- 1720 (ii) made available in printed or electronic format.
- 1721 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1722 commission may by rule define the term "photocopy."
- 1723 (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 1724 (i) valued in money; and
- 1725 (ii) for which tangible personal property, a product transferred electronically, or
- 1726 services are:
- 1727 (A) sold;
- 1728 (B) leased; or
- 1729 (C) rented.

- 1730 (b) "Purchase price" and "sales price" include:
- 1731 (i) the seller's cost of the tangible personal property, a product transferred
- 1732 electronically, or services sold;
- 1733 (ii) expenses of the seller, including:
- 1734 (A) the cost of materials used;
- 1735 (B) a labor cost;
- 1736 (C) a service cost;
- 1737 (D) interest;
- 1738 (E) a loss;
- 1739 (F) the cost of transportation to the seller; or
- 1740 (G) a tax imposed on the seller;
- 1741 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1742 (iv) consideration a seller receives from a person other than the purchaser if:
- 1743 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 1744 and
- 1745 (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a
- 1746 price reduction or discount on the sale;
- 1747 (B) the seller has an obligation to pass the price reduction or discount through to the
- 1748 purchaser;
- 1749 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 1750 the seller at the time of the sale to the purchaser; and
- 1751 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 1752 seller to claim a price reduction or discount; and
- 1753 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 1754 coupon, or other documentation with the understanding that the person other than the seller
- 1755 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 1756 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 1757 organization allowed a price reduction or discount, except that a preferred customer card that is
- 1758 available to any patron of a seller does not constitute membership in a group or organization
- 1759 allowed a price reduction or discount; or
- 1760 (III) the price reduction or discount is identified as a third party price reduction or

- 1761 discount on the:
- 1762 (Aa) invoice the purchaser receives; or
- 1763 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 1764 (c) "Purchase price" and "sales price" do not include:
- 1765 (i) a discount:
- 1766 (A) in a form including:
- 1767 (I) cash;
- 1768 (II) term; or
- 1769 (III) coupon;
- 1770 (B) that is allowed by a seller;
- 1771 (C) taken by a purchaser on a sale; and
- 1772 (D) that is not reimbursed by a third party; or
- 1773 (ii) subject to Subsections 59-12-103(2)~~(e)~~(f)(ii) and (2)~~(f)~~(g)(i), the following if
- 1774 separately stated on an invoice, bill of sale, or similar document provided to the purchaser at
- 1775 the time of sale or later, as demonstrated by the books and records the seller keeps at the time
- 1776 of the transaction in the regular course of business, including books and records the seller
- 1777 keeps at the time of the transaction in the regular course of business for nontax purposes, by a
- 1778 preponderance of the facts and circumstances at the time of the transaction, and by the
- 1779 understanding of all of the parties to the transaction:
- 1780 (A) the following from credit extended on the sale of tangible personal property or
- 1781 services:
- 1782 (I) a carrying charge;
- 1783 (II) a financing charge; or
- 1784 (III) an interest charge;
- 1785 (B) a delivery charge;
- 1786 (C) an installation charge;
- 1787 (D) a manufacturer rebate on a motor vehicle; or
- 1788 (E) a tax or fee legally imposed directly on the consumer.
- 1789 (100) "Purchaser" means a person to whom:
- 1790 (a) a sale of tangible personal property is made;
- 1791 (b) a product is transferred electronically; or

- 1792 (c) a service is furnished.
- 1793 (101) "Qualifying enterprise data center" means an establishment that will:
- 1794 (a) own and operate a data center facility that will house a group of networked server
- 1795 computers in one physical location in order to centralize the dissemination, management, and
- 1796 storage of data and information;
- 1797 (b) be located in the state;
- 1798 (c) be a new operation constructed on or after July 1, 2016;
- 1799 (d) consist of one or more buildings that total 150,000 or more square feet;
- 1800 (e) be owned or leased by:
- 1801 (i) the establishment; or
- 1802 (ii) a person under common ownership, as defined in Section 59-7-101, of the
- 1803 establishment; and
- 1804 (f) be located on one or more parcels of land that are owned or leased by:
- 1805 (i) the establishment; or
- 1806 (ii) a person under common ownership, as defined in Section 59-7-101, of the
- 1807 establishment.
- 1808 (102) "Regularly rented" means:
- 1809 (a) rented to a guest for value three or more times during a calendar year; or
- 1810 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1811 value.
- 1812 (103) "Rental" means the same as that term is defined in Subsection (59).
- 1813 (104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible
- 1814 personal property" means:
- 1815 (i) a repair or renovation of tangible personal property that is not permanently attached
- 1816 to real property; or
- 1817 (ii) attaching tangible personal property or a product transferred electronically to other
- 1818 tangible personal property or detaching tangible personal property or a product transferred
- 1819 electronically from other tangible personal property if:
- 1820 (A) the other tangible personal property to which the tangible personal property or
- 1821 product transferred electronically is attached or from which the tangible personal property or
- 1822 product transferred electronically is detached is not permanently attached to real property; and

1823 (B) the attachment of tangible personal property or a product transferred electronically
1824 to other tangible personal property or detachment of tangible personal property or a product
1825 transferred electronically from other tangible personal property is made in conjunction with a
1826 repair or replacement of tangible personal property or a product transferred electronically.

1827 (b) "Repairs or renovations of tangible personal property" does not include:

1828 (i) attaching prewritten computer software to other tangible personal property if the
1829 other tangible personal property to which the prewritten computer software is attached is not
1830 permanently attached to real property; or

1831 (ii) detaching prewritten computer software from other tangible personal property if the
1832 other tangible personal property from which the prewritten computer software is detached is
1833 not permanently attached to real property.

1834 (105) "Research and development" means the process of inquiry or experimentation
1835 aimed at the discovery of facts, devices, technologies, or applications and the process of
1836 preparing those devices, technologies, or applications for marketing.

1837 (106) (a) "Residential telecommunications services" means a telecommunications
1838 service or an ancillary service that is provided to an individual for personal use:

1839 (i) at a residential address; or

1840 (ii) at an institution, including a nursing home or a school, if the telecommunications
1841 service or ancillary service is provided to and paid for by the individual residing at the
1842 institution rather than the institution.

1843 (b) For purposes of Subsection (106)(a)(i), a residential address includes an:

1844 (i) apartment; or

1845 (ii) other individual dwelling unit.

1846 (107) "Residential use" means the use in or around a home, apartment building,
1847 sleeping quarters, and similar facilities or accommodations.

1848 (108) (a) "Retailer" means any person engaged in a regularly organized business in
1849 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
1850 who is selling to the user or consumer and not for resale.

1851 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1852 engaged in the business of selling to users or consumers within the state.

1853 (109) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other

1854 than:

1855 (a) resale;

1856 (b) sublease; or

1857 (c) subrent.

1858 (110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1859 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1860 Subsection 59-12-103(1), for consideration.

1861 (b) "Sale" includes:

1862 (i) installment and credit sales;

1863 (ii) any closed transaction constituting a sale;

1864 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1865 chapter;

1866 (iv) any transaction if the possession of property is transferred but the seller retains the
1867 title as security for the payment of the price; and

1868 (v) any transaction under which right to possession, operation, or use of any article of
1869 tangible personal property is granted under a lease or contract and the transfer of possession
1870 would be taxable if an outright sale were made.

1871 (111) "Sale at retail" means the same as that term is defined in Subsection (109).

1872 (112) "Sale-leaseback transaction" means a transaction by which title to tangible
1873 personal property or a product transferred electronically that is subject to a tax under this
1874 chapter is transferred:

1875 (a) by a purchaser-lessee;

1876 (b) to a lessor;

1877 (c) for consideration; and

1878 (d) if:

1879 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1880 of the tangible personal property or product transferred electronically;

1881 (ii) the sale of the tangible personal property or product transferred electronically to the
1882 lessor is intended as a form of financing:

1883 (A) for the tangible personal property or product transferred electronically; and

1884 (B) to the purchaser-lessee; and

1885 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1886 is required to:

1887 (A) capitalize the tangible personal property or product transferred electronically for
1888 financial reporting purposes; and

1889 (B) account for the lease payments as payments made under a financing arrangement.

1890 (113) "Sales price" means the same as that term is defined in Subsection (99).

1891 (114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
1892 amounts charged by a school:

1893 (i) sales that are directly related to the school's educational functions or activities
1894 including:

1895 (A) the sale of:

1896 (I) textbooks;

1897 (II) textbook fees;

1898 (III) laboratory fees;

1899 (IV) laboratory supplies; or

1900 (V) safety equipment;

1901 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
1902 that:

1903 (I) a student is specifically required to wear as a condition of participation in a
1904 school-related event or school-related activity; and

1905 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1906 place of ordinary clothing;

1907 (C) sales of the following if the net or gross revenues generated by the sales are
1908 deposited into a school district fund or school fund dedicated to school meals:

1909 (I) food and food ingredients; or

1910 (II) prepared food; or

1911 (D) transportation charges for official school activities; or

1912 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1913 event or school-related activity.

1914 (b) "Sales relating to schools" does not include:

1915 (i) bookstore sales of items that are not educational materials or supplies;

- 1916 (ii) except as provided in Subsection (114)(a)(i)(B):
- 1917 (A) clothing;
- 1918 (B) clothing accessories or equipment;
- 1919 (C) protective equipment; or
- 1920 (D) sports or recreational equipment; or
- 1921 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1922 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1923 (A) other than a:
- 1924 (I) school;
- 1925 (II) nonprofit organization authorized by a school board or a governing body of a
- 1926 private school to organize and direct a competitive secondary school activity; or
- 1927 (III) nonprofit association authorized by a school board or a governing body of a
- 1928 private school to organize and direct a competitive secondary school activity; and
- 1929 (B) that is required to collect sales and use taxes under this chapter.
- 1930 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1931 commission may make rules defining the term "passed through."
- 1932 (115) For purposes of this section and Section [59-12-104](#), "school":
- 1933 (a) means:
- 1934 (i) an elementary school or a secondary school that:
- 1935 (A) is a:
- 1936 (I) public school; or
- 1937 (II) private school; and
- 1938 (B) provides instruction for one or more grades kindergarten through 12; or
- 1939 (ii) a public school district; and
- 1940 (b) includes the Electronic High School as defined in Section [53A-15-1002](#).
- 1941 (116) "Seller" means a person that makes a sale, lease, or rental of:
- 1942 (a) tangible personal property;
- 1943 (b) a product transferred electronically; or
- 1944 (c) a service.
- 1945 (117) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1946 means tangible personal property or a product transferred electronically if the tangible personal

- 1947 property or product transferred electronically is:
- 1948 (i) used primarily in the process of:
- 1949 (A) (I) manufacturing a semiconductor;
- 1950 (II) fabricating a semiconductor; or
- 1951 (III) research or development of a:
- 1952 (Aa) semiconductor; or
- 1953 (Bb) semiconductor manufacturing process; or
- 1954 (B) maintaining an environment suitable for a semiconductor; or
- 1955 (ii) consumed primarily in the process of:
- 1956 (A) (I) manufacturing a semiconductor;
- 1957 (II) fabricating a semiconductor; or
- 1958 (III) research or development of a:
- 1959 (Aa) semiconductor; or
- 1960 (Bb) semiconductor manufacturing process; or
- 1961 (B) maintaining an environment suitable for a semiconductor.
- 1962 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1963 includes:
- 1964 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1965 transferred electronically described in Subsection (117)(a); or
- 1966 (ii) a chemical, catalyst, or other material used to:
- 1967 (A) produce or induce in a semiconductor a:
- 1968 (I) chemical change; or
- 1969 (II) physical change;
- 1970 (B) remove impurities from a semiconductor; or
- 1971 (C) improve the marketable condition of a semiconductor.
- 1972 (118) "Senior citizen center" means a facility having the primary purpose of providing
- 1973 services to the aged as defined in Section [62A-3-101](#).
- 1974 (119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable"
- 1975 means tangible personal property that:
- 1976 (i) a business that provides accommodations and services described in Subsection
- 1977 [59-12-103\(1\)\(i\)](#) purchases as part of a transaction to provide the accommodations and services

- 1978 to a purchaser;
- 1979 (ii) is intended to be consumed by the purchaser; and
- 1980 (iii) is:
- 1981 (A) included in the purchase price of the accommodations and services; and
- 1982 (B) not separately stated on an invoice, bill of sale, or other similar document provided
- 1983 to the purchaser.
- 1984 (b) "Short-term lodging consumable" includes:
- 1985 (i) a beverage;
- 1986 (ii) a brush or comb;
- 1987 (iii) a cosmetic;
- 1988 (iv) a hair care product;
- 1989 (v) lotion;
- 1990 (vi) a magazine;
- 1991 (vii) makeup;
- 1992 (viii) a meal;
- 1993 (ix) mouthwash;
- 1994 (x) nail polish remover;
- 1995 (xi) a newspaper;
- 1996 (xii) a notepad;
- 1997 (xiii) a pen;
- 1998 (xiv) a pencil;
- 1999 (xv) a razor;
- 2000 (xvi) saline solution;
- 2001 (xvii) a sewing kit;
- 2002 (xviii) shaving cream;
- 2003 (xix) a shoe shine kit;
- 2004 (xx) a shower cap;
- 2005 (xxi) a snack item;
- 2006 (xxii) soap;
- 2007 (xxiii) toilet paper;
- 2008 (xxiv) a toothbrush;

2009 (xxv) toothpaste; or
2010 (xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may
2011 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2012 Rulemaking Act.

2013 (c) "Short-term lodging consumable" does not include:
2014 (i) tangible personal property that is cleaned or washed to allow the tangible personal
2015 property to be reused; or
2016 (ii) a product transferred electronically.

2017 (120) "Simplified electronic return" means the electronic return:
2018 (a) described in Section 318(C) of the agreement; and
2019 (b) approved by the governing board of the agreement.

2020 (121) "Solar energy" means the sun used as the sole source of energy for producing
2021 electricity.

2022 (122) (a) "Sports or recreational equipment" means an item:

2023 (i) designed for human use; and

2024 (ii) that is:

2025 (A) worn in conjunction with:

2026 (I) an athletic activity; or

2027 (II) a recreational activity; and

2028 (B) not suitable for general use.

2029 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2030 commission shall make rules:

2031 (i) listing the items that constitute "sports or recreational equipment"; and

2032 (ii) that are consistent with the list of items that constitute "sports or recreational
2033 equipment" under the agreement.

2034 (123) "State" means the state of Utah, its departments, and agencies.

2035 (124) "Storage" means any keeping or retention of tangible personal property or any
2036 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
2037 sale in the regular course of business.

2038 (125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property"
2039 means personal property that:

- 2040 (i) may be:
- 2041 (A) seen;
- 2042 (B) weighed;
- 2043 (C) measured;
- 2044 (D) felt; or
- 2045 (E) touched; or
- 2046 (ii) is in any manner perceptible to the senses.
- 2047 (b) "Tangible personal property" includes:
- 2048 (i) electricity;
- 2049 (ii) water;
- 2050 (iii) gas;
- 2051 (iv) steam; or
- 2052 (v) prewritten computer software, regardless of the manner in which the prewritten
- 2053 computer software is transferred.
- 2054 (c) "Tangible personal property" includes the following regardless of whether the item
- 2055 is attached to real property:
- 2056 (i) a dishwasher;
- 2057 (ii) a dryer;
- 2058 (iii) a freezer;
- 2059 (iv) a microwave;
- 2060 (v) a refrigerator;
- 2061 (vi) a stove;
- 2062 (vii) a washer; or
- 2063 (viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the
- 2064 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 2065 Rulemaking Act.
- 2066 (d) "Tangible personal property" does not include a product that is transferred
- 2067 electronically.
- 2068 (e) "Tangible personal property" does not include the following if attached to real
- 2069 property, regardless of whether the attachment to real property is only through a line that
- 2070 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the

2071 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2072 Rulemaking Act:

- 2073 (i) a hot water heater;
- 2074 (ii) a water filtration system; or
- 2075 (iii) a water softener system.

2076 (126) (a) "Telecommunications enabling or facilitating equipment, machinery, or
2077 software" means an item listed in Subsection (126)(b) if that item is purchased or leased
2078 primarily to enable or facilitate one or more of the following to function:

- 2079 (i) telecommunications switching or routing equipment, machinery, or software; or
- 2080 (ii) telecommunications transmission equipment, machinery, or software.

2081 (b) The following apply to Subsection (126)(a):

- 2082 (i) a pole;
- 2083 (ii) software;
- 2084 (iii) a supplementary power supply;
- 2085 (iv) temperature or environmental equipment or machinery;
- 2086 (v) test equipment;
- 2087 (vi) a tower; or
- 2088 (vii) equipment, machinery, or software that functions similarly to an item listed in

2089 Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in
2090 accordance with Subsection (126)(c).

2091 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2092 commission may by rule define what constitutes equipment, machinery, or software that
2093 functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

2094 (127) "Telecommunications equipment, machinery, or software required for 911
2095 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
2096 Sec. 20.18.

2097 (128) "Telecommunications maintenance or repair equipment, machinery, or software"
2098 means equipment, machinery, or software purchased or leased primarily to maintain or repair
2099 one or more of the following, regardless of whether the equipment, machinery, or software is
2100 purchased or leased as a spare part or as an upgrade or modification to one or more of the
2101 following:

- 2102 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 2103 (b) telecommunications switching or routing equipment, machinery, or software; or
- 2104 (c) telecommunications transmission equipment, machinery, or software.

2105 (129) (a) "Telecommunications service" means the electronic conveyance, routing, or
2106 transmission of audio, data, video, voice, or any other information or signal to a point, or
2107 among or between points.

2108 (b) "Telecommunications service" includes:

2109 (i) an electronic conveyance, routing, or transmission with respect to which a computer
2110 processing application is used to act:

2111 (A) on the code, form, or protocol of the content;

2112 (B) for the purpose of electronic conveyance, routing, or transmission; and

2113 (C) regardless of whether the service:

2114 (I) is referred to as voice over Internet protocol service; or

2115 (II) is classified by the Federal Communications Commission as enhanced or value
2116 added;

2117 (ii) an 800 service;

2118 (iii) a 900 service;

2119 (iv) a fixed wireless service;

2120 (v) a mobile wireless service;

2121 (vi) a postpaid calling service;

2122 (vii) a prepaid calling service;

2123 (viii) a prepaid wireless calling service; or

2124 (ix) a private communications service.

2125 (c) "Telecommunications service" does not include:

2126 (i) advertising, including directory advertising;

2127 (ii) an ancillary service;

2128 (iii) a billing and collection service provided to a third party;

2129 (iv) a data processing and information service if:

2130 (A) the data processing and information service allows data to be:

2131 (I) (Aa) acquired;

2132 (Bb) generated;

- 2133 (Cc) processed;
- 2134 (Dd) retrieved; or
- 2135 (Ee) stored; and
- 2136 (II) delivered by an electronic transmission to a purchaser; and
- 2137 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 2138 or information;
- 2139 (v) installation or maintenance of the following on a customer's premises:
- 2140 (A) equipment; or
- 2141 (B) wiring;
- 2142 (vi) Internet access service;
- 2143 (vii) a paging service;
- 2144 (viii) a product transferred electronically, including:
- 2145 (A) music;
- 2146 (B) reading material;
- 2147 (C) a ring tone;
- 2148 (D) software; or
- 2149 (E) video;
- 2150 (ix) a radio and television audio and video programming service:
- 2151 (A) regardless of the medium; and
- 2152 (B) including:
- 2153 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 2154 programming service by a programming service provider;
- 2155 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 2156 (III) audio and video programming services delivered by a commercial mobile radio
- 2157 service provider as defined in 47 C.F.R. Sec. 20.3;
- 2158 (x) a value-added nonvoice data service; or
- 2159 (xi) tangible personal property.
- 2160 (130) (a) "Telecommunications service provider" means a person that:
- 2161 (i) owns, controls, operates, or manages a telecommunications service; and
- 2162 (ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or
- 2163 resale to any person of the telecommunications service.

2164 (b) A person described in Subsection (130)(a) is a telecommunications service provider
2165 whether or not the Public Service Commission of Utah regulates:

2166 (i) that person; or

2167 (ii) the telecommunications service that the person owns, controls, operates, or
2168 manages.

2169 (131) (a) "Telecommunications switching or routing equipment, machinery, or
2170 software" means an item listed in Subsection (131)(b) if that item is purchased or leased
2171 primarily for switching or routing:

2172 (i) an ancillary service;

2173 (ii) data communications;

2174 (iii) voice communications; or

2175 (iv) telecommunications service.

2176 (b) The following apply to Subsection (131)(a):

2177 (i) a bridge;

2178 (ii) a computer;

2179 (iii) a cross connect;

2180 (iv) a modem;

2181 (v) a multiplexer;

2182 (vi) plug in circuitry;

2183 (vii) a router;

2184 (viii) software;

2185 (ix) a switch; or

2186 (x) equipment, machinery, or software that functions similarly to an item listed in
2187 Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in
2188 accordance with Subsection (131)(c).

2189 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2190 commission may by rule define what constitutes equipment, machinery, or software that
2191 functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

2192 (132) (a) "Telecommunications transmission equipment, machinery, or software"
2193 means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for
2194 sending, receiving, or transporting:

- 2195 (i) an ancillary service;
- 2196 (ii) data communications;
- 2197 (iii) voice communications; or
- 2198 (iv) telecommunications service.
- 2199 (b) The following apply to Subsection (132)(a):
- 2200 (i) an amplifier;
- 2201 (ii) a cable;
- 2202 (iii) a closure;
- 2203 (iv) a conduit;
- 2204 (v) a controller;
- 2205 (vi) a duplexer;
- 2206 (vii) a filter;
- 2207 (viii) an input device;
- 2208 (ix) an input/output device;
- 2209 (x) an insulator;
- 2210 (xi) microwave machinery or equipment;
- 2211 (xii) an oscillator;
- 2212 (xiii) an output device;
- 2213 (xiv) a pedestal;
- 2214 (xv) a power converter;
- 2215 (xvi) a power supply;
- 2216 (xvii) a radio channel;
- 2217 (xviii) a radio receiver;
- 2218 (xix) a radio transmitter;
- 2219 (xx) a repeater;
- 2220 (xxi) software;
- 2221 (xxii) a terminal;
- 2222 (xxiii) a timing unit;
- 2223 (xxiv) a transformer;
- 2224 (xxv) a wire; or
- 2225 (xxvi) equipment, machinery, or software that functions similarly to an item listed in

2226 Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in
2227 accordance with Subsection (132)(c).

2228 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2229 commission may by rule define what constitutes equipment, machinery, or software that
2230 functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).

2231 (133) (a) "Textbook for a higher education course" means a textbook or other printed
2232 material that is required for a course:

2233 (i) offered by an institution of higher education; and

2234 (ii) that the purchaser of the textbook or other printed material attends or will attend.

2235 (b) "Textbook for a higher education course" includes a textbook in electronic format.

2236 (134) "Tobacco" means:

2237 (a) a cigarette;

2238 (b) a cigar;

2239 (c) chewing tobacco;

2240 (d) pipe tobacco; or

2241 (e) any other item that contains tobacco.

2242 (135) "Unassisted amusement device" means an amusement device, skill device, or
2243 ride device that is started and stopped by the purchaser or renter of the right to use or operate
2244 the amusement device, skill device, or ride device.

2245 (136) (a) "Use" means the exercise of any right or power over tangible personal
2246 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
2247 incident to the ownership or the leasing of that tangible personal property, product transferred
2248 electronically, or service.

2249 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
2250 property, a product transferred electronically, or a service in the regular course of business and
2251 held for resale.

2252 (137) "Value-added nonvoice data service" means a service:

2253 (a) that otherwise meets the definition of a telecommunications service except that a
2254 computer processing application is used to act primarily for a purpose other than conveyance,
2255 routing, or transmission; and

2256 (b) with respect to which a computer processing application is used to act on data or

2257 information:

- 2258 (i) code;
- 2259 (ii) content;
- 2260 (iii) form; or
- 2261 (iv) protocol.

2262 (138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are
2263 required to be titled, registered, or titled and registered:

- 2264 (i) an aircraft as defined in Section 72-10-102;
- 2265 (ii) a vehicle as defined in Section 41-1a-102;
- 2266 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 2267 (iv) a vessel as defined in Section 41-1a-102.

2268 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 2269 (i) a vehicle described in Subsection (138)(a); or
- 2270 (ii) (A) a locomotive;
- 2271 (B) a freight car;
- 2272 (C) railroad work equipment; or
- 2273 (D) other railroad rolling stock.

2274 (139) "Vehicle dealer" means a person engaged in the business of buying, selling, or
2275 exchanging a vehicle as defined in Subsection (138).

2276 (140) (a) "Vertical service" means an ancillary service that:

- 2277 (i) is offered in connection with one or more telecommunications services; and
- 2278 (ii) offers an advanced calling feature that allows a customer to:
 - 2279 (A) identify a caller; and
 - 2280 (B) manage multiple calls and call connections.

2281 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
2282 conference bridging service.

2283 (141) (a) "Voice mail service" means an ancillary service that enables a customer to
2284 receive, send, or store a recorded message.

2285 (b) "Voice mail service" does not include a vertical service that a customer is required
2286 to have in order to utilize a voice mail service.

2287 (142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a

2288 facility that generates electricity:

2289 (i) using as the primary source of energy waste materials that would be placed in a
2290 landfill or refuse pit if it were not used to generate electricity, including:

2291 (A) tires;

2292 (B) waste coal;

2293 (C) oil shale; or

2294 (D) municipal solid waste; and

2295 (ii) in amounts greater than actually required for the operation of the facility.

2296 (b) "Waste energy facility" does not include a facility that incinerates:

2297 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

2298 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

2299 (143) "Watercraft" means a vessel as defined in Section [73-18-2](#).

2300 (144) "Wind energy" means wind used as the sole source of energy to produce
2301 electricity.

2302 (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
2303 location by the United States Postal Service.

2304 Section 13. Section **59-12-103** is amended to read:

2305 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
2306 **tax revenues.**

2307 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
2308 sales price for amounts paid or charged for the following transactions:

2309 (a) retail sales of tangible personal property made within the state;

2310 (b) amounts paid for:

2311 (i) telecommunications service, other than mobile telecommunications service, that
2312 originates and terminates within the boundaries of this state;

2313 (ii) mobile telecommunications service that originates and terminates within the
2314 boundaries of one state only to the extent permitted by the Mobile Telecommunications
2315 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

2316 (iii) an ancillary service associated with a:

2317 (A) telecommunications service described in Subsection (1)(b)(i); or

2318 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

- 2319 (c) sales of the following for commercial use:
- 2320 (i) gas;
- 2321 (ii) electricity;
- 2322 (iii) heat;
- 2323 (iv) coal;
- 2324 (v) fuel oil; or
- 2325 (vi) other fuels;
- 2326 (d) sales of the following for residential use:
- 2327 (i) gas;
- 2328 (ii) electricity;
- 2329 (iii) heat;
- 2330 (iv) coal;
- 2331 (v) fuel oil; or
- 2332 (vi) other fuels;
- 2333 (e) sales of prepared food;
- 2334 (f) except as provided in Section [59-12-104](#), amounts paid or charged as admission or
- 2335 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 2336 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 2337 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 2338 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 2339 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 2340 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 2341 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 2342 exhibition, cultural, or athletic activity;
- 2343 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 2344 property, unless Section [59-12-104](#) provides for an exemption from sales and use tax for:
- 2345 (i) the tangible personal property; and
- 2346 (ii) parts used in the repairs or renovations of the tangible personal property described
- 2347 in Subsection (1)(g)(i), regardless of whether:
- 2348 (A) any parts are actually used in the repairs or renovations of that tangible personal
- 2349 property; or

2350 (B) the particular parts used in the repairs or renovations of that tangible personal
2351 property are exempt from a tax under this chapter;

2352 (h) except as provided in ~~[Subsection]~~ Subsections 59-12-104(7) and (88), amounts
2353 paid or charged for assisted cleaning or washing of tangible personal property;

2354 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
2355 accommodations and services that are regularly rented for less than 30 consecutive days;

2356 (j) amounts paid or charged for laundry or dry cleaning services;

2357 (k) amounts paid or charged for leases or rentals of tangible personal property if within
2358 this state the tangible personal property is:

2359 (i) stored;

2360 (ii) used; or

2361 (iii) otherwise consumed;

2362 (l) amounts paid or charged for tangible personal property if within this state the
2363 tangible personal property is:

2364 (i) stored;

2365 (ii) used; or

2366 (iii) consumed; and

2367 (m) amounts paid or charged for a sale:

2368 (i) (A) of a product transferred electronically; or
2369 (B) of a repair or renovation of a product transferred electronically; and

2370 (ii) regardless of whether the sale provides:

2371 (A) a right of permanent use of the product; or
2372 (B) a right to use the product that is less than a permanent use, including a right:

2373 (I) for a definite or specified length of time; and
2374 (II) that terminates upon the occurrence of a condition.

2375 (2) (a) Except as provided in Subsections (2)(b) through ~~[(e)]~~ (f), a state tax and a local
2376 tax is imposed on a transaction described in Subsection (1) equal to the sum of:

2377 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

2378 (A) 4.70%; and
2379 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
2380 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

2381 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
2382 State Sales and Use Tax Act; and

2383 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
2384 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
2385 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
2386 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2387 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2388 transaction under this chapter other than this part.

2389 (b) Except as provided in Subsection (2)~~(d) or~~(e) or (f), a state tax and a local tax is
2390 imposed on a transaction described in Subsection (1)(d) equal to the sum of:

2391 (i) a state tax imposed on the transaction at a tax rate of ~~[2%~~ 0%; and

2392 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2393 transaction under this chapter other than this part.

2394 (c) Except as provided in Subsection (2)~~(d) or~~(e) or (f), a state tax and a local tax is
2395 imposed on amounts paid or charged for food and food ingredients equal to the sum of:

2396 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
2397 a tax rate of ~~[1.75%~~ 0%; and

2398 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2399 amounts paid or charged for food and food ingredients under this chapter other than this part.

2400 (d) Except as provided in Subsection (2)(e) or (f), a state tax and a local tax are
2401 imposed on a transaction described in Subsection (1)(c) equal to the sum of:

2402 (i) a state tax imposed on the transaction at a tax rate of 0%; and

2403 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2404 transaction under this chapter other than this part.

2405 ~~(d)~~ (e) (i) For a bundled transaction that is attributable to food and food ingredients
2406 and tangible personal property other than food and food ingredients, a state tax and a local tax
2407 is imposed on the entire bundled transaction equal to the sum of:

2408 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

2409 (I) the tax rate described in Subsection (2)(a)(i)(A); and

2410 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
2411 Sales and Use Tax Act, if the location of the transaction as determined under Sections

2412 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
2413 Additional State Sales and Use Tax Act; and

2414 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
2415 Sales and Use Tax Act, if the location of the transaction as determined under Sections
2416 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
2417 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2418 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
2419 described in Subsection (2)(a)(ii).

2420 (ii) If an optional computer software maintenance contract is a bundled transaction that
2421 consists of taxable and nontaxable products that are not separately itemized on an invoice or
2422 similar billing document, the purchase of the optional computer software maintenance contract
2423 is 40% taxable under this chapter and 60% nontaxable under this chapter.

2424 (iii) Subject to Subsection (2)~~(d)~~(e)(iv), for a bundled transaction other than a
2425 bundled transaction described in Subsection (2)~~(d)~~(e)(i) or (ii):

2426 (A) if the sales price of the bundled transaction is attributable to tangible personal
2427 property, a product, or a service that is subject to taxation under this chapter and tangible
2428 personal property, a product, or service that is not subject to taxation under this chapter, the
2429 entire bundled transaction is subject to taxation under this chapter unless:

2430 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2431 personal property, product, or service that is not subject to taxation under this chapter from the
2432 books and records the seller keeps in the seller's regular course of business; or

2433 (II) state or federal law provides otherwise; or

2434 (B) if the sales price of a bundled transaction is attributable to two or more items of
2435 tangible personal property, products, or services that are subject to taxation under this chapter
2436 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
2437 higher tax rate unless:

2438 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2439 personal property, product, or service that is subject to taxation under this chapter at the lower
2440 tax rate from the books and records the seller keeps in the seller's regular course of business; or

2441 (II) state or federal law provides otherwise.

2442 (iv) For purposes of Subsection (2)~~(d)~~(e)(iii), books and records that a seller keeps in

2443 the seller's regular course of business includes books and records the seller keeps in the regular
2444 course of business for nontax purposes.

2445 ~~(e)~~ (f) (i) Except as otherwise provided in this chapter and subject to Subsections
2446 (2)~~(e)~~(f)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal
2447 property, a product, or a service that is subject to taxation under this chapter, and the sale,
2448 lease, or rental of tangible personal property, other property, a product, or a service that is not
2449 subject to taxation under this chapter, the entire transaction is subject to taxation under this
2450 chapter unless the seller, at the time of the transaction:

2451 (A) separately states the portion of the transaction that is not subject to taxation under
2452 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

2453 (B) is able to identify by reasonable and verifiable standards, from the books and
2454 records the seller keeps in the seller's regular course of business, the portion of the transaction
2455 that is not subject to taxation under this chapter.

2456 (ii) A purchaser and a seller may correct the taxability of a transaction if:

2457 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
2458 the transaction that is not subject to taxation under this chapter was not separately stated on an
2459 invoice, bill of sale, or similar document provided to the purchaser because of an error or
2460 ignorance of the law; and

2461 (B) the seller is able to identify by reasonable and verifiable standards, from the books
2462 and records the seller keeps in the seller's regular course of business, the portion of the
2463 transaction that is not subject to taxation under this chapter.

2464 (iii) For purposes of Subsections (2)~~(e)~~(f)(i) and (ii), books and records that a seller
2465 keeps in the seller's regular course of business includes books and records the seller keeps in
2466 the regular course of business for nontax purposes.

2467 ~~(f)~~ (g) (i) If the sales price of a transaction is attributable to two or more items of
2468 tangible personal property, products, or services that are subject to taxation under this chapter
2469 at different rates, the entire purchase is subject to taxation under this chapter at the higher tax
2470 rate unless the seller, at the time of the transaction:

2471 (A) separately states the items subject to taxation under this chapter at each of the
2472 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

2473 (B) is able to identify by reasonable and verifiable standards the tangible personal

2474 property, product, or service that is subject to taxation under this chapter at the lower tax rate
 2475 from the books and records the seller keeps in the seller's regular course of business.

2476 (ii) For purposes of Subsection (2)~~(f)~~(g)(i), books and records that a seller keeps in
 2477 the seller's regular course of business includes books and records the seller keeps in the regular
 2478 course of business for nontax purposes.

2479 ~~(g)~~ (h) Subject to Subsections (2)~~(h)~~ and (i) and (j), a tax rate repeal or tax rate
 2480 change for a tax rate imposed under the following shall take effect on the first day of a calendar
 2481 quarter:

- 2482 (i) Subsection (2)(a)(i)(A);
- 2483 (ii) Subsection (2)(b)(i);
- 2484 (iii) Subsection (2)(c)(i); or
- 2485 (iv) Subsection (2)~~(f)~~(e)(i)(A)(I).

2486 ~~(h)~~ (i) (i) A tax rate increase takes effect on the first day of the first billing period that
 2487 begins on or after the effective date of the tax rate increase if the billing period for the
 2488 transaction begins before the effective date of a tax rate increase imposed under:

- 2489 (A) Subsection (2)(a)(i)(A);
- 2490 (B) Subsection (2)(b)(i);
- 2491 (C) Subsection (2)(c)(i); or
- 2492 (D) Subsection (2)~~(f)~~(e)(i)(A)(I).

2493 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
 2494 statement for the billing period is rendered on or after the effective date of the repeal of the tax
 2495 or the tax rate decrease imposed under:

- 2496 (A) Subsection (2)(a)(i)(A);
- 2497 (B) Subsection (2)(b)(i);
- 2498 (C) Subsection (2)(c)(i); or
- 2499 (D) Subsection (2)~~(f)~~(e)(i)(A)(I).

2500 ~~(i)~~ (j) (i) For a tax rate described in Subsection (2)~~(i)~~(j)(ii), if a tax due on a
 2501 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a
 2502 tax rate repeal or change in a tax rate takes effect:

- 2503 (A) on the first day of a calendar quarter; and
- 2504 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

- 2505 (ii) Subsection (2)[~~(f)~~](j)(i) applies to the tax rates described in the following:
- 2506 (A) Subsection (2)(a)(i)(A);
- 2507 (B) Subsection (2)(b)(i);
- 2508 (C) Subsection (2)(c)(i); or
- 2509 (D) Subsection (2)[~~(f)~~](e)(i)(A)(I).
- 2510 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 2511 the commission may by rule define the term "catalogue sale."
- 2512 (3) (a) The following state taxes shall be deposited into the General Fund:
- 2513 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 2514 (ii) the tax imposed by Subsection (2)(b)(i);
- 2515 (iii) the tax imposed by Subsection (2)(c)(i); or
- 2516 (iv) the tax imposed by Subsection (2)[~~(f)~~](e)(i)(A)(I).
- 2517 (b) The following local taxes shall be distributed to a county, city, or town as provided
- 2518 in this chapter:
- 2519 (i) the tax imposed by Subsection (2)(a)(ii);
- 2520 (ii) the tax imposed by Subsection (2)(b)(ii);
- 2521 (iii) the tax imposed by Subsection (2)(c)(ii); and
- 2522 (iv) the tax imposed by Subsection (2)[~~(f)~~](e)(i)(B).
- 2523 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
- 2524 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
- 2525 through (g):
- 2526 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
- 2527 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- 2528 (B) for the fiscal year; or
- 2529 (ii) \$17,500,000.
- 2530 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
- 2531 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
- 2532 Department of Natural Resources to:
- 2533 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
- 2534 protect sensitive plant and animal species; or
- 2535 (B) award grants, up to the amount authorized by the Legislature in an appropriations

2536 act, to political subdivisions of the state to implement the measures described in Subsections
2537 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

2538 (ii) Money transferred to the Department of Natural Resources under Subsection
2539 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
2540 person to list or attempt to have listed a species as threatened or endangered under the
2541 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

2542 (iii) At the end of each fiscal year:

2543 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2544 Conservation and Development Fund created in Section 73-10-24;

2545 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
2546 Program Subaccount created in Section 73-10c-5; and

2547 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
2548 Program Subaccount created in Section 73-10c-5.

2549 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
2550 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
2551 created in Section 4-18-106.

2552 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
2553 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
2554 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
2555 water rights.

2556 (ii) At the end of each fiscal year:

2557 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2558 Conservation and Development Fund created in Section 73-10-24;

2559 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
2560 Program Subaccount created in Section 73-10c-5; and

2561 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
2562 Program Subaccount created in Section 73-10c-5.

2563 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
2564 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
2565 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

2566 (ii) In addition to the uses allowed of the Water Resources Conservation and

2567 Development Fund under Section 73-10-24, the Water Resources Conservation and
2568 Development Fund may also be used to:

2569 (A) conduct hydrologic and geotechnical investigations by the Division of Water
2570 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
2571 quantifying surface and ground water resources and describing the hydrologic systems of an
2572 area in sufficient detail so as to enable local and state resource managers to plan for and
2573 accommodate growth in water use without jeopardizing the resource;

2574 (B) fund state required dam safety improvements; and

2575 (C) protect the state's interest in interstate water compact allocations, including the
2576 hiring of technical and legal staff.

2577 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2578 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
2579 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

2580 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2581 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
2582 created in Section 73-10c-5 for use by the Division of Drinking Water to:

2583 (i) provide for the installation and repair of collection, treatment, storage, and
2584 distribution facilities for any public water system, as defined in Section 19-4-102;

2585 (ii) develop underground sources of water, including springs and wells; and

2586 (iii) develop surface water sources.

2587 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2588 2006, the difference between the following amounts shall be expended as provided in this
2589 Subsection (5), if that difference is greater than \$1:

2590 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
2591 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

2592 (ii) \$17,500,000.

2593 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

2594 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
2595 credits; and

2596 (B) expended by the Department of Natural Resources for watershed rehabilitation or
2597 restoration.

2598 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
2599 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
2600 created in Section 73-10-24.

2601 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
2602 remaining difference described in Subsection (5)(a) shall be:

2603 (A) transferred each fiscal year to the Division of Water Resources as dedicated
2604 credits; and

2605 (B) expended by the Division of Water Resources for cloud-seeding projects
2606 authorized by Title 73, Chapter 15, Modification of Weather.

2607 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
2608 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
2609 created in Section 73-10-24.

2610 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
2611 remaining difference described in Subsection (5)(a) shall be deposited into the Water
2612 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
2613 Division of Water Resources for:

2614 (i) preconstruction costs:

2615 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
2616 26, Bear River Development Act; and

2617 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
2618 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

2619 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
2620 Chapter 26, Bear River Development Act;

2621 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
2622 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

2623 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
2624 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

2625 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
2626 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be
2627 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
2628 incurred for employing additional technical staff for the administration of water rights.

2629 (f) At the end of each fiscal year, any unexpended dedicated credits described in
2630 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
2631 Fund created in Section 73-10-24.

2632 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
2633 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
2634 (1) for the fiscal year shall be deposited as follows:

2635 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)
2636 shall be deposited into the Transportation Investment Fund of 2005 created by Section
2637 72-2-124;

2638 (b) for fiscal year 2017-18 only:

2639 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the
2640 Transportation Investment Fund of 2005 created by Section 72-2-124; and

2641 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the
2642 Water Infrastructure Restricted Account created by Section 73-10g-103;

2643 (c) for fiscal year 2018-19 only:

2644 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the
2645 Transportation Investment Fund of 2005 created by Section 72-2-124; and

2646 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the
2647 Water Infrastructure Restricted Account created by Section 73-10g-103;

2648 (d) for fiscal year 2019-20 only:

2649 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the
2650 Transportation Investment Fund of 2005 created by Section 72-2-124; and

2651 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the
2652 Water Infrastructure Restricted Account created by Section 73-10g-103;

2653 (e) for fiscal year 2020-21 only:

2654 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
2655 Transportation Investment Fund of 2005 created by Section 72-2-124; and

2656 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
2657 Water Infrastructure Restricted Account created by Section 73-10g-103; and

2658 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
2659 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account

2660 created by Section [73-10g-103](#).

2661 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
2662 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
2663 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
2664 created by Section [72-2-124](#):

2665 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
2666 the revenues collected from the following taxes, which represents a portion of the
2667 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
2668 on vehicles and vehicle-related products:

2669 (A) the tax imposed by Subsection (2)(a)(i)(A);

2670 (B) the tax imposed by Subsection (2)(b)(i);

2671 (C) the tax imposed by Subsection (2)(c)(i); and

2672 (D) the tax imposed by Subsection (2)~~(d)~~(e)(i)(A)(I); plus

2673 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
2674 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
2675 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
2676 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

2677 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
2678 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total
2679 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
2680 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
2681 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
2682 (7)(a) equal to the product of:

2683 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
2684 previous fiscal year; and

2685 (B) the total sales and use tax revenue generated by the taxes described in Subsections
2686 (7)(a)(i)(A) through (D) in the current fiscal year.

2687 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
2688 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes
2689 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of
2690 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in

2691 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

2692 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
2693 from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited
2694 under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues
2695 collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the
2696 current fiscal year under Subsection (7)(a).

2697 (8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited
2698 under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall
2699 deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into
2700 the Transportation Investment Fund of 2005 created by Section [72-2-124](#).

2701 (b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
2702 Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit
2703 \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the
2704 Transportation Investment Fund of 2005 created by Section [72-2-124](#).

2705 (c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under
2706 Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning on or
2707 after July 1, 2018, the commission shall annually deposit into the Transportation Investment
2708 Fund of 2005 created by Section [72-2-124](#) a portion of the taxes listed under Subsection (3)(a)
2709 in an amount equal to 3.68% of the revenues collected from the following taxes:

- 2710 (A) the tax imposed by Subsection (2)(a)(i)(A);
- 2711 (B) the tax imposed by Subsection (2)(b)(i);
- 2712 (C) the tax imposed by Subsection (2)(c)(i); and
- 2713 (D) the tax imposed by Subsection (2)~~(d)~~(e)(i)(A)(I).

2714 (ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually
2715 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i)
2716 by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year
2717 by the portion of the tax imposed on motor and special fuel that is sold, used, or received for
2718 sale or use in this state that exceeds 29.4 cents per gallon.

2719 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
2720 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
2721 created by Section [35A-8-1009](#) and expended as provided in Section [35A-8-1009](#).

2722 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),
2723 in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17
2724 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund
2725 of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on
2726 the transactions described in Subsection (1).

2727 (b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in
2728 addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance
2729 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
2730 amount of revenue described as follows:

2731 (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%
2732 tax rate on the transactions described in Subsection (1);

2733 (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05%
2734 tax rate on the transactions described in Subsection (1);

2735 (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%
2736 tax rate on the transactions described in Subsection (1);

2737 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
2738 .05% tax rate on the transactions described in Subsection (1); and

2739 (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%
2740 tax rate on the transactions described in Subsection (1).

2741 (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not
2742 deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts
2743 paid or charged for food and food ingredients, except for tax revenue generated by a bundled
2744 transaction attributable to food and food ingredients and tangible personal property other than
2745 food and food ingredients described in Subsection (2)(d).

2746 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
2747 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
2748 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
2749 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue
2750 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,
2751 created in Section 63N-2-512.

2752 (12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the

2753 Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed
2754 under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section [35A-8-308](#).

2755 (b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of
2756 Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under
2757 Subsection (3)(a) into the Throughput Infrastructure Fund created by Section [35A-8-308](#).

2758 (13) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July
2759 1, 2020, the Division of Finance shall annually deposit into the Carbon Emissions Tax
2760 Expendable Revenue Fund, created in Section [59-29-301](#), a portion of the taxes listed under
2761 Subsection (3)(a) in an amount equal to the lesser of:

2762 (i) the total amount deposited into the Transportation Investment Fund of 2005, created
2763 in Section [72-2-124](#), required under Subsections (6), (7), (8), and (10); and

2764 (ii) the revenue deposited into the Transportation Investment Fund of 2005, created in
2765 Section [72-2-124](#), under Sections [59-29-201](#) and [59-29-202](#).

2766 (b) The Division of Finance shall reduce the deposits made to the Transportation
2767 Investment Fund of 2005, created in Section [72-2-124](#), required under Subsections (6), (7), (8),
2768 and (10) in an amount equal to the deposit described in Subsection (13)(a).

2769 ~~[(13)]~~ (14) Notwithstanding Subsections (4) through ~~[(12)]~~ (13), an amount required to
2770 be expended or deposited in accordance with Subsections (4) through ~~[(12)]~~ (13) may not
2771 include an amount the Division of Finance deposits in accordance with Section [59-12-103.2](#).

2772 Section 14. Section [59-12-104](#) is amended to read:

2773 **[59-12-104. Exemptions.](#)**

2774 Exemptions from the taxes imposed by this chapter are as follows:

2775 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
2776 under Chapter 13, Motor and Special Fuel Tax Act;

2777 (2) subject to Section [59-12-104.6](#), sales to the state, its institutions, and its political
2778 subdivisions; however, this exemption does not apply to sales of:

2779 (a) construction materials except:

2780 (i) construction materials purchased by or on behalf of institutions of the public
2781 education system as defined in Utah Constitution, Article X, Section 2, provided the
2782 construction materials are clearly identified and segregated and installed or converted to real
2783 property which is owned by institutions of the public education system; and

2784 (ii) construction materials purchased by the state, its institutions, or its political
2785 subdivisions which are installed or converted to real property by employees of the state, its
2786 institutions, or its political subdivisions; or

2787 (b) tangible personal property in connection with the construction, operation,
2788 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
2789 providing additional project capacity, as defined in Section 11-13-103;

2790 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

2791 (i) the proceeds of each sale do not exceed \$1; and

2792 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
2793 the cost of the item described in Subsection (3)(b) as goods consumed; and

2794 (b) Subsection (3)(a) applies to:

2795 (i) food and food ingredients; or

2796 (ii) prepared food;

2797 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

2798 (i) alcoholic beverages;

2799 (ii) food and food ingredients; or

2800 (iii) prepared food;

2801 (b) sales of tangible personal property or a product transferred electronically:

2802 (i) to a passenger;

2803 (ii) by a commercial airline carrier; and

2804 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or

2805 (c) services related to Subsection (4)(a) or (b);

2806 ~~[(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
2807 and equipment:]~~

2808 ~~[(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
2809 North American Industry Classification System of the federal Executive Office of the
2810 President, Office of Management and Budget; and]~~

2811 ~~[(H) for:]~~

2812 ~~[(Aa) installation in an aircraft, including services relating to the installation of parts or
2813 equipment in the aircraft;]~~

2814 ~~[(Bb) renovation of an aircraft; or]~~

2815 ~~[(C) repair of an aircraft; or]~~
2816 ~~[(B) for installation in an aircraft operated by a common carrier in interstate or foreign~~
2817 ~~commerce; or]~~
2818 ~~[(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an~~
2819 ~~aircraft operated by a common carrier in interstate or foreign commerce; and]~~
2820 ~~[(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~
2821 ~~a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a~~
2822 ~~refund:]~~
2823 ~~[(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;]~~
2824 ~~[(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;]~~
2825 ~~[(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for~~
2826 ~~the sale prior to filing for the refund;]~~
2827 ~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~
2828 ~~[(v) in accordance with Section 59-1-1410; and]~~
2829 ~~[(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,~~
2830 ~~if the person files for the refund on or before September 30, 2011;]~~
2831 (5) sales of parts and equipment for installation in an aircraft operated by a common
2832 carrier in interstate or foreign commerce;
2833 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
2834 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
2835 exhibitor, distributor, or commercial television or radio broadcaster;
2836 (7) (a) except as provided in Subsection (88) and subject to Subsection (7)(b), sales of
2837 cleaning or washing of tangible personal property if the cleaning or washing of the tangible
2838 personal property is not assisted cleaning or washing of tangible personal property;
2839 (b) if a seller that sells at the same business location assisted cleaning or washing of
2840 tangible personal property and cleaning or washing of tangible personal property that is not
2841 assisted cleaning or washing of tangible personal property, the exemption described in
2842 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
2843 or washing of the tangible personal property; and
2844 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
2845 Utah Administrative Rulemaking Act, the commission may make rules:

- 2846 (i) governing the circumstances under which sales are at the same business location;
2847 and
- 2848 (ii) establishing the procedures and requirements for a seller to separately account for
2849 sales of assisted cleaning or washing of tangible personal property;
- 2850 (8) sales made to or by religious or charitable institutions in the conduct of their regular
2851 religious or charitable functions and activities, if the requirements of Section [59-12-104.1](#) are
2852 fulfilled;
- 2853 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
2854 this state if the vehicle is:
- 2855 (a) not registered in this state; and
- 2856 (b) (i) not used in this state; or
2857 (ii) used in this state:
- 2858 (A) if the vehicle is not used to conduct business, for a time period that does not
2859 exceed the longer of:
- 2860 (I) 30 days in any calendar year; or
2861 (II) the time period necessary to transport the vehicle to the borders of this state; or
2862 (B) if the vehicle is used to conduct business, for the time period necessary to transport
2863 the vehicle to the borders of this state;
- 2864 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
- 2865 (i) the item is intended for human use; and
2866 (ii) (A) a prescription was issued for the item; or
2867 (B) the item was purchased by a hospital or other medical facility; and
- 2868 (b) (i) Subsection (10)(a) applies to:
- 2869 (A) a drug;
2870 (B) a syringe; or
2871 (C) a stoma supply; and
- 2872 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2873 commission may by rule define the terms:
- 2874 (A) "syringe"; or
2875 (B) "stoma supply";
- 2876 (11) purchases or leases exempt under Section [19-12-201](#);

- 2877 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 2878 (i) the following if the item described in Subsection (12)(c) is not available to the
- 2879 general public:
- 2880 (A) a church; or
- 2881 (B) a charitable institution;
- 2882 (ii) an institution of higher education if:
- 2883 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 2884 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 2885 offered by the institution of higher education; or
- 2886 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 2887 (i) a medical facility; or
- 2888 (ii) a nursing facility; and
- 2889 (c) Subsections (12)(a) and (b) apply to:
- 2890 (i) food and food ingredients;
- 2891 (ii) prepared food; or
- 2892 (iii) alcoholic beverages;
- 2893 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 2894 or a product transferred electronically by a person:
- 2895 (i) regardless of the number of transactions involving the sale of that tangible personal
- 2896 property or product transferred electronically by that person; and
- 2897 (ii) not regularly engaged in the business of selling that type of tangible personal
- 2898 property or product transferred electronically;
- 2899 (b) this Subsection (13) does not apply if:
- 2900 (i) the sale is one of a series of sales of a character to indicate that the person is
- 2901 regularly engaged in the business of selling that type of tangible personal property or product
- 2902 transferred electronically;
- 2903 (ii) the person holds that person out as regularly engaged in the business of selling that
- 2904 type of tangible personal property or product transferred electronically;
- 2905 (iii) the person sells an item of tangible personal property or product transferred
- 2906 electronically that the person purchased as a sale that is exempt under Subsection (25); or
- 2907 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of

2908 this state in which case the tax is based upon:

2909 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
2910 sold; or

2911 (B) in the absence of a bill of sale or other written evidence of value, the fair market
2912 value of the vehicle or vessel being sold at the time of the sale as determined by the
2913 commission; and

2914 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2915 commission shall make rules establishing the circumstances under which:

2916 (i) a person is regularly engaged in the business of selling a type of tangible personal
2917 property or product transferred electronically;

2918 (ii) a sale of tangible personal property or a product transferred electronically is one of
2919 a series of sales of a character to indicate that a person is regularly engaged in the business of
2920 selling that type of tangible personal property or product transferred electronically; or

2921 (iii) a person holds that person out as regularly engaged in the business of selling a type
2922 of tangible personal property or product transferred electronically;

2923 (14) except as provided in Subsections (84), (86), (87), and (89) and subject to Section
2924 59-12-104.8, amounts paid or charged for a purchase or lease of machinery, equipment, ~~[or]~~
2925 normal operating repair or replacement parts ~~[with an economic life of three or more years]~~, or
2926 materials, except for office equipment or office supplies, by:

2927 (a) a manufacturing facility~~[-except as provided in Subsection (86);]~~ that:

2928 (i) is located in the state; and

2929 (ii) uses or consumes the machinery, equipment, ~~[or]~~ normal operating repair or
2930 replacement parts, or materials;

2931 (A) in the manufacturing process to manufacture an item sold as tangible personal
2932 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
2933 Utah Administrative Rulemaking Act; or

2934 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
2935 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
2936 Administrative Rulemaking Act;

2937 (b) an establishment, as the commission defines that term in accordance with Title 63G,
2938 Chapter 3, Utah Administrative Rulemaking Act, that:

2939 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
2940 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
2941 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
2942 2002 North American Industry Classification System of the federal Executive Office of the
2943 President, Office of Management and Budget;

2944 (ii) is located in the state; and

2945 (iii) uses or consumes the machinery, equipment, [~~or~~] normal operating repair or
2946 replacement parts, or materials in:

2947 (A) the production process to produce an item sold as tangible personal property, as the
2948 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
2949 Administrative Rulemaking Act;

2950 (B) research and development, as the commission may define that phrase in accordance
2951 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2952 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
2953 produced from mining;

2954 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
2955 mining; or

2956 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

2957 (c) an establishment, as the commission defines that term in accordance with Title 63G,
2958 Chapter 3, Utah Administrative Rulemaking Act, that:

2959 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
2960 American Industry Classification System of the federal Executive Office of the President,
2961 Office of Management and Budget;

2962 (ii) is located in the state; and

2963 (iii) uses or consumes the machinery, equipment, [~~or~~] normal operating repair or
2964 replacement parts, or materials in the operation of the web search portal;

2965 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

2966 (i) tooling;

2967 (ii) special tooling;

2968 (iii) support equipment;

2969 (iv) special test equipment; or

2970 (v) parts used in the repairs or renovations of tooling or equipment described in
2971 Subsections (15)(a)(i) through (iv); and
2972 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
2973 (i) the tooling, equipment, or parts are used or consumed exclusively in the
2974 performance of any aerospace or electronics industry contract with the United States
2975 government or any subcontract under that contract; and
2976 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
2977 title to the tooling, equipment, or parts is vested in the United States government as evidenced
2978 by:
2979 (A) a government identification tag placed on the tooling, equipment, or parts; or
2980 (B) listing on a government-approved property record if placing a government
2981 identification tag on the tooling, equipment, or parts is impractical;
2982 (16) sales of newspapers or newspaper subscriptions;
2983 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
2984 product transferred electronically traded in as full or part payment of the purchase price, except
2985 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
2986 trade-ins are limited to other vehicles only, and the tax is based upon:
2987 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
2988 vehicle being traded in; or
2989 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
2990 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
2991 commission; and
2992 (b) Subsection (17)(a) does not apply to the following items of tangible personal
2993 property or products transferred electronically traded in as full or part payment of the purchase
2994 price:
2995 (i) money;
2996 (ii) electricity;
2997 (iii) water;
2998 (iv) gas; or
2999 (v) steam;
3000 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property

3001 or a product transferred electronically used or consumed primarily and directly in farming
 3002 operations, regardless of whether the tangible personal property or product transferred
 3003 electronically:

3004 (A) becomes part of real estate; or

3005 (B) is installed by a~~[-(F)]~~ farmer~~[-(H)]~~, contractor~~[-(I)]~~, or ~~[(H)]~~ subcontractor; or

3006 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
 3007 product transferred electronically if the tangible personal property or product transferred
 3008 electronically is exempt under Subsection (18)(a)(i); and

3009 (b) amounts paid or charged for the following are subject to the taxes imposed by this
 3010 chapter:

3011 (i) (A) subject to Subsection (18)(b)(i)(B), ~~[the following]~~ machinery, equipment,
 3012 materials, or supplies if used in a manner that is incidental to farming~~[-(I)]~~; and

3013 ~~[(F) machinery;]~~

3014 ~~[(H) equipment;]~~

3015 ~~[(H) materials; or]~~

3016 ~~[(IV) supplies; and]~~

3017 (B) tangible personal property that is considered to be used in a manner that is
 3018 incidental to farming includes:

3019 (I) hand tools; or

3020 (II) maintenance and janitorial equipment and supplies;

3021 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
 3022 transferred electronically if the tangible personal property or product transferred electronically
 3023 is used in an activity other than farming; and

3024 (B) tangible personal property or a product transferred electronically that is considered
 3025 to be used in an activity other than farming includes:

3026 (I) office equipment and supplies; or

3027 (II) equipment and supplies used in:

3028 (Aa) the sale or distribution of farm products;

3029 (Bb) research; or

3030 (Cc) transportation; or

3031 (iii) a vehicle required to be registered by the laws of this state during the period

3032 ending two years after the date of the vehicle's purchase;

3033 (19) sales of hay;

3034 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
3035 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
3036 garden, farm, or other agricultural produce is sold by:

3037 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
3038 agricultural produce;

3039 (b) an employee of the producer described in Subsection (20)(a); or

3040 (c) a member of the immediate family of the producer described in Subsection (20)(a);

3041 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
3042 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

3043 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
3044 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
3045 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
3046 manufacturer, processor, wholesaler, or retailer;

3047 (23) a product stored in the state for resale;

3048 (24) (a) purchases of a product if:

3049 (i) the product is:

3050 (A) purchased outside of this state;

3051 (B) brought into this state:

3052 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

3053 (II) by a nonresident person who is not living or working in this state at the time of the
3054 purchase;

3055 (C) used for the personal use or enjoyment of the nonresident person described in
3056 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

3057 (D) not used in conducting business in this state; and

3058 (ii) for:

3059 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
3060 the product for a purpose for which the product is designed occurs outside of this state;

3061 (B) a boat, the boat is registered outside of this state; or

3062 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

3063 outside of this state;

3064 (b) the exemption provided for in Subsection (24)(a) does not apply to:

3065 (i) a lease or rental of a product; or

3066 (ii) a sale of a vehicle exempt under Subsection (33); and

3067 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
3068 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
3069 following:

3070 (i) conducting business in this state if that phrase has the same meaning in this

3071 Subsection (24) as in Subsection (63);

3072 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
3073 as in Subsection (63); or

3074 (iii) a purpose for which a product is designed if that phrase has the same meaning in
3075 this Subsection (24) as in Subsection (63);

3076 (25) a product purchased for resale in this state, in the regular course of business, either
3077 in its original form or as an ingredient or component part of a manufactured or compounded
3078 product;

3079 (26) a product upon which a sales or use tax was paid to some other state, or one of its
3080 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
3081 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
3082 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
3083 Act;

3084 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
3085 person for use in compounding a service taxable under the subsections;

3086 (28) purchases made in accordance with the special supplemental nutrition program for
3087 women, infants, and children established in 42 U.S.C. Sec. 1786;

3088 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
3089 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
3090 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
3091 the President, Office of Management and Budget;

3092 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
3093 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

- 3094 (a) not registered in this state; and
- 3095 (b) (i) not used in this state; or
- 3096 (ii) used in this state:
- 3097 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
- 3098 time period that does not exceed the longer of:
- 3099 (I) 30 days in any calendar year; or
- 3100 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
- 3101 the borders of this state; or
- 3102 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
- 3103 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
- 3104 state;
- 3105 (31) sales of aircraft manufactured in Utah;
- 3106 (32) amounts paid for the purchase of telecommunications service for purposes of
- 3107 providing telecommunications service;
- 3108 (33) sales, leases, or uses of the following:
- 3109 (a) a vehicle by an authorized carrier; or
- 3110 (b) tangible personal property that is installed on a vehicle:
- 3111 (i) sold or leased to or used by an authorized carrier; and
- 3112 (ii) before the vehicle is placed in service for the first time;
- 3113 (34) (a) 45% of the sales price of any new manufactured home; and
- 3114 (b) 100% of the sales price of any used manufactured home;
- 3115 (35) sales relating to schools and fundraising sales;
- 3116 (36) sales or rentals of durable medical equipment if:
- 3117 (a) a person presents a prescription for the durable medical equipment; and
- 3118 (b) the durable medical equipment is used for home use only;
- 3119 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 3120 Section [72-11-102](#); and
- 3121 (b) the commission shall by rule determine the method for calculating sales exempt
- 3122 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 3123 (38) sales to a ski resort of:
- 3124 (a) snowmaking equipment;

- 3125 (b) ski slope grooming equipment;
- 3126 (c) passenger ropeways as defined in Section 72-11-102; or
- 3127 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 3128 described in Subsections (38)(a) through (c);
- 3129 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 3130 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 3131 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 3132 59-12-102;
- 3133 (b) if a seller that sells or rents at the same business location the right to use or operate
- 3134 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 3135 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 3136 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 3137 amusement, entertainment, or recreation for the assisted amusement devices; and
- 3138 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
- 3139 Utah Administrative Rulemaking Act, the commission may make rules:
- 3140 (i) governing the circumstances under which sales are at the same business location;
- 3141 and
- 3142 (ii) establishing the procedures and requirements for a seller to separately account for
- 3143 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
- 3144 assisted amusement devices;
- 3145 (41) (a) sales of photocopies by:
- 3146 (i) a governmental entity; or
- 3147 (ii) an entity within the state system of public education, including:
- 3148 (A) a school; or
- 3149 (B) the State Board of Education; or
- 3150 (b) sales of publications by a governmental entity;
- 3151 (42) amounts paid for admission to an athletic event at an institution of higher
- 3152 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
- 3153 20 U.S.C. Sec. 1681 et seq.;
- 3154 (43) (a) sales made to or by:
- 3155 (i) an area agency on aging; or

- 3156 (ii) a senior citizen center owned by a county, city, or town; or
3157 (b) sales made by a senior citizen center that contracts with an area agency on aging;
3158 (44) sales or leases of semiconductor fabricating, processing, research, or development
3159 materials regardless of whether the semiconductor fabricating, processing, research, or
3160 development materials:
- 3161 (a) actually come into contact with a semiconductor; or
3162 (b) ultimately become incorporated into real property;
- 3163 (45) an amount paid by or charged to a purchaser for accommodations and services
3164 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
3165 59-12-104.2;
- 3166 (46) [~~beginning on September 1, 2001,~~] the lease or use of a vehicle issued a temporary
3167 sports event registration certificate in accordance with Section 41-3-306 for the event period
3168 specified on the temporary sports event registration certificate;
- 3169 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
3170 adopted by the Public Service Commission only for purchase of electricity produced from a
3171 new alternative energy source built after January 1, 2016, as designated in the tariff by the
3172 Public Service Commission;
- 3173 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
3174 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
3175 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
3176 customer would have paid absent the tariff;
- 3177 (48) sales or rentals of mobility enhancing equipment if a person presents a
3178 prescription for the mobility enhancing equipment;
- 3179 (49) sales of water in a:
- 3180 (a) pipe;
3181 (b) conduit;
3182 (c) ditch; or
3183 (d) reservoir;
- 3184 (50) sales of currency or coins that constitute legal tender of a state, the United States,
3185 or a foreign nation;
- 3186 (51) (a) sales of an item described in Subsection (51)(b) if the item:

- 3187 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
- 3188 (ii) has a gold, silver, or platinum content of 50% or more; and
- 3189 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
 - 3190 (i) ingot;
 - 3191 (ii) bar;
 - 3192 (iii) medallion; or
 - 3193 (iv) decorative coin;
- 3194 (52) amounts paid on a sale-leaseback transaction;
- 3195 (53) sales of a prosthetic device:
 - 3196 (a) for use on or in a human; and
 - 3197 (b) (i) for which a prescription is required; or
 - 3198 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 3199 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 3200 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
- 3201 or equipment is primarily used in the production or postproduction of the following media for
- 3202 commercial distribution:
 - 3203 (i) a motion picture;
 - 3204 (ii) a television program;
 - 3205 (iii) a movie made for television;
 - 3206 (iv) a music video;
 - 3207 (v) a commercial;
 - 3208 (vi) a documentary; or
 - 3209 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
 - 3210 commission by administrative rule made in accordance with Subsection (54)(d); or
- 3211 (b) purchases, leases, or rentals of machinery or equipment by an establishment
- 3212 described in Subsection (54)(c) that is used for the production or postproduction of the
- 3213 following are subject to the taxes imposed by this chapter:
 - 3214 (i) a live musical performance;
 - 3215 (ii) a live news program; or
 - 3216 (iii) a live sporting event;
- 3217 (c) the following establishments listed in the 1997 North American Industry

3218 Classification System of the federal Executive Office of the President, Office of Management
3219 and Budget, apply to Subsections (54)(a) and (b):
3220 (i) NAICS Code 512110; or
3221 (ii) NAICS Code 51219; and
3222 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3223 commission may by rule:
3224 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
3225 or
3226 (ii) define:
3227 (A) "commercial distribution";
3228 (B) "live musical performance";
3229 (C) "live news program"; or
3230 (D) "live sporting event";
3231 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
3232 on or before June 30, 2027, of tangible personal property that:
3233 (i) is leased or purchased for or by a facility that:
3234 (A) is an alternative energy electricity production facility;
3235 (B) is located in the state; and
3236 (C) (I) becomes operational on or after July 1, 2004; or
3237 (II) has its generation capacity increased by one or more megawatts on or after July 1,
3238 2004, as a result of the use of the tangible personal property;
3239 (ii) has an economic life of five or more years; and
3240 (iii) is used to make the facility or the increase in capacity of the facility described in
3241 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
3242 transmission grid including:
3243 (A) a wind turbine;
3244 (B) generating equipment;
3245 (C) a control and monitoring system;
3246 (D) a power line;
3247 (E) substation equipment;
3248 (F) lighting;

- 3249 (G) fencing;
- 3250 (H) pipes; or
- 3251 (I) other equipment used for locating a power line or pole; and
- 3252 (b) this Subsection (55) does not apply to:
- 3253 (i) tangible personal property used in construction of:
- 3254 (A) a new alternative energy electricity production facility; or
- 3255 (B) the increase in the capacity of an alternative energy electricity production facility;
- 3256 (ii) contracted services required for construction and routine maintenance activities;
- 3257 and
- 3258 (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 3259 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
- 3260 acquired after:
- 3261 (A) the alternative energy electricity production facility described in Subsection
- 3262 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
- 3263 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
- 3264 in Subsection (55)(a)(iii);
- 3265 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
- 3266 on or before June 30, 2027, of tangible personal property that:
- 3267 (i) is leased or purchased for or by a facility that:
- 3268 (A) is a waste energy production facility;
- 3269 (B) is located in the state; and
- 3270 (C) (I) becomes operational on or after July 1, 2004; or
- 3271 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 3272 2004, as a result of the use of the tangible personal property;
- 3273 (ii) has an economic life of five or more years; and
- 3274 (iii) is used to make the facility or the increase in capacity of the facility described in
- 3275 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
- 3276 transmission grid including:
- 3277 (A) generating equipment;
- 3278 (B) a control and monitoring system;
- 3279 (C) a power line;

- 3280 (D) substation equipment;
- 3281 (E) lighting;
- 3282 (F) fencing;
- 3283 (G) pipes; or
- 3284 (H) other equipment used for locating a power line or pole; and
- 3285 (b) this Subsection (56) does not apply to:
- 3286 (i) tangible personal property used in construction of:
- 3287 (A) a new waste energy facility; or
- 3288 (B) the increase in the capacity of a waste energy facility;
- 3289 (ii) contracted services required for construction and routine maintenance activities;
- 3290 and
- 3291 (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 3292 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
- 3293 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
- 3294 described in Subsection (56)(a)(iii); or
- 3295 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
- 3296 in Subsection (56)(a)(iii);
- 3297 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
- 3298 or before June 30, 2027, of tangible personal property that:
- 3299 (i) is leased or purchased for or by a facility that:
- 3300 (A) is located in the state;
- 3301 (B) produces fuel from alternative energy, including~~[-(F)]~~ methanol~~[-(F)]~~; or ~~[(F)]~~ ethanol;
- 3302 and
- 3303 (C) (I) becomes operational on or after July 1, 2004; or
- 3304 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
- 3305 a result of the installation of the tangible personal property;
- 3306 (ii) has an economic life of five or more years; and
- 3307 (iii) is installed on the facility described in Subsection (57)(a)(i);
- 3308 (b) this Subsection (57) does not apply to:
- 3309 (i) tangible personal property used in construction of:
- 3310 (A) a new facility described in Subsection (57)(a)(i); or

3311 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
3312 (ii) contracted services required for construction and routine maintenance activities;
3313 and
3314 (iii) unless the tangible personal property is used or acquired for an increase in capacity
3315 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
3316 (A) the facility described in Subsection (57)(a)(i) is operational; or
3317 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
3318 (58) (a) subject to Subsection (58)(b) [~~or (c)~~], sales of tangible personal property or a
3319 product transferred electronically to a person within this state if that tangible personal property
3320 or product transferred electronically is subsequently shipped outside the state and incorporated
3321 pursuant to contract into and becomes a part of real property located outside of this state; and
3322 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
3323 state or political entity to which the tangible personal property is shipped imposes a sales, use,
3324 gross receipts, or other similar transaction excise tax on the transaction against which the other
3325 state or political entity allows a credit for sales and use taxes imposed by this chapter; [~~and~~
3326 [~~(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~
3327 ~~a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a~~
3328 ~~refund;~~]
3329 [~~(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;~~]
3330 [~~(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on~~
3331 ~~which the sale is made;~~]
3332 [~~(iii) if the person did not claim the exemption allowed by this Subsection (58) for the~~
3333 ~~sale prior to filing for the refund;~~]
3334 [~~(iv) for sales and use taxes paid under this chapter on the sale;~~]
3335 [~~(v) in accordance with Section 59-1-1410; and~~]
3336 [~~(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,~~
3337 ~~if the person files for the refund on or before June 30, 2011;~~]
3338 (59) purchases:
3339 (a) of one or more of the following items in printed or electronic format:
3340 (i) a list containing information that includes one or more[~~:(A)~~] names[~~;~~] or [~~(B)~~]
3341 addresses; or

3342 (ii) a database containing information that includes one or more[~~:(A)~~] names[~~;~~] or
3343 [~~(B)~~] addresses; and
3344 (b) used to send direct mail;
3345 (60) redemptions or repurchases of a product by a person if that product was:
3346 (a) delivered to a pawnbroker as part of a pawn transaction; and
3347 (b) redeemed or repurchased within the time period established in a written agreement
3348 between the person and the pawnbroker for redeeming or repurchasing the product;
3349 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
3350 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
3351 and
3352 (ii) has a useful economic life of one or more years; and
3353 (b) the following apply to Subsection (61)(a):
3354 (i) telecommunications enabling or facilitating equipment, machinery, or software;
3355 (ii) telecommunications equipment, machinery, or software required for 911 service;
3356 (iii) telecommunications maintenance or repair equipment, machinery, or software;
3357 (iv) telecommunications switching or routing equipment, machinery, or software; or
3358 (v) telecommunications transmission equipment, machinery, or software;
3359 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
3360 personal property or a product transferred electronically that are used in the research and
3361 development of alternative energy technology; and
3362 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3363 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
3364 purchases of tangible personal property or a product transferred electronically that are used in
3365 the research and development of alternative energy technology;
3366 (63) (a) purchases of tangible personal property or a product transferred electronically
3367 if:
3368 (i) the tangible personal property or product transferred electronically is:
3369 (A) purchased outside of this state;
3370 (B) brought into this state at any time after the purchase described in Subsection
3371 (63)(a)(i)(A); and
3372 (C) used in conducting business in this state; and

3373 (ii) for:

3374 (A) tangible personal property or a product transferred electronically other than the

3375 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property

3376 for a purpose for which the property is designed occurs outside of this state; or

3377 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

3378 outside of this state;

3379 (b) the exemption provided for in Subsection (63)(a) does not apply to:

3380 (i) a lease or rental of tangible personal property or a product transferred electronically;

3381 or

3382 (ii) a sale of a vehicle exempt under Subsection (33); and

3383 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

3384 purposes of Subsection (63)(a), the commission may by rule define what constitutes the

3385 following:

3386 (i) conducting business in this state if that phrase has the same meaning in this

3387 Subsection (63) as in Subsection (24);

3388 (ii) the first use of tangible personal property or a product transferred electronically if

3389 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

3390 (iii) a purpose for which tangible personal property or a product transferred

3391 electronically is designed if that phrase has the same meaning in this Subsection (63) as in

3392 Subsection (24);

3393 (64) sales of disposable home medical equipment or supplies if:

3394 (a) a person presents a prescription for the disposable home medical equipment or

3395 supplies;

3396 (b) the disposable home medical equipment or supplies are used exclusively by the

3397 person to whom the prescription described in Subsection (64)(a) is issued; and

3398 (c) the disposable home medical equipment and supplies are listed as eligible for

3399 payment under:

3400 (i) Title XVIII, federal Social Security Act; or

3401 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

3402 (65) sales:

3403 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit

3404 District Act; or
3405 (b) of tangible personal property to a subcontractor of a public transit district, if the
3406 tangible personal property is:
3407 (i) clearly identified; and
3408 (ii) installed or converted to real property owned by the public transit district;
3409 (66) sales of construction materials:
3410 (a) purchased on or after July 1, 2010;
3411 (b) purchased by, on behalf of, or for the benefit of an international airport:
3412 (i) located within a county of the first class; and
3413 (ii) that has a United States customs office on its premises; and
3414 (c) if the construction materials are:
3415 (i) clearly identified;
3416 (ii) segregated; and
3417 (iii) installed or converted to real property:
3418 (A) owned or operated by the international airport described in Subsection (66)(b); and
3419 (B) located at the international airport described in Subsection (66)(b);
3420 (67) sales of construction materials:
3421 (a) purchased on or after July 1, 2008;
3422 (b) purchased by, on behalf of, or for the benefit of a new airport:
3423 (i) located within a county of the second class; and
3424 (ii) that is owned or operated by a city in which an airline as defined in Section
3425 [59-2-102](#) is headquartered; and
3426 (c) if the construction materials are:
3427 (i) clearly identified;
3428 (ii) segregated; and
3429 (iii) installed or converted to real property:
3430 (A) owned or operated by the new airport described in Subsection (67)(b);
3431 (B) located at the new airport described in Subsection (67)(b); and
3432 (C) as part of the construction of the new airport described in Subsection (67)(b);
3433 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
3434 (69) purchases and sales described in Section [63H-4-111](#);

3435 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
3436 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
3437 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
3438 lists a state or country other than this state as the location of registry of the fixed wing turbine
3439 powered aircraft; or

3440 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
3441 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
3442 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
3443 lists a state or country other than this state as the location of registry of the fixed wing turbine
3444 powered aircraft;

3445 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

3446 (a) to a person admitted to an institution of higher education; and

3447 (b) by a seller, other than a bookstore owned by an institution of higher education, if
3448 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
3449 textbook for a higher education course;

3450 (72) a license fee or tax a municipality imposes in accordance with Subsection
3451 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
3452 level of municipal services;

3453 (73) amounts paid or charged for construction materials used in the construction of a
3454 new or expanding life science research and development facility in the state, if the construction
3455 materials are:

3456 (a) clearly identified;

3457 (b) segregated; and

3458 (c) installed or converted to real property;

3459 (74) amounts paid or charged for:

3460 (a) a purchase or lease of machinery and equipment that:

3461 (i) are used in performing qualified research:

3462 (A) as defined in Section 41(d), Internal Revenue Code; and

3463 (B) in the state; and

3464 (ii) have an economic life of three or more years; and

3465 (b) normal operating repair or replacement parts:

- 3466 (i) for the machinery and equipment described in Subsection (74)(a); and
- 3467 (ii) that have an economic life of three or more years;
- 3468 (75) a sale or lease of tangible personal property used in the preparation of prepared
- 3469 food if:
 - 3470 (a) for a sale:
 - 3471 (i) the ownership of the seller and the ownership of the purchaser are identical; and
 - 3472 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
 - 3473 tangible personal property prior to making the sale; or
 - 3474 (b) for a lease:
 - 3475 (i) the ownership of the lessor and the ownership of the lessee are identical; and
 - 3476 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
 - 3477 personal property prior to making the lease;
- 3478 (76) (a) purchases of machinery or equipment if:
 - 3479 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
 - 3480 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
 - 3481 System of the federal Executive Office of the President, Office of Management and Budget;
 - 3482 (ii) the machinery or equipment:
 - 3483 (A) has an economic life of three or more years; and
 - 3484 (B) is used by one or more persons who pay admission or user fees described in
 - 3485 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
 - 3486 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
 - 3487 (A) amounts paid or charged as admission or user fees described in Subsection
 - 3488 59-12-103(1)(f); and
 - 3489 (B) subject to taxation under this chapter; and
 - 3490 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 - 3491 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
 - 3492 previous calendar quarter is:
 - 3493 (i) amounts paid or charged as admission or user fees described in Subsection
 - 3494 59-12-103(1)(f); and
 - 3495 (ii) subject to taxation under this chapter;
 - 3496 (77) purchases of a short-term lodging consumable by a business that provides

- 3497 accommodations and services described in Subsection 59-12-103(1)(i);
- 3498 (78) amounts paid or charged to access a database:
- 3499 (a) if the primary purpose for accessing the database is to view or retrieve information
- 3500 from the database; and
- 3501 (b) not including amounts paid or charged for a:
- 3502 (i) digital audiowork;
- 3503 (ii) digital audio-visual work; or
- 3504 (iii) digital book;
- 3505 (79) amounts paid or charged for a purchase or lease made by an electronic financial
- 3506 payment service, of:
- 3507 (a) machinery and equipment that:
- 3508 (i) are used in the operation of the electronic financial payment service; and
- 3509 (ii) have an economic life of three or more years; and
- 3510 (b) normal operating repair or replacement parts that:
- 3511 (i) are used in the operation of the electronic financial payment service; and
- 3512 (ii) have an economic life of three or more years;
- 3513 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
- 3514 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
- 3515 product transferred electronically if the tangible personal property or product transferred
- 3516 electronically:
- 3517 (a) is stored, used, or consumed in the state; and
- 3518 (b) is temporarily brought into the state from another state:
- 3519 (i) during a disaster period as defined in Section 53-2a-1202;
- 3520 (ii) by an out-of-state business as defined in Section 53-2a-1202;
- 3521 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
- 3522 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
- 3523 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
- 3524 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
- 3525 Recreation Program;
- 3526 (83) amounts paid or charged for a purchase or lease of molten magnesium;
- 3527 (84) [~~(a) except as provided in Subsection (84)(b),~~] amounts paid or charged for a

3528 purchase or lease made by a drilling equipment manufacturer of machinery, equipment,
 3529 ~~[materials, or]~~ normal operating repair or replacement parts~~[-(i)]~~, or materials, except for office
 3530 equipment or office supplies, that are used or consumed exclusively in the drilling equipment
 3531 manufacturer's manufacturing process; ~~[and]~~

3532 ~~[(ii) except for office:]~~

3533 ~~[(A) equipment; or]~~

3534 ~~[(B) supplies; and]~~

3535 ~~[(b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an~~
 3536 ~~exemption described in Subsection (84)(a) only by filing for a refund:]~~

3537 ~~[(i) of 50% of the tax paid on the amounts paid or charged; and]~~

3538 ~~[(ii) in accordance with Section 59-1-1410;]~~

3539 (85) amounts paid or charged for a purchase or lease made by a qualifying enterprise
 3540 data center of machinery, equipment, or normal operating repair or replacement parts, if the
 3541 machinery, equipment, or normal operating repair or replacement parts:

3542 (a) are used in the operation of the establishment; and

3543 (b) have an economic life of one or more years; ~~[and]~~

3544 (86) amounts paid or charged for a purchase or lease of machinery, equipment, or
 3545 normal operating repair or replacement parts by a manufacturing facility that:

3546 (a) is an establishment, as the commission defines that term in accordance with Title
 3547 63G, Chapter 3, Utah Administrative Rulemaking Act;

3548 (b) is described in NAICS Code 336111, Automobile Manufacturing, of the 2002
 3549 North American Industry Classification System of the federal Executive Office of the
 3550 President, Office of Management and Budget;

3551 (c) is located in the state; and

3552 (d) uses the machinery, equipment, or normal operating repair or replacement parts in
 3553 the manufacturing process to manufacture an item sold as tangible personal property, as the
 3554 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
 3555 Administrative Rulemaking Act;

3556 (87) amounts paid or charged for a purchase or lease of equipment or normal operating
 3557 repair or replacement parts with an economic life of less than three years by a manufacturing
 3558 facility that:

3559 (a) is an establishment, as the commission defines that term in accordance with Title
3560 63G, Chapter 3, Utah Administrative Rulemaking Act;

3561 (b) is described in NAICS Code 325120, Industrial Gas Manufacturing, of the 2002
3562 North American Industry Classification System of the federal Executive Office of the
3563 President, Office of Management and Budget;

3564 (c) is located in the state; and

3565 (d) uses the equipment or normal operating repair or replacement parts to manufacture
3566 hydrogen;

3567 (88) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
3568 vehicle that includes cleaning or washing of the interior of the vehicle; and

3569 (89) amounts paid or charged for a purchase or lease of machinery, equipment, normal
3570 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used
3571 or consumed:

3572 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
3573 in Section 63M-4-701 located in the state;

3574 (b) if the machinery, equipment, normal operating repair or replacement parts,
3575 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

3576 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
3577 added to gasoline or diesel fuel;

3578 (ii) research and development;

3579 (iii) transporting, storing, or managing raw materials, work in process, finished
3580 products, and waste materials produced from refining gasoline or diesel fuel, or adding
3581 blendstock to gasoline or diesel fuel;

3582 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
3583 refining; or

3584 (v) preventing, controlling, or reducing pollutants from refining; and

3585 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office
3586 of Energy Development under Subsection 63M-4-702(2).

3587 Section 15. Section 59-12-104.2 is amended to read:

3588 **59-12-104.2. Exemption for accommodations and services taxed by the Navajo**
3589 **Nation.**

- 3590 (1) As used in this section "tribal taxing area" means the geographical area that:
- 3591 (a) is subject to the taxing authority of the Navajo Nation; and
- 3592 (b) consists of:
- 3593 (i) notwithstanding the issuance of a patent, all land:
- 3594 (A) within the limits of an Indian reservation under the jurisdiction of the federal
- 3595 government; and
- 3596 (B) including any rights-of-way running through the reservation; and
- 3597 (ii) all Indian allotments the Indian titles to which have not been extinguished,
- 3598 including any rights-of-way running through an Indian allotment.
- 3599 (2) (a) Beginning July 1, 2001, amounts paid by or charged to a purchaser for
- 3600 accommodations and services described in Subsection 59-12-103(1)(i) are exempt from the tax
- 3601 imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)~~(f)~~(e)(i)(A)(I) to the extent permitted
- 3602 under Subsection (2)(b) if:
- 3603 (i) the accommodations and services described in Subsection 59-12-103(1)(i) are
- 3604 provided within:
- 3605 (A) the state; and
- 3606 (B) a tribal taxing area;
- 3607 (ii) the Navajo Nation imposes and collects a tax on the amounts paid by or charged to
- 3608 the purchaser for the accommodations and services described in Subsection 59-12-103(1)(i);
- 3609 (iii) the Navajo Nation imposes the tax described in Subsection (2)(a)(ii) without
- 3610 regard to whether or not the purchaser that pays or is charged for the accommodations and
- 3611 services is an enrolled member of the Navajo Nation; and
- 3612 (iv) the requirements of Subsection (4) are met.
- 3613 (b) If but for Subsection (2)(a) the amounts paid by or charged to a purchaser for
- 3614 accommodations and services described in Subsection (2)(a) are subject to a tax imposed by
- 3615 Subsection 59-12-103(2)(a)(i)(A) or (2)~~(f)~~(e)(i)(A)(I):
- 3616 (i) the seller shall collect and pay to the state the difference described in Subsection (3)
- 3617 if that difference is greater than \$0; and
- 3618 (ii) a person may not require the state to provide a refund, a credit, or similar tax relief
- 3619 if the difference described in Subsection (3) is equal to or less than \$0.
- 3620 (3) The difference described in Subsection (2)(b) is equal to the difference between:

3621 (a) the amount of tax imposed by Subsection [59-12-103\(2\)\(a\)\(i\)\(A\)](#) or
3622 ~~(2)(c)~~(e)(i)(A)(I) on the amounts paid by or charged to a purchaser for accommodations and
3623 services described in Subsection [59-12-103\(1\)\(i\)](#); less

3624 (b) the tax imposed and collected by the Navajo Nation on the amounts paid by or
3625 charged to a purchaser for the accommodations and services described in Subsection
3626 [59-12-103\(1\)\(i\)](#).

3627 (4) (a) If, on or after July 1, 2001, the Navajo Nation changes the tax rate of a tax
3628 imposed on amounts paid by or charged to a purchaser for accommodations and services
3629 described in Subsection [59-12-103\(1\)\(i\)](#), any change in the amount of the exemption under
3630 Subsection (2) as a result of the change in the tax rate is not effective until the first day of the
3631 calendar quarter after a 90-day period beginning on the date the commission receives notice
3632 meeting the requirements of Subsection (4)(b) from the Navajo Nation.

3633 (b) The notice described in Subsection (4)(a) shall state:

3634 (i) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
3635 amounts paid by or charged to a purchaser for accommodations and services described in
3636 Subsection [59-12-103\(1\)\(i\)](#);

3637 (ii) the effective date of the rate change on the tax described in Subsection (4)(b)(i);
3638 and

3639 (iii) the new rate of the tax described in Subsection (4)(b)(i).

3640 Section 16. Section **59-12-104.8** is enacted to read:

3641 **59-12-104.8. Exemption for machinery, equipment, normal operating repair or**
3642 **replacement parts, and materials.**

3643 (1) As used in this section, "state sales and use tax" means the tax imposed on a
3644 transaction at the tax rate described in Subsection [59-12-103\(2\)\(a\)\(i\)](#).

3645 (2) A person may claim the sales and use tax exemption described in Subsection
3646 [59-12-104\(14\)](#) at the point of sale for an amount paid or charged for a purchase or lease of
3647 machinery, equipment, or normal operating repair or replacement parts that have an economic
3648 life of three years or more.

3649 (3) (a) Subject to Subsection (3)(b), a person may file for a refund from the
3650 commission to claim the sales and use tax exemption described in Subsection [59-12-104\(14\)](#)
3651 for an amount paid or charged for a purchase or lease of:

3652 (i) machinery, equipment, or normal operating repair or replacement parts that have an
 3653 economic life of less than three years; or

3654 (ii) materials, except for office equipment or supplies.

3655 (b) The amount of the refund described in Subsection (3)(a) is equal to the amount of
 3656 state sales and use tax paid or charged for the purchase or lease.

3657 (c) A person shall file for a refund under this Subsection (3):

3658 (i) in an electronic format prescribed by the commission; and

3659 (ii) no more frequently than once per month.

3660 Section 17. Section **59-12-108** is amended to read:

3661 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**

3662 **Certain amounts allocated to local taxing jurisdictions.**

3663 (1) (a) Notwithstanding Section **59-12-107**, a seller that has a tax liability under this
 3664 chapter of \$50,000 or more for the previous calendar year shall:

3665 (i) file a return with the commission:

3666 (A) monthly on or before the last day of the month immediately following the month
 3667 for which the seller collects a tax under this chapter; and

3668 (B) for the month for which the seller collects a tax under this chapter; and

3669 (ii) except as provided in Subsection (1)(b), remit with the return required by
 3670 Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax,
 3671 fee, or charge described in Subsection (1)(c):

3672 (A) if that seller's tax liability under this chapter for the previous calendar year is less
 3673 than \$96,000, by any method permitted by the commission; or

3674 (B) if that seller's tax liability under this chapter for the previous calendar year is
 3675 \$96,000 or more, by electronic funds transfer.

3676 (b) A seller shall remit electronically with the return required by Subsection (1)(a)(i)
 3677 the amount the seller is required to remit to the commission for each tax, fee, or charge
 3678 described in Subsection (1)(c) if that seller:

3679 (i) is required by Section **59-12-107** to file the return electronically; or

3680 (ii) (A) is required to collect and remit a tax under Section **59-12-107**; and

3681 (B) files a simplified electronic return.

3682 (c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:

3683 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

3684 (ii) a fee under Section 19-6-714;

3685 (iii) a fee under Section 19-6-805;

3686 (iv) a charge under Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or

3687 (v) a tax under this chapter.

3688 (d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3,

3689 Utah Administrative Rulemaking Act, the commission shall make rules providing for a method

3690 for making same-day payments other than by electronic funds transfer if making payments by

3691 electronic funds transfer fails.

3692 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3693 commission shall establish by rule procedures and requirements for determining the amount a

3694 seller is required to remit to the commission under this Subsection (1).

3695 (2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a

3696 seller described in Subsection (4) may retain each month the amount allowed by this

3697 Subsection (2).

3698 (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain

3699 each month 1.31% of any amounts the seller is required to remit to the commission:

3700 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax

3701 and a local tax imposed in accordance with the following, for the month for which the seller is

3702 filing a return in accordance with Subsection (1):

3703 (A) Subsection 59-12-103(2)(a);

3704 (B) Subsection 59-12-103(2)(b); ~~and~~

3705 (C) Subsection 59-12-103(2)(d); and

3706 (D) Subsection 59-12-103(2)(e); and

3707 (ii) for an agreement sales and use tax.

3708 (c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may

3709 retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described

3710 in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in

3711 accordance with Subsection 59-12-103(2)(c).

3712 (ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount

3713 equal to the sum of:

- 3714 (A) 1.31% of any amounts the seller is required to remit to the commission for:
- 3715 (I) the state tax and the local tax imposed in accordance with Subsection
- 3716 59-12-103(2)(c);
- 3717 (II) the month for which the seller is filing a return in accordance with Subsection (1);
- 3718 and
- 3719 (III) an agreement sales and use tax; and
- 3720 (B) 1.31% of the difference between:
- 3721 (I) the amounts the seller would have been required to remit to the commission:
- 3722 (Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject
- 3723 to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(a);
- 3724 (Bb) for the month for which the seller is filing a return in accordance with Subsection
- 3725 (1); and
- 3726 (Cc) for an agreement sales and use tax; and
- 3727 (II) the amounts the seller is required to remit to the commission for:
- 3728 (Aa) the state tax and the local tax imposed in accordance with Subsection
- 3729 59-12-103(2)(c);
- 3730 (Bb) the month for which the seller is filing a return in accordance with Subsection (1);
- 3731 and
- 3732 (Cc) an agreement sales and use tax.
- 3733 (d) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
- 3734 each month 1% of any amounts the seller is required to remit to the commission:
- 3735 (i) for the month for which the seller is filing a return in accordance with Subsection
- 3736 (1); and
- 3737 (ii) under:
- 3738 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 3739 (B) Subsection 59-12-603(1)(a)(i)(A); or
- 3740 (C) Subsection 59-12-603(1)(a)(i)(B).
- 3741 (3) A state government entity that is required to remit taxes monthly in accordance
- 3742 with Subsection (1) may not retain any amount under Subsection (2).
- 3743 (4) A seller that has a tax liability under this chapter for the previous calendar year of
- 3744 less than \$50,000 may:

3745 (a) voluntarily meet the requirements of Subsection (1); and

3746 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the
3747 amounts allowed by Subsection (2).

3748 (5) (a) Subject to Subsections (5)(b) through (d), a seller that voluntarily collects and
3749 remits a tax in accordance with Subsection 59-12-107(2)(c)(i) may retain an amount equal to
3750 18% of any amounts the seller would otherwise remit to the commission:

3751 (i) if the seller obtains a license under Section 59-12-106 for the first time on or after
3752 January 1, 2014; and

3753 (ii) for:

3754 (A) an agreement sales and use tax; and

3755 (B) the time period for which the seller files a return in accordance with this section.

3756 (b) If a seller retains an amount under this Subsection (5), the seller may not retain any
3757 other amount under this section.

3758 (c) If a seller retains an amount under this Subsection (5), the commission may require
3759 the seller to file a return by:

3760 (i) electronic means; or

3761 (ii) a means other than electronic means.

3762 (d) A seller may not retain an amount under this Subsection (5) if the seller is required
3763 to collect or remit a tax under this section in accordance with Section 59-12-103.1.

3764 (6) Penalties for late payment shall be as provided in Section 59-1-401.

3765 (7) (a) Except as provided in Subsection (7)(c), for any amounts required to be remitted
3766 to the commission under this part, the commission shall each month calculate an amount equal
3767 to the difference between:

3768 (i) the total amount retained for that month by all sellers had the percentages listed
3769 under Subsections (2)(b) and (2)(c)(ii) been 1.5%; and

3770 (ii) the total amount retained for that month by all sellers at the percentages listed
3771 under Subsections (2)(b) and (2)(c)(ii).

3772 (b) The commission shall each month allocate the amount calculated under Subsection
3773 (7)(a) to each county, city, and town on the basis of the proportion of agreement sales and use
3774 tax that the commission distributes to each county, city, and town for that month compared to
3775 the total agreement sales and use tax that the commission distributes for that month to all

3776 counties, cities, and towns.

3777 (c) The amount the commission calculates under Subsection (7)(a) may not include an
3778 amount collected from a tax that:

3779 (i) the state imposes within a county, city, or town, including the unincorporated area
3780 of a county; and

3781 (ii) is not imposed within the entire state.

3782 Section 18. Section **59-29-101** is enacted to read:

3783 **CHAPTER 29. CARBON EMISSIONS TAX ACT**

3784 **Part 1. General Provisions**

3785 **59-29-101. Title.**

3786 This chapter is known as "Carbon Emissions Tax Act."

3787 Section 19. Section **59-29-102** is enacted to read:

3788 **59-29-102. Definitions.**

3789 As used in this chapter:

3790 (1) "Aviation fuel" means the same as that term is defined in Section [59-13-102](#).

3791 (2) "Carbon emissions tax" is a tax imposed under this chapter.

3792 (3) "Consumer Price Index" means the Consumer Price Index for All Urban
3793 Consumers as published by the Bureau of Labor Statistics of the United States Department of
3794 Labor.

3795 (4) "Distributor" means the same as that term is defined in Section [59-13-102](#).

3796 (5) "Dyed diesel fuel" means the same as that term is defined in Section [59-13-102](#).

3797 (6) "Fossil fuel" means a petroleum product, motor fuel, special fuel, aviation fuel,
3798 natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from these
3799 products, including still gas, propane, and petroleum residuals.

3800 (7) "Fund" means the Carbon Emissions Tax Expendable Revenue Fund created in
3801 Section [59-29-301](#).

3802 (8) "Large emitter" means a facility that emits over 25,000 metric tons of carbon
3803 dioxide in a calendar year and is required to provide facility level information regarding
3804 emissions in accordance with 40 C.F.R. Sec. 98.2.

3805 (9) "Metric ton" means 2,205 pounds.

3806 (10) "Motor fuel" means the same as that term is defined in Section [59-13-102](#).

- 3807 (11) "Natural gas" means the same as that term is defined in Section 59-5-101.
- 3808 (12) "Operator" means a person engaged in the operation of a large emitter.
- 3809 (13) "Removal" means the same as that term is defined in Section 59-13-102.
- 3810 (14) (a) "School bus" means a motor vehicle that:
- 3811 (i) complies with the color and identification requirements of the most recent edition of
- 3812 Minimum Standards for School Buses; and
- 3813 (ii) is used to transport school children to or from school or school activities.
- 3814 (b) "School bus" does not include a vehicle operated by a common carrier in
- 3815 transportation of school children to or from school or school activities.
- 3816 (15) (a) Except as provided in Subsection (15)(b), "special fuel" means the same as that
- 3817 term is defined in Section 59-13-102.
- 3818 (b) "Special fuel" does not include natural gas.
- 3819 (16) "Supplier" means the same as that term is defined in Section 59-13-102.
- 3820 (17) "Terminal" means the same as that term is defined in Section 59-13-102.
- 3821 (18) "Undyed diesel fuel" means the same as that term is defined in Section 59-13-102.
- 3822 Section 20. Section **59-29-103** is enacted to read:
- 3823 **59-29-103. Records.**
- 3824 (1) A taxpayer under this chapter shall maintain records, statements, books, or accounts
- 3825 necessary to determine the amount of carbon emissions tax for which the taxpayer is liable to
- 3826 pay under this chapter.
- 3827 (2) The commission may require a taxpayer, by notice served upon the taxpayer, to
- 3828 make or keep the records, statements, books, or accounts described in Subsection (2) in a
- 3829 manner in which the commission considers sufficient to show the amount of carbon emissions
- 3830 tax for which the taxpayer is liable to pay under this chapter.
- 3831 (3) After notice by the commission, the taxpayer shall open the records, statements,
- 3832 books, or accounts specified in this section for examination by the commission or an
- 3833 authorized agent of the commission.
- 3834 Section 21. Section **59-29-201** is enacted to read:
- 3835 **Part 2. Imposition of Carbon Emissions Tax**
- 3836 **59-29-201. Imposition of a carbon emissions tax on motor fuel.**
- 3837 (1) (a) Subject to the other provisions of this section, a carbon emissions tax is

3838 imposed on all motor fuel that is sold, used, or received for sale or use in this state as follows:

3839 (i) beginning on January 1, 2020, and through December 31, 2020, at a rate of 8.89

3840 cents per gallon; and

3841 (ii) beginning on January 1, 2021, and thereafter, at a rate determined by increasing the

3842 rate effective January 1 of each year:

3843 (A) by 3.5% plus a percentage equal to the greater of the actual percent change during

3844 the previous fiscal year in the Consumer Price Index and 0; and

3845 (B) up to the nearest 100th of a cent.

3846 (b) The tax rate under this Subsection (1) may not exceed 88.9 cents when converted

3847 into 2020 dollars by adjusting for inflation using the Consumer Price Index.

3848 (c) Any increase in the tax rate applies to motor fuel that is imported into the state or

3849 sold at refineries in the state on or after the effective date of the rate change.

3850 (2) A carbon emissions tax is not imposed on:

3851 (a) motor fuel that is brought into and sold in this state in original packages as purely

3852 interstate commerce sales;

3853 (b) motor fuel that is exported from this state if proof of actual exportation on forms

3854 prescribed by the commission is made within 180 days after exportation;

3855 (c) motor fuel or a component of motor fuel that is sold and used in this state and

3856 distilled from coal, oil shale, rock asphalt, bituminous sand, or solid hydrocarbons located in

3857 this state; or

3858 (d) motor fuel that is sold to the United States government, this state, or the political

3859 subdivisions of this state.

3860 (3) (a) A distributor of motor fuel shall pay the carbon emissions tax imposed in

3861 Subsection (1).

3862 (b) A distributor in this state shall monthly:

3863 (i) on electronic forms prescribed by the commission, report to the commission the

3864 amount and type of motor fuel sold, used, or received for sale or use in this state; and

3865 (ii) pay the carbon emissions tax imposed in Subsection (1).

3866 (4) The commission may either collect no carbon emissions tax on motor fuel exported

3867 from the state or, upon application, refund the carbon emissions tax paid.

3868 (5) (a) Revenue received by the commission under this section shall be deposited daily

3869 with the state treasurer and credited to the Transportation Investment Fund of 2005 created in
3870 Section 72-2-124.

3871 (b) An appropriation from the Transportation Investment Fund of 2005 created in
3872 Section 72-2-124 shall be made to the commission to cover expenses incurred in the
3873 administration and enforcement of this section and the collection of the carbon emissions tax
3874 on motor fuel.

3875 (6) The refund, credit, administrative, and penalty provisions of Chapter 13, Part 2,
3876 Motor Fuel, apply to a carbon emissions tax imposed on motor fuel under this section.

3877 (7) The commission shall apply cooperative agreements under Chapter 13, Part 5,
3878 Interstate Agreements, to the carbon emissions tax imposed under this section.

3879 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3880 commission may make rules governing the procedures for administering and collecting the
3881 carbon emissions tax imposed in this section.

3882 Section 22. Section **59-29-202** is enacted to read:

3883 **59-29-202. Imposition of carbon emissions tax on special fuel.**

3884 (1) (a) Subject to the other provisions of this section, a carbon emissions tax is
3885 imposed at the rates set forth in Subsection (1)(b) on the:

3886 (i) removal of undyed diesel fuel from a refinery;

3887 (ii) removal of undyed diesel fuel from a terminal;

3888 (iii) entry into the state of undyed diesel fuel for consumption, use, sale, or
3889 warehousing;

3890 (iv) sale of undyed diesel fuel to any person that is not registered as a supplier under
3891 Chapter 13, Part 3, Special Fuel, unless the tax had been collected under this section;

3892 (v) untaxed special fuel blended with undyed diesel fuel; or

3893 (vi) use of untaxed special fuel other than propane or electricity.

3894 (b) The rate of the tax imposed in Subsection (1)(a) is as follows:

3895 (i) beginning on January 1, 2020, and through December 31, 2020, at a rate of 10.16
3896 cents per gallon; and

3897 (ii) beginning on January 1, 2021, and thereafter, at a rate determined by increasing the
3898 rate effective January 1 of each year:

3899 (A) by 3.5% plus a percentage equal to the greater of the actual percent change during

3900 the previous fiscal year in the Consumer Price Index and 0; and
3901 (B) up to the nearest 100th of a cent.
3902 (c) The tax rate under this Subsection (1) may not exceed \$1.02 per gallon when
3903 converted into 2020 dollars by adjusting for inflation using the Consumer Price Index.
3904 (d) The tax imposed under this section shall only be imposed once upon a special fuel.
3905 (2) (a) A carbon emissions tax may not be imposed or collected upon dyed diesel fuel
3906 that:
3907 (i) is sold or used for any purpose other than to operate or propel a motor vehicle upon
3908 the public highways of this state, but this exemption applies only in those cases when the
3909 purchaser or the use of special fuel establish to the satisfaction of the commission that the
3910 special fuel was used for purposes other than to operate a motor vehicle upon the public
3911 highways of the state; or
3912 (ii) is sold to this state or any of the state's political subdivisions.
3913 (b) A carbon emissions tax may not be imposed on undyed diesel fuel or clean fuel that
3914 is:
3915 (i) sold to the United States government or any of the United States government's
3916 instrumentalities or to this state or any of this state's political subdivisions;
3917 (ii) exported from this state if proof of actual exportation on forms prescribed by the
3918 commission is made within 180 days after exportation;
3919 (iii) used in a vehicle off highway;
3920 (iv) used to operate a power take-off unit of a vehicle;
3921 (v) used for off-highway agricultural uses;
3922 (vi) used in a separately fueled engine on a vehicle that does not propel the vehicle
3923 upon the highways of the state;
3924 (vii) used in machinery and equipment not registered and not required to be registered
3925 for highway use; or
3926 (viii) used for school buses.
3927 (c) A carbon emissions tax may not be imposed or collected on special fuel if the
3928 special fuel is:
3929 (i) (A) purchased for business use in machinery and equipment not registered and not
3930 required to be registered for highway use; and

3931 (B) used pursuant to the conditions of a state implementation plan approved under
3932 Title 19, Chapter 2, Air Conservation Act; or
3933 (ii) propane or electricity.
3934 (3) (a) A supplier of special fuel shall pay the carbon emissions tax imposed under this
3935 section.
3936 (b) A supplier shall monthly:
3937 (i) on electronic forms prescribed by the commission, report to the commission the
3938 amount and type of special fuel:
3939 (A) removed from a refinery;
3940 (B) removed from a terminal;
3941 (C) that enters into the state for consumption, use, sale, or warehousing;
3942 (D) sold to any person that is not registered as a supplier under Chapter 13, Part 3,
3943 Special Fuel, unless the carbon emissions tax has been collected under this chapter;
3944 (E) blended with undyed diesel fuel and previously untaxed as special fuel; or
3945 (F) used in this state, other than propane or electricity; and
3946 (ii) pay the carbon emissions tax imposed under this section.
3947 (4) (a) The revenue deposited under this section shall be deposited with the state
3948 treasurer and credited to the Transportation Investment Fund of 2005 created in Section
3949 [72-2-124](#).
3950 (b) An appropriation from the Transportation Investment Fund of 2005 created in
3951 Section [72-2-124](#) shall be made to the commission to cover the expenses incurred in the
3952 administration and enforcement of this section and the collection of the carbon emissions tax
3953 under this section.
3954 (5) The commission may either collect no carbon emissions tax on special fuel
3955 exported from the state or, upon application, refund the carbon emissions tax paid.
3956 (6) The refund, credit, administrative, and penalty provisions of Chapter 13, Part 3,
3957 Special Fuel, apply to a carbon emissions tax imposed on special fuel under this section.
3958 (7) The commission shall apply cooperative agreements under Chapter 13, Part 5,
3959 Interstate Agreements, to the carbon emissions tax imposed under this section.
3960 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3961 commission may make rules governing the procedures for administering and collecting the

3962 carbon emissions tax imposed in this section.

3963 Section 23. Section **59-29-203** is enacted to read:

3964 **59-29-203. Imposition of carbon emissions tax on aviation fuel.**

3965 (1) (a) Subject to the other provisions of this section, a carbon emissions tax is
3966 imposed on aviation fuel that is sold, used, or received for sale or use in this state as follows:

3967 (i) beginning on January 1, 2020, and through December 31, 2020, at a rate of 8.35
3968 cents per gallon or if it is jet fuel, 9.57 cents per gallon; and

3969 (ii) beginning on January 1, 2021, and thereafter, at a rate determined by increasing the
3970 rate effective January 1 of each year:

3971 (A) by 3.5% plus a percentage equal to the greater of the actual percent change during
3972 the previous fiscal year in the Consumer Price Index and 0; and

3973 (B) up to the nearest 100th of a cent.

3974 (b) The tax rate under this Subsection (1) may not exceed 83.5 cents per gallon or 95.7
3975 cents per gallon for jet fuel, when converted into 2020 dollars by adjusting for inflation using
3976 the Consumer Price Index.

3977 (2) (a) A person required to pay an aviation fuel tax under Chapter 13, Part 4, Aviation
3978 Fuel, shall pay the carbon emissions tax imposed in this section on aviation fuel purchases in
3979 this state.

3980 (b) The person described in Subsection (2)(a), shall monthly:

3981 (i) on electronic forms prescribed by the commission, report to the commission the
3982 amount of aviation fuel that was purchased:

3983 (A) other than at an international airport, located within a county of the first class, and
3984 that has a United States customs office on the airport's premises; or

3985 (B) at an international airport located within a county of the first class and that has a
3986 United States customs office on the airport's premises; and

3987 (ii) pay the carbon emissions tax imposed under this section.

3988 (3) (a) Revenue received by the commission under this section shall be deposited daily
3989 with the state treasurer who shall credit all of the revenue collected to the Transportation Fund.

3990 (b) An appropriation from the Transportation Fund shall be made to the commission to
3991 cover expenses incurred in the administration and enforcement of this part and the collection of
3992 the aviation fuel tax.

3993 (c) A refund to which a taxpayer is entitled under this part shall be paid from the
3994 Transportation Fund.

3995 (4) The state treasurer shall place an amount equal to the total amount received from
3996 the carbon emissions tax on the sale or use of aviation fuel in the Aeronautics Restricted
3997 Account created by Section [72-2-126](#).

3998 (5) (a) The tax imposed under Subsection (1) shall be allocated as provided in Section
3999 [59-13-402](#).

4000 (b) Upon appropriation by the Legislature, the allocation to aeronautical operations of
4001 the Department of Transportation shall be used as provided in the Aeronautics Restricted
4002 Account created by Section [72-2-126](#).

4003 (6) (a) The commission shall require reports and returns from distributors, retail
4004 dealers, and users in order to enable the commission and the Department of Transportation to
4005 allocate the revenue in accordance with Section [59-13-402](#) to be credited to:

4006 (i) the Aeronautics Restricted Account created by Section [72-2-126](#); and

4007 (ii) the separate accounts of individual airports.

4008 (b) (i) Except as provided by Subsection (6)(b)(ii), any unexpended amount remaining
4009 in the account of any publicly used airport on the first day of January, April, July, and October
4010 shall be paid to the authority operating the airport.

4011 (ii) Carbon emissions tax allocated to an airport owned and operated by a city of the
4012 first class shall be paid to the city treasurer on the first day of each month.

4013 (c) The state treasurer shall deposit carbon emissions tax collected on fuel sold at
4014 places other than publicly used airports in the Aeronautics Restricted Account created by
4015 Section [72-2-126](#).

4016 (7) The refund, credit, administrative, and penalty provisions of Chapter 13, Part 4,
4017 Aviation Fuel, apply to a carbon emissions tax imposed under this section.

4018 Section 24. Section **59-29-204** is enacted to read:

4019 **59-29-204. Imposition of carbon emissions tax on natural gas.**

4020 (1) As used in this section:

4021 (a) "Commercial use" means the use of natural gas that does not constitute industrial
4022 use under Subsection [59-12-102](#)(56) or residential use.

4023 (b) "Provider" means a person who:

4024 (i) imports or acquires immediately upon importation into this state, natural gas from
4025 within or without a state, territory, or possession of the United States or the District of
4026 Columbia; or

4027 (ii) otherwise acquires for distribution or sale in this state, natural gas with respect to
4028 which there has been no previous taxable sale or use.

4029 (c) "Residential use" means the use of natural gas in or around a home, apartment
4030 building, sleeping quarters, and similar facilities or accommodations.

4031 (2) (a) Subject to the other provisions of this section, a carbon emissions tax is
4032 imposed on all natural gas sold, used, or received for sale or use in the state for residential or
4033 commercial use as follows:

4034 (i) beginning on January 1, 2020, and through December 31, 2020, at a rate of 53.12
4035 cents per 1,000 cubic feet; and

4036 (ii) beginning on January 1, 2021, and thereafter, at a rate determined by increasing the
4037 rate effective January 1 of each year:

4038 (A) by 3.5% plus a percentage equal to the greater of the actual percent change during
4039 the previous fiscal year in the Consumer Price Index and 0; and

4040 (B) up to the nearest 100th of a cent.

4041 (b) The tax rate under this Subsection (2) may not exceed \$5.31 per 1,000 cubic feet
4042 when converted to 2020 dollars by adjusting for inflation using the Consumer Price Index.

4043 (c) Any increase in the tax rate applies to natural gas that is provided to a customer for
4044 residential or commercial use in the state on or after the effective date of the rate change.

4045 (3) (a) A provider of natural gas shall pay the carbon emissions tax imposed in
4046 Subsection (2).

4047 (b) A provider in this state shall monthly:

4048 (i) on electronic forms prescribed by the commission, report to the commission the
4049 amount of natural gas sold, used, or received for sale or use in this state; and

4050 (ii) pay the carbon emissions tax imposed in Subsection (2).

4051 (4) The commission may either collect no carbon emissions tax on natural gas exported
4052 from the state, or upon application, refund the carbon emissions tax paid.

4053 (5) Revenue received by the commission under this section shall be deposited into the
4054 fund.

4055 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4056 commission may make rules governing the procedures for administering and collecting the
4057 carbon emissions tax imposed under this section.

4058 (7) The commission shall retain and deposit an administrative charge in accordance
4059 with Section 59-1-306 from revenues the commission collects from a tax under this section.

4060 (8) A provider that fails to comply with this chapter is subject to:

4061 (a) penalties described in Section 59-1-401; and

4062 (b) interest described in Section 59-1-402.

4063 Section 25. Section 59-29-205 is enacted to read:

4064 **59-29-205. Imposition of carbon emissions tax on large emitters.**

4065 (1) Except as otherwise provided in this chapter, a carbon emissions tax is imposed on
4066 each metric ton of carbon dioxide emitted by a large emitter in a calendar year from stationary
4067 combustion, petroleum refining, petroleum and natural gas systems, lime production, or cement
4068 production.

4069 (2) (a) Subject to the other provisions of this section, the tax rate of the carbon
4070 emissions tax is \$10 per metric ton of carbon dioxide beginning on or after January 1, 2020,
4071 with automatic increases each calendar year:

4072 (i) of 3.5% plus a percentage equal to the greater of the actual percent change during
4073 the previous fiscal year in the Consumer Price Index and 0; and

4074 (ii) up to the nearest cent.

4075 (b) The tax rate under this Subsection (2) may not exceed \$100 per metric ton of
4076 carbon dioxide when converted into 2020 dollars by adjusting for inflation using the Consumer
4077 Price Index.

4078 (3) The operator of a large emitter in this state shall:

4079 (a) obtain a certification issued by the Department of Environmental Quality under
4080 Section 19-1-207 of the emissions of carbon dioxide emitted in this state during the previous
4081 calendar year; and

4082 (b) on or before January 31:

4083 (i) on electronic forms prescribed by the commission, report to the commission the
4084 amount certified under Subsection (3)(a); and

4085 (ii) pay the carbon emissions tax imposed by Subsection (1).

4086 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4087 commission may make rules governing the procedures for administering and collecting the
4088 carbon emissions tax imposed under this section.

4089 (5) The commission shall deposit the carbon emissions tax collected under this section
4090 into the fund.

4091 (6) The commission shall retain and deposit an administrative charge in accordance
4092 with Section 59-1-306 from revenues the commission collects from a tax under this section.

4093 (7) A large emitter that fails to comply with this chapter is subject to:

4094 (a) penalties described in Section 59-1-401; and

4095 (b) interest described in Section 59-1-402.

4096 (8) If a person having an ownership interest in a large emitter pays a carbon emissions
4097 tax under this section, the person is exempt from paying the carbon emissions tax under
4098 Section 59-29-204.

4099 Section 26. Section 59-29-206 is enacted to read:

4100 **59-29-206. Exemptions.**

4101 (1) A carbon emissions tax imposed under this chapter does not apply to:

4102 (a) fossil fuel brought into the state by means of the fuel supply tank of a motor
4103 vehicle, vessel, locomotive, or aircraft;

4104 (b) fossil fuel that the state is prohibited from taxing under the Utah Constitution or the
4105 constitution or laws of the United States; or

4106 (c) fossil fuel intended for export outside the state.

4107 (2) A taxpayer who pays a tax similar to a carbon emissions tax in another state on the
4108 same fossil fuel or carbon emissions may claim a nonrefundable credit against the carbon
4109 emissions tax owed under this chapter in an amount equal to the tax paid in the other state.

4110 This Subsection (2) includes payments made to other states for cap-and-trade permits related to
4111 electricity exported to another state.

4112 (3) A carbon emissions tax due under this chapter is in addition to all other taxes
4113 provided by law.

4114 Section 27. Section 59-29-301 is enacted to read:

4115 **Part 3. Carbon Emissions Tax Expendable Revenue Fund**

4116 **59-29-301. Carbon Emissions Tax Expendable Revenue Fund.**

4117 (1) There is created an expendable special revenue fund known as the "Carbon
4118 Emissions Tax Expendable Revenue Fund."
4119 (2) The fund shall consist of:
4120 (a) the revenue generated from taxes imposed under Sections [59-29-204](#) and
4121 [59-29-205](#);
4122 (b) the revenue deposited into the account required under Section [59-12-103](#);
4123 (c) any interest and penalties levied in relation to the administration of this chapter; and
4124 (d) any other funds received as donations for the fund and appropriations from other
4125 sources.
4126 (3) Except as provided in this section, money in the fund shall be used to fund
4127 activities under Title 19, Chapter 2, Part 2, Clean Air Retrofit, Replacement, and Off-road
4128 Technology Program.
4129 (4) (a) The Division of Finance shall transfer at least annually from the fund into the
4130 General Fund an amount equal to \$250,000,000 increased annually by 1.5% plus a percentage
4131 equal to the greater of the actual percent change during the previous fiscal year in the
4132 Consumer Price Index and 0, up to the nearest \$1.
4133 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4134 Division of Finance may make rules for making the transfer described in Subsection (4)(a).
4135 (5) (a) In accordance with Sections [59-7-623](#), [59-10-138](#), and [59-10-1112](#), the Division
4136 of Finance shall transfer money from the fund to the Education Fund.
4137 (b) If there is insufficient money to make the transfers under Subsection (4) and the
4138 transfers described in Subsection (5)(a), the transfers to the Education Fund have priority to the
4139 transfers to the General Fund under Subsection (4).
4140 (6) If the balance in the fund exceeds \$50,000,000 at the close of any fiscal year, the
4141 excess shall be transferred to the General Fund.
4142 Section 28. Section **63N-2-502** is amended to read:
4143 **63N-2-502. Definitions.**
4144 As used in this part:
4145 (1) "Agreement" means an agreement described in Section [63N-2-503](#).
4146 (2) "Base taxable value" means the value of hotel property before the construction on a
4147 qualified hotel begins, as that value is established by the county in which the hotel property is

4148 located, using a reasonable valuation method that may include the value of the hotel property
4149 on the county assessment rolls the year before the year during which construction on the
4150 qualified hotel begins.

4151 (3) "Certified claim" means a claim that the office has approved and certified as
4152 provided in Section [63N-2-505](#).

4153 (4) "Claim" means a written document submitted by a qualified hotel owner or host
4154 local government to request a convention incentive.

4155 (5) "Claimant" means the qualified hotel owner or host local government that submits a
4156 claim under Subsection [63N-2-505\(1\)\(a\)](#) for a convention incentive.

4157 (6) "Commission" means the Utah State Tax Commission.

4158 (7) "Community reinvestment agency" means the same as that term is defined in
4159 Section [17C-1-102](#).

4160 (8) "Construction revenue" means revenue generated from state taxes and local taxes
4161 imposed on transactions occurring during the eligibility period as a result of the construction of
4162 the hotel property, including purchases made by a qualified hotel owner and its subcontractors.

4163 (9) "Convention incentive" means an incentive for the development of a qualified
4164 hotel, in the form of payment from the incentive fund as provided in this part, as authorized in
4165 an agreement.

4166 (10) "Eligibility period" means:

4167 (a) the period that:

4168 (i) begins the date construction of a qualified hotel begins; and

4169 (ii) ends:

4170 (A) for purposes of the state portion, 20 years after the date of initial occupancy of that
4171 qualified hotel; or

4172 (B) for purposes of the local portion and incremental property tax revenue, 25 years
4173 after the date of initial occupancy of that hotel; or

4174 (b) as provided in an agreement between the office and a qualified hotel owner or host
4175 local government, a period that:

4176 (i) begins no earlier than the date construction of a qualified hotel begins; and

4177 (ii) is shorter than the period described in Subsection (10)(a).

4178 (11) "Endorsement letter" means a letter:

- 4179 (a) from the county in which a qualified hotel is located or is proposed to be located;
- 4180 (b) signed by the county executive; and
- 4181 (c) expressing the county's endorsement of a developer of a qualified hotel as meeting
- 4182 all the county's criteria for receiving the county's endorsement.

4183 (12) "Host agency" means the community reinvestment agency of the host local
4184 government.

4185 (13) "Host local government" means:

- 4186 (a) a county that enters into an agreement with the office for the construction of a
- 4187 qualified hotel within the unincorporated area of the county; or
- 4188 (b) a city or town that enters into an agreement with the office for the construction of a
- 4189 qualified hotel within the boundary of the city or town.

4190 (14) "Hotel property" means a qualified hotel and any property that is included in the
4191 same development as the qualified hotel, including convention, exhibit, and meeting space,
4192 retail shops, restaurants, parking, and other ancillary facilities and amenities.

4193 (15) "Incentive fund" means the Convention Incentive Fund created in Section
4194 [63N-2-503.5](#).

4195 (16) "Incremental property tax revenue" means the amount of property tax revenue
4196 generated from hotel property that equals the difference between:

- 4197 (a) the amount of property tax revenue generated in any tax year by all taxing entities
- 4198 from hotel property, using the current assessed value of the hotel property; and
- 4199 (b) the amount of property tax revenue that would be generated that tax year by all
- 4200 taxing entities from hotel property, using the hotel property's base taxable value.

4201 (17) "Local portion" means the portion of new tax revenue that is generated by local
4202 taxes.

4203 (18) "Local taxes" means a tax imposed under:

- 4204 (a) Section [59-12-204](#);
- 4205 (b) Section [59-12-301](#);
- 4206 (c) Sections [59-12-352](#) and [59-12-353](#);
- 4207 (d) Subsection [59-12-603\(1\)\(a\)\(i\)\(A\)](#);
- 4208 (e) Subsection [59-12-603\(1\)\(a\)\(i\)\(B\)](#);
- 4209 (f) Subsection [59-12-603\(1\)\(a\)\(ii\)](#);

- 4210 (g) Subsection 59-12-603(1)(a)(iii); or
4211 (h) Section 59-12-1102.
- 4212 (19) "New tax revenue" means construction revenue, offsite revenue, and onsite
4213 revenue.
- 4214 (20) "Offsite revenue" means revenue generated from state taxes and local taxes
4215 imposed on transactions by a third-party seller occurring other than on hotel property during the
4216 eligibility period, if:
- 4217 (a) the transaction is subject to a tax under Title 59, Chapter 12, Sales and Use Tax
4218 Act; and
- 4219 (b) the third-party seller voluntarily consents to the disclosure of information to the
4220 office, as provided in Subsection 63N-2-505(2)(b)(i)(E).
- 4221 (21) "Onsite revenue" means revenue generated from state taxes and local taxes
4222 imposed on transactions occurring on hotel property during the eligibility period.
- 4223 (22) "Public infrastructure" means:
- 4224 (a) water, sewer, storm drainage, electrical, telecommunications, and other similar
4225 systems and lines;
- 4226 (b) streets, roads, curbs, gutters, sidewalks, walkways, parking facilities, and public
4227 transportation facilities; and
- 4228 (c) other buildings, facilities, infrastructure, and improvements that benefit the public.
- 4229 (23) "Qualified hotel" means a full-service hotel development constructed in the state
4230 on or after July 1, 2014 that:
- 4231 (a) requires a significant capital investment;
- 4232 (b) includes at least 85 square feet of convention, exhibit, and meeting space per guest
4233 room; and
- 4234 (c) is located within 1,000 feet of a convention center that contains at least 500,000
4235 square feet of convention, exhibit, and meeting space.
- 4236 (24) "Qualified hotel owner" means a person who owns a qualified hotel.
- 4237 (25) "Review committee" means the independent review committee established under
4238 Section 63N-2-504.
- 4239 (26) "Significant capital investment" means an amount of at least \$200,000,000.
- 4240 (27) "State portion" means the portion of new tax revenue that is generated by state

4241 taxes.

4242 (28) "State taxes" means a tax imposed under Subsection 59-12-103(2)(a)(i), (2)(b)(i),
4243 (2)(c)(i), [or] (2)(d)(i), or (2)(e)(i)(A).

4244 (29) "Third-party seller" means a person who is a seller in a transaction:

4245 (a) occurring other than on hotel property;

4246 (b) that is:

4247 (i) the sale, rental, or lease of a room or of convention or exhibit space or other
4248 facilities on hotel property; or

4249 (ii) the sale of tangible personal property or a service that is part of a bundled
4250 transaction, as defined in Section 59-12-102, with a sale, rental, or lease described in
4251 Subsection (29)(b)(i); and

4252 (c) that is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act.

4253 Section 29. Section 63N-7-301 is amended to read:

4254 **63N-7-301. Tourism Marketing Performance Account.**

4255 (1) There is created within the General Fund a restricted account known as the Tourism
4256 Marketing Performance Account.

4257 (2) The account shall be administered by GOED for the purposes listed in Subsection
4258 (5).

4259 (3) (a) The account shall earn interest.

4260 (b) All interest earned on account money shall be deposited into the account.

4261 (4) The account shall be funded by appropriations made to the account by the
4262 Legislature in accordance with this section.

4263 (5) The director shall use account money appropriated to GOED to pay for the
4264 statewide advertising, marketing, and branding campaign for promotion of the state as
4265 conducted by GOED.

4266 (6) (a) For each fiscal year beginning on or after July 1, 2007, GOED shall annually
4267 allocate 10% of the account money appropriated to GOED to a sports organization for
4268 advertising, marketing, branding, and promoting Utah in attracting sporting events into the
4269 state.

4270 (b) The sports organization shall:

4271 (i) provide an annual written report to GOED that gives an accounting of the use of

4272 money the sports organization receives under this Subsection (6); and

4273 (ii) partner with GOED to promote the state and to encourage economic growth in the
4274 state.

4275 (c) For purposes of this Subsection (6), "sports organization" means an organization
4276 that is:

4277 (i) exempt from federal income taxation in accordance with Section 501(c)(3), Internal
4278 Revenue Code; and

4279 (ii) created to foster national and international sports competitions in the state,
4280 including competitions related to Olympic sports, and to promote and encourage sports tourism
4281 throughout the state, including advertising, marketing, branding, and promoting Utah for the
4282 purpose of attracting, expanding, and retaining sporting events in the state.

4283 (7) Money deposited into the account shall include a legislative appropriation from the
4284 cumulative sales and use tax revenue increases described in Subsection (8), plus any additional
4285 appropriation made by the Legislature.

4286 (8) (a) In fiscal years 2006 through 2019, a portion of the state sales and use tax
4287 revenues determined under this Subsection (8) shall be certified by the State Tax Commission
4288 as a set-aside for the account, and the State Tax Commission shall report the amount of the
4289 set-aside to the office, the Office of Legislative Fiscal Analyst, and the Division of Finance,
4290 which shall set aside the certified amount for appropriation to the account.

4291 (b) For fiscal years 2016 through 2019, the State Tax Commission shall calculate the
4292 set-aside under this Subsection (8) in each fiscal year by applying one of the following
4293 formulas: if the annual percentage change in the Consumer Price Index for All Urban
4294 Consumers, as published by the Bureau of Labor Statistics of the United States Department of
4295 Labor, for the fiscal year two years before the fiscal year in which the set-aside is to be made is:

4296 (i) greater than 3%, and if the annual percentage change in the state sales and use tax
4297 revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal
4298 year three years before the fiscal year in which the set-aside is to be made to the fiscal year two
4299 years before the fiscal year in which the set-aside is to be made is greater than the annual
4300 percentage change in the Consumer Price Index for the fiscal year two years before the fiscal
4301 year in which the set-aside is to be made, then the difference between the annual percentage
4302 change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented

4303 goods and services and the annual percentage change in the Consumer Price Index shall be
4304 multiplied by an amount equal to the state sales and use tax revenues attributable to the retail
4305 sales of tourist-oriented goods and services from the fiscal year three years before the fiscal
4306 year in which the set-aside is to be made; or

4307 (ii) 3% or less, and if the annual percentage change in the state sales and use tax
4308 revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal
4309 year three years before the fiscal year in which the set-aside is to be made to the fiscal year two
4310 years before the fiscal year in which the set-aside is to be made is greater than 3%, then the
4311 difference between the annual percentage change in the state sales and use tax revenues
4312 attributable to the retail sales of tourist-oriented goods and services and 3% shall be multiplied
4313 by an amount equal to the state sales and use tax revenues attributable to the retail sales of
4314 tourist-oriented goods and services from the fiscal year three years before the fiscal year in
4315 which the set-aside is to be made.

4316 (c) The total money appropriated to the account in a fiscal year under Subsections
4317 (8)(a) and (b) may not exceed the amount appropriated to the account in the preceding fiscal
4318 year by more than \$3,000,000.

4319 (d) As used in this Subsection (8), "state sales and use tax revenues" are revenues
4320 collected under Subsections [59-12-103\(2\)\(a\)\(i\)\(A\)](#) [~~and~~], [59-12-103\(2\)\(c\)\(i\)](#), and
4321 [59-12-103\(2\)\(d\)](#).

4322 (e) As used in this Subsection (8), "retail sales of tourist-oriented goods and services"
4323 are calculated by adding the following percentages of sales from each business registered with
4324 the State Tax Commission under one of the following codes of the 2012 North American
4325 Industry Classification System of the federal Executive Office of the President, Office of
4326 Management and Budget:

4327 (i) 80% of the sales from each business under NAICS Codes:

4328 (A) 532111 Passenger Car Rental;

4329 (B) 53212 Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing;

4330 (C) 5615 Travel Arrangement and Reservation Services;

4331 (D) 7211 Traveler Accommodation; and

4332 (E) 7212 RV (Recreational Vehicle) Parks and Recreational Camps;

4333 (ii) 25% of the sales from each business under NAICS Codes:

- 4334 (A) 51213 Motion Picture and Video Exhibition;
- 4335 (B) 532292 Recreational Goods Rental;
- 4336 (C) 711 Performing Arts, Spectator Sports, and Related Industries;
- 4337 (D) 712 Museums, Historical Sites, and Similar Institutions; and
- 4338 (E) 713 Amusement, Gambling, and Recreation Industries;
- 4339 (iii) 20% of the sales from each business under NAICS Code 722 Food Services and
- 4340 Drinking Places;
- 4341 (iv) 18% of the sales from each business under NAICS Codes:
- 4342 (A) 447 Gasoline Stations; and
- 4343 (B) 81293 Parking Lots and Garages;
- 4344 (v) 14% of the sales from each business under NAICS Code 8111 Automotive Repair
- 4345 and Maintenance; and
- 4346 (vi) 5% of the sales from each business under NAICS Codes:
- 4347 (A) 445 Food and Beverage Stores;
- 4348 (B) 446 Health and Personal Care Stores;
- 4349 (C) 448 Clothing and Clothing Accessories Stores;
- 4350 (D) 451 Sporting Goods, Hobby, Musical Instrument, and Book Stores;
- 4351 (E) 452 General Merchandise Stores; and
- 4352 (F) 453 Miscellaneous Store Retailers.

4353 Section 30. Section **76-8-1101** is amended to read:

4354 **76-8-1101. Criminal offenses and penalties relating to revenue and taxation --**
 4355 **Rulemaking authority -- Statute of limitations.**

4356 (1) (a) As provided in Section **59-1-401**, criminal offenses and penalties are as
 4357 provided in Subsections (1)(b) through (e).

4358 ~~[(b) (i) Any person who]~~

4359 (b) (i) A person is guilty of a class B misdemeanor if the person:

4360 (A) is required by Title 59, Revenue and Taxation, or any laws the State Tax
 4361 Commission administers or regulates to register with or obtain a license or permit from the
 4362 State Tax Commission~~[-, who]; and~~

4363 (B) operates without having registered or secured a license or permit~~[-, or who] or~~
 4364 operates when the registration, license, or permit is expired or not current~~[-, is guilty of a class~~

4365 ~~B-misdemeanor~~].

4366 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (1)(b)(i), the
4367 penalty may not:

4368 (A) be less than \$500; or

4369 (B) exceed \$1,000.

4370 (c) (i) With respect to a tax, fee, or charge as defined in Section 59-1-401, ~~[any]~~ a
4371 person ~~[who]~~ is guilty of a third degree felony if the person:

4372 (A) knowingly and intentionally, and without a reasonable good faith basis, fails to
4373 make, render, sign, or verify any return within the time required by law or to supply any
4374 information within the time required by law~~[-or who]~~;

4375 (B) makes, renders, signs, or verifies any false or fraudulent return or statement~~[-or~~
4376 ~~who]~~; or

4377 (C) supplies any false or fraudulent information~~[-is guilty of a third degree felony]~~.

4378 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (1)(c)(i), the penalty
4379 may not:

4380 (A) be less than \$1,000; or

4381 (B) exceed \$5,000.

4382 (d) (i) Any person who intentionally or willfully attempts to evade or defeat any tax,
4383 fee, or charge as defined in Section 59-1-401 or the payment of a tax, fee, or charge as defined
4384 in Section 59-1-401 is, in addition to other penalties provided by law, guilty of a second degree
4385 felony.

4386 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (1)(d)(i), the penalty
4387 may not:

4388 (A) be less than \$1,500; or

4389 (B) exceed \$25,000.

4390 (e) (i) A person is guilty of a second degree felony if that person commits an act:

4391 (A) described in Subsection (1)(e)(ii) with respect to one or more of the following
4392 documents:

4393 (I) a return;

4394 (II) an affidavit;

4395 (III) a claim; or

4396 (IV) a document similar to Subsections (1)(e)(i)(A)(I) through (III); and
4397 (B) subject to Subsection (1)(e)(iii), with knowledge that the document described in
4398 Subsection (1)(e)(i)(A):
4399 (I) is false or fraudulent as to any material matter; and
4400 (II) could be used in connection with any material matter administered by the State Tax
4401 Commission.
4402 (ii) The following acts apply to Subsection (1)(e)(i):
4403 (A) preparing any portion of a document described in Subsection (1)(e)(i)(A);
4404 (B) presenting any portion of a document described in Subsection (1)(e)(i)(A);
4405 (C) procuring any portion of a document described in Subsection (1)(e)(i)(A);
4406 (D) advising in the preparation or presentation of any portion of a document described
4407 in Subsection (1)(e)(i)(A);
4408 (E) aiding in the preparation or presentation of any portion of a document described in
4409 Subsection (1)(e)(i)(A);
4410 (F) assisting in the preparation or presentation of any portion of a document described
4411 in Subsection (1)(e)(i)(A); or
4412 (G) counseling in the preparation or presentation of any portion of a document
4413 described in Subsection (1)(e)(i)(A).
4414 (iii) This Subsection (1)(e) applies:
4415 (A) regardless of whether the person for which the document described in Subsection
4416 (1)(e)(i)(A) is prepared or presented:
4417 (I) knew of the falsity of the document described in Subsection (1)(e)(i)(A); or
4418 (II) consented to the falsity of the document described in Subsection (1)(e)(i)(A); and
4419 (B) in addition to any other penalty provided by law.
4420 (iv) Notwithstanding Section [76-3-301](#), for purposes of this Subsection (1)(e), the
4421 penalty may not:
4422 (A) be less than \$1,500; or
4423 (B) exceed \$25,000.
4424 (v) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4425 State Tax Commission may make rules prescribing the documents that are similar to
4426 Subsections (1)(e)(i)(A)(I) through (III).

4427 (2) The statute of limitations for prosecution for a violation of this section is the later
4428 of six years:

4429 (a) from the date the tax should have been remitted; or

4430 (b) after the day on which the person commits the criminal offense.

4431 Section 31. **Effective date.**

4432 (1) Except as provided in Subsection (2), this bill takes effect on January 1, 2020.

4433 (2) The actions in this bill to the following take effect for a taxable year beginning on
4434 or after January 1, 2020:

4435 (a) Section [59-7-623](#);

4436 (b) Section [59-10-138](#);

4437 (c) Section [59-10-529.1](#);

4438 (d) Section [59-10-1102.1](#); and

4439 (e) Section [59-10-1112](#).