

ONLINE SALES TAX AMENDMENTS

2018 SECOND SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill modifies sales and use tax provisions.

Highlighted Provisions:

This bill:

- ▶ provides and amends definitions;
- ▶ repeals certain amendments made in S.B. 233, Sales and Use Tax Amendments, Laws of Utah 2018, Chapter 472;
- ▶ repeals a requirement that certain sellers remit a tax to the State Tax Commission if the Supreme Court of the United States issues a certain decision or Congress permits the state to require certain sellers to collect a sales or use tax;
- ▶ repeals certain reporting requirements of the State Tax Commission to the Revenue and Taxation Interim Committee of the Legislature;
- ▶ repeals certain requirements of the Revenue and Taxation Interim Committee of the Legislature regarding the collection of certain sales and use tax revenue;
- ▶ repeals provisions regarding the deposit of sales and use tax revenue collected from certain remote sellers into the Remote Sales Restricted Account;
- ▶ repeals the Division of Finance's notification procedures for certain revenues deposited into the Remote Sales Restricted Account;
- ▶ 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



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

30 ▶ creates a sales and use tax exemption for the purchase or lease of materials, except
31 office equipment and office supplies, by a manufacturing facility, certain mining
32 establishments, or a web search portal that are used or consumed in certain business
33 activities;

34 ▶ creates a sales and use tax exemption for the purchase or lease of machinery,
35 equipment, normal operating repair or replacement parts, or materials, except office
36 equipment or office supplies, by a medical laboratory;

37 ▶ enacts a provision that requires certain sellers to pay or collect and remit the sales
38 and use tax imposed if the seller:

39 • sells tangible personal property, products transferred electronically, or services
40 for storage, use, or consumption in the state; and

41 • in either the previous calendar year or the current calendar year, receives a
42 certain amount of gross revenue from the sale of tangible personal property, any
43 product transferred electronically, or services for storage, use, or consumption in
44 the state or sells tangible personal property, products transferred electronically,
45 or services for storage, use, or consumption in the state in more than a certain
46 number of separate transactions;

47 ▶ repeals an enhanced percentage that certain sellers may retain if the seller is
48 voluntarily remitting sale and use taxes; and

49 ▶ makes technical and conforming changes.

50 **Money Appropriated in this Bill:**

51 None

52 **Other Special Clauses:**

53 This bill provides a special effective date.

54 **Utah Code Sections Affected:**

55 AMENDS:

56 **59-1-401**, as last amended by Laws of Utah 2018, Chapter 329

57 **59-12-104**, as last amended by Laws of Utah 2018, Chapters 281, 345, and 442

58 **59-12-104.5 (Contingently Superseded)**, as last amended by Laws of Utah 2017,

59 Chapter 268

60 **59-12-107 (Contingently Superseded)**, as last amended by Laws of Utah 2017,

61 Chapter 430

62 **59-12-108**, as last amended by Laws of Utah 2017, Chapter 430

63 **59-12-211**, as last amended by Laws of Utah 2012, Chapter 312

64 **59-12-211.1**, as last amended by Laws of Utah 2012, Chapter 312

65 **63I-2-210**, as last amended by Laws of Utah 2018, Chapter 472 and further amended by

66 Revisor Instructions, Laws of Utah 2018, Chapter 456 and last amended by

67 Coordination Clause, Laws of Utah 2018, Chapter 456

68 **63I-2-259**, as last amended by Laws of Utah 2018, Chapters 456 and 472

69 **63M-4-702**, as enacted by Laws of Utah 2017, Chapter 429

70 REPEALS:

71 **59-12-103.1**, as last amended by Laws of Utah 2018, Chapter 472

72 **59-12-103.2 (Contingently Superseded)**, as last amended by Laws of Utah 2013,

73 Chapter 150

74 **59-12-104.7 (Contingently Repealed)**, as last amended by Laws of Utah 2017, Chapter

75 268

76 **63N-1-302 (Contingently Repealed)**, as last amended by Laws of Utah 2017, Chapter

77 268

78 **Uncodified Material Affected:**

79 ENACTS UNCODIFIED MATERIAL



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

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

83 **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**
84 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**
85 **interest.**

86 (1) As used in this section:

87 (a) "Activated tax, fee, or charge" means a tax, fee, or charge with respect to which the
88 commission:

89 (i) has implemented the commission's GenTax system; and

90 (ii) at least 30 days before implementing the commission's GenTax system as described
91 in Subsection (1)(a)(i), has provided notice in a conspicuous place on the commission's website
92 stating:

93 (A) the date the commission will implement the GenTax system with respect to the tax,
94 fee, or charge; and

95 (B) that, at the time the commission implements the GenTax system with respect to the
96 tax, fee, or charge:

97 (I) a person that files a return after the due date as described in Subsection (2)(a) is
98 subject to the penalty described in Subsection (2)(c)(ii); and

99 (II) a person that fails to pay the tax, fee, or charge as described in Subsection (3)(a) is
100 subject to the penalty described in Subsection (3)(b)(ii).

101 (b) "Activation date for a tax, fee, or charge" means with respect to a tax, fee, or
102 charge, the later of:

103 (i) the date on which the commission implements the commission's GenTax system
104 with respect to the tax, fee, or charge; or

105 (ii) 30 days after the date the commission provides the notice described in Subsection
106 (1)(a)(ii) with respect to the tax, fee, or charge.

107 (c) (i) Except as provided in Subsection (1)(c)(ii), "tax, fee, or charge" means:

108 (A) a tax, fee, or charge the commission administers under:

109 (I) this title;

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

111 (III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

112 (IV) Section 19-6-410.5;

113 (V) Section 19-6-714;

114 (VI) Section 19-6-805;

115 (VII) Section 34A-2-202;

116 (VIII) Section 40-6-14; or

117 (IX) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or

118 (B) another amount that by statute is subject to a penalty imposed under this section.

119 (ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:

120 (A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

- 121 (B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;
122 (C) Chapter 2, Property Tax Act, except for Section 59-2-1309;
123 (D) Chapter 3, Tax Equivalent Property Act; or
124 (E) Chapter 4, Privilege Tax.
- 125 (d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated
126 tax, fee, or charge.
- 127 (2) (a) The due date for filing a return is:
- 128 (i) if the person filing the return is not allowed by law an extension of time for filing
129 the return, the day on which the return is due as provided by law; or
130 (ii) if the person filing the return is allowed by law an extension of time for filing the
131 return, the earlier of:
- 132 (A) the date the person files the return; or
133 (B) the last day of that extension of time as allowed by law.
- 134 (b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a
135 return after the due date described in Subsection (2)(a).
- 136 (c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:
- 137 (i) if the return described in Subsection (2)(b) is filed with respect to an unactivated
138 tax, fee, or charge:
- 139 (A) \$20; or
140 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or
141 (ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax,
142 fee, or charge, beginning on the activation date for the tax, fee, or charge:
- 143 (A) \$20; or
144 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is
145 filed no later than five days after the due date described in Subsection (2)(a);
146 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed
147 more than five days after the due date but no later than 15 days after the due date described in
148 Subsection (2)(a); or
149 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is
150 filed more than 15 days after the due date described in Subsection (2)(a).
- 151 (d) This Subsection (2) does not apply to:

- 152 (i) an amended return; or
- 153 (ii) a return with no tax due.
- 154 (3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:
- 155 (i) the person files a return on or before the due date for filing a return described in
- 156 Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due
- 157 date;
- 158 (ii) the person:
- 159 (A) is subject to a penalty under Subsection (2)(b); and
- 160 (B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the
- 161 due date for filing a return described in Subsection (2)(a);
- 162 (iii) (A) the person is subject to a penalty under Subsection (2)(b); and
- 163 (B) the commission estimates an amount of tax due for that person in accordance with
- 164 Subsection [59-1-1406\(2\)](#);
- 165 (iv) the person:
- 166 (A) is mailed a notice of deficiency; and
- 167 (B) within a 30-day period after the day on which the notice of deficiency described in
- 168 Subsection (3)(a)(iv)(A) is mailed:
- 169 (I) does not file a petition for redetermination or a request for agency action; and
- 170 (II) fails to pay the tax, fee, or charge due on a return;
- 171 (v) (A) the commission:
- 172 (I) issues an order constituting final agency action resulting from a timely filed petition
- 173 for redetermination or a timely filed request for agency action; or
- 174 (II) is considered to have denied a request for reconsideration under Subsection
- 175 [63G-4-302\(3\)\(b\)](#) resulting from a timely filed petition for redetermination or a timely filed
- 176 request for agency action; and
- 177 (B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period
- 178 after the date the commission:
- 179 (I) issues the order constituting final agency action described in Subsection
- 180 (3)(a)(v)(A)(I); or
- 181 (II) is considered to have denied the request for reconsideration described in
- 182 Subsection (3)(a)(v)(A)(II); or

183 (vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date
184 of a final judicial decision resulting from a timely filed petition for judicial review.

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

186 (i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with
187 respect to an unactivated tax, fee, or charge:

188 (A) \$20; or

189 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

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

192 (A) \$20; or

193 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated
194 tax, fee, or charge due on the return is paid no later than five days after the due date for filing a
195 return described in Subsection (2)(a);

196 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the activated tax,
197 fee, or charge due on the return is paid more than five days after the due date for filing a return
198 described in Subsection (2)(a) but no later than 15 days after that due date; or

199 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the activated
200 tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a
201 return described in Subsection (2)(a).

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

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

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

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

213 (B) with respect to any portion of the underpayment, the date on which that portion is

214 paid.

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

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

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

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

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

231 (6) If a person does not file a return within an extension of time allowed by Section
232 59-7-505 or 59-10-516, the person:

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

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

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

236 (A) \$20; or

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

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

240 (A) \$20; or

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

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

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

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

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

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

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

258 (i) The notice of proposed penalty shall:

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

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

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

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

264 or

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

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

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

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

274 (I) to the person's last-known address; and

275 (II) in accordance with Section [59-1-1404](#).

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

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

280 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
281 or is a seller required to pay or collect and remit sales and use taxes under Subsection
282 59-12-107(2)(b) or (2)(c); and

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

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

286 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
287 or is a seller required to pay or collect and remit sales and use taxes under Subsection
288 59-12-107(2)(b) or (2)(c); and

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

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

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

295 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
296 or is a seller required to pay or collect and remit sales and use taxes under Subsection
297 59-12-107(2)(b) or (2)(c); and

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

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

301 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
302 or is a seller required to pay or collect and remit sales and use taxes under Subsection
303 59-12-107(2)(b) or (2)(c); and

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

306 (ii) the seller's intentional disregard of law or rule is warranted by existing law or by a

307 nonfrivolous argument for the extension, modification, or reversal of existing law or the
308 establishment of new law.

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

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

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

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

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

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

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

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

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

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

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

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

337 (A) a return;

338 (B) an affidavit;

339 (C) a claim; or

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

341 (ii) knows or has reason to believe that the document described in Subsection (11)(a)(i)

342 will be used in connection with any material matter administered by the commission; and

343 (iii) knows that the document described in Subsection (11)(a)(i), if used in connection

344 with any material matter administered by the commission, would result in an understatement of

345 another person's liability for a tax, fee, or charge.

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

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

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

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

350 (iv) advising in the preparation or presentation of any portion of a document described

351 in Subsection (11)(a)(i);

352 (v) aiding in the preparation or presentation of any portion of a document described in

353 Subsection (11)(a)(i);

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

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

356 (vii) counseling in the preparation or presentation of any portion of a document

357 described in Subsection (11)(a)(i).

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

359 (i) shall be imposed by the commission;

360 (ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which

361 the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and

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

363 (d) The commission may seek a court order to enjoin a person from engaging in

364 conduct that is subject to a penalty under this Subsection (11).

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

366 commission may make rules prescribing the documents that are similar to Subsections

367 (11)(a)(i)(A) through (C).

368 (12) (a) As provided in Section [76-8-1101](#), criminal offenses and penalties are as

369 provided in Subsections (12)(b) through (e).

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

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

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

377 (B) exceed \$1,000.

378 (c) (i) With respect to a tax, fee, or charge, a person who knowingly and intentionally,
379 and without a reasonable good faith basis, fails to make, render, sign, or verify a return within
380 the time required by law or to supply information within the time required by law, or who
381 makes, renders, signs, or verifies a false or fraudulent return or statement, or who supplies false
382 or fraudulent information, is guilty of a third degree felony.

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

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

386 (B) exceed \$5,000.

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

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

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

393 (B) exceed \$25,000.

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

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

397 (I) a return;

398 (II) an affidavit;

399 (III) a claim; or

400 (IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and
401 (B) subject to Subsection (12)(e)(iii), with knowledge that the document described in
402 Subsection (12)(e)(i)(A):
403 (I) is false or fraudulent as to any material matter; and
404 (II) could be used in connection with any material matter administered by the
405 commission.
406 (ii) The following acts apply to Subsection (12)(e)(i):
407 (A) preparing any portion of a document described in Subsection (12)(e)(i)(A);
408 (B) presenting any portion of a document described in Subsection (12)(e)(i)(A);
409 (C) procuring any portion of a document described in Subsection (12)(e)(i)(A);
410 (D) advising in the preparation or presentation of any portion of a document described
411 in Subsection (12)(e)(i)(A);
412 (E) aiding in the preparation or presentation of any portion of a document described in
413 Subsection (12)(e)(i)(A);
414 (F) assisting in the preparation or presentation of any portion of a document described
415 in Subsection (12)(e)(i)(A); or
416 (G) counseling in the preparation or presentation of any portion of a document
417 described in Subsection (12)(e)(i)(A).
418 (iii) This Subsection (12)(e) applies:
419 (A) regardless of whether the person for which the document described in Subsection
420 (12)(e)(i)(A) is prepared or presented:
421 (I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or
422 (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and
423 (B) in addition to any other penalty provided by law.
424 (iv) Notwithstanding Section [76-3-301](#), for purposes of this Subsection (12)(e), the
425 penalty may not:
426 (A) be less than \$1,500; or
427 (B) exceed \$25,000.
428 (v) The commission may seek a court order to enjoin a person from engaging in
429 conduct that is subject to a penalty under this Subsection (12)(e).
430 (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

431 the commission may make rules prescribing the documents that are similar to Subsections
432 (12)(e)(i)(A)(I) through (III).

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

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

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

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

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

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

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

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

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

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

451 (ii) \$60 per form, not to exceed \$200,000 in a calendar year, if the employer files the
452 form in accordance with Subsection 59-10-406(8), more than 30 days after the due date
453 provided in Subsection 59-10-406(8) but on or before June 1; or

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

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

456 (B) fails to file the form.

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

460 Section 2. Section 59-12-104 is amended to read:

461 **59-12-104. Exemptions.**

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

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

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

467 (a) construction materials except:

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

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

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

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

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

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

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

483 (i) food and food ingredients; or

484 (ii) prepared food;

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

486 (i) alcoholic beverages;

487 (ii) food and food ingredients; or

488 (iii) prepared food;

489 (b) sales of tangible personal property or a product transferred electronically:

490 (i) to a passenger;

491 (ii) by a commercial airline carrier; and

492 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or

493 (c) services related to Subsection (4)(a) or (b);
494 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
495 and equipment:
496 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
497 North American Industry Classification System of the federal Executive Office of the
498 President, Office of Management and Budget; and
499 (II) for:
500 (Aa) installation in an aircraft, including services relating to the installation of parts or
501 equipment in the aircraft;
502 (Bb) renovation of an aircraft; or
503 (Cc) repair of an aircraft; or
504 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
505 commerce; or
506 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
507 aircraft operated by a common carrier in interstate or foreign commerce; and
508 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
509 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
510 refund:
511 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;
512 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
513 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
514 the sale prior to filing for the refund;
515 (iv) for sales and use taxes paid under this chapter on the sale;
516 (v) in accordance with Section 59-1-1410; and
517 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
518 the person files for the refund on or before September 30, 2011;
519 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
520 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
521 exhibitor, distributor, or commercial television or radio broadcaster;
522 (7) (a) except as provided in Subsection (88) and subject to Subsection (7)(b), sales of
523 cleaning or washing of tangible personal property if the cleaning or washing of the tangible

524 personal property is not assisted cleaning or washing of tangible personal property;

525 (b) if a seller that sells at the same business location assisted cleaning or washing of
526 tangible personal property and cleaning or washing of tangible personal property that is not
527 assisted cleaning or washing of tangible personal property, the exemption described in
528 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
529 or washing of the tangible personal property; and

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

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

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

536 (8) sales made to or by religious or charitable institutions in the conduct of their regular
537 religious or charitable functions and activities, if the requirements of Section [59-12-104.1](#) are
538 fulfilled;

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

541 (a) not registered in this state; and

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

543 (ii) used in this state:

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

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

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

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

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

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

552 (ii) (A) a prescription was issued for the item; or

553 (B) the item was purchased by a hospital or other medical facility; and

554 (b) (i) Subsection (10)(a) applies to:

- 555 (A) a drug;
- 556 (B) a syringe; or
- 557 (C) a stoma supply; and
- 558 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 559 commission may by rule define the terms:
 - 560 (A) "syringe"; or
 - 561 (B) "stoma supply";
 - 562 (11) purchases or leases exempt under Section 19-12-201;
 - 563 (12) (a) sales of an item described in Subsection (12)(c) served by:
 - 564 (i) the following if the item described in Subsection (12)(c) is not available to the
 - 565 general public:
 - 566 (A) a church; or
 - 567 (B) a charitable institution; or
 - 568 (ii) an institution of higher education if:
 - 569 (A) the item described in Subsection (12)(c) is not available to the general public; or
 - 570 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
 - 571 offered by the institution of higher education; or
 - 572 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
 - 573 (i) a medical facility; or
 - 574 (ii) a nursing facility; and
 - 575 (c) Subsections (12)(a) and (b) apply to:
 - 576 (i) food and food ingredients;
 - 577 (ii) prepared food; or
 - 578 (iii) alcoholic beverages;
 - 579 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
 - 580 or a product transferred electronically by a person:
 - 581 (i) regardless of the number of transactions involving the sale of that tangible personal
 - 582 property or product transferred electronically by that person; and
 - 583 (ii) not regularly engaged in the business of selling that type of tangible personal
 - 584 property or product transferred electronically;
 - 585 (b) this Subsection (13) does not apply if:

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

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

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

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

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

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

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

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

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

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

609 (14) amounts paid or charged for a purchase or lease of machinery, equipment, ~~[or]~~
610 normal operating repair or replacement parts ~~[with an economic life of three or more years], or~~
611 materials, except for office equipment or office supplies, by:

612 (a) a manufacturing facility~~[, except as provided in Subsection (86),]~~ that:

613 (i) is located in the state; and

614 (ii) uses or consumes the machinery, equipment, ~~[or]~~ normal operating repair or
615 replacement parts, or materials:

616 (A) in the manufacturing process to manufacture an item sold as tangible personal

617 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
618 Utah Administrative Rulemaking Act; or

619 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
620 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
621 Administrative Rulemaking Act;

622 (b) an establishment, as the commission defines that term in accordance with Title
623 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

624 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
625 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
626 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
627 2002 North American Industry Classification System of the federal Executive Office of the
628 President, Office of Management and Budget;

629 (ii) is located in the state; and

630 (iii) uses or consumes the machinery, equipment, [~~or~~] normal operating repair or
631 replacement parts, or materials in:

632 (A) the production process to produce an item sold as tangible personal property, as the
633 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
634 Administrative Rulemaking Act;

635 (B) research and development, as the commission may define that phrase in accordance
636 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

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

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

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

642 (c) an establishment, as the commission defines that term in accordance with Title 63G,
643 Chapter 3, Utah Administrative Rulemaking Act, that:

644 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
645 American Industry Classification System of the federal Executive Office of the President,
646 Office of Management and Budget;

647 (ii) is located in the state; and

648 (iii) uses or consumes the machinery, equipment, [~~or~~] normal operating repair or
649 replacement parts, or materials in the operation of the web search portal;

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

651 (i) tooling;

652 (ii) special tooling;

653 (iii) support equipment;

654 (iv) special test equipment; or

655 (v) parts used in the repairs or renovations of tooling or equipment described in

656 Subsections (15)(a)(i) through (iv); and

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

658 (i) the tooling, equipment, or parts are used or consumed exclusively in the

659 performance of any aerospace or electronics industry contract with the United States

660 government or any subcontract under that contract; and

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

662 title to the tooling, equipment, or parts is vested in the United States government as evidenced

663 by:

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

665 (B) listing on a government-approved property record if placing a government

666 identification tag on the tooling, equipment, or parts is impractical;

667 (16) sales of newspapers or newspaper subscriptions;

668 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a

669 product transferred electronically traded in as full or part payment of the purchase price, except

670 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,

671 trade-ins are limited to other vehicles only, and the tax is based upon:

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

674 (ii) in the absence of a bill of sale or other written evidence of value, the then existing

675 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the

676 commission; and

677 (b) Subsection (17)(a) does not apply to the following items of tangible personal

678 property or products transferred electronically traded in as full or part payment of the purchase

679 price:

680 (i) money;

681 (ii) electricity;

682 (iii) water;

683 (iv) gas; or

684 (v) steam;

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

689 (A) becomes part of real estate; or

690 (B) is installed by a:

691 (I) farmer;

692 (II) contractor; or

693 (III) subcontractor; or

694 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
695 product transferred electronically if the tangible personal property or product transferred
696 electronically is exempt under Subsection (18)(a)(i); and

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

699 (i) (A) subject to Subsection (18)(b)(i)(B), [~~the following~~] machinery, equipment,
700 materials, or supplies if used in a manner that is incidental to farming[:]; and

701 [~~(I) machinery;~~]

702 [~~(II) equipment;~~]

703 [~~(III) materials; or~~]

704 [~~(IV) supplies; and~~]

705 (B) tangible personal property that is considered to be used in a manner that is
706 incidental to farming includes:

707 (I) hand tools; or

708 (II) maintenance and janitorial equipment and supplies;

709 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product

710 transferred electronically if the tangible personal property or product transferred electronically
711 is used in an activity other than farming; and

712 (B) tangible personal property or a product transferred electronically that is considered
713 to be used in an activity other than farming includes:

714 (I) office equipment and supplies; or

715 (II) equipment and supplies used in:

716 (Aa) the sale or distribution of farm products;

717 (Bb) research; or

718 (Cc) transportation; or

719 (iii) a vehicle required to be registered by the laws of this state during the period
720 ending two years after the date of the vehicle's purchase;

721 (19) sales of hay;

722 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
723 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
724 garden, farm, or other agricultural produce is sold by:

725 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
726 agricultural produce;

727 (b) an employee of the producer described in Subsection (20)(a); or

728 (c) a member of the immediate family of the producer described in Subsection (20)(a);

729 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
730 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

731 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
732 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
733 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
734 manufacturer, processor, wholesaler, or retailer;

735 (23) a product stored in the state for resale;

736 (24) (a) purchases of a product if:

737 (i) the product is:

738 (A) purchased outside of this state;

739 (B) brought into this state:

740 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

741 (II) by a nonresident person who is not living or working in this state at the time of the
742 purchase;

743 (C) used for the personal use or enjoyment of the nonresident person described in
744 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

745 (D) not used in conducting business in this state; and

746 (ii) for:

747 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
748 the product for a purpose for which the product is designed occurs outside of this state;

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

750 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
751 outside of this state;

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

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

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

755 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
756 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
757 following:

758 (i) conducting business in this state if that phrase has the same meaning in this
759 Subsection (24) as in Subsection (63);

760 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
761 as in Subsection (63); or

762 (iii) a purpose for which a product is designed if that phrase has the same meaning in
763 this Subsection (24) as in Subsection (63);

764 (25) a product purchased for resale in the regular course of business, either in its
765 original form or as an ingredient or component part of a manufactured or compounded product;

766 (26) a product upon which a sales or use tax was paid to some other state, or one of its
767 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
768 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
769 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
770 Act;

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

- 772 person for use in compounding a service taxable under the subsections;
- 773 (28) purchases made in accordance with the special supplemental nutrition program for
774 women, infants, and children established in 42 U.S.C. Sec. 1786;
- 775 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
776 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
777 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
778 the President, Office of Management and Budget;
- 779 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
780 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
781 (a) not registered in this state; and
782 (b) (i) not used in this state; or
783 (ii) used in this state:
784 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
785 time period that does not exceed the longer of:
786 (I) 30 days in any calendar year; or
787 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
788 the borders of this state; or
789 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
790 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
791 state;
- 792 (31) sales of aircraft manufactured in Utah;
- 793 (32) amounts paid for the purchase of telecommunications service for purposes of
794 providing telecommunications service;
- 795 (33) sales, leases, or uses of the following:
796 (a) a vehicle by an authorized carrier; or
797 (b) tangible personal property that is installed on a vehicle:
798 (i) sold or leased to or used by an authorized carrier; and
799 (ii) before the vehicle is placed in service for the first time;
- 800 (34) (a) 45% of the sales price of any new manufactured home; and
801 (b) 100% of the sales price of any used manufactured home;
- 802 (35) sales relating to schools and fundraising sales;

- 803 (36) sales or rentals of durable medical equipment if:
- 804 (a) a person presents a prescription for the durable medical equipment; and
- 805 (b) the durable medical equipment is used for home use only;
- 806 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 807 Section 72-11-102; and
- 808 (b) the commission shall by rule determine the method for calculating sales exempt
- 809 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 810 (38) sales to a ski resort of:
- 811 (a) snowmaking equipment;
- 812 (b) ski slope grooming equipment;
- 813 (c) passenger ropeways as defined in Section 72-11-102; or
- 814 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 815 described in Subsections (38)(a) through (c);
- 816 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 817 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 818 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 819 59-12-102;
- 820 (b) if a seller that sells or rents at the same business location the right to use or operate
- 821 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 822 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 823 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 824 amusement, entertainment, or recreation for the assisted amusement devices; and
- 825 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
- 826 Utah Administrative Rulemaking Act, the commission may make rules:
- 827 (i) governing the circumstances under which sales are at the same business location;
- 828 and
- 829 (ii) establishing the procedures and requirements for a seller to separately account for
- 830 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
- 831 assisted amusement devices;
- 832 (41) (a) sales of photocopies by:
- 833 (i) a governmental entity; or

- 834 (ii) an entity within the state system of public education, including:
- 835 (A) a school; or
- 836 (B) the State Board of Education; or
- 837 (b) sales of publications by a governmental entity;
- 838 (42) amounts paid for admission to an athletic event at an institution of higher
- 839 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
- 840 20 U.S.C. Sec. 1681 et seq.;
- 841 (43) (a) sales made to or by:
- 842 (i) an area agency on aging; or
- 843 (ii) a senior citizen center owned by a county, city, or town; or
- 844 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 845 (44) sales or leases of semiconductor fabricating, processing, research, or development
- 846 materials regardless of whether the semiconductor fabricating, processing, research, or
- 847 development materials:
- 848 (a) actually come into contact with a semiconductor; or
- 849 (b) ultimately become incorporated into real property;
- 850 (45) an amount paid by or charged to a purchaser for accommodations and services
- 851 described in Subsection [59-12-103\(1\)\(i\)](#) to the extent the amount is exempt under Section
- 852 [59-12-104.2](#);
- 853 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
- 854 sports event registration certificate in accordance with Section [41-3-306](#) for the event period
- 855 specified on the temporary sports event registration certificate;
- 856 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
- 857 adopted by the Public Service Commission only for purchase of electricity produced from a
- 858 new alternative energy source built after January 1, 2016, as designated in the tariff by the
- 859 Public Service Commission; and
- 860 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
- 861 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
- 862 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
- 863 customer would have paid absent the tariff;
- 864 (48) sales or rentals of mobility enhancing equipment if a person presents a

865 prescription for the mobility enhancing equipment;

866 (49) sales of water in a:

867 (a) pipe;

868 (b) conduit;

869 (c) ditch; or

870 (d) reservoir;

871 (50) sales of currency or coins that constitute legal tender of a state, the United States,

872 or a foreign nation;

873 (51) (a) sales of an item described in Subsection (51)(b) if the item:

874 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and

875 (ii) has a gold, silver, or platinum content of 50% or more; and

876 (b) Subsection (51)(a) applies to a gold, silver, or platinum:

877 (i) ingot;

878 (ii) bar;

879 (iii) medallion; or

880 (iv) decorative coin;

881 (52) amounts paid on a sale-leaseback transaction;

882 (53) sales of a prosthetic device:

883 (a) for use on or in a human; and

884 (b) (i) for which a prescription is required; or

885 (ii) if the prosthetic device is purchased by a hospital or other medical facility;

886 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of

887 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery

888 or equipment is primarily used in the production or postproduction of the following media for

889 commercial distribution:

890 (i) a motion picture;

891 (ii) a television program;

892 (iii) a movie made for television;

893 (iv) a music video;

894 (v) a commercial;

895 (vi) a documentary; or

896 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
897 commission by administrative rule made in accordance with Subsection (54)(d); or

898 (b) purchases, leases, or rentals of machinery or equipment by an establishment
899 described in Subsection (54)(c) that is used for the production or postproduction of the
900 following are subject to the taxes imposed by this chapter:

901 (i) a live musical performance;

902 (ii) a live news program; or

903 (iii) a live sporting event;

904 (c) the following establishments listed in the 1997 North American Industry
905 Classification System of the federal Executive Office of the President, Office of Management
906 and Budget, apply to Subsections (54)(a) and (b):

907 (i) NAICS Code 512110; or

908 (ii) NAICS Code 51219; and

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

911 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);

912 or

913 (ii) define:

914 (A) "commercial distribution";

915 (B) "live musical performance";

916 (C) "live news program"; or

917 (D) "live sporting event";

918 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
919 on or before June 30, 2027, of tangible personal property that:

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

921 (A) is an alternative energy electricity production facility;

922 (B) is located in the state; and

923 (C) (I) becomes operational on or after July 1, 2004; or

924 (II) has its generation capacity increased by one or more megawatts on or after July 1,
925 2004, as a result of the use of the tangible personal property;

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

927 (iii) is used to make the facility or the increase in capacity of the facility described in
928 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
929 transmission grid including:

- 930 (A) a wind turbine;
- 931 (B) generating equipment;
- 932 (C) a control and monitoring system;
- 933 (D) a power line;
- 934 (E) substation equipment;
- 935 (F) lighting;
- 936 (G) fencing;
- 937 (H) pipes; or
- 938 (I) other equipment used for locating a power line or pole; and

939 (b) this Subsection (55) does not apply to:

- 940 (i) tangible personal property used in construction of:
 - 941 (A) a new alternative energy electricity production facility; or
 - 942 (B) the increase in the capacity of an alternative energy electricity production facility;
- 943 (ii) contracted services required for construction and routine maintenance activities;

944 and

945 (iii) unless the tangible personal property is used or acquired for an increase in capacity
946 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
947 acquired after:

948 (A) the alternative energy electricity production facility described in Subsection
949 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

950 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
951 in Subsection (55)(a)(iii);

952 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
953 on or before June 30, 2027, of tangible personal property that:

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

- 955 (A) is a waste energy production facility;
- 956 (B) is located in the state; and

957 (C) (I) becomes operational on or after July 1, 2004; or

958 (II) has its generation capacity increased by one or more megawatts on or after July 1,
959 2004, as a result of the use of the tangible personal property;

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

961 (iii) is used to make the facility or the increase in capacity of the facility described in
962 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
963 transmission grid including:

964 (A) generating equipment;

965 (B) a control and monitoring system;

966 (C) a power line;

967 (D) substation equipment;

968 (E) lighting;

969 (F) fencing;

970 (G) pipes; or

971 (H) other equipment used for locating a power line or pole; and

972 (b) this Subsection (56) does not apply to:

973 (i) tangible personal property used in construction of:

974 (A) a new waste energy facility; or

975 (B) the increase in the capacity of a waste energy facility;

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

977 and

978 (iii) unless the tangible personal property is used or acquired for an increase in capacity
979 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

980 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
981 described in Subsection (56)(a)(iii); or

982 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
983 in Subsection (56)(a)(iii);

984 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
985 or before June 30, 2027, of tangible personal property that:

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

987 (A) is located in the state;

988 (B) produces fuel from alternative energy, including:

989 (I) methanol; or
990 (II) ethanol; and
991 (C) (I) becomes operational on or after July 1, 2004; or
992 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
993 a result of the installation of the tangible personal property;
994 (ii) has an economic life of five or more years; and
995 (iii) is installed on the facility described in Subsection (57)(a)(i);
996 (b) this Subsection (57) does not apply to:
997 (i) tangible personal property used in construction of:
998 (A) a new facility described in Subsection (57)(a)(i); or
999 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
1000 (ii) contracted services required for construction and routine maintenance activities;
1001 and
1002 (iii) unless the tangible personal property is used or acquired for an increase in capacity
1003 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
1004 (A) the facility described in Subsection (57)(a)(i) is operational; or
1005 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
1006 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
1007 product transferred electronically to a person within this state if that tangible personal property
1008 or product transferred electronically is subsequently shipped outside the state and incorporated
1009 pursuant to contract into and becomes a part of real property located outside of this state;
1010 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
1011 state or political entity to which the tangible personal property is shipped imposes a sales, use,
1012 gross receipts, or other similar transaction excise tax on the transaction against which the other
1013 state or political entity allows a credit for sales and use taxes imposed by this chapter; and
1014 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
1015 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
1016 refund:
1017 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;
1018 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
1019 which the sale is made;

1020 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
1021 sale prior to filing for the refund;

1022 (iv) for sales and use taxes paid under this chapter on the sale;

1023 (v) in accordance with Section 59-1-1410; and

1024 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
1025 the person files for the refund on or before June 30, 2011;

1026 (59) purchases:

1027 (a) of one or more of the following items in printed or electronic format:

1028 (i) a list containing information that includes one or more:

1029 (A) names; or

1030 (B) addresses; or

1031 (ii) a database containing information that includes one or more:

1032 (A) names; or

1033 (B) addresses; and

1034 (b) used to send direct mail;

1035 (60) redemptions or repurchases of a product by a person if that product was:

1036 (a) delivered to a pawnbroker as part of a pawn transaction; and

1037 (b) redeemed or repurchased within the time period established in a written agreement
1038 between the person and the pawnbroker for redeeming or repurchasing the product;

1039 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

1040 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;

1041 and

1042 (ii) has a useful economic life of one or more years; and

1043 (b) the following apply to Subsection (61)(a):

1044 (i) telecommunications enabling or facilitating equipment, machinery, or software;

1045 (ii) telecommunications equipment, machinery, or software required for 911 service;

1046 (iii) telecommunications maintenance or repair equipment, machinery, or software;

1047 (iv) telecommunications switching or routing equipment, machinery, or software; or

1048 (v) telecommunications transmission equipment, machinery, or software;

1049 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
1050 personal property or a product transferred electronically that are used in the research and

1051 development of alternative energy technology; and
1052 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1053 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
1054 purchases of tangible personal property or a product transferred electronically that are used in
1055 the research and development of alternative energy technology;
1056 (63) (a) purchases of tangible personal property or a product transferred electronically
1057 if:
1058 (i) the tangible personal property or product transferred electronically is:
1059 (A) purchased outside of this state;
1060 (B) brought into this state at any time after the purchase described in Subsection
1061 (63)(a)(i)(A); and
1062 (C) used in conducting business in this state; and
1063 (ii) for:
1064 (A) tangible personal property or a product transferred electronically other than the
1065 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
1066 for a purpose for which the property is designed occurs outside of this state; or
1067 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
1068 outside of this state;
1069 (b) the exemption provided for in Subsection (63)(a) does not apply to:
1070 (i) a lease or rental of tangible personal property or a product transferred electronically;
1071 or
1072 (ii) a sale of a vehicle exempt under Subsection (33); and
1073 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
1074 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
1075 following:
1076 (i) conducting business in this state if that phrase has the same meaning in this
1077 Subsection (63) as in Subsection (24);
1078 (ii) the first use of tangible personal property or a product transferred electronically if
1079 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
1080 (iii) a purpose for which tangible personal property or a product transferred
1081 electronically is designed if that phrase has the same meaning in this Subsection (63) as in

- 1082 Subsection (24);
- 1083 (64) sales of disposable home medical equipment or supplies if:
- 1084 (a) a person presents a prescription for the disposable home medical equipment or
- 1085 supplies;
- 1086 (b) the disposable home medical equipment or supplies are used exclusively by the
- 1087 person to whom the prescription described in Subsection (64)(a) is issued; and
- 1088 (c) the disposable home medical equipment and supplies are listed as eligible for
- 1089 payment under:
- 1090 (i) Title XVIII, federal Social Security Act; or
- 1091 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- 1092 (65) sales:
- 1093 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
- 1094 District Act; or
- 1095 (b) of tangible personal property to a subcontractor of a public transit district, if the
- 1096 tangible personal property is:
- 1097 (i) clearly identified; and
- 1098 (ii) installed or converted to real property owned by the public transit district;
- 1099 (66) sales of construction materials:
- 1100 (a) purchased on or after July 1, 2010;
- 1101 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 1102 (i) located within a county of the first class; and
- 1103 (ii) that has a United States customs office on its premises; and
- 1104 (c) if the construction materials are:
- 1105 (i) clearly identified;
- 1106 (ii) segregated; and
- 1107 (iii) installed or converted to real property:
- 1108 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 1109 (B) located at the international airport described in Subsection (66)(b);
- 1110 (67) sales of construction materials:
- 1111 (a) purchased on or after July 1, 2008;
- 1112 (b) purchased by, on behalf of, or for the benefit of a new airport:

- 1113 (i) located within a county of the second class; and
1114 (ii) that is owned or operated by a city in which an airline as defined in Section
1115 59-2-102 is headquartered; and
1116 (c) if the construction materials are:
1117 (i) clearly identified;
1118 (ii) segregated; and
1119 (iii) installed or converted to real property:
1120 (A) owned or operated by the new airport described in Subsection (67)(b);
1121 (B) located at the new airport described in Subsection (67)(b); and
1122 (C) as part of the construction of the new airport described in Subsection (67)(b);
1123 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
1124 (69) purchases and sales described in Section 63H-4-111;
1125 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
1126 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
1127 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
1128 lists a state or country other than this state as the location of registry of the fixed wing turbine
1129 powered aircraft; or
1130 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
1131 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
1132 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
1133 lists a state or country other than this state as the location of registry of the fixed wing turbine
1134 powered aircraft;
1135 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
1136 (a) to a person admitted to an institution of higher education; and
1137 (b) by a seller, other than a bookstore owned by an institution of higher education, if
1138 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
1139 textbook for a higher education course;
1140 (72) a license fee or tax a municipality imposes in accordance with Subsection
1141 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
1142 level of municipal services;
1143 (73) amounts paid or charged for construction materials used in the construction of a

1144 new or expanding life science research and development facility in the state, if the construction
1145 materials are:

- 1146 (a) clearly identified;
- 1147 (b) segregated; and
- 1148 (c) installed or converted to real property;
- 1149 (74) amounts paid or charged for:
 - 1150 (a) a purchase or lease of machinery and equipment that:
 - 1151 (i) are used in performing qualified research:
 - 1152 (A) as defined in Section 41(d), Internal Revenue Code; and
 - 1153 (B) in the state; and
 - 1154 (ii) have an economic life of three or more years; and
 - 1155 (b) normal operating repair or replacement parts:
 - 1156 (i) for the machinery and equipment described in Subsection (74)(a); and
 - 1157 (ii) that have an economic life of three or more years;
- 1158 (75) a sale or lease of tangible personal property used in the preparation of prepared
1159 food if:
 - 1160 (a) for a sale:
 - 1161 (i) the ownership of the seller and the ownership of the purchaser are identical; and
 - 1162 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
1163 tangible personal property prior to making the sale; or
 - 1164 (b) for a lease:
 - 1165 (i) the ownership of the lessor and the ownership of the lessee are identical; and
 - 1166 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
1167 personal property prior to making the lease;
- 1168 (76) (a) purchases of machinery or equipment if:
 - 1169 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
1170 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
1171 System of the federal Executive Office of the President, Office of Management and Budget;
 - 1172 (ii) the machinery or equipment:
 - 1173 (A) has an economic life of three or more years; and
 - 1174 (B) is used by one or more persons who pay admission or user fees described in

1175 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
1176 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
1177 (A) amounts paid or charged as admission or user fees described in Subsection
1178 59-12-103(1)(f); and
1179 (B) subject to taxation under this chapter; and
1180 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1181 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
1182 previous calendar quarter is:
1183 (i) amounts paid or charged as admission or user fees described in Subsection
1184 59-12-103(1)(f); and
1185 (ii) subject to taxation under this chapter;
1186 (77) purchases of a short-term lodging consumable by a business that provides
1187 accommodations and services described in Subsection 59-12-103(1)(i);
1188 (78) amounts paid or charged to access a database:
1189 (a) if the primary purpose for accessing the database is to view or retrieve information
1190 from the database; and
1191 (b) not including amounts paid or charged for a:
1192 (i) digital audiowork;
1193 (ii) digital audio-visual work; or
1194 (iii) digital book;
1195 (79) amounts paid or charged for a purchase or lease made by an electronic financial
1196 payment service, of:
1197 (a) machinery and equipment that:
1198 (i) are used in the operation of the electronic financial payment service; and
1199 (ii) have an economic life of three or more years; and
1200 (b) normal operating repair or replacement parts that:
1201 (i) are used in the operation of the electronic financial payment service; and
1202 (ii) have an economic life of three or more years;
1203 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
1204 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
1205 product transferred electronically if the tangible personal property or product transferred

1206 electronically:

1207 (a) is stored, used, or consumed in the state; and

1208 (b) is temporarily brought into the state from another state:

1209 (i) during a disaster period as defined in Section 53-2a-1202;

1210 (ii) by an out-of-state business as defined in Section 53-2a-1202;

1211 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

1212 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

1213 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined

1214 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and

1215 Recreation Program;

1216 (83) amounts paid or charged for a purchase or lease of molten magnesium;

1217 ~~[(84)(a) except as provided in Subsection (84)(b), amounts paid or charged for a~~

1218 ~~purchase or lease made by a drilling equipment manufacturer of machinery, equipment,~~

1219 ~~materials, or normal operating repair or replacement parts:]~~

1220 ~~[(i) that are used or consumed exclusively in the drilling equipment manufacturer's~~

1221 ~~manufacturing process; and]~~

1222 ~~[(ii) except for office:]~~

1223 ~~[(A) equipment; or]~~

1224 ~~[(B) supplies; and]~~

1225 ~~[(b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an~~

1226 ~~exemption described in Subsection (84)(a) only by filing for a refund:]~~

1227 ~~[(i) of 50% of the tax paid on the amounts paid or charged; and]~~

1228 ~~[(ii) in accordance with Section 59-1-1410;]~~

1229 ~~[(85)]~~ (84) amounts paid or charged for a purchase or lease made by a qualifying

1230 enterprise data center of machinery, equipment, or normal operating repair or replacement

1231 parts, if the machinery, equipment, or normal operating repair or replacement parts:

1232 (a) are used in the operation of the establishment; and

1233 (b) have an economic life of one or more years;

1234 ~~[(86) amounts paid or charged for a purchase or lease of machinery, equipment, or~~

1235 ~~normal operating repair or replacement parts by a manufacturing facility that:]~~

1236 ~~[(a) is an establishment, as the commission defines that term in accordance with Title~~

1237 ~~63G, Chapter 3, Utah Administrative Rulemaking Act;]~~
1238 ~~[(b) is described in NAICS Code 336111, Automobile Manufacturing, of the 2002~~
1239 ~~North American Industry Classification System of the federal Executive Office of the~~
1240 ~~President, Office of Management and Budget;]~~
1241 ~~[(c) is located in the state; and]~~
1242 ~~[(d) uses the machinery, equipment, or normal operating repair or replacement parts in~~
1243 ~~the manufacturing process to manufacture an item sold as tangible personal property, as the~~
1244 ~~commission may define that phrase in accordance with Title 63G, Chapter 3, Utah~~
1245 ~~Administrative Rulemaking Act;]~~
1246 ~~[(87) amounts paid or charged for a purchase or lease of equipment or normal~~
1247 ~~operating repair or replacement parts with an economic life of less than three years by a~~
1248 ~~manufacturing facility that:]~~
1249 ~~[(a) is an establishment, as the commission defines that term in accordance with Title~~
1250 ~~63G, Chapter 3, Utah Administrative Rulemaking Act;]~~
1251 ~~[(b) is described in NAICS Code 325120, Industrial Gas Manufacturing, of the 2002~~
1252 ~~North American Industry Classification System of the federal Executive Office of the~~
1253 ~~President, Office of Management and Budget;]~~
1254 ~~[(c) is located in the state; and]~~
1255 ~~[(d) uses the equipment or normal operating repair or replacement parts to manufacture~~
1256 ~~hydrogen;]~~
1257 ~~[(88)] (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of~~
1258 ~~a vehicle that includes cleaning or washing of the interior of the vehicle;~~
1259 ~~[(89)] (86) amounts paid or charged for a purchase or lease of machinery, equipment,~~
1260 ~~normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or~~
1261 ~~supplies used or consumed:~~
1262 ~~(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined~~
1263 ~~in Section 63M-4-701 located in the state;~~
1264 ~~(b) if the machinery, equipment, normal operating repair or replacement parts,~~
1265 ~~catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:~~
1266 ~~(i) the production process to produce gasoline or diesel fuel, or at which blendstock is~~
1267 ~~added to gasoline or diesel fuel;~~

1268 (ii) research and development;

1269 (iii) transporting, storing, or managing raw materials, work in process, finished
1270 products, and waste materials produced from refining gasoline or diesel fuel, or adding
1271 blendstock to gasoline or diesel fuel;

1272 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
1273 refining; or

1274 (v) preventing, controlling, or reducing pollutants from refining; and

1275 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office
1276 of Energy Development under Subsection [63M-4-702\(2\)](#); [~~and~~]
1277 [~~(90)~~] (87) amounts paid to or charged by a proprietor for accommodations and
1278 services, as defined in Section [63H-1-205](#), if the proprietor is subject to the MIDA
1279 accommodations tax imposed under Section [63H-1-205](#)[~~-~~]; and

1280 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal
1281 operating repair or replacement parts, or materials, except for office equipment or office
1282 supplies, by an establishment, as the commission defines that term in accordance with Title
1283 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

1284 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
1285 American Industry Classification System of the federal Executive Office of the President,
1286 Office of Management and Budget;

1287 (b) is located in this state; and

1288 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
1289 materials in the operation of the establishment.

1290 Section 3. Section **59-12-104.5 (Contingently Superseded)** is amended to read:
1291 **59-12-104.5 (Contingently Superseded). Revenue and Taxation Interim**
1292 **Committee review of sales and use taxes.**

1293 [~~(+)~~] The Revenue and Taxation Interim Committee shall:

1294 [~~(a)~~] (1) review Subsection [59-12-104\(28\)](#) before October 1 of the year after the year in
1295 which Congress permits a state to participate in the special supplemental nutrition program
1296 under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on
1297 purchases of food under that program; and

1298 [~~(b)~~] (2) review Subsection [59-12-104\(21\)](#) before October 1 of the year after the year in

1299 which Congress permits a state to participate in the SNAP as defined in Section 35A-1-102,
 1300 even if state or local sales taxes are collected within the state on purchases of food under that
 1301 program[; and].

1302 [~~(c) on or before November 30;~~]

1303 [~~(i) require the Governor's Office of Economic Development to provide the report~~
 1304 ~~described in Section 63N-1-302(2);~~]

1305 [~~(ii) review for each exemption described in Subsections 59-12-104(86) and (87);~~]

1306 [~~(A) the cost of the exemption;~~]

1307 [~~(B) the purpose and effectiveness of the exemption; and~~]

1308 [~~(C) the extent to which the state benefits from the exemption; and~~]

1309 [~~(iii) make recommendations concerning whether the exemptions described in~~
 1310 ~~Subsections 59-12-104(86) and (87) should be continued, modified, or repealed.~~]

1311 [~~(2) Once the commission implements the sales and use tax exemption described in~~
 1312 ~~Subsection 59-12-104.8(1), the provisions described in Subsection (1)(c) no longer have~~
 1313 ~~effect.~~]

1314 Section 4. Section 59-12-107 (**Contingently Superseded**) is amended to read:

1315 **59-12-107 (Contingently Superseded). Definitions -- Collection, remittance, and**
 1316 **payment of tax by sellers or other persons -- Returns -- Reports -- Direct payment by**
 1317 **purchaser of vehicle -- Other liability for collection -- Rulemaking authority -- Credits --**
 1318 **Treatment of bad debt -- Penalties and interest.**

1319 (1) As used in this section:

1320 (a) "Ownership" means direct ownership or indirect ownership through a parent,
 1321 subsidiary, or affiliate.

1322 (b) "Related seller" means a seller that:

1323 (i) meets one or more of the criteria described in Subsection (2)(a)(i); and

1324 (ii) delivers tangible personal property, a service, or a product transferred electronically
 1325 that is sold:

1326 (A) by a seller that does not meet one or more of the criteria described in Subsection
 1327 (2)(a)(i); and

1328 (B) to a purchaser in the state.

1329 (c) "Substantial ownership interest" means an ownership interest in a business entity if

1330 that ownership interest is greater than the degree of ownership of equity interest specified in 15
1331 U.S.C. Sec. 78p, with respect to a person other than a director or an officer.

1332 (2) (a) Except as provided in Subsection (2)[~~(e)~~](f), Section 59-12-107.1, or Section
1333 59-12-123, and subject to Subsection (2)[~~(f)~~](g), each seller shall pay or collect and remit the
1334 sales and use taxes imposed by this chapter if within this state the seller:

1335 (i) has or utilizes:

1336 (A) an office;

1337 (B) a distribution house;

1338 (C) a sales house;

1339 (D) a warehouse;

1340 (E) a service enterprise; or

1341 (F) a place of business similar to Subsections (2)(a)(i)(A) through (E);

1342 (ii) maintains a stock of goods;

1343 (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the
1344 state, unless the seller's only activity in the state is:

1345 (A) advertising; or

1346 (B) solicitation by:

1347 (I) direct mail;

1348 (II) electronic mail;

1349 (III) the Internet;

1350 (IV) telecommunications service; or

1351 (V) a means similar to Subsection (2)(a)(iii)(A) or (B);

1352 (iv) regularly engages in the delivery of property in the state other than by:

1353 (A) common carrier; or

1354 (B) United States mail; or

1355 (v) regularly engages in an activity directly related to the leasing or servicing of
1356 property located within the state.

1357 (b) A seller is considered to be engaged in the business of selling tangible personal
1358 property, a service, or a product transferred electronically for use in the state, and shall pay or
1359 collect and remit the sales and use taxes imposed by this chapter if:

1360 (i) the seller holds a substantial ownership interest in, or is owned in whole or in

1361 substantial part by, a related seller; and

1362 (ii) (A) the seller sells the same or a substantially similar line of products as the related
1363 seller and does so under the same or a substantially similar business name; or

1364 (B) the place of business described in Subsection (2)(a)(i) of the related seller or an in
1365 state employee of the related seller is used to advertise, promote, or facilitate sales by the seller
1366 to a purchaser.

1367 (c) Each seller that does not meet one or more of the criteria provided for in Subsection
1368 (2)(a) or is not a seller required to pay or collect and remit the sales and use taxes imposed by
1369 this chapter under Subsection (2)(b) shall pay or collect and remit the sales and use tax
1370 imposed by this chapter if the seller:

1371 (i) sells tangible personal property, products transferred electronically, or services for
1372 storage, use, or consumption in the state; and

1373 (ii) in either the previous calendar year or the current calendar year:

1374 (A) receives gross revenue from the sale of tangible personal property, any product
1375 transferred electronically, or services for storage, use, or consumption in the state of more than
1376 \$100,000; or

1377 (B) sells tangible personal property, products transferred electronically, or services for
1378 storage, use, or consumption in the state in 200 or more separate transactions.

1379 ~~[(c)]~~ (d) A seller that does not meet one or more of the criteria provided for in
1380 Subsection (2)(a) or is not a seller required to pay or collect and remit sales and use taxes under
1381 Subsection (2)(b) or (2)(c) may voluntarily:

1382 ~~[(i) except as provided in Subsection (2)(c)(ii), may voluntarily:]~~

1383 ~~[(A)]~~ (i) collect a tax on a transaction described in Subsection 59-12-103(1); and

1384 ~~[(B)]~~ (ii) remit the tax to the commission as provided in this part~~[, or]~~.

1385 ~~[(ii) notwithstanding Subsection (2)(c)(i), shall collect a tax on a transaction described~~
1386 ~~in Subsection 59-12-103(1) if Section 59-12-103.1 requires the seller to collect the tax.]~~

1387 ~~[(d)]~~ (e) The collection and remittance of a tax under this chapter by a seller that is
1388 registered under the agreement may not be used as a factor in determining whether that seller is
1389 required by Subsection (2) to:

1390 (i) pay a tax, fee, or charge under:

1391 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

- 1392 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- 1393 (C) Section 19-6-714;
- 1394 (D) Section 19-6-805;
- 1395 (E) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or
- 1396 (F) this title; or
- 1397 (ii) collect and remit a tax, fee, or charge under:
- 1398 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 1399 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- 1400 (C) Section 19-6-714;
- 1401 (D) Section 19-6-805;
- 1402 (E) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or
- 1403 (F) this title.
- 1404 ~~(f)~~ (f) A person shall pay a use tax imposed by this chapter on a transaction described
- 1405 in Subsection 59-12-103(1) if:
- 1406 (i) the seller did not collect a tax imposed by this chapter on the transaction; and
- 1407 (ii) the person:
- 1408 (A) stores the tangible personal property or product transferred electronically in the
- 1409 state;
- 1410 (B) uses the tangible personal property or product transferred electronically in the state;
- 1411 or
- 1412 (C) consumes the tangible personal property or product transferred electronically in the
- 1413 state.
- 1414 ~~(f)~~ (g) The ownership of property that is located at the premises of a printer's facility
- 1415 with which the retailer has contracted for printing and that consists of the final printed product,
- 1416 property that becomes a part of the final printed product, or copy from which the printed
- 1417 product is produced, shall not result in the retailer being considered to have or maintain an
- 1418 office, distribution house, sales house, warehouse, service enterprise, or other place of
- 1419 business, or to maintain a stock of goods, within this state.
- 1420 (3) (a) Except as provided in Section 59-12-107.1, a tax under this chapter shall be
- 1421 collected from a purchaser.
- 1422 (b) A seller may not collect as tax an amount, without regard to fractional parts of one

1423 cent, in excess of the tax computed at the rates prescribed by this chapter.

1424 (c) (i) Each seller shall:

1425 (A) give the purchaser a receipt for the tax collected; or

1426 (B) bill the tax as a separate item and declare the name of this state and the seller's
1427 sales and use tax license number on the invoice for the sale.

1428 (ii) The receipt or invoice is prima facie evidence that the seller has collected the tax
1429 and relieves the purchaser of the liability for reporting the tax to the commission as a
1430 consumer.

1431 (d) A seller is not required to maintain a separate account for the tax collected, but is
1432 considered to be a person charged with receipt, safekeeping, and transfer of public money.

1433 (e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the
1434 benefit of the state and for payment to the commission in the manner and at the time provided
1435 for in this chapter.

1436 (f) If any seller, during any reporting period, collects as a tax an amount in excess of
1437 the lawful state and local percentage of total taxable sales allowed under this chapter, the seller
1438 shall remit to the commission the full amount of the tax imposed under this chapter, plus any
1439 excess.

1440 (g) If the accounting methods regularly employed by the seller in the transaction of the
1441 seller's business are such that reports of sales made during a calendar month or quarterly period
1442 will impose unnecessary hardships, the commission may accept reports at intervals that, in the
1443 commission's opinion, will~~[, in the commission's opinion,]~~ better suit the convenience of the
1444 taxpayer or seller and will not jeopardize collection of the tax.

1445 (h) (i) For a purchase paid with specie legal tender as defined in Section [59-1-1501.1](#),
1446 and until such time as the commission accepts specie legal tender for the payment of a tax
1447 under this chapter, if the commission requires a seller to remit a tax under this chapter in legal
1448 tender other than specie legal tender, the seller shall state on the seller's books and records and
1449 on an invoice, bill of sale, or similar document provided to the purchaser:

1450 (A) the purchase price in specie legal tender and in the legal tender the seller is
1451 required to remit to the commission;

1452 (B) subject to Subsection (3)(h)(ii), the amount of tax due under this chapter in specie
1453 legal tender and in the legal tender the seller is required to remit to the commission;

1454 (C) the tax rate under this chapter applicable to the purchase; and

1455 (D) the date of the purchase.

1456 (ii) (A) Subject to Subsection (3)(h)(ii)(B), for purposes of determining the amount of
1457 tax due under Subsection (3)(h)(i), a seller shall use the most recent London fixing price for the
1458 specie legal tender the purchaser paid.

1459 (B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1460 commission may make rules for determining the amount of tax due under Subsection (3)(h)(i)
1461 if the London fixing price is not available for a particular day.

1462 (4) (a) Except as provided in Subsections (5) through (7) and Section 59-12-108, the
1463 sales or use tax imposed by this chapter is due and payable to the commission quarterly on or
1464 before the last day of the month next succeeding each quarterly calendar [~~quarterly~~] period.

1465 (b) (i) Each seller shall, on or before the last day of the month next succeeding each
1466 quarterly calendar [~~quarterly~~] period, file with the commission a return for the preceding
1467 quarterly period.

1468 (ii) The seller shall remit with the return under Subsection (4)(b)(i) the amount of the
1469 tax required under this chapter to be collected or paid for the period covered by the return.

1470 (c) Except as provided in Subsection (5)(c), a return shall contain information and be in
1471 a form the commission prescribes by rule.

1472 (d) (i) Subject to Subsection (4)(d)(ii), the sales tax as computed in the return shall be
1473 based on the total nonexempt sales made during the period for which the return is filed,
1474 including both cash and charge sales.

1475 (ii) For a sale that includes the delivery or installation of tangible personal property at a
1476 location other than a seller's place of business described in Subsection (2)(a)(i), if the delivery
1477 or installation is separately stated on an invoice or receipt, a seller may compute the tax due on
1478 the sale for purposes of Subsection (4)(d)(i) based on the amount the seller receives for that
1479 sale during each period for which the seller receives payment for the sale.

1480 (e) (i) The use tax as computed in the return shall be based on the total amount of
1481 purchases for storage, use, or other consumption in this state made during the period for which
1482 the return is filed, including both cash and charge purchases.

1483 (ii) (A) As used in this Subsection (4)(e)(ii), "qualifying purchaser" means a purchaser
1484 [~~who~~] that is required to remit taxes under this chapter, but is not required to remit taxes

1485 monthly in accordance with Section 59-12-108, and ~~who~~ that converts tangible personal
1486 property into real property.

1487 (B) Subject to Subsections (4)(e)(ii)(C) and (D), a qualifying purchaser may remit the
1488 taxes due under this chapter on tangible personal property for which the qualifying purchaser
1489 claims an exemption as allowed under Subsection 59-12-104(23) or (25) based on the period in
1490 which the qualifying purchaser receives payment, in accordance with Subsection (4)(e)(ii)(C),
1491 for the conversion of the tangible personal property into real property.

1492 (C) A qualifying purchaser remitting taxes due under this chapter in accordance with
1493 Subsection (4)(e)(ii)(B) shall remit an amount equal to the total amount of tax due on the
1494 qualifying purchaser's purchase of the tangible personal property that was converted into real
1495 property multiplied by a fraction, the numerator of which is the payment received in the period
1496 for the qualifying purchaser's sale of the tangible personal property that was converted into real
1497 property and the denominator of which is the entire sales price for the qualifying purchaser's
1498 sale of the tangible personal property that was converted into real property.

1499 (D) A qualifying purchaser may remit taxes due under this chapter in accordance with
1500 this Subsection (4)(e)(ii) only if the books and records that the qualifying purchaser keeps in
1501 the qualifying purchaser's regular course of business identify by reasonable and verifiable
1502 standards that the tangible personal property was converted into real property.

1503 (f) (i) Subject to Subsection (4)(f)(ii) and in accordance with Title 63G, Chapter 3,
1504 Utah Administrative Rulemaking Act, the commission may by rule extend the time for making
1505 returns and paying the taxes.

1506 (ii) An extension under Subsection (4)(f)(i) may not be for more than 90 days.

1507 (g) The commission may require returns and payment of the tax to be made for other
1508 than quarterly periods if the commission considers it necessary in order to ensure the payment
1509 of the tax imposed by this chapter.

1510 (h) (i) The commission may require a seller that files a simplified electronic return with
1511 the commission to file an additional electronic report with the commission.

1512 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1513 commission may make rules providing:

1514 (A) the information required to be included in the additional electronic report described
1515 in Subsection (4)(h)(i); and

1516 (B) one or more due dates for filing the additional electronic report described in
1517 Subsection (4)(h)(i).

1518 (5) (a) As used in this Subsection (5) and Subsection (6)(b), "remote seller" means a
1519 seller that is:

- 1520 (i) registered under the agreement;
- 1521 (ii) described in Subsection (2)[~~(c)~~](d); and
- 1522 (iii) not a:
 - 1523 (A) model 1 seller;
 - 1524 (B) model 2 seller; or
 - 1525 (C) model 3 seller.

1526 (b) (i) Except as provided in Subsection (5)(b)(ii), a tax a remote seller collects in
1527 accordance with Subsection (2)[~~(c)~~](d) is due and payable:

- 1528 (A) to the commission;
- 1529 (B) annually; and
- 1530 (C) on or before the last day of the month immediately following the last day of each
1531 calendar year.

1532 (ii) The commission may require that a tax a remote seller collects in accordance with
1533 Subsection (2)[~~(c)~~](d) be due and payable:

- 1534 (A) to the commission; and
- 1535 (B) on the last day of the month immediately following any month in which the seller
1536 accumulates a total of at least \$1,000 in agreement sales and use tax.

1537 (c) (i) If a remote seller remits a tax to the commission in accordance with Subsection
1538 (5)(b), the remote seller shall file a return:

- 1539 (A) with the commission;
- 1540 (B) with respect to the tax;
- 1541 (C) containing information prescribed by the commission; and
- 1542 (D) on a form prescribed by the commission.

1543 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1544 commission shall make rules prescribing:

- 1545 (A) the information required to be contained in a return described in Subsection
1546 (5)(c)(i); and

- 1547 (B) the form described in Subsection (5)(c)(i)(D).
- 1548 (d) A tax a remote seller collects in accordance with this Subsection (5) shall be
1549 calculated on the basis of the total amount of taxable transactions under Subsection
1550 59-12-103(1) the remote seller completes, including:
- 1551 (i) a cash transaction; and
1552 (ii) a charge transaction.
- 1553 (6) (a) Except as provided in Subsection (6)(b), a tax a seller that files a simplified
1554 electronic return collects in accordance with this chapter is due and payable:
- 1555 (i) monthly on or before the last day of the month immediately following the month for
1556 which the seller collects a tax under this chapter; and
1557 (ii) for the month for which the seller collects a tax under this chapter.
- 1558 (b) A tax a remote seller that files a simplified electronic return collects in accordance
1559 with this chapter is due and payable as provided in Subsection (5).
- 1560 (7) (a) On each vehicle sale made by other than a regular licensed vehicle dealer, the
1561 purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to
1562 titling or registration under the laws of this state.
- 1563 (b) The commission shall collect the tax described in Subsection (7)(a) when the
1564 vehicle is titled or registered.
- 1565 (8) If any sale of tangible personal property or any other taxable transaction under
1566 Subsection 59-12-103(1), is made by a wholesaler to a retailer^[-]:
- 1567 (a) the wholesaler is not responsible for the collection or payment of the tax imposed
1568 on the sale; and
1569 (b) the retailer is responsible for the collection or payment of the tax imposed on the
1570 sale if:
- 1571 ~~(a)~~ (i) the retailer represents that the tangible personal property, product transferred
1572 electronically, or service is purchased by the retailer for resale; and
1573 ~~(b)~~ (ii) the tangible personal property, product transferred electronically, or service is
1574 not subsequently resold.
- 1575 (9) If any sale of property or service subject to the tax is made to a person prepaying
1576 sales or use tax in accordance with Title 63M, Chapter 5, Resource Development Act, or to a
1577 contractor or subcontractor of that person^[-]:

1578 (a) the person to whom such payment or consideration is payable is not responsible for
1579 the collection or payment of the sales or use tax; and

1580 (b) the person prepaying the sales or use tax is responsible for the collection or
1581 payment of the sales or use tax if the person prepaying the sales or use tax represents that the
1582 amount prepaid as sales or use tax has not been fully credited against sales or use tax due and
1583 payable under the rules promulgated by the commission.

1584 (10) (a) For purposes of this Subsection (10):

1585 (i) Except as provided in Subsection (10)(a)(ii), "bad debt" ~~[is as]~~ means the same as
1586 that term is defined in Section 166, Internal Revenue Code.

1587 (ii) ~~[Notwithstanding Subsection (10)(a)(i), "bad]~~ "Bad debt" does not include:

1588 (A) an amount included in the purchase price of tangible personal property, a product
1589 transferred electronically, or a service that is:

1590 (I) not a transaction described in Subsection 59-12-103(1); or

1591 (II) exempt under Section 59-12-104;

1592 (B) a financing charge;

1593 (C) interest;

1594 (D) a tax imposed under this chapter on the purchase price of tangible personal
1595 property, a product transferred electronically, or a service;

1596 (E) an uncollectible amount on tangible personal property or a product transferred
1597 electronically that:

1598 (I) is subject to a tax under this chapter; and

1599 (II) remains in the possession of a seller until the full purchase price is paid;

1600 (F) an expense incurred in attempting to collect any debt; or

1601 (G) an amount that a seller does not collect on repossessed property.

1602 (b) (i) To the extent an amount remitted in accordance with Subsection (4)(d) later
1603 becomes bad debt, a seller may deduct the bad debt from the total amount from which a tax
1604 under this chapter is calculated on a return.

1605 (ii) A qualifying purchaser, as defined in Subsection (4)(e)(ii)(A), may deduct from the
1606 total amount of taxes due under this chapter the amount of tax the qualifying purchaser paid on
1607 the qualifying purchaser's purchase of tangible personal property converted into real property to
1608 the extent that:

- 1609 (A) tax was remitted in accordance with Subsection (4)(e) on that tangible personal
1610 property converted into real property;
- 1611 (B) the qualifying purchaser's sale of that tangible personal property converted into real
1612 property later becomes bad debt; and
- 1613 (C) the books and records that the qualifying purchaser keeps in the qualifying
1614 purchaser's regular course of business identify by reasonable and verifiable standards that the
1615 tangible personal property was converted into real property.
- 1616 (c) A seller may file a refund claim with the commission if:
- 1617 (i) the amount of bad debt for the time period described in Subsection (10)(e) exceeds
1618 the amount of the seller's sales that are subject to a tax under this chapter for that same time
1619 period; and
- 1620 (ii) as provided in Section [59-1-1410](#).
- 1621 (d) A bad debt deduction under this section may not include interest.
- 1622 (e) A bad debt may be deducted under this Subsection (10) on a return for the time
1623 period during which the bad debt:
- 1624 (i) is written off as uncollectible in the seller's books and records; and
1625 (ii) would be eligible for a bad debt deduction:
- 1626 (A) for federal income tax purposes; and
1627 (B) if the seller were required to file a federal income tax return.
- 1628 (f) If a seller recovers any portion of bad debt for which the seller makes a deduction or
1629 claims a refund under this Subsection (10), the seller shall report and remit a tax under this
1630 chapter:
- 1631 (i) on the portion of the bad debt the seller recovers; and
1632 (ii) on a return filed for the time period for which the portion of the bad debt is
1633 recovered.
- 1634 (g) For purposes of reporting a recovery of a portion of bad debt under Subsection
1635 (10)(f), a seller shall apply amounts received on the bad debt in the following order:
- 1636 (i) in a proportional amount:
- 1637 (A) to the purchase price of the tangible personal property, product transferred
1638 electronically, or service; and
1639 (B) to the tax due under this chapter on the tangible personal property, product

1640 transferred electronically, or service; and

1641 (ii) to:

1642 (A) interest charges;

1643 (B) service charges; and

1644 (C) other charges.

1645 (h) A seller's certified service provider may make a deduction or claim a refund for bad
1646 debt on behalf of the seller:

1647 (i) in accordance with this Subsection (10); and

1648 (ii) if the certified service provider credits or refunds the entire amount of the bad debt
1649 deduction or refund to the seller.

1650 (i) A seller may allocate bad debt among the states that are members of the agreement
1651 if the seller's books and records support that allocation.

1652 (11) (a) A seller may not, with intent to evade any tax, fail to timely remit the full
1653 amount of tax required by this chapter.

1654 (b) A violation of this section is punishable as provided in Section 59-1-401.

1655 (c) Each person [~~who~~] that fails to pay any tax to the state or any amount of tax
1656 required to be paid to the state, except amounts determined to be due by the commission under
1657 Chapter 1, Part 14, Assessment, Collections, and Refunds Act, or Section 59-12-111, within
1658 the time required by this chapter, or [~~who~~] that fails to file any return as required by this
1659 chapter, shall pay, in addition to the tax, penalties and interest as provided in Sections 59-1-401
1660 and 59-1-402.

1661 (d) For purposes of prosecution under this section, each quarterly tax period in which a
1662 seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the
1663 tax required to be remitted[;] constitutes a separate offense.

1664 Section 5. Section 59-12-108 is amended to read:

1665 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**
1666 **Certain amounts allocated to local taxing jurisdictions.**

1667 (1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this
1668 chapter of \$50,000 or more for the previous calendar year shall:

1669 (i) file a return with the commission:

1670 (A) monthly on or before the last day of the month immediately following the month

1671 for which the seller collects a tax under this chapter; and
1672 (B) for the month for which the seller collects a tax under this chapter; and
1673 (ii) except as provided in Subsection (1)(b), remit with the return required by
1674 Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax,
1675 fee, or charge described in Subsection (1)(c):
1676 (A) if that seller's tax liability under this chapter for the previous calendar year is less
1677 than \$96,000, by any method permitted by the commission; or
1678 (B) if that seller's tax liability under this chapter for the previous calendar year is
1679 \$96,000 or more, by electronic funds transfer.
1680 (b) A seller shall remit electronically with the return required by Subsection (1)(a)(i)
1681 the amount the seller is required to remit to the commission for each tax, fee, or charge
1682 described in Subsection (1)(c) if that seller:
1683 (i) is required by Section 59-12-107 to file the return electronically; or
1684 (ii) (A) is required to collect and remit a tax under Section 59-12-107; and
1685 (B) files a simplified electronic return.
1686 (c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:
1687 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
1688 (ii) a fee under Section 19-6-714;
1689 (iii) a fee under Section 19-6-805;
1690 (iv) a charge under Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or
1691 (v) a tax under this chapter.
1692 (d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3,
1693 Utah Administrative Rulemaking Act, the commission shall make rules providing for a method
1694 for making same-day payments other than by electronic funds transfer if making payments by
1695 electronic funds transfer fails.
1696 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1697 commission shall establish by rule procedures and requirements for determining the amount a
1698 seller is required to remit to the commission under this Subsection (1).
1699 (2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a
1700 seller described in Subsection (4) may retain each month the amount allowed by this
1701 Subsection (2).

1702 (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
1703 each month 1.31% of any amounts the seller is required to remit to the commission:

1704 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax
1705 and a local tax imposed in accordance with the following, for the month for which the seller is
1706 filing a return in accordance with Subsection (1):

1707 (A) Subsection 59-12-103(2)(a);

1708 (B) Subsection 59-12-103(2)(b); and

1709 (C) Subsection 59-12-103(2)(d); and

1710 (ii) for an agreement sales and use tax.

1711 (c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may
1712 retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described
1713 in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in
1714 accordance with Subsection 59-12-103(2)(c).

1715 (ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount
1716 equal to the sum of:

1717 (A) 1.31% of any amounts the seller is required to remit to the commission for:

1718 (I) the state tax and the local tax imposed in accordance with Subsection
1719 59-12-103(2)(c);

1720 (II) the month for which the seller is filing a return in accordance with Subsection (1);
1721 and

1722 (III) an agreement sales and use tax; and

1723 (B) 1.31% of the difference between:

1724 (I) the amounts the seller would have been required to remit to the commission:

1725 (Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject
1726 to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(a);

1727 (Bb) for the month for which the seller is filing a return in accordance with Subsection
1728 (1); and

1729 (Cc) for an agreement sales and use tax; and

1730 (II) the amounts the seller is required to remit to the commission for:

1731 (Aa) the state tax and the local tax imposed in accordance with Subsection
1732 59-12-103(2)(c);

1733 (Bb) the month for which the seller is filing a return in accordance with Subsection (1);
1734 and

1735 (Cc) an agreement sales and use tax.

1736 (d) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
1737 each month 1% of any amounts the seller is required to remit to the commission:

1738 (i) for the month for which the seller is filing a return in accordance with Subsection
1739 (1); and

1740 (ii) under:

1741 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

1742 (B) Subsection 59-12-603(1)(a)(i)(A); or

1743 (C) Subsection 59-12-603(1)(a)(i)(B).

1744 (3) A state government entity that is required to remit taxes monthly in accordance
1745 with Subsection (1) may not retain any amount under Subsection (2).

1746 (4) A seller that has a tax liability under this chapter for the previous calendar year of
1747 less than \$50,000 may:

1748 (a) voluntarily meet the requirements of Subsection (1); and

1749 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the
1750 amounts allowed by Subsection (2).

1751 ~~[(5) (a) Subject to Subsections (5)(b) through (d), a seller that voluntarily collects and~~
1752 ~~remits a tax in accordance with Subsection 59-12-107(2)(c)(i) may retain an amount equal to~~
1753 ~~18% of any amounts the seller would otherwise remit to the commission:]~~

1754 ~~[(i) if the seller obtains a license under Section 59-12-106 for the first time on or after~~
1755 ~~January 1, 2014; and]~~

1756 ~~[(ii) for:]~~

1757 ~~[(A) an agreement sales and use tax; and]~~

1758 ~~[(B) the time period for which the seller files a return in accordance with this section.]~~

1759 ~~[(b) If a seller retains an amount under this Subsection (5), the seller may not retain any~~
1760 ~~other amount under this section.]~~

1761 ~~[(c) If a seller retains an amount under this Subsection (5), the commission may require~~
1762 ~~the seller to file a return by:]~~

1763 ~~[(i) electronic means; or]~~

1764 [~~(ii)~~] a means other than electronic means.]

1765 [~~(d)~~] A seller may not retain an amount under this Subsection (5) if the seller is required
1766 to collect or remit a tax under this section in accordance with Section ~~59-12-103.1~~.]

1767 [~~(6)~~] (5) Penalties for late payment shall be as provided in Section 59-1-401.

1768 [~~(7)~~] (6) (a) Except as provided in Subsection [~~(7)~~] (6)(c), for any amounts required to
1769 be remitted to the commission under this part, the commission shall each month calculate an
1770 amount equal to the difference between:

1771 (i) the total amount retained for that month by all sellers had the percentages listed
1772 under Subsections (2)(b) and (2)(c)(ii) been 1.5%; and

1773 (ii) the total amount retained for that month by all sellers at the percentages listed
1774 under Subsections (2)(b) and (2)(c)(ii).

1775 (b) The commission shall each month allocate the amount calculated under Subsection
1776 [~~(7)~~] (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and
1777 use tax that the commission distributes to each county, city, and town for that month compared
1778 to the total agreement sales and use tax that the commission distributes for that month to all
1779 counties, cities, and towns.

1780 (c) The amount the commission calculates under Subsection [~~(7)~~] (6)(a) may not
1781 include an amount collected from a tax that:

1782 (i) the state imposes within a county, city, or town, including the unincorporated area
1783 of a county; and

1784 (ii) is not imposed within the entire state.

1785 Section 6. Section 59-12-211 is amended to read:

1786 **59-12-211. Definitions -- Location of certain transactions -- Reports to**
1787 **commission -- Direct payment provision for a seller making certain purchases --**

1788 **Exceptions.**

1789 (1) As used in this section:

1790 (a) (i) "Receipt" and "receive" mean:

1791 (A) taking possession of tangible personal property;

1792 (B) making first use of a service; or

1793 (C) for a product transferred electronically, the earlier of:

1794 (I) taking possession of the product transferred electronically; or

- 1795 (II) making first use of the product transferred electronically.
- 1796 (ii) "Receipt" and "receive" do not include possession by a shipping company on behalf
1797 of a purchaser.
- 1798 (b) "Transportation equipment" means:
- 1799 (i) a locomotive or rail car that is used to carry a person or property in interstate
1800 commerce;
- 1801 (ii) a truck or truck-tractor:
- 1802 (A) with a gross vehicle weight rating of 10,001 pounds or more;
- 1803 (B) registered under Section 41-1a-301; and
- 1804 (C) operated under the authority of a carrier authorized and certificated:
- 1805 (I) by the United States Department of Transportation or another federal authority; and
- 1806 (II) to engage in carrying a person or property in interstate commerce;
- 1807 (iii) a trailer, semitrailer, or passenger bus that is:
- 1808 (A) registered under Section 41-1a-301; and
- 1809 (B) operated under the authority of a carrier authorized and certificated:
- 1810 (I) by the United States Department of Transportation or another federal authority; and
- 1811 (II) to engage in carrying a person or property in interstate commerce;
- 1812 (iv) an aircraft that is operated by an air carrier authorized and certificated:
- 1813 (A) by the United States Department of Transportation or another federal or foreign
1814 authority; and
- 1815 (B) to engage in carrying a person or property in interstate commerce; or
- 1816 (v) a container designed for use on, or a component part attached or secured on, an
1817 item of equipment listed in Subsections (1)(b)(i) through (iv).
- 1818 (2) Except as provided in Subsections (8) and (14), if tangible personal property, a
1819 product transferred electronically, or a service that is subject to taxation under this chapter is
1820 received by a purchaser at a business location of a seller, the location of the transaction is the
1821 business location of the seller.
- 1822 (3) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),
1823 and (14), if tangible personal property, a product transferred electronically, or a service that is
1824 subject to taxation under this chapter is not received by a purchaser at a business location of a
1825 seller, the location of the transaction is the location where the purchaser takes receipt of the

1826 tangible personal property or service.

1827 (4) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),
1828 and (14), if Subsection (2) or (3) does not apply, the location of the transaction is the location
1829 indicated by an address for or other information on the purchaser if:

1830 (a) the address or other information is available from the seller's business records; and

1831 (b) use of the address or other information from the seller's records does not constitute
1832 bad faith.

1833 (5) (a) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9),
1834 (11), and (14), if Subsection (2), (3), or (4) does not apply, the location of the transaction is the
1835 location indicated by an address for the purchaser if:

1836 (i) the address is obtained during the consummation of the transaction; and

1837 (ii) use of the address described in Subsection (5)(a)(i) does not constitute bad faith.

1838 (b) An address used under Subsection (5)(a) includes the address of a purchaser's
1839 payment instrument if no other address is available.

1840 (6) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),
1841 and (14), if Subsection (2), (3), (4), or (5) does not apply or if a seller does not have sufficient
1842 information to apply Subsection (2), (3), (4), or (5), the location of the transaction is the
1843 location:

1844 (a) indicated by the address from which:

1845 (i) except as provided in Subsection (6)(a)(ii), for tangible personal property that is
1846 subject to taxation under this chapter, the tangible personal property is shipped;

1847 (ii) for computer software delivered electronically or for a product transferred
1848 electronically that is subject to taxation under this chapter, the computer software or product
1849 transferred electronically is first available for transmission by the seller; or

1850 (iii) for a service that is subject to taxation under this chapter, the service is provided;

1851 or

1852 (b) as determined by the seller with respect to a prepaid wireless calling service:

1853 (i) provided in Subsection (6)(a)(iii); or

1854 (ii) associated with the mobile telephone number.

1855 (7) (a) For purposes of this Subsection (7), "shared ZIP Code" means a nine-digit ZIP
1856 Code that is located within two or more local taxing jurisdictions.

1857 (b) If the location of a transaction determined under Subsections (3) through (6) is in a
1858 shared ZIP Code, the location of the transaction is:

1859 (i) if there is only one local taxing jurisdiction that imposes the lowest agreement
1860 combined tax rate for the shared ZIP Code, the local taxing jurisdiction that imposes the lowest
1861 agreement combined tax rate; or

1862 (ii) if two or more local taxing jurisdictions impose the lowest agreement combined tax
1863 rate for the shared ZIP Code, the local taxing jurisdiction that:

1864 (A) imposes the lowest agreement combined tax rate for the shared ZIP Code; and

1865 (B) has located within the local taxing jurisdiction the largest number of street
1866 addresses within the shared ZIP Code.

1867 (c) Notwithstanding any provision under this chapter authorizing or requiring the
1868 imposition of a sales and use tax, for purposes of Subsection (7)(b), a seller shall collect a sales
1869 and use tax imposed under this chapter at the lowest agreement combined tax rate imposed
1870 within the local taxing jurisdiction in which the transaction is located under Subsection (7)(b).

1871 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1872 commission may make rules:

1873 (i) providing for the circumstances under which a seller has exercised due diligence in
1874 determining the nine-digit ZIP Code for an address; or

1875 (ii) notwithstanding Subsection (7)(b), for determining the local taxing jurisdiction
1876 within which a transaction is located if a seller is unable to determine the local taxing
1877 jurisdiction within which the transaction is located under Subsection (7)(b).

1878 (8) The location of a transaction made with a direct payment permit described in
1879 Section [59-12-107.1](#) is the location where receipt of the tangible personal property, product, or
1880 service by the purchaser occurs.

1881 (9) The location of a purchase of direct mail is the location determined in accordance
1882 with Section [59-12-123](#).

1883 (10) (a) Except as provided in Subsection (10)(b), the location of a transaction
1884 determined under Subsections (3) through (6), (8), or (9), is the local taxing jurisdiction within
1885 which:

1886 (i) the nine-digit ZIP Code assigned to the location determined under Subsections (3)
1887 through (6), (8), or (9) is located; or

1888 (ii) the five-digit ZIP Code assigned to the location determined under Subsections (3)
1889 through (6), (8), or (9) is located if:

1890 (A) a nine-digit ZIP Code is not available for the location determined under
1891 Subsections (3) through (6), (8), or (9); or

1892 (B) after exercising due diligence, a seller or certified service provider is unable to
1893 determine a nine-digit ZIP Code for the location determined under Subsections (3) through (6),
1894 (8), or (9).

1895 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1896 commission may make rules for determining the local taxing jurisdiction within which a
1897 transaction is located if a seller or certified service provider is unable to determine the local
1898 taxing jurisdiction within which the transaction is located under Subsection (10)(a).

1899 (11) (a) As used in this Subsection (11), "florist delivery transaction" means a
1900 transaction commenced by a florist that transmits an order:

1901 (i) by:

1902 (A) telegraph;

1903 (B) telephone; or

1904 (C) a means of communication similar to Subsection (11)(a)(i)(A) or (B); and

1905 (ii) for delivery to another place:

1906 (A) in this state; or

1907 (B) outside this state.

1908 (b) Notwithstanding Subsections (3) through (6), beginning on January 1, 2009, and
1909 ending on December 31, 2009, the location of a florist delivery transaction is the business
1910 location of the florist that commences the florist delivery transaction.

1911 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1912 commission may by rule:

1913 (i) define:

1914 (A) "business location"; and

1915 (B) "florist";

1916 (ii) define what constitutes a means of communication similar to Subsection
1917 (11)(a)(i)(A) or (B); and

1918 (iii) provide procedures for determining when a transaction is commenced.

1919 (12) (a) Notwithstanding any other provision of this section and except as provided in
1920 Subsection (12)(b), if a purchaser uses computer software and there is not a transfer of a copy
1921 of that software to the purchaser, the location of the transaction is determined in accordance
1922 with Subsections (4) and (5).

1923 (b) If a purchaser uses computer software described in Subsection (12)(a) at more than
1924 one location, the location of the transaction shall be determined in accordance with rules made
1925 by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
1926 Act.

1927 (13) (a) A tax collected under this chapter shall be reported to the commission on a
1928 form that identifies the location of each transaction that occurs during the return filing period.

1929 (b) The form described in Subsection (13)(a) shall be filed with the commission as
1930 required under this chapter.

1931 (14) This section does not apply to:

1932 (a) amounts charged by a seller for:

1933 (i) telecommunications service except for a prepaid calling service or a prepaid
1934 wireless calling service as provided in Subsection (6)(b) or Section [59-12-215](#); or

1935 (ii) the retail sale or transfer of:

1936 (A) a motor vehicle other than a motor vehicle that is transportation equipment;

1937 (B) an aircraft other than an aircraft that is transportation equipment;

1938 (C) a watercraft;

1939 (D) a modular home;

1940 (E) a manufactured home; or

1941 (F) a mobile home; or

1942 (iii) except as provided in Section [59-12-214](#), the lease or rental of tangible personal
1943 property other than tangible personal property that is transportation equipment;

1944 (b) a tax a person pays in accordance with Subsection [59-12-107\(2\)](#)~~(e)~~(f); or

1945 (c) a retail sale of tangible personal property or a product transferred electronically if:

1946 (i) the seller receives the order for the tangible personal property or product transferred
1947 electronically in this state;

1948 (ii) receipt of the tangible personal property or product transferred electronically by the
1949 purchaser or the purchaser's donee occurs in this state;

1950 (iii) the location where receipt of the tangible personal property or product transferred
 1951 electronically by the purchaser occurs is determined in accordance with Subsections (3)
 1952 through (5); and

1953 (iv) at the time the seller receives the order, the record keeping system that the seller
 1954 uses to calculate the proper amount of tax imposed under this chapter captures the location
 1955 where the order is received.

1956 Section 7. Section **59-12-211.1** is amended to read:

1957 **59-12-211.1. Location of a transaction that is subject to a use tax.**

1958 (1) Subject to Subsection (2), a person that is required by Subsection
 1959 ~~59-12-107(2)(e)~~(f) to pay a use tax on a transaction shall report the location of that
 1960 transaction at the person's location.

1961 (2) For purposes of Subsection (1), if a person has more than one location in this state,
 1962 the person shall report the location of the transaction at the location at which tangible personal
 1963 property, a product transferred electronically, or a service is received.

1964 Section 8. Section **63I-2-210** is amended to read:

1965 **63I-2-210. Repeal dates -- Title 10.**

1966 ~~[(1) If Subsection 10-1-405(1)(a)(ii)(A)(VI) is not in effect by December 31, 2028,~~
 1967 ~~Subsection 10-1-405(1)(a)(ii)(A)(VI) is repealed on December 31, 2028.]~~

1968 ~~[(2) (1) On July 1, 2018, the following are repealed:~~

1969 (a) in Subsection 10-2-403(5), the language that states "10-2a-302 or";

1970 (b) in Subsection 10-2-403(5)(b), the language that states "10-2a-302 or";

1971 (c) in Subsection 10-2a-106(2), the language that states "10-2a-302 or";

1972 (d) Section 10-2a-302;

1973 (e) Subsection 10-2a-302.5(2)(a);

1974 (f) in Subsection 10-2a-303(1), the language that states "10-2a-302 or";

1975 (g) in Subsection 10-2a-303(4), the language that states "10-2a-302(7)(b)(v) or" and
 1976 "10-2a-302(7)(b)(iv) or";

1977 (h) in Subsection 10-2a-304(1)(a), the language that states "10-2a-302 or"; and

1978 (i) in Subsection 10-2a-304(1)(a)(ii), the language that states "Subsection 10-2a-302(5)
 1979 or".

1980 ~~[(3) (2) Subsection 10-9a-304(2) is repealed June 1, 2020.~~

1981 [(4)] (3) When repealing Subsection 10-9a-304(2), the Office of Legislative Research
1982 and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3),
1983 make necessary changes to subsection numbering and cross references.

1984 Section 9. Section 63I-2-259 is amended to read:

1985 **63I-2-259. Repeal dates -- Title 59.**

1986 (1) Section 59-1-102 is repealed on May 14, 2019.

1987 (2) In Section 59-2-926, the language that states "applicable" and "or 53F-2-301.5" is
1988 repealed July 1, 2023.

1989 (3) Subsection 59-2-1007(15) is repealed on December 31, 2018.

1990 [~~(4) If Section 59-12-104.8 is not in effect by December 31, 2028, Subsection~~
1991 ~~59-12-103.1(5) is repealed on December 31, 2028.~~]

1992 [~~(5) If Subsection 59-12-104.5(2) is not in effect by December 31, 2028, Subsection~~
1993 ~~59-12-104.5(2) is repealed on December 31, 2028.~~]

1994 [~~(6) If Section 59-12-104.8 is not in effect by December 31, 2028, Section 59-12-104.8~~
1995 ~~is repealed on December 31, 2028.~~]

1996 [~~(7) If Subsection 59-12-106(3)(a)(ii)(B) is not in effect by December 31, 2028,~~
1997 ~~Subsection 59-12-106(3)(a)(ii)(B) is repealed on December 31, 2028.~~]

1998 [~~(8) If Subsection 59-12-107(10)(a)(ii)(A)(III) is not in effect by December 31, 2028,~~
1999 ~~Subsection 59-12-107(10)(a)(ii)(A)(III) is repealed on December 31, 2028.~~]

2000 [~~(9) If Subsection 59-12-204(2)(b)(ii) is not in effect by December 31, 2028,~~
2001 ~~Subsection 59-12-204(2)(b)(ii) is repealed on December 31, 2028.~~]

2002 [~~(10) If Subsection 59-12-204(6)(b)(ii) is not in effect by December 31, 2028,~~
2003 ~~Subsection 59-12-204(6)(b)(ii) is repealed on December 31, 2028.~~]

2004 [~~(11) If Subsection 59-12-401(1)(b)(ii)(B) is not in effect by December 31, 2028,~~
2005 ~~Subsection 59-12-401(1)(b)(ii)(B) is repealed on December 31, 2028.~~]

2006 [~~(12) If Subsection 59-12-402(1)(b)(ii)(B) is not in effect by December 31, 2028,~~
2007 ~~Subsection 59-12-402(1)(b)(ii)(B) is repealed on December 31, 2028.~~]

2008 [~~(13) If Subsection 59-12-402.1(5)(b)(ii) is not in effect by December 31, 2028,~~
2009 ~~Subsection 59-12-402.1(5)(b)(ii) is repealed on December 31, 2028.~~]

2010 [~~(14) If Subsection 59-12-703(1)(c)(i)(B) is not in effect by December 31, 2028,~~
2011 ~~Subsection 59-12-703(1)(c)(i)(B) is repealed on December 31, 2028.~~]

2012 [(15) If Subsection ~~59-12-802(1)(c)(i)(B)~~ is not in effect by December 31, 2028,
2013 Subsection ~~59-12-802(1)(c)(i)(B)~~ is repealed on December 31, 2028.]

2014 [(16) If Subsection ~~59-12-804(1)(b)(i)(B)~~ is not in effect by December 31, 2028,
2015 Subsection ~~59-12-804(1)(b)(i)(B)~~ is repealed on December 31, 2028.]

2016 [(17) If Subsection ~~59-12-1102(1)(a)(ii)(B)~~ is not in effect by December 31, 2028,
2017 Subsection ~~59-12-1102(1)(a)(ii)(B)~~ is repealed on December 31, 2028.]

2018 [(18) If Subsection ~~59-12-1302(4)(a)(i)(B)~~ is not in effect by December 31, 2028,
2019 Subsection ~~59-12-1302(4)(a)(i)(B)~~ is repealed on December 31, 2028.]

2020 [(19) If Subsection ~~59-12-1402(1)(c)(ii)(B)~~ is not in effect by December 31, 2028,
2021 Subsection ~~59-12-1402(1)(c)(ii)(B)~~ is repealed on December 31, 2028.]

2022 [(20) If Subsection ~~59-12-1802(2)(b)~~ is not in effect by December 31, 2028, Subsection
2023 ~~59-12-1802(2)(b)~~ is repealed on December 31, 2028.]

2024 [(21) If Subsection ~~59-12-2003(4)(a)(i)(B)~~ is not in effect by December 31, 2028,
2025 Subsection ~~59-12-2003(4)(a)(i)(B)~~ is repealed on December 31, 2028.]

2026 [(22) If Subsection ~~59-12-2103(2)(a)(i)(B)~~ is not in effect by December 31, 2028,
2027 Subsection ~~59-12-2103(2)(a)(i)(B)~~ is repealed on December 31, 2028.]

2028 [(23) If Subsection ~~59-12-2204(1)(a)(ii)~~ is not in effect by December 31, 2028,
2029 Subsection ~~59-12-2204(1)(a)(ii)~~ is repealed on December 31, 2028.]

2030 Section 10. Section **63M-4-702** is amended to read:

2031 **63M-4-702. Refiner gasoline standard reporting -- Office of Energy Development**
2032 **certification of sales and use tax exemption eligibility.**

2033 (1) (a) Beginning on July 1, 2021, a refiner that seeks to be eligible for a sales and use
2034 tax exemption under Subsection ~~59-12-104~~~~[(89)]~~(86) shall annually report to the office
2035 whether the refiner's facility that is located within the state will have an average gasoline sulfur
2036 level of 10 parts per million (ppm) or less using the formulas prescribed in 40 C.F.R. Sec.
2037 80.1603, excluding the offset for credit use and transfer as prescribed in 40 C.F.R. Sec.
2038 80.1616.

2039 (b) Fuels for which a final destination outside Utah can be demonstrated or that are not
2040 subject to the standards and requirements of 40 C.F.R. Sec. 80.1603 as specified in 40 C.F.R.
2041 Sec. 80.1601 are not subject to the reporting provisions under Subsection (1)(a).

2042 (2) (a) Beginning on July 1, 2021, the office shall annually certify that the refiner is

2043 eligible for the sales and use tax exemption under Subsection [59-12-104\[\(89\)\]\(86\)](#):

2044 (i) on a form provided by the State Tax Commission that shall be retained by the
2045 refiner claiming the sales and use tax exemption under Subsection [59-12-104\[\(89\)\]\(86\)](#);

2046 (ii) if the refiner's refinery that is located within the state had an average sulfur level of
2047 10 parts per million (ppm) or less as reported under Subsection (1) in the previous calendar
2048 year; and

2049 (iii) before a taxpayer is allowed the sales and use tax exemption under Subsection
2050 [59-12-104\[\(89\)\]\(86\)](#).

2051 (b) The certification provided by the office under Subsection (2)(a) shall be renewed
2052 annually.

2053 (c) The office:

2054 (i) shall accept a copy of a report submitted by a refiner to the Environmental
2055 Protection Agency under 40 C.F.R. Sec. 80.1652 as sufficient evidence of the refiner's average
2056 gasoline sulfur level; or

2057 (ii) may establish another reporting mechanism through rules made under Subsection
2058 (3).

2059 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2060 office may make rules to implement this section.

2061 **Section 11. Repealer.**

2062 This bill repeals:

2063 Section [59-12-103.1](#), **Action by Supreme Court of the United States authorizing or**
2064 **action by Congress permitting a state to require certain sellers to collect a sales or use tax**
2065 **-- Collection of tax by commission -- Commission report to Revenue and Taxation**
2066 **Interim Committee -- Revenue and Taxation Interim Committee study -- Division of**
2067 **Finance requirements to make certain deposits and to provide notice.**

2068 Section [59-12-103.2](#) **(Contingently Superseded), Definitions -- Remote Sales**
2069 **Restricted Account -- Creation -- Funding for account -- Interest -- Division of Finance**
2070 **accounting.**

2071 Section [59-12-104.7](#) **(Contingently Repealed), Reporting by purchaser of certain**
2072 **sales and use tax exempt purchases.**

2073 Section [63N-1-302](#) **(Contingently Repealed), Reporting of certain sales and use tax**

2074 **exempt purchases.**

2075 Section 12. **Repeal of amendments in S.B. 233, 2018 General Session.**

2076 (1) Except as provided in Subsection (2), this bill repeals the changes to the following
2077 sections made in S.B. 233, Sales and Use Tax Amendments, Laws of Utah 2018, Chapter 472:

2078 (a) Section [10-1-405](#) (Contingently Effective);

2079 (b) Section [19-6-714](#) (Contingently Effective);

2080 (c) Section [19-6-808](#) (Contingently Effective);

2081 (d) Section [59-12-103.2](#) (Contingently Effective);

2082 (e) Section [59-12-104.5](#) (Contingently Effective);

2083 (f) Section [59-12-104.7](#) (Contingently Repealed);

2084 (g) Section [59-12-104.8](#) (Contingently Effective);

2085 (h) Section [59-12-106](#) (Contingently Effective);

2086 (i) Section [59-12-107](#) (Contingently Effective);

2087 (j) Section [59-12-204](#) (Contingently Effective);

2088 (k) Section [59-12-401](#) (Contingently Effective);

2089 (l) Section [59-12-402](#) (Contingently Effective);

2090 (m) Section [59-12-402.1](#) (Contingently Effective);

2091 (n) Section [59-12-703](#) (Contingently Effective);

2092 (o) Section [59-12-802](#) (Contingently Effective);

2093 (p) Section [59-12-804](#) (Contingently Effective);

2094 (q) Section [59-12-1102](#) (Contingently Effective);

2095 (r) Section [59-12-1302](#) (Contingently Effective);

2096 (s) Section [59-12-1402](#) (Contingently Effective);

2097 (t) Section [59-12-1802](#) (Contingently Effective);

2098 (u) Section [59-12-2003](#) (Contingently Effective);

2099 (v) Section [59-12-2103](#) (Contingently Effective);

2100 (w) Section [59-12-2204](#) (Contingently Effective); and

2101 (x) Section [63N-1-302](#) (Contingently Repealed).

2102 (2) The changes made to the following sections, which took effect July 1, 2018, remain
2103 in effect and are not repealed or modified by this section:

2104 (a) Section [59-12-102](#);

2105 (b) Section 59-12-103.1;

2106 (c) Section 63I-2-210; and

2107 (d) Section 63I-2-259.

2108 Section 13. **Effective date.**

2109 (1) Except as provided in Subsection (2), if approved by two-thirds of all the members
2110 elected to each house, this bill takes effect upon approval by the governor, or the day following
2111 the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's
2112 signature, or in the case of a veto, the date of veto override.

2113 (2) The amendments in this bill to the following sections take effect on January 1,
2114 2019:

2115 (a) Section 59-1-401;

2116 (b) Section 59-12-103.1;

2117 (c) Section 59-12-103.2 (Contingently Superseded);

2118 (d) Section 59-12-104;

2119 (e) Section 59-12-104.5 (Contingently Superseded);

2120 (f) Section 59-12-104.7 (Contingently Repealed);

2121 (g) Section 59-12-107 (Contingently Superseded);

2122 (h) Section 59-12-108;

2123 (i) Section 59-12-211;

2124 (j) Section 59-12-211.1;

2125 (k) Section 63M-4-702; and

2126 (l) Section 63N-1-302 (Contingently Repealed).