

Representative Tim Quinn proposes the following substitute bill:

TAX EQUALIZATION AND REDUCTION ACT

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Tim Quinn

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to tax.

Highlighted Provisions:

This bill:

- ▶ amends the corporate franchise and income tax rate and the individual income tax rate;
- ▶ amends the calculation of certain tax credits to match the applicable income tax rate;
- ▶ modifies the calculation of the Utah personal exemption for purposes of the taxpayer tax credit;
- ▶ enacts a tax credit for social security benefits that are included in the claimant's federal adjusted gross income;
- ▶ provides that a claimant may claim either the retirement tax credit or the nonrefundable tax credit for social security benefits;
- ▶ enacts a refundable state earned income tax credit for certain individuals who are experiencing intergenerational poverty;
- ▶ requires the Department of Workforce Services to notify individuals who are experiencing intergenerational poverty of the state earned income tax credit and to



- 26 provide certain information about those individuals to the State Tax Commission;
- 27 ▶ specifies procedures for the administration of the earned income tax credit for
- 28 certain individuals who are experiencing intergenerational poverty;
- 29 ▶ provides, amends, and repeals sales and use tax definitions;
- 30 ▶ imposes a tax on the total premiums received by admitted insurers writing health
- 31 insurance in this state;
- 32 ▶ decreases the general state sales and use tax rate;
- 33 ▶ imposes a state sales and use tax on amounts paid or charged for services;
- 34 ▶ repeals certain sales and use tax exemptions;
- 35 ▶ provides that certain services are exempt from the sales and use tax;
- 36 ▶ creates the Sales and Use Tax Base Expansion Restricted Account;
- 37 ▶ requires certain state sales and use tax revenue be deposited into the Sales and Use
- 38 Tax Base Expansion Restricted Account;
- 39 ▶ requires the State Tax Commission to make certain reports to the Revenue and
- 40 Taxation Interim Committee;
- 41 ▶ enacts a real estate transfer tax;
- 42 ▶ specifies that the following written instruments are subject to the real estate transfer
- 43 tax:
- 44 • written instruments for the sale or exchange of property or any interest in the
- 45 property or any combination of sales or exchanges or any assignment or transfer
- 46 of property or any interest in the property for consideration; and
- 47 • deeds or instruments of conveyance of property or any interest in property, for
- 48 consideration;
- 49 ▶ specifies written instruments that are exempt from the real estate transfer tax;
- 50 ▶ specifies procedures for the collection and enforcement of the real estate transfer
- 51 tax; and
- 52 ▶ makes technical and conforming changes.

53 **Money Appropriated in this Bill:**

- 54 This bill appropriates in fiscal year 2020:
- 55 ▶ to the University of Utah -- Education and General:
- 56 • From General Fund, \$248,000,000;

- 57 • From General Fund, One-time, (\$172,000,000);
- 58 • From Education Fund, (\$248,000,000);
- 59 • From Education Fund, One-time \$172,000,000;
- 60 ▶ to the State Tax Commission -- Tax Administration, as a one-time appropriation:
- 61 • From General Fund, One-time, \$690,400; and
- 62 ▶ to the State Tax Commission -- Tax Administration, as an ongoing appropriation:
- 63 • From General Fund, \$2,352,400.

64 **Other Special Clauses:**

65 This bill provides a special effective date.

66 **Utah Code Sections Affected:**

67 AMENDS:

- 68 **11-41-102**, as last amended by Laws of Utah 2016, Chapter 176
- 69 **15A-1-204**, as last amended by Laws of Utah 2017, Chapter 18
- 70 **31A-8-103**, as last amended by Laws of Utah 2018, Chapter 391
- 71 **35A-8-308**, as last amended by Laws of Utah 2017, Chapters 181 and 421
- 72 **35A-8-309**, as last amended by Laws of Utah 2017, Chapters 181 and 421
- 73 **59-1-401**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 74 **59-1-1503**, as last amended by Laws of Utah 2012, Chapter 399
- 75 **59-7-104**, as last amended by Laws of Utah 2018, Chapter 456
- 76 **59-7-201**, as last amended by Laws of Utah 2018, Chapter 456
- 77 **59-7-610**, as last amended by Laws of Utah 2015, Chapter 283
- 78 **59-7-620**, as last amended by Laws of Utah 2017, Chapter 222
- 79 **59-9-101**, as last amended by Laws of Utah 2017, Chapters 28, 168, and 363
- 80 **59-10-104**, as last amended by Laws of Utah 2018, Chapter 456
- 81 **59-10-529.1**, as enacted by Laws of Utah 2015, Chapter 369
- 82 **59-10-1002.2**, as last amended by Laws of Utah 2016, Chapter 263
- 83 **59-10-1007**, as last amended by Laws of Utah 2015, Chapter 283
- 84 **59-10-1017**, as last amended by Laws of Utah 2017, Chapter 389
- 85 **59-10-1017.1**, as enacted by Laws of Utah 2017, Chapter 389
- 86 **59-10-1018**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 3
- 87 **59-10-1019**, as renumbered and amended by Laws of Utah 2008, Chapter 389

- 88 [59-10-1022](#), as enacted by Laws of Utah 2008, Chapter 389
- 89 [59-10-1023](#), as enacted by Laws of Utah 2008, Chapter 389
- 90 [59-10-1028](#), as last amended by Laws of Utah 2012, Chapter 399
- 91 [59-10-1035](#), as last amended by Laws of Utah 2017, Chapter 222
- 92 [59-10-1036](#), as enacted by Laws of Utah 2016, Chapter 55
- 93 [59-12-102](#), as last amended by Laws of Utah 2018, Chapters 25, 281, 415, 424, and 472
- 94 [59-12-103](#), as amended by Statewide Initiative -- Proposition 3, Nov. 6, 2018
- 95 [59-12-104](#), as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 96 [59-12-104.1](#), as last amended by Laws of Utah 2008, Chapter 382
- 97 [59-12-104.4](#), as enacted by Laws of Utah 2011, Chapter 314
- 98 [59-12-104.5](#), as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 99 [59-12-104.10](#), as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
- 100 [59-12-106](#), as last amended by Laws of Utah 2011, Chapter 285
- 101 [59-12-107](#), as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 102 [59-12-108](#), as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 103 [59-12-111](#), as last amended by Laws of Utah 2009, Chapter 212
- 104 [59-12-211](#), as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 105 [63J-1-312](#), as last amended by Laws of Utah 2017, Chapter 474
- 106 [63M-4-702](#), as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 107 [63N-2-502](#), as last amended by Laws of Utah 2016, Chapter 350
- 108 [69-2-401](#), as enacted by Laws of Utah 2017, Chapter 430

109 ENACTS:

- 110 [35A-9-214](#), Utah Code Annotated 1953
- 111 [59-10-1041](#), Utah Code Annotated 1953
- 112 [59-10-1102.1](#), Utah Code Annotated 1953
- 113 [59-10-1112](#), Utah Code Annotated 1953
- 114 [59-12-103.3](#), Utah Code Annotated 1953
- 115 [59-12-103.4](#), Utah Code Annotated 1953
- 116 [59-12-103.5](#), Utah Code Annotated 1953
- 117 [59-12-104.11](#), Utah Code Annotated 1953
- 118 [59-30-101](#), Utah Code Annotated 1953

- 119 [59-30-102](#), Utah Code Annotated 1953
 - 120 [59-30-103](#), Utah Code Annotated 1953
 - 121 [59-30-104](#), Utah Code Annotated 1953
 - 122 [59-30-105](#), Utah Code Annotated 1953
 - 123 [59-30-106](#), Utah Code Annotated 1953
 - 124 [59-30-107](#), Utah Code Annotated 1953
 - 125 [59-30-108](#), Utah Code Annotated 1953
 - 126 [59-30-109](#), Utah Code Annotated 1953
 - 127 [59-30-110](#), Utah Code Annotated 1953
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129 *Be it enacted by the Legislature of the state of Utah:*

130 Section 1. Section [11-41-102](#) is amended to read:

131 **11-41-102. Definitions.**

132 As used in this chapter:

133 (1) "Agreement" means an oral or written agreement between a:

134 (a) (i) county; or

135 (ii) municipality; and

136 (b) person.

137 (2) "Municipality" means a:

138 (a) city;

139 (b) town; or

140 (c) metro township.

141 (3) "Payment" includes:

142 (a) a payment;

143 (b) a rebate;

144 (c) a refund; or

145 (d) an amount similar to Subsections (3)(a) through (c).

146 (4) "Regional retail business" means a:

147 (a) retail business that occupies a floor area of more than 80,000 square feet;

148 (b) dealer as defined in Section [41-1a-102](#);

149 (c) retail shopping facility that has at least two anchor tenants if the total number of

150 anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square
151 feet; or

152 (d) grocery store that occupies a floor area of more than 30,000 square feet.

153 (5) (a) "Sales and use tax" means a tax:

154 (i) imposed on transactions within a:

155 (A) county; or

156 (B) municipality; and

157 (ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12,
158 Sales and Use Tax Act.

159 (b) Notwithstanding Subsection (5)(a)(ii), "sales and use tax" does not include a tax
160 authorized under:

161 (i) Subsection [59-12-103\(2\)\(a\)\(i\)](#);

162 (ii) Subsection [59-12-103\(2\)\(b\)\(i\)](#);

163 (iii) Subsection [59-12-103\(2\)\(c\)\(i\)](#);

164 (iv) Subsection [59-12-103\(2\)\(d\)\(i\)\(A\)](#);

165 (v) Subsection [59-12-103\(2\)\(e\)\(i\)](#);

166 (vi) Subsection [59-12-103.3\(2\)\(a\)](#);

167 [~~(vii)~~] (vii) Section [59-12-301](#);

168 [~~(viii)~~] (viii) Section [59-12-352](#);

169 [~~(ix)~~] (ix) Section [59-12-353](#);

170 [~~(x)~~] (x) Section [59-12-603](#); or

171 [~~(xi)~~] (xi) Section [59-12-1201](#).

172 (6) (a) "Sales and use tax incentive payment" means a payment of revenues:

173 (i) to a person;

174 (ii) by a:

175 (A) county; or

176 (B) municipality;

177 (iii) to induce the person to locate or relocate a regional retail business within the:

178 (A) county; or

179 (B) municipality; and

180 (iv) that are derived from a sales and use tax.

181 (b) "Sales and use tax incentive payment" does not include funding for public
182 infrastructure.

183 Section 2. Section **15A-1-204** is amended to read:

184 **15A-1-204. Adoption of State Construction Code -- Amendments by commission**
185 **-- Approved codes -- Exemptions.**

186 (1) (a) The State Construction Code is the construction codes adopted with any
187 modifications in accordance with this section that the state and each political subdivision of the
188 state shall follow.

189 (b) A person shall comply with the applicable provisions of the State Construction
190 Code when:

191 (i) new construction is involved; and

192 (ii) the owner of an existing building, or the owner's agent, is voluntarily engaged in:

193 (A) the repair, renovation, remodeling, alteration, enlargement, rehabilitation,
194 conservation, or reconstruction of the building; or

195 (B) changing the character or use of the building in a manner that increases the
196 occupancy loads, other demands, or safety risks of the building.

197 (c) On and after July 1, 2010, the State Construction Code is the State Construction
198 Code in effect on July 1, 2010, until in accordance with this section:

199 (i) a new State Construction Code is adopted; or

200 (ii) one or more provisions of the State Construction Code are amended or repealed in
201 accordance with this section.

202 (d) A provision of the State Construction Code may be applicable:

203 (i) to the entire state; or

204 (ii) within a county, city, or town.

205 (2) (a) The Legislature shall adopt a State Construction Code by enacting legislation
206 that adopts a nationally recognized construction code with any modifications.

207 (b) Legislation described in Subsection (2)(a) shall state that the legislation takes effect
208 on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the
209 legislation.

210 (c) Subject to Subsection (6), a State Construction Code adopted by the Legislature is
211 the State Construction Code until, in accordance with this section, the Legislature adopts a new

212 State Construction Code by:

213 (i) adopting a new State Construction Code in its entirety; or

214 (ii) amending or repealing one or more provisions of the State Construction Code.

215 (3) (a) Except as provided in Subsection (3)(b), for each update of a nationally
216 recognized construction code, the commission shall prepare a report described in Subsection
217 (4).

218 (b) For the provisions of a nationally recognized construction code that apply only to
219 detached one- and two-family dwellings and townhouses not more than three stories above
220 grade plane in height with separate means of egress and their accessory structures, the
221 commission shall:

222 (i) prepare a report described in Subsection (4) in 2021 and, thereafter, for every
223 second update of the nationally recognized construction code; and

224 (ii) not prepare a report described in Subsection (4) in 2018.

225 (4) (a) In accordance with Subsection (3), on or before September 1 of the same year as
226 the year designated in the title of a nationally recognized construction code, the commission
227 shall prepare and submit, in accordance with Section 68-3-14, a written report to the Business
228 and Labor Interim Committee that:

229 (i) states whether the commission recommends the Legislature adopt the update with
230 any modifications; and

231 (ii) describes the costs and benefits of each recommended change in the update or in
232 any modification.

233 (b) After the Business and Labor Interim Committee receives the report described in
234 Subsection (4)(a), the Business and Labor Interim Committee shall:

235 (i) study the recommendations; and

236 (ii) if the Business and Labor Interim Committee decides to recommend legislative
237 action to the Legislature, prepare legislation for consideration by the Legislature in the next
238 general session.

239 (5) (a) (i) The commission shall, by no later than September 1 of each year in which
240 the commission is not required to submit a report described in Subsection (4), submit, in
241 accordance with Section 68-3-14, a written report to the Business and Labor Interim
242 Committee recommending whether the Legislature should amend or repeal one or more

243 provisions of the State Construction Code.

244 (ii) As part of a recommendation described in Subsection (5)(a)(i), the commission
245 shall describe the costs and benefits of each proposed amendment or repeal.

246 (b) The commission may recommend legislative action related to the State
247 Construction Code:

248 (i) on its own initiative;

249 (ii) upon the recommendation of the division; or

250 (iii) upon the receipt of a request by one of the following that the commission

251 recommend legislative action related to the State Construction Code:

252 (A) a local regulator;

253 (B) a state regulator;

254 (C) a state agency involved with the construction and design of a building;

255 (D) the Construction Services Commission;

256 (E) the Electrician Licensing Board;

257 (F) the Plumbers Licensing Board; or

258 (G) a recognized construction-related association.

259 (c) If the Business and Labor Interim Committee decides to recommend legislative
260 action to the Legislature, the Business and Labor Interim Committee shall prepare legislation
261 for consideration by the Legislature in the next general session.

262 (6) (a) Notwithstanding the provisions of this section, the commission may, in
263 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend the State
264 Construction Code if the commission determines that waiting for legislative action in the next
265 general legislative session would:

266 (i) cause an imminent peril to the public health, safety, or welfare; or

267 (ii) place a person in violation of federal or other state law.

268 (b) If the commission amends the State Construction Code in accordance with this
269 Subsection (6), the commission shall file with the division:

270 (i) the text of the amendment to the State Construction Code; and

271 (ii) an analysis that includes the specific reasons and justifications for the commission's
272 findings.

273 (c) If the State Construction Code is amended under this Subsection (6), the division

274 shall:

275 (i) publish the amendment to the State Construction Code in accordance with Section
276 15A-1-205; and

277 (ii) prepare and submit, in accordance with Section 68-3-14, a written notice to the
278 Business and Labor Interim Committee containing the amendment to the State Construction
279 Code, including a copy of the commission's analysis described in Subsection (6)(b)(ii).

280 (d) If not formally adopted by the Legislature at the next annual general session, an
281 amendment to the State Construction Code under this Subsection (6) is repealed on the July 1
282 immediately following the next annual general session that follows the adoption of the
283 amendment.

284 (7) (a) The division, in consultation with the commission, may approve, without
285 adopting, one or more approved codes, including a specific edition of a construction code, for
286 use by a compliance agency.

287 (b) If the code adopted by a compliance agency is an approved code described in
288 Subsection (7)(a), the compliance agency may:

289 (i) adopt an ordinance requiring removal, demolition, or repair of a building;

290 (ii) adopt, by ordinance or rule, a dangerous building code; or

291 (iii) adopt, by ordinance or rule, a building rehabilitation code.

292 (8) Except as provided in Subsections (6), (7), (9), and (10), or as expressly provided in
293 state law, a state executive branch entity or political subdivision of the state may not, after
294 December 1, 2016, adopt or enforce a rule, ordinance, or requirement that applies to a subject
295 specifically addressed by, and that is more restrictive than, the State Construction Code.

296 (9) A state executive branch entity or political subdivision of the state may:

297 (a) enforce a federal law or regulation;

298 (b) adopt or enforce a rule, ordinance, or requirement if the rule, ordinance, or
299 requirement applies only to a facility or construction owned or used by a state entity or a
300 political subdivision of the state; or

301 (c) enforce a rule, ordinance, or requirement:

302 (i) that the state executive branch entity or political subdivision adopted or made
303 effective before July 1, 2015; and

304 (ii) for which the state executive branch entity or political subdivision can demonstrate,

305 with substantial evidence, that the rule, ordinance, or requirement is necessary to protect an
306 individual from a condition likely to cause imminent injury or death.

307 (10) The Department of Health or the Department of Environmental Quality may
308 enforce a rule or requirement adopted before January 1, 2015.

309 (11) (a) Except as provided in Subsection (11)(b), a structure used solely in
310 conjunction with agriculture use, and not for human occupancy, or a structure that is no more
311 than 1,500 square feet and used solely for the type of sales described in Subsection
312 ~~59-12-104(20)~~(17), is exempt from the permit requirements of the State Construction Code.

313 (b) (i) Unless exempted by a provision other than Subsection (11)(a), a plumbing,
314 electrical, and mechanical permit may be required when that work is included in a structure
315 described in Subsection (11)(a).

316 (ii) Unless located in whole or in part in an agricultural protection area created under
317 Title 17, Chapter 41, Agriculture and Industrial Protection Areas, a structure described in
318 Subsection (11)(a) is not exempt from a permit requirement if the structure is located on land
319 that is:

- 320 (A) within the boundaries of a city or town, and less than five contiguous acres; or
- 321 (B) within a subdivision for which the county has approved a subdivision plat under
322 Title 17, Chapter 27a, Part 6, Subdivisions, and less than two contiguous acres.

323 Section 3. Section **31A-8-103** is amended to read:

324 **31A-8-103. Applicability to other provisions of law.**

325 (1) (a) Except for exemptions specifically granted under this title, an organization is
326 subject to regulation under all of the provisions of this title.

327 (b) Notwithstanding any provision of this title, an organization licensed under this
328 chapter:

329 (i) is wholly exempt from:

- 330 (A) Chapter 7, Nonprofit Health Service Insurance Corporations;
- 331 (B) Chapter 9, Insurance Fraternal;
- 332 (C) Chapter 10, Annuities;
- 333 (D) Chapter 11, Motor Clubs;
- 334 (E) Chapter 12, State Risk Management Fund; and
- 335 (F) Chapter 19a, Utah Rate Regulation Act; and

- 336 (ii) is not subject to:
- 337 (A) Chapter 3, Department Funding, Fees, and Taxes, except for Part 1, Funding the
338 Insurance Department;
- 339 (B) Section 31A-4-107;
- 340 (C) Chapter 5, Domestic Stock and Mutual Insurance Corporations, except for
341 provisions specifically made applicable by this chapter;
- 342 (D) Chapter 14, Foreign Insurers, except for provisions specifically made applicable by
343 this chapter;
- 344 (E) Chapter 17, Determination of Financial Condition, except:
- 345 (I) Part 2, Qualified Assets, and Part 6, Risk-Based Capital; or
346 (II) as made applicable by the commissioner by rule consistent with this chapter;
- 347 (F) Chapter 18, Investments, except as made applicable by the commissioner by rule
348 consistent with this chapter; and
- 349 (G) Chapter 22, Contracts in Specific Lines, except for Part 6, Accident and Health
350 Insurance, Part 7, Group Accident and Health Insurance, and Part 12, Reinsurance.
- 351 (2) The commissioner may by rule waive other specific provisions of this title that the
352 commissioner considers inapplicable to limited health plans, upon a finding that the waiver
353 will not endanger the interests of:
- 354 (a) enrollees;
- 355 (b) investors; or
356 (c) the public.
- 357 (3) Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, and Title 16,
358 Chapter 10a, Utah Revised Business Corporation Act, do not apply to an organization except as
359 specifically made applicable by:
- 360 (a) this chapter;
- 361 (b) a provision referenced under this chapter; or
362 (c) a rule adopted by the commissioner to deal with corporate law issues of health
363 maintenance organizations that are not settled under this chapter.
- 364 (4) (a) Whenever in this chapter, Chapter 5, Domestic Stock and Mutual Insurance
365 Corporations, or Chapter 14, Foreign Insurers, is made applicable to an organization, the
366 application is:

367 (i) of those provisions that apply to a mutual corporation if the organization is
368 nonprofit; and

369 (ii) of those that apply to a stock corporation if the organization is for profit.

370 (b) When Chapter 5, Domestic Stock and Mutual Insurance Corporations, or Chapter
371 14, Foreign Insurers, is made applicable to an organization under this chapter, "mutual" means
372 nonprofit organization.

373 (5) Solicitation of enrollees by an organization is not a violation of any provision of
374 law relating to solicitation or advertising by health professionals if that solicitation is made in
375 accordance with:

376 (a) this chapter; and

377 (b) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and
378 Reinsurance Intermediaries.

379 (6) This title does not prohibit any health maintenance organization from meeting the
380 requirements of any federal law that enables the health maintenance organization to:

381 (a) receive federal funds; or

382 (b) obtain or maintain federal qualification status.

383 (7) Except as provided in Chapter 45, Managed Care Organizations, an organization is
384 exempt from statutes in this title or department rules that restrict or limit the organization's
385 freedom of choice in contracting with or selecting health care providers, including Section
386 [31A-22-618](#).

387 [~~(8) An organization is exempt from the assessment or payment of premium taxes
388 imposed by Sections [59-9-101](#) through [59-9-104](#).]~~

389 Section 4. Section **35A-8-308** is amended to read:

390 **35A-8-308. Throughput Infrastructure Fund.**

391 (1) There is created an enterprise fund known as the Throughput Infrastructure Fund.

392 (2) The fund consists of money generated from the following revenue sources:

393 (a) all amounts transferred to the fund [~~under Subsection [59-12-103](#)(12)~~] by statute;

394 (b) any voluntary contributions received;

395 (c) appropriations made to the fund by the Legislature; and

396 (d) all amounts received from the repayment of loans made by the impact board under
397 Section [35A-8-309](#).

398 (3) The state treasurer shall:
399 (a) invest the money in the fund by following the procedures and requirements of Title
400 51, Chapter 7, State Money Management Act; and

401 (b) deposit all interest or other earnings derived from those investments into the fund.
402 Section 5. Section 35A-8-309 is amended to read:

403 **35A-8-309. Throughput Infrastructure Fund administered by impact board --**
404 **Uses -- Review by board -- Annual report.**

405 (1) The impact board shall:
406 (a) make grants and loans from the Throughput Infrastructure Fund created in Section
407 35A-8-308 for a throughput infrastructure project;

408 (b) use money transferred to the Throughput Infrastructure Fund [~~in accordance with~~
409 ~~Subsection 59-12-103(12)] by statute to provide a loan or grant to finance the cost of~~

410 acquisition or construction of a throughput infrastructure project to one or more local political

411 subdivisions, including a Utah interlocal entity created under Title 11, Chapter 13, Interlocal

412 Cooperation Act;

413 (c) administer the Throughput Infrastructure Fund in a manner that will keep a portion
414 of the fund revolving;

415 (d) determine provisions for repayment of loans;

416 (e) establish criteria for awarding loans and grants; and

417 (f) establish criteria for determining eligibility for assistance under this section.

418 (2) The cost of acquisition or construction of a throughput infrastructure project
419 includes amounts for working capital, reserves, transaction costs, and other amounts
420 determined by the impact board to be allocable to a throughput infrastructure project.

421 (3) The impact board may restructure or forgive all or part of a local political
422 subdivision's or interlocal entity's obligation to repay loans for extenuating circumstances.

423 (4) In order to receive assistance under this section, a local political subdivision or an
424 interlocal entity shall submit a formal application containing the information that the impact
425 board requires.

426 (5) (a) The impact board shall:

427 (i) review the proposed uses of the Throughput Infrastructure Fund for a loan or grant
428 before approving the loan or grant and may condition its approval on whatever assurances the

429 impact board considers necessary to ensure that proceeds of the loan or grant will be used in
430 accordance with this section;

431 (ii) ensure that each loan specifies terms for interest deferments, accruals, and
432 scheduled principal repayment; and

433 (iii) ensure that repayment terms are evidenced by bonds, notes, or other obligations of
434 the appropriate local political subdivision or interlocal entity issued to the impact board and
435 payable from the net revenues of a throughput infrastructure project.

436 (b) An instrument described in Subsection (5)(a)(iii) may be:

437 (i) non-recourse to the local political subdivision or interlocal entity; and

438 (ii) limited to a pledge of the net revenues from a throughput infrastructure project.

439 (6) (a) Subject to the restriction in Subsection (6)(b), the impact board shall allocate
440 from the Throughput Infrastructure Fund to the board those amounts that are appropriated by
441 the Legislature for the administration of the Throughput Infrastructure Fund.

442 (b) The amount described in Subsection (6)(a) may not exceed 2% of the annual
443 receipts to the fund.

444 (7) The board shall include in the annual written report described in Section
445 [35A-1-109](#):

446 (a) the number and type of loans and grants made under this section; and

447 (b) a list of local political subdivisions or interlocal entities that received assistance
448 under this section.

449 Section 6. Section **35A-9-214** is enacted to read:

450 **35A-9-214. Tax credit notification -- Intergenerational poverty report to State**
451 **Tax Commission.**

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

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

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

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

459 (iii) the individual's or the individual's family's receipt of public assistance for not less

460 than 12 months during the individual's childhood.

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

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

466 (i) the name of the individual; and

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

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

470 Section 7. Section 59-1-401 is amended to read:

471 **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**
472 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**
473 **interest.**

474 (1) As used in this section:

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

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

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

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

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

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

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

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

- 491 (i) the date on which the commission implements the commission's GenTax system
492 with respect to the tax, fee, or charge; or
- 493 (ii) 30 days after the date the commission provides the notice described in Subsection
494 (1)(a)(ii) with respect to the tax, fee, or charge.
- 495 (c) (i) Except as provided in Subsection (1)(c)(ii), "tax, fee, or charge" means:
496 (A) a tax, fee, or charge the commission administers under:
497 (I) this title;
498 (II) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
499 (III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
500 (IV) Section 19-6-410.5;
501 (V) Section 19-6-714;
502 (VI) Section 19-6-805;
503 (VII) Section 34A-2-202;
504 (VIII) Section 40-6-14; or
505 (IX) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or
506 (B) another amount that by statute is subject to a penalty imposed under this section.
- 507 (ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:
508 (A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;
509 (B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;
510 (C) Chapter 2, Property Tax Act, except for Section 59-2-1309;
511 (D) Chapter 3, Tax Equivalent Property Act; or
512 (E) Chapter 4, Privilege Tax.
- 513 (d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated
514 tax, fee, or charge.
- 515 (2) (a) The due date for filing a return is:
516 (i) if the person filing the return is not allowed by law an extension of time for filing
517 the return, the day on which the return is due as provided by law; or
518 (ii) if the person filing the return is allowed by law an extension of time for filing the
519 return, the earlier of:
520 (A) the date the person files the return; or
521 (B) the last day of that extension of time as allowed by law.

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

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

525 (i) if the return described in Subsection (2)(b) is filed with respect to an unactivated
526 tax, fee, or charge:

527 (A) \$20; or

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

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

531 (A) \$20; or

532 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is
533 filed no later than five days after the due date described in Subsection (2)(a);

534 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed
535 more than five days after the due date but no later than 15 days after the due date described in
536 Subsection (2)(a); or

537 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is
538 filed more than 15 days after the due date described in Subsection (2)(a).

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

540 (i) an amended return; or

541 (ii) a return with no tax due.

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

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

546 (ii) the person:

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

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

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

551 (B) the commission estimates an amount of tax due for that person in accordance with
552 Subsection 59-1-1406(2);

553 (iv) the person:
554 (A) is mailed a notice of deficiency; and
555 (B) within a 30-day period after the day on which the notice of deficiency described in
556 Subsection (3)(a)(iv)(A) is mailed:
557 (I) does not file a petition for redetermination or a request for agency action; and
558 (II) fails to pay the tax, fee, or charge due on a return;
559 (v) (A) the commission:
560 (I) issues an order constituting final agency action resulting from a timely filed petition
561 for redetermination or a timely filed request for agency action; or
562 (II) is considered to have denied a request for reconsideration under Subsection
563 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed
564 request for agency action; and
565 (B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period
566 after the date the commission:
567 (I) issues the order constituting final agency action described in Subsection
568 (3)(a)(v)(A)(I); or
569 (II) is considered to have denied the request for reconsideration described in
570 Subsection (3)(a)(v)(A)(II); or
571 (vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date
572 of a final judicial decision resulting from a timely filed petition for judicial review.
573 (b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:
574 (i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with
575 respect to an unactivated tax, fee, or charge:
576 (A) \$20; or
577 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or
578 (ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with
579 respect to an activated tax, fee, or charge, beginning on the activation date:
580 (A) \$20; or
581 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated
582 tax, fee, or charge due on the return is paid no later than five days after the due date for filing a
583 return described in Subsection (2)(a);

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

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

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

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

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

600 (A) the original due date of the tax return, without extensions, for the taxable year; or
601 (B) with respect to any portion of the underpayment, the date on which that portion is
602 paid.

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

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

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

614 (ii) for a person filing an individual income tax return under Chapter 10, Individual

615 Income Tax Act, the payment required by Subsection 59-10-516(2).

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

619 (6) If a person does not file a return within an extension of time allowed by Section
620 59-7-505 or 59-10-516, the person:

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

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

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

624 (A) \$20; or

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

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

628 (A) \$20; or

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

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

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

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

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

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

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

646 (i) The notice of proposed penalty shall:
647 (A) set forth the basis of the assessment; and
648 (B) be mailed by certified mail, postage prepaid, to the person's last-known address.
649 (ii) Upon receipt of the notice of proposed penalty, the person against whom the
650 penalty is proposed may:
651 (A) pay the amount of the proposed penalty at the place and time stated in the notice;
652 or
653 (B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).
654 (iii) A person against whom a penalty is proposed in accordance with this Subsection
655 (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with
656 the commission.
657 (iv) (A) If the commission determines that a person is liable for a penalty under this
658 Subsection (7), the commission shall assess the penalty and give notice and demand for
659 payment.
660 (B) The commission shall mail the notice and demand for payment described in
661 Subsection (7)(b)(iv)(A):
662 (I) to the person's last-known address; and
663 (II) in accordance with Section 59-1-1404.
664 (c) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not
665 subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:
666 (i) a court of competent jurisdiction issues a final unappealable judgment or order
667 determining that:
668 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
669 or is a seller required to pay or collect and remit sales and use taxes under Subsection
670 59-12-107(2)(b) or (2)(c); and
671 (B) the commission or a county, city, or town may require the seller to collect a tax
672 under Subsections 59-12-103(2)(a) through ~~(f)~~ (e) or Subsection 59-12-103.3(2)(a); or
673 (ii) the commission issues a final unappealable administrative order determining that:
674 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
675 or is a seller required to pay or collect and remit sales and use taxes under Subsection
676 59-12-107(2)(b) or (2)(c); and

677 (B) the commission or a county, city, or town may require the seller to collect a tax
678 under Subsections [59-12-103\(2\)\(a\)](#) through ~~[(d)]~~ (e) or Subsection [59-12-103.3\(2\)\(a\)](#).

679 (d) A seller that voluntarily collects a tax under Subsection [59-12-107\(2\)\(d\)](#) is not
680 subject to the penalty under Subsection (7)(a)(ii) if:

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

683 (I) the seller meets one or more of the criteria described in Subsection [59-12-107\(2\)\(a\)](#)
684 or is a seller required to pay or collect and remit sales and use taxes under Subsection
685 [59-12-107\(2\)\(b\)](#) or (2)(c); and

686 (II) the commission or a county, city, or town may require the seller to collect a tax
687 under Subsections [59-12-103\(2\)\(a\)](#) through ~~[(d)]~~ (e) or Subsection [59-12-103.3\(2\)\(a\)](#); or

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

689 (I) the seller meets one or more of the criteria described in Subsection [59-12-107\(2\)\(a\)](#)
690 or is a seller required to pay or collect and remit sales and use taxes under Subsection
691 [59-12-107\(2\)\(b\)](#) or (2)(c); and

692 (II) the commission or a county, city, or town may require the seller to collect a tax
693 under Subsections [59-12-103\(2\)\(a\)](#) through ~~[(d)]~~ (e) or Subsection [59-12-103.3\(2\)\(a\)](#); and

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

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

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

702 (c) If an employer is subject to a penalty under this Subsection (8) for failure to file a
703 return in accordance with Subsection [59-10-406\(3\)](#) on or before the due date described in
704 Subsection [59-10-406\(3\)\(b\)\(ii\)](#), the commission may not impose a penalty under this
705 Subsection (8) unless the return is filed more than 14 days after the due date described in
706 Subsection [59-10-406\(3\)\(b\)\(ii\)](#).

707 (9) If a person, in furtherance of a frivolous position, has a prima facie intent to delay

708 or impede administration of a law relating to a tax, fee, or charge and files a purported return
709 that fails to contain information from which the correctness of reported tax, fee, or charge
710 liability can be determined or that clearly indicates that the tax, fee, or charge liability shown is
711 substantially incorrect, the penalty is \$500.

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

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

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

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

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

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

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

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

725 (A) a return;

726 (B) an affidavit;

727 (C) a claim; or

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

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

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

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

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

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

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

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

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

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

742 (vi) assisting in the preparation or presentation of any portion of a document described
743 in Subsection (11)(a)(i); or

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

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

747 (i) shall be imposed by the commission;

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

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

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

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

756 (12) (a) As provided in Section [76-8-1101](#), criminal offenses and penalties are as
757 provided in Subsections (12)(b) through (e).

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

762 (ii) Notwithstanding Section [76-3-301](#), for purposes of Subsection (12)(b)(i), the
763 penalty may not:

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

765 (B) exceed \$1,000.

766 (c) (i) With respect to a tax, fee, or charge, a person who knowingly and intentionally,
767 and without a reasonable good faith basis, fails to make, render, sign, or verify a return within
768 the time required by law or to supply information within the time required by law, or who
769 makes, renders, signs, or verifies a false or fraudulent return or statement, or who supplies false

770 or fraudulent information, is guilty of a third degree felony.

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

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

774 (B) exceed \$5,000.

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

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

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

781 (B) exceed \$25,000.

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

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

785 (I) a return;

786 (II) an affidavit;

787 (III) a claim; or

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

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

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

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

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

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

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

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

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

800 (E) aiding in the preparation or presentation of any portion of a document described in

801 Subsection (12)(e)(i)(A);

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

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

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

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

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

810 (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and

811 (B) in addition to any other penalty provided by law.

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

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

815 (B) exceed \$25,000.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

844 (B) fails to file the form.

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

848 Section 8. Section 59-1-1503 is amended to read:

849 **59-1-1503. Nonrefundable credit -- Sales and use tax exemption -- Sales and use**
850 **tax remittance.**

851 (1) A nonrefundable individual income tax credit is allowed as provided in Section
852 59-10-1028 related to a capital gain on a transaction involving the exchange of one form of
853 legal tender for another form of legal tender.

854 (2) Sales of currency or coin are exempt from sales and use taxes as provided in
855 Subsection 59-12-104~~(50)~~(43).

856 (3) The remittance of a sales and use tax on a transaction involving specie legal tender
857 is as provided in Section 59-12-107.

858 Section 9. Section 59-7-104 is amended to read:

859 **59-7-104. Tax -- Minimum tax.**

860 (1) Each domestic and foreign corporation, except a corporation that is exempt under
861 Section 59-7-102, shall pay an annual tax to the state based on the corporation's Utah taxable
862 income for the taxable year for the privilege of exercising the corporation's corporate franchise

863 or for the privilege of doing business in the state.

864 (2) The tax shall be [~~4.95%~~] 4.75% of a corporation's Utah taxable income.

865 (3) The minimum tax a corporation shall pay under this chapter is \$100.

866 Section 10. Section **59-7-201** is amended to read:

867 **59-7-201. Tax -- Minimum tax.**

868 (1) There is imposed upon each corporation, except a corporation that is exempt under
869 Section **59-7-102**, a tax upon the corporation's Utah taxable income for the taxable year that is
870 derived from sources within this state other than income for any period that the corporation is
871 required to include in the corporation's tax base under Section **59-7-104**.

872 (2) The tax imposed by Subsection (1) shall be [~~4.95%~~] 4.75% of a corporation's Utah
873 taxable income.

874 (3) In no case shall the tax be less than \$100.

875 Section 11. Section **59-7-610** is amended to read:

876 **59-7-610. Recycling market development zones tax credit.**

877 (1) For taxable years beginning on or after January 1, 1996, a business operating in a
878 recycling market development zone as defined in Section **63N-2-402** may claim a tax credit as
879 provided in this section.

880 (a) (i) There shall be allowed a nonrefundable tax credit of [~~5%~~] 4.75% of the purchase
881 price paid for machinery and equipment used directly in:

882 (A) commercial composting; or

883 (B) manufacturing facilities or plant units that:

884 (I) manufacture, process, compound, or produce recycled items of tangible personal
885 property for sale; or

886 (II) reduce or reuse postconsumer waste material.

887 (ii) The Governor's Office of Economic Development shall certify that the machinery
888 and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling
889 process:

890 (A) on a form provided by the commission; and

891 (B) before a taxpayer is allowed a tax credit under this section.

892 (iii) The Governor's Office of Economic Development shall provide a taxpayer seeking
893 to claim a tax credit under this section with a copy of the form described in Subsection

894 (1)(a)(ii).

895 (iv) The taxpayer described in Subsection (1)(a)(iii) shall retain a copy of the form
896 received under Subsection (1)(a)(iii).

897 (b) There shall be allowed a nonrefundable tax credit equal to 20% of net expenditures
898 up to \$10,000 to third parties for rent, wages, supplies, tools, test inventory, and utilities made
899 by the taxpayer for establishing and operating recycling or composting technology in Utah,
900 with an annual maximum tax credit of \$2,000.

901 (2) The total nonrefundable tax credit allowed under this section may not exceed 40%
902 of the Utah income tax liability of the taxpayer prior to any tax credits in the taxable year of
903 purchase prior to claiming the tax credit authorized by this section.

904 (3) (a) Any tax credit not used for the taxable year in which the purchase price on
905 composting or recycling machinery and equipment was paid may be carried over for credit
906 against the business' income taxes in the three succeeding taxable years until the total tax credit
907 amount is used.

908 (b) Tax credits not claimed by a business on the business' state income tax return
909 within three years are forfeited.

910 (4) The commission shall make rules governing what information shall be filed with
911 the commission to verify the entitlement to and amount of a tax credit.

912 (5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after
913 January 1, 2001, a taxpayer may not claim or carry forward a tax credit described in Subsection
914 (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under
915 Section 63N-2-213.

916 (b) For a taxable year other than a taxable year during which the taxpayer may not
917 claim or carry forward a tax credit in accordance with Subsection (5)(a), a taxpayer may claim
918 or carry forward a tax credit described in Subsection (1)(a):

919 (i) if the taxpayer may claim or carry forward the tax credit in accordance with
920 Subsections (1) and (2); and

921 (ii) subject to Subsections (3) and (4).

922 (6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January
923 1, 2001, a taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable year
924 during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.

925 (7) A taxpayer may not claim or carry forward a tax credit available under this section
926 for a taxable year during which the taxpayer has claimed the targeted business income tax
927 credit available under Section [63N-2-305](#).

928 Section 12. Section **59-7-620** is amended to read:

929 **59-7-620. Nonrefundable tax credit for contribution to state Achieving a Better**
930 **Life Experience Program account.**

931 (1) As used in this section:

932 (a) "Account" means an account in a qualified ABLE program where the designated
933 beneficiary of the account is a resident of this state.

934 (b) "Contributor" means a corporation that:

935 (i) makes a contribution to an account; and

936 (ii) receives a statement from the qualified ABLE program itemizing the contribution.

937 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.
938 529A.

939 (d) "Qualified ABLE program" means the same as that term is defined in Section
940 [35A-12-102](#).

941 (2) A contributor to an account may claim a nonrefundable tax credit as provided in
942 this section.

943 (3) Subject to the other provisions of this section, the tax credit is equal to the product
944 of:

945 (a) [~~5%~~] 4.75%; and

946 (b) the total amount of contributions:

947 (i) the contributor makes for the taxable year; and

948 (ii) for which the contributor receives a statement from the qualified ABLE program
949 itemizing the contributions.

950 (4) A contributor may not claim a tax credit under this section:

951 (a) for an amount of excess contribution to an account that is returned to the
952 contributor; or

953 (b) with respect to an amount the contributor deducts on a federal income tax return.

954 (5) A tax credit under this section may not be carried forward or carried back.

955 Section 13. Section **59-9-101** is amended to read:

956 **59-9-101. Tax basis -- Rates -- Exemptions -- Rate reductions.**

957 (1) (a) Except as provided in Subsection (1)(b), (1)(d), or (5), an admitted insurer shall
958 pay to the commission on or before March 31 in each year, a tax of 2-1/4% of the total
959 premiums received by it during the preceding calendar year from insurance covering property
960 or risks located in this state.

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

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

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

964 (iii) annuity considerations;

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

967 (v) ocean marine insurance.

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

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

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

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

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

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

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

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

978 (I) by:

979 (Aa) a corporation; or

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

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

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

986 (ii) Notwithstanding Subsection (1)(a), beginning on January 1, 2006, the tax on that

987 portion of the total premiums subject to a tax under Subsection (1)(a) that is a Utah variable
988 life insurance premium shall be calculated as follows:

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

990 (I) paid for each variable life insurance policy; and

991 (II) received by the admitted insurer in the preceding calendar year; and

992 (B).08% of the Utah variable life insurance premiums that exceed \$100,000:

993 (I) paid for the policy described in Subsection (1)(d)(ii)(A); and

994 (II) received by the admitted insurer in the preceding calendar year.

995 (2) (a) An admitted insurer writing workers' compensation insurance in this state shall
996 pay to the tax commission, on or before March 31 in each year, a premium assessment on the
997 basis of the total workers' compensation premium income received by the insurer from workers'
998 compensation insurance in this state during the preceding calendar year as follows:

999 (i) on or before December 31, 2010, an amount of equal to or greater than 1%, but
1000 equal to or less than 5.75% of the total workers' compensation premium income described in
1001 this Subsection (2);

1002 (ii) on and after January 1, 2011, but on or before December 31, 2022, an amount of
1003 equal to or greater than 1%, but equal to or less than 4.25% of the total workers' compensation
1004 premium income described in this Subsection (2); and

1005 (iii) on and after January 1, 2023, an amount equal to 1.25% of the total workers'
1006 compensation premium income described in this Subsection (2).

1007 (b) Total workers' compensation premium income means the net written premium as
1008 calculated before any premium reduction for any insured employer's deductible, retention, or
1009 reimbursement amounts and also those amounts equivalent to premiums as provided in Section
1010 [34A-2-202](#).

1011 (c) The percentage of premium assessment applicable for a calendar year shall be
1012 determined by the Labor Commission under Subsection (2)(d). The total premium income
1013 shall be reduced in the same manner as provided in Subsections (1)(c)(i) and (1)(c)(ii), but not
1014 as provided in Subsection (1)(c)(iii). The commission shall promptly remit from the premium
1015 assessment collected under this Subsection (2):

1016 (i) income to the state treasurer for credit to the Employers' Reinsurance Fund created
1017 under Subsection [34A-2-702](#)(1) as follows:

1018 (A) on or before December 31, 2009, an amount of up to 5% of the total workers'
1019 compensation premium income;

1020 (B) on and after January 1, 2010, but on or before December 31, 2010, an amount of up
1021 to 4.5% of the total workers' compensation premium income;

1022 (C) on and after January 1, 2011, but on or before December 31, 2022, an amount of up
1023 to 3% of the total workers' compensation premium income; and

1024 (D) on and after January 1, 2023, 0% of the total workers' compensation premium
1025 income;

1026 (ii) an amount equal to .25% of the total workers' compensation premium income to
1027 the state treasurer for credit to the Workplace Safety Account created by Section 34A-2-701;

1028 (iii) an amount of up to .5% and any remaining assessed percentage of the total
1029 workers' compensation premium income to the state treasurer for credit to the Uninsured
1030 Employers' Fund created under Section 34A-2-704; and

1031 (iv) beginning on January 1, 2010, .5% of the total workers' compensation premium
1032 income to the state treasurer for credit to the Industrial Accident Restricted Account created in
1033 Section 34A-2-705.

1034 (d) (i) The Labor Commission shall determine the amount of the premium assessment
1035 for each year on or before each October 15 of the preceding year. The Labor Commission shall
1036 make this determination following a public hearing. The determination shall be based upon the
1037 recommendations of a qualified actuary.

1038 (ii) The actuary shall recommend a premium assessment rate sufficient to provide
1039 payments of benefits and expenses from the Employers' Reinsurance Fund and to project a
1040 funded condition with assets greater than liabilities by no later than June 30, 2025.

1041 (iii) The actuary shall recommend a premium assessment rate sufficient to provide
1042 payments of benefits and expenses from the Uninsured Employers' Fund and to maintain it at a
1043 funded condition with assets equal to or greater than liabilities.

1044 (iv) At the end of each fiscal year the minimum approximate assets in the Employers'
1045 Reinsurance Fund shall be \$5,000,000 which amount shall be adjusted each year beginning in
1046 1990 by multiplying by the ratio that the total workers' compensation premium income for the
1047 preceding calendar year bears to the total workers' compensation premium income for the
1048 calendar year 1988.

1049 (v) The requirements of Subsection (2)(d)(iv) cease when the future annual
1050 disbursements from the Employers' Reinsurance Fund are projected to be less than the
1051 calculations of the corresponding future minimum required assets. The Labor Commission
1052 shall, after a public hearing, determine if the future annual disbursements are less than the
1053 corresponding future minimum required assets from projections provided by the actuary.

1054 (vi) At the end of each fiscal year the minimum approximate assets in the Uninsured
1055 Employers' Fund shall be \$2,000,000, which amount shall be adjusted each year beginning in
1056 1990 by multiplying by the ratio that the total workers' compensation premium income for the
1057 preceding calendar year bears to the total workers' compensation premium income for the
1058 calendar year 1988.

1059 (e) A premium assessment that is to be transferred into the General Fund may be
1060 collected on premiums received from Utah public agencies.

1061 (3) An admitted insurer writing title insurance in this state shall pay to the commission,
1062 on or before March 31 in each year, a tax of .45% of the total premium received by either the
1063 insurer or by its agents during the preceding calendar year from title insurance concerning
1064 property located in this state. In calculating this tax, "premium" includes the charges made to
1065 an insured under or to an applicant for a policy or contract of title insurance for:

1066 (a) the assumption by the title insurer of the risks assumed by the issuance of the policy
1067 or contract of title insurance; and

1068 (b) abstracting title, title searching, examining title, or determining the insurability of
1069 title, and every other activity, exclusive of escrow, settlement, or closing charges, whether
1070 denominated premium or otherwise, made by a title insurer, an agent of a title insurer, a title
1071 insurance producer, or any of them.

1072 (4) Beginning July 1, 1986, a former county mutual and a former mutual benefit
1073 association shall pay the premium tax or assessment due under this chapter. Premiums
1074 received after July 1, 1986, shall be considered in determining the tax or assessment.

1075 ~~[(5) The following insurers are not subject to the premium tax on health care insurance
1076 that would otherwise be applicable under Subsection (1):]~~

1077 (5) The following admitted insurers writing health insurance, as defined in Section
1078 31A-1-301, in this state shall pay to the State Tax Commission, on or before March 31 in each
1079 year, a tax of 1% of the total premiums received by the insurer during the preceding calendar

1080 year from health insurance in this state:

1081 (a) an insurer licensed under Title 31A, Chapter 5, Domestic Stock and Mutual
1082 Insurance Corporations;

1083 (b) an insurer licensed under Title 31A, Chapter 7, Nonprofit Health Service Insurance
1084 Corporations;

1085 (c) an insurer licensed under Title 31A, Chapter 8, Health Maintenance Organizations
1086 and Limited Health Plans;

1087 (d) an insurer licensed under Title 31A, Chapter 9, Insurance Fraternal;

1088 (e) an insurer licensed under Title 31A, Chapter 11, Motor Clubs; and

1089 (f) an insurer licensed under Title 31A, Chapter 14, Foreign Insurers.

1090 (6) A captive insurer, as provided in Section 31A-3-304, that pays a fee imposed under
1091 Section 31A-3-304 is not subject to the premium tax under this section.

1092 (7) An insurer issuing multiple policies to an insured may not artificially allocate the
1093 premiums among the policies for purposes of reducing the aggregate premium tax or
1094 assessment applicable to the policies.

1095 (8) The retaliatory provisions of Title 31A, Chapter 3, Department Funding, Fees, and
1096 Taxes, apply to the tax or assessment imposed under this chapter.

1097 Section 14. Section 59-10-104 is amended to read:

1098 **59-10-104. Tax basis -- Tax rate -- Exemption.**

1099 (1) A tax is imposed on the state taxable income of a resident individual as provided in
1100 this section.

1101 (2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the
1102 product of:

1103 (a) the resident individual's state taxable income for that taxable year; and

1104 (b) [~~4.95%~~] 4.75%.

1105 (3) This section does not apply to a resident individual exempt from taxation under
1106 Section 59-10-104.1.

1107 Section 15. Section 59-10-529.1 is amended to read:

1108 **59-10-529.1. Time period for commission to issue a refund.**

1109 (1) Except as provided in Subsection (2), the commission may not issue a refund
1110 before March 1.

1111 (2) The commission may issue a refund before March 1 if, before March 1, the
1112 commission determines that:

1113 (a) (i) an employer has filed the one or more forms in accordance with Subsection
1114 [59-10-406](#)(8) the employer is required to file with respect to an individual; and

1115 (ii) for a refund of a tax credit described in Section [59-10-1112](#), the Department of
1116 Workforce Services has submitted the electronic report required by Section [35A-9-214](#); and

1117 (b) the individual has filed a return in accordance with this chapter.

1118 Section 16. Section **59-10-1002.2** is amended to read:

1119 **59-10-1002.2. Apportionment of tax credits.**

1120 (1) A nonresident individual or a part-year resident individual that claims a tax credit
1121 in accordance with Section [59-10-1017](#), [59-10-1018](#), [59-10-1019](#), [59-10-1022](#), [59-10-1023](#),
1122 [59-10-1024](#), [~~or~~] [59-10-1028](#), or [59-10-1041](#) may only claim an apportioned amount of the tax
1123 credit equal to:

1124 (a) for a nonresident individual, the product of:

1125 (i) the state income tax percentage for the nonresident individual; and

1126 (ii) the amount of the tax credit that the nonresident individual would have been
1127 allowed to claim but for the apportionment requirements of this section; or

1128 (b) for a part-year resident individual, the product of:

1129 (i) the state income tax percentage for the part-year resident individual; and

1130 (ii) the amount of the tax credit that the part-year resident individual would have been
1131 allowed to claim but for the apportionment requirements of this section.

1132 (2) A nonresident estate or trust that claims a tax credit in accordance with Section
1133 [59-10-1017](#), [59-10-1020](#), [59-10-1022](#), [59-10-1024](#), or [59-10-1028](#) may only claim an
1134 apportioned amount of the tax credit equal to the product of:

1135 (a) the state income tax percentage for the nonresident estate or trust; and

1136 (b) the amount of the tax credit that the nonresident estate or trust would have been
1137 allowed to claim but for the apportionment requirements of this section.

1138 Section 17. Section **59-10-1007** is amended to read:

1139 **59-10-1007. Recycling market development zones tax credit.**

1140 (1) For taxable years beginning on or after January 1, 1996, a claimant, estate, or trust
1141 in a recycling market development zone as defined in Section [63N-2-402](#) may claim a

1142 nonrefundable tax credit as provided in this section.

1143 (a) (i) There shall be allowed a tax credit of [~~5%~~ 4.75%] of the purchase price paid for
1144 machinery and equipment used directly in:

1145 (A) commercial composting; or

1146 (B) manufacturing facilities or plant units that:

1147 (I) manufacture, process, compound, or produce recycled items of tangible personal
1148 property for sale; or

1149 (II) reduce or reuse postconsumer waste material.

1150 (ii) The Governor's Office of Economic Development shall certify that the machinery
1151 and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling
1152 process:

1153 (A) on a form provided by the commission; and

1154 (B) before a claimant, estate, or trust is allowed a tax credit under this section.

1155 (iii) The Governor's Office of Economic Development shall provide a claimant, estate,
1156 or trust seeking to claim a tax credit under this section with a copy of the form described in
1157 Subsection (1)(a)(ii).

1158 (iv) The claimant, estate, or trust described in Subsection (1)(a)(iii) shall retain a copy
1159 of the form received under Subsection (1)(a)(iii).

1160 (b) There shall be allowed a tax credit equal to 20% of net expenditures up to \$10,000
1161 to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the
1162 claimant, estate, or trust for establishing and operating recycling or composting technology in
1163 Utah, with an annual maximum tax credit of \$2,000.

1164 (2) The total tax credit allowed under this section may not exceed 40% of the Utah
1165 income tax liability of the claimant, estate, or trust prior to any tax credits in the taxable year of
1166 purchase prior to claiming the tax credit authorized by this section.

1167 (3) (a) Any tax credit not used for the taxable year in which the purchase price on
1168 composting or recycling machinery and equipment was paid may be carried forward against the
1169 claimant's, estate's, or trusts's tax liability under this chapter in the three succeeding taxable
1170 years until the total tax credit amount is used.

1171 (b) Tax credits not claimed by a claimant, estate, or trust on the claimant's, estate's, or
1172 trust's tax return under this chapter within three years are forfeited.

1173 (4) The commission shall make rules governing what information shall be filed with
1174 the commission to verify the entitlement to and amount of a tax credit.

1175 (5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after
1176 January 1, 2001, a claimant, estate, or trust may not claim or carry forward a tax credit
1177 described in Subsection (1)(a) in a taxable year during which the claimant, estate, or trust
1178 claims or carries forward a tax credit under Section 63N-2-213.

1179 (b) For a taxable year other than a taxable year during which the claimant, estate, or
1180 trust may not claim or carry forward a tax credit in accordance with Subsection (5)(a), a
1181 claimant, estate, or trust may claim or carry forward a tax credit described in Subsection (1)(a):

1182 (i) if the claimant, estate, or trust may claim or carry forward the tax credit in
1183 accordance with Subsections (1) and (2); and

1184 (ii) subject to Subsections (3) and (4).

1185 (6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January
1186 1, 2001, a claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b) in
1187 a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit
1188 under Section 63N-2-213.

1189 (7) A claimant, estate, or trust may not claim or carry forward a tax credit available
1190 under this section for a taxable year during which the claimant, estate, or trust has claimed the
1191 targeted business income tax credit available under Section 63N-2-305.

1192 Section 18. Section 59-10-1017 is amended to read:

1193 **59-10-1017. Utah Educational Savings Plan tax credit.**

1194 (1) As used in this section:

1195 (a) "Account owner" means the same as that term is defined in Section 53B-8a-102.

1196 (b) "Grantor trust" means the same as that term is defined in Section 53B-8a-102.5.

1197 (c) "Higher education costs" means the same as that term is defined in Section
1198 53B-8a-102.5.

1199 (d) "Maximum amount of a qualified investment for the taxable year" means, for a
1200 taxable year, the product of [~~5%~~ 4.75%] and:

1201 (i) subject to Subsection (1)(d)(iii), for a claimant, estate, or trust that is an account
1202 owner, if that claimant, estate, or trust is other than husband and wife account owners who file
1203 a single return jointly, the maximum amount of a qualified investment:

- 1204 (A) listed in Subsection 53B-8a-106(1)(e)(ii); and
- 1205 (B) increased or kept for that taxable year in accordance with Subsections
- 1206 53B-8a-106(1)(f) and (g);
- 1207 (ii) subject to Subsection (1)(d)(iii), for claimants who are husband and wife account
- 1208 owners who file a single return jointly, the maximum amount of a qualified investment:
- 1209 (A) listed in Subsection 53B-8a-106(1)(e)(iii); and
- 1210 (B) increased or kept for that taxable year in accordance with Subsections
- 1211 53B-8a-106(1)(f) and (g); or
- 1212 (iii) for a grantor trust:
- 1213 (A) if the owner of the grantor trust has a single filing status or head of household
- 1214 filing status as defined in Section 59-10-1018, the amount described in Subsection (1)(d)(i); or
- 1215 (B) if the owner of the grantor trust has a joint filing status as defined in Section
- 1216 59-10-1018, the amount described in Subsection (1)(d)(ii).
- 1217 (e) "Owner of the grantor trust" means the same as that term is defined in Section
- 1218 53B-8a-102.5.
- 1219 (f) "Qualified investment" means the same as that term is defined in Section
- 1220 53B-8a-102.5.
- 1221 (2) Except as provided in Section 59-10-1002.2 and subject to the other provisions of
- 1222 this section, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax
- 1223 credit equal to the product of:
- 1224 (a) the amount of a qualified investment made:
- 1225 (i) during the taxable year; and
- 1226 (ii) into an account owned by the claimant, estate, or trust; and
- 1227 (b) [~~5%~~] 4.75%.
- 1228 (3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may
- 1229 make a qualified investment described in Subsection (2).
- 1230 (4) A claimant, estate, or trust that is an account owner may not claim a tax credit
- 1231 under this section with respect to any portion of a qualified investment described in Subsection
- 1232 (2) that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal
- 1233 income tax return.
- 1234 (5) A tax credit under this section may not exceed the maximum amount of a qualified

1235 investment for the taxable year.

1236 (6) A claimant, estate, or trust that is an account owner may not carry forward or carry
1237 back the tax credit under this section.

1238 (7) A claimant, estate, or trust may claim a tax credit under this section in addition to
1239 the tax credit described in Section 59-10-1017.1.

1240 Section 19. Section 59-10-1017.1 is amended to read:

1241 **59-10-1017.1. Student Prosperity Savings Program tax credit.**

1242 (1) As used in this section, "qualified donation" means an amount donated, in
1243 accordance with Section 53B-8a-203, to the Student Prosperity Savings Program created in
1244 Section 53B-8a-202.

1245 (2) A claimant, estate, or trust may claim a nonrefundable tax credit for a qualified
1246 donation.

1247 (3) The tax credit equals the product of:

1248 (a) the qualified donation; and

1249 (b) [~~5%~~] 4.75%.

1250 (4) A claimant, estate, or trust may not claim a tax credit under this section with
1251 respect to any portion of a qualified donation that a claimant, estate, or trust deducts on a
1252 federal income tax return.

1253 (5) A claimant, estate, or trust may not carry forward or carry back the portion of the
1254 tax credit allowed by this section that exceeds the claimant's, estate's, or trust's tax liability for
1255 the taxable year in which the claimant, estate, or trust claims the tax credit.

1256 (6) A claimant, estate, or trust may claim a tax credit under this section in addition to
1257 the tax credit described in Section 59-10-1017.

1258 Section 20. Section 59-10-1018 is amended to read:

1259 **59-10-1018. Definitions -- Nonrefundable taxpayer tax credits.**

1260 (1) As used in this section:

1261 (a) "Head of household filing status" means a head of household, as defined in Section
1262 2(b), Internal Revenue Code, who files a single federal individual income tax return for the
1263 taxable year.

1264 (b) "Joint filing status" means:

1265 (i) spouses who file a single return jointly under this chapter for a taxable year; or

1266 (ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a
1267 single federal individual income tax return for the taxable year.

1268 (c) "Qualifying dependent" means an individual with respect to whom the claimant is
1269 allowed to claim a tax credit under Section 24, Internal Revenue Code, on the claimant's
1270 federal individual income tax return for the taxable year.

1271 (d) "Single filing status" means:

1272 (i) a single individual who files a single federal individual income tax return for the
1273 taxable year; or

1274 (ii) a married individual who:

1275 (A) does not file a single federal individual income tax return jointly with that married
1276 individual's spouse for the taxable year; and

1277 (B) files a single federal individual income tax return for the taxable year.

1278 (e) "State or local income tax" means the lesser of:

1279 (i) the amount of state or local income tax that the claimant:

1280 (A) pays for the taxable year; and

1281 (B) reports on the claimant's federal individual income tax return for the taxable year,
1282 regardless of whether the claimant is allowed an itemized deduction on the claimant's federal
1283 individual income tax return for the taxable year for the full amount of state or local income tax
1284 paid; and

1285 (ii) \$10,000.

1286 (f) (i) "Utah itemized deduction" means the amount the claimant deducts as allowed as
1287 an itemized deduction on the claimant's federal individual income tax return for that taxable
1288 year minus any amount of state or local income tax for the taxable year.

1289 (ii) "Utah itemized deduction" does not include any amount of qualified business
1290 income that the claimant subtracts as allowed by Section 199A, Internal Revenue Code, on the
1291 claimant's federal income tax return for that taxable year.

1292 (g) "Utah personal exemption" means, subject to Subsection (6), [~~\$565~~] \$3,113
1293 multiplied by the number of the claimant's qualifying dependents.

1294 (2) Except as provided in Section 59-10-1002.2, and subject to Subsections (3) through
1295 (5), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part
1296 equal to the sum of:

- 1297 (a) (i) for a claimant that deducts the standard deduction on the claimant's federal
1298 individual income tax return for the taxable year, 6% of the amount the claimant deducts as
1299 allowed as the standard deduction on the claimant's federal individual income tax return for
1300 that taxable year; or
- 1301 (ii) for a claimant that itemizes deductions on the claimant's federal individual income
1302 tax return for the taxable year, 6% of the amount of the claimant's Utah itemized deduction;
1303 and
- 1304 (b) 6% of the claimant's Utah personal exemption.
- 1305 (3) A claimant may not carry forward or carry back a tax credit under this section.
- 1306 (4) The tax credit allowed by Subsection (2) shall be reduced by [~~\$.013~~] \$.015 for each
1307 dollar by which a claimant's state taxable income exceeds:
- 1308 (a) for a claimant who has a single filing status, \$12,000;
1309 (b) for a claimant who has a head of household filing status, \$18,000; or
1310 (c) for a claimant who has a joint filing status, \$24,000.
- 1311 (5) (a) For a taxable year beginning on or after January 1, 2009, the commission shall
1312 increase or decrease annually the following dollar amounts by a percentage equal to the
1313 percentage difference between the consumer price index for the preceding calendar year and
1314 the consumer price index for calendar year 2007:
- 1315 (i) the dollar amount listed in Subsection (4)(a); and
1316 (ii) the dollar amount listed in Subsection (4)(b).
- 1317 (b) After the commission increases or decreases the dollar amounts listed in Subsection
1318 (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the
1319 nearest whole dollar.
- 1320 (c) After the commission rounds the dollar amounts as required by Subsection (5)(b),
1321 the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that
1322 the dollar amount listed in Subsection (4)(c) is equal to the product of:
- 1323 (i) the dollar amount listed in Subsection (4)(a); and
1324 (ii) two.
- 1325 (d) For purposes of Subsection (5)(a), the commission shall calculate the consumer
1326 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.
- 1327 (6) (a) For a taxable year beginning on or after January 1, 2019, the commission shall

1328 increase annually the Utah personal exemption amount listed in Subsection (1)(g) by a
 1329 percentage equal to the percentage by which the consumer price index for the preceding
 1330 calendar year exceeds the consumer price index for calendar year 2017.

1331 (b) After the commission increases the Utah personal exemption amount as described
 1332 in Subsection (6)(a), the commission shall round the Utah personal exemption amount to the
 1333 nearest whole dollar.

1334 (c) For purposes of Subsection (6)(a), the commission shall calculate the consumer
 1335 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

1336 Section 21. Section **59-10-1019** is amended to read:

1337 **59-10-1019. Definitions -- Nonrefundable retirement tax credit.**

1338 (1) As used in this section:

1339 (a) "Eligible over age 65 [~~or older~~] retiree" means a claimant, regardless of whether
 1340 that claimant is retired, who:

1341 (i) is over 65 years of age [~~or older~~]; and

1342 (ii) was born on or before December 31, 1952.

1343 [~~(b) (i) "Eligible retirement income" means income received by an eligible under age
 1344 65 retiree as a pension or annuity if that pension or annuity is:]~~

1345 [~~(A) paid to the eligible under age 65 retiree or the surviving spouse of an eligible
 1346 under age 65 retiree; and]~~

1347 [~~(B) (i) paid from an annuity contract purchased by an employer under a plan that
 1348 meets the requirements of Section 404(a)(2), Internal Revenue Code;]~~

1349 [~~(ii) purchased by an employee under a plan that meets the requirements of Section
 1350 408, Internal Revenue Code; or]~~

1351 [~~(iii) paid by:]~~

1352 [~~(Aa) the United States;]~~

1353 [~~(Bb) a state or a political subdivision of a state; or]~~

1354 [~~(Cc) the District of Columbia.]~~

1355 [~~(ii) "Eligible retirement income" does not include amounts received by the spouse of a
 1356 living eligible under age 65 retiree because of the eligible under age 65 retiree's having been
 1357 employed in a community property state.]~~

1358 (c) "~~Eligible under age 65 retiree~~" means a claimant, regardless of whether that

1359 claimant is retired, who:]

1360 ~~[(i) is younger than 65 years of age;]~~

1361 ~~[(ii) was born on or before December 31, 1952; and]~~

1362 ~~[(iii) has eligible retirement income for the taxable year for which a tax credit is~~

1363 ~~claimed under this section.]~~

1364 ~~[(d)]~~ (b) "Head of household filing status" is as defined in Section 59-10-1018.

1365 ~~[(e)]~~ (c) "Joint filing status" is as defined in Section 59-10-1018.

1366 ~~[(f)]~~ (d) "Married filing separately status" means a married individual who:

1367 (i) does not file a single federal individual income tax return jointly with that married

1368 individual's spouse for the taxable year; and

1369 (ii) files a single federal individual income tax return for the taxable year.

1370 ~~[(g)]~~ (e) "Modified adjusted gross income" means the sum of an eligible over age 65

1371 ~~[or older]~~ retiree's ~~[or eligible under age 65 retiree's]~~:

1372 (i) adjusted gross income for the taxable year for which a tax credit is claimed under

1373 this section;

1374 (ii) any interest income that is not included in adjusted gross income for the taxable

1375 year described in Subsection ~~[(1)(g)(i)]~~ (1)(e)(i); and

1376 (iii) any addition to adjusted gross income required by Section 59-10-114 for the

1377 taxable year described in Subsection ~~[(1)(g)(i)]~~ (1)(e)(i).

1378 ~~[(h)]~~ (f) "Single filing status" means a single individual who files a single federal

1379 individual income tax return for the taxable year.

1380 (2) Except as provided in Section 59-10-1002.2 and Subsection (6) and subject to

1381 Subsections (3) through (5)~~[(a)]~~, each eligible over age 65 ~~[or older]~~ retiree may claim a

1382 nonrefundable tax credit of \$450 against taxes otherwise due under this part~~[; or]~~.

1383 ~~[(b) each eligible under age 65 retiree may claim a nonrefundable tax credit against~~

1384 ~~taxes otherwise due under this part in an amount equal to the lesser of:]~~

1385 ~~[(i) \$288; or]~~

1386 ~~[(ii) the product of:]~~

1387 ~~[(A) the eligible under age 65 retiree's eligible retirement income for the taxable year~~

1388 ~~for which the eligible under age 65 retiree claims a tax credit under this section; and]~~

1389 ~~[(B) 6%.]~~

- 1390 (3) A tax credit under this section may not be carried forward or carried back.
- 1391 (4) The [~~sum of the tax credits~~] tax credit allowed by Subsection (2) claimed on [~~one~~] a
1392 return filed under this part shall be reduced by \$.025 for each dollar by which modified
1393 adjusted gross income for purposes of the return exceeds:
- 1394 (a) for a federal individual income tax return that is allowed a married filing separately
1395 status, \$16,000;
- 1396 (b) for a federal individual income tax return that is allowed a single filing status,
1397 \$25,000;
- 1398 (c) for a federal individual income tax return that is allowed a head of household filing
1399 status, \$32,000; or
- 1400 (d) for a return under this chapter that is allowed a joint filing status, \$32,000.
- 1401 (5) For purposes of determining the ownership of items of retirement income under this
1402 section, common law doctrine shall be applied in all cases even though some items of
1403 retirement income may have originated from service or investments in a community property
1404 state.
- 1405 (6) If an eligible over age 65 retiree qualifies for a tax credit under this section and
1406 under Section 59-10-1041, the eligible over age 65 retiree may claim either:
- 1407 (a) the tax credit under this section; or
- 1408 (b) the tax credit under Section 59-10-1041.
- 1409 Section 22. Section **59-10-1022** is amended to read:
- 1410 **59-10-1022. Nonrefundable tax credit for capital gain transactions.**
- 1411 (1) As used in this section:
- 1412 (a) (i) "Capital gain transaction" means a transaction that results in a:
- 1413 (A) short-term capital gain; or
- 1414 (B) long-term capital gain.
- 1415 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1416 commission may by rule define the term "transaction."
- 1417 (b) "Commercial domicile" means the principal place from which the trade or business
1418 of a Utah small business corporation is directed or managed.
- 1419 (c) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.
- 1420 (d) "Qualifying stock" means stock that is:

- 1421 (i) (A) common; or
1422 (B) preferred;
1423 (ii) as defined by the commission by rule made in accordance with Title 63G, Chapter
1424 3, Utah Administrative Rulemaking Act, originally issued to:
1425 (A) a claimant, estate, or trust; or
1426 (B) a partnership if the claimant, estate, or trust that claims a tax credit under this
1427 section:
1428 (I) was a partner on the day on which the stock was issued; and
1429 (II) remains a partner until the last day of the taxable year for which the claimant,
1430 estate, or trust claims a tax credit under this section; and
1431 (iii) issued:
1432 (A) by a Utah small business corporation;
1433 (B) on or after January 1, 2008; and
1434 (C) for:
1435 (I) money; or
1436 (II) other property, except for stock or securities.
1437 (e) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.
1438 (f) (i) "Utah small business corporation" means a corporation that:
1439 (A) except as provided in Subsection (1)(f)(ii), is a small business corporation as
1440 defined in Section 1244(c)(3), Internal Revenue Code;
1441 (B) except as provided in Subsection (1)(f)(iii), meets the requirements of Section
1442 1244(c)(1)(C), Internal Revenue Code; and
1443 (C) has its commercial domicile in this state.
1444 (ii) The dollar amount listed in Section 1244(c)(3)(A) is considered to be \$2,500,000.
1445 (iii) The phrase "the date the loss on such stock was sustained" in Sections
1446 1244(c)(1)(C) and 1244(c)(2), Internal Revenue Code, is considered to be "the last day of the
1447 taxable year for which the claimant, estate, or trust claims a tax credit under this section."
1448 (2) For taxable years beginning on or after January 1, 2008, a claimant, estate, or trust
1449 that meets the requirements of Subsection (3) may claim a nonrefundable tax credit equal to the
1450 product of:
1451 (a) the total amount of the claimant's, estate's, or trust's short-term capital gain or

1452 long-term capital gain on a capital gain transaction that occurs on or after January 1, 2008; and

1453 (b) [~~5%~~] 4.75%.

1454 (3) For purposes of Subsection (2), a claimant, estate, or trust may claim the

1455 nonrefundable tax credit allowed by Subsection (2) if:

1456 (a) 70% or more of the gross proceeds of the capital gain transaction are expended:

1457 (i) to purchase qualifying stock in a Utah small business corporation; and

1458 (ii) within a 12-month period after the day on which the capital gain transaction occurs;

1459 and

1460 (b) prior to the purchase of the qualifying stock described in Subsection (3)(a)(i), the

1461 claimant, estate, or trust did not have an ownership interest in the Utah small business

1462 corporation that issued the qualifying stock.

1463 (4) A claimant, estate, or trust may not carry forward or carry back a tax credit under

1464 this section.

1465 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1466 commission may make rules:

1467 (a) defining the term "gross proceeds"; and

1468 (b) prescribing the circumstances under which a claimant, estate, or trust has an

1469 ownership interest in a Utah small business corporation.

1470 Section 23. Section **59-10-1023** is amended to read:

1471 **59-10-1023. Nonrefundable tax credit for amounts paid under a health benefit**

1472 **plan.**

1473 (1) As used in this section:

1474 (a) "Claimant with dependents" means a claimant:

1475 (i) regardless of the claimant's filing status for purposes of filing a federal individual

1476 income tax return for the taxable year; and

1477 (ii) who claims one or more dependents under Section 151, Internal Revenue Code, as

1478 allowed on the claimant's federal individual income tax return for the taxable year.

1479 (b) "Eligible insured individual" means:

1480 (i) the claimant who is insured under a health benefit plan;

1481 (ii) the spouse of the claimant described in Subsection (1)(b)(i) if:

1482 (A) the claimant files a single return jointly under this chapter with the claimant's

1483 spouse for the taxable year; and

1484 (B) the spouse is insured under the health benefit plan described in Subsection

1485 (1)(b)(i); or

1486 (iii) a dependent of the claimant described in Subsection (1)(b)(i) if:

1487 (A) the claimant claims the dependent under Section 151, Internal Revenue Code, as

1488 allowed on the claimant's federal individual income tax return for the taxable year; and

1489 (B) the dependent is insured under the health benefit plan described in Subsection

1490 (1)(b)(i).

1491 (c) "Excluded expenses" means an amount a claimant pays for insurance offered under

1492 a health benefit plan for a taxable year if:

1493 (i) the claimant claims a tax credit for that amount under Section 35, Internal Revenue

1494 Code:

1495 (A) on the claimant's federal individual income tax return for the taxable year; and

1496 (B) with respect to an eligible insured individual;

1497 (ii) the claimant deducts that amount under Section 162 or 213, Internal Revenue

1498 Code:

1499 (A) on the claimant's federal individual income tax return for the taxable year; and

1500 (B) with respect to an eligible insured individual; or

1501 (iii) the claimant excludes that amount from gross income under Section 106 or 125,

1502 Internal Revenue Code, with respect to an eligible insured individual.

1503 (d) (i) "Health benefit plan" is as defined in Section [31A-1-301](#).

1504 (ii) "Health benefit plan" does not include equivalent self-insurance as defined by the

1505 Insurance Department by rule made in accordance with Title 63G, Chapter 3, Utah

1506 Administrative Rulemaking Act.

1507 (e) "Joint claimant with no dependents" means a husband and wife who:

1508 (i) file a single return jointly under this chapter for the taxable year; and

1509 (ii) do not claim a dependent under Section 151, Internal Revenue Code, on the

1510 husband's and wife's federal individual income tax return for the taxable year.

1511 (f) "Single claimant with no dependents" means:

1512 (i) a single individual who:

1513 (A) files a single federal individual income tax return for the taxable year; and

1514 (B) does not claim a dependent under Section 151, Internal Revenue Code, on the
1515 single individual's federal individual income tax return for the taxable year;

1516 (ii) a head of household:

1517 (A) as defined in Section 2(b), Internal Revenue Code, who files a single federal
1518 individual income tax return for the taxable year; and

1519 (B) who does not claim a dependent under Section 151, Internal Revenue Code, on the
1520 head of household's federal individual income tax return for the taxable year; or

1521 (iii) a married individual who:

1522 (A) does not file a single federal individual income tax return jointly with that married
1523 individual's spouse for the taxable year; and

1524 (B) does not claim a dependent under Section 151, Internal Revenue Code, on that
1525 married individual's federal individual income tax return for the taxable year.

1526 (2) Subject to Subsection (3), and except as provided in Subsection (4), for taxable
1527 years beginning on or after January 1, 2009, a claimant may claim a nonrefundable tax credit
1528 equal to the product of:

1529 (a) the difference between:

1530 (i) the total amount the claimant pays during the taxable year for:

1531 (A) insurance offered under a health benefit plan; and

1532 (B) an eligible insured individual; and

1533 (ii) excluded expenses; and

1534 (b) [~~5%~~] 4.75%.

1535 (3) The maximum amount of a tax credit described in Subsection (2) a claimant may
1536 claim on a return for a taxable year is:

1537 (a) for a single claimant with no dependents, \$300;

1538 (b) for a joint claimant with no dependents, \$600; or

1539 (c) for a claimant with dependents, \$900.

1540 (4) A claimant may not claim a tax credit under this section if the claimant is eligible to
1541 participate in insurance offered under a health benefit plan maintained and funded in whole or
1542 in part by:

1543 (a) the claimant's employer; or

1544 (b) another person's employer.

1545 (5) A claimant may not carry forward or carry back a tax credit under this section.

1546 Section 24. Section **59-10-1028** is amended to read:

1547 **59-10-1028. Nonrefundable tax credit for capital gain transactions on the**
1548 **exchange of one form of legal tender for another form of legal tender.**

1549 (1) As used in this section:

1550 (a) "Capital gain transaction" means a transaction that results in a:

1551 (i) short-term capital gain; or

1552 (ii) long-term capital gain.

1553 (b) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.

1554 (c) "Long-term capital loss" is as defined in Section 1222, Internal Revenue Code.

1555 (d) "Net capital gain" means the amount by which the sum of long-term capital gains

1556 and short-term capital gains on a claimant's, estate's, or trust's transactions from exchanges

1557 made for a taxable year of one form of legal tender for another form of legal tender exceeds the

1558 sum of long-term capital losses and short-term capital losses on those transactions for that

1559 taxable year.

1560 (e) "Short-term capital loss" is as defined in Section 1222, Internal Revenue Code.

1561 (f) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.

1562 (2) Except as provided in Section **59-10-1002.2**, for taxable years beginning on or after

1563 January 1, 2012, a claimant, estate, or trust may claim a nonrefundable tax credit equal to the

1564 product of:

1565 (a) to the extent a net capital gain is included in taxable income, the amount of the

1566 claimant's, estate's, or trust's net capital gain on capital gain transactions from exchanges made

1567 on or after January 1, 2012, for a taxable year, of one form of legal tender for another form of

1568 legal tender; and

1569 (b) [~~5%~~ 4.75%].

1570 (3) A claimant, estate, or trust may not carry forward or carry back a tax credit under

1571 this section.

1572 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1573 commission may make rules to implement this section.

1574 Section 25. Section **59-10-1035** is amended to read:

1575 **59-10-1035. Nonrefundable tax credit for contribution to state Achieving a Better**

1576 **Life Experience Program account.**

1577 (1) As used in this section:

1578 (a) "Account" means an account in a qualified ABLE program where the designated
1579 beneficiary of the account is a resident of this state.

1580 (b) "Contributor" means a claimant, estate, or trust that:

1581 (i) makes a contribution to an account; and

1582 (ii) receives a statement from the qualified ABLE program itemizing the contribution.

1583 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.
1584 529A.

1585 (d) "Qualified ABLE program" means the same as that term is defined in Section
1586 [35A-12-102](#).

1587 (2) A contributor to an account may claim a nonrefundable tax credit as provided in
1588 this section.

1589 (3) Subject to the other provisions of this section, the tax credit is equal to the product
1590 of:

1591 (a) [~~5%~~] 4.75%; and

1592 (b) the total amount of contributions:

1593 (i) the contributor makes for the taxable year; and

1594 (ii) for which the contributor receives a statement from the qualified ABLE program
1595 itemizing the contributions.

1596 (4) A contributor may not claim a tax credit under this section:

1597 (a) for an amount of excess contribution to an account that is returned to the
1598 contributor; or

1599 (b) with respect to an amount the contributor deducts on a federal income tax return.

1600 (5) A tax credit under this section may not be carried forward or carried back.

1601 Section 26. Section **59-10-1036** is amended to read:

1602 **59-10-1036. Nonrefundable tax credit for military survivor benefits.**

1603 (1) As used in this section:

1604 (a) "Dependent child" means the same as that term is defined in 10 U.S.C. Sec. 1447.

1605 (b) "Reserve components" means the same as that term is described in 10 U.S.C. Sec.
1606 10101.

1607 (c) "Surviving spouse" means the same as that term is defined in 10 U.S.C. Sec. 1447.

1608 (d) "Survivor benefits" means the amount paid by the federal government in

1609 accordance with 10 U.S.C. Secs. 1447 through 1455.

1610 (2) A surviving spouse or dependent child may claim a nonrefundable tax credit for

1611 survivor benefits if the benefits are paid due to:

1612 (a) the death of a member of the armed forces or reserve components while on active

1613 duty; or

1614 (b) the death of a member of the reserve components that results from a

1615 service-connected cause while performing inactive duty training.

1616 (3) The tax credit described in Subsection (2) is equal to the product of:

1617 (a) the amount of survivor benefits that the surviving spouse or dependent child

1618 received during the taxable year; and

1619 (b) ~~5%~~ 4.75%.

1620 (4) The tax credit described in Subsection (2):

1621 (a) may not be carried forward or carried back; and

1622 (b) applies to a taxable year beginning on or after January 1, 2017.

1623 Section 27. Section **59-10-1041** is enacted to read:

1624 **59-10-1041. Nonrefundable tax credit for social security benefits.**

1625 (1) As used in this section:

1626 (a) "Head of household filing status" means the same as that term is defined in Section

1627 59-10-1018.

1628 (b) "Joint filing status" means the same as that term is defined in Section 59-10-1018.

1629 (c) "Married filing separately status" means a married individual who:

1630 (i) does not file a single federal individual income tax return jointly with that married

1631 individual's spouse for the taxable year; and

1632 (ii) files a single federal individual income tax return for the taxable year.

1633 (d) "Modified adjusted gross income" means the sum of a claimant's:

1634 (i) adjusted gross income for the taxable year for which a tax credit is claimed under

1635 this section;

1636 (ii) any interest income that is not included in adjusted gross income for the taxable

1637 year described in Subsection (1)(d)(i); and

1638 (iii) any addition to adjusted gross income required by Section 59-10-114 for the
1639 taxable year described in Subsection (1)(d)(i).

1640 (e) "Single filing status" means a single individual who files a single federal individual
1641 income tax return for the taxable year.

1642 (f) "Social security benefit" means an amount received by a claimant as a monthly
1643 benefit in accordance with the Social Security Act, 42 U.S.C. Sec. 401 et seq.

1644 (2) Except as provided in Section 59-10-1002.2 and Subsection (3), a claimant may
1645 claim a nonrefundable tax credit against taxes otherwise due under this part equal to the
1646 product of:

1647 (a) 4.75%; and

1648 (b) the claimant's social security benefit that is included in adjusted gross income on
1649 the claimant's federal income tax return for the taxable year.

1650 (3) A claimant:

1651 (a) may not carry forward or carry back a tax credit under this section; and

1652 (b) may not claim a tax credit under this section if a tax credit under Section
1653 59-10-1019 is claimed on the return.

1654 (4) The tax credit allowed by Subsection (2) claimed on a return filed under this part
1655 shall be reduced by \$.025 for each dollar by which modified adjusted gross income for
1656 purposes of the return exceeds:

1657 (a) for a federal individual income tax return that is allowed a married filing separately
1658 status, \$22,500;

1659 (b) for a federal individual income tax return that is allowed a single filing status,
1660 \$30,000;

1661 (c) for a federal individual income tax return that is allowed a head of household filing
1662 status, \$45,000; or

1663 (d) for a federal individual income tax return that is allowed a joint filing status,
1664 \$45,000.

1665 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1666 commission may make rules governing the calculation and method for claiming the tax credit
1667 described in this section.

1668 Section 28. Section 59-10-1102.1 is enacted to read:

1669 **59-10-1102.1. Apportionment of tax credit.**

1670 A nonresident individual or a part-year resident individual who claims the tax credit
1671 described in Section 59-10-1112 may only claim an apportioned amount of the tax credit equal
1672 to the product of:

1673 (1) the state income tax percentage for a nonresident individual or the state income tax
1674 percentage for a part-year resident individual; and

1675 (2) the amount of the tax credit that the nonresident individual or the part-year resident
1676 individual would have been allowed to claim but for the apportionment requirement of this
1677 section.

1678 Section 29. Section **59-10-1112** is enacted to read:

1679 **59-10-1112. Refundable state earned income tax credit -- Definition -- Tax credit**
1680 **calculation.**

1681 (1) As used in this section:

1682 (a) "Department" means the Department of Workforce Services created in Section
1683 35A-1-103.

1684 (b) "Federal earned income tax credit" means the federal earned income tax credit
1685 described in Section 32, Internal Revenue Code.

1686 (c) "Intergenerational poverty" means the same as that term is defined in Section
1687 35A-9-102.

1688 (d) "Qualifying claimant" means a resident or nonresident individual who:

1689 (i) is identified by the department as experiencing intergenerational poverty; and

1690 (ii) claimed the federal earned income tax credit for the previous taxable year.

1691 (2) Except as provided in Section 59-10-1102.1, a qualifying claimant may claim a
1692 refundable earned income tax credit equal to 10% of the amount of the federal earned income
1693 tax credit that the qualifying claimant was entitled to claim on a federal income tax return in
1694 the previous taxable year.

1695 (3) (a) The commission shall use the electronic report described in Section 35A-9-214
1696 to verify that a qualifying claimant is identified as experiencing intergenerational poverty.

1697 (b) The commission may not use the electronic report described in Section 35A-9-214
1698 for any other purpose.

1699 Section 30. Section **59-12-102** is amended to read:

1700 **59-12-102. Definitions.**

1701 As used in this chapter:

1702 (1) "800 service" means a telecommunications service that:

1703 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

1704 (b) is typically marketed:

1705 (i) under the name 800 toll-free calling;

1706 (ii) under the name 855 toll-free calling;

1707 (iii) under the name 866 toll-free calling;

1708 (iv) under the name 877 toll-free calling;

1709 (v) under the name 888 toll-free calling; or

1710 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the

1711 Federal Communications Commission.

1712 (2) (a) "900 service" means an inbound toll telecommunications service that:

1713 (i) a subscriber purchases;

1714 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to

1715 the subscriber's:

1716 (A) prerecorded announcement; or

1717 (B) live service; and

1718 (iii) is typically marketed:

1719 (A) under the name 900 service; or

1720 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal

1721 Communications Commission.

1722 (b) "900 service" does not include a charge for:

1723 (i) a collection service a seller of a telecommunications service provides to a

1724 subscriber; or

1725 (ii) the following a subscriber sells to the subscriber's customer:

1726 (A) a product; or

1727 (B) a service.

1728 (3) (a) "Admission or user fees" includes season passes.

1729 (b) "Admission or user fees" does not include annual membership dues to private

1730 organizations.

1731 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
 1732 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
 1733 Agreement after November 12, 2002.

1734 (5) "Agreement combined tax rate" means the sum of the tax rates:

1735 (a) listed under Subsection (6); and

1736 (b) that are imposed within a local taxing jurisdiction.

1737 (6) "Agreement sales and use tax" means a tax imposed under:

1738 (a) Subsection [59-12-103\(2\)\(a\)\(i\)\(A\)](#);

1739 (b) Subsection [59-12-103\(2\)\(b\)\(i\)](#);

1740 (c) Subsection [59-12-103\(2\)\(c\)\(i\)](#);

1741 (d) Subsection [59-12-103\(2\)\(d\)\(i\)\(A\)\(I\)](#);

1742 (e) Subsection [59-12-103\(2\)\(e\)\(i\)](#);

1743 (f) Subsection [59-12-103.3\(2\)\(a\)](#);

1744 [~~e~~] (g) Section [59-12-204](#);

1745 [~~f~~] (h) Section [59-12-401](#);

1746 [~~g~~] (i) Section [59-12-402](#);

1747 [~~h~~] (j) Section [59-12-402.1](#);

1748 [~~i~~] (k) Section [59-12-703](#);

1749 [~~j~~] (l) Section [59-12-802](#);

1750 [~~k~~] (m) Section [59-12-804](#);

1751 [~~l~~] (n) Section [59-12-1102](#);

1752 [~~m~~] (o) Section [59-12-1302](#);

1753 [~~n~~] (p) Section [59-12-1402](#);

1754 [~~o~~] (q) Section [59-12-1802](#);

1755 [~~p~~] (r) Section [59-12-2003](#);

1756 [~~q~~] (s) Section [59-12-2103](#);

1757 [~~r~~] (t) Section [59-12-2213](#);

1758 [~~s~~] (u) Section [59-12-2214](#);

1759 [~~t~~] (v) Section [59-12-2215](#);

1760 [~~u~~] (w) Section [59-12-2216](#);

1761 [~~v~~] (x) Section [59-12-2217](#);

- 1762 [~~w~~] (y) Section 59-12-2218;
- 1763 [~~x~~] (z) Section 59-12-2219; or
- 1764 [~~y~~] (aa) Section 59-12-2220.
- 1765 (7) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 1766 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 1767 (a) except for:
- 1768 (i) an airline as defined in Section 59-2-102; or
- 1769 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 1770 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 1771 state, of an airline; and
- 1772 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 1773 whether the business entity performs the following in this state:
- 1774 (i) check, diagnose, overhaul, and repair:
- 1775 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 1776 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 1777 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 1778 engine;
- 1779 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 1780 aircraft:
- 1781 (A) an inspection;
- 1782 (B) a repair, including a structural repair or modification;
- 1783 (C) changing landing gear; and
- 1784 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 1785 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 1786 completely apply new paint to the fixed wing turbine powered aircraft; and
- 1787 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 1788 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 1789 authority that certifies the fixed wing turbine powered aircraft.
- 1790 (9) "Alcoholic beverage" means a beverage that:
- 1791 (a) is suitable for human consumption; and
- 1792 (b) contains .5% or more alcohol by volume.

- 1793 (10) "Alternative energy" means:
- 1794 (a) biomass energy;
- 1795 (b) geothermal energy;
- 1796 (c) hydroelectric energy;
- 1797 (d) solar energy;
- 1798 (e) wind energy; or
- 1799 (f) energy that is derived from:
- 1800 (i) coal-to-liquids;
- 1801 (ii) nuclear fuel;
- 1802 (iii) oil-impregnated diatomaceous earth;
- 1803 (iv) oil sands;
- 1804 (v) oil shale;
- 1805 (vi) petroleum coke; or
- 1806 (vii) waste heat from:
- 1807 (A) an industrial facility; or
- 1808 (B) a power station in which an electric generator is driven through a process in which
- 1809 water is heated, turns into steam, and spins a steam turbine.
- 1810 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 1811 facility" means a facility that:
- 1812 (i) uses alternative energy to produce electricity; and
- 1813 (ii) has a production capacity of two megawatts or greater.
- 1814 (b) A facility is an alternative energy electricity production facility regardless of
- 1815 whether the facility is:
- 1816 (i) connected to an electric grid; or
- 1817 (ii) located on the premises of an electricity consumer.
- 1818 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
- 1819 provision of telecommunications service.
- 1820 (b) "Ancillary service" includes:
- 1821 (i) a conference bridging service;
- 1822 (ii) a detailed communications billing service;
- 1823 (iii) directory assistance;

1824 (iv) a vertical service; or

1825 (v) a voice mail service.

1826 (13) "Area agency on aging" means the same as that term is defined in Section

1827 [62A-3-101](#).

1828 [~~(14) "Assisted amusement device" means an amusement device, skill device, or ride~~
1829 ~~device that is started and stopped by an individual:]~~

1830 [~~(a) who is not the purchaser or renter of the right to use or operate the amusement~~
1831 ~~device, skill device, or ride device; and]~~

1832 [~~(b) at the direction of the seller of the right to use the amusement device, skill device,~~
1833 ~~or ride device:]~~

1834 [~~(15) "Assisted cleaning or washing of tangible personal property" means cleaning or~~
1835 ~~washing of tangible personal property if the cleaning or washing labor is primarily performed~~
1836 ~~by an individual:]~~

1837 [~~(a) who is not the purchaser of the cleaning or washing of the tangible personal~~
1838 ~~property; and]~~

1839 [~~(b) at the direction of the seller of the cleaning or washing of the tangible personal~~
1840 ~~property:]~~

1841 [~~(16)~~] (14) "Authorized carrier" means:

1842 (a) in the case of vehicles operated over public highways, the holder of credentials
1843 indicating that the vehicle is or will be operated pursuant to both the International Registration
1844 Plan and the International Fuel Tax Agreement;

1845 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
1846 certificate or air carrier's operating certificate; or

1847 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
1848 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
1849 stock in more than one state.

1850 [~~(17)~~] (15) (a) Except as provided in Subsection [~~(17)~~] (15)(b), "biomass energy"
1851 means any of the following that is used as the primary source of energy to produce fuel or
1852 electricity:

1853 (i) material from a plant or tree; or

1854 (ii) other organic matter that is available on a renewable basis, including:

- 1855 (A) slash and brush from forests and woodlands;
1856 (B) animal waste;
1857 (C) waste vegetable oil;
1858 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
1859 wastewater residuals, or through the conversion of a waste material through a nonincineration,
1860 thermal conversion process;
1861 (E) aquatic plants; and
1862 (F) agricultural products.
- 1863 (b) "Biomass energy" does not include:
1864 (i) black liquor; or
1865 (ii) treated woods.
- 1866 [~~(18)~~] (16) (a) "Bundled transaction" means the sale of two or more items of tangible
1867 personal property, products, or services if the tangible personal property, products, or services
1868 are:
1869 (i) distinct and identifiable; and
1870 (ii) sold for one nonitemized price.
- 1871 (b) "Bundled transaction" does not include:
1872 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
1873 the basis of the selection by the purchaser of the items of tangible personal property included in
1874 the transaction;
1875 (ii) the sale of real property;
1876 (iii) the sale of services to real property;
1877 (iv) the retail sale of tangible personal property and a service if:
1878 (A) the tangible personal property:
1879 (I) is essential to the use of the service; and
1880 (II) is provided exclusively in connection with the service; and
1881 (B) the service is the true object of the transaction;
1882 (v) the retail sale of two services if:
1883 (A) one service is provided that is essential to the use or receipt of a second service;
1884 (B) the first service is provided exclusively in connection with the second service; and
1885 (C) the second service is the true object of the transaction;

1886 (vi) a transaction that includes tangible personal property or a product subject to
1887 taxation under this chapter and tangible personal property or a product that is not subject to
1888 taxation under this chapter if the:

1889 (A) seller's purchase price of the tangible personal property or product subject to
1890 taxation under this chapter is de minimis; or

1891 (B) seller's sales price of the tangible personal property or product subject to taxation
1892 under this chapter is de minimis; and

1893 (vii) the retail sale of tangible personal property that is not subject to taxation under
1894 this chapter and tangible personal property that is subject to taxation under this chapter if:

1895 (A) that retail sale includes:

1896 (I) food and food ingredients;

1897 (II) a drug;

1898 (III) durable medical equipment;

1899 (IV) mobility enhancing equipment;

1900 (V) an over-the-counter drug;

1901 (VI) a prosthetic device; or

1902 (VII) a medical supply; and

1903 (B) subject to Subsection [~~(18)~~] (16)(f):

1904 (I) the seller's purchase price of the tangible personal property subject to taxation under
1905 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

1906 (II) the seller's sales price of the tangible personal property subject to taxation under
1907 this chapter is 50% or less of the seller's total sales price of that retail sale.

1908 (c) (i) For purposes of Subsection [~~(18)~~] (16)(a)(i), tangible personal property, a
1909 product, or a service that is distinct and identifiable does not include:

1910 (A) packaging that:

1911 (I) accompanies the sale of the tangible personal property, product, or service; and

1912 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
1913 service;

1914 (B) tangible personal property, a product, or a service provided free of charge with the
1915 purchase of another item of tangible personal property, a product, or a service; or

1916 (C) an item of tangible personal property, a product, or a service included in the

1917 definition of "purchase price."

1918 (ii) For purposes of Subsection [~~(18)~~] (16)(c)(i)(B), an item of tangible personal
1919 property, a product, or a service is provided free of charge with the purchase of another item of
1920 tangible personal property, a product, or a service if the sales price of the purchased item of
1921 tangible personal property, product, or service does not vary depending on the inclusion of the
1922 tangible personal property, product, or service provided free of charge.

1923 (d) (i) For purposes of Subsection [~~(18)~~] (16)(a)(ii), property sold for one nonitemized
1924 price does not include a price that is separately identified by tangible personal property,
1925 product, or service on the following, regardless of whether the following is in paper format or
1926 electronic format:

1927 (A) a binding sales document; or

1928 (B) another supporting sales-related document that is available to a purchaser.

1929 (ii) For purposes of Subsection [~~(18)~~] (16)(d)(i), a binding sales document or another
1930 supporting sales-related document that is available to a purchaser includes:

1931 (A) a bill of sale;

1932 (B) a contract;

1933 (C) an invoice;

1934 (D) a lease agreement;

1935 (E) a periodic notice of rates and services;

1936 (F) a price list;

1937 (G) a rate card;

1938 (H) a receipt; or

1939 (I) a service agreement.

1940 (e) (i) For purposes of Subsection [~~(18)~~] (16)(b)(vi), the sales price of tangible personal
1941 property or a product subject to taxation under this chapter is de minimis if:

1942 (A) the seller's purchase price of the tangible personal property or product is 10% or
1943 less of the seller's total purchase price of the bundled transaction; or

1944 (B) the seller's sales price of the tangible personal property or product is 10% or less of
1945 the seller's total sales price of the bundled transaction.

1946 (ii) For purposes of Subsection [~~(18)~~] (16)(b)(vi), a seller:

1947 (A) shall use the seller's purchase price or the seller's sales price to determine if the

1948 purchase price or sales price of the tangible personal property or product subject to taxation
1949 under this chapter is de minimis; and

1950 (B) may not use a combination of the seller's purchase price and the seller's sales price
1951 to determine if the purchase price or sales price of the tangible personal property or product
1952 subject to taxation under this chapter is de minimis.

1953 (iii) For purposes of Subsection [~~(18)~~] (16)(b)(vi), a seller shall use the full term of a
1954 service contract to determine if the sales price of tangible personal property or a product is de
1955 minimis.

1956 (f) For purposes of Subsection [~~(18)~~] (16)(b)(vii)(B), a seller may not use a
1957 combination of the seller's purchase price and the seller's sales price to determine if tangible
1958 personal property subject to taxation under this chapter is 50% or less of the seller's total
1959 purchase price or sales price of that retail sale.

1960 [~~(19)~~] (17) "Certified automated system" means software certified by the governing
1961 board of the agreement that:

1962 (a) calculates the agreement sales and use tax imposed within a local taxing
1963 jurisdiction:

1964 (i) on a transaction; and

1965 (ii) in the states that are members of the agreement;

1966 (b) determines the amount of agreement sales and use tax to remit to a state that is a
1967 member of the agreement; and

1968 (c) maintains a record of the transaction described in Subsection [~~(19)~~] (17)(a)(i).

1969 [~~(20)~~] (18) "Certified service provider" means an agent certified:

1970 (a) by the governing board of the agreement; and

1971 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
1972 use tax other than the seller's obligation under Section [59-12-124](#) to remit a tax on the seller's
1973 own purchases.

1974 [~~(21)~~] (19) (a) Subject to Subsection [~~(21)~~] (19)(b), "clothing" means all human
1975 wearing apparel suitable for general use.

1976 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1977 commission shall make rules:

1978 (i) listing the items that constitute "clothing"; and

- 1979 (ii) that are consistent with the list of items that constitute "clothing" under the
1980 agreement.
- 1981 [~~(22)~~] (20) "Coal-to-liquid" means the process of converting coal into a liquid synthetic
1982 fuel.
- 1983 [~~(23)~~] (21) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or
1984 other fuels that does not constitute industrial use under Subsection [~~(56)~~] (55) or residential use
1985 under Subsection [~~(106)~~] (107).
- 1986 [~~(24)~~] (22) (a) "Common carrier" means a person engaged in or transacting the
1987 business of transporting passengers, freight, merchandise, or other property for hire within this
1988 state.
- 1989 (b) (i) "Common carrier" does not include a person who, at the time the person is
1990 traveling to or from that person's place of employment, transports a passenger to or from the
1991 passenger's place of employment.
- 1992 (ii) For purposes of Subsection [~~(24)~~] (22)(b)(i), in accordance with Title 63G, Chapter
1993 3, Utah Administrative Rulemaking Act, the commission may make rules defining what
1994 constitutes a person's place of employment.
- 1995 (c) "Common carrier" does not include a person that provides transportation network
1996 services, as defined in Section [13-51-102](#).
- 1997 [~~(25)~~] (23) "Component part" includes:
1998 (a) poultry, dairy, and other livestock feed, and their components;
1999 (b) baling ties and twine used in the baling of hay and straw;
2000 (c) fuel used for providing temperature control of orchards and commercial
2001 greenhouses doing a majority of their business in wholesale sales, and for providing power for
2002 off-highway type farm machinery; and
2003 (d) feed, seeds, and seedlings.
- 2004 [~~(26)~~] (24) "Computer" means an electronic device that accepts information:
2005 (a) (i) in digital form; or
2006 (ii) in a form similar to digital form; and
2007 (b) manipulates that information for a result based on a sequence of instructions.
- 2008 [~~(27)~~] (25) "Computer software" means a set of coded instructions designed to cause:
2009 (a) a computer to perform a task; or

2010 (b) automatic data processing equipment to perform a task.
2011 [~~(28)~~] (26) "Computer software maintenance contract" means a contract that obligates a
2012 seller of computer software to provide a customer with:

- 2013 (a) future updates or upgrades to computer software;
- 2014 (b) support services with respect to computer software; or
- 2015 (c) a combination of Subsections [~~(28)~~] (26)(a) and (b).

2016 [~~(29)~~] (27) (a) "Conference bridging service" means an ancillary service that links two
2017 or more participants of an audio conference call or video conference call.

2018 (b) "Conference bridging service" may include providing a telephone number as part of
2019 the ancillary service described in Subsection [~~(29)~~] (27)(a).

2020 (c) "Conference bridging service" does not include a telecommunications service used
2021 to reach the ancillary service described in Subsection [~~(29)~~] (27)(a).

2022 [~~(30)~~] (28) "Construction materials" means any tangible personal property that will be
2023 converted into real property.

2024 (29) (a) "Cosmetic medical procedure" means a medical procedure performed in order
2025 to improve a human subject's appearance without significantly serving to prevent or treat
2026 illness or disease or to promote proper functioning of the body.

2027 (b) "Cosmetic medical procedure" may include:

- 2028 (i) cosmetic surgery;
- 2029 (ii) hair transplants;
- 2030 (iii) cosmetic injections;
- 2031 (iv) cosmetic soft tissue fillers;
- 2032 (v) dermabrasion and chemical peels;
- 2033 (vi) laser hair removal;
- 2034 (vii) laser skin resurfacing;
- 2035 (viii) laser treatment of leg veins;
- 2036 (ix) sclerotherapy;
- 2037 (x) cosmetic dentistry; and
- 2038 (xi) facility occupancies, such as hospitalization or clinic stays, required for or directly
2039 associated with a cosmetic medical procedure.

2040 (c) "Cosmetic medical procedure" does not include:

2041 (i) reconstructive surgery or dentistry to correct or minimize abnormal structures

2042 caused by:

2043 (A) congenital defects;

2044 (B) developmental abnormalities;

2045 (C) trauma;

2046 (D) infection;

2047 (E) tumors; or

2048 (F) disease; or

2049 (ii) other procedures performed in order to improve proper functioning of the body.

2050 [~~(31)~~] (30) "Delivered electronically" means delivered to a purchaser by means other

2051 than tangible storage media.

2052 [~~(32)~~] (31) (a) "Delivery charge" means a charge:

2053 (i) by a seller of:

2054 (A) tangible personal property;

2055 (B) a product transferred electronically; or

2056 (C) services; and

2057 (ii) for preparation and delivery of the tangible personal property, product transferred

2058 electronically, or services described in Subsection [~~(32)~~] (31)(a)(i) to a location designated by

2059 the purchaser.

2060 (b) "Delivery charge" includes a charge for the following:

2061 (i) transportation;

2062 (ii) shipping;

2063 (iii) postage;

2064 (iv) handling;

2065 (v) crating; or

2066 (vi) packing.

2067 [~~(33)~~] (32) "Detailed telecommunications billing service" means an ancillary service of

2068 separately stating information pertaining to individual calls on a customer's billing statement.

2069 [~~(34)~~] (33) "Dietary supplement" means a product, other than tobacco, that:

2070 (a) is intended to supplement the diet;

2071 (b) contains one or more of the following dietary ingredients:

- 2072 (i) a vitamin;
- 2073 (ii) a mineral;
- 2074 (iii) an herb or other botanical;
- 2075 (iv) an amino acid;
- 2076 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 2077 dietary intake; or
- 2078 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 2079 described in Subsections ~~[(34)]~~ (33)(b)(i) through (v);
- 2080 (c) (i) except as provided in Subsection ~~[(34)]~~ (33)(c)(ii), is intended for ingestion in:
- 2081 (A) tablet form;
- 2082 (B) capsule form;
- 2083 (C) powder form;
- 2084 (D) softgel form;
- 2085 (E) gelcap form; or
- 2086 (F) liquid form; or
- 2087 (ii) if the product is not intended for ingestion in a form described in Subsections ~~[(34)]~~
- 2088 ~~(33)~~(c)(i)(A) through (F), is not represented:
- 2089 (A) as conventional food; and
- 2090 (B) for use as a sole item of:
- 2091 (I) a meal; or
- 2092 (II) the diet; and
- 2093 (d) is required to be labeled as a dietary supplement:
- 2094 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 2095 (ii) as required by 21 C.F.R. Sec. 101.36.
- 2096 (34) (a) "Digital audio work" means a work that results from the fixation of a series of
- 2097 musical, spoken, or other sounds.
- 2098 (b) "Digital audio work" includes a ringtone.
- 2099 (35) "Digital audio-visual work" means a series of related images which, when shown
- 2100 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 2101 ~~[(36) (a) "Digital audio work" means a work that results from the fixation of a series of~~
- 2102 ~~musical, spoken, or other sounds.]~~

2103 ~~[(b) "Digital audio work" includes a ringtone.]~~

2104 ~~[(37)]~~ (36) "Digital book" means a work that is generally recognized in the ordinary
2105 and usual sense as a book.

2106 ~~[(38)]~~ (37) (a) "Direct mail" means printed material delivered or distributed by United
2107 States mail or other delivery service:

2108 (i) to:

2109 (A) a mass audience; or

2110 (B) addressees on a mailing list provided:

2111 (I) by a purchaser of the mailing list; or

2112 (II) at the discretion of the purchaser of the mailing list; and

2113 (ii) if the cost of the printed material is not billed directly to the recipients.

2114 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
2115 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

2116 (c) "Direct mail" does not include multiple items of printed material delivered to a
2117 single address.

2118 ~~[(39)]~~ (38) "Directory assistance" means an ancillary service of providing:

2119 (a) address information; or

2120 (b) telephone number information.

2121 ~~[(40)]~~ (39) (a) "Disposable home medical equipment or supplies" means medical
2122 equipment or supplies that:

2123 (i) cannot withstand repeated use; and

2124 (ii) are purchased by, for, or on behalf of a person other than:

2125 (A) a health care facility as defined in Section 26-21-2;

2126 (B) a health care provider as defined in Section 78B-3-403;

2127 (C) an office of a health care provider described in Subsection ~~[(40)]~~ (39)(a)(ii)(B); or

2128 (D) a person similar to a person described in Subsections ~~[(40)]~~ (39)(a)(ii)(A) through

2129 (C).

2130 (b) "Disposable home medical equipment or supplies" does not include:

2131 (i) a drug;

2132 (ii) durable medical equipment;

2133 (iii) a hearing aid;

- 2134 (iv) a hearing aid accessory;
- 2135 (v) mobility enhancing equipment; or
- 2136 (vi) tangible personal property used to correct impaired vision, including:
 - 2137 (A) eyeglasses; or
 - 2138 (B) contact lenses.
- 2139 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2140 commission may by rule define what constitutes medical equipment or supplies.
- 2141 ~~[(41)]~~ (40) "Drilling equipment manufacturer" means a facility:
 - 2142 (a) located in the state;
 - 2143 (b) with respect to which 51% or more of the manufacturing activities of the facility
 - 2144 consist of manufacturing component parts of drilling equipment;
 - 2145 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
 - 2146 manufacturing process; and
 - 2147 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
 - 2148 manufacturing process.
- 2149 ~~[(42)]~~ (41) (a) "Drug" means a compound, substance, or preparation, or a component of
- 2150 a compound, substance, or preparation that is:
 - 2151 (i) recognized in:
 - 2152 (A) the official United States Pharmacopoeia;
 - 2153 (B) the official Homeopathic Pharmacopoeia of the United States;
 - 2154 (C) the official National Formulary; or
 - 2155 (D) a supplement to a publication listed in Subsections ~~[(42)]~~ (41)(a)(i)(A) through
 - 2156 (C);
 - 2157 (ii) intended for use in the:
 - 2158 (A) diagnosis of disease;
 - 2159 (B) cure of disease;
 - 2160 (C) mitigation of disease;
 - 2161 (D) treatment of disease; or
 - 2162 (E) prevention of disease; or
 - 2163 (iii) intended to affect:
 - 2164 (A) the structure of the body; or

- 2165 (B) any function of the body.
- 2166 (b) "Drug" does not include:
- 2167 (i) food and food ingredients;
- 2168 (ii) a dietary supplement;
- 2169 (iii) an alcoholic beverage; or
- 2170 (iv) a prosthetic device.
- 2171 ~~[(43)]~~ (42) (a) Except as provided in Subsection ~~[(43)]~~ (42)(c), "durable medical
- 2172 equipment" means equipment that:
- 2173 (i) can withstand repeated use;
- 2174 (ii) is primarily and customarily used to serve a medical purpose;
- 2175 (iii) generally is not useful to a person in the absence of illness or injury; and
- 2176 (iv) is not worn in or on the body.
- 2177 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 2178 equipment described in Subsection ~~[(43)]~~ (42)(a).
- 2179 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 2180 ~~[(44)]~~ (43) "Electronic" means:
- 2181 (a) relating to technology; and
- 2182 (b) having:
- 2183 (i) electrical capabilities;
- 2184 (ii) digital capabilities;
- 2185 (iii) magnetic capabilities;
- 2186 (iv) wireless capabilities;
- 2187 (v) optical capabilities;
- 2188 (vi) electromagnetic capabilities; or
- 2189 (vii) capabilities similar to Subsections ~~[(44)]~~ (43)(b)(i) through (vi).
- 2190 ~~[(45)]~~ (44) "Electronic financial payment service" means an establishment:
- 2191 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 2192 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 2193 federal Executive Office of the President, Office of Management and Budget; and
- 2194 (b) that performs electronic financial payment services.
- 2195 ~~[(46)]~~ (45) "Employee" means the same as that term is defined in Section 59-10-401.

- 2196 [~~(47)~~] (46) "Fixed guideway" means a public transit facility that uses and occupies:
- 2197 (a) rail for the use of public transit; or
- 2198 (b) a separate right-of-way for the use of public transit.
- 2199 [~~(48)~~] (47) "Fixed wing turbine powered aircraft" means an aircraft that:
- 2200 (a) is powered by turbine engines;
- 2201 (b) operates on jet fuel; and
- 2202 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 2203 [~~(49)~~] (48) "Fixed wireless service" means a telecommunications service that provides
- 2204 radio communication between fixed points.
- 2205 [~~(50)~~] (49) (a) "Food and food ingredients" means substances:
- 2206 (i) regardless of whether the substances are in:
- 2207 (A) liquid form;
- 2208 (B) concentrated form;
- 2209 (C) solid form;
- 2210 (D) frozen form;
- 2211 (E) dried form; or
- 2212 (F) dehydrated form; and
- 2213 (ii) that are:
- 2214 (A) sold for:
- 2215 (I) ingestion by humans; or
- 2216 (II) chewing by humans; and
- 2217 (B) consumed for the substance's:
- 2218 (I) taste; or
- 2219 (II) nutritional value.
- 2220 (b) "Food and food ingredients" includes an item described in Subsection [~~(91)~~]
- 2221 (89)(b)(iii).
- 2222 (c) "Food and food ingredients" does not include:
- 2223 (i) an alcoholic beverage;
- 2224 (ii) tobacco; or
- 2225 (iii) prepared food.
- 2226 [~~(51)~~] (50) (a) "Fundraising sales" means sales:

- 2227 (i) (A) made by a school; or
2228 (B) made by a school student;
2229 (ii) that are for the purpose of raising funds for the school to purchase equipment,
2230 materials, or provide transportation; and
2231 (iii) that are part of an officially sanctioned school activity.
2232 (b) For purposes of Subsection [~~(51)~~] (50)(a)(iii), "officially sanctioned school activity"
2233 means a school activity:
2234 (i) that is conducted in accordance with a formal policy adopted by the school or school
2235 district governing the authorization and supervision of fundraising activities;
2236 (ii) that does not directly or indirectly compensate an individual teacher or other
2237 educational personnel by direct payment, commissions, or payment in kind; and
2238 (iii) the net or gross revenues from which are deposited in a dedicated account
2239 controlled by the school or school district.
2240 [~~(52)~~] (51) "Geothermal energy" means energy contained in heat that continuously
2241 flows outward from the earth that is used as the sole source of energy to produce electricity.
2242 [~~(53)~~] (52) "Governing board of the agreement" means the governing board of the
2243 agreement that is:
2244 (a) authorized to administer the agreement; and
2245 (b) established in accordance with the agreement.
2246 [~~(54)~~] (53) (a) For purposes of Subsection 59-12-104[~~(41)~~](35), "governmental entity"
2247 means:
2248 (i) the executive branch of the state, including all departments, institutions, boards,
2249 divisions, bureaus, offices, commissions, and committees;
2250 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
2251 Administrative Office of the Courts, and similar administrative units in the judicial branch;
2252 (iii) the legislative branch of the state, including the House of Representatives, the
2253 Senate, the Legislative Printing Office, the Office of Legislative Research and General
2254 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
2255 Analyst;
2256 (iv) the National Guard;
2257 (v) an independent entity as defined in Section 63E-1-102; or

- 2258 (vi) a political subdivision as defined in Section 17B-1-102.
- 2259 (b) "Governmental entity" does not include the state systems of public and higher
- 2260 education, including:
 - 2261 (i) a school;
 - 2262 (ii) the State Board of Education;
 - 2263 (iii) the State Board of Regents; or
 - 2264 (iv) an institution of higher education described in Section 53B-1-102.
- 2265 [~~55~~] (54) "Hydroelectric energy" means water used as the sole source of energy to
- 2266 produce electricity.
- 2267 [~~56~~] (55) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
- 2268 [~~or~~] other fuels, or potable delivered water:
 - 2269 (a) in mining or extraction of minerals;
 - 2270 (b) in agricultural operations to produce an agricultural product up to the time of
 - 2271 harvest or placing the agricultural product into a storage facility, including:
 - 2272 (i) commercial greenhouses;
 - 2273 (ii) irrigation pumps;
 - 2274 (iii) farm machinery;
 - 2275 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
 - 2276 under Title 41, Chapter 1a, Part 2, Registration; and
 - 2277 (v) other farming activities;
 - 2278 (c) in manufacturing tangible personal property at an establishment described in:
 - 2279 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
 - 2280 the federal Executive Office of the President, Office of Management and Budget; or
 - 2281 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
 - 2282 American Industry Classification System of the federal Executive Office of the President,
 - 2283 Office of Management and Budget;
 - 2284 (d) by a scrap recycler if:
 - 2285 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
 - 2286 one or more of the following items into prepared grades of processed materials for use in new
 - 2287 products:
 - 2288 (A) iron;

- 2289 (B) steel;
- 2290 (C) nonferrous metal;
- 2291 (D) paper;
- 2292 (E) glass;
- 2293 (F) plastic;
- 2294 (G) textile; or
- 2295 (H) rubber; and
- 2296 (ii) the new products under Subsection [~~(56)~~] (55)(d)(i) would otherwise be made with
- 2297 nonrecycled materials; or
- 2298 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
- 2299 cogeneration facility as defined in Section 54-2-1.
- 2300 [~~(57)~~] (56) (a) Except as provided in Subsection [~~(57)~~] (56)(b), "installation charge"
- 2301 means a charge for installing:
 - 2302 (i) tangible personal property; or
 - 2303 (ii) a product transferred electronically.
- 2304 (b) "Installation charge" does not include a charge for:
 - 2305 (i) repairs or renovations of:
 - 2306 (A) tangible personal property; or
 - 2307 (B) a product transferred electronically; or
 - 2308 (ii) attaching tangible personal property or a product transferred electronically:
 - 2309 (A) to other tangible personal property; and
 - 2310 (B) as part of a manufacturing or fabrication process.
- 2311 [~~(58)~~] (57) "Institution of higher education" means an institution of higher education
- 2312 listed in Section 53B-2-101.
- 2313 [~~(59)~~] (58) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 2314 personal property or a product transferred electronically for:
 - 2315 (i) (A) a fixed term; or
 - 2316 (B) an indeterminate term; and
 - 2317 (ii) consideration.
- 2318 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
- 2319 amount of consideration may be increased or decreased by reference to the amount realized

2320 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
2321 Code.

2322 (c) "Lease" or "rental" does not include:

2323 (i) a transfer of possession or control of property under a security agreement or
2324 deferred payment plan that requires the transfer of title upon completion of the required
2325 payments;

2326 (ii) a transfer of possession or control of property under an agreement that requires the
2327 transfer of title:

2328 (A) upon completion of required payments; and

2329 (B) if the payment of an option price does not exceed the greater of:

2330 (I) \$100; or

2331 (II) 1% of the total required payments; or

2332 (iii) providing tangible personal property along with an operator for a fixed period of
2333 time or an indeterminate period of time if the operator is necessary for equipment to perform as
2334 designed.

2335 (d) For purposes of Subsection [~~(59)~~] (58)(c)(iii), an operator is necessary for
2336 equipment to perform as designed if the operator's duties exceed the:

2337 (i) set-up of tangible personal property;

2338 (ii) maintenance of tangible personal property; or

2339 (iii) inspection of tangible personal property.

2340 [~~(60)~~] (59) "Life science establishment" means an establishment in this state that is
2341 classified under the following NAICS codes of the 2007 North American Industry
2342 Classification System of the federal Executive Office of the President, Office of Management
2343 and Budget:

2344 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

2345 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
2346 Manufacturing; or

2347 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

2348 [~~(61)~~] (60) "Life science research and development facility" means a facility owned,
2349 leased, or rented by a life science establishment if research and development is performed in
2350 51% or more of the total area of the facility.

2351 [~~(62)~~] (61) "Load and leave" means delivery to a purchaser by use of a tangible storage
2352 media if the tangible storage media is not physically transferred to the purchaser.

2353 [~~(63)~~] (62) "Local taxing jurisdiction" means a:

2354 (a) county that is authorized to impose an agreement sales and use tax;

2355 (b) city that is authorized to impose an agreement sales and use tax; or

2356 (c) town that is authorized to impose an agreement sales and use tax.

2357 [~~(64)~~] (63) "Manufactured home" means the same as that term is defined in Section
2358 15A-1-302.

2359 [~~(65)~~] (64) "Manufacturing facility" means:

2360 (a) an establishment described in:

2361 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
2362 the federal Executive Office of the President, Office of Management and Budget; or

2363 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
2364 American Industry Classification System of the federal Executive Office of the President,
2365 Office of Management and Budget;

2366 (b) a scrap recycler if:

2367 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
2368 one or more of the following items into prepared grades of processed materials for use in new
2369 products:

2370 (A) iron;

2371 (B) steel;

2372 (C) nonferrous metal;

2373 (D) paper;

2374 (E) glass;

2375 (F) plastic;

2376 (G) textile; or

2377 (H) rubber; and

2378 (ii) the new products under Subsection [~~(65)~~] (64)(b)(i) would otherwise be made with
2379 nonrecycled materials; or

2380 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
2381 placed in service on or after May 1, 2006.

2382 [~~(66)~~] (65) "Member of the immediate family of the producer" means a person who is
2383 related to a producer described in Subsection 59-12-104~~[(20)]~~(17)(a) as a:

2384 (a) child or stepchild, regardless of whether the child or stepchild is:

2385 (i) an adopted child or adopted stepchild; or

2386 (ii) a foster child or foster stepchild;

2387 (b) grandchild or stepgrandchild;

2388 (c) grandparent or stepgrandparent;

2389 (d) nephew or stepnephew;

2390 (e) niece or stepniece;

2391 (f) parent or stepparent;

2392 (g) sibling or stepsibling;

2393 (h) spouse;

2394 (i) person who is the spouse of a person described in Subsections [~~(66)~~] (65)(a) through
2395 (g); or

2396 (j) person similar to a person described in Subsections [~~(66)~~] (65)(a) through (i) as
2397 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
2398 Administrative Rulemaking Act.

2399 [~~(67)~~] (66) "Mobile home" means the same as that term is defined in Section
2400 15A-1-302.

2401 [~~(68)~~] (67) "Mobile telecommunications service" means the same as that term is
2402 defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2403 [~~(69)~~] (68) (a) "Mobile wireless service" means a telecommunications service,
2404 regardless of the technology used, if:

2405 (i) the origination point of the conveyance, routing, or transmission is not fixed;

2406 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

2407 (iii) the origination point described in Subsection [~~(69)~~] (68)(a)(i) and the termination
2408 point described in Subsection [~~(69)~~] (68)(a)(ii) are not fixed.

2409 (b) "Mobile wireless service" includes a telecommunications service that is provided
2410 by a commercial mobile radio service provider.

2411 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2412 commission may by rule define "commercial mobile radio service provider."

- 2413 [~~(70)~~] (69) (a) Except as provided in Subsection [~~(70)~~] (69)(c), "mobility enhancing
2414 equipment" means equipment that is:
- 2415 (i) primarily and customarily used to provide or increase the ability to move from one
2416 place to another;
- 2417 (ii) appropriate for use in a:
- 2418 (A) home; or
- 2419 (B) motor vehicle; and
- 2420 (iii) not generally used by persons with normal mobility.
- 2421 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
2422 the equipment described in Subsection [~~(70)~~] (69)(a).
- 2423 (c) "Mobility enhancing equipment" does not include:
- 2424 (i) a motor vehicle;
- 2425 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
2426 vehicle manufacturer;
- 2427 (iii) durable medical equipment; or
- 2428 (iv) a prosthetic device.
- 2429 [~~(71)~~] (70) "Model 1 seller" means a seller registered under the agreement that has
2430 selected a certified service provider as the seller's agent to perform all of the seller's sales and
2431 use tax functions for agreement sales and use taxes other than the seller's obligation under
2432 Section 59-12-124 to remit a tax on the seller's own purchases.
- 2433 [~~(72)~~] (71) "Model 2 seller" means a seller registered under the agreement that:
- 2434 (a) except as provided in Subsection [~~(72)~~] (71)(b), has selected a certified automated
2435 system to perform the seller's sales tax functions for agreement sales and use taxes; and
- 2436 (b) retains responsibility for remitting all of the sales tax:
- 2437 (i) collected by the seller; and
- 2438 (ii) to the appropriate local taxing jurisdiction.
- 2439 [~~(73)~~] (72) (a) Subject to Subsection [~~(73)~~] (72)(b), "model 3 seller" means a seller
2440 registered under the agreement that has:
- 2441 (i) sales in at least five states that are members of the agreement;
- 2442 (ii) total annual sales revenues of at least \$500,000,000;
- 2443 (iii) a proprietary system that calculates the amount of tax:

2444 (A) for an agreement sales and use tax; and
2445 (B) due to each local taxing jurisdiction; and
2446 (iv) entered into a performance agreement with the governing board of the agreement.
2447 (b) For purposes of Subsection [~~(73)~~] (72)(a), "model 3 seller" includes an affiliated
2448 group of sellers using the same proprietary system.
2449 [~~(74)~~] (73) "Model 4 seller" means a seller that is registered under the agreement and is
2450 not a model 1 seller, model 2 seller, or model 3 seller.
2451 [~~(75)~~] (74) "Modular home" means a modular unit as defined in Section [15A-1-302](#).
2452 [~~(76)~~] (75) "Motor vehicle" means the same as that term is defined in Section
2453 [41-1a-102](#).
2454 [~~(77)~~] (76) "Oil sands" means impregnated bituminous sands that:
2455 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
2456 other hydrocarbons, or otherwise treated;
2457 (b) yield mixtures of liquid hydrocarbon; and
2458 (c) require further processing other than mechanical blending before becoming finished
2459 petroleum products.
2460 [~~(78)~~] (77) "Oil shale" means a group of fine black to dark brown shales containing
2461 kerogen material that yields petroleum upon heating and distillation.
2462 [~~(79)~~] (78) "Optional computer software maintenance contract" means a computer
2463 software maintenance contract that a customer is not obligated to purchase as a condition to the
2464 retail sale of computer software.
2465 [~~(80)~~] (79) (a) "Other fuels" means products that burn independently to produce heat or
2466 energy.
2467 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
2468 personal property.
2469 [~~(81)~~] (80) (a) "Paging service" means a telecommunications service that provides
2470 transmission of a coded radio signal for the purpose of activating a specific pager.
2471 (b) For purposes of Subsection [~~(81)~~] (80)(a), the transmission of a coded radio signal
2472 includes a transmission by message or sound.
2473 [~~(82)~~] (81) "Pawnbroker" means the same as that term is defined in Section
2474 [13-32a-102](#).

2475 [~~(83)~~] (82) "Pawn transaction" means the same as that term is defined in Section
2476 13-32a-102.

2477 [~~(84)~~] (83) (a) "Permanently attached to real property" means that for tangible personal
2478 property attached to real property:

2479 (i) the attachment of the tangible personal property to the real property:

2480 (A) is essential to the use of the tangible personal property; and

2481 (B) suggests that the tangible personal property will remain attached to the real
2482 property in the same place over the useful life of the tangible personal property; or

2483 (ii) if the tangible personal property is detached from the real property, the detachment
2484 would:

2485 (A) cause substantial damage to the tangible personal property; or

2486 (B) require substantial alteration or repair of the real property to which the tangible
2487 personal property is attached.

2488 (b) "Permanently attached to real property" includes:

2489 (i) the attachment of an accessory to the tangible personal property if the accessory is:

2490 (A) essential to the operation of the tangible personal property; and

2491 (B) attached only to facilitate the operation of the tangible personal property;

2492 (ii) a temporary detachment of tangible personal property from real property for a
2493 repair or renovation if the repair or renovation is performed where the tangible personal
2494 property and real property are located; or

2495 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
2496 Subsection [~~(84)~~] (83)(c)(iii) or (iv).

2497 (c) "Permanently attached to real property" does not include:

2498 (i) the attachment of portable or movable tangible personal property to real property if
2499 that portable or movable tangible personal property is attached to real property only for:

2500 (A) convenience;

2501 (B) stability; or

2502 (C) for an obvious temporary purpose;

2503 (ii) the detachment of tangible personal property from real property except for the
2504 detachment described in Subsection [~~(84)~~] (83)(b)(ii); or

2505 (iii) an attachment of the following tangible personal property to real property if the

2506 attachment to real property is only through a line that supplies water, electricity, gas,
2507 telecommunications, cable, or supplies a similar item as determined by the commission by rule
2508 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

2509 (A) a computer;

2510 (B) a telephone;

2511 (C) a television; or

2512 (D) tangible personal property similar to Subsections [~~84~~] (83)(c)(iii)(A) through (C)

2513 as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
2514 Administrative Rulemaking Act; or

2515 (iv) an item listed in Subsection (125)(c).

2516 [~~85~~] (84) "Person" includes any individual, firm, partnership, joint venture,
2517 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
2518 city, municipality, district, or other local governmental entity of the state, or any group or
2519 combination acting as a unit.

2520 [~~86~~] (85) "Place of primary use":

2521 (a) for telecommunications service other than mobile telecommunications service,
2522 means the street address representative of where the customer's use of the telecommunications
2523 service primarily occurs, which shall be:

2524 (i) the residential street address of the customer; or

2525 (ii) the primary business street address of the customer; or

2526 (b) for mobile telecommunications service, means the same as that term is defined in
2527 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2528 (86) "Point of final sale" means the point at which the supplier sells potable delivered
2529 water to the final end user.

2530 (87) (a) "Postpaid calling service" means a telecommunications service a person
2531 obtains by making a payment on a call-by-call basis:

2532 (i) through the use of a:

2533 (A) bank card;

2534 (B) credit card;

2535 (C) debit card; or

2536 (D) travel card; or

2537 (ii) by a charge made to a telephone number that is not associated with the origination
2538 or termination of the telecommunications service.

2539 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
2540 service, that would be a prepaid wireless calling service if the service were exclusively a
2541 telecommunications service.

2542 [~~(88) "Postproduction" means an activity related to the finishing or duplication of a~~
2543 ~~medium described in Subsection 59-12-104(54)(a).]~~

2544 (88) "Potable delivered water" means water that is:

2545 (a) suitable for human consumption; and

2546 (b) delivered through a pipe or similar conduit to the point of final sale.

2547 (89) "Prepaid calling service" means a telecommunications service:

2548 (a) that allows a purchaser access to telecommunications service that is exclusively
2549 telecommunications service;

2550 (b) that:

2551 (i) is paid for in advance; and

2552 (ii) enables the origination of a call using an:

2553 (A) access number; or

2554 (B) authorization code;

2555 (c) that is dialed:

2556 (i) manually; or

2557 (ii) electronically; and

2558 (d) sold in predetermined units or dollars that decline:

2559 (i) by a known amount; and

2560 (ii) with use.

2561 (90) "Prepaid wireless calling service" means a telecommunications service:

2562 (a) that provides the right to utilize:

2563 (i) mobile wireless service; and

2564 (ii) other service that is not a telecommunications service, including:

2565 (A) the download of a product transferred electronically;

2566 (B) a content service; or

2567 (C) an ancillary service;

- 2568 (b) that:
- 2569 (i) is paid for in advance; and
- 2570 (ii) enables the origination of a call using an:
- 2571 (A) access number; or
- 2572 (B) authorization code;
- 2573 (c) that is dialed:
- 2574 (i) manually; or
- 2575 (ii) electronically; and
- 2576 (d) sold in predetermined units or dollars that decline:
- 2577 (i) by a known amount; and
- 2578 (ii) with use.
- 2579 (91) (a) "Prepared food" means:
- 2580 (i) food:
- 2581 (A) sold in a heated state; or
- 2582 (B) heated by a seller;
- 2583 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 2584 item; or
- 2585 (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided
- 2586 by the seller, including a:
- 2587 (A) plate;
- 2588 (B) knife;
- 2589 (C) fork;
- 2590 (D) spoon;
- 2591 (E) glass;
- 2592 (F) cup;
- 2593 (G) napkin; or
- 2594 (H) straw.
- 2595 (b) "Prepared food" does not include:
- 2596 (i) food that a seller only:
- 2597 (A) cuts;
- 2598 (B) repackages; or

- 2599 (C) pasteurizes; or
- 2600 (ii) (A) the following:
- 2601 (I) raw egg;
- 2602 (II) raw fish;
- 2603 (III) raw meat;
- 2604 (IV) raw poultry; or
- 2605 (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);
- 2606 and
- 2607 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 2608 Food and Drug Administration's Food Code that a consumer cook the items described in
- 2609 Subsection (91)(b)(ii)(A) to prevent food borne illness; or
- 2610 (iii) the following if sold without eating utensils provided by the seller:
- 2611 (A) food and food ingredients sold by a seller if the seller's proper primary
- 2612 classification under the 2002 North American Industry Classification System of the federal
- 2613 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 2614 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 2615 Manufacturing;
- 2616 (B) food and food ingredients sold in an unheated state:
- 2617 (I) by weight or volume; and
- 2618 (II) as a single item; or
- 2619 (C) a bakery item, including:
- 2620 (I) a bagel;
- 2621 (II) a bar;
- 2622 (III) a biscuit;
- 2623 (IV) bread;
- 2624 (V) a bun;
- 2625 (VI) a cake;
- 2626 (VII) a cookie;
- 2627 (VIII) a croissant;
- 2628 (IX) a danish;
- 2629 (X) a donut;

- 2630 (XI) a muffin;
- 2631 (XII) a pastry;
- 2632 (XIII) a pie;
- 2633 (XIV) a roll;
- 2634 (XV) a tart;
- 2635 (XVI) a torte; or
- 2636 (XVII) a tortilla.
- 2637 (c) An eating utensil provided by the seller does not include the following used to
- 2638 transport the food:
 - 2639 (i) a container; or
 - 2640 (ii) packaging.
- 2641 (92) "Prescription" means an order, formula, or recipe that is issued:
 - 2642 (a) (i) orally;
 - 2643 (ii) in writing;
 - 2644 (iii) electronically; or
 - 2645 (iv) by any other manner of transmission; and
 - 2646 (b) by a licensed practitioner authorized by the laws of a state.
- 2647 (93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer
- 2648 software" means computer software that is not designed and developed:
 - 2649 (i) by the author or other creator of the computer software; and
 - 2650 (ii) to the specifications of a specific purchaser.
- 2651 (b) "Prewritten computer software" includes:
 - 2652 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
 - 2653 software is not designed and developed:
 - 2654 (A) by the author or other creator of the computer software; and
 - 2655 (B) to the specifications of a specific purchaser;
 - 2656 (ii) computer software designed and developed by the author or other creator of the
 - 2657 computer software to the specifications of a specific purchaser if the computer software is sold
 - 2658 to a person other than the purchaser; or
 - 2659 (iii) except as provided in Subsection (93)(c), prewritten computer software or a
 - 2660 prewritten portion of prewritten computer software:

- 2661 (A) that is modified or enhanced to any degree; and
- 2662 (B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is
- 2663 designed and developed to the specifications of a specific purchaser.
- 2664 (c) "Prewritten computer software" does not include a modification or enhancement
- 2665 described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:
- 2666 (i) reasonable; and
- 2667 (ii) subject to Subsections 59-12-103(2)[~~(e)~~](f)(ii) and (2)[~~(f)~~](g)(i), separately stated
- 2668 on the invoice or other statement of price provided to the purchaser at the time of sale or later,
- 2669 as demonstrated by:
 - 2670 (A) the books and records the seller keeps at the time of the transaction in the regular
 - 2671 course of business, including books and records the seller keeps at the time of the transaction in
 - 2672 the regular course of business for nontax purposes;
 - 2673 (B) a preponderance of the facts and circumstances at the time of the transaction; and
 - 2674 (C) the understanding of all of the parties to the transaction.
- 2675 (94) (a) "Private communications service" means a telecommunications service:
 - 2676 (i) that entitles a customer to exclusive or priority use of one or more communications
 - 2677 channels between or among termination points; and
 - 2678 (ii) regardless of the manner in which the one or more communications channels are
 - 2679 connected.
- 2680 (b) "Private communications service" includes the following provided in connection
- 2681 with the use of one or more communications channels:
 - 2682 (i) an extension line;
 - 2683 (ii) a station;
 - 2684 (iii) switching capacity; or
 - 2685 (iv) another associated service that is provided in connection with the use of one or
 - 2686 more communications channels as defined in Section 59-12-215.
- 2687 (95) (a) Except as provided in Subsection (95)(b), "product transferred electronically"
- 2688 means a product transferred electronically that would be subject to a tax under this chapter if
- 2689 that product was transferred in a manner other than electronically.
- 2690 (b) "Product transferred electronically" does not include:
 - 2691 (i) an ancillary service;

- 2692 (ii) computer software; or
- 2693 (iii) a telecommunications service.
- 2694 (96) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 2695 (i) artificially replace a missing portion of the body;
- 2696 (ii) prevent or correct a physical deformity or physical malfunction; or
- 2697 (iii) support a weak or deformed portion of the body.
- 2698 (b) "Prosthetic device" includes:
- 2699 (i) parts used in the repairs or renovation of a prosthetic device;
- 2700 (ii) replacement parts for a prosthetic device;
- 2701 (iii) a dental prosthesis; or
- 2702 (iv) a hearing aid.
- 2703 (c) "Prosthetic device" does not include:
- 2704 (i) corrective eyeglasses; or
- 2705 (ii) contact lenses.
- 2706 (97) (a) "Protective equipment" means an item:
- 2707 (i) for human wear; and
- 2708 (ii) that is:
- 2709 (A) designed as protection:
- 2710 (I) to the wearer against injury or disease; or
- 2711 (II) against damage or injury of other persons or property; and
- 2712 (B) not suitable for general use.
- 2713 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2714 commission shall make rules:
- 2715 (i) listing the items that constitute "protective equipment"; and
- 2716 (ii) that are consistent with the list of items that constitute "protective equipment"
- 2717 under the agreement.
- 2718 (98) (a) For purposes of Subsection 59-12-104~~(41)~~(35), "publication" means any
- 2719 written or printed matter, other than a photocopy:
- 2720 (i) regardless of:
- 2721 (A) characteristics;
- 2722 (B) copyright;

- 2723 (C) form;
- 2724 (D) format;
- 2725 (E) method of reproduction; or
- 2726 (F) source; and
- 2727 (ii) made available in printed or electronic format.
- 2728 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2729 commission may by rule define the term "photocopy."
- 2730 (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 2731 (i) valued in money; and
- 2732 (ii) for which tangible personal property, a product transferred electronically, or
- 2733 services are:
 - 2734 (A) sold;
 - 2735 (B) leased; or
 - 2736 (C) rented.
- 2737 (b) "Purchase price" and "sales price" include:
- 2738 (i) the seller's cost of the tangible personal property, a product transferred
- 2739 electronically, or services sold;
- 2740 (ii) expenses of the seller, including:
 - 2741 (A) the cost of materials used;
 - 2742 (B) a labor cost;
 - 2743 (C) a service cost;
 - 2744 (D) interest;
 - 2745 (E) a loss;
 - 2746 (F) the cost of transportation to the seller; ~~[or]~~
 - 2747 (G) a tax imposed on the seller;
 - 2748 (H) a delivery charge; or
 - 2749 (I) an installation charge;
- 2750 (iii) a charge by the seller for any service necessary to complete the sale; or
- 2751 (iv) consideration a seller receives from a person other than the purchaser if:
 - 2752 (A) (I) the seller actually receives consideration from a person other than the purchaser;
 - 2753 and

2754 (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a
2755 price reduction or discount on the sale;

2756 (B) the seller has an obligation to pass the price reduction or discount through to the
2757 purchaser;

2758 (C) the amount of the consideration attributable to the sale is fixed and determinable by
2759 the seller at the time of the sale to the purchaser; and

2760 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
2761 seller to claim a price reduction or discount; and

2762 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
2763 coupon, or other documentation with the understanding that the person other than the seller
2764 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

2765 (II) the purchaser identifies that purchaser to the seller as a member of a group or
2766 organization allowed a price reduction or discount, except that a preferred customer card that is
2767 available to any patron of a seller does not constitute membership in a group or organization
2768 allowed a price reduction or discount; or

2769 (III) the price reduction or discount is identified as a third party price reduction or
2770 discount on the:

2771 (Aa) invoice the purchaser receives; or

2772 (Bb) certificate, coupon, or other documentation the purchaser presents.

2773 (c) "Purchase price" and "sales price" do not include:

2774 (i) a discount:

2775 (A) in a form including:

2776 (I) cash;

2777 (II) term; or

2778 (III) coupon;

2779 (B) that is allowed by a seller;

2780 (C) taken by a purchaser on a sale; and

2781 (D) that is not reimbursed by a third party; or

2782 (ii) subject to Subsections 59-12-103(2)(~~e~~)(f)(ii) and (2)(~~f~~)(g)(i), the following if
2783 separately stated on an invoice, bill of sale, or similar document provided to the purchaser at
2784 the time of sale or later, as demonstrated by the books and records the seller keeps at the time

2785 of the transaction in the regular course of business, including books and records the seller
2786 keeps at the time of the transaction in the regular course of business for nontax purposes, by a
2787 preponderance of the facts and circumstances at the time of the transaction, and by the
2788 understanding of all of the parties to the transaction:

2789 (A) the following from credit extended on the sale of tangible personal property or
2790 services:

2791 (I) a carrying charge;

2792 (II) a financing charge; or

2793 (III) an interest charge;

2794 [~~(B)~~ a delivery charge;]

2795 [~~(C)~~ an installation charge;]

2796 [~~(D)~~ (B) a manufacturer rebate on a motor vehicle; or

2797 [~~(E)~~ (C) a tax or fee legally imposed directly on the consumer.

2798 (100) "Purchaser" means a person to whom:

2799 (a) a sale of tangible personal property is made;

2800 (b) a product is transferred electronically; or

2801 (c) a service is furnished.

2802 (101) "Qualifying enterprise data center" means an establishment that will:

2803 (a) own and operate a data center facility that will house a group of networked server
2804 computers in one physical location in order to centralize the dissemination, management, and
2805 storage of data and information;

2806 (b) be located in the state;

2807 (c) be a new operation constructed on or after July 1, 2016;

2808 (d) consist of one or more buildings that total 150,000 or more square feet;

2809 (e) be owned or leased by:

2810 (i) the establishment; or

2811 (ii) a person under common ownership, as defined in Section 59-7-101, of the
2812 establishment; and

2813 (f) be located on one or more parcels of land that are owned or leased by:

2814 (i) the establishment; or

2815 (ii) a person under common ownership, as defined in Section 59-7-101, of the

2816 establishment.

2817 (102) "Regularly rented" means:

2818 (a) rented to a guest for value three or more times during a calendar year; or

2819 (b) advertised or held out to the public as a place that is regularly rented to guests for
2820 value.

2821 (103) "Rental" means the same as that term is defined in Subsection [~~(59)~~] (58).

2822 (104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible
2823 personal property" means:

2824 (i) a repair or renovation of tangible personal property that is not permanently attached
2825 to real property; or

2826 (ii) attaching tangible personal property or a product transferred electronically to other
2827 tangible personal property or detaching tangible personal property or a product transferred
2828 electronically from other tangible personal property if:

2829 (A) the other tangible personal property to which the tangible personal property or
2830 product transferred electronically is attached or from which the tangible personal property or
2831 product transferred electronically is detached is not permanently attached to real property; and

2832 (B) the attachment of tangible personal property or a product transferred electronically
2833 to other tangible personal property or detachment of tangible personal property or a product
2834 transferred electronically from other tangible personal property is made in conjunction with a
2835 repair or replacement of tangible personal property or a product transferred electronically.

2836 (b) "Repairs or renovations of tangible personal property" does not include:

2837 (i) attaching prewritten computer software to other tangible personal property if the
2838 other tangible personal property to which the prewritten computer software is attached is not
2839 permanently attached to real property; or

2840 (ii) detaching prewritten computer software from other tangible personal property if the
2841 other tangible personal property from which the prewritten computer software is detached is
2842 not permanently attached to real property.

2843 (105) "Research and development" means the process of inquiry or experimentation
2844 aimed at the discovery of facts, devices, technologies, or applications and the process of
2845 preparing those devices, technologies, or applications for marketing.

2846 (106) (a) "Residential telecommunications services" means a telecommunications

2847 service or an ancillary service that is provided to an individual for personal use:

2848 (i) at a residential address; or

2849 (ii) at an institution, including a nursing home or a school, if the telecommunications

2850 service or ancillary service is provided to and paid for by the individual residing at the

2851 institution rather than the institution.

2852 (b) For purposes of Subsection (106)(a)(i), a residential address includes an:

2853 (i) apartment; or

2854 (ii) other individual dwelling unit.

2855 (107) "Residential use" means the use in or around a home, apartment building,

2856 sleeping quarters, and similar facilities or accommodations.

2857 (108) (a) "Retailer" means any person engaged in a regularly organized business in

2858 tangible personal property or any other taxable transaction under Subsection [59-12-103\(1\)](#) or

2859 [59-12-103.3\(1\)](#), and who is selling to the user or consumer and not for resale.

2860 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly

2861 engaged in the business of selling to users or consumers within the state.

2862 (109) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other

2863 than:

2864 (a) resale;

2865 (b) sublease; or

2866 (c) subrent.

2867 (110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or

2868 otherwise, in any manner, of tangible personal property or any other taxable transaction under

2869 Subsection [59-12-103\(1\)](#) or [59-12-103.3\(1\)](#), for consideration.

2870 (b) "Sale" includes:

2871 (i) installment and credit sales;

2872 (ii) any closed transaction constituting a sale;

2873 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this

2874 chapter;

2875 (iv) any transaction if the possession of property is transferred but the seller retains the

2876 title as security for the payment of the price; and

2877 (v) any transaction under which right to possession, operation, or use of any article of

2878 tangible personal property is granted under a lease or contract and the transfer of possession
2879 would be taxable if an outright sale were made.

2880 (111) "Sale at retail" means the same as that term is defined in Subsection (109).

2881 (112) "Sale-leaseback transaction" means a transaction by which title to tangible
2882 personal property or a product transferred electronically that is subject to a tax under this
2883 chapter is transferred:

2884 (a) by a purchaser-lessee;

2885 (b) to a lessor;

2886 (c) for consideration; and

2887 (d) if:

2888 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
2889 of the tangible personal property or product transferred electronically;

2890 (ii) the sale of the tangible personal property or product transferred electronically to the
2891 lessor is intended as a form of financing:

2892 (A) for the tangible personal property or product transferred electronically; and

2893 (B) to the purchaser-lessee; and

2894 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
2895 is required to:

2896 (A) capitalize the tangible personal property or product transferred electronically for
2897 financial reporting purposes; and

2898 (B) account for the lease payments as payments made under a financing arrangement.

2899 (113) "Sales price" means the same as that term is defined in Subsection (99).

2900 (114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
2901 amounts charged by a school:

2902 (i) sales that are directly related to the school's educational functions or activities
2903 including:

2904 (A) the sale of:

2905 (I) textbooks;

2906 (II) textbook fees;

2907 (III) laboratory fees;

2908 (IV) laboratory supplies; or

- 2909 (V) safety equipment;
- 2910 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 2911 that:
- 2912 (I) a student is specifically required to wear as a condition of participation in a
- 2913 school-related event or school-related activity; and
- 2914 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 2915 place of ordinary clothing;
- 2916 (C) sales of the following if the net or gross revenues generated by the sales are
- 2917 deposited into a school district fund or school fund dedicated to school meals:
- 2918 (I) food and food ingredients; or
- 2919 (II) prepared food; or
- 2920 (D) transportation charges for official school activities; or
- 2921 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 2922 event or school-related activity.
- 2923 (b) "Sales relating to schools" does not include:
- 2924 (i) bookstore sales of items that are not educational materials or supplies;
- 2925 (ii) except as provided in Subsection (114)(a)(i)(B):
- 2926 (A) clothing;
- 2927 (B) clothing accessories or equipment;
- 2928 (C) protective equipment; or
- 2929 (D) sports or recreational equipment; or
- 2930 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 2931 event or school-related activity if the amounts paid or charged are passed through to a person:
- 2932 (A) other than a:
- 2933 (I) school;
- 2934 (II) nonprofit organization authorized by a school board or a governing body of a
- 2935 private school to organize and direct a competitive secondary school activity; or
- 2936 (III) nonprofit association authorized by a school board or a governing body of a
- 2937 private school to organize and direct a competitive secondary school activity; and
- 2938 (B) that is required to collect sales and use taxes under this chapter.
- 2939 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

- 2940 commission may make rules defining the term "passed through."
2941 (115) For purposes of this section and Section 59-12-104, "school":
2942 (a) means:
2943 (i) an elementary school or a secondary school that:
2944 (A) is a:
2945 (I) public school; or
2946 (II) private school; and
2947 (B) provides instruction for one or more grades kindergarten through 12; or
2948 (ii) a public school district; and
2949 (b) includes the Electronic High School as defined in Section 53E-10-601.
2950 (116) "Seller" means a person that makes a sale, lease, or rental of:
2951 (a) tangible personal property;
2952 (b) a product transferred electronically; or
2953 (c) a service.
2954 (117) (a) "Semiconductor fabricating, processing, research, or development materials"
2955 means tangible personal property or a product transferred electronically if the tangible personal
2956 property or product transferred electronically is:
2957 (i) used primarily in the process of:
2958 (A) (I) manufacturing a semiconductor;
2959 (II) fabricating a semiconductor; or
2960 (III) research or development of a:
2961 (Aa) semiconductor; or
2962 (Bb) semiconductor manufacturing process; or
2963 (B) maintaining an environment suitable for a semiconductor; or
2964 (ii) consumed primarily in the process of:
2965 (A) (I) manufacturing a semiconductor;
2966 (II) fabricating a semiconductor; or
2967 (III) research or development of a:
2968 (Aa) semiconductor; or
2969 (Bb) semiconductor manufacturing process; or
2970 (B) maintaining an environment suitable for a semiconductor.

2971 (b) "Semiconductor fabricating, processing, research, or development materials"

2972 includes:

2973 (i) parts used in the repairs or renovations of tangible personal property or a product
2974 transferred electronically described in Subsection (117)(a); or

2975 (ii) a chemical, catalyst, or other material used to:

2976 (A) produce or induce in a semiconductor a:

2977 (I) chemical change; or

2978 (II) physical change;

2979 (B) remove impurities from a semiconductor; or

2980 (C) improve the marketable condition of a semiconductor.

2981 (118) "Senior citizen center" means a facility having the primary purpose of providing
2982 services to the aged as defined in Section [62A-3-101](#).

2983 (119) (a) "Service" means an activity engaged in for another person for a fee, retainer,
2984 commission, or other monetary charge, if the activity involves the performance of a service.

2985 (b) "Service" does not include a service rendered by an employee for the employee's
2986 employer.

2987 [~~119~~] (120) (a) Subject to Subsections [~~119~~] (120)(b) and (c), "short-term lodging
2988 consumable" means tangible personal property that:

2989 (i) a business that provides accommodations and services described in Subsection
2990 [59-12-103\(1\)\(i\)](#) purchases as part of a transaction to provide the accommodations and services
2991 to a purchaser;

2992 (ii) is intended to be consumed by the purchaser; and

2993 (iii) is:

2994 (A) included in the purchase price of the accommodations and services; and

2995 (B) not separately stated on an invoice, bill of sale, or other similar document provided
2996 to the purchaser.

2997 (b) "Short-term lodging consumable" includes:

2998 (i) a beverage;

2999 (ii) a brush or comb;

3000 (iii) a cosmetic;

3001 (iv) a hair care product;

- 3002 (v) lotion;
- 3003 (vi) a magazine;
- 3004 (vii) makeup;
- 3005 (viii) a meal;
- 3006 (ix) mouthwash;
- 3007 (x) nail polish remover;
- 3008 (xi) a newspaper;
- 3009 (xii) a notepad;
- 3010 (xiii) a pen;
- 3011 (xiv) a pencil;
- 3012 (xv) a razor;
- 3013 (xvi) saline solution;
- 3014 (xvii) a sewing kit;
- 3015 (xviii) shaving cream;
- 3016 (xix) a shoe shine kit;
- 3017 (xx) a shower cap;
- 3018 (xxi) a snack item;
- 3019 (xxii) soap;
- 3020 (xxiii) toilet paper;
- 3021 (xxiv) a toothbrush;
- 3022 (xxv) toothpaste; or
- 3023 (xxvi) an item similar to Subsections [~~(119)~~] (120)(b)(i) through (xxv) as the
- 3024 commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah
- 3025 Administrative Rulemaking Act.
- 3026 (c) "Short-term lodging consumable" does not include:
- 3027 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 3028 property to be reused; or
- 3029 (ii) a product transferred electronically.
- 3030 [~~(120)~~] (121) "Simplified electronic return" means the electronic return:
- 3031 (a) described in Section 318(C) of the agreement; and
- 3032 (b) approved by the governing board of the agreement.

3033 [~~(121)~~] (122) "Solar energy" means the sun used as the sole source of energy for
3034 producing electricity.

3035 [~~(122)~~] (123) (a) "Sports or recreational equipment" means an item:

3036 (i) designed for human use; and

3037 (ii) that is:

3038 (A) worn in conjunction with:

3039 (I) an athletic activity; or

3040 (II) a recreational activity; and

3041 (B) not suitable for general use.

3042 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3043 commission shall make rules:

3044 (i) listing the items that constitute "sports or recreational equipment"; and

3045 (ii) that are consistent with the list of items that constitute "sports or recreational
3046 equipment" under the agreement.

3047 [~~(123)~~] (124) "State" means the state of Utah, its departments, and agencies.

3048 [~~(124)~~] (125) "Storage" means any keeping or retention of tangible personal property or
3049 any other taxable transaction under Subsection [59-12-103\(1\)](#) or [59-12-103.3\(1\)](#), in this state for
3050 any purpose except sale in the regular course of business.

3051 [~~(125)~~] (126) (a) Except as provided in Subsection [~~(125)~~] (126)(d) or (e), "tangible
3052 personal property" means personal property that:

3053 (i) may be:

3054 (A) seen;

3055 (B) weighed;

3056 (C) measured;

3057 (D) felt; or

3058 (E) touched; or

3059 (ii) is in any manner perceptible to the senses.

3060 (b) "Tangible personal property" includes:

3061 (i) electricity;

3062 (ii) water;

3063 (iii) gas;

3064 (iv) steam; or
3065 (v) prewritten computer software, regardless of the manner in which the prewritten
3066 computer software is transferred.

3067 (c) "Tangible personal property" includes the following regardless of whether the item
3068 is attached to real property:

3069 (i) a dishwasher;

3070 (ii) a dryer;

3071 (iii) a freezer;

3072 (iv) a microwave;

3073 (v) a refrigerator;

3074 (vi) a stove;

3075 (vii) a washer; or

3076 (viii) an item similar to Subsections [~~(125)~~] (126)(c)(i) through (vii) as determined by
3077 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3078 Rulemaking Act.

3079 (d) "Tangible personal property" does not include a product that is transferred
3080 electronically.

3081 (e) "Tangible personal property" does not include the following if attached to real
3082 property, regardless of whether the attachment to real property is only through a line that
3083 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
3084 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3085 Rulemaking Act:

3086 (i) a hot water heater;

3087 (ii) a water filtration system; or

3088 (iii) a water softener system.

3089 [~~(126)~~] (127) (a) "Telecommunications enabling or facilitating equipment, machinery,
3090 or software" means an item listed in Subsection [~~(126)~~] (127)(b) if that item is purchased or
3091 leased primarily to enable or facilitate one or more of the following to function:

3092 (i) telecommunications switching or routing equipment, machinery, or software; or

3093 (ii) telecommunications transmission equipment, machinery, or software.

3094 (b) The following apply to Subsection [~~(126)~~] (127)(a):

3095 (i) a pole;
3096 (ii) software;
3097 (iii) a supplementary power supply;
3098 (iv) temperature or environmental equipment or machinery;
3099 (v) test equipment;
3100 (vi) a tower; or
3101 (vii) equipment, machinery, or software that functions similarly to an item listed in
3102 Subsections ~~[(126)]~~ (127)(b)(i) through (vi) as determined by the commission by rule made in
3103 accordance with Subsection ~~[(126)]~~ (127)(c).

3104 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3105 commission may by rule define what constitutes equipment, machinery, or software that
3106 functions similarly to an item listed in Subsections ~~[(126)]~~ (127)(b)(i) through (vi).

3107 ~~[(127)]~~ (128) "Telecommunications equipment, machinery, or software required for
3108 911 service" means equipment, machinery, or software that is required to comply with 47
3109 C.F.R. Sec. 20.18.

3110 ~~[(128)]~~ (129) "Telecommunications maintenance or repair equipment, machinery, or
3111 software" means equipment, machinery, or software purchased or leased primarily to maintain
3112 or repair one or more of the following, regardless of whether the equipment, machinery, or
3113 software is purchased or leased as a spare part or as an upgrade or modification to one or more
3114 of the following:

3115 (a) telecommunications enabling or facilitating equipment, machinery, or software;
3116 (b) telecommunications switching or routing equipment, machinery, or software; or
3117 (c) telecommunications transmission equipment, machinery, or software.

3118 ~~[(129)]~~ (130) (a) "Telecommunications service" means the electronic conveyance,
3119 routing, or transmission of audio, data, video, voice, or any other information or signal to a
3120 point, or among or between points.

3121 (b) "Telecommunications service" includes:

3122 (i) an electronic conveyance, routing, or transmission with respect to which a computer
3123 processing application is used to act:

3124 (A) on the code, form, or protocol of the content;

3125 (B) for the purpose of electronic conveyance, routing, or transmission; and

- 3126 (C) regardless of whether the service:
3127 (I) is referred to as voice over Internet protocol service; or
3128 (II) is classified by the Federal Communications Commission as enhanced or value
3129 added;
- 3130 (ii) an 800 service;
 - 3131 (iii) a 900 service;
 - 3132 (iv) a fixed wireless service;
 - 3133 (v) a mobile wireless service;
 - 3134 (vi) a postpaid calling service;
 - 3135 (vii) a prepaid calling service;
 - 3136 (viii) a prepaid wireless calling service; or
 - 3137 (ix) a private communications service.
- 3138 (c) "Telecommunications service" does not include:
- 3139 (i) advertising, including directory advertising;
 - 3140 (ii) an ancillary service;
 - 3141 (iii) a billing and collection service provided to a third party;
 - 3142 (iv) a data processing and information service if:
3143 (A) the data processing and information service allows data to be:
3144 (I) (Aa) acquired;
3145 (Bb) generated;
3146 (Cc) processed;
3147 (Dd) retrieved; or
3148 (Ee) stored; and
3149 (II) delivered by an electronic transmission to a purchaser; and
3150 (B) the purchaser's primary purpose for the underlying transaction is the processed data
3151 or information;
 - 3152 (v) installation or maintenance of the following on a customer's premises:
3153 (A) equipment; or
3154 (B) wiring;
 - 3155 (vi) Internet access service;
 - 3156 (vii) a paging service;

- 3157 (viii) a product transferred electronically, including:
- 3158 (A) music;
- 3159 (B) reading material;
- 3160 (C) a ring tone;
- 3161 (D) software; or
- 3162 (E) video;
- 3163 (ix) a radio and television audio and video programming service:
- 3164 (A) regardless of the medium; and
- 3165 (B) including:
- 3166 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 3167 programming service by a programming service provider;
- 3168 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 3169 (III) audio and video programming services delivered by a commercial mobile radio
- 3170 service provider as defined in 47 C.F.R. Sec. 20.3;
- 3171 (x) a value-added nonvoice data service; or
- 3172 (xi) tangible personal property.
- 3173 ~~[(130)]~~ (131) (a) "Telecommunications service provider" means a person that:
- 3174 (i) owns, controls, operates, or manages a telecommunications service; and
- 3175 (ii) engages in an activity described in Subsection ~~[(130)]~~ (131)(a)(i) for the shared use
- 3176 with or resale to any person of the telecommunications service.
- 3177 (b) A person described in Subsection ~~[(130)]~~ (131)(a) is a telecommunications service
- 3178 provider whether or not the Public Service Commission of Utah regulates:
- 3179 (i) that person; or
- 3180 (ii) the telecommunications service that the person owns, controls, operates, or
- 3181 manages.
- 3182 ~~[(131)]~~ (132) (a) "Telecommunications switching or routing equipment, machinery, or
- 3183 software" means an item listed in Subsection ~~[(131)]~~ (132)(b) if that item is purchased or
- 3184 leased primarily for switching or routing:
- 3185 (i) an ancillary service;
- 3186 (ii) data communications;
- 3187 (iii) voice communications; or

- 3188 (iv) telecommunications service.
- 3189 (b) The following apply to Subsection [~~(131)~~] (132)(a):
- 3190 (i) a bridge;
- 3191 (ii) a computer;
- 3192 (iii) a cross connect;
- 3193 (iv) a modem;
- 3194 (v) a multiplexer;
- 3195 (vi) plug in circuitry;
- 3196 (vii) a router;
- 3197 (viii) software;
- 3198 (ix) a switch; or
- 3199 (x) equipment, machinery, or software that functions similarly to an item listed in
- 3200 Subsections [~~(131)~~] (132)(b)(i) through (ix) as determined by the commission by rule made in
- 3201 accordance with Subsection [~~(131)~~] (132)(c).
- 3202 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3203 commission may by rule define what constitutes equipment, machinery, or software that
- 3204 functions similarly to an item listed in Subsections [~~(131)~~] (132)(b)(i) through (ix).
- 3205 [~~(132)~~] (133) (a) "Telecommunications transmission equipment, machinery, or
- 3206 software" means an item listed in Subsection [~~(132)~~] (133)(b) if that item is purchased or
- 3207 leased primarily for sending, receiving, or transporting:
- 3208 (i) an ancillary service;
- 3209 (ii) data communications;
- 3210 (iii) voice communications; or
- 3211 (iv) telecommunications service.
- 3212 (b) The following apply to Subsection [~~(132)~~] (133)(a):
- 3213 (i) an amplifier;
- 3214 (ii) a cable;
- 3215 (iii) a closure;
- 3216 (iv) a conduit;
- 3217 (v) a controller;
- 3218 (vi) a duplexer;

- 3219 (vii) a filter;
- 3220 (viii) an input device;
- 3221 (ix) an input/output device;
- 3222 (x) an insulator;
- 3223 (xi) microwave machinery or equipment;
- 3224 (xii) an oscillator;
- 3225 (xiii) an output device;
- 3226 (xiv) a pedestal;
- 3227 (xv) a power converter;
- 3228 (xvi) a power supply;
- 3229 (xvii) a radio channel;
- 3230 (xviii) a radio receiver;
- 3231 (xix) a radio transmitter;
- 3232 (xx) a repeater;
- 3233 (xxi) software;
- 3234 (xxii) a terminal;
- 3235 (xxiii) a timing unit;
- 3236 (xxiv) a transformer;
- 3237 (xxv) a wire; or
- 3238 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 3239 Subsections [~~(132)~~] (133)(b)(i) through (xxv) as determined by the commission by rule made in
- 3240 accordance with Subsection [~~(132)~~] (133)(c).
- 3241 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3242 commission may by rule define what constitutes equipment, machinery, or software that
- 3243 functions similarly to an item listed in Subsections [~~(132)~~] (133)(b)(i) through (xxv).
- 3244 [~~(133)~~] (134) (a) "Textbook for a higher education course" means a textbook or other
- 3245 printed material that is required for a course:
- 3246 (i) offered by an institution of higher education; and
- 3247 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 3248 (b) "Textbook for a higher education course" includes a textbook in electronic format.
- 3249 [~~(134)~~] (135) "Tobacco" means:

- 3250 (a) a cigarette;
- 3251 (b) a cigar;
- 3252 (c) chewing tobacco;
- 3253 (d) pipe tobacco; or
- 3254 (e) any other item that contains tobacco.

3255 ~~[(135) "Unassisted amusement device" means an amusement device, skill device, or~~
3256 ~~ride device that is started and stopped by the purchaser or renter of the right to use or operate~~
3257 ~~the amusement device, skill device, or ride device.]~~

3258 (136) (a) "Use" means the exercise of any right or power over tangible personal
3259 property, a product transferred electronically, or a service under Subsection [59-12-103\(1\)](#) or
3260 [59-12-103.3\(1\)](#), incident to the ownership or the leasing of that tangible personal property,
3261 product transferred electronically, or service.

3262 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
3263 property, a product transferred electronically, or a service in the regular course of business and
3264 held for resale.

3265 (137) "Value-added nonvoice data service" means a service:

3266 (a) that otherwise meets the definition of a telecommunications service except that a
3267 computer processing application is used to act primarily for a purpose other than conveyance,
3268 routing, or transmission; and

3269 (b) with respect to which a computer processing application is used to act on data or
3270 information:

- 3271 (i) code;
- 3272 (ii) content;
- 3273 (iii) form; or
- 3274 (iv) protocol.

3275 (138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are
3276 required to be titled, registered, or titled and registered:

- 3277 (i) an aircraft as defined in Section [72-10-102](#);
- 3278 (ii) a vehicle as defined in Section [41-1a-102](#);
- 3279 (iii) an off-highway vehicle as defined in Section [41-22-2](#); or
- 3280 (iv) a vessel as defined in Section [41-1a-102](#).

3281 (b) For purposes of Subsection ~~59-12-104(33)~~(29) only, "vehicle" includes:
3282 (i) a vehicle described in Subsection (138)(a); or
3283 (ii) (A) a locomotive;
3284 (B) a freight car;
3285 (C) railroad work equipment; or
3286 (D) other railroad rolling stock.
3287 (139) "Vehicle dealer" means a person engaged in the business of buying, selling, or
3288 exchanging a vehicle as defined in Subsection (138).

3289 (140) (a) "Vertical service" means an ancillary service that:
3290 (i) is offered in connection with one or more telecommunications services; and
3291 (ii) offers an advanced calling feature that allows a customer to:
3292 (A) identify a caller; and
3293 (B) manage multiple calls and call connections.
3294 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
3295 conference bridging service.

3296 (141) (a) "Voice mail service" means an ancillary service that enables a customer to
3297 receive, send, or store a recorded message.

3298 (b) "Voice mail service" does not include a vertical service that a customer is required
3299 to have in order to utilize a voice mail service.

3300 (142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a
3301 facility that generates electricity:

3302 (i) using as the primary source of energy waste materials that would be placed in a
3303 landfill or refuse pit if it were not used to generate electricity, including:

3304 (A) tires;

3305 (B) waste coal;

3306 (C) oil shale; or

3307 (D) municipal solid waste; and

3308 (ii) in amounts greater than actually required for the operation of the facility.

3309 (b) "Waste energy facility" does not include a facility that incinerates:

3310 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

3311 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

3312 (143) "Watercraft" means a vessel as defined in Section 73-18-2.

3313 (144) "Wind energy" means wind used as the sole source of energy to produce
3314 electricity.

3315 (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
3316 location by the United States Postal Service.

3317 Section 31. Section 59-12-103 is amended to read:

3318 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
3319 **tax revenues.**

3320 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
3321 sales price for amounts paid or charged for the following transactions:

3322 (a) retail sales of tangible personal property made within the state;

3323 (b) amounts paid for:

3324 (i) telecommunications service, other than mobile telecommunications service, that
3325 originates and terminates within the boundaries of this state;

3326 (ii) mobile telecommunications service that originates and terminates within the
3327 boundaries of one state only to the extent permitted by the Mobile Telecommunications
3328 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

3329 (iii) an ancillary service associated with a:

3330 (A) telecommunications service described in Subsection (1)(b)(i); or

3331 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

3332 (c) sales of the following for commercial use:

3333 (i) gas;

3334 (ii) electricity;

3335 (iii) heat;

3336 (iv) coal;

3337 (v) fuel oil; ~~or~~

3338 (vi) other fuels; or

3339 (vii) potable delivered water;

3340 (d) sales of the following for residential use:

3341 (i) gas;

3342 (ii) electricity;

- 3343 (iii) heat;
- 3344 (iv) coal;
- 3345 (v) fuel oil; ~~[or]~~
- 3346 (vi) other fuels; or
- 3347 (vii) potable delivered water;
- 3348 (e) sales of prepared food;
- 3349 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 3350 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 3351 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 3352 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 3353 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 3354 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 3355 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 3356 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 3357 exhibition, cultural, or athletic activity;
- 3358 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 3359 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 3360 (i) the tangible personal property; and
- 3361 (ii) parts used in the repairs or renovations of the tangible personal property described
- 3362 in Subsection (1)(g)(i), regardless of whether:
- 3363 (A) any parts are actually used in the repairs or renovations of that tangible personal
- 3364 property; or
- 3365 (B) the particular parts used in the repairs or renovations of that tangible personal
- 3366 property are exempt from a tax under this chapter;
- 3367 (h) ~~[except as provided in Subsection 59-12-104(7),]~~ amounts paid or charged for
- 3368 assisted cleaning or washing of tangible personal property;
- 3369 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 3370 accommodations and services that are regularly rented for less than 30 consecutive days;
- 3371 (j) amounts paid or charged for laundry or dry cleaning services;
- 3372 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 3373 this state the tangible personal property is:

- 3374 (i) stored;
- 3375 (ii) used; or
- 3376 (iii) otherwise consumed;
- 3377 (l) amounts paid or charged for tangible personal property if within this state the
- 3378 tangible personal property is:
- 3379 (i) stored;
- 3380 (ii) used; or
- 3381 (iii) consumed; [~~and~~]
- 3382 (m) amounts paid or charged for a sale:
- 3383 (i) (A) of a product transferred electronically; or
- 3384 (B) of a repair or renovation of a product transferred electronically; and
- 3385 (ii) regardless of whether the sale provides:
- 3386 (A) a right of permanent use of the product; or
- 3387 (B) a right to use the product that is less than a permanent use, including a right:
- 3388 (I) for a definite or specified length of time; and
- 3389 (II) that terminates upon the occurrence of a condition[-];
- 3390 (n) amounts paid or charged for access:
- 3391 (i) to digital audio-visual works, digital audio works, digital books, or gaming services,
- 3392 including the streaming of or subscription for access to digital audio-visual works, digital audio
- 3393 works, digital books, or gaming services;
- 3394 (ii) regardless of the method of delivery; and
- 3395 (iii) regardless of whether the amount paid or charged for access provides:
- 3396 (A) a right to single-use access to the digital audio-visual works, digital audio works,
- 3397 digital books, or gaming services; or
- 3398 (B) a right to access the audio-visual works, digital audio works, digital books, or
- 3399 gaming services through a subscription, including a right that terminates upon the occurrence
- 3400 of a condition; and
- 3401 (o) amounts paid or charged for:
- 3402 (i) services provided in relation to the use of computer software; and
- 3403 (ii) the use of computer software.
- 3404 (2) (a) Except as provided in Subsections (2)(b) through [~~(e)~~] (f), a state tax and a local

3405 tax is imposed on a transaction described in Subsection (1) equal to the sum of:

3406 (i) (A) (I) beginning on January 1, 2020, until December 31, 2020, a state tax imposed
3407 on the transaction at a tax rate equal to the sum of[:] 4.5% plus the rate specified in Subsection
3408 (12)(a);

3409 [~~(A) (I) through March 31, 2019, 4.70%; and]~~

3410 [~~(H) beginning on April 1, 2019, 4.70% plus the rate specified in Subsection (14)(a);~~

3411 ~~and]~~

3412 (II) beginning on January 1, 2021, until December 31, 2021, a state tax imposed on the
3413 transaction at a tax rate equal to the sum of 3.75% plus the rate specified in Subsection (12)(a);
3414 and

3415 (III) beginning on January 1, 2022, a state tax imposed on the transaction at a tax rate
3416 equal to the sum of 3% plus the rate specified in Subsection (12)(a);

3417 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
3418 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
3419 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
3420 State Sales and Use Tax Act; and

3421 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
3422 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
3423 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
3424 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3425 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3426 transaction under this chapter other than this part.

3427 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
3428 on a transaction described in Subsection (1)(d) equal to the sum of:

3429 (i) a state tax imposed on the transaction at a tax rate of 2%; and

3430 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3431 transaction under this chapter other than this part.

3432 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
3433 on amounts paid or charged for food and food ingredients equal to the sum of:

3434 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
3435 a tax rate of 1.75%; and

3436 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3437 amounts paid or charged for food and food ingredients under this chapter other than this part.

3438 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
3439 tangible personal property other than food and food ingredients, a state tax and a local tax is
3440 imposed on the entire bundled transaction equal to the sum of:

3441 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

3442 (I) the tax rate described in Subsection (2)(a)(i)(A); and

3443 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
3444 Sales and Use Tax Act, if the location of the transaction as determined under Sections
3445 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
3446 Additional State Sales and Use Tax Act; and

3447 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
3448 Sales and Use Tax Act, if the location of the transaction as determined under Sections
3449 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
3450 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3451 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
3452 described in Subsection (2)(a)(ii).

3453 (ii) If an optional computer software maintenance contract is a bundled transaction that
3454 consists of taxable and nontaxable products that are not separately itemized on an invoice or
3455 similar billing document, the purchase of the optional computer software maintenance contract
3456 is 40% taxable under this chapter and 60% nontaxable under this chapter.

3457 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
3458 transaction described in Subsection (2)(d)(i) or (ii):

3459 (A) if the sales price of the bundled transaction is attributable to tangible personal
3460 property, a product, or a service that is subject to taxation under this chapter and tangible
3461 personal property, a product, or service that is not subject to taxation under this chapter, the
3462 entire bundled transaction is subject to taxation under this chapter unless:

3463 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3464 personal property, product, or service that is not subject to taxation under this chapter from the
3465 books and records the seller keeps in the seller's regular course of business; or

3466 (II) state or federal law provides otherwise; or

3467 (B) if the sales price of a bundled transaction is attributable to two or more items of
3468 tangible personal property, products, or services that are subject to taxation under this chapter
3469 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
3470 higher tax rate unless:

3471 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3472 personal property, product, or service that is subject to taxation under this chapter at the lower
3473 tax rate from the books and records the seller keeps in the seller's regular course of business; or

3474 (II) state or federal law provides otherwise.

3475 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
3476 seller's regular course of business includes books and records the seller keeps in the regular
3477 course of business for nontax purposes.

3478 (e) Except as provided in Subsection (2)(f), a state tax and local tax is imposed on
3479 amounts paid or charged for the sale of a motor vehicle, an aircraft, a watercraft, a modular
3480 home, a manufactured home, or a mobile home, equal to the sum of:

3481 (i) (A) beginning on January 1, 2020, until December 31, 2021, a state tax imposed on
3482 the transaction at a tax rate of 4.7% plus the rate specified in Subsection (12)(a); and

3483 (B) beginning on January 1, 2022, a state tax imposed on the transaction at a tax rate of
3484 4.2% plus the rate specified in Subsection (12)(a); and

3485 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3486 amounts paid or charged for a motor vehicle, an aircraft, a watercraft, a modular home, a
3487 manufactured home, or a mobile home under this chapter other than this part.

3488 ~~(f)~~ (f) (i) Except as otherwise provided in this chapter and subject to Subsections
3489 (2)~~(f)~~(f)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal
3490 property, a product, or a service that is subject to taxation under this chapter, and the sale,
3491 lease, or rental of tangible personal property, other property, a product, or a service that is not
3492 subject to taxation under this chapter, the entire transaction is subject to taxation under this
3493 chapter unless the seller, at the time of the transaction:

3494 (A) separately states the portion of the transaction that is not subject to taxation under
3495 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

3496 (B) is able to identify by reasonable and verifiable standards, from the books and
3497 records the seller keeps in the seller's regular course of business, the portion of the transaction

3498 that is not subject to taxation under this chapter.

3499 (ii) A purchaser and a seller may correct the taxability of a transaction if:

3500 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
3501 the transaction that is not subject to taxation under this chapter was not separately stated on an
3502 invoice, bill of sale, or similar document provided to the purchaser because of an error or
3503 ignorance of the law; and

3504 (B) the seller is able to identify by reasonable and verifiable standards, from the books
3505 and records the seller keeps in the seller's regular course of business, the portion of the
3506 transaction that is not subject to taxation under this chapter.

3507 (iii) For purposes of Subsections (2)~~(e)~~(f)(i) and (ii), books and records that a seller
3508 keeps in the seller's regular course of business includes books and records the seller keeps in
3509 the regular course of business for nontax purposes.

3510 ~~(f)~~ (g) (i) If the sales price of a transaction is attributable to two or more items of
3511 tangible personal property, products, or services that are subject to taxation under this chapter
3512 at different rates, the entire purchase is subject to taxation under this chapter at the higher tax
3513 rate unless the seller, at the time of the transaction:

3514 (A) separately states the items subject to taxation under this chapter at each of the
3515 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

3516 (B) is able to identify by reasonable and verifiable standards the tangible personal
3517 property, product, or service that is subject to taxation under this chapter at the lower tax rate
3518 from the books and records the seller keeps in the seller's regular course of business.

3519 (ii) For purposes of Subsection (2)~~(f)~~(g)(i), books and records that a seller keeps in
3520 the seller's regular course of business includes books and records the seller keeps in the regular
3521 course of business for nontax purposes.

3522 ~~(g)~~ (h) Subject to Subsections (2)~~(h)~~(i) and ~~(i)~~ (j), a tax rate repeal or tax rate
3523 change for a tax rate imposed under the following shall take effect on the first day of a calendar
3524 quarter:

3525 (i) Subsection (2)(a)(i)(A);

3526 (ii) Subsection (2)(b)(i);

3527 (iii) Subsection (2)(c)(i); ~~or~~

3528 (iv) Subsection (2)(d)(i)(A)~~(D)~~(I); ~~or~~

3529 (v) Subsection (2)(e)(i).

3530 [~~(h)~~] (i) (i) A tax rate increase takes effect on the first day of the first billing period that
3531 begins on or after the effective date of the tax rate increase if the billing period for the
3532 transaction begins before the effective date of a tax rate increase imposed under:

3533 (A) Subsection (2)(a)(i)(A);

3534 (B) Subsection (2)(b)(i);

3535 (C) Subsection (2)(c)(i); [~~or~~]

3536 (D) Subsection (2)(d)(i)(A)(I)[~~;~~]; or

3537 (E) Subsection (2)(e)(i).

3538 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
3539 statement for the billing period is rendered on or after the effective date of the repeal of the tax
3540 or the tax rate decrease imposed under:

3541 (A) Subsection (2)(a)(i)(A);

3542 (B) Subsection (2)(b)(i);

3543 (C) Subsection (2)(c)(i); [~~or~~]

3544 (D) Subsection (2)(d)(i)(A)(I)[~~;~~]; or

3545 (E) Subsection (2)(e)(i).

3546 [~~(i)~~] (j) (i) For a tax rate described in Subsection [~~(2)(i)(ii)~~] (2)(j)(ii), if a tax due on a
3547 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a
3548 tax rate repeal or change in a tax rate takes effect:

3549 (A) on the first day of a calendar quarter; and

3550 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

3551 (ii) Subsection [~~(2)(i)(i)~~] (2)(j)(i) applies to the tax rates described in the following:

3552 (A) Subsection (2)(a)(i)(A);

3553 (B) Subsection (2)(b)(i);

3554 (C) Subsection (2)(c)(i); [~~or~~]

3555 (D) Subsection (2)(d)(i)(A)(I)[~~;~~]; or

3556 (E) Subsection (2)(e)(i).

3557 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
3558 the commission may by rule define the term "catalogue sale."

3559 (3) (a) The following state taxes shall be deposited into the General Fund:

- 3560 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 3561 (ii) the tax imposed by Subsection (2)(b)(i);
- 3562 (iii) the tax imposed by Subsection (2)(c)(i); [~~or~~]
- 3563 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I)[~~;~~]; or
- 3564 (v) the tax imposed by Subsection (2)(e)(i).
- 3565 (b) The following local taxes shall be distributed to a county, city, or town as provided
- 3566 in this chapter:
 - 3567 (i) the tax imposed by Subsection (2)(a)(ii);
 - 3568 (ii) the tax imposed by Subsection (2)(b)(ii);
 - 3569 (iii) the tax imposed by Subsection (2)(c)(ii); [~~and~~]
 - 3570 (iv) the tax imposed by Subsection (2)(d)(i)(B)[~~;~~]; and
 - 3571 (v) the tax imposed by Subsection (2)(e)(ii).
- 3572 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
- 3573 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
- 3574 through (g):
 - 3575 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
 - 3576 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
 - 3577 (B) for the fiscal year; or
 - 3578 (ii) \$17,500,000.
- 3579 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
- 3580 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
- 3581 Department of Natural Resources to:
 - 3582 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
 - 3583 protect sensitive plant and animal species; or
 - 3584 (B) award grants, up to the amount authorized by the Legislature in an appropriations
 - 3585 act, to political subdivisions of the state to implement the measures described in Subsections
 - 3586 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.
- 3587 (ii) Money transferred to the Department of Natural Resources under Subsection
- 3588 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
- 3589 person to list or attempt to have listed a species as threatened or endangered under the
- 3590 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

3591 (iii) At the end of each fiscal year:

3592 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
3593 Conservation and Development Fund created in Section 73-10-24;

3594 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
3595 Program Subaccount created in Section 73-10c-5; and

3596 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
3597 Program Subaccount created in Section 73-10c-5.

3598 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
3599 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
3600 created in Section 4-18-106.

3601 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
3602 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
3603 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
3604 water rights.

3605 (ii) At the end of each fiscal year:

3606 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
3607 Conservation and Development Fund created in Section 73-10-24;

3608 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
3609 Program Subaccount created in Section 73-10c-5; and

3610 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
3611 Program Subaccount created in Section 73-10c-5.

3612 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
3613 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
3614 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

3615 (ii) In addition to the uses allowed of the Water Resources Conservation and
3616 Development Fund under Section 73-10-24, the Water Resources Conservation and
3617 Development Fund may also be used to:

3618 (A) conduct hydrologic and geotechnical investigations by the Division of Water
3619 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
3620 quantifying surface and ground water resources and describing the hydrologic systems of an
3621 area in sufficient detail so as to enable local and state resource managers to plan for and

3622 accommodate growth in water use without jeopardizing the resource;

3623 (B) fund state required dam safety improvements; and

3624 (C) protect the state's interest in interstate water compact allocations, including the
3625 hiring of technical and legal staff.

3626 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
3627 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
3628 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

3629 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
3630 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
3631 created in Section 73-10c-5 for use by the Division of Drinking Water to:

3632 (i) provide for the installation and repair of collection, treatment, storage, and
3633 distribution facilities for any public water system, as defined in Section 19-4-102;

3634 (ii) develop underground sources of water, including springs and wells; and

3635 (iii) develop surface water sources.

3636 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3637 2006, the difference between the following amounts shall be expended as provided in this
3638 Subsection (5), if that difference is greater than \$1:

3639 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
3640 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

3641 (ii) \$17,500,000.

3642 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

3643 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
3644 credits; and

3645 (B) expended by the Department of Natural Resources for watershed rehabilitation or
3646 restoration.

3647 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
3648 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
3649 created in Section 73-10-24.

3650 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
3651 remaining difference described in Subsection (5)(a) shall be:

3652 (A) transferred each fiscal year to the Division of Water Resources as dedicated

3653 credits; and

3654 (B) expended by the Division of Water Resources for cloud-seeding projects
3655 authorized by Title 73, Chapter 15, Modification of Weather.

3656 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
3657 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
3658 created in Section 73-10-24.

3659 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
3660 remaining difference described in Subsection (5)(a) shall be deposited into the Water
3661 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
3662 Division of Water Resources for:

3663 (i) preconstruction costs:

3664 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
3665 26, Bear River Development Act; and

3666 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
3667 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

3668 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
3669 Chapter 26, Bear River Development Act;

3670 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
3671 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

3672 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
3673 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

3674 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
3675 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be
3676 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
3677 incurred for employing additional technical staff for the administration of water rights.

3678 (f) At the end of each fiscal year, any unexpended dedicated credits described in
3679 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
3680 Fund created in Section 73-10-24.

3681 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
3682 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
3683 (1) for the fiscal year shall be deposited as follows:

3684 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)
3685 shall be deposited into the Transportation Investment Fund of 2005 created by Section
3686 72-2-124;

3687 (b) for fiscal year 2017-18 only:
3688 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the
3689 Transportation Investment Fund of 2005 created by Section 72-2-124; and
3690 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the
3691 Water Infrastructure Restricted Account created by Section 73-10g-103;

3692 (c) for fiscal year 2018-19 only:
3693 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the
3694 Transportation Investment Fund of 2005 created by Section 72-2-124; and
3695 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the
3696 Water Infrastructure Restricted Account created by Section 73-10g-103;

3697 (d) for fiscal year 2019-20 only:
3698 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the
3699 Transportation Investment Fund of 2005 created by Section 72-2-124; and
3700 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the
3701 Water Infrastructure Restricted Account created by Section 73-10g-103;

3702 (e) for fiscal year 2020-21 only:
3703 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
3704 Transportation Investment Fund of 2005 created by Section 72-2-124; and
3705 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
3706 Water Infrastructure Restricted Account created by Section 73-10g-103; and

3707 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
3708 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
3709 created by Section 73-10g-103.

3710 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
3711 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
3712 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
3713 created by Section 72-2-124:

3714 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of

3715 ~~[the revenues collected from]~~ an amount calculated by determining:

3716 (A) the sum of the revenue collected from the following taxes~~[- which represents a~~
3717 ~~portion of the approximately 17% of sales and use tax revenues generated annually by the sales~~
3718 ~~and use tax on vehicles and vehicle-related products]:~~

3719 ~~[(A)]~~ (I) the tax imposed by Subsection (2)(a)(i)(A) at [a 4.7% rate] the rate currently
3720 in effect under Subsection (2)(a)(i)(A) minus the rate specified in Subsection (12)(a);

3721 ~~[(B)]~~ (II) the tax imposed by Subsection (2)(b)(i);

3722 ~~[(C)]~~ (III) the tax imposed by Subsection (2)(c)(i); [and]

3723 ~~[(D)]~~ (IV) the tax imposed by Subsection (2)(d)(i)(A)(I); [plus]

3724 (V) the tax imposed by Subsection (2)(e)(i); and

3725 (VI) the tax imposed by Subsection [59-12-103.3\(2\)\(a\)](#); minus

3726 (B) (I) for fiscal year 2019-20 only, \$76,000,000; or

3727 (II) for a fiscal year beginning on or after July 1, 2020, \$180,000,000; plus

3728 (ii) an amount equal to 30% of the growth in the amount [of revenues collected]

3729 calculated under Subsection (7)(a)(i) in the current fiscal year [from the sales and use taxes

3730 ~~described in Subsections (7)(a)(i)(A) through (D)]~~ that exceeds the amount collected from the

3731 sales and use taxes described in Subsections (7)(a)(i)(A)(I) through ~~[(D)]~~ (VI) in the 2010-11

3732 fiscal year.

3733 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
3734 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total
3735 lower percentage of the ~~[sales and use taxes described in Subsections (7)(a)(i)(A) through (D)]~~
3736 ~~generated~~ amount calculated under Subsection (7)(a)(i) in the current fiscal year than the total
3737 percentage of [sales and use taxes] the amount calculated under Subsection (7)(a)(i) and
3738 deposited in the previous fiscal year, the Division of Finance shall deposit an amount under
3739 Subsection (7)(a) equal to the product of:

3740 (A) the total percentage of ~~[sales and use taxes deposited]~~ the amount calculated under
3741 Subsection (7)(a)(i) in the previous fiscal year; and

3742 ~~[(B) the total sales and use tax revenue generated by the taxes described in Subsections~~
3743 ~~(7)(a)(i)(A) through (D) in the current fiscal year.]~~

3744 (B) the sum of the revenue collected from the sales and use taxes described in
3745 Subsections (7)(a)(i)(A)(I) through (VI) minus the amount described in Subsection (7)(a)(i)(B)

3746 in the current fiscal year.

3747 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
3748 Subsection (7)(a) would exceed 17% of the [~~revenues collected from the sales and use taxes~~
3749 ~~described in Subsections (7)(a)(i)(A) through (D)] amount calculated in Subsection (7)(a)(i) in
3750 the current fiscal year, the Division of Finance shall deposit 17% of the [~~revenues collected~~
3751 ~~from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)] amount
3752 calculated in Subsection (7)(a)(i) for the current fiscal year under Subsection (7)(a).~~~~

3753 (iii) In all subsequent fiscal years after a year in which 17% of the [~~revenues collected~~
3754 ~~from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)] amount
3755 calculated in Subsection (7)(a)(i) was deposited under Subsection (7)(a), the Division of
3756 Finance shall annually deposit 17% of the [~~revenues collected from the sales and use taxes~~
3757 ~~described in Subsections (7)(a)(i)(A) through (D)] amount calculated in Subsection (7)(a)(i) in
3758 the current fiscal year under Subsection (7)(a).~~~~

3759 [~~(8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited~~
3760 ~~under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall~~
3761 ~~deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into~~
3762 ~~the Transportation Investment Fund of 2005 created by Section [72-2-124](#).]~~

3763 [~~(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under~~
3764 ~~Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit~~
3765 ~~\$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the~~
3766 ~~Transportation Investment Fund of 2005 created by Section [72-2-124](#).]~~

3767 [~~(c)(i)] (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited
3768 under Subsections (6) and (7), and subject to Subsection [~~(8)(c)(ii)] (8)(b), for a fiscal year
3769 beginning on or after July 1, 2018, the commission shall annually deposit into the
3770 Transportation Investment Fund of 2005 created by Section [72-2-124](#) a portion of the taxes
3771 listed under Subsection (3)(a) in an amount equal to 3.68% of an amount calculated by
3772 determining:~~~~

3773 (i) the sum of the revenues collected from the following taxes:

3774 (A) the tax imposed by Subsection (2)(a)(i)(A) at [~~a 4.7% rate~~] the rate currently in
3775 effect under Subsection (2)(a)(i)(A) minus the rate specified in Subsection (12)(a);

3776 (B) the tax imposed by Subsection (2)(b)(i);

- 3777 (C) the tax imposed by Subsection (2)(c)(i); ~~and~~
- 3778 (D) the tax imposed by Subsection (2)(d)(i)(A)(I)[-];
- 3779 (E) the tax imposed by Subsection (2)(e)(i); and
- 3780 (F) the tax imposed by Subsection 59-12-103.3(2)(a); minus
- 3781 (ii) (A) for fiscal year 2019-20 only, \$76,000,000; or
- 3782 (B) for a fiscal year beginning on or after July 1, 2020, \$180,000,000.
- 3783 ~~[(ii)]~~ (b) For a fiscal year beginning on or after July 1, 2019, the commission shall
- 3784 annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection
- 3785 ~~[(8)(c)(i)]~~ (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the
- 3786 current fiscal year by the portion of the tax imposed on motor and special fuel that is sold,
- 3787 used, or received for sale or use in this state that exceeds 29.4 cents per gallon.
- 3788 ~~[(iii)]~~ (c) The commission shall annually deposit the amount described in Subsection
- 3789 ~~[(8)(c)(ii)]~~ (8)(b) into the Transit ~~and~~ Transportation Investment Fund created in Section
- 3790 72-2-124.
- 3791 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
- 3792 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
- 3793 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.
- 3794 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),
- 3795 in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17
- 3796 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund
- 3797 of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on
- 3798 the transactions described in Subsection (1).
- 3799 (b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in
- 3800 addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance
- 3801 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
- 3802 amount of revenue described as follows:
- 3803 (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%
- 3804 tax rate on the transactions described in Subsection (1);
- 3805 (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05%
- 3806 tax rate on the transactions described in Subsection (1);
- 3807 (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%

3808 tax rate on the transactions described in Subsection (1);

3809 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
3810 .05% tax rate on the transactions described in Subsection (1); and

3811 (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%
3812 tax rate on the transactions described in Subsection (1).

3813 (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not
3814 deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts
3815 paid or charged for food and food ingredients, except for tax revenue generated by a bundled
3816 transaction attributable to food and food ingredients and tangible personal property other than
3817 food and food ingredients described in Subsection (2)(d).

3818 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
3819 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
3820 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
3821 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue
3822 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,
3823 created in Section 63N-2-512.

3824 ~~[(12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the~~
3825 ~~Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed~~
3826 ~~under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section~~
3827 ~~35A-8-308.]~~

3828 ~~[(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division~~
3829 ~~of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under~~
3830 ~~Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.]~~

3831 ~~[(13) Notwithstanding Subsections (4) through (12) and (14), an amount required to be~~
3832 ~~expended or deposited in accordance with Subsections (4) through (12) and (14) may not~~
3833 ~~include an amount the Division of Finance deposits in accordance with Section 59-12-103.2.]~~

3834 ~~[(14)]~~ (12) (a) The rate specified in this ~~[subsection]~~ Subsection (12) is 0.15%.

3835 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall:

3836 (i) on or before September 30, 2019, transfer the amount of revenue generated by a
3837 0.15% tax rate imposed beginning on April 1, 2019, and ending on June 30, 2019, on the
3838 transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) as dedicated

3839 credits to the Division of Health Care Financing; and

3840 (ii) for a fiscal year beginning on or after fiscal year 2019-20, annually transfer the
3841 amount of revenue generated by a 0.15% tax rate on the transactions that are subject to the
3842 sales and use tax under Subsection (2)(a)(i)(A) as dedicated credits to the Division of Health
3843 Care Financing.

3844 (c) The revenue described in Subsection [~~(14)~~] (12)(b) that the Division of Finance
3845 transfers to the Division of Health Care Financing as dedicated credits shall be expended for
3846 the following uses:

3847 (i) implementation of the Medicaid expansion described in Sections 26-18-3.1(4) and
3848 26-18-3.9(2)(b);

3849 (ii) if revenue remains after the use specified in Subsection [~~(14)~~] (12)(c)(i), other
3850 measures required by Section 26-18-3.9; and

3851 (iii) if revenue remains after the uses specified in Subsections [~~(14)~~] (12)(c)(i) and (ii),
3852 other measures described in Title 26, Chapter 18, Medical Assistance Act.

3853 Section 32. Section 59-12-103.3 is enacted to read:

3854 **59-12-103.3. Sales and use tax base on services -- Rates -- Effective dates.**

3855 (1) Unless the transaction is subject to a sales and use tax imposed under Section
3856 59-12-103 or is exempt from the sales and use tax under Section 59-12-104 or 59-12-104.11, a
3857 tax is imposed on the purchaser as provided in this part on the purchase price or sales price for
3858 amounts paid or charged for a sale of a service, performed by a seller, if the sale of the service:

3859 (a) (i) originates in this state; or

3860 (ii) terminates in this state; and

3861 (b) is charged to a service address in this state.

3862 (2) (a) Except as provided in Subsection (2)(b), a state tax is imposed on a transaction
3863 described in Subsection (1) equal to:

3864 (i) beginning on January 1, 2020, until December 31, 2020, a state tax imposed on the
3865 transaction at a 1% tax rate;

3866 (ii) beginning on January 1, 2021, until December 31, 2021, a state tax imposed on the
3867 transaction at a 2% tax rate; and

3868 (iii) beginning on January 1, 2022, a state tax imposed on the transaction at a 3% tax
3869 rate.

3870 (b) The provisions of Subsections 59-12-103(2)(f) through (j) apply to a service
3871 transaction described in Subsection (1).

3872 (3) The tax imposed by Subsection (2)(a) shall be deposited into the General Fund.
3873 Section 33. Section **59-12-103.4** is enacted to read:

3874 **59-12-103.4. Sales and Use Tax Base Expansion Restricted Account.**

3875 (1) As used in this section:

3876 (a) "Account" means the Sales and Use Tax Base Expansion Restricted Account
3877 created by this section.

3878 (b) "Qualified state revenue" means revenue from the state sales and use tax imposed
3879 under Sections 59-12-103 and 59-12-103.3 required by 63J-1-312 to be deposited into the
3880 account.

3881 (2) There is created within the General Fund a restricted account known as the "Sales
3882 and Use Tax Base Expansion Restricted Account."

3883 (3) The account shall be funded by the qualified state revenue deposited into the
3884 account in accordance with Section 63J-1-312.

3885 (4) (a) The account shall earn interest.

3886 (b) The interest described in Subsection (4)(a) shall be deposited into the account.

3887 (5) The Division of Finance shall deposit the revenue described in Subsection (3) into
3888 the account.

3889 (6) The revenue and interest described in Subsections (3) and (4) may be used to:

3890 (a) lower state sales and use tax rates as the Legislature may provide by statute; and

3891 (b) provide additional tax relief to taxpayers as the Legislature may provide by statute.

3892 Section 34. Section **59-12-103.5** is enacted to read:

3893 **59-12-103.5. Commission report to Revenue and Taxation Interim Committee --**
3894 **Revenue and Taxation Interim Committee study.**

3895 (1) The commission shall:

3896 (a) beginning on March 1, 2020, make a monthly report by the final day of each month
3897 to the Executive Appropriations Committee by electronic means:

3898 (i) stating the number of sellers who obtain a license under Section 59-12-106 for the
3899 first time for the filing period that ended two months before the date of the report; and

3900 (ii) stating the amount of state sales and use tax revenue collected from the collections

3901 that were due in the filing period that ended two months before the time of the report;
3902 (b) beginning on May 1, 2020, make a monthly report of the information described in
3903 Subsections (1)(a)(i) and (ii) by electronic means to the Revenue and Taxation Interim
3904 Committee by the final day of each month; and
3905 (c) report to the Revenue and Taxation Interim Committee before November 30, 2020,
3906 and at any other meeting requested by the committee, the data provided to the Revenue and
3907 Taxation Interim Committee by electronic means under this Subsection (1).
3908 (2) The Revenue and Taxation Interim Committee shall, after receiving the
3909 commission's reports under Subsection (1):
3910 (a) review the data provided to the committee under Subsection (1); and
3911 (b) make recommendations to the Legislative Management Committee and the
3912 Executive Appropriations Committee regarding:
3913 (i) whether the sales and use tax rates should be reduced;
3914 (ii) whether any other provisions of this chapter should be amended or repealed; and
3915 (iii) the distribution of the revenues in the Sales and Use Tax Base Expansion
3916 Restricted Account created by Section [59-12-103.4](#).
3917 Section 35. Section **59-12-104** is amended to read:
3918 **59-12-104. Exemptions.**
3919 Exemptions from the taxes imposed by this chapter are as follows:
3920 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
3921 under Chapter 13, Motor and Special Fuel Tax Act;
3922 (2) subject to Section [59-12-104.6](#), sales to the state, its institutions, and its political
3923 subdivisions; however, this exemption does not apply to sales of:
3924 (a) construction materials except:
3925 (i) construction materials purchased by or on behalf of institutions of the public
3926 education system as defined in Utah Constitution, Article X, Section 2, provided the
3927 construction materials are clearly identified and segregated and installed or converted to real
3928 property which is owned by institutions of the public education system; and
3929 (ii) construction materials purchased by the state, its institutions, or its political
3930 subdivisions which are installed or converted to real property by employees of the state, its
3931 institutions, or its political subdivisions; or

3932 (b) tangible personal property in connection with the construction, operation,
3933 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
3934 providing additional project capacity, as defined in Section 11-13-103;

3935 ~~[(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:]~~
3936 ~~[(i) the proceeds of each sale do not exceed \$1, and]~~
3937 ~~[(ii) the seller or operator of the vending machine reports an amount equal to 150% of~~
3938 ~~the cost of the item described in Subsection (3)(b) as goods consumed; and]~~
3939 ~~[(b) Subsection (3)(a) applies to:]~~
3940 ~~[(i) food and food ingredients; or]~~
3941 ~~[(ii) prepared food;]~~
3942 ~~[(4)] (3) (a) sales of the following to a commercial airline carrier for in-flight~~
3943 ~~consumption:~~
3944 (i) alcoholic beverages;
3945 (ii) food and food ingredients; or
3946 (iii) prepared food;
3947 (b) sales of tangible personal property or a product transferred electronically:
3948 (i) to a passenger;
3949 (ii) by a commercial airline carrier; and
3950 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
3951 (c) services related to Subsection ~~[(4)]~~ (3)(a) or (b);
3952 ~~[(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts~~
3953 ~~and equipment:]~~
3954 ~~[(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002~~
3955 ~~North American Industry Classification System of the federal Executive Office of the~~
3956 ~~President, Office of Management and Budget; and]~~
3957 ~~[(H) for:]~~
3958 ~~[(Aa) installation in an aircraft, including services relating to the installation of parts or~~
3959 ~~equipment in the aircraft;]~~
3960 ~~[(Bb) renovation of an aircraft; or]~~
3961 ~~[(Cc) repair of an aircraft; or]~~
3962 ~~[(B) for installation in an aircraft operated by a common carrier in interstate or foreign~~

3963 commerce; or]

3964 [~~(ii) beginning on October 1, 2008;~~]

3965 (4) sales of parts and equipment for installation in an aircraft operated by a common

3966 carrier in interstate or foreign commerce; [~~and]~~

3967 [~~(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~

3968 ~~a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a~~

3969 ~~refund;]~~

3970 [~~(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;~~]

3971 [~~(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;~~]

3972 [~~(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for~~

3973 ~~the sale prior to filing for the refund;]~~

3974 [~~(iv) for sales and use taxes paid under this chapter on the sale;]~~

3975 [~~(v) in accordance with Section 59-1-1410; and]~~

3976 [~~(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,~~

3977 ~~if the person files for the refund on or before September 30, 2011;]~~

3978 [~~(6)~~ (5) sales of commercials, motion picture films, prerecorded audio program tapes

3979 or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture

3980 exhibitor, distributor, or commercial television or radio broadcaster;

3981 [~~(7) (a) except as provided in Subsection (88) and subject to Subsection (7)(b), sales of~~

3982 ~~cleaning or washing of tangible personal property if the cleaning or washing of the tangible~~

3983 ~~personal property is not assisted cleaning or washing of tangible personal property;]~~

3984 [~~(b) if a seller that sells at the same business location assisted cleaning or washing of~~

3985 ~~tangible personal property and cleaning or washing of tangible personal property that is not~~

3986 ~~assisted cleaning or washing of tangible personal property, the exemption described in~~

3987 ~~Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning~~

3988 ~~or washing of the tangible personal property; and]~~

3989 [~~(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,~~

3990 ~~Utah Administrative Rulemaking Act, the commission may make rules:]~~

3991 [~~(i) governing the circumstances under which sales are at the same business location;~~

3992 ~~and]~~

3993 [~~(ii) establishing the procedures and requirements for a seller to separately account for~~

3994 ~~sales of assisted cleaning or washing of tangible personal property;~~
3995 ~~[(8)]~~ (6) sales made to or by religious or charitable institutions in the conduct of their
3996 regular religious or charitable functions and activities, if the requirements of Section
3997 [59-12-104.1](#) are fulfilled;
3998 ~~[(9)]~~ (7) sales of a vehicle of a type required to be registered under the motor vehicle
3999 laws of this state if the vehicle is:
4000 (a) not registered in this state; and
4001 (b) (i) not used in this state; or
4002 (ii) used in this state:
4003 (A) if the vehicle is not used to conduct business, for a time period that does not
4004 exceed the longer of:
4005 (I) 30 days in any calendar year; or
4006 (II) the time period necessary to transport the vehicle to the borders of this state; or
4007 (B) if the vehicle is used to conduct business, for the time period necessary to transport
4008 the vehicle to the borders of this state;
4009 ~~[(10)]~~ (8) (a) amounts paid for an item described in Subsection ~~[(10)]~~ (8)(b) if:
4010 (i) the item is intended for human use; and
4011 (ii) (A) a prescription was issued for the item; or
4012 (B) the item was purchased by a hospital or other medical facility; and
4013 (b) (i) Subsection ~~[(10)]~~ (8)(a) applies to:
4014 (A) a drug;
4015 (B) a syringe; or
4016 (C) a stoma supply; and
4017 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4018 commission may by rule define the terms:
4019 (A) "syringe"; or
4020 (B) "stoma supply";
4021 ~~[(11)]~~ (9) purchases or leases exempt under Section [19-12-201](#);
4022 ~~[(12)]~~ (10) (a) sales of an item described in Subsection ~~[(12)]~~ (10)(c) served by:
4023 (i) the following if the item described in Subsection ~~[(12)]~~ (10)(c) is not available to
4024 the general public:

- 4025 (A) a church; or
- 4026 (B) a charitable institution; or
- 4027 (ii) an institution of higher education if:
- 4028 (A) the item described in Subsection [~~(12)~~] (10)(c) is not available to the general
- 4029 public; or
- 4030 (B) the item described in Subsection [~~(12)~~] (10)(c) is prepaid as part of a student meal
- 4031 plan offered by the institution of higher education; or
- 4032 (b) sales of an item described in Subsection [~~(12)~~] (10)(c) provided for a patient by:
- 4033 (i) a medical facility; or
- 4034 (ii) a nursing facility; and
- 4035 (c) Subsections [~~(12)~~] (10)(a) and (b) apply to:
- 4036 (i) food and food ingredients;
- 4037 (ii) prepared food; or
- 4038 (iii) alcoholic beverages;
- 4039 [~~(13)~~] (11) (a) except as provided in Subsection [~~(13)~~] (11)(b), the sale of tangible
- 4040 personal property [~~or~~], a product transferred electronically, or a service by a person:
- 4041 (i) regardless of the number of transactions involving the sale of that tangible personal
- 4042 property [~~or~~], product transferred electronically, or service by that person; and
- 4043 (ii) not regularly engaged in the business of selling that type of tangible personal
- 4044 property [~~or~~], product transferred electronically, or service;
- 4045 (b) this Subsection [~~(13)~~] (11) does not apply if:
- 4046 (i) the sale is one of a series of sales of a character to indicate that the person is
- 4047 regularly engaged in the business of selling that type of tangible personal property [~~or~~], product
- 4048 transferred electronically, or service;
- 4049 (ii) the person holds that person out as regularly engaged in the business of selling that
- 4050 type of tangible personal property [~~or~~], product transferred electronically, or service;
- 4051 (iii) the person sells an item of tangible personal property or product transferred
- 4052 electronically that the person purchased as a sale that is exempt under Subsection [~~(25)~~] (22);
- 4053 or
- 4054 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
- 4055 this state in which case the tax is based upon:

4056 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
4057 sold; or

4058 (B) in the absence of a bill of sale or other written evidence of value, the fair market
4059 value of the vehicle or vessel being sold at the time of the sale as determined by the
4060 commission; and

4061 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4062 commission shall make rules establishing the circumstances under which:

4063 (i) a person is regularly engaged in the business of selling a type of tangible personal
4064 property [~~or~~], product transferred electronically, or service;

4065 (ii) a sale of tangible personal property [~~or~~], a product transferred electronically, or a
4066 service is one of a series of sales of a character to indicate that a person is regularly engaged in
4067 the business of selling that type of tangible personal property [~~or~~], product transferred
4068 electronically, or service; or

4069 (iii) a person holds that person out as regularly engaged in the business of selling a type
4070 of tangible personal property [~~or~~], product transferred electronically, or service;

4071 [~~(14)~~] (12) amounts paid or charged for a purchase or lease of machinery, equipment,
4072 normal operating repair or replacement parts, or materials, except for office equipment or
4073 office supplies, by:

4074 (a) a manufacturing facility that:

4075 (i) is located in the state; and

4076 (ii) uses or consumes the machinery, equipment, normal operating repair or
4077 replacement parts, or materials:

4078 (A) in the manufacturing process to manufacture an item sold as tangible personal
4079 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
4080 Utah Administrative Rulemaking Act; or

4081 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
4082 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
4083 Administrative Rulemaking Act;

4084 (b) an establishment, as the commission defines that term in accordance with Title
4085 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

4086 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS

4087 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
4088 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
4089 2002 North American Industry Classification System of the federal Executive Office of the
4090 President, Office of Management and Budget;

4091 (ii) is located in the state; and

4092 (iii) uses or consumes the machinery, equipment, normal operating repair or
4093 replacement parts, or materials in:

4094 (A) the production process to produce an item sold as tangible personal property, as the
4095 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
4096 Administrative Rulemaking Act;

4097 (B) research and development, as the commission may define that phrase in accordance
4098 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

4099 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
4100 produced from mining;

4101 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
4102 mining; or

4103 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

4104 (c) an establishment, as the commission defines that term in accordance with Title 63G,
4105 Chapter 3, Utah Administrative Rulemaking Act, that:

4106 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
4107 American Industry Classification System of the federal Executive Office of the President,
4108 Office of Management and Budget;

4109 (ii) is located in the state; and

4110 (iii) uses or consumes the machinery, equipment, normal operating repair or
4111 replacement parts, or materials in the operation of the web search portal;

4112 [~~(15)~~] (13) (a) sales of the following if the requirements of Subsection [~~(15)~~] (13)(b)
4113 are met:

4114 (i) tooling;

4115 (ii) special tooling;

4116 (iii) support equipment;

4117 (iv) special test equipment; or

4118 (v) parts used in the repairs or renovations of tooling or equipment described in
4119 Subsections ~~[(15)]~~ (13)(a)(i) through (iv); and
4120 (b) sales of tooling, equipment, or parts described in Subsection ~~[(15)]~~ (13)(a) are
4121 exempt if:
4122 (i) the tooling, equipment, or parts are used or consumed exclusively in the
4123 performance of any aerospace or electronics industry contract with the United States
4124 government or any subcontract under that contract; and
4125 (ii) under the terms of the contract or subcontract described in Subsection ~~[(15)]~~
4126 (13)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as
4127 evidenced by:
4128 (A) a government identification tag placed on the tooling, equipment, or parts; or
4129 (B) listing on a government-approved property record if placing a government
4130 identification tag on the tooling, equipment, or parts is impractical;
4131 ~~[(16) sales of newspapers or newspaper subscriptions;]~~
4132 ~~[(17)]~~ (14) (a) except as provided in Subsection ~~[(17)]~~ (14)(b), tangible personal
4133 property or a product transferred electronically traded in as full or part payment of the purchase
4134 price, except that for purposes of calculating sales or use tax upon vehicles not sold by a
4135 vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:
4136 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
4137 vehicle being traded in; or
4138 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
4139 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
4140 commission; and
4141 (b) Subsection ~~[(17)]~~ (14)(a) does not apply to the following items of tangible personal
4142 property or products transferred electronically traded in as full or part payment of the purchase
4143 price:
4144 (i) money;
4145 (ii) electricity;
4146 (iii) water;
4147 (iv) gas; or
4148 (v) steam;

4149 ~~[(18)]~~ (15) (a) (i) except as provided in Subsection ~~[(18)]~~ (15)(b), sales of tangible
4150 personal property ~~[or]~~, a product transferred electronically, or a service used or consumed
4151 primarily and directly in farming operations, regardless of whether the tangible personal
4152 property ~~[or]~~, product transferred electronically, or service:

4153 (A) becomes part of real estate; or
4154 (B) is installed by a:

4155 (I) farmer;
4156 (II) contractor; or
4157 (III) subcontractor; or

4158 (ii) sales of parts or a service used in the repairs or renovations of tangible personal
4159 property or a product transferred electronically if the tangible personal property or product
4160 transferred electronically is exempt under Subsection ~~[(18)]~~ (15)(a)(i); and

4161 (b) amounts paid or charged for the following are subject to the taxes imposed by this
4162 chapter:

4163 (i) (A) subject to Subsection ~~[(18)]~~ (15)(b)(i)(B), machinery, equipment, materials, or
4164 supplies if used in a manner that is incidental to farming; and

4165 (B) tangible personal property that is considered to be used in a manner that is
4166 incidental to farming includes:

4167 (I) hand tools; or
4168 (II) maintenance and janitorial equipment and supplies;

4169 (ii) (A) subject to Subsection ~~[(18)]~~ (15)(b)(ii)(B), tangible personal property ~~[or]~~, a
4170 product transferred electronically, or a service if the tangible personal property ~~[or]~~, product
4171 transferred electronically, or service is used in an activity other than farming; and

4172 (B) tangible personal property or a product transferred electronically that is considered
4173 to be used in an activity other than farming includes:

4174 (I) office equipment and supplies; or
4175 (II) equipment ~~[and]~~, supplies, and services used in:

4176 (Aa) the sale or distribution of farm products;
4177 (Bb) research; or
4178 (Cc) transportation; or

4179 (iii) a vehicle required to be registered by the laws of this state during the period

4180 ending two years after the date of the vehicle's purchase;

4181 ~~[(19)]~~ (16) sales of hay;

4182 ~~[(20)]~~ (17) exclusive sale during the harvest season of seasonal crops, seedling plants,

4183 or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or

4184 garden, farm, or other agricultural produce is sold by:

4185 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other

4186 agricultural produce;

4187 (b) an employee of the producer described in Subsection ~~[(20)]~~ (17)(a); or

4188 (c) a member of the immediate family of the producer described in Subsection ~~[(20)]~~

4189 (17)(a);

4190 ~~[(21)]~~ (18) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is

4191 issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

4192 ~~[(22)]~~ (19) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,

4193 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,

4194 wholesaler, or retailer for use in packaging tangible personal property to be sold by that

4195 manufacturer, processor, wholesaler, or retailer;

4196 ~~[(23)]~~ (20) a product stored in the state for resale;

4197 ~~[(24)]~~ (21) (a) purchases of a product if:

4198 (i) the product is:

4199 (A) purchased outside of this state;

4200 (B) brought into this state:

4201 (I) at any time after the purchase described in Subsection ~~[(24)]~~ (21)(a)(i)(A); and

4202 (II) by a nonresident person who is not living or working in this state at the time of the

4203 purchase;

4204 (C) used for the personal use or enjoyment of the nonresident person described in

4205 Subsection ~~[(24)]~~ (21)(a)(i)(B)(II) while that nonresident person is within the state; and

4206 (D) not used in conducting business in this state; and

4207 (ii) for:

4208 (A) a product other than a boat described in Subsection ~~[(24)]~~ (21)(a)(ii)(B), the first

4209 use of the product for a purpose for which the product is designed occurs outside of this state;

4210 (B) a boat, the boat is registered outside of this state; or

4211 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
4212 outside of this state; and

4213 (b) the exemption provided for in Subsection [~~(24)~~] (21)(a) does not apply to:

4214 (i) a lease or rental of a product; or

4215 (ii) a sale of a vehicle exempt under Subsection [~~(33)~~] (29); [~~and~~]

4216 [~~(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for~~
4217 ~~purposes of Subsection (24)(a), the commission may by rule define what constitutes the~~
4218 ~~following:~~]

4219 [~~(i) conducting business in this state if that phrase has the same meaning in this~~
4220 ~~Subsection (24) as in Subsection (63);]~~

4221 [~~(ii) the first use of a product if that phrase has the same meaning in this Subsection~~
4222 ~~(24) as in Subsection (63); or]~~

4223 [~~(iii) a purpose for which a product is designed if that phrase has the same meaning in~~
4224 ~~this Subsection (24) as in Subsection (63);]~~

4225 [~~(25)~~] (22) a product purchased for resale in the regular course of business, either in its
4226 original form or as an ingredient or component part of a manufactured or compounded product;

4227 [~~(26)~~] (23) a product or service upon which a sales or use tax was paid to some other
4228 state, or one of its subdivisions, except that the state shall be paid any difference between the
4229 tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no
4230 adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2,
4231 Local Sales and Use Tax Act;

4232 [~~(27)~~] (24) any sale of a service described in Subsections [59-12-103](#)(1)(b), (c), and (d)
4233 to a person for use in compounding a service taxable under the subsections;

4234 [~~(28)~~] (25) purchases made in accordance with the special supplemental nutrition
4235 program for women, infants, and children established in 42 U.S.C. Sec. 1786;

4236 [~~(29)~~] (26) sales or leases of rolls, rollers, refractory brick, electric motors, or other
4237 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
4238 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
4239 the President, Office of Management and Budget;

4240 [~~(30)~~] (27) sales of a boat of a type required to be registered under Title 73, Chapter 18,
4241 State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard

4242 motor is:

4243 (a) not registered in this state; and

4244 (b) (i) not used in this state; or

4245 (ii) used in this state:

4246 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a

4247 time period that does not exceed the longer of:

4248 (I) 30 days in any calendar year; or

4249 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to

4250 the borders of this state; or

4251 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time

4252 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this

4253 state;

4254 [~~(31) sales of aircraft manufactured in Utah;~~]

4255 [~~(32)~~] (28) amounts paid for the purchase of telecommunications service for purposes

4256 of providing telecommunications service;

4257 [~~(33)~~] (29) sales, leases, or uses of the following:

4258 (a) a vehicle by an authorized carrier; or

4259 (b) tangible personal property that is installed on a vehicle:

4260 (i) sold or leased to or used by an authorized carrier; and

4261 (ii) before the vehicle is placed in service for the first time;

4262 [~~(34)~~] (30) (a) 45% of the sales price of any new manufactured home; and

4263 (b) 100% of the sales price of any used manufactured home;

4264 [~~(35)~~] (31) sales relating to schools and fundraising sales;

4265 [~~(36)~~] (32) sales or rentals of durable medical equipment if:

4266 (a) a person presents a prescription for the durable medical equipment; and

4267 (b) the durable medical equipment is used for home use only;

4268 [~~(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in~~

4269 ~~Section 72-11-102; and]~~

4270 [~~(b) the commission shall by rule determine the method for calculating sales exempt~~

4271 ~~under Subsection (37)(a) that are not separately metered and accounted for in utility billings;]~~

4272 [~~(38)~~] (33) sales to a ski resort of:

4273 (a) snowmaking equipment;

4274 (b) ski slope grooming equipment;

4275 (c) passenger ropeways as defined in Section [72-11-102](#); or

4276 (d) parts used in the repairs or renovations of equipment or passenger ropeways

4277 described in Subsections ~~[(38)]~~ [\(33\)](#)(a) through (c);

4278 ~~[(39)]~~ [\(34\)](#) sales of natural gas, electricity, heat, coal, fuel oil, ~~[or]~~ other fuels, or

4279 potable delivered water for industrial use;

4280 ~~[(40)(a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for~~

4281 ~~amusement, entertainment, or recreation an unassisted amusement device as defined in Section~~

4282 ~~[59-12-102](#);~~

4283 ~~[(b) if a seller that sells or rents at the same business location the right to use or operate~~

4284 ~~for amusement, entertainment, or recreation one or more unassisted amusement devices and~~

4285 ~~one or more assisted amusement devices, the exemption described in Subsection (40)(a)~~

4286 ~~applies if the seller separately accounts for the sales or rentals of the right to use or operate for~~

4287 ~~amusement, entertainment, or recreation for the assisted amusement devices; and]~~

4288 ~~[(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,~~

4289 ~~Utah Administrative Rulemaking Act, the commission may make rules:]~~

4290 ~~[(i) governing the circumstances under which sales are at the same business location;~~

4291 ~~and]~~

4292 ~~[(ii) establishing the procedures and requirements for a seller to separately account for~~

4293 ~~the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for~~

4294 ~~assisted amusement devices;]~~

4295 ~~[(41)]~~ [\(35\)](#) (a) sales of photocopies by:

4296 (i) a governmental entity; or

4297 (ii) an entity within the state system of public education, including:

4298 (A) a school; or

4299 (B) the State Board of Education; or

4300 (b) sales of publications by a governmental entity;

4301 ~~[(42) amounts paid for admission to an athletic event at an institution of higher~~

4302 ~~education that is subject to the provisions of Title IX of the Education Amendments of 1972,~~

4303 ~~20 U.S.C. Sec. 1681 et seq.;]~~

- 4304 [~~(43)~~] (36) (a) sales made to or by:
- 4305 (i) an area agency on aging; or
- 4306 (ii) a senior citizen center owned by a county, city, or town; or
- 4307 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 4308 [~~(44)~~] (37) sales or leases of semiconductor fabricating, processing, research, or
- 4309 development materials regardless of whether the semiconductor fabricating, processing,
- 4310 research, or development materials:
- 4311 (a) actually come into contact with a semiconductor; or
- 4312 (b) ultimately become incorporated into real property;
- 4313 [~~(45)~~] (38) an amount paid by or charged to a purchaser for accommodations and
- 4314 services described in Subsection [59-12-103\(1\)\(i\)](#) to the extent the amount is exempt under
- 4315 Section [59-12-104.2](#);
- 4316 [~~(46)~~] (39) beginning on September 1, 2001, the lease or use of a vehicle issued a
- 4317 temporary sports event registration certificate in accordance with Section [41-3-306](#) for the
- 4318 event period specified on the temporary sports event registration certificate;
- 4319 [~~(47)~~] (40) (a) sales or uses of electricity, if the sales or uses are made under a retail
- 4320 tariff adopted by the Public Service Commission only for purchase of electricity produced from
- 4321 a new alternative energy source built after January 1, 2016, as designated in the tariff by the
- 4322 Public Service Commission; and
- 4323 (b) for a residential use customer only, the exemption under Subsection [~~(47)~~] (40)(a)
- 4324 applies only to the portion of the tariff rate a customer pays under the tariff described in
- 4325 Subsection [~~(47)~~] (40)(a) that exceeds the tariff rate under the tariff described in Subsection
- 4326 [~~(47)~~] (40)(a) that the customer would have paid absent the tariff;
- 4327 [~~(48)~~] (41) sales or rentals of mobility enhancing equipment if a person presents a
- 4328 prescription for the mobility enhancing equipment;
- 4329 [~~(49)~~] (42) sales of water, except for potable delivered water, in a:
- 4330 (a) pipe;
- 4331 (b) conduit;
- 4332 (c) ditch; or
- 4333 (d) reservoir;
- 4334 [~~(50)~~] (43) sales of currency or coins that constitute legal tender of a state, the United

4335 States, or a foreign nation;

4336 ~~[(51)]~~ (44) (a) sales of an item described in Subsection ~~[(51)]~~ (44)(b) if the item:

4337 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and

4338 (ii) has a gold, silver, or platinum content of 50% or more; and

4339 (b) Subsection ~~[(51)]~~ (44)(a) applies to a gold, silver, or platinum:

4340 (i) ingot;

4341 (ii) bar;

4342 (iii) medallion; or

4343 (iv) decorative coin;

4344 ~~[(52)]~~ (45) amounts paid on a sale-leaseback transaction;

4345 ~~[(53)]~~ (46) sales of a prosthetic device:

4346 (a) for use on or in a human; and

4347 (b) (i) for which a prescription is required; or

4348 (ii) if the prosthetic device is purchased by a hospital or other medical facility;

4349 ~~[(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of~~

4350 ~~machinery or equipment by an establishment described in Subsection (54)(c) if the machinery~~

4351 ~~or equipment is primarily used in the production or postproduction of the following media for~~

4352 ~~commercial distribution:]~~

4353 ~~[(i) a motion picture;]~~

4354 ~~[(ii) a television program;]~~

4355 ~~[(iii) a movie made for television;]~~

4356 ~~[(iv) a music video;]~~

4357 ~~[(v) a commercial;]~~

4358 ~~[(vi) a documentary; or]~~

4359 ~~[(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the~~

4360 ~~commission by administrative rule made in accordance with Subsection (54)(d); or]~~

4361 ~~[(b) purchases, leases, or rentals of machinery or equipment by an establishment~~

4362 ~~described in Subsection (54)(c) that is used for the production or postproduction of the~~

4363 ~~following are subject to the taxes imposed by this chapter:]~~

4364 ~~[(i) a live musical performance;]~~

4365 ~~[(ii) a live news program; or]~~

4366 ~~[(iii) a live sporting event;]~~
4367 ~~[(c) the following establishments listed in the 1997 North American Industry~~
4368 ~~Classification System of the federal Executive Office of the President, Office of Management~~
4369 ~~and Budget, apply to Subsections (54)(a) and (b):]~~
4370 ~~[(i) NAICS Code 512110; or]~~
4371 ~~[(ii) NAICS Code 51219; and]~~
4372 ~~[(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
4373 ~~the commission may by rule:]~~
4374 ~~[(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);~~
4375 ~~or]~~
4376 ~~[(ii) define:]~~
4377 ~~[(A) "commercial distribution";]~~
4378 ~~[(B) "live musical performance";]~~
4379 ~~[(C) "live news program"; or]~~
4380 ~~[(D) "live sporting event";]~~
4381 ~~[(55)]~~ (47) (a) leases of seven or more years or purchases made on or after July 1,
4382 2004, but on or before June 30, 2027, of tangible personal property that:
4383 (i) is leased or purchased for or by a facility that:
4384 (A) is an alternative energy electricity production facility;
4385 (B) is located in the state; and
4386 (C) (I) becomes operational on or after July 1, 2004; or
4387 (II) has its generation capacity increased by one or more megawatts on or after July 1,
4388 2004, as a result of the use of the tangible personal property;
4389 (ii) has an economic life of five or more years; and
4390 (iii) is used to make the facility or the increase in capacity of the facility described in
4391 Subsection ~~[(55)]~~ (47)(a)(i) operational up to the point of interconnection with an existing
4392 transmission grid including:
4393 (A) a wind turbine;
4394 (B) generating equipment;
4395 (C) a control and monitoring system;
4396 (D) a power line;

- 4397 (E) substation equipment;
- 4398 (F) lighting;
- 4399 (G) fencing;
- 4400 (H) pipes; or
- 4401 (I) other equipment used for locating a power line or pole; and
- 4402 (b) this Subsection [~~(55)~~] (47) does not apply to:
- 4403 (i) tangible personal property used in construction of:
- 4404 (A) a new alternative energy electricity production facility; or
- 4405 (B) the increase in the capacity of an alternative energy electricity production facility;
- 4406 (ii) contracted services required for construction and routine maintenance activities;
- 4407 and
- 4408 (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 4409 of the facility described in Subsection [~~(55)~~] (47)(a)(i)(C)(II), tangible personal property used
- 4410 or acquired after:
- 4411 (A) the alternative energy electricity production facility described in Subsection [~~(55)~~]
- 4412 (47)(a)(i) is operational as described in Subsection [~~(55)~~] (47)(a)(iii); or
- 4413 (B) the increased capacity described in Subsection [~~(55)~~] (47)(a)(i) is operational as
- 4414 described in Subsection [~~(55)~~] (47)(a)(iii);
- 4415 [~~(56)~~] (48) (a) leases of seven or more years or purchases made on or after July 1,
- 4416 2004, but on or before June 30, 2027, of tangible personal property that:
- 4417 (i) is leased or purchased for or by a facility that:
- 4418 (A) is a waste energy production facility;
- 4419 (B) is located in the state; and
- 4420 (C) (I) becomes operational on or after July 1, 2004; or
- 4421 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 4422 2004, as a result of the use of the tangible personal property;
- 4423 (ii) has an economic life of five or more years; and
- 4424 (iii) is used to make the facility or the increase in capacity of the facility described in
- 4425 Subsection [~~(56)~~] (48)(a)(i) operational up to the point of interconnection with an existing
- 4426 transmission grid including:
- 4427 (A) generating equipment;

- 4428 (B) a control and monitoring system;
- 4429 (C) a power line;
- 4430 (D) substation equipment;
- 4431 (E) lighting;
- 4432 (F) fencing;
- 4433 (G) pipes; or
- 4434 (H) other equipment used for locating a power line or pole; and
- 4435 (b) this Subsection [~~(56)~~] (48) does not apply to:
- 4436 (i) tangible personal property used in construction of:
- 4437 (A) a new waste energy facility; or
- 4438 (B) the increase in the capacity of a waste energy facility;
- 4439 (ii) contracted services required for construction and routine maintenance activities;
- 4440 and
- 4441 (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 4442 described in Subsection [~~(56)~~] (48)(a)(i)(C)(II), tangible personal property used or acquired
- 4443 after:
- 4444 (A) the waste energy facility described in Subsection [~~(56)~~] (48)(a)(i) is operational as
- 4445 described in Subsection [~~(56)~~] (48)(a)(iii); or
- 4446 (B) the increased capacity described in Subsection [~~(56)~~] (48)(a)(i) is operational as
- 4447 described in Subsection [~~(56)~~] (48)(a)(iii);
- 4448 [~~(57)~~] (49) (a) leases of five or more years or purchases made on or after July 1, 2004,
- 4449 but on or before June 30, 2027, of tangible personal property that:
- 4450 (i) is leased or purchased for or by a facility that:
- 4451 (A) is located in the state;
- 4452 (B) produces fuel from alternative energy, including:
- 4453 (I) methanol; or
- 4454 (II) ethanol; and
- 4455 (C) (I) becomes operational on or after July 1, 2004; or
- 4456 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
- 4457 a result of the installation of the tangible personal property;
- 4458 (ii) has an economic life of five or more years; and

- 4459 (iii) is installed on the facility described in Subsection [~~(57)~~] (49)(a)(i);
- 4460 (b) this Subsection [~~(57)~~] (49) does not apply to:
- 4461 (i) tangible personal property used in construction of:
- 4462 (A) a new facility described in Subsection [~~(57)~~] (49)(a)(i); or
- 4463 (B) the increase in capacity of the facility described in Subsection [~~(57)~~] (49)(a)(i); or
- 4464 (ii) contracted services required for construction and routine maintenance activities;
- 4465 and
- 4466 (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 4467 described in Subsection [~~(57)~~] (49)(a)(i)(C)(II), tangible personal property used or acquired
- 4468 after:
- 4469 (A) the facility described in Subsection [~~(57)~~] (49)(a)(i) is operational; or
- 4470 (B) the increased capacity described in Subsection [~~(57)~~] (49)(a)(i) is operational;
- 4471 [~~(58)~~] (50) (a) subject to Subsection [~~(58)~~] (50)(b) or (c), sales of tangible personal
- 4472 property or a product transferred electronically to a person within this state if that tangible
- 4473 personal property or product transferred electronically is subsequently shipped outside the state
- 4474 and incorporated pursuant to contract into and becomes a part of real property located outside
- 4475 of this state;
- 4476 (b) the exemption under Subsection [~~(58)~~] (50)(a) is not allowed to the extent that the
- 4477 other state or political entity to which the tangible personal property is shipped imposes a sales,
- 4478 use, gross receipts, or other similar transaction excise tax on the transaction against which the
- 4479 other state or political entity allows a credit for sales and use taxes imposed by this chapter; and
- 4480 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
- 4481 a person may claim the exemption allowed by this Subsection [~~(58)~~] (50) for a sale by filing for
- 4482 a refund:
- 4483 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;
- 4484 (ii) as if this Subsection [~~(58)~~] (50) as in effect on July 1, 2008, were in effect on the
- 4485 day on which the sale is made;
- 4486 (iii) if the person did not claim the exemption allowed by this Subsection [~~(58)~~] (50)
- 4487 for the sale prior to filing for the refund;
- 4488 (iv) for sales and use taxes paid under this chapter on the sale;
- 4489 (v) in accordance with Section 59-1-1410; and

4490 (vi) subject to any extension allowed for filing for a refund under Section [59-1-1410](#), if
4491 the person files for the refund on or before June 30, 2011;
4492 [~~(59) purchases;~~]
4493 [~~(a) of one or more of the following items in printed or electronic format:~~]
4494 [~~(i) a list containing information that includes one or more:~~]
4495 [~~(A) names; or~~]
4496 [~~(B) addresses; or~~]
4497 [~~(ii) a database containing information that includes one or more:~~]
4498 [~~(A) names; or~~]
4499 [~~(B) addresses; and~~]
4500 [~~(b) used to send direct mail;~~]
4501 [~~(60)~~] (51) redemptions or repurchases of a product by a person if that product was:
4502 (a) delivered to a pawnbroker as part of a pawn transaction; and
4503 (b) redeemed or repurchased within the time period established in a written agreement
4504 between the person and the pawnbroker for redeeming or repurchasing the product;
4505 [~~(61)~~] (52) (a) purchases or leases of an item described in Subsection [~~(61)~~] (52)(b) if
4506 the item:
4507 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
4508 and
4509 (ii) has a useful economic life of one or more years; and
4510 (b) the following apply to Subsection [~~(61)~~] (52)(a):
4511 (i) telecommunications enabling or facilitating equipment, machinery, or software;
4512 (ii) telecommunications equipment, machinery, or software required for 911 service;
4513 (iii) telecommunications maintenance or repair equipment, machinery, or software;
4514 (iv) telecommunications switching or routing equipment, machinery, or software; or
4515 (v) telecommunications transmission equipment, machinery, or software;
4516 [~~(62)~~] (53) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of
4517 tangible personal property or a product transferred electronically that are used in the research
4518 and development of alternative energy technology; and
4519 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4520 commission may, for purposes of Subsection [~~(62)~~] (53)(a), make rules defining what

4521 constitutes purchases of tangible personal property or a product transferred electronically that
 4522 are used in the research and development of alternative energy technology;

4523 ~~[(63)]~~ (54) (a) purchases of tangible personal property or a product transferred
 4524 electronically if:

4525 (i) the tangible personal property or product transferred electronically is:

4526 (A) purchased outside of this state;

4527 (B) brought into this state at any time after the purchase described in Subsection ~~[(63)]~~

4528 (54)(a)(i)(A); and

4529 (C) used in conducting business in this state; and

4530 (ii) for:

4531 (A) tangible personal property or a product transferred electronically other than the

4532 tangible personal property described in Subsection ~~[(63)]~~ (54)(a)(ii)(B), the first use of the

4533 property for a purpose for which the property is designed occurs outside of this state; or

4534 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
 4535 outside of this state;

4536 (b) the exemption provided for in Subsection ~~[(63)]~~ (54)(a) does not apply to:

4537 (i) a lease or rental of tangible personal property or a product transferred electronically;

4538 or

4539 (ii) a sale of a vehicle exempt under Subsection ~~[(33)]~~ (29); ~~[and]~~

4540 ~~[(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for~~
 4541 ~~purposes of Subsection (63)(a), the commission may by rule define what constitutes the~~
 4542 ~~following:]~~

4543 ~~[(i) conducting business in this state if that phrase has the same meaning in this~~
 4544 ~~Subsection (63) as in Subsection (24);]~~

4545 ~~[(ii) the first use of tangible personal property or a product transferred electronically if~~
 4546 ~~that phrase has the same meaning in this Subsection (63) as in Subsection (24); or]~~

4547 ~~[(iii) a purpose for which tangible personal property or a product transferred~~
 4548 ~~electronically is designed if that phrase has the same meaning in this Subsection (63) as in~~
 4549 ~~Subsection (24);]~~

4550 ~~[(64)]~~ (55) sales of disposable home medical equipment or supplies if:

4551 (a) a person presents a prescription for the disposable home medical equipment or

- 4552 supplies;
- 4553 (b) the disposable home medical equipment or supplies are used exclusively by the
- 4554 person to whom the prescription described in Subsection [~~(64)~~] (55)(a) is issued; and
- 4555 (c) the disposable home medical equipment and supplies are listed as eligible for
- 4556 payment under:
- 4557 (i) Title XVIII, federal Social Security Act; or
- 4558 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- 4559 [~~(65)~~] (56) sales:
- 4560 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
- 4561 District Act; or
- 4562 (b) of tangible personal property to a subcontractor of a public transit district, if the
- 4563 tangible personal property is:
- 4564 (i) clearly identified; and
- 4565 (ii) installed or converted to real property owned by the public transit district;
- 4566 [~~(66)~~] (57) sales of construction materials:
- 4567 (a) purchased on or after July 1, 2010;
- 4568 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 4569 (i) located within a county of the first class; and
- 4570 (ii) that has a United States customs office on its premises; and
- 4571 (c) if the construction materials are:
- 4572 (i) clearly identified;
- 4573 (ii) segregated; and
- 4574 (iii) installed or converted to real property:
- 4575 (A) owned or operated by the international airport described in Subsection [~~(66)~~]
- 4576 (57)(b); and
- 4577 (B) located at the international airport described in Subsection [~~(66)~~] (57)(b);
- 4578 [~~(67)~~] (58) sales of construction materials:
- 4579 (a) purchased on or after July 1, 2008;
- 4580 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 4581 (i) located within a county of the second class; and
- 4582 (ii) that is owned or operated by a city in which an airline as defined in Section

4583 [59-2-102](#) is headquartered; and

4584 (c) if the construction materials are:

4585 (i) clearly identified;

4586 (ii) segregated; and

4587 (iii) installed or converted to real property:

4588 (A) owned or operated by the new airport described in Subsection ~~[(67)]~~ [\(58\)](#)(b);

4589 (B) located at the new airport described in Subsection ~~[(67)]~~ [\(58\)](#)(b); and

4590 (C) as part of the construction of the new airport described in Subsection ~~[(67)]~~

4591 [\(58\)](#)(b);

4592 ~~[(68)]~~ [\(59\)](#) sales of fuel to a common carrier that is a railroad for use in a locomotive

4593 engine;

4594 ~~[(69)]~~ [\(60\)](#) purchases and sales described in Section [63H-4-111](#);

4595 ~~[(70)]~~ [\(61\)](#) (a) sales of tangible personal property to an aircraft maintenance, repair, and

4596 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of

4597 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration

4598 lists a state or country other than this state as the location of registry of the fixed wing turbine

4599 powered aircraft; or

4600 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul

4601 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of

4602 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration

4603 lists a state or country other than this state as the location of registry of the fixed wing turbine

4604 powered aircraft;

4605 ~~[(71)]~~ [\(62\)](#) subject to Section [59-12-104.4](#), sales of a textbook for a higher education

4606 course:

4607 (a) to a person admitted to an institution of higher education; and

4608 (b) by a seller, other than a bookstore owned by an institution of higher education, if

4609 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a

4610 textbook for a higher education course;

4611 ~~[(72)]~~ [\(63\)](#) a license fee or tax a municipality imposes in accordance with Subsection

4612 [10-1-203](#)(5) on a purchaser from a business for which the municipality provides an enhanced

4613 level of municipal services;

4614 [~~(73)~~] (64) amounts paid or charged for construction materials used in the construction
4615 of a new or expanding life science research and development facility in the state, if the
4616 construction materials are:

- 4617 (a) clearly identified;
- 4618 (b) segregated; and
- 4619 (c) installed or converted to real property;

4620 [~~(74)~~] (65) amounts paid or charged for:

4621 (a) a purchase or lease of machinery and equipment that:

- 4622 (i) are used in performing qualified research:
 - 4623 (A) as defined in Section 41(d), Internal Revenue Code; and
 - 4624 (B) in the state; and
- 4625 (ii) have an economic life of three or more years; and

4626 (b) normal operating repair or replacement parts:

- 4627 (i) for the machinery and equipment described in Subsection [~~(74)~~] (65)(a); and
- 4628 (ii) that have an economic life of three or more years;

4629 [~~(75)~~] (66) a sale or lease of tangible personal property used in the preparation of
4630 prepared food if:

- 4631 (a) for a sale:
 - 4632 (i) the ownership of the seller and the ownership of the purchaser are identical; and
 - 4633 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that

4634 tangible personal property prior to making the sale; or

- 4635 (b) for a lease:
 - 4636 (i) the ownership of the lessor and the ownership of the lessee are identical; and
 - 4637 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible

4638 personal property prior to making the lease;

4639 [~~(76)~~] (67) (a) purchases of machinery or equipment if:

4640 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
4641 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
4642 System of the federal Executive Office of the President, Office of Management and Budget;

4643 (ii) the machinery or equipment:

4644 (A) has an economic life of three or more years; and

4645 (B) is used by one or more persons who pay admission or user fees described in
4646 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
4647 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
4648 (A) amounts paid or charged as admission or user fees described in Subsection
4649 59-12-103(1)(f); and
4650 (B) subject to taxation under this chapter; and
4651 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4652 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
4653 previous calendar quarter is:
4654 (i) amounts paid or charged as admission or user fees described in Subsection
4655 59-12-103(1)(f); and
4656 (ii) subject to taxation under this chapter;
4657 ~~[(77)]~~ (68) purchases of a short-term lodging consumable by a business that provides
4658 accommodations and services described in Subsection 59-12-103(1)(i);
4659 ~~[(78) amounts paid or charged to access a database:]~~
4660 ~~[(a) if the primary purpose for accessing the database is to view or retrieve information~~
4661 ~~from the database; and]~~
4662 ~~[(b) not including amounts paid or charged for a:]~~
4663 ~~[(i) digital audiowork;]~~
4664 ~~[(ii) digital audio-visual work; or]~~
4665 ~~[(iii) digital book;]~~
4666 ~~[(79)]~~ (69) amounts paid or charged for a purchase or lease made by an electronic
4667 financial payment service, of:
4668 (a) machinery and equipment that:
4669 (i) are used in the operation of the electronic financial payment service; and
4670 (ii) have an economic life of three or more years; and
4671 (b) normal operating repair or replacement parts that:
4672 (i) are used in the operation of the electronic financial payment service; and
4673 (ii) have an economic life of three or more years;
4674 ~~[(80)]~~ (70) beginning on April 1, 2013, sales of a fuel cell as defined in Section
4675 54-15-102;

4676 [(81)] (71) amounts paid or charged for a purchase or lease of tangible personal
4677 property or a product transferred electronically if the tangible personal property or product
4678 transferred electronically:

4679 (a) is stored, used, or consumed in the state; and

4680 (b) is temporarily brought into the state from another state:

4681 (i) during a disaster period as defined in Section 53-2a-1202;

4682 (ii) by an out-of-state business as defined in Section 53-2a-1202;

4683 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

4684 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

4685 [(82)] (72) sales of goods and services at a morale, welfare, and recreation facility, as
4686 defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
4687 Recreation Program;

4688 [(83)] (73) amounts paid or charged for a purchase or lease of molten magnesium;

4689 [(84)] (74) amounts paid or charged for a purchase or lease made by a qualifying
4690 enterprise data center of machinery, equipment, or normal operating repair or replacement
4691 parts, if the machinery, equipment, or normal operating repair or replacement parts:

4692 (a) are used in the operation of the establishment; and

4693 (b) have an economic life of one or more years;

4694 ~~[(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a~~
4695 ~~vehicle that includes cleaning or washing of the interior of the vehicle;]~~

4696 [(86)] (75) amounts paid or charged for a purchase or lease of machinery, equipment,
4697 normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or
4698 supplies used or consumed:

4699 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
4700 in Section 63M-4-701 located in the state;

4701 (b) if the machinery, equipment, normal operating repair or replacement parts,
4702 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

4703 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
4704 added to gasoline or diesel fuel;

4705 (ii) research and development;

4706 (iii) transporting, storing, or managing raw materials, work in process, finished

4707 products, and waste materials produced from refining gasoline or diesel fuel, or adding
4708 blendstock to gasoline or diesel fuel;

4709 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
4710 refining; or

4711 (v) preventing, controlling, or reducing pollutants from refining; and

4712 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office
4713 of Energy Development under Subsection [63M-4-702\(2\)](#);

4714 ~~[(87)]~~ [\(76\)](#) amounts paid to or charged by a proprietor for accommodations and
4715 services, as defined in Section [63H-1-205](#), if the proprietor is subject to the MIDA
4716 accommodations tax imposed under Section [63H-1-205](#); ~~[and]~~

4717 ~~[(88)]~~ [\(77\)](#) amounts paid or charged for a purchase or lease of machinery, equipment,
4718 normal operating repair or replacement parts, or materials, except for office equipment or
4719 office supplies, by an establishment, as the commission defines that term in accordance with
4720 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

4721 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
4722 American Industry Classification System of the federal Executive Office of the President,
4723 Office of Management and Budget;

4724 (b) is located in this state; and

4725 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
4726 materials in the operation of the establishment~~[-]~~; and

4727 (78) sales of an item of tangible personal property or a service by a person under 18
4728 years of age if:

4729 (a) the service is provided solely by the person described in this Subsection (78); or

4730 (b) the item of tangible personal property is handcrafted solely by the person described
4731 in this Subsection (78).

4732 Section 36. Section [59-12-104.1](#) is amended to read:

4733 **59-12-104.1. Exemptions for religious or charitable institutions.**

4734 (1) Except as provided in Section [59-12-104](#) or [59-12-104.11](#), sales made by religious
4735 or charitable institutions or organizations are exempt from the sales and use tax imposed by
4736 this chapter if the sale is made in the conduct of the institution's or organization's regular
4737 religious or charitable functions or activities.

4738 (2) (a) Except as provided in Section [59-12-104](#) or [59-12-104.11](#), sales made to a
4739 religious or charitable institution or organization are exempt from the sales and use tax
4740 imposed by this chapter if the sale is made in the conduct of the institution's or organization's
4741 regular religious or charitable functions and activities.

4742 (b) In order to facilitate the efficient administration of the exemption granted by this
4743 section, the exemption shall be administered as follows:

4744 (i) the exemption shall be at point of sale if the sale is in the amount of at least \$1,000;

4745 (ii) except as provided in Subsection (2)(b)(iii), if the sale is less than \$1,000, the
4746 exemption shall be in the form of a refund of sales or use taxes paid at the point of sale; and

4747 (iii) notwithstanding Subsection (2)(b)(ii), the exemption under this section shall be at
4748 point of sale if the sale is:

4749 (A) made pursuant to a contract between the seller and the charitable or religious
4750 institution or organization; or

4751 (B) made by a public utility, as defined in Section [54-2-1](#), to a religious or charitable
4752 institution or organization.

4753 (3) (a) Religious or charitable institutions or organizations entitled to a refund under
4754 Subsection (2)(b)(ii) may apply to the commission for the refund of sales or use taxes paid.

4755 (b) The commission shall designate the following by commission rule adopted in
4756 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

4757 (i) procedures for applying for a sales and use tax refund;

4758 (ii) standards for determining and verifying the amount of purchase at the point of sale;

4759 (iii) procedures for submitting a request for refund on a monthly basis anytime the
4760 taxpayer has accumulated \$100 or more in sales tax payments; and

4761 (iv) procedures for submitting a request for refund on a quarterly basis for any
4762 cumulative amount of sales tax payments.

4763 Section 37. Section [59-12-104.4](#) is amended to read:

4764 **59-12-104.4. Seller recordkeeping for purposes of higher education textbook
4765 exemption -- Rulemaking authority.**

4766 (1) If a seller described in Subsection [59-12-104](#)~~[(71)]~~[\(62\)](#)(b) makes a sale of a
4767 textbook for a higher education course that is exempt under Subsection [59-12-104](#)~~[(71)]~~[\(62\)](#),
4768 the seller shall keep a record verifying that the textbook is a textbook for a higher education

4769 course.

4770 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4771 commission may make rules:

4772 (a) prescribing the records a seller shall keep to verify that a textbook is a textbook for
4773 a higher education course; or

4774 (b) to verify that 51% or more of a seller's sales revenue for the previous calendar
4775 quarter are sales of a textbook for a higher education course.

4776 Section 38. Section **59-12-104.5** is amended to read:

4777 **59-12-104.5. Revenue and Taxation Interim Committee review of sales and use**
4778 **taxes.**

4779 The Revenue and Taxation Interim Committee shall:

4780 (1) review Subsection ~~59-12-104[(28)](25)~~ before October 1 of the year after the year
4781 in which Congress permits a state to participate in the special supplemental nutrition program
4782 under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on
4783 purchases of food under that program; and

4784 (2) review Subsection ~~59-12-104[(21)](18)~~ before October 1 of the year after the year
4785 in which Congress permits a state to participate in the SNAP as defined in Section ~~35A-1-102~~,
4786 even if state or local sales taxes are collected within the state on purchases of food under that
4787 program.

4788 Section 39. Section **59-12-104.10** is amended to read:

4789 **59-12-104.10. Exemption from sales tax for cannabis.**

4790 (1) As used in this section:

4791 (a) "Cannabis" means the same as that term is defined in Section ~~26-61a-102~~.

4792 (b) "Cannabis product" means the same as that term is defined in Section ~~26-61a-102~~.

4793 (c) "Medical cannabis device" means the same as that term is defined in Section
4794 ~~26-61a-102~~.

4795 (d) "Medical cannabis pharmacy" means the same as that term is defined in Section
4796 ~~26-61a-102~~.

4797 (e) "Medicinal dosage form" means the same as that term is defined in Section
4798 ~~26-61a-102~~.

4799 (f) "State central fill medical cannabis pharmacy" means the same as that term is

4800 defined in Section [26-61a-102](#).

4801 (2) In addition to the exemptions described in Section [59-12-104](#) or [59-12-104.11](#), the
4802 sale by a licensed medical cannabis pharmacy or the state central fill medical cannabis
4803 pharmacy of the following is not subject to the taxes this chapter imposes:

4804 (a) cannabis in a medicinal dosage form; or

4805 (b) a cannabis product in a medicinal dosage form.

4806 (3) The sale of a medical cannabis device by a medical cannabis pharmacy or the state
4807 central fill medical cannabis pharmacy is subject to the taxes this chapter imposes.

4808 Section 40. Section [59-12-104.11](#) is enacted to read:

4809 **59-12-104.11. Exemption from sales and use tax for services.**

4810 Amounts paid or charged for a sale of a service described in Subsection [59-12-103.3](#)(1)
4811 are exempt from the taxes imposed by Section [59-12-103.3](#) if the service is provided by an
4812 establishment classified in one of the following NAICS Codes of the 2017 North American
4813 Industry Classification System of the federal Executive Office of the President, Office of
4814 Management and Budget:

4815 (1) NAICS Sector 11, Agriculture, Forestry, Fishing and Hunting;

4816 (2) (a) except as provided in Subsection (2)(b), NAICS Sector 23, Construction, if the
4817 service is provided for the construction of:

4818 (i) a new single-family residential housing unit;

4819 (ii) a new multifamily residential housing unit;

4820 (iii) a new industrial building;

4821 (iv) a new commercial or institutional building;

4822 (v) a highway;

4823 (vi) a street;

4824 (vii) a bridge; or

4825 (viii) water infrastructure; and

4826 (b) the exemption under Subsection (2)(a) is not allowed and the service is subject to
4827 the taxes imposed by this chapter to the extent that the service is provided by an establishment
4828 classified in:

4829 (i) NAICS Code 237990, Other Heavy and Civil Engineering Construction;

4830 (ii) NAICS Code 238210, Electrical Contractors and Other Wiring Installation

- 4831 Contractors; or
- 4832 (iii) NAICS Code 238220, Plumbing, Heating, and Air-Conditioning Contractors;
- 4833 (3) NAICS Code 237210, Land Subdivision;
- 4834 (4) NAICS Sectors 31-33, Manufacturing;
- 4835 (5) NAICS Sector 42, Wholesale Trade;
- 4836 (6) NAICS Code 481111, Scheduled Passenger Air Transportation;
- 4837 (7) NAICS Code 481112, Scheduled Freight Air Transportation;
- 4838 (8) NAICS Code 481212, Nonscheduled Chartered Freight Air Transportation;
- 4839 (9) NAICS Code 482, Rail Transportation;
- 4840 (10) NAICS Code 4841, General Freight Trucking;
- 4841 (11) NAICS Code 4842, Specialized Freight Trucking;
- 4842 (12) NAICS Code 4851, Urban Transit Systems;
- 4843 (13) NAICS Code 4852, Interurban and Rural Bus Transportation;
- 4844 (14) NAICS Code 4854, School and Employee Bus Transportation;
- 4845 (15) NAICS Code 4881, Support Activities for Air Transportation;
- 4846 (16) NAICS Code 491, Postal Service;
- 4847 (17) NAICS Code 519120, Libraries and Archives;
- 4848 (18) NAICS Code 5211, Monetary Authorities-Central Bank;
- 4849 (19) NAICS Code 5221, Depository Credit Intermediation;
- 4850 (20) NAICS Code 5222, Nondepository Credit Intermediation;
- 4851 (21) NAICS Code 5223, Activities Related to Credit Intermediation;
- 4852 (22) NAICS Code 523110, Investment Banking and Securities Dealing;
- 4853 (23) NAICS Code 523130, Commodity Contracts Dealing;
- 4854 (24) NAICS Code 523210, Securities and Commodity Exchanges;
- 4855 (25) NAICS Code 523910, Miscellaneous Intermediation;
- 4856 (26) NAICS Code 5241, Insurance Carriers;
- 4857 (27) NAICS Code 5242, Agencies, Brokerages, and Other Insurance Related
- 4858 Activities;
- 4859 (28) NAICS Code 5251, Insurance and Employee Benefit Funds;
- 4860 (29) NAICS Code 5259, Other Investment Pools and Funds;
- 4861 (30) NAICS Code 531110, Lessors of Residential Buildings and Dwellings;

- 4862 (31) NAICS Code 531120, Lessors of Nonresidential Buildings (except
- 4863 Miniwarehouses);
- 4864 (32) NAICS Code 531210, Offices of Real Estate Agents and Brokers;
- 4865 (33) NAICS Code 541330, Engineering Services, if the service is provided for the
- 4866 construction of:
- 4867 (a) a highway;
- 4868 (b) a street;
- 4869 (c) a bridge; or
- 4870 (d) water infrastructure.
- 4871 (34) NAICS Sector 55, Management of Companies and Enterprises;
- 4872 (35) NAICS Code 561330, Professional Employer Organizations;
- 4873 (36) NAICS Code 6111, Elementary and Secondary Schools;
- 4874 (37) NAICS Code 6112, Junior Colleges;
- 4875 (38) NAICS Code 6113, Colleges, Universities, and Professional Schools;
- 4876 (39) NAICS Code 611410, Business and Secretarial Schools;
- 4877 (40) NAICS Code 611420, Computer Training;
- 4878 (41) NAICS Code 611511, Cosmetology and Barber Schools;
- 4879 (42) NAICS Code 611513, Apprenticeship Training;
- 4880 (43) NAICS Code 611519, Other Technical and Trade Schools;
- 4881 (44) NAICS Code 611710, Educational Support Services;
- 4882 (45) (a) except as provided in Subsection (45)(b), NAICS Sector 62, Health Care and
- 4883 Social Assistance; and
- 4884 (b) the exemption under Subsection (45)(a) is not allowed and the service is subject to
- 4885 the taxes imposed by this chapter to the extent that the service described in Subsection (45)(a)
- 4886 is a cosmetic medical procedure;
- 4887 (46) NAICS Code 8131, Religious Organizations;
- 4888 (47) NAICS Code 8132, Grantmaking and Giving Services;
- 4889 (48) NAICS Code 8133, Social Advocacy Organizations;
- 4890 (49) NAICS Code 8134, Civic and Social Organizations; or
- 4891 (50) NAICS Sector 92, Public Administration.
- 4892 Section 41. Section **59-12-106** is amended to read:

4893 **59-12-106. Definitions -- Sales and use tax license requirements -- Penalty --**
4894 **Application process and requirements -- No fee -- Bonds -- Presumption of taxability --**
4895 **Exemption certificates -- Exemption certificate license number to accompany contract**
4896 **bids.**

4897 (1) As used in this section:

4898 (a) "applicant" means a person that:

4899 (i) is required by this section to obtain a license; and

4900 (ii) submits an application:

4901 (A) to the commission; and

4902 (B) for a license under this section;

4903 (b) "application" means an application for a license under this section;

4904 (c) "fiduciary of the applicant" means a person that:

4905 (i) is required to collect, truthfully account for, and pay over a tax under this chapter

4906 for an applicant; and

4907 (ii) (A) is a corporate officer of the applicant described in Subsection (1)(c)(i);

4908 (B) is a director of the applicant described in Subsection (1)(c)(i);

4909 (C) is an employee of the applicant described in Subsection (1)(c)(i);

4910 (D) is a partner of the applicant described in Subsection (1)(c)(i);

4911 (E) is a trustee of the applicant described in Subsection (1)(c)(i); or

4912 (F) has a relationship to the applicant described in Subsection (1)(c)(i) that is similar to

4913 a relationship described in Subsections (1)(c)(ii)(A) through (E) as determined by the

4914 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

4915 Rulemaking Act;

4916 (d) "fiduciary of the licensee" means a person that:

4917 (i) is required to collect, truthfully account for, and pay over a tax under this chapter

4918 for a licensee; and

4919 (ii) (A) is a corporate officer of the licensee described in Subsection (1)(d)(i);

4920 (B) is a director of the licensee described in Subsection (1)(d)(i);

4921 (C) is an employee of the licensee described in Subsection (1)(d)(i);

4922 (D) is a partner of the licensee described in Subsection (1)(d)(i);

4923 (E) is a trustee of the licensee described in Subsection (1)(d)(i); or

4924 (F) has a relationship to the licensee described in Subsection (1)(d)(i) that is similar to
4925 a relationship described in Subsections (1)(d)(ii)(A) through (E) as determined by the
4926 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
4927 Rulemaking Act;

4928 (e) "license" means a license under this section; and

4929 (f) "licensee" means a person that is licensed under this section by the commission.

4930 (2) (a) It is unlawful for any person required to collect a tax under this chapter to
4931 engage in business within the state without first having obtained a license to do so.

4932 (b) The license described in Subsection (2)(a):

4933 (i) shall be granted and issued by the commission;

4934 (ii) is not assignable;

4935 (iii) is valid only for the person in whose name the license is issued;

4936 (iv) is valid until:

4937 (A) the person described in Subsection (2)(b)(iii):

4938 (I) ceases to do business; or

4939 (II) changes that person's business address; or

4940 (B) the license is revoked by the commission; and

4941 (v) subject to Subsection (2)(d), shall be granted by the commission only upon an
4942 application that:

4943 (A) states the name and address of the applicant; and

4944 (B) provides other information the commission may require.

4945 (c) At the time an applicant makes an application under Subsection (2)(b)(v), the
4946 commission shall notify the applicant of the responsibilities and liability of a business owner
4947 successor under Section [59-12-112](#).

4948 (d) The commission shall review an application and determine whether the applicant:

4949 (i) meets the requirements of this section to be issued a license; and

4950 (ii) is required to post a bond with the commission in accordance with Subsections
4951 (2)(e) and (f) before the applicant may be issued a license.

4952 (e) (i) An applicant shall post a bond with the commission before the commission may
4953 issue the applicant a license if:

4954 (A) a license under this section was revoked for a delinquency under this chapter for:

- 4955 (I) the applicant;
- 4956 (II) a fiduciary of the applicant; or
- 4957 (III) a person for which the applicant or the fiduciary of the applicant is required to
- 4958 collect, truthfully account for, and pay over a tax under this chapter; or
- 4959 (B) there is a delinquency in paying a tax under this chapter for:
- 4960 (I) the applicant;
- 4961 (II) a fiduciary of the applicant; or
- 4962 (III) a person for which the applicant or the fiduciary of the applicant is required to
- 4963 collect, truthfully account for, and pay over a tax under this chapter.
- 4964 (ii) If the commission determines it is necessary to ensure compliance with this
- 4965 chapter, the commission may require a licensee to:
- 4966 (A) for a licensee that has not posted a bond under this section with the commission,
- 4967 post a bond with the commission in accordance with Subsection (2)(f); or
- 4968 (B) for a licensee that has posted a bond under this section with the commission,
- 4969 increase the amount of the bond posted with the commission.
- 4970 (f) (i) A bond required by Subsection (2)(e) shall be:
- 4971 (A) executed by:
- 4972 (I) for an applicant, the applicant as principal, with a corporate surety; or
- 4973 (II) for a licensee, the licensee as principal, with a corporate surety; and
- 4974 (B) payable to the commission conditioned upon the faithful performance of all of the
- 4975 requirements of this chapter including:
- 4976 (I) the payment of any tax under this chapter;
- 4977 (II) the payment of any:
- 4978 (Aa) penalty as provided in Section 59-1-401; or
- 4979 (Bb) interest as provided in Section 59-1-402; or
- 4980 (III) any other obligation of the:
- 4981 (Aa) applicant under this chapter; or
- 4982 (Bb) licensee under this chapter.
- 4983 (ii) Except as provided in Subsection (2)(f)(iv), the commission shall calculate the
- 4984 amount of a bond required by Subsection (2)(e) on the basis of:
- 4985 (A) commission estimates of:

- 4986 (I) an applicant's tax liability under this chapter; or
- 4987 (II) a licensee's tax liability under this chapter; and
- 4988 (B) any amount of a delinquency described in Subsection (2)(f)(iii).
- 4989 (iii) Except as provided in Subsection (2)(f)(iv), for purposes of Subsection
- 4990 (2)(f)(ii)(B):
- 4991 (A) for an applicant, the amount of the delinquency is the sum of:
- 4992 (I) the amount of any delinquency that served as a basis for revoking the license under
- 4993 this section of:
- 4994 (Aa) the applicant;
- 4995 (Bb) a fiduciary of the applicant; or
- 4996 (Cc) a person for which the applicant or the fiduciary of the applicant is required to
- 4997 collect, truthfully account for, and pay over a tax under this chapter; or
- 4998 (II) the amount of tax that any of the following owe under this chapter:
- 4999 (Aa) the applicant;
- 5000 (Bb) a fiduciary of the applicant; and
- 5001 (Cc) a person for which the applicant or the fiduciary of the applicant is required to
- 5002 collect, truthfully account for, and pay over a tax under this chapter; or
- 5003 (B) for a licensee, the amount of the delinquency is the sum of:
- 5004 (I) the amount of any delinquency that served as a basis for revoking the license under
- 5005 this section of:
- 5006 (Aa) the licensee;
- 5007 (Bb) a fiduciary of the licensee; or
- 5008 (Cc) a person for which the licensee or the fiduciary of the licensee is required to
- 5009 collect, truthfully account for, and pay over a tax under this chapter; or
- 5010 (II) the amount of tax that any of the following owe under this chapter:
- 5011 (Aa) the licensee;
- 5012 (Bb) a fiduciary of the licensee; and
- 5013 (Cc) a person for which the licensee or the fiduciary of the licensee is required to
- 5014 collect, truthfully account for, and pay over a tax under this chapter.
- 5015 (iv) Notwithstanding Subsection (2)(f)(ii) or (2)(f)(iii), a bond required by Subsection
- 5016 (2)(e) may not:

- 5017 (A) be less than \$25,000; or
- 5018 (B) exceed \$500,000.
- 5019 (g) If business is transacted at two or more separate places by one person, a separate
- 5020 license for each place of business is required.
- 5021 (h) (i) The commission shall, on a reasonable notice and after a hearing, revoke the
- 5022 license of any licensee violating any provisions of this chapter.
- 5023 (ii) A license may not be issued to a licensee described in Subsection (2)(h)(i) until the
- 5024 licensee has complied with the requirements of this chapter, including:
- 5025 (A) paying any:
- 5026 (I) tax due under this chapter;
- 5027 (II) penalty as provided in Section [59-1-401](#); or
- 5028 (III) interest as provided in Section [59-1-402](#); and
- 5029 (B) posting a bond in accordance with Subsections (2)(e) and (f).
- 5030 (i) Any person required to collect a tax under this chapter within this state without
- 5031 having secured a license to do so is guilty of a criminal violation as provided in Section
- 5032 [59-1-401](#).
- 5033 (j) A license:
- 5034 (i) is not required for any person engaged exclusively in the business of selling
- 5035 commodities that are exempt from taxation under this chapter; and
- 5036 (ii) shall be issued to the person by the commission without a license fee.
- 5037 (3) (a) For the purpose of the proper administration of this chapter and to prevent
- 5038 evasion of the tax and the duty to collect the tax, it shall be presumed that tangible personal
- 5039 property or any other taxable transaction under Subsection [59-12-103\(1\)](#) or [59-12-103.3\(1\)](#) sold
- 5040 by any person for delivery in this state is sold for storage, use, or other consumption in this
- 5041 state unless the person selling the property, item, or service has taken from the purchaser an
- 5042 exemption certificate:
- 5043 (i) bearing the name and address of the purchaser; and
- 5044 (ii) providing that the property, item, or service was exempted under Section [59-12-104](#)
- 5045 or [59-12-104.11](#).
- 5046 (b) An exemption certificate described in Subsection (3)(a):
- 5047 (i) shall contain information as prescribed by the commission; and

5048 (ii) if a paper exemption certificate is used, shall be signed by the purchaser.

5049 (c) (i) Subject to Subsection (3)(c)(ii), a seller or certified service provider is not liable

5050 to collect a tax under this chapter if the seller or certified service provider obtains within 90

5051 days after a transaction is complete:

5052 (A) an exemption certificate containing the information required by Subsections (3)(a)

5053 and (b); or

5054 (B) the information required by Subsections (3)(a) and (b).

5055 (ii) A seller or certified service provider that does not obtain the exemption certificate

5056 or information described in Subsection (3)(c)(i) with respect to a transaction is allowed 120

5057 days after the commission requests the seller or certified service provider to substantiate the

5058 exemption to:

5059 (A) establish that the transaction is not subject to taxation under this chapter by a

5060 means other than providing an exemption certificate containing the information required by

5061 Subsections (3)(a) and (b); or

5062 (B) subject to Subsection (3)(c)(iii), obtain an exemption certificate containing the

5063 information required by Subsections (3)(a) and (b), taken in good faith.

5064 (iii) For purposes of Subsection (3)(c)(ii)(B), an exemption certificate is taken in good

5065 faith if the exemption certificate claims an exemption that:

5066 (A) was allowed by statute on the date of the transaction in the jurisdiction of the

5067 location of the transaction;

5068 (B) could be applicable to that transaction; and

5069 (C) is reasonable for the purchaser's type of business.

5070 (d) Except as provided in Subsection (3)(e), a seller or certified service provider that

5071 takes an exemption certificate from a purchaser in accordance with this Subsection (3) with

5072 respect to a transaction is not liable to collect a tax under this chapter on that transaction.

5073 (e) Subsection (3)(d) does not apply to a seller or certified service provider if the

5074 commission establishes through an audit that the seller or certified service provider:

5075 (i) knew or had reason to know at the time the purchaser provided the seller or certified

5076 service provider the information described in Subsection (3)(a) or (b) that the information

5077 related to the exemption claimed was materially false; or

5078 (ii) otherwise knowingly participated in activity intended to purposefully evade the tax

5079 due on the transaction.

5080 (f) (i) Subject to Subsection (3)(f)(ii) and except as provided in Subsection (3)(f)(iii), if
5081 there is a recurring business relationship between a seller or certified service provider and a
5082 purchaser, the commission may not require the seller or certified service provider to:

5083 (A) renew an exemption certificate;

5084 (B) update an exemption certificate; or

5085 (C) update a data element of an exemption certificate.

5086 (ii) For purposes of Subsection (3)(f)(i), a recurring business relationship exists if no
5087 more than a 12-month period elapses between transactions between a seller or certified service
5088 provider and a purchaser.

5089 (iii) If there is a recurring business relationship between a seller or certified service
5090 provider and a purchaser, the commission shall require an exemption certificate the seller or
5091 certified service provider takes from the purchaser to meet the requirements of Subsections
5092 (3)(a) and (b).

5093 (4) A person filing a contract bid with the state or a political subdivision of the state for
5094 the sale of tangible personal property or any other taxable transaction under Subsection
5095 [59-12-103\(1\)](#) or [59-12-103.3\(1\)](#) shall include with the bid the number of the license issued to
5096 that person under Subsection (2).

5097 Section 42. Section **59-12-107** is amended to read:

5098 **59-12-107. Definitions -- Collection, remittance, and payment of tax by sellers or**
5099 **other persons -- Returns -- Reports -- Direct payment by purchaser of vehicle -- Other**
5100 **liability for collection -- Rulemaking authority -- Credits -- Treatment of bad debt --**
5101 **Penalties and interest.**

5102 (1) As used in this section:

5103 (a) "Ownership" means direct ownership or indirect ownership through a parent,
5104 subsidiary, or affiliate.

5105 (b) "Related seller" means a seller that:

5106 (i) meets one or more of the criteria described in Subsection (2)(a)(i); and

5107 (ii) delivers tangible personal property, a service, or a product transferred electronically
5108 that is sold:

5109 (A) by a seller that does not meet one or more of the criteria described in Subsection

5110 (2)(a)(i); and

5111 (B) to a purchaser in the state.

5112 (c) "Substantial ownership interest" means an ownership interest in a business entity if

5113 that ownership interest is greater than the degree of ownership of equity interest specified in 15

5114 U.S.C. Sec. 78p, with respect to a person other than a director or an officer.

5115 (2) (a) Except as provided in Subsection (2)(f), Section 59-12-107.1, or Section

5116 59-12-123, and subject to Subsection (2)(g), each seller shall pay or collect and remit the sales

5117 and use taxes imposed by this chapter if within this state the seller:

5118 (i) has or utilizes:

5119 (A) an office;

5120 (B) a distribution house;

5121 (C) a sales house;

5122 (D) a warehouse;

5123 (E) a service enterprise; or

5124 (F) a place of business similar to Subsections (2)(a)(i)(A) through (E);

5125 (ii) maintains a stock of goods;

5126 (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the
5127 state, unless the seller's only activity in the state is:

5128 (A) advertising; or

5129 (B) solicitation by:

5130 (I) direct mail;

5131 (II) electronic mail;

5132 (III) the Internet;

5133 (IV) telecommunications service; or

5134 (V) a means similar to Subsection (2)(a)(iii)(A) or (B);

5135 (iv) regularly engages in the delivery of property in the state other than by:

5136 (A) common carrier; or

5137 (B) United States mail; or

5138 (v) regularly engages in an activity directly related to the leasing or servicing of
5139 property located within the state.

5140 (b) A seller is considered to be engaged in the business of selling tangible personal

5141 property, a service, or a product transferred electronically for use in the state, and shall pay or
5142 collect and remit the sales and use taxes imposed by this chapter if:

5143 (i) the seller holds a substantial ownership interest in, or is owned in whole or in
5144 substantial part by, a related seller; and

5145 (ii) (A) the seller sells the same or a substantially similar line of products as the related
5146 seller and does so under the same or a substantially similar business name; or

5147 (B) the place of business described in Subsection (2)(a)(i) of the related seller or an in
5148 state employee of the related seller is used to advertise, promote, or facilitate sales by the seller
5149 to a purchaser.

5150 (c) Each seller that does not meet one or more of the criteria provided for in Subsection
5151 (2)(a) or is not a seller required to pay or collect and remit the sales and use taxes imposed by
5152 this chapter under Subsection (2)(b) shall pay or collect and remit the sales and use tax
5153 imposed by this chapter if the seller:

5154 (i) sells tangible personal property, products transferred electronically, or services for
5155 storage, use, or consumption in the state; and

5156 (ii) in either the previous calendar year or the current calendar year:

5157 (A) receives gross revenue from the sale of tangible personal property, any product
5158 transferred electronically, or services for storage, use, or consumption in the state of more than
5159 \$100,000; or

5160 (B) sells tangible personal property, products transferred electronically, or services for
5161 storage, use, or consumption in the state in 200 or more separate transactions.

5162 (d) A seller that does not meet one or more of the criteria provided for in Subsection
5163 (2)(a) or is not a seller required to pay or collect and remit sales and use taxes under Subsection
5164 (2)(b) or (2)(c) may voluntarily:

5165 (i) collect a tax on a transaction described in Subsection [59-12-103\(1\)](#) or
5166 [59-12-103.3\(1\)](#); and

5167 (ii) remit the tax to the commission as provided in this part.

5168 (e) The collection and remittance of a tax under this chapter by a seller that is
5169 registered under the agreement may not be used as a factor in determining whether that seller is
5170 required by this Subsection (2) to:

5171 (i) pay a tax, fee, or charge under:

- 5172 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 5173 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- 5174 (C) Section [19-6-714](#);
- 5175 (D) Section [19-6-805](#);
- 5176 (E) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or
- 5177 (F) this title; or
- 5178 (ii) collect and remit a tax, fee, or charge under:
 - 5179 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
 - 5180 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
 - 5181 (C) Section [19-6-714](#);
 - 5182 (D) Section [19-6-805](#);
 - 5183 (E) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or
 - 5184 (F) this title.
- 5185 (f) A person shall pay a use tax imposed by this chapter on a transaction described in
- 5186 Subsection [59-12-103\(1\)](#) or [59-12-103.3\(1\)](#) if:
 - 5187 (i) the seller did not collect a tax imposed by this chapter on the transaction; and
 - 5188 (ii) the person:
 - 5189 (A) stores the tangible personal property or product transferred electronically in the
 - 5190 state;
 - 5191 (B) uses the tangible personal property or product transferred electronically in the state;
 - 5192 or
 - 5193 (C) consumes the tangible personal property or product transferred electronically in the
 - 5194 state.
 - 5195 (g) The ownership of property that is located at the premises of a printer's facility with
 - 5196 which the retailer has contracted for printing and that consists of the final printed product,
 - 5197 property that becomes a part of the final printed product, or copy from which the printed
 - 5198 product is produced, shall not result in the retailer being considered to have or maintain an
 - 5199 office, distribution house, sales house, warehouse, service enterprise, or other place of
 - 5200 business, or to maintain a stock of goods, within this state.
- 5201 (3) (a) Except as provided in Section [59-12-107.1](#), a tax under this chapter shall be
- 5202 collected from a purchaser.

5203 (b) A seller may not collect as tax an amount, without regard to fractional parts of one
5204 cent, in excess of the tax computed at the rates prescribed by this chapter.

5205 (c) (i) Each seller shall:

5206 (A) give the purchaser a receipt for the tax collected; or

5207 (B) bill the tax as a separate item and declare the name of this state and the seller's
5208 sales and use tax license number on the invoice for the sale.

5209 (ii) The receipt or invoice is prima facie evidence that the seller has collected the tax
5210 and relieves the purchaser of the liability for reporting the tax to the commission as a
5211 consumer.

5212 (d) A seller is not required to maintain a separate account for the tax collected, but is
5213 considered to be a person charged with receipt, safekeeping, and transfer of public money.

5214 (e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the
5215 benefit of the state and for payment to the commission in the manner and at the time provided
5216 for in this chapter.

5217 (f) If any seller, during any reporting period, collects as a tax an amount in excess of
5218 the lawful state and local percentage of total taxable sales allowed under this chapter, the seller
5219 shall remit to the commission the full amount of the tax imposed under this chapter, plus any
5220 excess.

5221 (g) If the accounting methods regularly employed by the seller in the transaction of the
5222 seller's business are such that reports of sales made during a calendar month or quarterly period
5223 will impose unnecessary hardships, the commission may accept reports at intervals that, in the
5224 commission's opinion, will better suit the convenience of the taxpayer or seller and will not
5225 jeopardize collection of the tax.

5226 (h) (i) For a purchase paid with specie legal tender as defined in Section [59-1-1501.1](#),
5227 and until such time as the commission accepts specie legal tender for the payment of a tax
5228 under this chapter, if the commission requires a seller to remit a tax under this chapter in legal
5229 tender other than specie legal tender, the seller shall state on the seller's books and records and
5230 on an invoice, bill of sale, or similar document provided to the purchaser:

5231 (A) the purchase price in specie legal tender and in the legal tender the seller is
5232 required to remit to the commission;

5233 (B) subject to Subsection (3)(h)(ii), the amount of tax due under this chapter in specie

5234 legal tender and in the legal tender the seller is required to remit to the commission;

5235 (C) the tax rate under this chapter applicable to the purchase; and

5236 (D) the date of the purchase.

5237 (ii) (A) Subject to Subsection (3)(h)(ii)(B), for purposes of determining the amount of
5238 tax due under Subsection (3)(h)(i), a seller shall use the most recent London fixing price for the
5239 specie legal tender the purchaser paid.

5240 (B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5241 commission may make rules for determining the amount of tax due under Subsection (3)(h)(i)
5242 if the London fixing price is not available for a particular day.

5243 (4) (a) Except as provided in Subsections (5) through [~~(7)~~] (8) and Section 59-12-108,
5244 the sales or use tax imposed by this chapter is due and payable to the commission quarterly on
5245 or before the last day of the month next succeeding each quarterly calendar period.

5246 (b) (i) Each seller shall, on or before the last day of the month next succeeding each
5247 quarterly calendar period, file with the commission a return for the preceding quarterly period.

5248 (ii) The seller shall remit with the return under Subsection (4)(b)(i) the amount of the
5249 tax required under this chapter to be collected or paid for the period covered by the return.

5250 (c) Except as provided in Subsection (5)(c), a return shall contain information and be in
5251 a form the commission prescribes by rule.

5252 (d) (i) Subject to Subsection (4)(d)(ii), the sales tax as computed in the return shall be
5253 based on the total nonexempt sales made during the period for which the return is filed,
5254 including both cash and charge sales.

5255 (ii) For a sale that includes the delivery or installation of tangible personal property at a
5256 location other than a seller's place of business described in Subsection (2)(a)(i), if the delivery
5257 or installation is separately stated on an invoice or receipt, a seller may compute the tax due on
5258 the sale for purposes of Subsection (4)(d)(i) based on the amount the seller receives for that
5259 sale during each period for which the seller receives payment for the sale.

5260 (e) (i) The use tax as computed in the return shall be based on the total amount of
5261 purchases for storage, use, or other consumption in this state made during the period for which
5262 the return is filed, including both cash and charge purchases.

5263 (ii) (A) As used in this Subsection (4)(e)(ii), "qualifying purchaser" means a purchaser
5264 that is required to remit taxes under this chapter, but is not required to remit taxes monthly in

5265 accordance with Section 59-12-108, and that converts tangible personal property into real
5266 property.

5267 (B) Subject to Subsections (4)(e)(ii)(C) and (D), a qualifying purchaser may remit the
5268 taxes due under this chapter on tangible personal property for which the qualifying purchaser
5269 claims an exemption as allowed under Subsection 59-12-104~~[(23)]~~(20) or ~~[(25)]~~ (22) based on
5270 the period in which the qualifying purchaser receives payment, in accordance with Subsection
5271 (4)(e)(ii)(C), for the conversion of the tangible personal property into real property.

5272 (C) A qualifying purchaser remitting taxes due under this chapter in accordance with
5273 Subsection (4)(e)(ii)(B) shall remit an amount equal to the total amount of tax due on the
5274 qualifying purchaser's purchase of the tangible personal property that was converted into real
5275 property multiplied by a fraction, the numerator of which is the payment received in the period
5276 for the qualifying purchaser's sale of the tangible personal property that was converted into real
5277 property and the denominator of which is the entire sales price for the qualifying purchaser's
5278 sale of the tangible personal property that was converted into real property.

5279 (D) A qualifying purchaser may remit taxes due under this chapter in accordance with
5280 this Subsection (4)(e)(ii) only if the books and records that the qualifying purchaser keeps in
5281 the qualifying purchaser's regular course of business identify by reasonable and verifiable
5282 standards that the tangible personal property was converted into real property.

5283 (f) (i) Subject to Subsection (4)(f)(ii) and in accordance with Title 63G, Chapter 3,
5284 Utah Administrative Rulemaking Act, the commission may by rule extend the time for making
5285 returns and paying the taxes.

5286 (ii) An extension under Subsection (4)(f)(i) may not be for more than 90 days.

5287 (g) The commission may require returns and payment of the tax to be made for other
5288 than quarterly periods if the commission considers it necessary in order to ensure the payment
5289 of the tax imposed by this chapter.

5290 (h) (i) The commission may require a seller that files a simplified electronic return with
5291 the commission to file an additional electronic report with the commission.

5292 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5293 commission may make rules providing:

5294 (A) the information required to be included in the additional electronic report described
5295 in Subsection (4)(h)(i); and

5296 (B) one or more due dates for filing the additional electronic report described in
5297 Subsection (4)(h)(i).

5298 (5) (a) As used in this Subsection (5) and Subsection (6)(b), "remote seller" means a
5299 seller that is:

5300 (i) registered under the agreement;

5301 (ii) described in Subsection (2)(d); and

5302 (iii) not a:

5303 (A) model 1 seller;

5304 (B) model 2 seller; or

5305 (C) model 3 seller.

5306 (b) (i) Except as provided in Subsection (5)(b)(ii), a tax a remote seller collects in
5307 accordance with Subsection (2)(d) is due and payable:

5308 (A) to the commission;

5309 (B) annually; and

5310 (C) on or before the last day of the month immediately following the last day of each
5311 calendar year.

5312 (ii) The commission may require that a tax a remote seller collects in accordance with
5313 Subsection (2)(d) be due and payable:

5314 (A) to the commission; and

5315 (B) on the last day of the month immediately following any month in which the seller
5316 accumulates a total of at least \$1,000 in agreement sales and use tax.

5317 (c) (i) If a remote seller remits a tax to the commission in accordance with Subsection
5318 (5)(b), the remote seller shall file a return:

5319 (A) with the commission;

5320 (B) with respect to the tax;

5321 (C) containing information prescribed by the commission; and

5322 (D) on a form prescribed by the commission.

5323 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5324 commission shall make rules prescribing:

5325 (A) the information required to be contained in a return described in Subsection

5326 (5)(c)(i); and

5327 (B) the form described in Subsection (5)(c)(i)(D).

5328 (d) A tax a remote seller collects in accordance with this Subsection (5) shall be
5329 calculated on the basis of the total amount of taxable transactions under Subsection
5330 59-12-103(1) or Subsection 59-12-103.3(1) the remote seller completes, including:

5331 (i) a cash transaction; and

5332 (ii) a charge transaction.

5333 (6) (a) Except as provided in Subsection (6)(b), a tax a seller that files a simplified
5334 electronic return collects in accordance with this chapter is due and payable:

5335 (i) monthly on or before the last day of the month immediately following the month for
5336 which the seller collects a tax under this chapter; and

5337 (ii) for the month for which the seller collects a tax under this chapter.

5338 (b) A tax a remote seller that files a simplified electronic return collects in accordance
5339 with this chapter is due and payable as provided in Subsection (5).

5340 (7) (a) On each vehicle sale made by other than a regular licensed vehicle dealer, the
5341 purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to
5342 titling or registration under the laws of this state.

5343 (b) The commission shall collect the tax described in Subsection (7)(a) when the
5344 vehicle is titled or registered.

5345 (8) A seller that has less than \$15,000 of taxable sales shall remit the taxes due under
5346 this chapter on a return filed under Chapter 7, Corporate Franchise and Income Taxes, or
5347 Chapter 10, Individual Income Tax Act.

5348 [~~8~~] (9) If any sale of tangible personal property or any other taxable transaction under
5349 Subsection 59-12-103(1) or 59-12-103.3(1), is made by a wholesaler to a retailer:

5350 (a) the wholesaler is not responsible for the collection or payment of the tax imposed
5351 on the sale; and

5352 (b) the retailer is responsible for the collection or payment of the tax imposed on the
5353 sale if:

5354 (i) the retailer represents that the tangible personal property, product transferred
5355 electronically, or service is purchased by the retailer for resale; and

5356 (ii) the tangible personal property, product transferred electronically, or service is not
5357 subsequently resold.

5358 ~~[(9)]~~ (10) If any sale of property or service subject to the tax is made to a person
5359 prepaying sales or use tax in accordance with Title 63M, Chapter 5, Resource Development
5360 Act, or to a contractor or subcontractor of that person:

5361 (a) the person to whom such payment or consideration is payable is not responsible for
5362 the collection or payment of the sales or use tax; and

5363 (b) the person prepaying the sales or use tax is responsible for the collection or
5364 payment of the sales or use tax if the person prepaying the sales or use tax represents that the
5365 amount prepaid as sales or use tax has not been fully credited against sales or use tax due and
5366 payable under the rules promulgated by the commission.

5367 ~~[(10)]~~ (11) (a) For purposes of this Subsection ~~[(10)]~~ (11):

5368 (i) Except as provided in Subsection ~~[(10)]~~ (11)(a)(ii), "bad debt" means the same as
5369 that term is defined in Section 166, Internal Revenue Code.

5370 (ii) "Bad debt" does not include:

5371 (A) an amount included in the purchase price of tangible personal property, a product
5372 transferred electronically, or a service that is:

5373 (I) not a transaction described in Subsection [59-12-103\(1\)](#) or [59-12-103.3\(1\)](#); or

5374 (II) exempt under Section [59-12-104](#) or [59-12-104.11](#);

5375 (B) a financing charge;

5376 (C) interest;

5377 (D) a tax imposed under this chapter on the purchase price of tangible personal
5378 property, a product transferred electronically, or a service;

5379 (E) an uncollectible amount on tangible personal property or a product transferred
5380 electronically that:

5381 (I) is subject to a tax under this chapter; and

5382 (II) remains in the possession of a seller until the full purchase price is paid;

5383 (F) an expense incurred in attempting to collect any debt; or

5384 (G) an amount that a seller does not collect on repossessed property.

5385 (b) (i) To the extent an amount remitted in accordance with Subsection (4)(d) later
5386 becomes bad debt, a seller may deduct the bad debt from the total amount from which a tax
5387 under this chapter is calculated on a return.

5388 (ii) A qualifying purchaser, as defined in Subsection (4)(e)(ii)(A), may deduct from the

5389 total amount of taxes due under this chapter the amount of tax the qualifying purchaser paid on
5390 the qualifying purchaser's purchase of tangible personal property converted into real property to
5391 the extent that:

5392 (A) tax was remitted in accordance with Subsection (4)(e) on that tangible personal
5393 property converted into real property;

5394 (B) the qualifying purchaser's sale of that tangible personal property converted into real
5395 property later becomes bad debt; and

5396 (C) the books and records that the qualifying purchaser keeps in the qualifying
5397 purchaser's regular course of business identify by reasonable and verifiable standards that the
5398 tangible personal property was converted into real property.

5399 (c) A seller may file a refund claim with the commission if:

5400 (i) the amount of bad debt for the time period described in Subsection [~~(10)~~] (11)(e)
5401 exceeds the amount of the seller's sales that are subject to a tax under this chapter for that same
5402 time period; and

5403 (ii) as provided in Section [59-1-1410](#).

5404 (d) A bad debt deduction under this section may not include interest.

5405 (e) A bad debt may be deducted under this Subsection [~~(10)~~] (11) on a return for the
5406 time period during which the bad debt:

5407 (i) is written off as uncollectible in the seller's books and records; and

5408 (ii) would be eligible for a bad debt deduction:

5409 (A) for federal income tax purposes; and

5410 (B) if the seller were required to file a federal income tax return.

5411 (f) If a seller recovers any portion of bad debt for which the seller makes a deduction or
5412 claims a refund under this Subsection [~~(10)~~] (11), the seller shall report and remit a tax under
5413 this chapter:

5414 (i) on the portion of the bad debt the seller recovers; and

5415 (ii) on a return filed for the time period for which the portion of the bad debt is
5416 recovered.

5417 (g) For purposes of reporting a recovery of a portion of bad debt under Subsection
5418 [~~(10)~~] (11)(f), a seller shall apply amounts received on the bad debt in the following order:

5419 (i) in a proportional amount:

5420 (A) to the purchase price of the tangible personal property, product transferred
5421 electronically, or service; and
5422 (B) to the tax due under this chapter on the tangible personal property, product
5423 transferred electronically, or service; and
5424 (ii) to:
5425 (A) interest charges;
5426 (B) service charges; and
5427 (C) other charges.
5428 (h) A seller's certified service provider may make a deduction or claim a refund for bad
5429 debt on behalf of the seller:
5430 (i) in accordance with this Subsection [~~(10)~~] (11); and
5431 (ii) if the certified service provider credits or refunds the entire amount of the bad debt
5432 deduction or refund to the seller.
5433 (i) A seller may allocate bad debt among the states that are members of the agreement
5434 if the seller's books and records support that allocation.
5435 [~~(11)~~] (12) (a) A seller may not, with intent to evade any tax, fail to timely remit the
5436 full amount of tax required by this chapter.
5437 (b) A violation of this section is punishable as provided in Section 59-1-401.
5438 (c) Each person that fails to pay any tax to the state or any amount of tax required to be
5439 paid to the state, except amounts determined to be due by the commission under Chapter 1,
5440 Part 14, Assessment, Collections, and Refunds Act, or Section 59-12-111, within the time
5441 required by this chapter, or that fails to file any return as required by this chapter, shall pay, in
5442 addition to the tax, penalties and interest as provided in Sections 59-1-401 and 59-1-402.
5443 (d) For purposes of prosecution under this section, each quarterly tax period in which a
5444 seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the
5445 tax required to be remitted constitutes a separate offense.
5446 Section 43. Section 59-12-108 is amended to read:
5447 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**
5448 **Certain amounts allocated to local taxing jurisdictions.**
5449 (1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this
5450 chapter of \$50,000 or more for the previous calendar year shall:

- 5451 (i) file a return with the commission:
5452 (A) monthly on or before the last day of the month immediately following the month
5453 for which the seller collects a tax under this chapter; and
5454 (B) for the month for which the seller collects a tax under this chapter; and
5455 (ii) except as provided in Subsection (1)(b), remit with the return required by
5456 Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax,
5457 fee, or charge described in Subsection (1)(c):
5458 (A) if that seller's tax liability under this chapter for the previous calendar year is less
5459 than \$96,000, by any method permitted by the commission; or
5460 (B) if that seller's tax liability under this chapter for the previous calendar year is
5461 \$96,000 or more, by electronic funds transfer.
5462 (b) A seller shall remit electronically with the return required by Subsection (1)(a)(i)
5463 the amount the seller is required to remit to the commission for each tax, fee, or charge
5464 described in Subsection (1)(c) if that seller:
5465 (i) is required by Section 59-12-107 to file the return electronically; or
5466 (ii) (A) is required to collect and remit a tax under Section 59-12-107; and
5467 (B) files a simplified electronic return.
5468 (c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:
5469 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
5470 (ii) a fee under Section 19-6-714;
5471 (iii) a fee under Section 19-6-805;
5472 (iv) a charge under Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or
5473 (v) a tax under this chapter.
5474 (d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3,
5475 Utah Administrative Rulemaking Act, the commission shall make rules providing for a method
5476 for making same-day payments other than by electronic funds transfer if making payments by
5477 electronic funds transfer fails.
5478 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5479 commission shall establish by rule procedures and requirements for determining the amount a
5480 seller is required to remit to the commission under this Subsection (1).
5481 (2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a

5482 seller described in Subsection (4) may retain each month the amount allowed by this
5483 Subsection (2).

5484 (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
5485 each month 1.31% of any amounts the seller is required to remit to the commission:

5486 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax
5487 and a local tax imposed in accordance with the following, for the month for which the seller is
5488 filing a return in accordance with Subsection (1):

5489 (A) Subsection 59-12-103(2)(a);

5490 (B) Subsection 59-12-103(2)(b); [~~and~~]

5491 (C) Subsection 59-12-103(2)(d); and

5492 (D) Subsection 59-12-103(2)(e); and

5493 (ii) for an agreement sales and use tax.

5494 (c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may
5495 retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described
5496 in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in
5497 accordance with Subsection 59-12-103(2)(c).

5498 (ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount
5499 equal to the sum of:

5500 (A) 1.31% of any amounts the seller is required to remit to the commission for:

5501 (I) the state tax and the local tax imposed in accordance with Subsection

5502 59-12-103(2)(c);

5503 (II) the month for which the seller is filing a return in accordance with Subsection (1);

5504 and

5505 (III) an agreement sales and use tax; and

5506 (B) 1.31% of the difference between:

5507 (I) the amounts the seller would have been required to remit to the commission:

5508 (Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject
5509 to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(a);

5510 (Bb) for the month for which the seller is filing a return in accordance with Subsection
5511 (1); and

5512 (Cc) for an agreement sales and use tax; and

- 5513 (II) the amounts the seller is required to remit to the commission for:
- 5514 (Aa) the state tax and the local tax imposed in accordance with Subsection
- 5515 [59-12-103\(2\)\(c\)](#);
- 5516 (Bb) the month for which the seller is filing a return in accordance with Subsection (1);
- 5517 and
- 5518 (Cc) an agreement sales and use tax.
- 5519 (d) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
- 5520 each month 1% of any amounts the seller is required to remit to the commission:
- 5521 (i) for the month for which the seller is filing a return in accordance with Subsection
- 5522 (1); and
- 5523 (ii) under:
- 5524 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 5525 (B) Subsection [59-12-603\(1\)\(a\)\(i\)\(A\)](#); or
- 5526 (C) Subsection [59-12-603\(1\)\(a\)\(i\)\(B\)](#).
- 5527 (e) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
- 5528 each month 1.31% of any amounts the seller is required to remit to the commission for a
- 5529 transaction described in Subsection [59-12-103.3\(1\)](#) that is subject to a state tax imposed in
- 5530 accordance with Subsection [59-12-103.3\(2\)\(a\)](#), for the month for which the seller is filing a
- 5531 return in accordance with Subsection (1).
- 5532 (3) A state government entity that is required to remit taxes monthly in accordance
- 5533 with Subsection (1) may not retain any amount under Subsection (2).
- 5534 (4) A seller that has a tax liability under this chapter for the previous calendar year of
- 5535 less than \$50,000 may:
- 5536 (a) voluntarily meet the requirements of Subsection (1); and
- 5537 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the
- 5538 amounts allowed by Subsection (2).
- 5539 (5) Penalties for late payment shall be as provided in Section [59-1-401](#).
- 5540 (6) (a) Except as provided in Subsection (6)(c), for any amounts required to be remitted
- 5541 to the commission under this part, the commission shall each month calculate an amount equal
- 5542 to the difference between:
- 5543 (i) the total amount retained for that month by all sellers had the percentages listed

5544 under Subsections (2)(b) and (2)(c)(ii) been 1.5%; and

5545 (ii) the total amount retained for that month by all sellers at the percentages listed
5546 under Subsections (2)(b) and (2)(c)(ii).

5547 (b) The commission shall each month allocate the amount calculated under Subsection
5548 (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and use
5549 tax that the commission distributes to each county, city, and town for that month compared to
5550 the total agreement sales and use tax that the commission distributes for that month to all
5551 counties, cities, and towns.

5552 (c) The amount the commission calculates under Subsection (6)(a) may not include an
5553 amount collected from a tax that:

5554 (i) the state imposes within a county, city, or town, including the unincorporated area
5555 of a county; and

5556 (ii) is not imposed within the entire state.

5557 Section 44. Section 59-12-111 is amended to read:

5558 **59-12-111. Penalty for certain purchasers that fail to file a return or pay a tax**
5559 **due -- Commission rulemaking authority.**

5560 A person shall pay a penalty as provided in Section 59-1-401, plus interest at the rate
5561 and in the manner prescribed in Section 59-1-402, and all other penalties and interest as
5562 provided by this title if the person:

5563 (1) does not hold:

5564 (a) a license under Section 59-12-106; or

5565 (b) a valid use tax registration certificate;

5566 (2) purchases tangible personal property, a product transferred electronically, or a
5567 service subject to taxation under Subsection 59-12-103(1) or 59-12-103.3(1) for storage, use,
5568 or other consumption in this state; and

5569 (3) fails to file a return or pay the tax due as prescribed by the commission by rule
5570 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

5571 Section 45. Section 59-12-211 is amended to read:

5572 **59-12-211. Definitions -- Location of certain transactions -- Reports to**
5573 **commission -- Direct payment provision for a seller making certain purchases --**
5574 **Exceptions.**

5575 (1) As used in this section:

5576 (a) "Making first use of a service" means the first point of contact in the state between
5577 a purchaser and a service provider.

5578 [~~(a)~~] (b) (i) "Receipt" and "receive" mean:

5579 (A) taking possession of tangible personal property;

5580 (B) making first use of a service; or

5581 (C) for a product transferred electronically, the earlier of:

5582 (I) taking possession of the product transferred electronically; or

5583 (II) making first use of the product transferred electronically.

5584 (ii) "Receipt" and "receive" do not include possession by a shipping company on behalf
5585 of a purchaser.

5586 [~~(b)~~] (c) "Transportation equipment" means:

5587 (i) a locomotive or rail car that is used to carry a person or property in interstate
5588 commerce;

5589 (ii) a truck or truck-tractor:

5590 (A) with a gross vehicle weight rating of 10,001 pounds or more;

5591 (B) registered under Section 41-1a-301; and

5592 (C) operated under the authority of a carrier authorized and certificated:

5593 (I) by the United States Department of Transportation or another federal authority; and

5594 (II) to engage in carrying a person or property in interstate commerce;

5595 (iii) a trailer, semitrailer, or passenger bus that is:

5596 (A) registered under Section 41-1a-301; and

5597 (B) operated under the authority of a carrier authorized and certificated:

5598 (I) by the United States Department of Transportation or another federal authority; and

5599 (II) to engage in carrying a person or property in interstate commerce;

5600 (iv) an aircraft that is operated by an air carrier authorized and certificated:

5601 (A) by the United States Department of Transportation or another federal or foreign
5602 authority; and

5603 (B) to engage in carrying a person or property in interstate commerce; or

5604 (v) a container designed for use on, or a component part attached or secured on, an
5605 item of equipment listed in Subsections (1)[~~(b)~~](c)(i) through (iv).

5606 (2) Except as provided in Subsections (8) and (14), if tangible personal property, a
5607 product transferred electronically, or a service that is subject to taxation under this chapter is
5608 received by a purchaser at a business location of a seller, the location of the transaction is the
5609 business location of the seller.

5610 (3) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),
5611 and (14), if tangible personal property, a product transferred electronically, or a service that is
5612 subject to taxation under this chapter is not received by a purchaser at a business location of a
5613 seller, the location of the transaction is the location where the purchaser takes receipt of the
5614 tangible personal property or service.

5615 (4) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),
5616 and (14), if Subsection (2) or (3) does not apply, the location of the transaction is the location
5617 indicated by an address for or other information on the purchaser if:

- 5618 (a) the address or other information is available from the seller's business records; and
- 5619 (b) use of the address or other information from the seller's records does not constitute
5620 bad faith.

5621 (5) (a) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9),
5622 (11), and (14), if Subsection (2), (3), or (4) does not apply, the location of the transaction is the
5623 location indicated by an address for the purchaser if:

- 5624 (i) the address is obtained during the consummation of the transaction; and
- 5625 (ii) use of the address described in Subsection (5)(a)(i) does not constitute bad faith.
- 5626 (b) An address used under Subsection (5)(a) includes the address of a purchaser's
5627 payment instrument if no other address is available.

5628 (6) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11),
5629 and (14), if Subsection (2), (3), (4), or (5) does not apply or if a seller does not have sufficient
5630 information to apply Subsection (2), (3), (4), or (5), the location of the transaction is the
5631 location:

- 5632 (a) indicated by the address from which:
 - 5633 (i) except as provided in Subsection (6)(a)(ii), for tangible personal property that is
5634 subject to taxation under this chapter, the tangible personal property is shipped;
 - 5635 (ii) for computer software delivered electronically or for a product transferred
5636 electronically that is subject to taxation under this chapter, the computer software or product

5637 transferred electronically is first available for transmission by the seller; or
5638 (iii) for a service that is subject to taxation under this chapter, the service is provided;
5639 or
5640 (b) as determined by the seller with respect to a prepaid wireless calling service:
5641 (i) provided in Subsection (6)(a)(iii); or
5642 (ii) associated with the mobile telephone number.
5643 (7) (a) For purposes of this Subsection (7), "shared ZIP Code" means a nine-digit ZIP
5644 Code that is located within two or more local taxing jurisdictions.
5645 (b) If the location of a transaction determined under Subsections (3) through (6) is in a
5646 shared ZIP Code, the location of the transaction is:
5647 (i) if there is only one local taxing jurisdiction that imposes the lowest agreement
5648 combined tax rate for the shared ZIP Code, the local taxing jurisdiction that imposes the lowest
5649 agreement combined tax rate; or
5650 (ii) if two or more local taxing jurisdictions impose the lowest agreement combined tax
5651 rate for the shared ZIP Code, the local taxing jurisdiction that:
5652 (A) imposes the lowest agreement combined tax rate for the shared ZIP Code; and
5653 (B) has located within the local taxing jurisdiction the largest number of street
5654 addresses within the shared ZIP Code.
5655 (c) Notwithstanding any provision under this chapter authorizing or requiring the
5656 imposition of a sales and use tax, for purposes of Subsection (7)(b), a seller shall collect a sales
5657 and use tax imposed under this chapter at the lowest agreement combined tax rate imposed
5658 within the local taxing jurisdiction in which the transaction is located under Subsection (7)(b).
5659 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5660 commission may make rules:
5661 (i) providing for the circumstances under which a seller has exercised due diligence in
5662 determining the nine-digit ZIP Code for an address; or
5663 (ii) notwithstanding Subsection (7)(b), for determining the local taxing jurisdiction
5664 within which a transaction is located if a seller is unable to determine the local taxing
5665 jurisdiction within which the transaction is located under Subsection (7)(b).
5666 (8) The location of a transaction made with a direct payment permit described in
5667 Section [59-12-107.1](#) is the location where receipt of the tangible personal property, product, or

5668 service by the purchaser occurs.

5669 (9) The location of a purchase of direct mail is the location determined in accordance
5670 with Section 59-12-123.

5671 (10) (a) Except as provided in Subsection (10)(b), the location of a transaction
5672 determined under Subsections (3) through (6), (8), or (9), is the local taxing jurisdiction within
5673 which:

5674 (i) the nine-digit ZIP Code assigned to the location determined under Subsections (3)
5675 through (6), (8), or (9) is located; or

5676 (ii) the five-digit ZIP Code assigned to the location determined under Subsections (3)
5677 through (6), (8), or (9) is located if:

5678 (A) a nine-digit ZIP Code is not available for the location determined under
5679 Subsections (3) through (6), (8), or (9); or

5680 (B) after exercising due diligence, a seller or certified service provider is unable to
5681 determine a nine-digit ZIP Code for the location determined under Subsections (3) through (6),
5682 (8), or (9).

5683 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5684 commission may make rules for determining the local taxing jurisdiction within which a
5685 transaction is located if a seller or certified service provider is unable to determine the local
5686 taxing jurisdiction within which the transaction is located under Subsection (10)(a).

5687 (11) (a) As used in this Subsection (11), "florist delivery transaction" means a
5688 transaction commenced by a florist that transmits an order:

5689 (i) by:

5690 (A) telegraph;

5691 (B) telephone; or

5692 (C) a means of communication similar to Subsection (11)(a)(i)(A) or (B); and

5693 (ii) for delivery to another place:

5694 (A) in this state; or

5695 (B) outside this state.

5696 (b) Notwithstanding Subsections (3) through (6), beginning on January 1, 2009, and
5697 ending on December 31, 2009, the location of a florist delivery transaction is the business
5698 location of the florist that commences the florist delivery transaction.

5699 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5700 commission may by rule:

5701 (i) define:

5702 (A) "business location"; and

5703 (B) "florist";

5704 (ii) define what constitutes a means of communication similar to Subsection

5705 (11)(a)(i)(A) or (B); and

5706 (iii) provide procedures for determining when a transaction is commenced.

5707 (12) (a) Notwithstanding any other provision of this section and except as provided in
5708 Subsection (12)(b), ~~[if a purchaser uses computer software and there is not a transfer of a copy~~
5709 ~~of that software to the purchaser]~~ if there is not a transfer of a copy of tangible personal
5710 property, a product transferred electronically, or a service described in Subsection
5711 59-12-103(1)(o) to the purchaser, the location of the transaction is determined in accordance
5712 with Subsections (4) and (5).

5713 (b) If a purchaser uses ~~[computer software described in Subsection (12)(a)]~~ tangible
5714 personal property, a product transferred electronically, or a service described in Subsection
5715 (12)(a) at more than one location, the location of the transaction shall be determined in
5716 accordance with rules made by the commission in accordance with Title 63G, Chapter 3, Utah
5717 Administrative Rulemaking Act.

5718 (13) (a) A tax collected under this chapter shall be reported to the commission on a
5719 form that identifies the location of each transaction that occurs during the return filing period.

5720 (b) The form described in Subsection (13)(a) shall be filed with the commission as
5721 required under this chapter.

5722 (14) This section does not apply to:

5723 (a) amounts charged by a seller for:

5724 (i) telecommunications service except for a prepaid calling service or a prepaid
5725 wireless calling service as provided in Subsection (6)(b) or Section 59-12-215; or

5726 (ii) the retail sale or transfer of:

5727 (A) a motor vehicle other than a motor vehicle that is transportation equipment;

5728 (B) an aircraft other than an aircraft that is transportation equipment;

5729 (C) a watercraft;

- 5730 (D) a modular home;
- 5731 (E) a manufactured home; or
- 5732 (F) a mobile home; or
- 5733 (iii) except as provided in Section [59-12-214](#), the lease or rental of tangible personal
- 5734 property other than tangible personal property that is transportation equipment;
- 5735 (b) a tax a person pays in accordance with Subsection [59-12-107\(2\)\(f\)](#); or
- 5736 (c) a retail sale of tangible personal property or a product transferred electronically if:
- 5737 (i) the seller receives the order for the tangible personal property or product transferred
- 5738 electronically in this state;
- 5739 (ii) receipt of the tangible personal property or product transferred electronically by the
- 5740 purchaser or the purchaser's donee occurs in this state;
- 5741 (iii) the location where receipt of the tangible personal property or product transferred
- 5742 electronically by the purchaser occurs is determined in accordance with Subsections (3)
- 5743 through (5); and
- 5744 (iv) at the time the seller receives the order, the record keeping system that the seller
- 5745 uses to calculate the proper amount of tax imposed under this chapter captures the location
- 5746 where the order is received.

5747 Section 46. Section **59-30-101** is enacted to read:

5748 **CHAPTER 30. REAL ESTATE TRANSFER TAX ACT**

5749 **59-30-101. Title.**

5750 This chapter is known as the "Real Estate Transfer Tax Act."

5751 Section 47. Section **59-30-102** is enacted to read:

5752 **59-30-102. Definitions.**

5753 As used in this chapter:

5754 (1) "Centrally assessed property" means property that is assessed by the commission in

5755 accordance with Section [59-2-201](#).

5756 (2) "Locally assessed property" has the same meaning as that term is defined in Section

5757 [59-1-404](#).

5758 (3) "Pass-through entity" has the same meaning as that term is defined in Section

5759 [59-10-1402](#).

5760 (4) "Pass-through entity taxpayer" has the same meaning as that term is defined in

5761 Section 59-10-1402.

5762 (5) "Property" has the same meaning as "real estate" or "real property" as defined in

5763 Section 59-2-102.

5764 (6) "Tax" means the state real estate transfer tax imposed under this chapter.

5765 (7) "Transfer" means the conveyance of title to or other transfer of a present interest,
5766 beneficial interest, or any other interest in real property by any method.

5767 (8) "Value" means fair market value as of the January 1 lien date immediately prior to
5768 the date of transfer unless the county board of equalization, the commission, or a court of
5769 competent jurisdiction has determined a different value, in which case, the value in that final
5770 decision shall be the value.

5771 Section 48. Section **59-30-103** is enacted to read:

5772 **59-30-103. Imposition of tax -- Rate.**

5773 (1) (a) Except as provided in Section 59-30-104, there is imposed, in addition to all
5774 other taxes, a tax upon the following written instruments executed within this state when the
5775 instrument is recorded:

5776 (i) contracts for the sale or exchange of property or any interest in the property or any
5777 combination of sales or exchanges or any assignment or transfer of property or any interest in
5778 the property, for consideration; or

5779 (ii) deeds or instruments of conveyance of property or any interest in property, for
5780 consideration.

5781 (b) Except as provided in Section 59-30-104, there is imposed, in addition to all other
5782 taxes, a tax upon the following written instruments executed outside of this state when the
5783 instrument is recorded if the contract or transfer evidenced by the written instrument concerns
5784 property wholly located within this state:

5785 (i) contracts for the sale or exchange of property or any interest in the property or any
5786 combination of sales or exchanges or any assignment or transfer of property or any interest in
5787 the property, for consideration; or

5788 (ii) deeds or instruments of conveyance of property or any interest in property, for
5789 consideration.

5790 (2) The tax imposed under Subsection (1) is levied at the rate of \$.075 for each \$100 or
5791 fraction of \$100 of the value of the property being transferred.

5792 (3) (a) A written instrument subject to the tax imposed by this chapter shall state on its
5793 face the value of the real property being transferred unless an affidavit is attached to the written
5794 instrument declaring the value of the real property being transferred.

5795 (b) The form of the affidavit shall be approved by the commission.

5796 (c) If the sale or transfer is of a combination of real and personal property, the tax shall
5797 be imposed only upon the transfer of the real property if the values of the real and personal
5798 property are stated separately on the face of the written instrument or if an affidavit is attached
5799 to the written instrument setting forth the respective values of the real and personal property.

5800 (4) The person who is the purchaser of the property is liable for the tax imposed under
5801 this chapter.

5802 Section 49. Section **59-30-104** is enacted to read:

5803 **59-30-104. Exemptions.**

5804 The following written instruments and transfers of property are exempt from the tax
5805 imposed under this chapter:

5806 (1) a written instrument where the value of the property being transferred is less than
5807 \$100;

5808 (2) a written instrument evidencing a contract or transfer that is not to be performed
5809 wholly within this state only to the extent the written instrument includes land lying outside of
5810 this state;

5811 (3) a written instrument that the state is prohibited from taxing under the United States
5812 Constitution or federal statutes;

5813 (4) a written instrument given as security or an assignment or discharge of the security
5814 interest;

5815 (5) a written instrument evidencing a lease, including an oil and gas lease, or a transfer
5816 of a leasehold interest;

5817 (6) a written instrument evidencing an interest that is assessable as personal property;

5818 (7) a written instrument evidencing the transfer of a right and interest for underground
5819 gas storage purposes;

5820 (8) any of the following written instruments:

5821 (a) a written instrument in which the grantor is:

5822 (i) the United States;

- 5823 (ii) the state;
- 5824 (iii) any political subdivision of the state; or
- 5825 (iv) an officer of the United States, the state, or a political subdivision of the state if the
5826 officer is acting in the officer's official capacity;
- 5827 (b) a written instrument given in foreclosure or in lieu of foreclosure of a loan made,
5828 guaranteed, or insured by:
- 5829 (i) the United States;
- 5830 (ii) the state;
- 5831 (iii) a political subdivision of the state; or
- 5832 (iv) an officer of the United States, the state, or a political subdivision of the state if the
5833 officer is acting in the officer's official capacity; or
- 5834 (c) a written instrument given to the United States, the state, or an officer of the United
5835 States or the state as grantee, pursuant to the terms or guarantee or insurance of a loan
5836 guaranteed or insured by the grantee;
- 5837 (9) a conveyance from a spouse or married couple creating or disjoining a tenancy by
5838 the entireties in the grantors or the grantor and the grantor's spouse;
- 5839 (10) a conveyance from an individual to that individual's child, stepchild, or adopted
5840 child;
- 5841 (11) a conveyance from an individual to that individual's grandchild, stepgrandchild, or
5842 adopted grandchild;
- 5843 (12) a judgment or order of a court of record making or ordering a transfer, unless a
5844 specific monetary consideration is specified or ordered by the court for the transfer;
- 5845 (13) a written instrument used to straighten boundary lines where no monetary
5846 consideration is given;
- 5847 (14) a written instrument to confirm title already vested in a grantee, including a
5848 quitclaim deed to correct a flaw in title;
- 5849 (15) a land contract in which the legal title does not pass to the grantee until the total
5850 consideration specified in the contract has been paid;
- 5851 (16) a conveyance that is a transfer between a pass-through entity and one or more
5852 pass-through entity taxpayers if the ownership interest in the pass-through entity is held by the
5853 same pass-through entity taxpayers and in the same proportion as in the pass-through entity

5854 prior to the transfer;

5855 (17) a conveyance that is a transfer in connection with the reorganization of an entity
5856 and the beneficial ownership is not changed;

5857 (18) a written instrument evidencing the transfer of mineral rights and interests;

5858 (19) a written instrument creating or disjoining a joint tenancy between two or more
5859 persons where at least one of the persons already owns the property; or

5860 (20) a written instrument that conveys or transfers property or an interest in the
5861 property to a receiver, administrator, or trustee, whether special or general, in a bankruptcy or
5862 insolvency proceeding.

5863 Section 50. Section **59-30-105** is enacted to read:

5864 **59-30-105. Collection and remittance of tax.**

5865 (1) A tax imposed under this part shall be collected from the purchaser at the time the
5866 instrument of conveyance is submitted for recording.

5867 (2) (a) The tax imposed under this chapter shall be paid to the county recorder where
5868 the real property is located not later than 15 days after the delivery of the instrument effecting
5869 the conveyance by the seller or grantor to the buyer or grantee.

5870 (b) For purposes of this Subsection (2), the date of the instrument effecting the transfer
5871 is presumed to be the date of delivery of the instrument.

5872 (c) The county treasurer shall remit a tax collected under this section to the
5873 commission monthly on or before the last day of the month immediately following the month
5874 for which the tax was collected.

5875 (3) A county recorder may not record a written instrument if a tax is due under this
5876 chapter and has not been paid for the transfer.

5877 Section 51. Section **59-30-106** is enacted to read:

5878 **59-30-106. Application for refund.**

5879 (1) If a buyer or a seller who has paid the tax on behalf of the buyer believes that the
5880 property was eligible for an exemption under Section [59-30-104](#) and did not receive the
5881 exemption at the time of recording, the buyer or the seller who has paid the tax on behalf of the
5882 buyer may apply for a refund of the tax in accordance with the requirements of this section.

5883 (2) A buyer or a seller who has paid the tax on behalf of the buyer shall apply to the
5884 county board of equalization in the county where the real property is located for a refund within

5885 two years of the date that the property is recorded.

5886 (3) (a) If an application for a refund under Subsection (2) is for a locally assessed
5887 property, the county board of equalization shall:

5888 (i) determine if the applicant is eligible for a refund under the provisions of this
5889 chapter; and

5890 (ii) if the county board of equalization determines that the applicant is eligible for a
5891 refund, provide the Division of Finance the following information to issue the refund:

5892 (A) the applicant's name;

5893 (B) the applicant's address;

5894 (C) the amount of the refund to be issued; and

5895 (D) the reason for the refund.

5896 (b) The decision of the county board of equalization described in Subsection (3)(a)
5897 shall:

5898 (i) be in writing; and

5899 (ii) include:

5900 (A) a statement of facts; and

5901 (B) the statutory basis for its decision.

5902 (c) A copy of the decision described in Subsection (3)(b) shall be sent to the person
5903 applying for the refund.

5904 (d) The county board of equalization shall render the decision described in this
5905 Subsection (3) within 30 days after the day on which the application for the refund is filed.

5906 (4) (a) If an application for a refund under Subsection (2) is for centrally assessed
5907 property, the county auditor shall forward the applicant's name, address, and refund request,
5908 including the amount of the refund request and the reason for the refund request, to the
5909 Property Tax Division.

5910 (b) The Property Tax Division shall:

5911 (i) determine if the applicant is eligible for a refund under the provisions of this
5912 chapter; and

5913 (ii) if the Property Tax Division determines that the applicant is eligible for a refund,
5914 provide the Division of Finance the following information to issue the refund:

5915 (A) the applicant's name;

- 5916 (B) the applicant's address;
5917 (C) the amount of the refund to be issued; and
5918 (D) the reason for the refund.
5919 (c) The decision of the Property Tax Division described in Subsection (4)(b) shall:
5920 (i) be in writing; and
5921 (ii) include:
5922 (A) a statement of facts; and
5923 (B) the statutory basis for its decision.
5924 (d) A copy of the decision described in Subsection (4)(c) shall be sent to the person
5925 applying for the refund.
5926 (e) The Property Tax Division shall render the decision described in this Subsection (4)
5927 within 30 days after the day on which the application for the refund is filed.
5928 (5) An applicant dissatisfied with the finding of the county board of equalization or the
5929 Property Tax Division may appeal to the commission under Section [59-30-107](#).
5930 (6) The Division of Finance shall issue a refund to an applicant if the Division of
5931 Finance receives the information described in Subsection (3)(a)(ii) or (4)(b)(ii).
5932 Section 52. Section **59-30-107** is enacted to read:
5933 **59-30-107. Appeal to commission -- Duties of auditor -- Decision by commission.**
5934 (1) (a) A person dissatisfied with the decision of the county board of equalization
5935 concerning the determination of an exemption from a tax imposed under this chapter on locally
5936 assessed property may appeal that decision to the commission by filing a notice of appeal
5937 specifying the grounds for the appeal with the county auditor within 30 days after the final
5938 action of the county board of equalization.
5939 (b) The county auditor shall:
5940 (i) file a notice with the commission; and
5941 (ii) certify and transmit to the commission the written decision of the county board of
5942 equalization described in Section [59-30-106](#).
5943 (2) (a) A person dissatisfied with the decision of the Property Tax Division concerning
5944 the determination of an exemption from a tax imposed under this chapter on centrally assessed
5945 property may appeal that decision to the commission by filing a notice of appeal specifying the
5946 grounds for the appeal with the commission of the Property Tax Division's decision within 30

5947 days after the final action of the Property Tax Division.

5948 (b) The Property Tax Division shall provide the commission the written decision
5949 described in Section 59-30-106.

5950 (3) In reviewing the county board of equalization's or Property Tax Division's decision,
5951 the commission may:

5952 (a) admit additional evidence;

5953 (b) issue orders that it considers to be just and proper; and

5954 (c) make any correction or change in the order of the county board of equalization or
5955 Property Tax Division.

5956 (4) In reviewing evidence submitted to the commission by or on behalf of an owner, a
5957 county board of equalization, or the Property Tax Division, the commission shall consider and
5958 weigh the accuracy, reliability, and comparability of the evidence presented by the owner, the
5959 county board of equalization, or the Property Tax Division.

5960 (5) The commission shall decide all appeals taken pursuant to this section and shall
5961 report its decision, order, or assessment to:

5962 (a) the county auditor for an appeal filed under Subsection (1), who shall make all
5963 changes necessary to comply with the decision or order; or

5964 (b) the Property Tax Division for an appeal filed under Subsection (2), who shall make
5965 all changes necessary to comply with the decision or order.

5966 Section 53. Section **59-30-108** is enacted to read:

5967 **59-30-108. Deposit of tax revenue.**

5968 The commission shall deposit revenue generated by the tax imposed by this chapter into
5969 the General Fund.

5970 Section 54. Section **59-30-109** is enacted to read:

5971 **59-30-109. Rulemaking authority.**

5972 The commission may make rules in accordance with Title 63G, Chapter 3, Utah
5973 Administrative Rulemaking Act, to implement and enforce this chapter.

5974 Section 55. Section **59-30-110** is enacted to read:

5975 **59-30-110. Local option real estate transfer tax prohibited.**

5976 A county, city, town, metro township or other political subdivision may not impose a
5977 local option real estate transfer tax.

5978 Section 56. Section **63J-1-312** is amended to read:

5979 **63J-1-312. Establishing a General Fund Budget Reserve Account -- Providing for**
5980 **deposits and expenditures from the account -- Providing for interest generated by the**
5981 **account.**

5982 (1) As used in this section:

5983 (a) "Education Fund budget deficit" means a situation where appropriations made by
5984 the Legislature from the Education Fund for a fiscal year exceed the estimated revenues
5985 adopted by the Executive Appropriations Committee of the Legislature for the Education Fund
5986 in that fiscal year.

5987 (b) "General Fund appropriations" means the sum of the spending authority for a fiscal
5988 year that is:

5989 (i) granted by the Legislature in all appropriation acts and bills; and

5990 (ii) identified as coming from the General Fund.

5991 (c) "General Fund budget deficit" means a situation where General Fund appropriations
5992 made by the Legislature for a fiscal year exceed the estimated revenues adopted by the
5993 Executive Appropriations Committee of the Legislature for the General Fund in that fiscal year.

5994 (d) "General Fund revenue surplus" means a situation where actual General Fund
5995 revenues collected in a completed fiscal year exceed the estimated revenues for the General
5996 Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the
5997 Legislature, less any amount determined under Subsection (2).

5998 (e) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund
5999 balance in the General Fund is less than zero.

6000 (f) "Tax windfall" means any amount of General Fund revenue generated by the
6001 enactment of the sales and use tax rate and base changes under Sections [59-12-103](#) and
6002 [59-12-103.3](#), the health insurance premium tax under Subsection [59-9-101\(5\)](#), and the real
6003 estate transfer tax under Section [59-30-103](#) on January 1, 2020, that exceeds an amount
6004 necessary to offset the Education Fund revenue resulting from the enactment of a decrease in
6005 income tax rates from 4.95% to 4.75% on January 1, 2020.

6006 (2) At the end of fiscal years 2019-20, 2020-21, and 2021-22, the Division of Finance,
6007 in consultation with the legislative fiscal analyst, State Tax Commission, and Governor's Office
6008 of Management and Budget, shall:

6009 (a) calculate any tax windfall associated with:

6010 (i) broadening the state sales and use tax base in Sections [59-12-103](#) and [59-12-103.3](#)

6011 enacted on January 1, 2020;

6012 (ii) the imposition of a health insurance premium tax under Subsection [59-9-101\(5\)](#);

6013 and

6014 (iii) the imposition of a real estate transfer tax under Section [59-30-103](#);

6015 (b) report the tax windfall to the Executive Appropriations Committee of the

6016 Legislature; and

6017 (c) deposit an amount adopted by the Executive Appropriations Committee into the

6018 Sales and Use Tax Base Expansion Restricted Account created in Section [59-12-103.4](#).

6019 ~~[(2)]~~ (3) There is created within the General Fund a restricted account to be known as
6020 the General Fund Budget Reserve Account, which is designated to receive the legislative
6021 appropriations and the surplus revenue required to be deposited into the account by this section.

6022 ~~[(3)]~~ (4) (a) (i) Except as provided in Subsection ~~[(3)]~~ (4)(a)(ii), at the end of any fiscal
6023 year in which the Division of Finance, in consultation with the Legislative Fiscal Analyst and
6024 in conjunction with the completion of the annual audit by the state auditor, determines that
6025 there is a General Fund revenue surplus, the Division of Finance shall transfer 25% of the
6026 General Fund revenue surplus to the General Fund Budget Reserve Account.

6027 (ii) If the transfer of 25% of the General Fund revenue surplus to the General Fund
6028 Budget Reserve Account would cause the balance in the account to exceed 9% of General Fund
6029 appropriations for the fiscal year in which the revenue surplus occurred, the Division of
6030 Finance shall transfer only those funds necessary to ensure that the balance in the account
6031 equals 9% of General Fund appropriations for the fiscal year in which the General Fund
6032 revenue surplus occurred.

6033 (iii) The Division of Finance shall calculate the amount to be transferred under this
6034 Subsection ~~[(3)]~~ (4)(a):

6035 (A) after making the transfer of General Fund revenue surplus to the Medicaid Growth
6036 Reduction and Budget Stabilization Account, as provided in Section [63J-1-315](#);

6037 (B) before transferring from the General Fund revenue surplus any other year-end
6038 contingency appropriations, year-end set-asides, or other year-end transfers required by law;

6039 and

6040 (C) excluding any direct legislative appropriation made to the General Fund Budget
6041 Reserve Account for the fiscal year.

6042 (b) (i) Except as provided in Subsection [~~(3)~~] (4)(b)(ii), in addition to Subsection [~~(3)~~]
6043 (4)(a)(i), if a General Fund revenue surplus exists and if, within the last 10 years, the
6044 Legislature has appropriated any money from the General Fund Budget Reserve Account that
6045 has not been replaced by appropriation or as provided in this Subsection [~~(3)~~] (4)(b), the
6046 Division of Finance shall transfer up to 25% more of the General Fund revenue surplus to the
6047 General Fund Budget Reserve Account to replace the amounts appropriated, until direct
6048 legislative appropriations, if any, and transfers from the General Fund revenue surplus under
6049 this Subsection [~~(3)~~] (4)(b) have replaced the appropriations from the account.

6050 (ii) If the transfer under Subsection [~~(3)~~] (4)(b)(i) would cause the balance in the
6051 account to exceed 9% of General Fund appropriations for the fiscal year in which the revenue
6052 surplus occurred, the Division of Finance shall transfer only those funds necessary to ensure
6053 that the balance in the account equals 9% of General Fund appropriations for the fiscal year in
6054 which the revenue surplus occurred.

6055 (iii) The Division of Finance shall calculate the amount to be transferred under this
6056 Subsection [~~(3)~~] (4)(b):

6057 (A) after making the transfer of General Fund revenue surplus to the Medicaid Growth
6058 Reduction and Budget Stabilization Account, as provided in Section [63J-1-315](#);

6059 (B) before transferring from the General Fund revenue surplus any other year-end
6060 contingency appropriations, year-end set-asides, or other year-end transfers required by law;
6061 and

6062 (C) excluding any direct legislative appropriation made to the General Fund Budget
6063 Reserve Account for the fiscal year.

6064 (c) For appropriations made by the Legislature to the General Fund Budget Reserve
6065 Account, the Division of Finance shall treat those appropriations, unless otherwise specified in
6066 the appropriation, as replacement funds for appropriations made from the account if funds were
6067 appropriated from the General Fund Budget Reserve Account within the past 10 years and have
6068 not yet been replaced.

6069 [~~(4)~~] (5) The Legislature may appropriate money from the General Fund Budget
6070 Reserve Account only to:

6071 (a) resolve a General Fund budget deficit, for the fiscal year in which the General Fund
6072 budget deficit occurs;

6073 (b) pay some or all of state settlement agreements approved under Title 63G, Chapter
6074 10, State Settlement Agreements Act;

6075 (c) pay retroactive tax refunds;

6076 (d) resolve an Education Fund budget deficit; or

6077 (e) finance an existing federally funded program or activity when:

6078 (i) the federal funds expected to fund the federal program or activity are not available
6079 to fund the program or activity; and

6080 (ii) the Legislature and governor concurrently determine that the program or activity is
6081 essential.

6082 [~~5~~] (6) Interest generated from investments of money in the General Fund Budget
6083 Reserve Account shall be deposited into the General Fund.

6084 Section 57. Section **63M-4-702** is amended to read:

6085 **63M-4-702. Refiner gasoline standard reporting -- Office of Energy Development**
6086 **certification of sales and use tax exemption eligibility.**

6087 (1) (a) Beginning on July 1, 2021, a refiner that seeks to be eligible for a sales and use
6088 tax exemption under Subsection [59-12-104](#)~~(86)~~(75) shall annually report to the office
6089 whether the refiner's facility that is located within the state will have an average gasoline sulfur
6090 level of 10 parts per million (ppm) or less using the formulas prescribed in 40 C.F.R. Sec.
6091 80.1603, excluding the offset for credit use and transfer as prescribed in 40 C.F.R. Sec.
6092 80.1616.

6093 (b) Fuels for which a final destination outside Utah can be demonstrated or that are not
6094 subject to the standards and requirements of 40 C.F.R. Sec. 80.1603 as specified in 40 C.F.R.
6095 Sec. 80.1601 are not subject to the reporting provisions under Subsection (1)(a).

6096 (2) (a) Beginning on July 1, 2021, the office shall annually certify that the refiner is
6097 eligible for the sales and use tax exemption under Subsection [59-12-104](#)~~(86)~~(75):

6098 (i) on a form provided by the State Tax Commission that shall be retained by the
6099 refiner claiming the sales and use tax exemption under Subsection [59-12-104](#)~~(86)~~(75);

6100 (ii) if the refiner's refinery that is located within the state had an average sulfur level of
6101 10 parts per million (ppm) or less as reported under Subsection (1) in the previous calendar

6102 year; and

6103 (iii) before a taxpayer is allowed the sales and use tax exemption under Subsection
6104 [59-12-104\[\(86\)\]\(75\)](#).

6105 (b) The certification provided by the office under Subsection (2)(a) shall be renewed
6106 annually.

6107 (c) The office:

6108 (i) shall accept a copy of a report submitted by a refiner to the Environmental
6109 Protection Agency under 40 C.F.R. Sec. 80.1652 as sufficient evidence of the refiner's average
6110 gasoline sulfur level; or

6111 (ii) may establish another reporting mechanism through rules made under Subsection
6112 (3).

6113 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6114 office may make rules to implement this section.

6115 Section 58. Section [63N-2-502](#) is amended to read:

6116 **[63N-2-502. Definitions.](#)**

6117 As used in this part:

6118 (1) "Agreement" means an agreement described in Section [63N-2-503](#).

6119 (2) "Base taxable value" means the value of hotel property before the construction on a
6120 qualified hotel begins, as that value is established by the county in which the hotel property is
6121 located, using a reasonable valuation method that may include the value of the hotel property
6122 on the county assessment rolls the year before the year during which construction on the
6123 qualified hotel begins.

6124 (3) "Certified claim" means a claim that the office has approved and certified as
6125 provided in Section [63N-2-505](#).

6126 (4) "Claim" means a written document submitted by a qualified hotel owner or host
6127 local government to request a convention incentive.

6128 (5) "Claimant" means the qualified hotel owner or host local government that submits a
6129 claim under Subsection [63N-2-505\(1\)\(a\)](#) for a convention incentive.

6130 (6) "Commission" means the Utah State Tax Commission.

6131 (7) "Community reinvestment agency" means the same as that term is defined in
6132 Section [17C-1-102](#).

6133 (8) "Construction revenue" means revenue generated from state taxes and local taxes
6134 imposed on transactions occurring during the eligibility period as a result of the construction of
6135 the hotel property, including purchases made by a qualified hotel owner and its subcontractors.

6136 (9) "Convention incentive" means an incentive for the development of a qualified
6137 hotel, in the form of payment from the incentive fund as provided in this part, as authorized in
6138 an agreement.

6139 (10) "Eligibility period" means:

6140 (a) the period that:

6141 (i) begins the date construction of a qualified hotel begins; and

6142 (ii) ends:

6143 (A) for purposes of the state portion, 20 years after the date of initial occupancy of that
6144 qualified hotel; or

6145 (B) for purposes of the local portion and incremental property tax revenue, 25 years
6146 after the date of initial occupancy of that hotel; or

6147 (b) as provided in an agreement between the office and a qualified hotel owner or host
6148 local government, a period that:

6149 (i) begins no earlier than the date construction of a qualified hotel begins; and

6150 (ii) is shorter than the period described in Subsection (10)(a).

6151 (11) "Endorsement letter" means a letter:

6152 (a) from the county in which a qualified hotel is located or is proposed to be located;

6153 (b) signed by the county executive; and

6154 (c) expressing the county's endorsement of a developer of a qualified hotel as meeting
6155 all the county's criteria for receiving the county's endorsement.

6156 (12) "Host agency" means the community reinvestment agency of the host local
6157 government.

6158 (13) "Host local government" means:

6159 (a) a county that enters into an agreement with the office for the construction of a
6160 qualified hotel within the unincorporated area of the county; or

6161 (b) a city or town that enters into an agreement with the office for the construction of a
6162 qualified hotel within the boundary of the city or town.

6163 (14) "Hotel property" means a qualified hotel and any property that is included in the

6164 same development as the qualified hotel, including convention, exhibit, and meeting space,
6165 retail shops, restaurants, parking, and other ancillary facilities and amenities.

6166 (15) "Incentive fund" means the Convention Incentive Fund created in Section
6167 [63N-2-503.5](#).

6168 (16) "Incremental property tax revenue" means the amount of property tax revenue
6169 generated from hotel property that equals the difference between:

6170 (a) the amount of property tax revenue generated in any tax year by all taxing entities
6171 from hotel property, using the current assessed value of the hotel property; and

6172 (b) the amount of property tax revenue that would be generated that tax year by all
6173 taxing entities from hotel property, using the hotel property's base taxable value.

6174 (17) "Local portion" means the portion of new tax revenue that is generated by local
6175 taxes.

6176 (18) "Local taxes" means a tax imposed under:

6177 (a) Section [59-12-204](#);

6178 (b) Section [59-12-301](#);

6179 (c) Sections [59-12-352](#) and [59-12-353](#);

6180 (d) Subsection [59-12-603\(1\)\(a\)\(i\)\(A\)](#);

6181 (e) Subsection [59-12-603\(1\)\(a\)\(i\)\(B\)](#);

6182 (f) Subsection [59-12-603\(1\)\(a\)\(ii\)](#);

6183 (g) Subsection [59-12-603\(1\)\(a\)\(iii\)](#); or

6184 (h) Section [59-12-1102](#).

6185 (19) "New tax revenue" means construction revenue, offsite revenue, and onsite
6186 revenue.

6187 (20) "Offsite revenue" means revenue generated from state taxes and local taxes
6188 imposed on transactions by a third-party seller occurring other than on hotel property during the
6189 eligibility period, if:

6190 (a) the transaction is subject to a tax under Title 59, Chapter 12, Sales and Use Tax
6191 Act; and

6192 (b) the third-party seller voluntarily consents to the disclosure of information to the
6193 office, as provided in Subsection [63N-2-505\(2\)\(b\)\(i\)\(E\)](#).

6194 (21) "Onsite revenue" means revenue generated from state taxes and local taxes

6195 imposed on transactions occurring on hotel property during the eligibility period.

6196 (22) "Public infrastructure" means:

6197 (a) water, sewer, storm drainage, electrical, telecommunications, and other similar
6198 systems and lines;

6199 (b) streets, roads, curbs, gutters, sidewalks, walkways, parking facilities, and public
6200 transportation facilities; and

6201 (c) other buildings, facilities, infrastructure, and improvements that benefit the public.

6202 (23) "Qualified hotel" means a full-service hotel development constructed in the state
6203 on or after July 1, 2014 that:

6204 (a) requires a significant capital investment;

6205 (b) includes at least 85 square feet of convention, exhibit, and meeting space per guest
6206 room; and

6207 (c) is located within 1,000 feet of a convention center that contains at least 500,000
6208 square feet of convention, exhibit, and meeting space.

6209 (24) "Qualified hotel owner" means a person who owns a qualified hotel.

6210 (25) "Review committee" means the independent review committee established under
6211 Section [63N-2-504](#).

6212 (26) "Significant capital investment" means an amount of at least \$200,000,000.

6213 (27) "State portion" means the portion of new tax revenue that is generated by state
6214 taxes.

6215 (28) "State taxes" means a tax imposed under Subsection [59-12-103\(2\)\(a\)\(i\)](#), [\(2\)\(b\)\(i\)](#),
6216 [\(2\)\(c\)\(i\)](#), ~~[\(2\)\(d\)\(i\)\(A\)](#)~~, ~~[\(2\)\(e\)\(i\)](#)~~, or [59-12-103.3\(2\)\(a\)](#).

6217 (29) "Third-party seller" means a person who is a seller in a transaction:

6218 (a) occurring other than on hotel property;

6219 (b) that is:

6220 (i) the sale, rental, or lease of a room or of convention or exhibit space or other
6221 facilities on hotel property; or

6222 (ii) the sale of tangible personal property or a service that is part of a bundled
6223 transaction, as defined in Section [59-12-102](#), with a sale, rental, or lease described in
6224 Subsection [\(29\)\(b\)\(i\)](#); and

6225 (c) that is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act.

6226 Section 59. Section **69-2-401** is amended to read:

6227 **69-2-401. State Tax Commission -- Administration of 911 emergency service**
6228 **charges.**

6229 (1) The commission shall collect, enforce, and administer the charges levied under this
6230 part using the same procedures used in the administration, collection, and enforcement of state
6231 sales and use taxes under:

6232 (a) Title 59, Chapter 1, General Taxation Policies; and

6233 (b) Title 59, Chapter 12, Part 1, Tax Collection, except for:

6234 (i) Section [59-12-104](#);

6235 (ii) Section [59-12-104.1](#);

6236 (iii) Section [59-12-104.2](#);

6237 (iv) Section [59-12-104.6](#);

6238 (v) Section [59-12-104.11](#);

6239 [~~(v)~~] (vi) Section [59-12-107.1](#); and

6240 [~~(vi)~~] (vii) Section [59-12-123](#).

6241 (2) The commission shall act on a provider that is delinquent in remitting a charge
6242 levied under this part in accordance with Title 59, Chapter 1, Part 14, Assessment, Collections,
6243 and Refunds Act.

6244 (3) The commission may determine by rule made in accordance with Title 63G,
6245 Chapter 3, Utah Administrative Rulemaking Act, requirements and procedures for
6246 administering, collecting, and enforcing the charges levied under this part.

6247 (4) The commission shall retain and deposit an administrative charge in accordance
6248 with Section [59-1-306](#) from the funds that the commission collects from the charges levied
6249 under this part.

6250 (5) The charges levied under this part are subject to Section [69-2-303](#).

6251 Section 60. **Appropriation.**

6252 The following sums of money are appropriated for the fiscal year beginning July 1,
6253 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for
6254 fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
6255 Act, the Legislature appropriates the following sums of money from the funds or accounts
6256 indicated for the use and support of the government of the state of Utah.

6257 ITEM 16258 To University of Utah - Education and General6259 From General Fund \$248,000,0006260 From General Fund, One-time (\$172,000,000)6261 From Education Fund (\$248,000,000)6262 From Education Fund, One-time \$172,000,0006263 The Legislature intends that in preparing supplemental appropriations for FY 2020 and6264 ongoing base budgets for FY 2021 and beyond, the Office of the Legislative Fiscal Analyst6265 offset reductions in income tax revenue resulting from this legislation with available General6266 Fund appropriations to Higher Education.6267 ITEM 26268 To State Tax Commission - Tax Administration6269 From General Fund, One-time \$690,4006270 Schedule of Programs:6271 Technology Management \$498,0006272 Tax Processing Division \$140,4006273 Tax Payer Services \$52,0006274 ITEM 36275 To State Tax Commission - Tax Administration6276 From General Fund \$2,352,4006277 Schedule of Programs:6278 Administration Division \$272,0006279 Auditing Division \$852,0006280 Tax Processing Division \$124,8006281 Tax Payer Services \$1,103,6006282 Section 61. **Effective date.**6283 (1) Except as provided in Subsections (2) through (3), this bill takes effect on July 1,6284 2019.6285 (2) The actions affecting the following sections take effect on January 1, 2020:6286 (a) Section [11-41-102](#);6287 (b) Section [15A-1-204](#);

- 6288 (c) Section 31A-8-103;
- 6289 (d) Section 35A-8-308;
- 6290 (e) Section 35A-8-309;
- 6291 (f) Section 59-1-401;
- 6292 (g) Section 59-1-1503;
- 6293 (h) Section 59-9-101;
- 6294 (i) Section 59-12-102;
- 6295 (j) Section 59-12-103;
- 6296 (k) Section 59-12-103.3;
- 6297 (l) Section 59-12-103.4;
- 6298 (m) Section 59-12-103.5;
- 6299 (n) Section 59-12-104;
- 6300 (o) Section 59-12-104.1;
- 6301 (p) Section 59-12-104.4;
- 6302 (q) Section 59-12-104.5;
- 6303 (r) Section 59-12-104.10;
- 6304 (s) Section 59-12-104.11;
- 6305 (t) Section 59-12-106;
- 6306 (u) Section 59-12-107;
- 6307 (v) Section 59-12-108;
- 6308 (w) Section 59-12-111;
- 6309 (x) Section 59-12-211;
- 6310 (y) Section 59-30-101;
- 6311 (z) Section 59-30-102;
- 6312 (aa) Section 59-30-103;
- 6313 (bb) Section 59-30-104;
- 6314 (cc) Section 59-30-105;
- 6315 (dd) Section 59-30-106;
- 6316 (ee) Section 59-30-107;
- 6317 (ff) Section 59-30-108;
- 6318 (gg) Section 59-30-109;

- 6319 (hh) Section 59-30-110;
- 6320 (ii) Section 63J-1-312;
- 6321 (jj) Section 63M-4-702;
- 6322 (kk) Section 63N-2-502; and
- 6323 (ll) Section 69-2-401.
- 6324 (3) The actions affecting the following sections take effect for a taxable year beginning
- 6325 on or after January 1, 2020:
- 6326 (a) Section 35A-9-214;
- 6327 (b) Section 59-7-104;
- 6328 (c) Section 59-7-201;
- 6329 (d) Section 59-7-610;
- 6330 (e) Section 59-7-620;
- 6331 (f) Section 59-10-104;
- 6332 (g) Section 59-10-529.1;
- 6333 (h) Section 59-10-1002.2;
- 6334 (i) Section 59-10-1007;
- 6335 (j) Section 59-10-1017;
- 6336 (k) Section 59-10-1017.1;
- 6337 (l) Section 59-10-1018;
- 6338 (m) Section 59-10-1019;
- 6339 (n) Section 59-10-1022;
- 6340 (o) Section 59-10-1023;
- 6341 (p) Section 59-10-1028;
- 6342 (q) Section 59-10-1035;
- 6343 (r) Section 59-10-1036;
- 6344 (s) Section 59-10-1041;
- 6345 (t) Section 59-10-1102.1; and
- 6346 (u) Section 59-10-1112.