

1 **TANGIBLE PERSONAL PROPERTY AMENDMENTS**

2 2019 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Daniel McCay**

5 House Sponsor: _____

7 **LONG TITLE**

8 **Committee Note:**

9 The Revenue and Taxation Interim Committee recommended this bill.

10 **General Description:**

11 This bill provides for the exemption of certain tangible personal property from property
12 tax if the tangible personal property is eligible for sales and use taxation.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ provides for the exemption of certain tangible personal property from property tax if
- 16 the tangible personal property is eligible for sales and use taxation;
- 17 ▶ repeals existing provisions relating to the exemption of certain tangible personal
- 18 property from property tax; and
- 19 ▶ makes technical and conforming changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 This bill provides a special effective date.

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **59-2-102**, as last amended by Laws of Utah 2018, Chapters 415 and 456

27 **59-2-103.5**, as last amended by Laws of Utah 2014, Chapter 65



28 [59-2-108](#), as last amended by Laws of Utah 2013, Chapter 248

29 [59-2-1115](#), as last amended by Laws of Utah 2013, Chapters 19 and 147



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

32 Section 1. Section **59-2-102** is amended to read:

33 **59-2-102. Definitions.**

34 As used in this chapter and title:

35 (1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of
36 engaging in dispensing activities directly affecting agriculture or horticulture with an
37 airworthiness certificate from the Federal Aviation Administration certifying the aircraft or
38 rotorcraft's use for agricultural and pest control purposes.

39 (2) "Air charter service" means an air carrier operation that requires the customer to
40 hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled
41 trip.

42 (3) "Air contract service" means an air carrier operation available only to customers
43 that engage the services of the carrier through a contractual agreement and excess capacity on
44 any trip and is not available to the public at large.

45 (4) "Aircraft" means the same as that term is defined in Section [72-10-102](#).

46 (5) (a) Except as provided in Subsection (5)(b), "airline" means an air carrier that:

47 (i) operates:

48 (A) on an interstate route; and

49 (B) on a scheduled basis; and

50 (ii) offers to fly one or more passengers or cargo on the basis of available capacity on a
51 regularly scheduled route.

52 (b) "Airline" does not include an:

53 (i) air charter service; or

54 (ii) air contract service.

55 (6) "Assessment roll" means a permanent record of the assessment of property as
56 assessed by the county assessor and the commission and may be maintained manually or as a
57 computerized file as a consolidated record or as multiple records by type, classification, or
58 categories.

- 59 (7) "Base parcel" means a parcel of property that was legally:
- 60 (a) subdivided into two or more lots, parcels, or other divisions of land; or
- 61 (b) (i) combined with one or more other parcels of property; and
- 62 (ii) subdivided into two or more lots, parcels, or other divisions of land.
- 63 (8) (a) "Certified revenue levy" means a property tax levy that provides an amount of
- 64 ad valorem property tax revenue equal to the sum of:
- 65 (i) the amount of ad valorem property tax revenue to be generated statewide in the
- 66 previous year from imposing a multicounty assessing and collecting levy, as specified in
- 67 Section 59-2-1602; and
- 68 (ii) the product of:
- 69 (A) eligible new growth, as defined in Section 59-2-924; and
- 70 (B) the multicounty assessing and collecting levy certified by the commission for the
- 71 previous year.
- 72 (b) For purposes of this Subsection (8), "ad valorem property tax revenue" does not
- 73 include property tax revenue received by a taxing entity from personal property that is:
- 74 (i) assessed by a county assessor in accordance with Part 3, County Assessment; and
- 75 (ii) semiconductor manufacturing equipment.
- 76 (c) For purposes of calculating the certified revenue levy described in this Subsection
- 77 (8), the commission shall use:
- 78 (i) the taxable value of real property assessed by a county assessor contained on the
- 79 assessment roll;
- 80 (ii) the taxable value of real and personal property assessed by the commission; and
- 81 (iii) the taxable year end value of personal property assessed by a county assessor
- 82 contained on the prior year's assessment roll.
- 83 (9) "County-assessed commercial vehicle" means:
- 84 (a) any commercial vehicle, trailer, or semitrailer that is not apportioned under Section
- 85 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in
- 86 furtherance of the owner's commercial enterprise;
- 87 (b) any passenger vehicle owned by a business and used by its employees for
- 88 transportation as a company car or vanpool vehicle; and
- 89 (c) vehicles that are:

- 90 (i) especially constructed for towing or wrecking, and that are not otherwise used to
- 91 transport goods, merchandise, or people for compensation;
- 92 (ii) used or licensed as taxicabs or limousines;
- 93 (iii) used as rental passenger cars, travel trailers, or motor homes;
- 94 (iv) used or licensed in this state for use as ambulances or hearses;
- 95 (v) especially designed and used for garbage and rubbish collection; or
- 96 (vi) used exclusively to transport students or their instructors to or from any private,
- 97 public, or religious school or school activities.

98 (10) (a) Except as provided in Subsection (10)(b), for purposes of Section 59-2-801,
99 "designated tax area" means a tax area created by the overlapping boundaries of only the
100 following taxing entities:

- 101 (i) a county; and
- 102 (ii) a school district.

103 (b) "Designated tax area" includes a tax area created by the overlapping boundaries of
104 the taxing entities described in Subsection (10)(a) and:

- 105 (i) a city or town if the boundaries of the school district under Subsection (10)(a) and
106 the boundaries of the city or town are identical; or
- 107 (ii) a special service district if the boundaries of the school district under Subsection
108 (10)(a) are located entirely within the special service district.

109 (11) "Eligible judgment" means a final and unappealable judgment or order under
110 Section 59-2-1330:

111 (a) that became a final and unappealable judgment or order no more than 14 months
112 before the day on which the notice described in Section 59-2-919.1 is required to be provided;
113 and

114 (b) for which a taxing entity's share of the final and unappealable judgment or order is
115 greater than or equal to the lesser of:

- 116 (i) \$5,000; or
- 117 (ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the
118 previous fiscal year.

119 (12) (a) "Escaped property" means any property, whether personal, land, or any
120 improvements to the property, that is subject to taxation and is:

121 (i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed
122 to the wrong taxpayer by the assessing authority;

123 (ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to
124 comply with the reporting requirements of this chapter; or

125 (iii) undervalued because of errors made by the assessing authority based upon
126 incomplete or erroneous information furnished by the taxpayer.

127 (b) "Escaped property" does not include property that is undervalued because of the use
128 of a different valuation methodology or because of a different application of the same valuation
129 methodology.

130 (13) "Fair market value" means the amount at which property would change hands
131 between a willing buyer and a willing seller, neither being under any compulsion to buy or sell
132 and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair
133 market value" shall be determined using the current zoning laws applicable to the property in
134 question, except in cases where there is a reasonable probability of a change in the zoning laws
135 affecting that property in the tax year in question and the change would have an appreciable
136 influence upon the value.

137 (14) (a) "Farm machinery and equipment," for purposes of the exemption provided
138 under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities,
139 feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters,
140 tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and
141 cubers, and any other machinery or equipment used primarily for agricultural purposes.

142 (b) "Farm machinery and equipment" does not include vehicles required to be
143 registered with the Motor Vehicle Division or vehicles or other equipment used for business
144 purposes other than farming.

145 (15) "Geothermal fluid" means water in any form at temperatures greater than 120
146 degrees centigrade naturally present in a geothermal system.

147 (16) "Geothermal resource" means:

148 (a) the natural heat of the earth at temperatures greater than 120 degrees centigrade;
149 and

150 (b) the energy, in whatever form, including pressure, present in, resulting from, created
151 by, or which may be extracted from that natural heat, directly or through a material medium.

- 152 (17) (a) "Goodwill" means:
- 153 (i) acquired goodwill that is reported as goodwill on the books and records that a
- 154 taxpayer maintains for financial reporting purposes; or
- 155 (ii) the ability of a business to:
- 156 (A) generate income that exceeds a normal rate of return on assets and that results from
- 157 a factor described in Subsection (17)(b); or
- 158 (B) obtain an economic or competitive advantage resulting from a factor described in
- 159 Subsection (17)(b).
- 160 (b) The following factors apply to Subsection (17)(a)(ii):
- 161 (i) superior management skills;
- 162 (ii) reputation;
- 163 (iii) customer relationships;
- 164 (iv) patronage; or
- 165 (v) a factor similar to Subsections (17)(b)(i) through (iv).
- 166 (c) "Goodwill" does not include:
- 167 (i) the intangible property described in Subsection (21)(a) or (b);
- 168 (ii) locational attributes of real property, including:
- 169 (A) zoning;
- 170 (B) location;
- 171 (C) view;
- 172 (D) a geographic feature;
- 173 (E) an easement;
- 174 (F) a covenant;
- 175 (G) proximity to raw materials;
- 176 (H) the condition of surrounding property; or
- 177 (I) proximity to markets;
- 178 (iii) value attributable to the identification of an improvement to real property,
- 179 including:
- 180 (A) reputation of the designer, builder, or architect of the improvement;
- 181 (B) a name given to, or associated with, the improvement; or
- 182 (C) the historic significance of an improvement; or

183 (iv) the enhancement or assemblage value specifically attributable to the interrelation
184 of the existing tangible property in place working together as a unit.

185 (18) "Governing body" means:

186 (a) for a county, city, or town, the legislative body of the county, city, or town;

187 (b) for a local district under Title 17B, Limited Purpose Local Government Entities -
188 Local Districts, the local district's board of trustees;

189 (c) for a school district, the local board of education; or

190 (d) for a special service district under Title 17D, Chapter 1, Special Service District

191 Act:

192 (i) the legislative body of the county or municipality that created the special service
193 district, to the extent that the county or municipal legislative body has not delegated authority
194 to an administrative control board established under Section 17D-1-301; or

195 (ii) the administrative control board, to the extent that the county or municipal
196 legislative body has delegated authority to an administrative control board established under
197 Section 17D-1-301.

198 (19) (a) For purposes of Section 59-2-103:

199 (i) "household" means the association of individuals who live in the same dwelling,
200 sharing its furnishings, facilities, accommodations, and expenses; and

201 (ii) "household" includes married individuals, who are not legally separated, that have
202 established domiciles at separate locations within the state.

203 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
204 commission may make rules defining the term "domicile."

205 (20) (a) Except as provided in Subsection (20)(c), "improvement" means a building,
206 structure, fixture, fence, or other item that is permanently attached to land, regardless of
207 whether the title has been acquired to the land, if:

208 (i) (A) attachment to land is essential to the operation or use of the item; and

209 (B) the manner of attachment to land suggests that the item will remain attached to the
210 land in the same place over the useful life of the item; or

211 (ii) removal of the item would:

212 (A) cause substantial damage to the item; or

213 (B) require substantial alteration or repair of a structure to which the item is attached.

- 214 (b) "Improvement" includes:
- 215 (i) an accessory to an item described in Subsection (20)(a) if the accessory is:
- 216 (A) essential to the operation of the item described in Subsection (20)(a); and
- 217 (B) installed solely to serve the operation of the item described in Subsection (20)(a);
- 218 and
- 219 (ii) an item described in Subsection (20)(a) that is temporarily detached from the land
- 220 for repairs and remains located on the land.
- 221 (c) "Improvement" does not include:
- 222 (i) an item considered to be personal property pursuant to rules made in accordance
- 223 with Section 59-2-107;
- 224 (ii) a moveable item that is attached to land for stability only or for an obvious
- 225 temporary purpose;
- 226 (iii) (A) manufacturing equipment and machinery; or
- 227 (B) essential accessories to manufacturing equipment and machinery;
- 228 (iv) an item attached to the land in a manner that facilitates removal without substantial
- 229 damage to the land or the item; or
- 230 (v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that
- 231 transportable factory-built housing unit is considered to be personal property under Section
- 232 59-2-1503.
- 233 (21) "Intangible property" means:
- 234 (a) property that is capable of private ownership separate from tangible property,
- 235 including:
- 236 (i) money;
- 237 (ii) credits;
- 238 (iii) bonds;
- 239 (iv) stocks;
- 240 (v) representative property;
- 241 (vi) franchises;
- 242 (vii) licenses;
- 243 (viii) trade names;
- 244 (ix) copyrights; and

- 245 (x) patents;
- 246 (b) a low-income housing tax credit;
- 247 (c) goodwill; or
- 248 (d) a renewable energy tax credit or incentive, including:
 - 249 (i) a federal renewable energy production tax credit under Section 45, Internal Revenue
 - 250 Code;
 - 251 (ii) a federal energy credit for qualified renewable electricity production facilities under
 - 252 Section 48, Internal Revenue Code;
 - 253 (iii) a federal grant for a renewable energy property under American Recovery and
 - 254 Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and
 - 255 (iv) a tax credit under Subsection 59-7-614(5).
- 256 (22) "Livestock" means:
 - 257 (a) a domestic animal;
 - 258 (b) a fish;
 - 259 (c) a fur-bearing animal;
 - 260 (d) a honeybee; or
 - 261 (e) poultry.
- 262 (23) "Low-income housing tax credit" means:
 - 263 (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;
 - 264 or
 - 265 (b) a low-income housing tax credit under Section 59-7-607 or Section 59-10-1010.
- 266 (24) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.
- 267 (25) "Mine" means a natural deposit of either metalliferous or nonmetalliferous
- 268 valuable mineral.
- 269 (26) "Mining" means the process of producing, extracting, leaching, evaporating, or
- 270 otherwise removing a mineral from a mine.
- 271 (27) (a) "Mobile flight equipment" means tangible personal property that is owned or
- 272 operated by an air charter service, air contract service, or airline and:
 - 273 (i) is capable of flight or is attached to an aircraft that is capable of flight; or
 - 274 (ii) is contained in an aircraft that is capable of flight if the tangible personal property
 - 275 is intended to be used:

- 276 (A) during multiple flights;
- 277 (B) during a takeoff, flight, or landing; and
- 278 (C) as a service provided by an air charter service, air contract service, or airline.

279 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare
280 engine that is rotated at regular intervals with an engine that is attached to the aircraft.

281 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
282 commission may make rules defining the term "regular intervals."

283 (28) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts,
284 sand, rock, gravel, and all carboniferous materials.

285 (29) "Part-year residential property" means property that is not residential property on
286 January 1 of a calendar year but becomes residential property after January 1 of the calendar
287 year.

288 (30) "Personal property" includes:

289 (a) every class of property as defined in Subsection (31) that is the subject of
290 ownership and is not real estate or an improvement;

291 (b) any pipe laid in or affixed to land whether or not the ownership of the pipe is
292 separate from the ownership of the underlying land, even if the pipe meets the definition of an
293 improvement;

294 (c) bridges and ferries;

295 (d) livestock; and

296 (e) outdoor advertising structures as defined in Section [72-7-502](#).

297 (31) (a) "Property" means property that is subject to assessment and taxation according
298 to its value.

299 (b) "Property" does not include intangible property as defined in this section.

300 (32) "Public utility" means:

301 (a) for purposes of this chapter, the operating property of a railroad, gas corporation, oil
302 or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation,
303 telephone corporation, sewerage corporation, or heat corporation where the company performs
304 the service for, or delivers the commodity to, the public generally or companies serving the
305 public generally, or in the case of a gas corporation or an electrical corporation, where the gas
306 or electricity is sold or furnished to any member or consumers within the state for domestic,

307 commercial, or industrial use; and

308 (b) the operating property of any entity or person defined under Section 54-2-1 except
309 water corporations.

310 (33) (a) Subject to Subsection (33)(b), "qualifying exempt primary residential rental
311 personal property" means household furnishings, furniture, and equipment that:

312 (i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

313 (ii) are owned by the owner of the dwelling unit that is the primary residence of a
314 tenant; and

315 (iii) [~~after applying the residential exemption described in Section 59-2-103;~~] are
316 exempt from taxation under this chapter in accordance with Subsection 59-2-1115(2).

317 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
318 commission may by rule define the term "dwelling unit" for purposes of this Subsection (33)
319 and Subsection (36).

320 (34) "Real estate" or "real property" includes:

321 (a) the possession of, claim to, ownership of, or right to the possession of land;

322 (b) all mines, minerals, and quarries in and under the land, all timber belonging to
323 individuals or corporations growing or being on the lands of this state or the United States, and
324 all rights and privileges appertaining to these; and

325 (c) improvements.

326 (35) (a) "Relationship with an owner of the property's land surface rights" means a
327 relationship described in Subsection 267(b), Internal Revenue Code, except that the term 25%
328 shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code.

329 (b) For purposes of determining if a relationship described in Subsection 267(b),
330 Internal Revenue Code, exists, the ownership of stock shall be determined using the ownership
331 rules in Subsection 267(c), Internal Revenue Code.

332 (36) (a) Subject to Subsection (36)(b), "residential property," for purposes of the
333 reductions and adjustments under this chapter, means any property used for residential
334 purposes as a primary residence.

335 (b) Subject to Subsection (36)(c), "residential property":

336 (i) except as provided in Subsection (36)(b)(ii), includes household furnishings,
337 furniture, and equipment if the household furnishings, furniture, and equipment are:

338 (A) used exclusively within a dwelling unit that is the primary residence of a tenant;

339 and

340 (B) owned by the owner of the dwelling unit that is the primary residence of a tenant;

341 and

342 (ii) does not include property used for transient residential use.

343 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
344 commission may by rule define the term "dwelling unit" for purposes of Subsection (33) and
345 this Subsection (36).

346 (37) "Split estate mineral rights owner" means a person that:

347 (a) has a legal right to extract a mineral from property;

348 (b) does not hold more than a 25% interest in:

349 (i) the land surface rights of the property where the wellhead is located; or

350 (ii) an entity with an ownership interest in the land surface rights of the property where
351 the wellhead is located;

352 (c) is not an entity in which the owner of the land surface rights of the property where
353 the wellhead is located holds more than a 25% interest; and

354 (d) does not have a relationship with an owner of the land surface rights of the property
355 where the wellhead is located.

356 (38) (a) "State-assessed commercial vehicle" means:

357 (i) any commercial vehicle, trailer, or semitrailer that operates interstate or intrastate to
358 transport passengers, freight, merchandise, or other property for hire; or

359 (ii) any commercial vehicle, trailer, or semitrailer that operates interstate and transports
360 the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

361 (b) "State-assessed commercial vehicle" does not include vehicles used for hire that are
362 specified in Subsection (9)(c) as county-assessed commercial vehicles.

363 (39) "Subdivided lot" means a lot, parcel, or other division of land, that is a division of
364 a base parcel.

365 [~~(40) "Taxable value" means fair market value less any applicable reduction allowed~~
366 ~~for residential property under Section 59-2-103.~~]

367 [(41)] (40) "Tax area" means a geographic area created by the overlapping boundaries
368 of one or more taxing entities.

369 (41) "Taxable value" means fair market value less any applicable reduction allowed for
370 residential property under Section 59-2-103.

371 (42) "Taxing entity" means any county, city, town, school district, special taxing
372 district, local district under Title 17B, Limited Purpose Local Government Entities - Local
373 Districts, or other political subdivision of the state with the authority to levy a tax on property.

374 (43) (a) "Tax roll" means a permanent record of the taxes charged on property, as
375 extended on the assessment roll, and may be maintained on the same record or records as the
376 assessment roll or may be maintained on a separate record properly indexed to the assessment
377 roll.

378 (b) "Tax roll" includes tax books, tax lists, and other similar materials.

379 Section 2. Section 59-2-103.5 is amended to read:

380 **59-2-103.5. Procedures to obtain an exemption for residential property --**
381 **Procedure if property owner or property no longer qualifies to receive a residential**
382 **exemption.**

383 (1) For residential property other than part-year residential property, a county
384 legislative body may adopt an ordinance that requires an owner to file an application with the
385 county board of equalization before a residential exemption under Section 59-2-103 may be
386 applied to the value of the residential property if:

387 (a) the residential property was ineligible for the residential exemption during the
388 calendar year immediately preceding the calendar year for which the owner is seeking to have
389 the residential exemption applied to the value of the residential property;

390 (b) an ownership interest in the residential property changes; or

391 (c) the county board of equalization determines that there is reason to believe that the
392 residential property no longer qualifies for the residential exemption.

393 (2) (a) The application described in Subsection (1) shall:

394 (i) be on a form the commission prescribes by rule and makes available to the counties;

395 (ii) be signed by all of the owners of the residential property;

396 (iii) certify that the residential property is residential property; and

397 (iv) contain other information as the commission requires by rule.

398 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
399 commission may make rules prescribing the contents of the form described in Subsection

400 (2)(a).

401 (3) (a) Regardless of whether a county legislative body adopts an ordinance described
402 in Subsection (1), before a residential exemption may be applied to the value of part-year
403 residential property, an owner of the property shall:

404 (i) file the application described in Subsection (2)(a) with the county board of
405 equalization; and

406 (ii) include as part of the application described in Subsection (2)(a) a statement that
407 certifies:

408 (A) the date the part-year residential property became residential property;

409 (B) that the part-year residential property will be used as residential property for 183 or
410 more consecutive calendar days during the calendar year for which the owner seeks to obtain
411 the residential exemption; and

412 (C) that the owner, or a member of the owner's household, may not claim a residential
413 exemption for any property for the calendar year for which the owner seeks to obtain the
414 residential exemption, other than the part-year residential property, or as allowed under Section
415 59-2-103 with respect to the primary residence or household furnishings, furniture, and
416 equipment of the owner's tenant.

417 (b) An owner may not obtain a residential exemption for part-year residential property
418 unless the owner files an application under this Subsection (3) on or before November 30 of the
419 calendar year for which the owner seeks to obtain the residential exemption.

420 (c) If an owner files an application under this Subsection (3) on or after May 1 of the
421 calendar year for which the owner seeks to obtain the residential exemption, the county board
422 of equalization may require the owner to pay an application fee of not to exceed \$50.

423 (4) Except as provided in Subsection (5), if a property owner no longer qualifies to
424 receive a residential exemption authorized under Section 59-2-103 for the property owner's
425 primary residence, the property owner shall:

426 (a) file a written statement with the county board of equalization of the county in which
427 the property is located:

428 (i) on a form provided by the county board of equalization; and

429 (ii) notifying the county board of equalization that the property owner no longer
430 qualifies to receive a residential exemption authorized under Section 59-2-103 for the property

431 owner's primary residence; and

432 (b) declare on the property owner's individual income tax return under Chapter 10,
433 Individual Income Tax Act, for the taxable year for which the property owner no longer
434 qualifies to receive a residential exemption authorized under Section 59-2-103 for the property
435 owner's primary residence, that the property owner no longer qualifies to receive a residential
436 exemption authorized under Section 59-2-103 for the property owner's primary residence.

437 (5) A property owner is not required to file a written statement or make the declaration
438 described in Subsection (4) if the property owner:

439 (a) changes primary residences;

440 (b) qualified to receive a residential exemption authorized under Section 59-2-103 for
441 the residence that was the property owner's former primary residence; and

442 (c) qualifies to receive a residential exemption authorized under Section 59-2-103 for
443 the residence that is the property owner's current primary residence.

444 (6) Subsections (2) through (5) do not apply to qualifying exempt primary residential
445 rental personal property.

446 (7) [(a)] For the first calendar year in which a property owner qualifies to receive a
447 residential exemption under Section 59-2-103, a county assessor may require the property
448 owner to file a signed statement described in Section 59-2-306.

449 ~~[(b) Notwithstanding Section 59-2-306, for a calendar year after the calendar year~~
450 ~~described in Subsection (7)(a) in which a property owner qualifies for an exemption described~~
451 ~~in Subsection 59-2-1115(2) for qualifying exempt primary residential rental personal property,~~
452 ~~a signed statement described in Section 59-2-306 with respect to the qualifying exempt primary~~
453 ~~residential rental personal property may only require the property owner to certify, under~~
454 ~~penalty of perjury, that the property owner qualifies for the exemption under Subsection~~
455 ~~59-2-1115(2).]~~

456 Section 3. Section 59-2-108 is amended to read:

457 **59-2-108. Tangible personal property -- Election for assessment and taxation of**
458 **noncapitalized personal property according to a schedule -- Determination of taxable**
459 **value.**

460 (1) As used in this section:

461 (a) (i) "Acquisition cost" means all costs required to put an item of tangible personal

462 property into service; and

463 (ii) includes:

464 (A) the purchase price for a new or used item;

465 (B) the cost of freight and shipping;

466 (C) the cost of installation, engineering, erection, or assembly; and

467 (D) sales and use taxes.

468 (b) (i) "Item of taxable tangible personal property" does not include an improvement to
469 real property or a part that will become an improvement.

470 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
471 commission may make rules defining the term "item of taxable tangible personal property."

472 (c) "Noncapitalized personal property" means an item of tangible personal property:

473 (i) that has an acquisition cost of \$1,000 or less; and

474 (ii) with respect to which a deduction is allowed under Section 162 or Section 179,
475 Internal Revenue Code, in the year of acquisition, regardless of whether a deduction is actually
476 claimed.

477 (d) "Taxable tangible personal property" means tangible personal property that is
478 subject to taxation under this chapter.

479 (2) (a) A person may make an election for the noncapitalized personal property owned
480 by the person to be assessed and taxed as provided in this section.

481 (b) Except as provided in Subsection (2)(c), a county may not require a person who
482 makes an election under this section to:

483 (i) itemize noncapitalized personal property on the signed statement described in
484 Section [59-2-306](#); or

485 (ii) track noncapitalized personal property.

486 (c) If a person's noncapitalized personal property for which the person makes an
487 election under this section is examined in accordance with Section [59-2-306](#), the person shall
488 provide proof of the acquisition cost of the noncapitalized personal property.

489 (3) (a) An election under this section may not be revoked.

490 (b) Except as provided in Subsection (3)(d), if a person makes an election under this
491 section with respect to noncapitalized personal property, the person shall pay taxes on the
492 noncapitalized personal property according to the schedule described in Subsection (4).

493 (c) If a person sells or otherwise disposes of an item of noncapitalized personal
 494 property for which the person makes an election under this section prior to the fourth year after
 495 acquisition, the person shall continue to pay taxes according to the schedule described in
 496 Subsection (4).

497 (d) If a person makes an election under this section for noncapitalized personal
 498 property acquired on or before December 31, 2012, at a time after the first year after
 499 acquisition, the person shall pay taxes according to the taxable value for the applicable one or
 500 more years after acquisition as determined by the schedule described in Subsection (4).

501 (e) If a person makes an election under this section, the person may not appeal the
 502 values described in Subsection (4).

503 (4) The taxable value of noncapitalized personal property for which a person makes an
 504 election under this section is calculated by applying the percent good factor against the
 505 acquisition cost of the noncapitalized personal property as follows:

506 Noncapitalized Personal Property Schedule

507 Year after Acquisition	Percent Good of Acquisition Cost
508 First year after acquisition	75%
509 Second year after acquisition	50%
510 Third year after acquisition	25%
511 Fourth year after acquisition	0%

512 (5) The commission shall use acquisition cost, as defined in this section, to determine
 513 the taxable value of tangible personal property.

514 Section 4. Section **59-2-1115** is amended to read:

515 **59-2-1115. Exemption of certain tangible personal property.**

516 (1) For purposes of this section:

517 ~~[(a) (i) "Acquisition cost" means all costs required to put an item of tangible personal~~
 518 ~~property into service; and]~~

519 ~~[(ii) includes:]~~

520 ~~[(A) the purchase price for a new or used item;]~~

521 ~~[(B) the cost of freight and shipping;]~~

522 ~~[(C) the cost of installation, engineering, erection, or assembly; and]~~

523 ~~[(D) sales and use taxes.]~~

524 ~~[(b)]~~ (a) (i) "Item of taxable tangible personal property" does not include an
525 improvement to real property or a part that will become an improvement.

526 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
527 commission may make rules defining the term "item of taxable tangible personal property."

528 ~~[(c)]~~ (b) (i) "Taxable tangible personal property" means tangible personal property that
529 is subject to taxation under this chapter.

530 (ii) "Taxable tangible personal property" does not include:

531 (A) tangible personal property required by law to be registered with the state before it
532 is used:

533 (I) on a public highway;

534 (II) on a public waterway;

535 (III) on public land; or

536 (IV) in the air;

537 (B) a mobile home as defined in Section 41-1a-102; or

538 (C) a manufactured home as defined in Section 41-1a-102.

539 ~~[(2) (a) The taxable tangible personal property of a taxpayer is exempt from taxation if
540 the taxable tangible personal property has a total aggregate taxable value per county of \$10,000
541 or less.]~~

542 ~~[(b) In addition to the exemption under Subsection (2)(a), an item of taxable tangible
543 personal property, except for an item of noncapitalized personal property as defined in Section
544 59-2-108, is exempt from taxation if the item of taxable tangible personal property:]~~

545 ~~[(i) has an acquisition cost of \$1,000 or less;]~~

546 ~~[(ii) has reached a percent good of 15% or less according to a personal property
547 schedule published by the commission pursuant to Section 59-2-107; and]~~

548 ~~[(iii) is in a personal property schedule with a residual value of 15% or less.]~~

549 ~~[(3) (a) For calendar years beginning on or after January 1, 2015, the commission shall
550 increase the dollar amount described in Subsection (2)(a):]~~

551 ~~[(i) by a percentage equal to the percentage difference between the consumer price
552 index for the preceding calendar year and the consumer price index for calendar year 2013;
553 and]~~

554 ~~[(ii) up to the nearest \$100 increment.]~~

555 ~~[(b) For purposes of this Subsection (3), the commission shall calculate the consumer~~
556 ~~price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.]~~

557 ~~[(c) If the percentage difference under Subsection (3)(a)(i) is zero or a negative~~
558 ~~percentage, the consumer price index increase for the year is zero.]~~

559 ~~[(4) (a) For the first calendar year in which a taxpayer qualifies for an exemption~~
560 ~~described in Subsection (2), a county assessor may require the taxpayer to file a signed~~
561 ~~statement described in Section 59-2-306.]~~

562 ~~[(b) Notwithstanding Section 59-2-306 and subject to Subsection (5), for a calendar~~
563 ~~year in which a taxpayer qualifies for an exemption described in Subsection (2) after the~~
564 ~~calendar year described in Subsection (4)(a), a signed statement described in Section 59-2-306~~
565 ~~with respect to the taxable tangible personal property that is exempt under Subsection (2) may~~
566 ~~only require the taxpayer to certify, under penalty of perjury, that the taxpayer qualifies for the~~
567 ~~exemption under Subsection (2).]~~

568 ~~[(5) A signed statement with respect to qualifying exempt primary residential rental~~
569 ~~personal property is as provided in Section 59-2-103.5.]~~

570 (2) (a) An item of taxable tangible personal property is exempt from property taxation
571 if the item of taxable tangible personal property:

572 (i) is subject to sales and use tax under Section 59-12-103; and

573 (ii) except as provided in Subsection (2)(b), is not exempt from sales and use tax under
574 Section 59-12-104 during a calendar year in which property tax on the item of taxable tangible
575 personal property would otherwise be due, regardless of whether a sales and use tax exemption
576 is actually claimed for the item of tangible personal property.

577 (b) An item of taxable tangible personal property meets the requirement described in
578 Subsection (2)(a)(ii) if the item of taxable tangible personal property is:

579 (i) exempt from sales and use tax under Subsection 59-12-104(8), (13), or (43); and

580 (ii) not otherwise exempt from sales and use tax as described in Subsection (2)(a)(ii).

581 ~~[(6)] (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking~~
582 ~~Act, the commission may make rules to administer this section and provide for uniform~~
583 ~~implementation.~~

584 Section 5. **Contingent effective date.**

585 This bill takes effect on January 1, 2021, if the amendment to the Utah Constitution
586 proposed by S.J.R. 3, Proposal to Amend Utah Constitution - Tangible Personal Property Tax
587 Exemption, 2019 General Session, passes the Legislature and is approved by a majority of
588 those voting on it at the next regular general election.