

Representative Stewart E. Barlow proposes the following substitute bill:

TAX MODIFICATIONS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stewart E. Barlow

Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill modifies provisions related to tax.

Highlighted Provisions:

This bill:

- ▶ clarifies the signature requirements for the form a new owner of residential property uses to declare that the residential property qualifies for the primary residential exemption;

- ▶ amends the calculation of certain tax credits to match the applicable income tax rate;

- ▶ integrates the income tax code provisions from 2020 Third Special Session, H.B. 3003, Income Tax Revisions, into the Utah Code;

- ▶ integrates the sales tax code provisions from 2020 Fourth Special Session, H.B. 4002, Rail Fuel Sales Tax Amendments, into the Utah Code; and

- ▶ makes technical corrections, including eliminating references to repealed provisions, eliminating redundant or obsolete language, and updating cross-references.

Money Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 This bill provides retrospective operation.

28 **Utah Code Sections Affected:**

29 AMENDS:

- 30 **11-41-102**, as last amended by Laws of Utah 2016, Chapter 176
- 31 **26-36b-208**, as last amended by Laws of Utah 2019, Chapters 1 and 393
- 32 **35A-8-308**, as last amended by Laws of Utah 2017, Chapters 181 and 421
- 33 **35A-8-309**, as last amended by Laws of Utah 2019, Chapter 493
- 34 **59-2-103.5**, as last amended by Laws of Utah 2020, Chapter 78
- 35 **59-1-401**, as last amended by Laws of Utah 2020, Chapter 294
- 36 **59-2-1602**, as last amended by Laws of Utah 2020, Chapter 447
- 37 **59-7-118**, as last amended by Laws of Utah 2019, Chapter 11
- 38 **59-7-159**, as last amended by Laws of Utah 2019, Chapters 247 and 465
- 39 **59-7-504**, as last amended by Laws of Utah 1995, Chapter 311
- 40 **59-7-505**, as last amended by Laws of Utah 1997, Chapter 332
- 41 **59-7-507**, as last amended by Laws of Utah 2007, Chapter 269
- 42 **59-7-610**, as last amended by Laws of Utah 2020, Chapters 82, 354, 360 and last
- 43 amended by Coordination Clause, Laws of Utah 2020, Chapter 360
- 44 **59-7-619**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 45 **59-7-620**, as last amended by Laws of Utah 2020, Chapter 46
- 46 **59-10-103**, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 15
- 47 **59-10-114**, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 15
- 48 **59-10-137**, as last amended by Laws of Utah 2019, Chapters 247 and 465
- 49 **59-10-507**, as last amended by Laws of Utah 2016, Chapter 87
- 50 **59-10-514**, as last amended by Laws of Utah 2016, Chapter 87
- 51 **59-10-516**, as last amended by Laws of Utah 2010, Chapter 271
- 52 **59-10-522**, as renumbered and amended by Laws of Utah 1987, Chapter 2
- 53 **59-10-1007**, as last amended by Laws of Utah 2020, Chapters 82, 354, 360 and last
- 54 amended by Coordination Clause, Laws of Utah 2020, Chapter 360
- 55 **59-10-1017**, as last amended by Laws of Utah 2017, Chapter 389
- 56 **59-10-1017.1**, as enacted by Laws of Utah 2017, Chapter 389

- 57 [59-10-1022](#), as enacted by Laws of Utah 2008, Chapter 389
- 58 [59-10-1023](#), as enacted by Laws of Utah 2008, Chapter 389
- 59 [59-10-1028](#), as last amended by Laws of Utah 2012, Chapter 399
- 60 [59-10-1035](#), as last amended by Laws of Utah 2017, Chapter 222
- 61 [59-10-1036](#), as enacted by Laws of Utah 2016, Chapter 55
- 62 [59-10-1403](#), as last amended by Laws of Utah 2017, Chapter 270
- 63 [59-10-1403.3](#), as enacted by Laws of Utah 2017, Chapter 270
- 64 [59-12-102](#), as last amended by Laws of Utah 2020, Chapters 354, 365, and 438
- 65 [59-12-103](#), as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
- 66 [59-12-104](#), as last amended by Laws of Utah 2020, Chapters 44, 91, 354, 412, and 438

67 REPEALS:

- 68 [59-7-118.1](#), as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 69 [59-7-504.1](#), as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 70 [59-7-505.1](#), as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 71 [59-7-507.1](#), as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 72 [59-10-103.2](#), as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 73 [59-10-114.1](#), as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 74 [59-10-514.2](#), as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 75 [59-10-516.1](#), as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 76 [59-10-522.1](#), as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 77 [59-10-1403.4](#), as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 78 [59-12-103.3](#), as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 2



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

81 Section 1. Section **11-41-102** is amended to read:

82 **11-41-102. Definitions.**

83 As used in this chapter:

- 84 (1) "Agreement" means an oral or written agreement between a:
- 85 (a) (i) county; or
- 86 (ii) municipality; and
- 87 (b) person.

- 88 (2) "Municipality" means a:
- 89 (a) city;
- 90 (b) town; or
- 91 (c) metro township.
- 92 (3) "Payment" includes:
- 93 (a) a payment;
- 94 (b) a rebate;
- 95 (c) a refund; or
- 96 (d) an amount similar to Subsections (3)(a) through (c).
- 97 (4) "Regional retail business" means a:
- 98 (a) retail business that occupies a floor area of more than 80,000 square feet;
- 99 (b) dealer as defined in Section 41-1a-102;
- 100 (c) retail shopping facility that has at least two anchor tenants if the total number of
- 101 anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square
- 102 feet; or
- 103 (d) grocery store that occupies a floor area of more than 30,000 square feet.
- 104 (5) (a) "Sales and use tax" means a tax:
- 105 (i) imposed on transactions within a:
- 106 (A) county; or
- 107 (B) municipality; and
- 108 (ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12,
- 109 Sales and Use Tax Act.
- 110 (b) [~~Notwithstanding Subsection (5)(a)(ii), "sales]~~ "Sales and use tax" does not include
- 111 a tax authorized under:
- 112 (i) Subsection 59-12-103(2)(a)(i);
- 113 (ii) Subsection 59-12-103(2)(b)(i);
- 114 (iii) Subsection 59-12-103(2)(c)(i);
- 115 (iv) Subsection 59-12-103(2)(d);
- 116 [~~(iv)] (v) Subsection 59-12-103(2)[~~(d)](e)(i)(A);~~~~
- 117 [~~(v)] (vi) Section 59-12-301;~~
- 118 [~~(vi)] (vii) Section 59-12-352;~~

119 [~~(vii)~~] (viii) Section 59-12-353;
 120 [~~(viii)~~] (ix) Section 59-12-603; or
 121 [~~(ix)~~] (x) Section 59-12-1201.

122 (6) (a) "Sales and use tax incentive payment" means a payment of revenues:
 123 (i) to a person;
 124 (ii) by a:
 125 (A) county; or
 126 (B) municipality;
 127 (iii) to induce the person to locate or relocate a regional retail business within the:
 128 (A) county; or
 129 (B) municipality; and
 130 (iv) that are derived from a sales and use tax.

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

133 Section 2. Section **26-36b-208** is amended to read:

134 **26-36b-208. Medicaid Expansion Fund.**

135 (1) There is created an expendable special revenue fund known as the Medicaid
 136 Expansion Fund.

137 (2) The fund consists of:

- 138 (a) assessments collected under this chapter;
- 139 (b) intergovernmental transfers under Section 26-36b-206;
- 140 (c) savings attributable to the health coverage improvement program as determined by
 141 the department;
- 142 (d) savings attributable to the enhancement waiver program as determined by the
 143 department;
- 144 (e) savings attributable to the Medicaid waiver expansion as determined by the
 145 department;
- 146 (f) savings attributable to the inclusion of psychotropic drugs on the preferred drug list
 147 under Subsection 26-18-2.4(3) as determined by the department;
- 148 (g) revenues collected from the sales tax described in Subsection 59-12-103~~[(13)]~~(12);
- 149 (h) gifts, grants, donations, or any other conveyance of money that may be made to the

150 fund from private sources;

151 (i) interest earned on money in the fund; and

152 (j) additional amounts as appropriated by the Legislature.

153 (3) (a) The fund shall earn interest.

154 (b) All interest earned on fund money shall be deposited into the fund.

155 (4) (a) A state agency administering the provisions of this chapter may use money from
156 the fund to pay the costs, not otherwise paid for with federal funds or other revenue sources, of:

157 (i) the health coverage improvement program;

158 (ii) the enhancement waiver program;

159 (iii) a Medicaid waiver expansion; and

160 (iv) the outpatient upper payment limit supplemental payments under Section
161 26-36b-210.

162 (b) A state agency administering the provisions of this chapter may not use:

163 (i) funds described in Subsection (2)(b) to pay the cost of private outpatient upper
164 payment limit supplemental payments; or

165 (ii) money in the fund for any purpose not described in Subsection (4)(a).

166 Section 3. Section 35A-8-308 is amended to read:

167 **35A-8-308. Throughput Infrastructure Fund.**

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

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

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

171 (b) any voluntary contributions received;

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

173 (d) all amounts received from the repayment of loans made by the impact board under
174 Section 35A-8-309.

175 (3) The state treasurer shall:

176 (a) invest the money in the fund by following the procedures and requirements of Title
177 51, Chapter 7, State Money Management Act; and

178 (b) deposit all interest or other earnings derived from those investments into the fund.

179 Section 4. Section 35A-8-309 is amended to read:

180 **35A-8-309. Throughput Infrastructure Fund administered by impact board --**

181 **Uses -- Review by board -- Annual report -- First project.**

182 (1) The impact board shall:

183 (a) make grants and loans from the Throughput Infrastructure Fund created in Section
184 35A-8-308 for a throughput infrastructure project;

185 (b) use money transferred to the Throughput Infrastructure Fund in accordance with
186 ~~[Subsection 59-12-103(12)]~~ statute to provide a loan or grant to finance the cost of acquisition
187 or construction of a throughput infrastructure project to one or more local political
188 subdivisions, including a Utah interlocal agency created under Title 11, Chapter 13, Interlocal
189 Cooperation Act;

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

192 (d) determine provisions for repayment of loans;

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

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

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

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

200 (4) To receive assistance under this section, a local political subdivision or an
201 interlocal agency shall submit a formal application containing the information that the impact
202 board requires.

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

204 (i) review the proposed uses of the Throughput Infrastructure Fund for a loan or grant
205 before approving the loan or grant and may condition its approval on whatever assurances the
206 impact board considers necessary to ensure that proceeds of the loan or grant will be used in
207 accordance with this section;

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

210 (iii) ensure that repayment terms are evidenced by bonds, notes, or other obligations of
211 the appropriate local political subdivision or interlocal agency issued to the impact board and

212 payable from the net revenues of a throughput infrastructure project.

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

214 (i) non-recourse to the local political subdivision or interlocal agency; and

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

216 (6) (a) Subject to the restriction in Subsection (6)(b), the impact board shall allocate

217 from the Throughput Infrastructure Fund to the board those amounts that are appropriated by

218 the Legislature for the administration of the Throughput Infrastructure Fund.

219 (b) The amount described in Subsection (6)(a) may not exceed 2% of the annual

220 receipts to the fund.

221 (7) The board shall include in the annual written report described in Section

222 [35A-1-109](#):

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

224 (b) a list of local political subdivisions or interlocal agencies that received assistance
225 under this section.

226 (8) (a) The first throughput infrastructure project considered by the impact board shall
227 be a bulk commodities ocean terminal project.

228 (b) Upon receipt of an application from an interlocal agency created for the sole
229 purpose of undertaking a throughput infrastructure project that is a bulk commodities ocean
230 terminal project, the impact board shall:

231 (i) grant up to 2% of the money in the Throughput Infrastructure Fund to the interlocal
232 agency to pay or reimburse costs incurred by the interlocal agency preliminary to its acquisition
233 of the throughput infrastructure project; and

234 (ii) fund the interlocal agency's application if the application meets all criteria
235 established by the impact board.

236 Section 5. Section **59-1-401** is amended to read:

237 **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**
238 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**
239 **interest.**

240 (1) As used in this section:

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

243 (i) has implemented the commission's GenTax system; and
244 (ii) at least 30 days before implementing the commission's GenTax system as described
245 in Subsection (1)(a)(i), has provided notice in a conspicuous place on the commission's website
246 stating:

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

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

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

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

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

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

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

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

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

263 (I) this title;

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

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

266 (IV) Section 19-6-410.5;

267 (V) Section 19-6-714;

268 (VI) Section 19-6-805;

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

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

271 (IX) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service
272 Charges; or

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

- 274 (ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:
- 275 (A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;
- 276 (B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;
- 277 (C) Chapter 2, Property Tax Act, except for Section 59-2-1309;
- 278 (D) Chapter 3, Tax Equivalent Property Act; or
- 279 (E) Chapter 4, Privilege Tax.
- 280 (d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated
- 281 tax, fee, or charge.
- 282 (2) (a) The due date for filing a return is:
- 283 (i) if the person filing the return is not allowed by law an extension of time for filing
- 284 the return, the day on which the return is due as provided by law; or
- 285 (ii) if the person filing the return is allowed by law an extension of time for filing the
- 286 return, the earlier of:
- 287 (A) the date the person files the return; or
- 288 (B) the last day of that extension of time as allowed by law.
- 289 (b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a
- 290 return after the due date described in Subsection (2)(a).
- 291 (c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:
- 292 (i) if the return described in Subsection (2)(b) is filed with respect to an unactivated
- 293 tax, fee, or charge:
- 294 (A) \$20; or
- 295 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or
- 296 (ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax,
- 297 fee, or charge, beginning on the activation date for the tax, fee, or charge:
- 298 (A) \$20; or
- 299 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is
- 300 filed no later than five days after the due date described in Subsection (2)(a);
- 301 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed
- 302 more than five days after the due date but no later than 15 days after the due date described in
- 303 Subsection (2)(a); or
- 304 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is

305 filed more than 15 days after the due date described in Subsection (2)(a).
306 (d) This Subsection (2) does not apply to:
307 (i) an amended return; or
308 (ii) a return with no tax due.
309 (3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:
310 (i) the person files a return on or before the due date for filing a return described in
311 Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due
312 date;
313 (ii) the person:
314 (A) is subject to a penalty under Subsection (2)(b); and
315 (B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the
316 due date for filing a return described in Subsection (2)(a);
317 (iii) (A) the person is subject to a penalty under Subsection (2)(b); and
318 (B) the commission estimates an amount of tax due for that person in accordance with
319 Subsection 59-1-1406(2);
320 (iv) the person:
321 (A) is mailed a notice of deficiency; and
322 (B) within a 30-day period after the day on which the notice of deficiency described in
323 Subsection (3)(a)(iv)(A) is mailed:
324 (I) does not file a petition for redetermination or a request for agency action; and
325 (II) fails to pay the tax, fee, or charge due on a return;
326 (v) (A) the commission:
327 (I) issues an order constituting final agency action resulting from a timely filed petition
328 for redetermination or a timely filed request for agency action; or
329 (II) is considered to have denied a request for reconsideration under Subsection
330 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed
331 request for agency action; and
332 (B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period
333 after the date the commission:
334 (I) issues the order constituting final agency action described in Subsection
335 (3)(a)(v)(A)(I); or

336 (II) is considered to have denied the request for reconsideration described in
337 Subsection (3)(a)(v)(A)(II); or
338 (vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date
339 of a final judicial decision resulting from a timely filed petition for judicial review.
340 (b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:
341 (i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with
342 respect to an unactivated tax, fee, or charge:
343 (A) \$20; or
344 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or
345 (ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with
346 respect to an activated tax, fee, or charge, beginning on the activation date:
347 (A) \$20; or
348 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated
349 tax, fee, or charge due on the return is paid no later than five days after the due date for filing a
350 return described in Subsection (2)(a);
351 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the activated tax,
352 fee, or charge due on the return is paid more than five days after the due date for filing a return
353 described in Subsection (2)(a) but no later than 15 days after that due date; or
354 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the activated
355 tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a
356 return described in Subsection (2)(a).
357 (4) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or
358 quarterly installments required by Sections [59-5-107](#), [59-5-207](#), [59-7-504](#), and [59-9-104](#), there
359 shall be added a penalty in an amount determined by applying the interest rate provided under
360 Section [59-1-402](#) plus four percentage points to the amount of the underpayment for the period
361 of the underpayment.
362 (b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the
363 excess of the required installment over the amount, if any, of the installment paid on or before
364 the due date for the installment.
365 (ii) The period of the underpayment shall run from the due date for the installment to
366 whichever of the following dates is the earlier:

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

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

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

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

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

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

386 (6) If a person does not file a return within an extension of time allowed by Section
387 59-7-505 or 59-10-516, the person:

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

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

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

391 (A) \$20; or

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

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

395 (A) \$20; or

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

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

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

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

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

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

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

413 (i) The notice of proposed penalty shall:

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

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

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

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

419 or

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

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

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

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

429 (I) to the person's last-known address; and
430 (II) in accordance with Section 59-1-1404.
431 (c) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not
432 subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:
433 (i) a court of competent jurisdiction issues a final unappealable judgment or order
434 determining that:
435 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
436 or is a seller required to pay or collect and remit sales and use taxes under Subsection
437 59-12-107(2)(b) or (2)(c); and
438 (B) the commission or a county, city, or town may require the seller to collect a tax
439 under Subsections 59-12-103(2)(a) through [~~(d)~~] (e); or
440 (ii) the commission issues a final unappealable administrative order determining that:
441 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
442 or is a seller required to pay or collect and remit sales and use taxes under Subsection
443 59-12-107(2)(b) or (2)(c); and
444 (B) the commission or a county, city, or town may require the seller to collect a tax
445 under Subsections 59-12-103(2)(a) through [~~(d)~~] (e).
446 (d) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not
447 subject to the penalty under Subsection (7)(a)(ii) if:
448 (i) (A) a court of competent jurisdiction issues a final unappealable judgment or order
449 determining that:
450 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
451 or is a seller required to pay or collect and remit sales and use taxes under Subsection
452 59-12-107(2)(b) or (2)(c); and
453 (II) the commission or a county, city, or town may require the seller to collect a tax
454 under Subsections 59-12-103(2)(a) through [~~(d)~~] (e); or
455 (B) the commission issues a final unappealable administrative order determining that:
456 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
457 or is a seller required to pay or collect and remit sales and use taxes under Subsection
458 59-12-107(2)(b) or (2)(c); and
459 (II) the commission or a county, city, or town may require the seller to collect a tax

460 under Subsections 59-12-103(2)(a) through ~~(d)~~ (e); and

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

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

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

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

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

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

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

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

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

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

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

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

490 (i) commits an act described in Subsection (11)(b) with respect to one or more of the

491 following documents:

492 (A) a return;

493 (B) an affidavit;

494 (C) a claim; or

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

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

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

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

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

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

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

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

505 (iv) advising in the preparation or presentation of any portion of a document described
506 in Subsection (11)(a)(i);

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

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

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

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

514 (i) shall be imposed by the commission;

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

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

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

520 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
521 commission may make rules prescribing the documents that are similar to Subsections

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

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

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

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

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

532 (B) exceed \$1,000.

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

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

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

541 (B) exceed \$5,000.

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

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

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

548 (B) exceed \$25,000.

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

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

552 (I) a return;

- 553 (II) an affidavit;
- 554 (III) a claim; or
- 555 (IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and
- 556 (B) subject to Subsection (12)(e)(iii), with knowledge that the document described in
- 557 Subsection (12)(e)(i)(A):
- 558 (I) is false or fraudulent as to any material matter; and
- 559 (II) could be used in connection with any material matter administered by the
- 560 commission.
- 561 (ii) The following acts apply to Subsection (12)(e)(i):
- 562 (A) preparing any portion of a document described in Subsection (12)(e)(i)(A);
- 563 (B) presenting any portion of a document described in Subsection (12)(e)(i)(A);
- 564 (C) procuring any portion of a document described in Subsection (12)(e)(i)(A);
- 565 (D) advising in the preparation or presentation of any portion of a document described
- 566 in Subsection (12)(e)(i)(A);
- 567 (E) aiding in the preparation or presentation of any portion of a document described in
- 568 Subsection (12)(e)(i)(A);
- 569 (F) assisting in the preparation or presentation of any portion of a document described
- 570 in Subsection (12)(e)(i)(A); or
- 571 (G) counseling in the preparation or presentation of any portion of a document
- 572 described in Subsection (12)(e)(i)(A).
- 573 (iii) This Subsection (12)(e) applies:
- 574 (A) regardless of whether the person for which the document described in Subsection
- 575 (12)(e)(i)(A) is prepared or presented:
- 576 (I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or
- 577 (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and
- 578 (B) in addition to any other penalty provided by law.
- 579 (iv) Notwithstanding Section [76-3-301](#), for purposes of this Subsection (12)(e), the
- 580 penalty may not:
- 581 (A) be less than \$1,500; or
- 582 (B) exceed \$25,000.
- 583 (v) The commission may seek a court order to enjoin a person from engaging in

584 conduct that is subject to a penalty under this Subsection (12)(e).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

611 (B) fails to file the form.

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

615 Section 6. Section 59-2-103.5 is amended to read:

616 **59-2-103.5. Procedures to obtain an exemption for residential property --**
617 **Procedure if property owner or property no longer qualifies to receive a residential**
618 **exemption.**

619 (1) Subject to Subsection (8), for residential property other than part-year residential
620 property, a county legislative body may adopt an ordinance that requires an owner to file an
621 application with the county board of equalization before a residential exemption under Section
622 59-2-103 may be applied to the value of the residential property if:

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

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

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

629 (2) (a) The application described in Subsection (1):

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

632 (ii) shall be signed by the owner of the residential property; and

633 (iii) may not request the sales price of the residential property.

634 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
635 commission may make rules prescribing the contents of the form described in Subsection
636 (2)(a).

637 (c) For purposes of the application described in Subsection (1), a county may not
638 request information from an owner of a residential property beyond the information provided in
639 the form prescribed by the commission under this Subsection (2).

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

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

645 (ii) include as part of the application described in Subsection (2)(a) a statement that

646 certifies:

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

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

651 (C) that the owner, or a member of the owner's household, may not claim a residential
652 exemption for any property for the calendar year for which the owner seeks to obtain the
653 residential exemption, other than the part-year residential property, or as allowed under Section
654 59-2-103 with respect to the primary residence or household furnishings, furniture, and
655 equipment of the owner's tenant.

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

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

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

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

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

668 (ii) notifying the county board of equalization that the property owner no longer
669 qualifies to receive a residential exemption authorized under Section 59-2-103 for the property
670 owner's primary residence; and

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

676 (5) A property owner is not required to file a written statement or make the declaration

677 described in Subsection (4) if the property owner:

678 (a) changes primary residences;

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

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

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

685 (7) (a) Subject to Subsection (8), for the first calendar year in which a property owner
686 qualifies to receive a residential exemption under Section 59-2-103, a county assessor may
687 require the property owner to file a signed statement described in Section 59-2-306.

688 (b) Subject to Subsection (8) and notwithstanding Section 59-2-306, for a calendar year
689 after the calendar year described in Subsection (7)(a) in which a property owner qualifies for an
690 exemption described in Subsection 59-2-1115(2) for qualifying exempt primary residential
691 rental personal property, a signed statement described in Section 59-2-306 with respect to the
692 qualifying exempt primary residential rental personal property may only require the property
693 owner to certify, under penalty of perjury, that the property owner qualifies for the exemption
694 under Subsection 59-2-1115(2).

695 (8) (a) Subject to the requirements of this Subsection (8) and except as provided in
696 Subsection (8)(b), on or before May 1, 2020, a county assessor shall:

697 (i) notify each owner of residential property that the owner is required to submit a
698 written declaration described in Subsection (8)(d) within 30 days after the day on which the
699 county assessor mails the notice under this Subsection (8)(a); and

700 (ii) provide each owner with a form described in Subsection (8)(e) to make the written
701 declaration described in Subsection (8)(d).

702 (b) A county assessor is not required to provide a notice to an owner of residential
703 property under Subsection (8)(a) if the situs address of the residential property is the same as
704 any one of the following:

705 (i) the mailing address of the residential property owner or the tenant of the residential
706 property;

707 (ii) the address listed on the:

- 708 (A) residential property owner's driver license; or
- 709 (B) tenant of the residential property's driver license; or
- 710 (iii) the address listed on the:
- 711 (A) residential property owner's voter registration; or
- 712 (B) tenant of the residential property's voter registration.
- 713 (c) After an ownership interest in residential property changes, the county assessor
- 714 shall:

715 (i) notify the owner of the residential property that the owner is required to submit a
 716 written declaration described in Subsection (8)(d) within 90 days after the day on which the
 717 owner receives notice under this Subsection (8)(c); and

718 (ii) provide the owner of the residential property with the form described in Subsection
 719 (8)(e) to make the written declaration described in Subsection (8)(d).

720 (d) An owner of residential property that receives a notice described in Subsection
 721 (8)(a) or (c) shall submit a written declaration to the county assessor under penalty of perjury
 722 certifying the information contained in the form provided in Subsection (8)(e).

723 (e) The written declaration required by Subsection (8)(d) shall be:

- 724 (i) signed by the owner of the residential property; and
- 725 (ii) in substantially the following form:

726 "Residential Property Declaration

727 This form must be submitted to the County Assessor's office where your new residential
 728 property is located within 90 days of receipt. Failure to do so will result in the county assessor
 729 taking action that could result in the withdrawal of the primary residential exemption from your
 730 residential property.

731 Residential Property Owner Information

732 Name(s): _____
 733 Home Phone: _____
 734 Work Phone: _____
 735 Mailing Address: _____

736 Residential Property Information

737 Physical Address: _____

738 Certification

739 1. Is this property used as a primary residential property or part-year residential
740 property for you or another person?

741 "Part-year residential property" means owned property that is not residential property on
742 January 1 of a calendar year but becomes residential property after January 1 of the calendar
743 year.

744 Yes No

745 2. Will this primary residential property or part-year residential property be occupied
746 for 183 or more consecutive calendar days by the owner or another person?

747 A part-year residential property occupied for 183 or more consecutive calendar days in
748 a calendar year by the owner(s) or a tenant is eligible for the exemption.

749 Yes No

750 If a property owner or a property owner's spouse claims a residential exemption under
751 Utah Code Ann. § 59-2-103 for property in this state that is the primary residence of the
752 property owner or the property owner's spouse, that claim of a residential exemption creates a
753 rebuttable presumption that the property owner and the property owner's spouse have domicile
754 in Utah for income tax purposes. The rebuttable presumption of domicile does not apply if the
755 residential property is the primary residence of a tenant of the property owner or the property
756 owner's spouse.

757 Signature

758 [~~This form must be signed by all owners of the property.~~]

759 Under penalties of perjury, I declare to the best of my knowledge and belief, this
760 declaration and accompanying pages are true, correct, and complete.

761 _____(Owner signature) _____Date (mm/dd/yyyy)

762 _____(Owner printed name)"

763 (f) For purposes of a written declaration described in this Subsection (8), a county may
764 not request information from a property owner beyond the information described in the form
765 provided in Subsection (8)(e).

766 (g) (i) If, after receiving a written declaration filed under Subsection (8)(d), the county
767 determines that the property has been incorrectly qualified or disqualified to receive a
768 residential exemption, the county shall:

769 (A) redetermine the property's qualification to receive a residential exemption; and

770 (B) notify the claimant of the redetermination and its reason for the redetermination.

771 (ii) The redetermination provided in Subsection (8)(g)(i)(A) is final unless appealed
772 within 30 days after the notice required by Subsection (8)(g)(i)(B).

773 (h) (i) If a residential property owner fails to file a written declaration required by
774 Subsection (8)(d), the county assessor shall mail to the owner of the residential property a
775 notice that:

776 (A) the property owner failed to file a written declaration as required by Subsection
777 (8)(d); and

778 (B) the property owner will no longer qualify to receive the residential exemption
779 authorized under Section 59-2-103 for the property that is the subject of the written declaration
780 if the property owner does not file the written declaration required by Subsection (8)(d) within
781 30 days after the day on which the county assessor mails the notice under this Subsection
782 (8)(h)(i).

783 (ii) If a property owner fails to file a written declaration required by Subsection (8)(d)
784 after receiving the notice described in Subsection (8)(h)(i), the property owner no longer
785 qualifies to receive the residential exemption authorized under Section 59-2-103 in the calendar
786 year for the property that is the subject of the written declaration.

787 (iii) A property owner that is disqualified to receive the residential exemption under
788 Subsection (8)(h)(ii) may file an application described in Subsection (1) to determine whether
789 the owner is eligible to receive the residential exemption.

790 (i) The requirements of this Subsection (8) do not apply to a county assessor in a
791 county that has, for the five calendar years prior to 2019, had in place and enforced an
792 ordinance described in Subsection (1).

793 Section 7. Section 59-2-1602 is amended to read:

794 **59-2-1602. Property Tax Valuation Agency Fund -- Creation -- Statewide levy --**
795 **Additional county levy.**

796 (1) (a) There is created an agency fund known as the "Property Tax Valuation Agency
797 Fund."

798 (b) The fund consists of:

799 (i) deposits made and penalties received under Subsection (3); and

800 (ii) interest on money deposited into the fund.

801 (c) Deposits, penalties, and interest described in Subsection (1)(b) shall be disbursed
802 and used as provided in Section 59-2-1603.

803 (2) (a) Each county shall annually impose a multicounty assessing and collecting levy
804 as provided in this Subsection (2).

805 (b) The tax rate of the multicounty assessing and collecting levy is:

806 (i) for a calendar year beginning on or after January 1, 2020, and before January 1,
807 2025, .000012; and

808 (ii) for a calendar year beginning on or after January 1, 2025, the certified revenue levy.

809 (c) The state treasurer shall allocate revenue collected from the multicounty assessing
810 and collecting levy as follows:

811 (i) 18% of the revenue collected [~~from the base rate~~] shall be deposited into the
812 Property Tax Valuation Agency Fund, up to \$500,000 annually; and

813 (ii) after the deposit described in Subsection (2)(c)(i), all remaining revenue collected
814 from the multicounty assessing and collecting levy shall be deposited into the Multicounty
815 Appraisal Trust.

816 (3) (a) The multicounty assessing and collecting levy imposed under Subsection (2)
817 shall be separately stated on the tax notice as a multicounty assessing and collecting levy.

818 (b) The multicounty assessing and collecting levy is:

819 (i) exempt from Sections 17C-1-403 through 17C-1-406;

820 (ii) in addition to and exempt from the maximum levies allowable under Section
821 59-2-908; and

822 (iii) exempt from the notice and public hearing requirements of Section 59-2-919.

823 (c) (i) Each county shall transmit quarterly to the state treasurer the revenue collected
824 from the multicounty assessing and collecting levy.

825 (ii) The revenue transmitted under Subsection (3)(c)(i) shall be transmitted no later
826 than the tenth day of the month following the end of the quarter in which the revenue is
827 collected.

828 (iii) If revenue transmitted under Subsection (3)(c)(i) is transmitted after the tenth day
829 of the month following the end of the quarter in which the revenue is collected, the county shall
830 pay an interest penalty at the rate of 10% each year until the revenue is transmitted.

831 (d) The state treasurer shall allocate the penalties received under this Subsection (3) in

832 the same manner as revenue is allocated under Subsection (2)(c).

833 (4) (a) A county may levy a county additional property tax in accordance with this
834 Subsection (4).

835 (b) The county additional property tax:

836 (i) shall be separately stated on the tax notice as a county assessing and collecting levy;

837 (ii) may not be incorporated into the rate of any other levy;

838 (iii) is exempt from Sections 17C-1-403 through 17C-1-406; and

839 (iv) is in addition to and exempt from the maximum levies allowable under Section

840 59-2-908.

841 (c) Revenue collected from the county additional property tax shall be used to:

842 (i) promote the accurate valuation and uniform assessment levels of property as
843 required by Section 59-2-103;

844 (ii) promote the efficient administration of the property tax system, including the costs
845 of assessment, collection, and distribution of property taxes;

846 (iii) fund state mandated actions to meet legislative mandates or judicial or
847 administrative orders that relate to promoting:

848 (A) the accurate valuation of property; and

849 (B) the establishment and maintenance of uniform assessment levels within and among
850 counties; and

851 (iv) establish reappraisal programs that:

852 (A) are adopted by a resolution or ordinance of the county legislative body; and

853 (B) conform to rules the commission makes in accordance with Title 63G, Chapter 3,
854 Utah Administrative Rulemaking Act.

855 Section 8. Section 59-7-118 is amended to read:

856 **59-7-118. Section 965, Internal Revenue Code -- Installment payments.**

857 (1) Subject to the other provisions of this section, a corporation may pay in
858 installments the tax owed under this chapter on deferred foreign income described in Section
859 965, Internal Revenue Code.

860 (2) Subsection (1) applies:

861 (a) to a corporation that:

862 (i) is authorized to make an election under Section 965(h), Internal Revenue Code; and

863 (ii) apportions deferred foreign income described in Section 965, Internal Revenue
864 Code, to this state; and

865 (b) for a tax year in which a corporation makes an election under Section 965(h),
866 Internal Revenue Code, for purposes of the corporation's federal income tax.

867 (3) (a) Except as provided in Subsection (3)(b), the same provisions that apply to an
868 election made under Section 965(h), Internal Revenue Code, for federal purposes apply to an
869 installment payment made under this section.

870 (b) A corporation shall make:

871 (i) the first installment under this section on or before the due date~~[, including any~~
872 ~~extension,]~~ of the tax return filed under this chapter for the first taxable year in which the
873 corporation reports deferred foreign income described in Section 965, Internal Revenue Code;
874 and

875 (ii) a subsequent installment on or before the due date~~[, including any extension,]~~ of
876 the tax return filed under this chapter in each of the following seven years.

877 Section 9. Section **59-7-159** is amended to read:

878 **59-7-159. Review of credits allowed under this chapter.**

879 (1) As used in this section, "committee" means the Revenue and Taxation Interim
880 Committee.

881 (2) (a) The committee shall review the tax credits described in this chapter as provided
882 in Subsection (3) and make recommendations concerning whether the tax credits should be
883 continued, modified, or repealed.

884 (b) In conducting the review required under Subsection (2)(a), the committee shall:

885 (i) schedule time on at least one committee agenda to conduct the review;

886 (ii) invite state agencies, individuals, and organizations concerned with the tax credit
887 under review to provide testimony;

888 (iii) (A) invite the Governor's Office of Economic Development to present a summary
889 and analysis of the information for each tax credit regarding which the Governor's Office of
890 Economic Development is required to make a report under this chapter; and

891 (B) invite the Office of the Legislative Fiscal Analyst to present a summary and
892 analysis of the information for each tax credit regarding which the Office of the Legislative
893 Fiscal Analyst is required to make a report under this chapter;

894 (iv) ensure that the committee's recommendations described in this section include an
895 evaluation of:

- 896 (A) the cost of the tax credit to the state;
- 897 (B) the purpose and effectiveness of the tax credit; and
- 898 (C) the extent to which the state benefits from the tax credit; and
- 899 (v) undertake other review efforts as determined by the committee chairs or as

900 otherwise required by law.

901 (3) (a) On or before November 30, 2017, and every three years after 2017, the
902 committee shall conduct the review required under Subsection (2) of the tax credits allowed
903 under the following sections:

- 904 (i) Section 59-7-601;
- 905 (ii) Section 59-7-607;
- 906 (iii) Section 59-7-612;
- 907 (iv) Section 59-7-614.1; and
- 908 (v) Section 59-7-614.5.

909 (b) On or before November 30, 2018, and every three years after 2018, the committee
910 shall conduct the review required under Subsection (2) of the tax credits allowed under the
911 following sections:

- 912 (i) Section 59-7-609;
- 913 (ii) Section 59-7-614.2;
- 914 (iii) Section 59-7-614.10;
- 915 (iv) Section 59-7-619;
- 916 (v) Section 59-7-620; and
- 917 (vi) Section 59-7-624.

918 (c) On or before November 30, 2019, and every three years after 2019, the committee
919 shall conduct the review required under Subsection (2) of the tax credits allowed under the
920 following sections:

- 921 (i) Section 59-7-610;
- 922 (ii) Section 59-7-614; and
- 923 (iii) Section 59-7-614.7[; ~~and~~].
- 924 [~~(iv) Section 59-7-618;~~]

925 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall
 926 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,
 927 2017.

928 (ii) The committee shall complete a review described in this Subsection (3)(d) three
 929 years after the effective date of the tax credit and every three years after the initial review date.

930 Section 10. Section **59-7-504** is amended to read:

931 **59-7-504. Estimated tax payments -- Penalty -- Waiver.**

932 (1) Except as [~~otherwise provided in this section, each~~] provided in Subsection (2), a
 933 corporation subject to taxation under this chapter [~~having~~] that has a tax liability of \$3,000 or
 934 more in either the current tax year[~~, or which had a tax liability of \$3,000 or more in the~~
 935 ~~previous tax year, shall make payments of estimated tax at the same time and using any method~~
 936 ~~provided under Section 6655, Internal Revenue Code]~~ or the previous tax year shall make a
 937 payment of an estimated tax on or before the day on which the corporation is required to make
 938 a payment of an estimated tax for the same time period to the federal government.

939 [~~(2) The following are modifications or exceptions to the provisions of Section 6655,~~
 940 ~~Internal Revenue Code:]~~

941 (2) The provisions of Section 6655, Internal Revenue Code, shall govern the payment
 942 described in Subsection (1), except that:

943 (a) for the first year a corporation is required to file a return in Utah, that corporation is
 944 not subject to Subsection (1) if [~~it~~] the corporation makes a payment on or before the due date
 945 of the return, without extensions, equal to or greater than the minimum tax required under
 946 Section [59-7-104](#) or [59-7-201](#);

947 (b) the applicable percentage of the required annual payment, as defined in Section
 948 6655, Internal Revenue Code, for annualized income installments, adjusted seasonal
 949 installments, and those estimated tax payments based on the current year tax liability shall be:

950	Installment	Percentage
951	1st	22.5
952	2nd	45.0
953	3rd	67.5
954	4th	90.0

955 (c) a large [~~corporations~~] corporation shall be treated as any other corporation for
 956 purposes of this section; [~~and~~]

957 (d) if a taxpayer elects a different annualization period than the one used for federal

958 purposes, the taxpayer shall make an election with the ~~[Tax Commission]~~ commission at the
959 same time as provided under Section 6655, Internal Revenue Code~~[-];~~ and

960 (e) the due date shall be superseded by the due date for federal estimated payments if
961 modified by other federal action.

962 (3) A penalty shall be added as provided in Section 59-1-401 for any quarterly
963 estimated tax payment ~~[which]~~ that is not made in accordance with this section.

964 (4) There shall be no interest added to any estimated tax payments subject to a penalty
965 under this section.

966 Section 11. Section 59-7-505 is amended to read:

967 **59-7-505. Returns required -- When due -- Extension of time -- Exemption from**
968 **filing.**

969 (1) Each corporation subject to taxation under this chapter shall make a return, except
970 that a group of corporations filing a combined report under Part 4, Combined Reporting, shall
971 file one combined report.

972 (a) The return shall be signed by a responsible officer of the corporation, the signature
973 of whom need not be notarized but when signed shall be considered as made under oath.

974 (b) (i) In cases where receivers, trustees in bankruptcy, or assignees are operating the
975 property or business of corporations, those receivers, trustees, or assignees shall make returns
976 for such corporations in the same manner and form as corporations are required to make
977 returns.

978 (ii) Any tax due on the basis of such returns made by receivers, trustees, or assignees
979 shall be collected in the same manner as if collected from the corporations of whose business
980 or property they have custody and control.

981 ~~[(2) Returns shall be made on or before the 15th day of the fourth month following the~~
982 ~~close of the taxable year.]~~

983 (2) (a) A corporation required to make a return under this chapter shall make a return
984 on or before the later of:

985 (i) the 15th day of the fourth month following the close of the taxable year; or

986 (ii) the day on which the corporation is required to file a federal income tax return.

987 (b) Interest accrues from the day on which a return is due under this Subsection (2).

988 (3) (a) The commission shall allow a taxpayer an extension of time for filing ~~[returns]~~ a
989 return.

990 ~~[(b) The extension under Subsection (3)(a) may not exceed six months.]~~

991 (b) Except as provided in Subsection (3)(c), the extension described in Subsection
992 (3)(a) may be for up to six months.

993 (c) For a taxable year beginning on or after January 1, 2019, but beginning on or before
994 December 31, 2019, a taxpayer may receive an extension described in Subsection (3)(a) for the
995 time period that ends on the last day of the extension to file the taxpayer's federal income tax
996 return.

997 (4) Each return shall be made to the commission.

998 (5) A corporation incorporated or qualified to do business in this state ~~[prior to]~~ before
999 January 1, 1973, is not liable for filing a return or paying tax measured by income for the
1000 taxable year in which ~~[it]~~ the corporation legally terminates ~~[its]~~ the corporation's existence.

1001 (6) A corporation incorporated or qualified to do business or ~~[which had its]~~ that had
1002 the corporation's authority to do business reinstated on or after January 1, 1973, shall file a
1003 return and pay the tax measured by income for each period during which ~~[it]~~ the corporation
1004 had the right to do business in this state, and the return shall be filed and the tax paid within
1005 three months and 15 days after the close of this period.

1006 (7) If a corporation terminates ~~[its]~~ the corporation's existence under Section
1007 16-10a-1401, [no returns are required to be filed if a statement is furnished] the corporation is
1008 not required to file a return if the corporation provides a statement to the commission that no
1009 business has been conducted during that period.

1010 (8) (a) A corporation commencing to do business in Utah after qualification or
1011 incorporation with the Division of Corporations and Commercial Code is not required to file a
1012 return for the period commencing with the date of incorporation or qualification and ending on
1013 the last day of the same month, if that corporation was not doing business in and received no
1014 income from sources in the state during such period.

1015 (b) In determining whether a corporation comes within the provisions of this chapter,
1016 affidavits on behalf of the corporation that it did no business in and received no income from

1017 sources in Utah during such period shall be filed with the commission.

1018 Section 12. Section **59-7-507** is amended to read:

1019 **59-7-507. Payment of tax.**

1020 (1) (a) If [~~quarterly estimated payments are~~] an estimated payment is not made as
1021 provided in Section 59-7-504, the amount of tax imposed by this chapter shall be paid no later
1022 than the [original] due date of the return described in Subsection 59-7-505(2).

1023 [~~(b) If an extension of time is necessary for filing a return, as provided in Subsection~~
1024 ~~59-7-505(3) or Section 59-7-803, payment must be made no later than the original due date of~~
1025 ~~the return in an amount equal to the lesser of:]~~

1026 (b) If a taxpayer needs an extension of time to file a return, as provided in Section
1027 59-7-505 or 59-7-803, a taxpayer shall pay, no later than the due date of the return described in
1028 Subsection 59-7-505(2), an amount equal to the lesser of:

1029 (i) [~~The~~] the greater of:

1030 (A) 90% of the total tax reported on the return for the current taxable year; or

1031 (B) 100% of the minimum tax described in Section 59-7-104; or

1032 (ii) 100% of the total tax liability for the taxable year immediately preceding the
1033 current taxable year.

1034 (c) If payment is not made as provided in Subsection (1)(b), the commission shall add
1035 an extension penalty as provided in Section 59-1-401, until the tax is paid during the period of
1036 extension.

1037 (2) (a) For a taxable year beginning on or after January 1, 2019, but beginning on or
1038 before December 31, 2019, a taxpayer shall receive an extension of time for the payment of the
1039 amount determined as the tax of the taxpayer, or any part of that amount, for the time period
1040 that ends on the last day of the extension to pay the taxpayer's federal income tax.

1041 [~~(2)(a) At~~] (b) (i) For a taxable year beginning on or after January 1, 2020, at the
1042 request of the taxpayer, the commission may extend the time for payment of the amount
1043 determined as the tax by the taxpayer, or any part of that amount, for a period not to exceed six
1044 months from the date prescribed for the payment of the tax.

1045 [~~(b) For purposes of Subsection (2)(a), the amount in respect of which the extension is~~
1046 ~~granted shall be paid on or before the date of the expiration of the period of the extension.]~~

1047 (ii) For purposes of Subsection (2)(b)(i), the taxpayer shall pay the amount for which

1048 the extension is granted on or before the day on which the period of the extension expires.

1049 Section 13. Section **59-7-610** is amended to read:

1050 **59-7-610. Recycling market development zones tax credits.**

1051 (1) Subject to other provisions of this section, a taxpayer that is a business operating in
1052 a recycling market development zone as defined in Section **19-13-102** may claim the following
1053 nonrefundable tax credits:

1054 (a) a tax credit [~~of 5% of~~] equal to the product of the percentage listed in Subsection
1055 59-7-104(2) and the purchase price paid for machinery and equipment used directly in:

1056 (i) commercial composting; or

1057 (ii) manufacturing facilities or plant units that:

1058 (A) manufacture, process, compound, or produce recycled items of tangible personal
1059 property for sale; or

1060 (B) reduce or reuse postconsumer waste material; and

1061 (b) a tax credit equal to the lesser of:

1062 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test
1063 inventory, and utilities made by the taxpayer for establishing and operating recycling or
1064 composting technology in the state; and

1065 (ii) \$2,000.

1066 (2) (a) To claim a tax credit described in Subsection (1), the taxpayer shall receive
1067 from the Department of Environmental Quality a written certification, on a form approved by
1068 the commission, that includes:

1069 (i) a statement that the taxpayer is operating a business within the boundaries of a
1070 recycling market development zone;

1071 (ii) for a claim of the tax credit described in Subsection (1)(a):

1072 (A) the type of the machinery and equipment that the taxpayer purchased;

1073 (B) the date that the taxpayer purchased the machinery and equipment;

1074 (C) the purchase price for the machinery and equipment;

1075 (D) the total purchase price for all machinery and equipment for which the taxpayer is
1076 claiming a tax credit;

1077 (E) a statement that the machinery and equipment are integral to the composting or
1078 recycling process; and

- 1079 (F) the amount of the taxpayer's tax credit; and
- 1080 (iii) for a claim of the tax credit described in Subsection (1)(b):
- 1081 (A) the type of net expenditure that the taxpayer made to a third party;
- 1082 (B) the date that the taxpayer made the payment to a third party;
- 1083 (C) the amount that the taxpayer paid to each third party;
- 1084 (D) the total amount that the taxpayer paid to all third parties;
- 1085 (E) a statement that the net expenditures support the establishment and operation of
- 1086 recycling or composting technology in the state; and
- 1087 (F) the amount of the taxpayer's tax credit.
- 1088 (b) (i) The Department of Environmental Quality shall provide a taxpayer seeking to
- 1089 claim a tax credit under Subsection (1) with a copy of the written certification.
- 1090 (ii) The taxpayer shall retain a copy of the written certification for the same period of
- 1091 time that a person is required to keep books and records under Section [59-1-1406](#).
- 1092 (c) The Department of Environmental Quality shall submit to the commission an
- 1093 electronic list that includes:
- 1094 (i) the name and identifying information of each taxpayer to which the Department of
- 1095 Environmental Quality issues a written certification; and
- 1096 (ii) for each taxpayer, the amount of each tax credit listed on the written certification.
- 1097 (3) A taxpayer may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or
- 1098 both that exceeds 40% of the taxpayer's state income tax liability as the tax liability is
- 1099 calculated:
- 1100 (a) for the taxable year in which the taxpayer made the purchases or payments;
- 1101 (b) before any other tax credits the taxpayer may claim for the taxable year; and
- 1102 (c) before the taxpayer claims a tax credit authorized by this section.
- 1103 (4) The commission shall make rules governing what information a taxpayer shall file
- 1104 with the commission to verify the entitlement to and amount of a tax credit.
- 1105 (5) Except as provided in Subsections (6) through (8), a taxpayer may carry forward, to
- 1106 the next three taxable years, the amount of a tax credit described in Subsection (1)(a) that the
- 1107 taxpayer does not use for the taxable year.
- 1108 (6) A taxpayer may not claim or carry forward a tax credit described in Subsection
- 1109 (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under

1110 Section [63N-2-213](#).

1111 (7) A taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable
1112 year during which the taxpayer claims or carries forward a tax credit under Section [63N-2-213](#).

1113 (8) A taxpayer may not claim or carry forward a tax credit under this section for a
1114 taxable year during which the taxpayer claims the targeted business income tax credit under
1115 Section [59-7-624](#).

1116 Section 14. Section **59-7-619** is amended to read:

1117 **59-7-619. Nonrefundable high cost infrastructure development tax credit.**

1118 (1) As used in this section:

1119 (a) "High cost infrastructure project" means the same as that term is defined in Section
1120 [63M-4-602](#).

1121 (b) "Infrastructure cost-burdened entity" means the same as that term is defined in
1122 Section [63M-4-602](#).

1123 (c) "Infrastructure-related revenue" means the same as that term is defined in Section
1124 [63M-4-602](#).

1125 (d) "Office" means the Office of Energy Development created in Section [63M-4-401](#).

1126 (2) Subject to the other provisions of this section, a corporation that is an infrastructure
1127 cost-burdened entity may claim a nonrefundable tax credit for development of a high cost
1128 infrastructure project as provided in this section.

1129 (3) The tax credit under this section is the amount listed as the tax credit amount on a
1130 tax credit certificate that the office issues under Title 63M, Chapter 4, Part 6, High Cost
1131 Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the
1132 taxable year.

1133 (4) An infrastructure cost-burdened entity may carry forward a tax credit under this
1134 section for a period that does not exceed the next seven taxable years if:

1135 (a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this
1136 section for a taxable year; and

1137 (b) the amount of the tax credit exceeds the infrastructure cost-burdened entity's tax
1138 liability under this chapter for that taxable year.

1139 (5) (a) In accordance with Section [59-7-159](#), the Revenue and Taxation Interim
1140 Committee shall study the tax credit allowed by this section and make recommendations

1141 concerning whether the tax credit should be continued, modified, or repealed.

1142 (b) (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by
1143 this Subsection (5), the office shall provide the following information, if available to the office,
1144 to the Office of the Legislative Fiscal Analyst:

1145 (A) the amount of tax credit that the office grants to each infrastructure cost-burdened
1146 entity for each taxable year;

1147 (B) the infrastructure-related revenue generated by each high cost infrastructure
1148 project;

1149 (C) the information contained in the office's latest report under Section [~~63M-4-505~~]
1150 [63M-4-605](#); and

1151 (D) any other information that the Office of the Legislative Fiscal Analyst requests.

1152 (ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall
1153 redact information that identifies a recipient of a tax credit under this section.

1154 (B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting
1155 the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a
1156 tax credit, the office may file a request with the Revenue and Taxation Interim Committee to
1157 provide the information described in Subsection (5)(b)(i) in the aggregate for all infrastructure
1158 cost-burdened entities that receive the tax credit under this section.

1159 (c) As part of the study required by this Subsection (5), the Office of the Legislative
1160 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and
1161 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the
1162 office under Subsection (5)(b).

1163 (d) The Revenue and Taxation Interim Committee shall ensure that the
1164 recommendations described in Subsection (5)(a) include an evaluation of:

1165 (i) the cost of the tax credit to the state;

1166 (ii) the purpose and effectiveness of the tax credit; and

1167 (iii) the extent to which the state benefits from the tax credit.

1168 Section 15. Section **59-7-620** is amended to read:

1169 **59-7-620. Nonrefundable tax credit for contribution to state Achieving a Better**
1170 **Life Experience Program account.**

1171 (1) As used in this section:

1172 (a) "Account" means an account in a qualified ABLE program where the designated
1173 beneficiary of the account is a resident of this state.

1174 (b) "Contributor" means a corporation that:

1175 (i) makes a contribution to an account; and

1176 (ii) receives a statement from the qualified ABLE program itemizing the contribution.

1177 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.

1178 529A.

1179 (d) "Qualified ABLE program" means the same as that term is defined in Section

1180 [35A-12-102](#).

1181 (2) For a taxable year beginning on or after January 1, 2020, but beginning on or before
1182 December 31, 2020, a contributor to an account may claim a nonrefundable tax credit as
1183 provided in this section.

1184 (3) Subject to the other provisions of this section, the tax credit is equal to the product
1185 of:

1186 (a) ~~5%~~ the percentage listed in Subsection [59-7-104\(2\)](#); and

1187 (b) the total amount of contributions:

1188 (i) the contributor makes for the taxable year; and

1189 (ii) for which the contributor receives a statement from the qualified ABLE program
1190 itemizing the contributions.

1191 (4) A contributor may not claim a tax credit under this section:

1192 (a) for an amount of excess contribution to an account that is returned to the
1193 contributor; or

1194 (b) with respect to an amount the contributor deducts on a federal income tax return.

1195 (5) A tax credit under this section may not be carried forward or carried back.

1196 Section 16. Section **59-10-103** is amended to read:

1197 **59-10-103. Definitions.**

1198 (1) As used in this chapter:

1199 (a) (i) "Adjusted gross income":

1200 (A) for a resident or nonresident individual, means the same as that term is defined in
1201 Section 62, Internal Revenue Code; or

1202 (B) for a resident or nonresident estate or trust, is as calculated in Section 67(e),

1203 Internal Revenue Code.

1204 (ii) "Adjusted gross income" does not include:

1205 (A) income received from a loan forgiven in accordance with 15 U.S.C. Sec. 636(a)
1206 (36), to the extent that a deduction for the expenditures paid with the loan is disallowed, or a
1207 similar paycheck protection loan that is authorized by the federal government, provided in
1208 response to COVID-19, forgiven if the borrower meets the expenditure requirements, and
1209 exempt from federal income tax, to the extent that a deduction for the expenditures paid with
1210 the loan is disallowed; or

1211 (B) an amount that an individual receives in accordance with Section 6428, Internal
1212 Revenue Code, or an amount that an individual receives that is authorized by the federal
1213 government as a tax credit for the 2020 tax year, provided in response to COVID-19, paid in
1214 advance of the filing of the individual's 2020 federal income tax return, and exempt from
1215 federal income tax.

1216 (b) "Corporation" includes:

- 1217 (i) an association;
- 1218 (ii) a joint stock company; and
- 1219 (iii) an insurance company.

1220 (c) "COVID-19" means:

- 1221 (i) the severe acute respiratory syndrome coronavirus 2; or
- 1222 (ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

1223 (d) "Distributable net income" means the same as that term is defined in Section 643,
1224 Internal Revenue Code.

1225 (e) "Employee" means the same as that term is defined in Section 59-10-401.

1226 (f) "Employer" means the same as that term is defined in Section 59-10-401.

1227 (g) "Federal taxable income":

1228 (i) for a resident or nonresident individual, means taxable income as defined by Section
1229 63, Internal Revenue Code; or

1230 (ii) for a resident or nonresident estate or trust, is as calculated in Section 641(a) and
1231 (b), Internal Revenue Code.

1232 (h) "Fiduciary" means:

1233 (i) a guardian;

- 1234 (ii) a trustee;
- 1235 (iii) an executor;
- 1236 (iv) an administrator;
- 1237 (v) a receiver;
- 1238 (vi) a conservator; or
- 1239 (vii) any person acting in any fiduciary capacity for any individual.
- 1240 (i) "Guaranteed annuity interest" means the same as that term is defined in 26 C.F.R.
- 1241 Sec. 1.170A-6(c)(2).
- 1242 (j) "Homesteaded land diminished from the Uintah and Ouray Reservation" means the
- 1243 homesteaded land that was held to have been diminished from the Uintah and Ouray
- 1244 Reservation in *Hagen v. Utah*, 510 U.S. 399 (1994).
- 1245 (k) "Individual" means a natural person and includes aliens and minors.
- 1246 (l) "Irrevocable trust" means a trust in which the settlor may not revoke or terminate all
- 1247 or part of the trust without the consent of a person who has a substantial beneficial interest in
- 1248 the trust and the interest would be adversely affected by the exercise of the settlor's power to
- 1249 revoke or terminate all or part of the trust.
- 1250 (m) "Military service" means the same as that term is defined in Pub. L. No. 108-189,
- 1251 Sec. 101.
- 1252 (n) "Nonresident individual" means an individual who is not a resident of this state.
- 1253 (o) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a
- 1254 resident estate or trust.
- 1255 (p) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other
- 1256 unincorporated organization:
- 1257 (A) through or by means of which any business, financial operation, or venture is
- 1258 carried on; and
- 1259 (B) that is not, within the meaning of this chapter, a trust, an estate, or a corporation.
- 1260 (ii) "Partnership" does not include any organization not included under the definition of
- 1261 "partnership" in Section 761, Internal Revenue Code.
- 1262 (iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or
- 1263 organization described in Subsection (1)(p)(i).
- 1264 (q) "Pass-through entity" means the same as that term is defined in Section

1265 [59-10-1402.](#)

1266 (r) "Pass-through entity taxpayer" means the same as that term is defined in Section

1267 [59-10-1402.](#)

1268 [~~(q)~~] (s) "Qualified nongrantor charitable lead trust" means a trust:

1269 (i) that is irrevocable;

1270 (ii) that has a trust term measured by:

1271 (A) a fixed term of years; or

1272 (B) the life of a person living on the day on which the trust is created;

1273 (iii) under which:

1274 (A) a portion of the value of the trust assets is distributed during the trust term:

1275 (I) to an organization described in Section 170(c), Internal Revenue Code; and

1276 (II) as a guaranteed annuity interest or a unitrust interest; and

1277 (B) assets remaining in the trust at the termination of the trust term are distributed to a
1278 beneficiary:

1279 (I) designated in the trust; and

1280 (II) that is not an organization described in Section 170(c), Internal Revenue Code;

1281 (iv) for which the trust is allowed a deduction under Section 642(c), Internal Revenue
1282 Code; and

1283 (v) under which the grantor of the trust is not treated as the owner of any portion of the
1284 trust for federal income tax purposes.

1285 [~~(r)~~] (t) "Resident individual" means an individual who is domiciled in this state for
1286 any period of time during the taxable year, but only for the duration of the period during which
1287 the individual is domiciled in this state.

1288 [~~(s)~~] (u) "Resident estate" or "resident trust" means the same as that term is defined in
1289 Section [75-7-103](#).

1290 [~~(t)~~] (v) "Servicemember" means the same as that term is defined in Pub. L. No.
1291 108-189, Sec. 101.

1292 [~~(u)~~] (w) "State income tax percentage for a nonresident estate or trust" means a
1293 percentage equal to a nonresident estate's or trust's state taxable income for the taxable year
1294 divided by the nonresident estate's or trust's total adjusted gross income for that taxable year
1295 after making the adjustments required by:

1296 (i) Section 59-10-202;
1297 (ii) Section 59-10-207;
1298 (iii) Section 59-10-209.1; or
1299 (iv) Section 59-10-210.
1300 ~~(w)~~ (x) "State income tax percentage for a nonresident individual" means a percentage
1301 equal to a nonresident individual's state taxable income for the taxable year divided by the
1302 difference between:
1303 (i) subject to Section 59-10-1405, the nonresident individual's total adjusted gross
1304 income for that taxable year, after making the:
1305 (A) additions and subtractions required by Section 59-10-114; and
1306 (B) adjustments required by Section 59-10-115; and
1307 (ii) if the nonresident individual described in Subsection (1)~~(w)~~(x)(i) is a
1308 servicemember, the compensation the servicemember receives for military service if the
1309 servicemember is serving in compliance with military orders.
1310 ~~(w)~~ (y) "State income tax percentage for a part-year resident individual" means, for a
1311 taxable year, a fraction:
1312 (i) the numerator of which is the sum of:
1313 (A) subject to Section 59-10-1404.5, for the time period during the taxable year that the
1314 part-year resident individual is a resident, the part-year resident individual's total adjusted gross
1315 income for that time period, after making the:
1316 (I) additions and subtractions required by Section 59-10-114; and
1317 (II) adjustments required by Section 59-10-115; and
1318 (B) for the time period during the taxable year that the part-year resident individual is a
1319 nonresident, an amount calculated by:
1320 (I) determining the part-year resident individual's adjusted gross income for that time
1321 period, after making the:
1322 (Aa) additions and subtractions required by Section 59-10-114; and
1323 (Bb) adjustments required by Section 59-10-115; and
1324 (II) calculating the portion of the amount determined under Subsection
1325 (1)~~(w)~~(y)(i)(B)(I) that is derived from Utah sources in accordance with Section 59-10-117;
1326 and

- 1327 (ii) the denominator of which is the difference between:
- 1328 (A) the part-year resident individual's total adjusted gross income for that taxable year,
- 1329 after making the:
- 1330 (I) additions and subtractions required by Section 59-10-114; and
- 1331 (II) adjustments required by Section 59-10-115; and
- 1332 (B) if the part-year resident individual is a servicemember, any compensation the
- 1333 servicemember receives for military service during the portion of the taxable year that the
- 1334 servicemember is a nonresident if the servicemember is serving in compliance with military
- 1335 orders.
- 1336 ~~[(x)]~~ (z) "Taxable income" or "state taxable income":
- 1337 (i) subject to Section 59-10-1404.5, for a resident individual, means the resident
- 1338 individual's adjusted gross income after making the:
- 1339 (A) additions and subtractions required by Section 59-10-114; and
- 1340 (B) adjustments required by Section 59-10-115;
- 1341 (ii) for a nonresident individual, is an amount calculated by:
- 1342 (A) determining the nonresident individual's adjusted gross income for the taxable
- 1343 year, after making the:
- 1344 (I) additions and subtractions required by Section 59-10-114; and
- 1345 (II) adjustments required by Section 59-10-115; and
- 1346 (B) calculating the portion of the amount determined under Subsection
- 1347 (1)~~[(x)]~~(z)(ii)(A) that is derived from Utah sources in accordance with Section 59-10-117;
- 1348 (iii) for a resident estate or trust, is as calculated under Section 59-10-201.1; and
- 1349 (iv) for a nonresident estate or trust, is as calculated under Section 59-10-204.
- 1350 ~~[(y)]~~ (aa) "Taxpayer" means any ~~[individual, estate, trust, or beneficiary of an estate or~~
- 1351 ~~trust,]~~ of the following that has income subject in whole or part to the tax imposed by this
- 1352 chapter[-:];
- 1353 (i) an individual;
- 1354 (ii) an estate, a trust, or a beneficiary of an estate or a trust that is not a pass-through
- 1355 entity or a pass-through entity taxpayer;
- 1356 (iii) a pass-through entity; or
- 1357 (iv) a pass-through entity taxpayer.

1358 ~~[(z)]~~ (bb) "Trust term" means a time period:
1359 (i) beginning on the day on which a qualified nongrantor charitable lead trust is
1360 created; and
1361 (ii) ending on the day on which the qualified nongrantor charitable lead trust described
1362 in Subsection (1)~~[(z)]~~(bb)(i) terminates.
1363 ~~[(aa)]~~ (cc) "Uintah and Ouray Reservation" means the lands recognized as being
1364 included within the Uintah and Ouray Reservation in:
1365 (i) Hagen v. Utah, 510 U.S. 399 (1994); and
1366 (ii) Ute Indian Tribe v. Utah, 114 F.3d 1513 (10th Cir. 1997).
1367 ~~[(bb)]~~ (dd) "Unadjusted income" means an amount equal to the difference between:
1368 (i) the total income required to be reported by a resident or nonresident estate or trust
1369 on the resident or nonresident estate's or trust's federal income tax return for estates and trusts
1370 for the taxable year; and
1371 (ii) the sum of the following:
1372 (A) fees paid or incurred to the fiduciary of a resident or nonresident estate or trust:
1373 (I) for administering the resident or nonresident estate or trust; and
1374 (II) that the resident or nonresident estate or trust deducts as allowed on the resident or
1375 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable
1376 year;
1377 (B) the income distribution deduction that a resident or nonresident estate or trust
1378 deducts under Section 651 or 661, Internal Revenue Code, as allowed on the resident or
1379 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable
1380 year;
1381 (C) the amount that a resident or nonresident estate or trust deducts as a deduction for
1382 estate tax or generation skipping transfer tax under Section 691(c), Internal Revenue Code, as
1383 allowed on the resident or nonresident estate's or trust's federal income tax return for estates
1384 and trusts for the taxable year; and
1385 (D) the amount that a resident or nonresident estate or trust deducts as a personal
1386 exemption under Section 642(b), Internal Revenue Code, as allowed on the resident or
1387 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable
1388 year.

1389 [~~ee~~] (ee) "Unitrust interest" means the same as that term is defined in 26 C.F.R. Sec.
1390 1.170A-6(c)(2).

1391 [~~dd~~] (ff) "Ute tribal member" means an individual who is enrolled as a member of the
1392 Ute Indian Tribe of the Uintah and Ouray Reservation.

1393 [~~ee~~] (gg) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray
1394 Reservation.

1395 [~~ff~~] (hh) "Wages" means the same as that term is defined in Section [59-10-401](#).

1396 (2) (a) Any term used in this chapter has the same meaning as when used in
1397 comparable context in the laws of the United States relating to federal income taxes unless a
1398 different meaning is clearly required.

1399 (b) Any reference to the Internal Revenue Code or to the laws of the United States shall
1400 mean the Internal Revenue Code or other provisions of the laws of the United States relating to
1401 federal income taxes that are in effect for the taxable year.

1402 (c) Any reference to a specific section of the Internal Revenue Code or other provision
1403 of the laws of the United States relating to federal income taxes shall include any
1404 corresponding or comparable provisions of the Internal Revenue Code as amended,
1405 redesignated, or reenacted.

1406 Section 17. Section **59-10-114** is amended to read:

1407 **59-10-114. Additions to and subtractions from adjusted gross income of an**
1408 **individual.**

1409 (1) There shall be added to adjusted gross income of a resident or nonresident
1410 individual:

1411 (a) a lump sum distribution that the taxpayer does not include in adjusted gross income
1412 on the taxpayer's federal individual income tax return for the taxable year;

1413 (b) the amount of a child's income calculated under Subsection (4) that:

1414 (i) a parent elects to report on the parent's federal individual income tax return for the
1415 taxable year; and

1416 (ii) the parent does not include in adjusted gross income on the parent's federal
1417 individual income tax return for the taxable year;

1418 (c) (i) a withdrawal from a medical care savings account and any penalty imposed for
1419 the taxable year if:

- 1420 (A) the resident or nonresident individual does not deduct the amounts on the resident
1421 or nonresident individual's federal individual income tax return under Section 220, Internal
1422 Revenue Code;
- 1423 (B) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and
- 1424 (C) the withdrawal is subtracted on, or used as the basis for claiming a tax credit on, a
1425 return the resident or nonresident individual files under this chapter;
- 1426 (ii) a disbursement required to be added to adjusted gross income in accordance with
1427 Subsection 31A-32a-105(3); or
- 1428 (iii) an amount required to be added to adjusted gross income in accordance with
1429 Subsection 31A-32a-105(5)(c);
- 1430 (d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan,
1431 from the account of a resident or nonresident individual who is an account owner as defined in
1432 Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount
1433 withdrawn from the account of the resident or nonresident individual who is the account
1434 owner:
- 1435 (i) is not expended for:
- 1436 (A) higher education costs as defined in Section 53B-8a-102.5; or
- 1437 (B) a payment or distribution that qualifies as an exception to the additional tax for
1438 distributions not used for educational expenses provided in Sections 529(c) and 530(d),
1439 Internal Revenue Code; and
- 1440 (ii) is:
- 1441 (A) subtracted by the resident or nonresident individual:
- 1442 (I) who is the account owner; and
- 1443 (II) on the resident or nonresident individual's return filed under this chapter for a
1444 taxable year beginning on or before December 31, 2007; or
- 1445 (B) used as the basis for the resident or nonresident individual who is the account
1446 owner to claim a tax credit under Section 59-10-1017;
- 1447 (e) except as provided in Subsection (5), for bonds, notes, and other evidences of
1448 indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other
1449 evidences of indebtedness:
- 1450 (i) issued by one or more of the following entities:

- 1451 (A) a state other than this state;
- 1452 (B) the District of Columbia;
- 1453 (C) a political subdivision of a state other than this state; or
- 1454 (D) an agency or instrumentality of an entity described in Subsections (1)(e)(i)(A)
- 1455 through (C); and
- 1456 (ii) to the extent the interest is not included in adjusted gross income on the taxpayer's
- 1457 federal income tax return for the taxable year;
- 1458 (f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a
- 1459 resident trust of income that was taxed at the trust level for federal tax purposes, but was
- 1460 subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);
- 1461 (g) any distribution received by a resident beneficiary of a nonresident trust of
- 1462 undistributed distributable net income realized by the trust on or after January 1, 2004, if that
- 1463 undistributed distributable net income was taxed at the trust level for federal tax purposes, but
- 1464 was not taxed at the trust level by any state, with undistributed distributable net income
- 1465 considered to be distributed from the most recently accumulated undistributed distributable net
- 1466 income; and
- 1467 (h) any adoption expense:
- 1468 (i) for which a resident or nonresident individual receives reimbursement from another
- 1469 person; and
- 1470 (ii) to the extent to which the resident or nonresident individual subtracts that adoption
- 1471 expense:
- 1472 (A) on a return filed under this chapter for a taxable year beginning on or before
- 1473 December 31, 2007; or
- 1474 (B) from federal taxable income on a federal individual income tax return.
- 1475 (2) There shall be subtracted from adjusted gross income of a resident or nonresident
- 1476 individual:
- 1477 (a) the difference between:
- 1478 (i) the interest or a dividend on an obligation or security of the United States or an
- 1479 authority, commission, instrumentality, or possession of the United States, to the extent that
- 1480 interest or dividend is:
- 1481 (A) included in adjusted gross income for federal income tax purposes for the taxable

1482 year; and

1483 (B) exempt from state income taxes under the laws of the United States; and

1484 (ii) any interest on indebtedness incurred or continued to purchase or carry the

1485 obligation or security described in Subsection (2)(a)(i);

1486 (b) [~~for taxable years beginning on or after January 1, 2000;~~] if the conditions of

1487 Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:

1488 (i) during a time period that the Ute tribal member resides on homesteaded land

1489 diminished from the Uintah and Ouray Reservation; and

1490 (ii) from a source within the Uintah and Ouray Reservation;

1491 (c) an amount received by a resident or nonresident individual or distribution received

1492 by a resident or nonresident beneficiary of a resident trust:

1493 (i) if that amount or distribution constitutes a refund of taxes imposed by:

1494 (A) a state; or

1495 (B) the District of Columbia; and

1496 (ii) to the extent that amount or distribution is included in adjusted gross income for

1497 that taxable year on the federal individual income tax return of the resident or nonresident

1498 individual or resident or nonresident beneficiary of a resident trust;

1499 (d) the amount of a railroad retirement benefit:

1500 (i) paid:

1501 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et

1502 seq.;

1503 (B) to a resident or nonresident individual; and

1504 (C) for the taxable year; and

1505 (ii) to the extent that railroad retirement benefit is included in adjusted gross income on

1506 that resident or nonresident individual's federal individual income tax return for that taxable

1507 year;

1508 (e) an amount:

1509 (i) received by an enrolled member of an American Indian tribe; and

1510 (ii) to the extent that the state is not authorized or permitted to impose a tax under this

1511 part on that amount in accordance with:

1512 (A) federal law;

- 1513 (B) a treaty; or
- 1514 (C) a final decision issued by a court of competent jurisdiction;
- 1515 (f) an amount received:
- 1516 (i) for the interest on a bond, note, or other obligation issued by an entity for which
- 1517 state statute provides an exemption of interest on its bonds from state individual income tax;
- 1518 (ii) by a resident or nonresident individual;
- 1519 (iii) for the taxable year; and
- 1520 (iv) to the extent the amount is included in adjusted gross income on the taxpayer's
- 1521 federal income tax return for the taxable year;
- 1522 (g) the amount of all income, including income apportioned to another state, of a
- 1523 nonmilitary spouse of an active duty military member if:
- 1524 (i) both the nonmilitary spouse and the active duty military member are nonresident
- 1525 individuals;
- 1526 (ii) the active duty military member is stationed in Utah;
- 1527 (iii) the nonmilitary spouse is subject to the residency provisions of 50 U.S.C. Sec.
- 1528 4001(a)(2); and
- 1529 (iv) the income is included in adjusted gross income for federal income tax purposes
- 1530 for the taxable year;
- 1531 (h) for a taxable year beginning on or after January 1, 2019, but beginning on or before
- 1532 December 31, 2019, only:
- 1533 (i) the amount of any FDIC premium paid or incurred by the taxpayer that is
- 1534 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal
- 1535 Revenue Code, on the taxpayer's 2018 federal income tax return; plus
- 1536 (ii) the amount of any FDIC premium paid or incurred by the taxpayer that is
- 1537 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal
- 1538 Revenue Code, for the taxable year;
- 1539 (i) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC
- 1540 premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income
- 1541 tax purposes under Section 162(r), Internal Revenue Code, for the taxable year; ~~and~~
- 1542 (j) for a taxable year beginning on or after January 1, 2020, but beginning on or before
- 1543 December 31, 2020, the amount:

- 1544 (i) of a paycheck protection loan similar to a loan forgiven in accordance with 15
1545 U.S.C. Sec. 636(a)(36) that is:
- 1546 (A) authorized by the federal government;
 - 1547 (B) provided in response to COVID-19;
 - 1548 (C) forgiven if the borrower meets the expenditure requirements; and
 - 1549 (D) subject to federal income tax, to the extent that a deduction for the expenditures
1550 paid with the loan is disallowed;
- 1551 (ii) that a resident or a nonresident individual receives that is:
- 1552 (A) authorized by the federal government as a tax credit for the 2020 tax year;
 - 1553 (B) provided in response to COVID-19;
 - 1554 (C) paid in advance of the filing of the individual's 2020 federal income tax return; and
 - 1555 (D) subject to federal income tax; and
- 1556 (iii) of any grant funds or forgiven loans that:
- 1557 (A) the resident or nonresident individual receives from the state, a county within the
1558 state, or a municipality within the state in response to COVID-19;
 - 1559 (B) are funded by using federal revenue received by the state, the county, or the
1560 municipality to respond to COVID-19; and
 - 1561 (C) are included in adjusted gross income[-]; and
 - 1562 (k) an amount of a distribution from a qualified retirement plan under Section 401(a),
1563 Internal Revenue Code, if:
 - 1564 (i) the amount of the distribution is included in adjusted gross income on the resident
1565 or nonresident individual's federal individual income tax return for the taxable year; and
 - 1566 (ii) for the taxable year when the amount of the distribution was contributed to the
1567 qualified retirement plan, the amount of the distribution:
 - 1568 (A) was not included in adjusted gross income on the resident or nonresident
1569 individual's federal individual income tax return for the taxable year; and
 - 1570 (B) was taxed by another state of the United States, the District of Columbia, or a
1571 possession of the United States.
- 1572 (3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:
 - 1573 (i) the taxpayer is a Ute tribal member; and
 - 1574 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the

1575 requirements of this Subsection (3).

1576 (b) The agreement described in Subsection (3)(a):

1577 (i) may not:

1578 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

1579 (B) provide a subtraction under this section greater than or different from the

1580 subtraction described in Subsection (2)(b); or

1581 (C) affect the power of the state to establish rates of taxation; and

1582 (ii) shall:

1583 (A) provide for the implementation of the subtraction described in Subsection (2)(b);

1584 (B) be in writing;

1585 (C) be signed by:

1586 (I) the governor; and

1587 (II) the chair of the Business Committee of the Ute tribe;

1588 (D) be conditioned on obtaining any approval required by federal law; and

1589 (E) state the effective date of the agreement.

1590 (c) (i) The governor shall report to the commission by no later than February 1 of each

1591 year regarding whether or not an agreement meeting the requirements of this Subsection (3) is

1592 in effect.

1593 (ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the

1594 subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or

1595 after the January 1 following the termination of the agreement.

1596 (d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3,

1597 Utah Administrative Rulemaking Act, the commission may make rules:

1598 (i) for determining whether income is derived from a source within the Uintah and

1599 Ouray Reservation; and

1600 (ii) that are substantially similar to how adjusted gross income derived from Utah

1601 sources is determined under Section [59-10-117](#).

1602 (4) (a) For purposes of this Subsection (4), "Form 8814" means:

1603 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's

1604 Interest and Dividends; or

1605 (ii) (A) a form designated by the commission in accordance with Subsection

1606 (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal
1607 individual income taxes the information contained on 2000 Form 8814 is reported on a form
1608 other than Form 8814; and

1609 (B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter
1610 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as
1611 being substantially similar to 2000 Form 8814 if for purposes of federal individual income
1612 taxes the information contained on 2000 Form 8814 is reported on a form other than Form
1613 8814.

1614 (b) The amount of a child's income added to adjusted gross income under Subsection
1615 (1)(b) is equal to the difference between:

1616 (i) the lesser of:

1617 (A) the base amount specified on Form 8814; and

1618 (B) the sum of the following reported on Form 8814:

1619 (I) the child's taxable interest;

1620 (II) the child's ordinary dividends; and

1621 (III) the child's capital gain distributions; and

1622 (ii) the amount not taxed that is specified on Form 8814.

1623 (5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences
1624 of indebtedness issued by an entity described in Subsections (1)(e)(i)(A) through (D) may not
1625 be added to adjusted gross income of a resident or nonresident individual if, as annually
1626 determined by the commission:

1627 (a) for an entity described in Subsection (1)(e)(i)(A) or (B), the entity and all of the
1628 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on
1629 income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

1630 (b) for an entity described in Subsection (1)(e)(i)(C) or (D), the following do not
1631 impose a tax based on income on any part of the bonds, notes, and other evidences of
1632 indebtedness of this state:

1633 (i) the entity; or

1634 (ii) (A) the state in which the entity is located; or

1635 (B) the District of Columbia, if the entity is located within the District of Columbia.

1636 Section 18. Section **59-10-137** is amended to read:

1637 **59-10-137. Review of credits allowed under this chapter.**

1638 (1) As used in this section, "committee" means the Revenue and Taxation Interim
1639 Committee.

1640 (2) (a) The committee shall review the tax credits described in this chapter as provided
1641 in Subsection (3) and make recommendations concerning whether the tax credits should be
1642 continued, modified, or repealed.

1643 (b) In conducting the review required under Subsection (2)(a), the committee shall:

1644 (i) schedule time on at least one committee agenda to conduct the review;

1645 (ii) invite state agencies, individuals, and organizations concerned with the tax credit
1646 under review to provide testimony;

1647 (iii) (A) invite the Governor's Office of Economic Development to present a summary
1648 and analysis of the information for each tax credit regarding which the Governor's Office of
1649 Economic Development is required to make a report under this chapter; and

1650 (B) invite the Office of the Legislative Fiscal Analyst to present a summary and
1651 analysis of the information for each tax credit regarding which the Office of the Legislative
1652 Fiscal Analyst is required to make a report under this chapter;

1653 (iv) ensure that the committee's recommendations described in this section include an
1654 evaluation of:

1655 (A) the cost of the tax credit to the state;

1656 (B) the purpose and effectiveness of the tax credit; and

1657 (C) the extent to which the state benefits from the tax credit; and

1658 (v) undertake other review efforts as determined by the committee chairs or as
1659 otherwise required by law.

1660 (3) (a) On or before November 30, 2017, and every three years after 2017, the
1661 committee shall conduct the review required under Subsection (2) of the tax credits allowed
1662 under the following sections:

1663 (i) Section 59-10-1004;

1664 (ii) Section 59-10-1010;

1665 (iii) Section 59-10-1015;

1666 (iv) Section 59-10-1025;

1667 (v) Section 59-10-1027;

- 1668 (vi) Section 59-10-1031;
- 1669 (vii) Section 59-10-1032;
- 1670 (viii) Section 59-10-1035;
- 1671 (ix) Section 59-10-1104;
- 1672 (x) Section 59-10-1105; and
- 1673 (xi) Section 59-10-1108.

1674 (b) On or before November 30, 2018, and every three years after 2018, the committee
1675 shall conduct the review required under Subsection (2) of the tax credits allowed under the
1676 following sections:

- 1677 (i) Section 59-10-1005;
- 1678 (ii) Section 59-10-1006;
- 1679 (iii) Section 59-10-1012;
- 1680 (iv) Section 59-10-1022;
- 1681 (v) Section 59-10-1023;
- 1682 (vi) Section 59-10-1028;
- 1683 (vii) Section 59-10-1034;
- 1684 (viii) Section 59-10-1037;
- 1685 (ix) Section 59-10-1107; and
- 1686 (x) Section 59-10-1112.

1687 (c) On or before November 30, 2019, and every three years after 2019, the committee
1688 shall conduct the review required under Subsection (2) of the tax credits allowed under the
1689 following sections:

- 1690 (i) Section 59-10-1007;
- 1691 (ii) Section 59-10-1014;
- 1692 (iii) Section 59-10-1017;
- 1693 (iv) Section 59-10-1018;
- 1694 (v) Section 59-10-1019;
- 1695 (vi) Section 59-10-1024;
- 1696 (vii) Section 59-10-1029;
- 1697 [~~(viii) Section 59-10-1033;~~]
- 1698 [~~(ix)~~] (viii) Section 59-10-1036;

1699 [~~(x)~~] (ix) Section 59-10-1106; and

1700 [~~(xi)~~] (x) Section 59-10-1111.

1701 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall
1702 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,
1703 2017.

1704 (ii) The committee shall complete a review described in this Subsection (3)(d) three
1705 years after the effective date of the tax credit and every three years after the initial review date.

1706 Section 19. Section 59-10-507 is amended to read:

1707 **59-10-507. Return by a pass-through entity.**

1708 [~~(1)~~ As used in this section:]

1709 [~~(a)~~ "Pass-through entity" is as defined in Section 59-10-1402.]

1710 [~~(b)~~ "Taxable"] (1) As used in this section, "taxable year" means a year or other time
1711 period that would be a taxable year of a pass-through entity if the pass-through entity were
1712 subject to taxation under this chapter.

1713 (2) A pass-through entity having any income derived from or connected with Utah
1714 sources shall make a return for the taxable year in accordance with Section 59-10-514.

1715 Section 20. Section 59-10-514 is amended to read:

1716 **59-10-514. Return filing requirements -- Rulemaking authority.**

1717 (1) (a) Subject to Subsection (3) and Section 59-10-518:

1718 [~~(a)~~] (i) an individual income tax return filed for a tax imposed in accordance with Part
1719 1, Determination and Reporting of Tax Liability and Information, shall be filed with the
1720 commission on or before the day on which a federal individual income tax return is due [~~under~~
1721 ~~the Internal Revenue Code~~];

1722 [~~(b)~~] (ii) a fiduciary income tax return filed for a tax imposed in accordance with Part
1723 2, Trusts and Estates, shall be filed with the commission on or before the day on which a
1724 federal return for estates and trusts is due [~~under the Internal Revenue Code~~]; or

1725 [~~(c)~~] (iii) a return filed in accordance with Section 59-10-507 shall be filed with the
1726 commission on or before the later of:

1727 (A) the 15th day of the fourth month following the last day of the taxpayer's taxable
1728 year[:]; or

1729 (B) the day on which the taxpayer is required to file a federal income tax return.

- 1730 (b) Interest accrues from the day on which a return is due under this Subsection (1).
- 1731 (2) A person required to make and file a return under this chapter shall, without
1732 assessment, notice, or demand, pay any tax due:
- 1733 (a) to the commission; and
- 1734 (b) before the due date for filing the return, without regard to any extension of time for
1735 filing the return.
- 1736 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1737 commission may make rules prescribing what constitutes filing a return with the commission.
- 1738 Section 21. Section **59-10-516** is amended to read:
- 1739 **59-10-516. Filing extension -- Payment of tax -- Penalty -- Foreign residency.**
- 1740 (1) (a) The commission shall allow a taxpayer an extension of time for filing a return.
- 1741 (b) Except as provided in Subsection (1)(c):
- 1742 (i) ~~[For]~~ for a return filed by a taxpayer except for a partnership, the extension ~~[under]~~
1743 described in Subsection (1)(a) may ~~[not exceed]~~ be up to six months[-]; and
- 1744 (ii) ~~[For]~~ for a return filed by a partnership, the extension ~~[under]~~ described in
1745 Subsection (1)(a) may ~~[not exceed]~~ be up to five months.
- 1746 ~~[(2) (a) Except as provided in Subsection (2)(b), the commission may not impose on a~~
1747 ~~taxpayer during the extension period prescribed under Subsection (1) a penalty under Section~~
1748 ~~59-1-401 if the taxpayer pays, on or before the 15th day of the fourth month following the close~~
1749 ~~of the taxpayer's taxable year, the lesser of:]~~
- 1750 (c) For a taxable year beginning on or after January 1, 2019, but beginning on or before
1751 December 31, 2019, a taxpayer may receive an extension described in Subsection (1)(a) for the
1752 time period that ends on the last day of the extension to file the taxpayer's federal income tax
1753 return.
- 1754 (2) The commission may not impose a penalty under Section [59-1-401](#) during the
1755 extension period described in Subsection (1) on:
- 1756 (a) a pass-through entity, if the pass-through entity, on or before the return due date
1757 described in Section [59-10-514](#), pays or withholds the tax on behalf of a pass-through entity
1758 taxpayer; or
- 1759 (b) a taxpayer other than a taxpayer described in Subsection (2)(a), if the taxpayer pays,
1760 on or before the return due date described in Section [59-10-514](#), an amount equal to the lesser

1761 of:

1762 (i) 90% of the total tax reported on the return for the current taxable year; or

1763 (ii) 100% of the total tax liability for the taxable year immediately preceding the current
1764 taxable year.

1765 ~~[(b)]~~ (3) If a taxpayer fails to meet the requirements of Subsection (2)~~[(a)]~~, the
1766 commission may apply to the total balance due a penalty as provided in Section 59-1-401.

1767 ~~[(3)]~~ (4) If a federal income tax return filing is lawfully delayed pending a
1768 determination of qualification for a federal tax exemption due to residency outside of the
1769 United States, a taxpayer shall file a return within 30 days after that determination is made.

1770 Section 22. Section 59-10-522 is amended to read:

1771 **59-10-522. Extension of time for paying tax.**

1772 (1) (a) For a taxable year beginning on or after January 1, 2019, but beginning on or
1773 before December 31, 2019, a taxpayer shall receive an extension of time for the payment of the
1774 amount determined as the tax of the taxpayer, or any part of that amount, for the time period
1775 that ends on the last day of the extension to pay the taxpayer's federal income tax.

1776 ~~[(1) The]~~ (b) (i) For a taxable year beginning on or after January 1, 2020, the
1777 commission, except as otherwise provided by this chapter, may extend the time for payment of
1778 the amount shown, or required to be shown, on any return required under authority of this
1779 chapter (or any installment thereof), for a reasonable period not to exceed six months from the
1780 date fixed for payment thereof.

1781 (ii) ~~[Such]~~ The extension may exceed six months in the cases of taxpayers who are
1782 outside the states of the union and the District of Columbia.

1783 (2) (a) Under rules prescribed by the commission, the time for payment of the amount
1784 determined as a deficiency may be extended for a period not to exceed 18 months from the date
1785 fixed for payment of the deficiency, and, in exceptional cases, for a further period not to exceed
1786 12 months.

1787 (b) An extension under this subsection may be granted only where it is shown to the
1788 satisfaction of the commission that the payment of a deficiency upon the date fixed for the
1789 payment thereof will result in undue hardship to the taxpayer.

1790 (c) No extension may be granted if the deficiency is due to negligence, to intentional
1791 disregard of rules, or to fraud with intent to evade tax.

1792 (3) [~~Extensions~~] An extension of time for payment of any portion of a claim for an
1793 unpaid tax under this chapter, allowed in bankruptcy or receivership proceedings, [~~which is~~
1794 ~~unpaid,~~] may be had in the same manner and subject to the same provisions and limitations as
1795 provided in Subsection (2) [~~in respect of a deficiency in tax~~].

1796 Section 23. Section **59-10-1007** is amended to read:

1797 **59-10-1007. Recycling market development zones tax credits.**

1798 (1) Subject to other provisions of this section, a claimant, estate, or trust in a recycling
1799 market development zone as defined in Section **19-13-102** may claim the following
1800 nonrefundable tax credits:

1801 (a) a tax credit [~~of 5% of~~] equal to the product of the percentage listed in Subsection
1802 59-10-104(2) and the purchase price paid for machinery and equipment used directly in:

1803 (i) commercial composting; or

1804 (ii) manufacturing facilities or plant units that:

1805 (A) manufacture, process, compound, or produce recycled items of tangible personal
1806 property for sale; or

1807 (B) reduce or reuse postconsumer waste material; and

1808 (b) a tax credit equal to the lesser of:

1809 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test
1810 inventory, and utilities made by the claimant, estate, or trust for establishing and operating
1811 recycling or composting technology in the state; and

1812 (ii) \$2,000.

1813 (2) (a) To claim a tax credit described in Subsection (1), the claimant, estate, or trust
1814 shall receive from the Department of Environmental Quality a written certification, on a form
1815 approved by the commission, that includes:

1816 (i) a statement that the claimant, estate, or trust is operating within the boundaries of a
1817 recycling market development zone;

1818 (ii) for a claim of the tax credit described in Subsection (1)(a):

1819 (A) the type of the machinery and equipment that the claimant, estate, or trust
1820 purchased;

1821 (B) the date that the claimant, estate, or trust purchased the machinery and equipment;

1822 (C) the purchase price for the machinery and equipment;

1823 (D) the total purchase price for all machinery and equipment for which the claimant,
1824 estate, or trust is claiming a tax credit;

1825 (E) the amount of the claimant's, estate's, or trust's tax credit; and

1826 (F) a statement that the machinery and equipment are integral to the composting or
1827 recycling process; and

1828 (iii) for a claim of the tax credit described in Subsection (1)(b):

1829 (A) the type of net expenditure that the claimant, estate, or trust made to a third party;

1830 (B) the date that the claimant, estate, or trust made the payment to a third party;

1831 (C) the amount that the claimant, estate, or trust paid to each third party;

1832 (D) the total amount that the claimant, estate, or trust paid to all third parties;

1833 (E) a statement that the net expenditures support the establishment and operation of
1834 recycling or composting technology in the state; and

1835 (F) the amount of the claimant's, estate's, or trust's tax credit.

1836 (b) (i) The Department of Environmental Quality shall provide a claimant, estate, or
1837 trust seeking to claim a tax credit under Subsection (1) with a copy of the written certification.

1838 (ii) The claimant, estate, or trust shall retain a copy of the written certification for the
1839 same period of time that a person is required to keep books and records under Section
1840 [59-1-1406](#).

1841 (c) The Department of Environmental Quality shall submit to the commission an
1842 electronic list that includes:

1843 (i) the name and identifying information of each claimant, estate, or trust to which the
1844 Department of Environmental Quality issues a written certification; and

1845 (ii) for each claimant, estate, or trust, the amount of each tax credit listed on the written
1846 certification.

1847 (3) A claimant, estate, or trust may not claim a tax credit under Subsection (1)(a),
1848 Subsection (1)(b), or both that exceeds 40% of the claimant's, estate's, or trust's state income
1849 tax liability as the tax liability is calculated:

1850 (a) for the taxable year in which the claimant, estate, or trust made the purchases or
1851 payments;

1852 (b) before any other tax credits the claimant, estate, or trust may claim for the taxable
1853 year; and

1854 (c) before the claimant, estate, or trust claims a tax credit authorized by this section.

1855 (4) The commission shall make rules governing what information a claimant, estate, or
1856 trust shall file with the commission to verify the entitlement to and amount of a tax credit.

1857 (5) Except as provided in Subsections (6) through (8), a claimant, estate, or trust may
1858 carry forward, to the next three taxable years, the amount of a tax credit described in
1859 Subsection (1)(a) that the claimant, estate, or trust does not use for the taxable year.

1860 (6) A claimant, estate, or trust may not claim or carry forward a tax credit described in
1861 Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries
1862 forward a tax credit under Section [63N-2-213](#).

1863 (7) A claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b)
1864 in a taxable year during which the claimant, estate, or trust claims or carries forward a tax
1865 credit under Section [63N-2-213](#).

1866 (8) A claimant, estate, or trust may not claim or carry forward a tax credit under this
1867 section for a taxable year during which the claimant, estate, or trust claims the targeted
1868 business income tax credit under Section [59-10-1112](#).

1869 Section 24. Section **59-10-1017** is amended to read:

1870 **59-10-1017. Utah Educational Savings Plan tax credit.**

1871 (1) As used in this section:

1872 (a) "Account owner" means the same as that term is defined in Section [53B-8a-102](#).

1873 (b) "Grantor trust" means the same as that term is defined in Section [53B-8a-102.5](#).

1874 (c) "Higher education costs" means the same as that term is defined in Section
1875 [53B-8a-102.5](#).

1876 (d) "Maximum amount of a qualified investment for the taxable year" means, for a
1877 taxable year, the product of [~~5%~~] the percentage listed in Subsection [59-10-104\(2\)](#) and:

1878 (i) subject to Subsection (1)(d)(iii), for a claimant, estate, or trust that is an account
1879 owner, if that claimant, estate, or trust is other than husband and wife account owners who file
1880 a single return jointly, the maximum amount of a qualified investment:

1881 (A) listed in Subsection [53B-8a-106\(1\)\(e\)\(ii\)](#); and

1882 (B) increased or kept for that taxable year in accordance with Subsections
1883 [53B-8a-106\(1\)\(f\)](#) and (g);

1884 (ii) subject to Subsection (1)(d)(iii), for claimants who are husband and wife account

1885 owners who file a single return jointly, the maximum amount of a qualified investment:

1886 (A) listed in Subsection [53B-8a-106\(1\)\(e\)\(iii\)](#); and

1887 (B) increased or kept for that taxable year in accordance with Subsections

1888 [53B-8a-106\(1\)\(f\)](#) and (g); or

1889 (iii) for a grantor trust:

1890 (A) if the owner of the grantor trust has a single filing status or head of household

1891 filing status as defined in Section [59-10-1018](#), the amount described in Subsection (1)(d)(i); or

1892 (B) if the owner of the grantor trust has a joint filing status as defined in Section

1893 [59-10-1018](#), the amount described in Subsection (1)(d)(ii).

1894 (e) "Owner of the grantor trust" means the same as that term is defined in Section

1895 [53B-8a-102.5](#).

1896 (f) "Qualified investment" means the same as that term is defined in Section

1897 [53B-8a-102.5](#).

1898 (2) Except as provided in Section [59-10-1002.2](#) and subject to the other provisions of

1899 this section, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax

1900 credit equal to the product of:

1901 (a) the amount of a qualified investment made:

1902 (i) during the taxable year; and

1903 (ii) into an account owned by the claimant, estate, or trust; and

1904 [~~(b) 5%.~~]

1905 (b) the percentage listed in Subsection [59-10-104\(2\)](#).

1906 (3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may

1907 make a qualified investment described in Subsection (2).

1908 (4) A claimant, estate, or trust that is an account owner may not claim a tax credit

1909 under this section with respect to any portion of a qualified investment described in Subsection

1910 (2) that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal

1911 income tax return.

1912 (5) A tax credit under this section may not exceed the maximum amount of a qualified

1913 investment for the taxable year.

1914 (6) A claimant, estate, or trust that is an account owner may not carry forward or carry

1915 back the tax credit under this section.

1916 (7) A claimant, estate, or trust may claim a tax credit under this section in addition to
1917 the tax credit described in Section [59-10-1017.1](#).

1918 Section 25. Section **59-10-1017.1** is amended to read:

1919 **59-10-1017.1. Student Prosperity Savings Program tax credit.**

1920 (1) As used in this section, "qualified donation" means an amount donated, in
1921 accordance with Section [53B-8a-203](#), to the Student Prosperity Savings Program created in
1922 Section [53B-8a-202](#).

1923 (2) A claimant, estate, or trust may claim a nonrefundable tax credit for a qualified
1924 donation.

1925 (3) The tax credit equals the product of:

1926 (a) the qualified donation; and

1927 [~~(b) 5%.~~]

1928 (b) the percentage listed in Subsection [59-10-104\(2\)](#).

1929 (4) A claimant, estate, or trust may not claim a tax credit under this section with
1930 respect to any portion of a qualified donation that a claimant, estate, or trust deducts on a
1931 federal income tax return.

1932 (5) A claimant, estate, or trust may not carry forward or carry back the portion of the
1933 tax credit allowed by this section that exceeds the claimant's, estate's, or trust's tax liability for
1934 the taxable year in which the claimant, estate, or trust claims the tax credit.

1935 (6) A claimant, estate, or trust may claim a tax credit under this section in addition to
1936 the tax credit described in Section [59-10-1017](#).

1937 Section 26. Section **59-10-1022** is amended to read:

1938 **59-10-1022. Nonrefundable tax credit for capital gain transactions.**

1939 (1) As used in this section:

1940 (a) (i) "Capital gain transaction" means a transaction that results in a:

1941 (A) short-term capital gain; or

1942 (B) long-term capital gain.

1943 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1944 commission may by rule define the term "transaction."

1945 (b) "Commercial domicile" means the principal place from which the trade or business
1946 of a Utah small business corporation is directed or managed.

- 1947 (c) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.
- 1948 (d) "Qualifying stock" means stock that is:
- 1949 (i) (A) common; or
- 1950 (B) preferred;
- 1951 (ii) as defined by the commission by rule made in accordance with Title 63G, Chapter
- 1952 3, Utah Administrative Rulemaking Act, originally issued to:
- 1953 (A) a claimant, estate, or trust; or
- 1954 (B) a partnership if the claimant, estate, or trust that claims a tax credit under this
- 1955 section:
- 1956 (I) was a partner on the day on which the stock was issued; and
- 1957 (II) remains a partner until the last day of the taxable year for which the claimant,
- 1958 estate, or trust claims a tax credit under this section; and
- 1959 (iii) issued:
- 1960 (A) by a Utah small business corporation;
- 1961 (B) on or after January 1, 2008; and
- 1962 (C) for:
- 1963 (I) money; or
- 1964 (II) other property, except for stock or securities.
- 1965 (e) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.
- 1966 (f) (i) "Utah small business corporation" means a corporation that:
- 1967 (A) except as provided in Subsection (1)(f)(ii), is a small business corporation as
- 1968 defined in Section 1244(c)(3), Internal Revenue Code;
- 1969 (B) except as provided in Subsection (1)(f)(iii), meets the requirements of Section
- 1970 1244(c)(1)(C), Internal Revenue Code; and
- 1971 (C) has its commercial domicile in this state.
- 1972 (ii) The dollar amount listed in Section 1244(c)(3)(A) is considered to be \$2,500,000.
- 1973 (iii) The phrase "the date the loss on such stock was sustained" in Sections
- 1974 1244(c)(1)(C) and 1244(c)(2), Internal Revenue Code, is considered to be "the last day of the
- 1975 taxable year for which the claimant, estate, or trust claims a tax credit under this section."
- 1976 (2) For taxable years beginning on or after January 1, 2008, a claimant, estate, or trust
- 1977 that meets the requirements of Subsection (3) may claim a nonrefundable tax credit equal to the

1978 product of:

1979 (a) the total amount of the claimant's, estate's, or trust's short-term capital gain or
1980 long-term capital gain on a capital gain transaction that occurs on or after January 1, 2008; and

1981 [~~(b) 5%.~~]

1982 (b) the percentage listed in Subsection [59-10-104\(2\)](#).

1983 (3) For purposes of Subsection (2), a claimant, estate, or trust may claim the
1984 nonrefundable tax credit allowed by Subsection (2) if:

1985 (a) 70% or more of the gross proceeds of the capital gain transaction are expended:

1986 (i) to purchase qualifying stock in a Utah small business corporation; and

1987 (ii) within a 12-month period after the day on which the capital gain transaction occurs;

1988 and

1989 (b) prior to the purchase of the qualifying stock described in Subsection (3)(a)(i), the
1990 claimant, estate, or trust did not have an ownership interest in the Utah small business
1991 corporation that issued the qualifying stock.

1992 (4) A claimant, estate, or trust may not carry forward or carry back a tax credit under
1993 this section.

1994 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1995 commission may make rules:

1996 (a) defining the term "gross proceeds"; and

1997 (b) prescribing the circumstances under which a claimant, estate, or trust has an
1998 ownership interest in a Utah small business corporation.

1999 Section 27. Section **59-10-1023** is amended to read:

2000 **59-10-1023. Nonrefundable tax credit for amounts paid under a health benefit**
2001 **plan.**

2002 (1) As used in this section:

2003 (a) "Claimant with dependents" means a claimant:

2004 (i) regardless of the claimant's filing status for purposes of filing a federal individual
2005 income tax return for the taxable year; and

2006 (ii) who claims one or more dependents under Section 151, Internal Revenue Code, as
2007 allowed on the claimant's federal individual income tax return for the taxable year.

2008 (b) "Eligible insured individual" means:

- 2009 (i) the claimant who is insured under a health benefit plan;
- 2010 (ii) the spouse of the claimant described in Subsection (1)(b)(i) if:
- 2011 (A) the claimant files a single return jointly under this chapter with the claimant's
- 2012 spouse for the taxable year; and
- 2013 (B) the spouse is insured under the health benefit plan described in Subsection
- 2014 (1)(b)(i); or
- 2015 (iii) a dependent of the claimant described in Subsection (1)(b)(i) if:
- 2016 (A) the claimant claims the dependent under Section 151, Internal Revenue Code, as
- 2017 allowed on the claimant's federal individual income tax return for the taxable year; and
- 2018 (B) the dependent is insured under the health benefit plan described in Subsection
- 2019 (1)(b)(i).
- 2020 (c) "Excluded expenses" means an amount a claimant pays for insurance offered under
- 2021 a health benefit plan for a taxable year if:
- 2022 (i) the claimant claims a tax credit for that amount under Section 35, Internal Revenue
- 2023 Code:
- 2024 (A) on the claimant's federal individual income tax return for the taxable year; and
- 2025 (B) with respect to an eligible insured individual;
- 2026 (ii) the claimant deducts that amount under Section 162 or 213, Internal Revenue
- 2027 Code:
- 2028 (A) on the claimant's federal individual income tax return for the taxable year; and
- 2029 (B) with respect to an eligible insured individual; or
- 2030 (iii) the claimant excludes that amount from gross income under Section 106 or 125,
- 2031 Internal Revenue Code, with respect to an eligible insured individual.
- 2032 (d) (i) "Health benefit plan" is as defined in Section [31A-1-301](#).
- 2033 (ii) "Health benefit plan" does not include equivalent self-insurance as defined by the
- 2034 Insurance Department by rule made in accordance with Title 63G, Chapter 3, Utah
- 2035 Administrative Rulemaking Act.
- 2036 (e) "Joint claimant with no dependents" means a husband and wife who:
- 2037 (i) file a single return jointly under this chapter for the taxable year; and
- 2038 (ii) do not claim a dependent under Section 151, Internal Revenue Code, on the
- 2039 husband's and wife's federal individual income tax return for the taxable year.

- 2040 (f) "Single claimant with no dependents" means:
- 2041 (i) a single individual who:
- 2042 (A) files a single federal individual income tax return for the taxable year; and
- 2043 (B) does not claim a dependent under Section 151, Internal Revenue Code, on the
- 2044 single individual's federal individual income tax return for the taxable year;
- 2045 (ii) a head of household:
- 2046 (A) as defined in Section 2(b), Internal Revenue Code, who files a single federal
- 2047 individual income tax return for the taxable year; and
- 2048 (B) who does not claim a dependent under Section 151, Internal Revenue Code, on the
- 2049 head of household's federal individual income tax return for the taxable year; or
- 2050 (iii) a married individual who:
- 2051 (A) does not file a single federal individual income tax return jointly with that married
- 2052 individual's spouse for the taxable year; and
- 2053 (B) does not claim a dependent under Section 151, Internal Revenue Code, on that
- 2054 married individual's federal individual income tax return for the taxable year.
- 2055 (2) Subject to Subsection (3), and except as provided in Subsection (4), for taxable
- 2056 years beginning on or after January 1, 2009, a claimant may claim a nonrefundable tax credit
- 2057 equal to the product of:
- 2058 (a) the difference between:
- 2059 (i) the total amount the claimant pays during the taxable year for:
- 2060 (A) insurance offered under a health benefit plan; and
- 2061 (B) an eligible insured individual; and
- 2062 (ii) excluded expenses; and
- 2063 [~~(b) 5%.~~]
- 2064 (b) the percentage listed in Subsection [59-10-104\(2\)](#).
- 2065 (3) The maximum amount of a tax credit described in Subsection (2) a claimant may
- 2066 claim on a return for a taxable year is:
- 2067 (a) for a single claimant with no dependents, \$300;
- 2068 (b) for a joint claimant with no dependents, \$600; or
- 2069 (c) for a claimant with dependents, \$900.
- 2070 (4) A claimant may not claim a tax credit under this section if the claimant is eligible to

2071 participate in insurance offered under a health benefit plan maintained and funded in whole or
2072 in part by:

2073 (a) the claimant's employer; or

2074 (b) another person's employer.

2075 (5) A claimant may not carry forward or carry back a tax credit under this section.

2076 Section 28. Section **59-10-1028** is amended to read:

2077 **59-10-1028. Nonrefundable tax credit for capital gain transactions on the**
2078 **exchange of one form of legal tender for another form of legal tender.**

2079 (1) As used in this section:

2080 (a) "Capital gain transaction" means a transaction that results in a:

2081 (i) short-term capital gain; or

2082 (ii) long-term capital gain.

2083 (b) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.

2084 (c) "Long-term capital loss" is as defined in Section 1222, Internal Revenue Code.

2085 (d) "Net capital gain" means the amount by which the sum of long-term capital gains

2086 and short-term capital gains on a claimant's, estate's, or trust's transactions from exchanges

2087 made for a taxable year of one form of legal tender for another form of legal tender exceeds the

2088 sum of long-term capital losses and short-term capital losses on those transactions for that

2089 taxable year.

2090 (e) "Short-term capital loss" is as defined in Section 1222, Internal Revenue Code.

2091 (f) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.

2092 (2) Except as provided in Section [59-10-1002.2](#), for taxable years beginning on or after

2093 January 1, 2012, a claimant, estate, or trust may claim a nonrefundable tax credit equal to the

2094 product of:

2095 (a) to the extent a net capital gain is included in taxable income, the amount of the

2096 claimant's, estate's, or trust's net capital gain on capital gain transactions from exchanges made

2097 on or after January 1, 2012, for a taxable year, of one form of legal tender for another form of

2098 legal tender; and

2099 [~~(b) 5%.~~]

2100 (b) the percentage listed in Subsection [59-10-104\(2\)](#).

2101 (3) A claimant, estate, or trust may not carry forward or carry back a tax credit under

2102 this section.

2103 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2104 commission may make rules to implement this section.

2105 Section 29. Section **59-10-1035** is amended to read:

2106 **59-10-1035. Nonrefundable tax credit for contribution to state Achieving a Better**
2107 **Life Experience Program account.**

2108 (1) As used in this section:

2109 (a) "Account" means an account in a qualified ABLE program where the designated
2110 beneficiary of the account is a resident of this state.

2111 (b) "Contributor" means a claimant, estate, or trust that:

2112 (i) makes a contribution to an account; and

2113 (ii) receives a statement from the qualified ABLE program itemizing the contribution.

2114 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.
2115 529A.

2116 (d) "Qualified ABLE program" means the same as that term is defined in Section
2117 [35A-12-102](#).

2118 (2) A contributor to an account may claim a nonrefundable tax credit as provided in
2119 this section.

2120 (3) Subject to the other provisions of this section, the tax credit is equal to the product
2121 of:

2122 [~~(a) 5%; and~~]

2123 (a) the percentage listed in Subsection [59-10-104\(2\)](#); and

2124 (b) the total amount of contributions:

2125 (i) the contributor makes for the taxable year; and

2126 (ii) for which the contributor receives a statement from the qualified ABLE program
2127 itemizing the contributions.

2128 (4) A contributor may not claim a tax credit under this section:

2129 (a) for an amount of excess contribution to an account that is returned to the
2130 contributor; or

2131 (b) with respect to an amount the contributor deducts on a federal income tax return.

2132 (5) A tax credit under this section may not be carried forward or carried back.

2133 Section 30. Section **59-10-1036** is amended to read:

2134 **59-10-1036. Nonrefundable tax credit for military survivor benefits.**

2135 (1) As used in this section:

2136 (a) "Dependent child" means the same as that term is defined in 10 U.S.C. Sec. 1447.

2137 (b) "Reserve components" means the same as that term is described in 10 U.S.C. Sec.
2138 10101.

2139 (c) "Surviving spouse" means the same as that term is defined in 10 U.S.C. Sec. 1447.

2140 (d) "Survivor benefits" means the amount paid by the federal government in
2141 accordance with 10 U.S.C. Secs. 1447 through 1455.

2142 (2) A surviving spouse or dependent child may claim a nonrefundable tax credit for
2143 survivor benefits if the benefits are paid due to:

2144 (a) the death of a member of the armed forces or reserve components while on active
2145 duty; or

2146 (b) the death of a member of the reserve components that results from a
2147 service-connected cause while performing inactive duty training.

2148 (3) The tax credit described in Subsection (2) is equal to the product of:

2149 (a) the amount of survivor benefits that the surviving spouse or dependent child
2150 received during the taxable year; and

2151 [~~(b) 5%.~~]

2152 (b) the percentage listed in Subsection [59-10-104\(2\)](#).

2153 (4) The tax credit described in Subsection (2):

2154 (a) may not be carried forward or carried back; and

2155 (b) applies to a taxable year beginning on or after January 1, 2017.

2156 Section 31. Section **59-10-1403** is amended to read:

2157 **59-10-1403. Income tax treatment of a pass-through entity -- Returns --**
2158 **Classification same as under Internal Revenue Code.**

2159 (1) Subject to Subsection (3), a pass-through entity is not subject to a tax imposed by
2160 this chapter.

2161 (2) Except as provided in Section [59-10-1403.3](#), the income, gain, loss, deduction, or
2162 credit of a pass-through entity shall be passed through to one or more pass-through entity
2163 taxpayers as provided in this part.

2164 (3) A pass-through entity is subject to the return filing requirements of Sections
2165 [59-10-507](#) [~~and~~], [59-10-514](#), and [59-10-516](#).

2166 (4) For purposes of taxation under this title, a pass-through entity that transacts
2167 business in the state shall be classified in the same manner as the pass-through entity is
2168 classified for federal income tax purposes.

2169 Section 32. Section **59-10-1403.3** is amended to read:

2170 **59-10-1403.3. Refund of amounts paid or withheld for a pass-through entity.**

2171 (1) As used in this section:

2172 (a) "Committee" means the Revenue and Taxation Interim Committee.

2173 (b) "Qualifying excess withholding" means an amount that:

2174 (i) is paid or withheld:

2175 (A) by a pass-through entity that has a different taxable year than the pass-through
2176 entity that requests a refund under this section; and

2177 (B) on behalf of the pass-through entity that requests the refund, if the pass-through
2178 entity that requests the refund also is a pass-through entity taxpayer; and

2179 (ii) is equal to the difference between:

2180 (A) the amount paid or withheld for the taxable year on behalf of the pass-through
2181 entity that requests the refund; and

2182 (B) the product of [~~5%~~] the percentage listed in Subsection [59-10-104\(2\)](#) and the
2183 income, described in Subsection [59-10-1403.2\(1\)\(a\)\(i\)](#), of the pass-through entity that requests
2184 the refund.

2185 (2) For a taxable year ending on or after July 1, 2017, a pass-through entity may claim
2186 a refund of qualifying excess withholding, if the amount of the qualifying excess withholding is
2187 equal to or greater than \$250,000.

2188 (3) A pass-through entity that requests a refund of qualifying excess withholding under
2189 this section shall:

2190 (a) apply to the commission for a refund on or, subject to Subsection (4), after the day
2191 on which the pass-through entity files the pass-through entity's income tax return; and

2192 (b) provide any information that the commission may require to determine that the
2193 pass-through entity is eligible to receive the refund.

2194 (4) A pass-through entity shall claim a refund of qualifying excess withholding under

2195 this section within 30 days after the earlier of the day on which:

2196 (a) the pass-through entity files an income tax return; or

2197 (b) the pass-through entity's income tax return is due, including any extension of due
2198 date authorized in statute.

2199 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2200 commission may make rules establishing the information that a pass-through entity shall
2201 provide to the commission to obtain a refund of qualifying excess withholding under this
2202 section.

2203 (6) (a) On or before November 30, 2018, the committee shall review the \$250,000
2204 threshold described in Subsection (2) for the purpose of assessing whether the threshold
2205 amount should be maintained, increased, or decreased.

2206 (b) To assist the committee in conducting the review described in Subsection (6)(a),
2207 the commission shall provide the committee with:

2208 (i) the total number of refund requests made under this section;

2209 (ii) the total costs of any refunds issued under this section;

2210 (iii) the costs of any audits conducted on refund requests made under this section; and

2211 (iv) an estimation of:

2212 (A) the number of refund requests the commission expects to receive if the Legislature
2213 increases the threshold;

2214 (B) the number of refund requests the commission expects to receive if the Legislature
2215 decreases the threshold; and

2216 (C) the costs of any audits the commission would conduct if the Legislature increases
2217 or decreases the threshold.

2218 Section 33. Section **59-12-102** is amended to read:

2219 **59-12-102. Definitions.**

2220 As used in this chapter:

2221 (1) "800 service" means a telecommunications service that:

2222 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

2223 (b) is typically marketed:

2224 (i) under the name 800 toll-free calling;

2225 (ii) under the name 855 toll-free calling;

- 2226 (iii) under the name 866 toll-free calling;
- 2227 (iv) under the name 877 toll-free calling;
- 2228 (v) under the name 888 toll-free calling; or
- 2229 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
- 2230 Federal Communications Commission.
- 2231 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 2232 (i) a subscriber purchases;
- 2233 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 2234 the subscriber's:
- 2235 (A) prerecorded announcement; or
- 2236 (B) live service; and
- 2237 (iii) is typically marketed:
- 2238 (A) under the name 900 service; or
- 2239 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 2240 Communications Commission.
- 2241 (b) "900 service" does not include a charge for:
- 2242 (i) a collection service a seller of a telecommunications service provides to a
- 2243 subscriber; or
- 2244 (ii) the following a subscriber sells to the subscriber's customer:
- 2245 (A) a product; or
- 2246 (B) a service.
- 2247 (3) (a) "Admission or user fees" includes season passes.
- 2248 (b) "Admission or user fees" does not include:
- 2249 (i) annual membership dues to private organizations; or
- 2250 (ii) a lesson, including a lesson that involves as part of the lesson equipment or a
- 2251 facility listed in Subsection [59-12-103\(1\)\(f\)](#).
- 2252 (4) "Affiliate" or "affiliated person" means a person that, with respect to another
- 2253 person:
- 2254 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
- 2255 person; or
- 2256 (b) is related to the other person because a third person, or a group of third persons who

2257 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,
2258 whether direct or indirect, in the related persons.

2259 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
2260 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
2261 Agreement after November 12, 2002.

2262 (6) "Agreement combined tax rate" means the sum of the tax rates:

2263 (a) listed under Subsection (7); and

2264 (b) that are imposed within a local taxing jurisdiction.

2265 (7) "Agreement sales and use tax" means a tax imposed under:

2266 (a) Subsection 59-12-103(2)(a)(i)(A);

2267 (b) Subsection 59-12-103(2)(b)(i);

2268 (c) Subsection 59-12-103(2)(c)(i);

2269 (d) Subsection 59-12-103(2)(d);

2270 ~~(d)~~ (e) Subsection 59-12-103(2)~~(d)~~(e)(i)(A)(I);

2271 ~~(e)~~ (f) Section 59-12-204;

2272 ~~(f)~~ (g) Section 59-12-401;

2273 ~~(g)~~ (h) Section 59-12-402;

2274 ~~(h)~~ (i) Section 59-12-402.1;

2275 ~~(i)~~ (j) Section 59-12-703;

2276 ~~(j)~~ (k) Section 59-12-802;

2277 ~~(k)~~ (l) Section 59-12-804;

2278 ~~(l)~~ (m) Section 59-12-1102;

2279 ~~(m)~~ (n) Section 59-12-1302;

2280 ~~(n)~~ (o) Section 59-12-1402;

2281 ~~(o)~~ (p) Section 59-12-1802;

2282 ~~(p)~~ (q) Section 59-12-2003;

2283 ~~(q)~~ (r) Section 59-12-2103;

2284 ~~(r)~~ (s) Section 59-12-2213;

2285 ~~(s)~~ (t) Section 59-12-2214;

2286 ~~(t)~~ (u) Section 59-12-2215;

2287 ~~(u)~~ (v) Section 59-12-2216;

- 2288 [~~(v)~~] (w) Section 59-12-2217;
- 2289 [~~(w)~~] (x) Section 59-12-2218;
- 2290 [~~(x)~~] (y) Section 59-12-2219; or
- 2291 [~~(y)~~] (z) Section 59-12-2220.
- 2292 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 2293 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 2294 (a) except for:
- 2295 (i) an airline as defined in Section 59-2-102; or
- 2296 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 2297 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 2298 state, of an airline; and
- 2299 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 2300 whether the business entity performs the following in this state:
- 2301 (i) check, diagnose, overhaul, and repair:
- 2302 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 2303 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 2304 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 2305 engine;
- 2306 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 2307 aircraft:
- 2308 (A) an inspection;
- 2309 (B) a repair, including a structural repair or modification;
- 2310 (C) changing landing gear; and
- 2311 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 2312 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 2313 completely apply new paint to the fixed wing turbine powered aircraft; and
- 2314 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 2315 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 2316 authority that certifies the fixed wing turbine powered aircraft.
- 2317 (10) "Alcoholic beverage" means a beverage that:
- 2318 (a) is suitable for human consumption; and

- 2319 (b) contains .5% or more alcohol by volume.
- 2320 (11) "Alternative energy" means:
- 2321 (a) biomass energy;
- 2322 (b) geothermal energy;
- 2323 (c) hydroelectric energy;
- 2324 (d) solar energy;
- 2325 (e) wind energy; or
- 2326 (f) energy that is derived from:
- 2327 (i) coal-to-liquids;
- 2328 (ii) nuclear fuel;
- 2329 (iii) oil-impregnated diatomaceous earth;
- 2330 (iv) oil sands;
- 2331 (v) oil shale;
- 2332 (vi) petroleum coke; or
- 2333 (vii) waste heat from:
- 2334 (A) an industrial facility; or
- 2335 (B) a power station in which an electric generator is driven through a process in which
- 2336 water is heated, turns into steam, and spins a steam turbine.
- 2337 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production
- 2338 facility" means a facility that:
- 2339 (i) uses alternative energy to produce electricity; and
- 2340 (ii) has a production capacity of two megawatts or greater.
- 2341 (b) A facility is an alternative energy electricity production facility regardless of
- 2342 whether the facility is:
- 2343 (i) connected to an electric grid; or
- 2344 (ii) located on the premises of an electricity consumer.
- 2345 (13) (a) "Ancillary service" means a service associated with, or incidental to, the
- 2346 provision of telecommunications service.
- 2347 (b) "Ancillary service" includes:
- 2348 (i) a conference bridging service;
- 2349 (ii) a detailed communications billing service;

2350 (iii) directory assistance;

2351 (iv) a vertical service; or

2352 (v) a voice mail service.

2353 (14) "Area agency on aging" means the same as that term is defined in Section

2354 [62A-3-101](#).

2355 (15) "Assisted amusement device" means an amusement device, skill device, or ride
2356 device that is started and stopped by an individual:

2357 (a) who is not the purchaser or renter of the right to use or operate the amusement
2358 device, skill device, or ride device; and

2359 (b) at the direction of the seller of the right to use the amusement device, skill device,
2360 or ride device.

2361 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or
2362 washing of tangible personal property if the cleaning or washing labor is primarily performed
2363 by an individual:

2364 (a) who is not the purchaser of the cleaning or washing of the tangible personal
2365 property; and

2366 (b) at the direction of the seller of the cleaning or washing of the tangible personal
2367 property.

2368 (17) "Authorized carrier" means:

2369 (a) in the case of vehicles operated over public highways, the holder of credentials
2370 indicating that the vehicle is or will be operated pursuant to both the International Registration
2371 Plan and the International Fuel Tax Agreement;

2372 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
2373 certificate or air carrier's operating certificate; or

2374 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
2375 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
2376 stock in more than one state.

2377 (18) (a) Except as provided in Subsection (18)(b), "biomass energy" means any of the
2378 following that is used as the primary source of energy to produce fuel or electricity:

2379 (i) material from a plant or tree; or

2380 (ii) other organic matter that is available on a renewable basis, including:

- 2381 (A) slash and brush from forests and woodlands;
- 2382 (B) animal waste;
- 2383 (C) waste vegetable oil;
- 2384 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
- 2385 wastewater residuals, or through the conversion of a waste material through a nonincineration,
- 2386 thermal conversion process;
- 2387 (E) aquatic plants; and
- 2388 (F) agricultural products.
- 2389 (b) "Biomass energy" does not include:
- 2390 (i) black liquor; or
- 2391 (ii) treated woods.
- 2392 (19) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 2393 property, products, or services if the tangible personal property, products, or services are:
- 2394 (i) distinct and identifiable; and
- 2395 (ii) sold for one nonitemized price.
- 2396 (b) "Bundled transaction" does not include:
- 2397 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 2398 the basis of the selection by the purchaser of the items of tangible personal property included in
- 2399 the transaction;
- 2400 (ii) the sale of real property;
- 2401 (iii) the sale of services to real property;
- 2402 (iv) the retail sale of tangible personal property and a service if:
- 2403 (A) the tangible personal property:
- 2404 (I) is essential to the use of the service; and
- 2405 (II) is provided exclusively in connection with the service; and
- 2406 (B) the service is the true object of the transaction;
- 2407 (v) the retail sale of two services if:
- 2408 (A) one service is provided that is essential to the use or receipt of a second service;
- 2409 (B) the first service is provided exclusively in connection with the second service; and
- 2410 (C) the second service is the true object of the transaction;
- 2411 (vi) a transaction that includes tangible personal property or a product subject to

2412 taxation under this chapter and tangible personal property or a product that is not subject to
2413 taxation under this chapter if the:

2414 (A) seller's purchase price of the tangible personal property or product subject to
2415 taxation under this chapter is de minimis; or

2416 (B) seller's sales price of the tangible personal property or product subject to taxation
2417 under this chapter is de minimis; and

2418 (vii) the retail sale of tangible personal property that is not subject to taxation under
2419 this chapter and tangible personal property that is subject to taxation under this chapter if:

2420 (A) that retail sale includes:

2421 (I) food and food ingredients;

2422 (II) a drug;

2423 (III) durable medical equipment;

2424 (IV) mobility enhancing equipment;

2425 (V) an over-the-counter drug;

2426 (VI) a prosthetic device; or

2427 (VII) a medical supply; and

2428 (B) subject to Subsection (19)(f):

2429 (I) the seller's purchase price of the tangible personal property subject to taxation under
2430 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

2431 (II) the seller's sales price of the tangible personal property subject to taxation under
2432 this chapter is 50% or less of the seller's total sales price of that retail sale.

2433 (c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a
2434 service that is distinct and identifiable does not include:

2435 (A) packaging that:

2436 (I) accompanies the sale of the tangible personal property, product, or service; and

2437 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
2438 service;

2439 (B) tangible personal property, a product, or a service provided free of charge with the
2440 purchase of another item of tangible personal property, a product, or a service; or

2441 (C) an item of tangible personal property, a product, or a service included in the
2442 definition of "purchase price."

2443 (ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a
2444 product, or a service is provided free of charge with the purchase of another item of tangible
2445 personal property, a product, or a service if the sales price of the purchased item of tangible
2446 personal property, product, or service does not vary depending on the inclusion of the tangible
2447 personal property, product, or service provided free of charge.

2448 (d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price
2449 does not include a price that is separately identified by tangible personal property, product, or
2450 service on the following, regardless of whether the following is in paper format or electronic
2451 format:

2452 (A) a binding sales document; or

2453 (B) another supporting sales-related document that is available to a purchaser.

2454 (ii) For purposes of Subsection (19)(d)(i), a binding sales document or another
2455 supporting sales-related document that is available to a purchaser includes:

2456 (A) a bill of sale;

2457 (B) a contract;

2458 (C) an invoice;

2459 (D) a lease agreement;

2460 (E) a periodic notice of rates and services;

2461 (F) a price list;

2462 (G) a rate card;

2463 (H) a receipt; or

2464 (I) a service agreement.

2465 (e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal
2466 property or a product subject to taxation under this chapter is de minimis if:

2467 (A) the seller's purchase price of the tangible personal property or product is 10% or
2468 less of the seller's total purchase price of the bundled transaction; or

2469 (B) the seller's sales price of the tangible personal property or product is 10% or less of
2470 the seller's total sales price of the bundled transaction.

2471 (ii) For purposes of Subsection (19)(b)(vi), a seller:

2472 (A) shall use the seller's purchase price or the seller's sales price to determine if the
2473 purchase price or sales price of the tangible personal property or product subject to taxation

2474 under this chapter is de minimis; and

2475 (B) may not use a combination of the seller's purchase price and the seller's sales price
2476 to determine if the purchase price or sales price of the tangible personal property or product
2477 subject to taxation under this chapter is de minimis.

2478 (iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service
2479 contract to determine if the sales price of tangible personal property or a product is de minimis.

2480 (f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of
2481 the seller's purchase price and the seller's sales price to determine if tangible personal property
2482 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
2483 price of that retail sale.

2484 (20) "Certified automated system" means software certified by the governing board of
2485 the agreement that:

2486 (a) calculates the agreement sales and use tax imposed within a local taxing
2487 jurisdiction:

2488 (i) on a transaction; and

2489 (ii) in the states that are members of the agreement;

2490 (b) determines the amount of agreement sales and use tax to remit to a state that is a
2491 member of the agreement; and

2492 (c) maintains a record of the transaction described in Subsection (20)(a)(i).

2493 (21) "Certified service provider" means an agent certified:

2494 (a) by the governing board of the agreement; and

2495 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax,
2496 as outlined in the contract between the governing board of the agreement and the certified
2497 service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the
2498 seller's own purchases.

2499 (22) (a) Subject to Subsection (22)(b), "clothing" means all human wearing apparel
2500 suitable for general use.

2501 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2502 commission shall make rules:

2503 (i) listing the items that constitute "clothing"; and

2504 (ii) that are consistent with the list of items that constitute "clothing" under the

2505 agreement.

2506 (23) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

2507 (24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
2508 fuels that does not constitute industrial use under Subsection (57) or residential use under
2509 Subsection (112).

2510 (25) (a) "Common carrier" means a person engaged in or transacting the business of
2511 transporting passengers, freight, merchandise, or other property for hire within this state.

2512 (b) (i) "Common carrier" does not include a person that, at the time the person is
2513 traveling to or from that person's place of employment, transports a passenger to or from the
2514 passenger's place of employment.

2515 (ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3,
2516 Utah Administrative Rulemaking Act, the commission may make rules defining what
2517 constitutes a person's place of employment.

2518 (c) "Common carrier" does not include a person that provides transportation network
2519 services, as defined in Section [13-51-102](#).

2520 (26) "Component part" includes:

2521 (a) poultry, dairy, and other livestock feed, and their components;

2522 (b) baling ties and twine used in the baling of hay and straw;

2523 (c) fuel used for providing temperature control of orchards and commercial
2524 greenhouses doing a majority of their business in wholesale sales, and for providing power for
2525 off-highway type farm machinery; and

2526 (d) feed, seeds, and seedlings.

2527 (27) "Computer" means an electronic device that accepts information:

2528 (a) (i) in digital form; or

2529 (ii) in a form similar to digital form; and

2530 (b) manipulates that information for a result based on a sequence of instructions.

2531 (28) "Computer software" means a set of coded instructions designed to cause:

2532 (a) a computer to perform a task; or

2533 (b) automatic data processing equipment to perform a task.

2534 (29) "Computer software maintenance contract" means a contract that obligates a seller
2535 of computer software to provide a customer with:

- 2536 (a) future updates or upgrades to computer software;
- 2537 (b) support services with respect to computer software; or
- 2538 (c) a combination of Subsections (29)(a) and (b).
- 2539 (30) (a) "Conference bridging service" means an ancillary service that links two or
- 2540 more participants of an audio conference call or video conference call.
- 2541 (b) "Conference bridging service" may include providing a telephone number as part of
- 2542 the ancillary service described in Subsection (30)(a).
- 2543 (c) "Conference bridging service" does not include a telecommunications service used
- 2544 to reach the ancillary service described in Subsection (30)(a).
- 2545 (31) "Construction materials" means any tangible personal property that will be
- 2546 converted into real property.
- 2547 (32) "Delivered electronically" means delivered to a purchaser by means other than
- 2548 tangible storage media.
- 2549 (33) (a) "Delivery charge" means a charge:
- 2550 (i) by a seller of:
- 2551 (A) tangible personal property;
- 2552 (B) a product transferred electronically; or
- 2553 (C) a service; and
- 2554 (ii) for preparation and delivery of the tangible personal property, product transferred
- 2555 electronically, or services described in Subsection (33)(a)(i) to a location designated by the
- 2556 purchaser.
- 2557 (b) "Delivery charge" includes a charge for the following:
- 2558 (i) transportation;
- 2559 (ii) shipping;
- 2560 (iii) postage;
- 2561 (iv) handling;
- 2562 (v) crating; or
- 2563 (vi) packing.
- 2564 (34) "Detailed telecommunications billing service" means an ancillary service of
- 2565 separately stating information pertaining to individual calls on a customer's billing statement.
- 2566 (35) "Dietary supplement" means a product, other than tobacco, that:

- 2567 (a) is intended to supplement the diet;
- 2568 (b) contains one or more of the following dietary ingredients:
- 2569 (i) a vitamin;
- 2570 (ii) a mineral;
- 2571 (iii) an herb or other botanical;
- 2572 (iv) an amino acid;
- 2573 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 2574 dietary intake; or
- 2575 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 2576 described in Subsections (35)(b)(i) through (v);
- 2577 (c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:
- 2578 (A) tablet form;
- 2579 (B) capsule form;
- 2580 (C) powder form;
- 2581 (D) softgel form;
- 2582 (E) gelcap form; or
- 2583 (F) liquid form; or
- 2584 (ii) if the product is not intended for ingestion in a form described in Subsections
- 2585 (35)(c)(i)(A) through (F), is not represented:
- 2586 (A) as conventional food; and
- 2587 (B) for use as a sole item of:
- 2588 (I) a meal; or
- 2589 (II) the diet; and
- 2590 (d) is required to be labeled as a dietary supplement:
- 2591 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 2592 (ii) as required by 21 C.F.R. Sec. 101.36.
- 2593 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 2594 musical, spoken, or other sounds.
- 2595 (b) "Digital audio work" includes a ringtone.
- 2596 (37) "Digital audio-visual work" means a series of related images which, when shown
- 2597 in succession, imparts an impression of motion, together with accompanying sounds, if any.

2598 (38) "Digital book" means a work that is generally recognized in the ordinary and usual
2599 sense as a book.

2600 (39) (a) "Direct mail" means printed material delivered or distributed by United States
2601 mail or other delivery service:

2602 (i) to:

2603 (A) a mass audience; or

2604 (B) addressees on a mailing list provided:

2605 (I) by a purchaser of the mailing list; or

2606 (II) at the discretion of the purchaser of the mailing list; and

2607 (ii) if the cost of the printed material is not billed directly to the recipients.

2608 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
2609 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

2610 (c) "Direct mail" does not include multiple items of printed material delivered to a
2611 single address.

2612 (40) "Directory assistance" means an ancillary service of providing:

2613 (a) address information; or

2614 (b) telephone number information.

2615 (41) (a) "Disposable home medical equipment or supplies" means medical equipment
2616 or supplies that:

2617 (i) cannot withstand repeated use; and

2618 (ii) are purchased by, for, or on behalf of a person other than:

2619 (A) a health care facility as defined in Section [26-21-2](#);

2620 (B) a health care provider as defined in Section [78B-3-403](#);

2621 (C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or

2622 (D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).

2623 (b) "Disposable home medical equipment or supplies" does not include:

2624 (i) a drug;

2625 (ii) durable medical equipment;

2626 (iii) a hearing aid;

2627 (iv) a hearing aid accessory;

2628 (v) mobility enhancing equipment; or

- 2629 (vi) tangible personal property used to correct impaired vision, including:
- 2630 (A) eyeglasses; or
- 2631 (B) contact lenses.
- 2632 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2633 commission may by rule define what constitutes medical equipment or supplies.
- 2634 (42) "Drilling equipment manufacturer" means a facility:
- 2635 (a) located in the state;
- 2636 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 2637 consist of manufacturing component parts of drilling equipment;
- 2638 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 2639 manufacturing process; and
- 2640 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 2641 manufacturing process.
- 2642 (43) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 2643 compound, substance, or preparation that is:
- 2644 (i) recognized in:
- 2645 (A) the official United States Pharmacopoeia;
- 2646 (B) the official Homeopathic Pharmacopoeia of the United States;
- 2647 (C) the official National Formulary; or
- 2648 (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);
- 2649 (ii) intended for use in the:
- 2650 (A) diagnosis of disease;
- 2651 (B) cure of disease;
- 2652 (C) mitigation of disease;
- 2653 (D) treatment of disease; or
- 2654 (E) prevention of disease; or
- 2655 (iii) intended to affect:
- 2656 (A) the structure of the body; or
- 2657 (B) any function of the body.
- 2658 (b) "Drug" does not include:
- 2659 (i) food and food ingredients;

- 2660 (ii) a dietary supplement;
- 2661 (iii) an alcoholic beverage; or
- 2662 (iv) a prosthetic device.
- 2663 (44) (a) Except as provided in Subsection (44)(c), "durable medical equipment" means
- 2664 equipment that:
- 2665 (i) can withstand repeated use;
- 2666 (ii) is primarily and customarily used to serve a medical purpose;
- 2667 (iii) generally is not useful to a person in the absence of illness or injury; and
- 2668 (iv) is not worn in or on the body.
- 2669 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 2670 equipment described in Subsection (44)(a).
- 2671 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 2672 (45) "Electronic" means:
- 2673 (a) relating to technology; and
- 2674 (b) having:
- 2675 (i) electrical capabilities;
- 2676 (ii) digital capabilities;
- 2677 (iii) magnetic capabilities;
- 2678 (iv) wireless capabilities;
- 2679 (v) optical capabilities;
- 2680 (vi) electromagnetic capabilities; or
- 2681 (vii) capabilities similar to Subsections (45)(b)(i) through (vi).
- 2682 (46) "Electronic financial payment service" means an establishment:
- 2683 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 2684 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 2685 federal Executive Office of the President, Office of Management and Budget; and
- 2686 (b) that performs electronic financial payment services.
- 2687 (47) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 2688 (48) "Fixed guideway" means a public transit facility that uses and occupies:
- 2689 (a) rail for the use of public transit; or
- 2690 (b) a separate right-of-way for the use of public transit.

- 2691 (49) "Fixed wing turbine powered aircraft" means an aircraft that:
- 2692 (a) is powered by turbine engines;
- 2693 (b) operates on jet fuel; and
- 2694 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 2695 (50) "Fixed wireless service" means a telecommunications service that provides radio
- 2696 communication between fixed points.
- 2697 (51) (a) "Food and food ingredients" means substances:
- 2698 (i) regardless of whether the substances are in:
- 2699 (A) liquid form;
- 2700 (B) concentrated form;
- 2701 (C) solid form;
- 2702 (D) frozen form;
- 2703 (E) dried form; or
- 2704 (F) dehydrated form; and
- 2705 (ii) that are:
- 2706 (A) sold for:
- 2707 (I) ingestion by humans; or
- 2708 (II) chewing by humans; and
- 2709 (B) consumed for the substance's:
- 2710 (I) taste; or
- 2711 (II) nutritional value.
- 2712 (b) "Food and food ingredients" includes an item described in Subsection (96)(b)(iii).
- 2713 (c) "Food and food ingredients" does not include:
- 2714 (i) an alcoholic beverage;
- 2715 (ii) tobacco; or
- 2716 (iii) prepared food.
- 2717 (52) (a) "Fundraising sales" means sales:
- 2718 (i) (A) made by a school; or
- 2719 (B) made by a school student;
- 2720 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 2721 materials, or provide transportation; and

2722 (iii) that are part of an officially sanctioned school activity.

2723 (b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity"

2724 means a school activity:

2725 (i) that is conducted in accordance with a formal policy adopted by the school or school
2726 district governing the authorization and supervision of fundraising activities;

2727 (ii) that does not directly or indirectly compensate an individual teacher or other
2728 educational personnel by direct payment, commissions, or payment in kind; and

2729 (iii) the net or gross revenues from which are deposited in a dedicated account
2730 controlled by the school or school district.

2731 (53) "Geothermal energy" means energy contained in heat that continuously flows
2732 outward from the earth that is used as the sole source of energy to produce electricity.

2733 (54) "Governing board of the agreement" means the governing board of the agreement
2734 that is:

2735 (a) authorized to administer the agreement; and

2736 (b) established in accordance with the agreement.

2737 (55) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

2738 (i) the executive branch of the state, including all departments, institutions, boards,
2739 divisions, bureaus, offices, commissions, and committees;

2740 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
2741 Administrative Office of the Courts, and similar administrative units in the judicial branch;

2742 (iii) the legislative branch of the state, including the House of Representatives, the
2743 Senate, the Legislative Printing Office, the Office of Legislative Research and General
2744 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
2745 Analyst;

2746 (iv) the National Guard;

2747 (v) an independent entity as defined in Section 63E-1-102; or

2748 (vi) a political subdivision as defined in Section 17B-1-102.

2749 (b) "Governmental entity" does not include the state systems of public and higher
2750 education, including:

2751 (i) a school;

2752 (ii) the State Board of Education;

- 2753 (iii) the Utah Board of Higher Education; or
- 2754 (iv) an institution of higher education described in Section [53B-1-102](#).
- 2755 (56) "Hydroelectric energy" means water used as the sole source of energy to produce
- 2756 electricity.
- 2757 (57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 2758 other fuels:
- 2759 (a) in mining or extraction of minerals;
- 2760 (b) in agricultural operations to produce an agricultural product up to the time of
- 2761 harvest or placing the agricultural product into a storage facility, including:
- 2762 (i) commercial greenhouses;
- 2763 (ii) irrigation pumps;
- 2764 (iii) farm machinery;
- 2765 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered
- 2766 under Title 41, Chapter 1a, Part 2, Registration; and
- 2767 (v) other farming activities;
- 2768 (c) in manufacturing tangible personal property at an establishment described in:
- 2769 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
- 2770 the federal Executive Office of the President, Office of Management and Budget; or
- 2771 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
- 2772 American Industry Classification System of the federal Executive Office of the President,
- 2773 Office of Management and Budget;
- 2774 (d) by a scrap recycler if:
- 2775 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 2776 one or more of the following items into prepared grades of processed materials for use in new
- 2777 products:
- 2778 (A) iron;
- 2779 (B) steel;
- 2780 (C) nonferrous metal;
- 2781 (D) paper;
- 2782 (E) glass;
- 2783 (F) plastic;

2784 (G) textile; or
2785 (H) rubber; and
2786 (ii) the new products under Subsection (57)(d)(i) would otherwise be made with
2787 nonrecycled materials; or
2788 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
2789 cogeneration facility as defined in Section 54-2-1.
2790 (58) (a) Except as provided in Subsection (58)(b), "installation charge" means a charge
2791 for installing:
2792 (i) tangible personal property; or
2793 (ii) a product transferred electronically.
2794 (b) "Installation charge" does not include a charge for:
2795 (i) repairs or renovations of:
2796 (A) tangible personal property; or
2797 (B) a product transferred electronically; or
2798 (ii) attaching tangible personal property or a product transferred electronically:
2799 (A) to other tangible personal property; and
2800 (B) as part of a manufacturing or fabrication process.
2801 (59) "Institution of higher education" means an institution of higher education listed in
2802 Section 53B-2-101.
2803 (60) (a) "Lease" or "rental" means a transfer of possession or control of tangible
2804 personal property or a product transferred electronically for:
2805 (i) (A) a fixed term; or
2806 (B) an indeterminate term; and
2807 (ii) consideration.
2808 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
2809 amount of consideration may be increased or decreased by reference to the amount realized
2810 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
2811 Code.
2812 (c) "Lease" or "rental" does not include:
2813 (i) a transfer of possession or control of property under a security agreement or
2814 deferred payment plan that requires the transfer of title upon completion of the required

2815 payments;

2816 (ii) a transfer of possession or control of property under an agreement that requires the

2817 transfer of title:

2818 (A) upon completion of required payments; and

2819 (B) if the payment of an option price does not exceed the greater of:

2820 (I) \$100; or

2821 (II) 1% of the total required payments; or

2822 (iii) providing tangible personal property along with an operator for a fixed period of

2823 time or an indeterminate period of time if the operator is necessary for equipment to perform as

2824 designed.

2825 (d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to

2826 perform as designed if the operator's duties exceed the:

2827 (i) set-up of tangible personal property;

2828 (ii) maintenance of tangible personal property; or

2829 (iii) inspection of tangible personal property.

2830 (61) "Lesson" means a fixed period of time for the duration of which a trained

2831 instructor:

2832 (a) is present with a student in person or by video; and

2833 (b) actively instructs the student, including by providing observation or feedback.

2834 (62) "Life science establishment" means an establishment in this state that is classified

2835 under the following NAICS codes of the 2007 North American Industry Classification System

2836 of the federal Executive Office of the President, Office of Management and Budget:

2837 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

2838 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

2839 Manufacturing; or

2840 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

2841 (63) "Life science research and development facility" means a facility owned, leased,

2842 or rented by a life science establishment if research and development is performed in 51% or

2843 more of the total area of the facility.

2844 (64) "Load and leave" means delivery to a purchaser by use of a tangible storage media

2845 if the tangible storage media is not physically transferred to the purchaser.

- 2846 (65) "Local taxing jurisdiction" means a:
- 2847 (a) county that is authorized to impose an agreement sales and use tax;
- 2848 (b) city that is authorized to impose an agreement sales and use tax; or
- 2849 (c) town that is authorized to impose an agreement sales and use tax.
- 2850 (66) "Manufactured home" means the same as that term is defined in Section
- 2851 [15A-1-302](#).
- 2852 (67) "Manufacturing facility" means:
- 2853 (a) an establishment described in:
- 2854 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
- 2855 the federal Executive Office of the President, Office of Management and Budget; or
- 2856 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
- 2857 American Industry Classification System of the federal Executive Office of the President,
- 2858 Office of Management and Budget;
- 2859 (b) a scrap recycler if:
- 2860 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 2861 one or more of the following items into prepared grades of processed materials for use in new
- 2862 products:
- 2863 (A) iron;
- 2864 (B) steel;
- 2865 (C) nonferrous metal;
- 2866 (D) paper;
- 2867 (E) glass;
- 2868 (F) plastic;
- 2869 (G) textile; or
- 2870 (H) rubber; and
- 2871 (ii) the new products under Subsection (67)(b)(i) would otherwise be made with
- 2872 nonrecycled materials; or
- 2873 (c) a cogeneration facility as defined in Section [54-2-1](#) if the cogeneration facility is
- 2874 placed in service on or after May 1, 2006.
- 2875 (68) (a) "Marketplace" means a physical or electronic place, platform, or forum where
- 2876 tangible personal property, a product transferred electronically, or a service is offered for sale.

2877 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a
2878 dedicated sales software application.

2879 (69) (a) "Marketplace facilitator" means a person, including an affiliate of the person,
2880 that enters into a contract, an agreement, or otherwise with sellers, for consideration, to
2881 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or
2882 controls and that directly or indirectly:

2883 (i) does any of the following:

2884 (A) lists, makes available, or advertises tangible personal property, a product
2885 transferred electronically, or a service for sale by a marketplace seller on a marketplace that the
2886 person owns, operates, or controls;

2887 (B) facilitates the sale of a marketplace seller's tangible personal property, product
2888 transferred electronically, or service by transmitting or otherwise communicating an offer or
2889 acceptance of a retail sale between the marketplace seller and a purchaser using the
2890 marketplace;

2891 (C) owns, rents, licenses, makes available, or operates any electronic or physical
2892 infrastructure or any property, process, method, copyright, trademark, or patent that connects a
2893 marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal
2894 property, a product transferred electronically, or a service;

2895 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible
2896 personal property, a product transferred electronically, or a service, regardless of ownership or
2897 control of the tangible personal property, the product transferred electronically, or the service
2898 that is the subject of the retail sale;

2899 (E) provides software development or research and development activities related to
2900 any activity described in this Subsection (69)(a)(i), if the software development or research and
2901 development activity is directly related to the person's marketplace;

2902 (F) provides or offers fulfillment or storage services for a marketplace seller;

2903 (G) sets prices for the sale of tangible personal property, a product transferred
2904 electronically, or a service by a marketplace seller;

2905 (H) provides or offers customer service to a marketplace seller or a marketplace seller's
2906 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal
2907 property, a product transferred electronically, or a service sold by a marketplace seller on the

2908 person's marketplace; or

2909 (I) brands or otherwise identifies sales as those of the person; and

2910 (ii) does any of the following:

2911 (A) collects the sales price or purchase price of a retail sale of tangible personal

2912 property, a product transferred electronically, or a service;

2913 (B) provides payment processing services for a retail sale of tangible personal property,

2914 a product transferred electronically, or a service;

2915 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing

2916 fee, a fee for inserting or making available tangible personal property, a product transferred

2917 electronically, or a service on the person's marketplace, or other consideration for the

2918 facilitation of a retail sale of tangible personal property, a product transferred electronically, or

2919 a service, regardless of ownership or control of the tangible personal property, the product

2920 transferred electronically, or the service that is the subject of the retail sale;

2921 (D) through terms and conditions, an agreement, or another arrangement with a third

2922 person, collects payment from a purchase for a retail sale of tangible personal property, a

2923 product transferred electronically, or a service and transmits that payment to the marketplace

2924 seller, regardless of whether the third person receives compensation or other consideration in

2925 exchange for the service; or

2926 (E) provides a virtual currency for a purchaser to use to purchase tangible personal

2927 property, a product transferred electronically, or service offered for sale.

2928 (b) "Marketplace facilitator" does not include:

2929 (i) a person that only provides payment processing services; or

2930 (ii) a person described in Subsection (69)(a) to the extent the person is facilitating a

2931 sale for a seller that is a restaurant as defined in Section [59-12-602](#).

2932 (70) "Marketplace seller" means a seller that makes one or more retail sales through a

2933 marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the

2934 seller is required to be registered to collect and remit the tax under this part.

2935 (71) "Member of the immediate family of the producer" means a person who is related

2936 to a producer described in Subsection [59-12-104\(20\)\(a\)](#) as a:

2937 (a) child or stepchild, regardless of whether the child or stepchild is:

2938 (i) an adopted child or adopted stepchild; or

- 2939 (ii) a foster child or foster stepchild;
- 2940 (b) grandchild or stepgrandchild;
- 2941 (c) grandparent or stepgrandparent;
- 2942 (d) nephew or stepnephew;
- 2943 (e) niece or stepniece;
- 2944 (f) parent or stepparent;
- 2945 (g) sibling or stepsibling;
- 2946 (h) spouse;
- 2947 (i) person who is the spouse of a person described in Subsections (71)(a) through (g);

2948 or

- 2949 (j) person similar to a person described in Subsections (71)(a) through (i) as
- 2950 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 2951 Administrative Rulemaking Act.

2952 (72) "Mobile home" means the same as that term is defined in Section [15A-1-302](#).

2953 (73) "Mobile telecommunications service" means the same as that term is defined in

2954 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2955 (74) (a) "Mobile wireless service" means a telecommunications service, regardless of

2956 the technology used, if:

- 2957 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 2958 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 2959 (iii) the origination point described in Subsection (74)(a)(i) and the termination point
- 2960 described in Subsection (74)(a)(ii) are not fixed.

2961 (b) "Mobile wireless service" includes a telecommunications service that is provided

2962 by a commercial mobile radio service provider.

2963 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2964 commission may by rule define "commercial mobile radio service provider."

2965 (75) (a) Except as provided in Subsection (75)(c), "mobility enhancing equipment"

2966 means equipment that is:

- 2967 (i) primarily and customarily used to provide or increase the ability to move from one
- 2968 place to another;
- 2969 (ii) appropriate for use in a:

- 2970 (A) home; or
- 2971 (B) motor vehicle; and
- 2972 (iii) not generally used by persons with normal mobility.
- 2973 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
- 2974 the equipment described in Subsection (75)(a).
- 2975 (c) "Mobility enhancing equipment" does not include:
- 2976 (i) a motor vehicle;
- 2977 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
- 2978 vehicle manufacturer;
- 2979 (iii) durable medical equipment; or
- 2980 (iv) a prosthetic device.
- 2981 (76) "Model 1 seller" means a seller registered under the agreement that has selected a
- 2982 certified service provider as the seller's agent to perform the seller's sales and use tax functions
- 2983 for agreement sales and use taxes, as outlined in the contract between the governing board of
- 2984 the agreement and the certified service provider, other than the seller's obligation under Section
- 2985 [59-12-124](#) to remit a tax on the seller's own purchases.
- 2986 (77) "Model 2 seller" means a seller registered under the agreement that:
- 2987 (a) except as provided in Subsection (77)(b), has selected a certified automated system
- 2988 to perform the seller's sales tax functions for agreement sales and use taxes; and
- 2989 (b) retains responsibility for remitting all of the sales tax:
- 2990 (i) collected by the seller; and
- 2991 (ii) to the appropriate local taxing jurisdiction.
- 2992 (78) (a) Subject to Subsection (78)(b), "model 3 seller" means a seller registered under
- 2993 the agreement that has:
- 2994 (i) sales in at least five states that are members of the agreement;
- 2995 (ii) total annual sales revenues of at least \$500,000,000;
- 2996 (iii) a proprietary system that calculates the amount of tax:
- 2997 (A) for an agreement sales and use tax; and
- 2998 (B) due to each local taxing jurisdiction; and
- 2999 (iv) entered into a performance agreement with the governing board of the agreement.
- 3000 (b) For purposes of Subsection (78)(a), "model 3 seller" includes an affiliated group of

3001 sellers using the same proprietary system.

3002 (79) "Model 4 seller" means a seller that is registered under the agreement and is not a
3003 model 1 seller, model 2 seller, or model 3 seller.

3004 (80) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

3005 (81) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).

3006 (82) "Oil sands" means impregnated bituminous sands that:

3007 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
3008 other hydrocarbons, or otherwise treated;

3009 (b) yield mixtures of liquid hydrocarbon; and

3010 (c) require further processing other than mechanical blending before becoming finished
3011 petroleum products.

3012 (83) "Oil shale" means a group of fine black to dark brown shales containing kerogen
3013 material that yields petroleum upon heating and distillation.

3014 (84) "Optional computer software maintenance contract" means a computer software
3015 maintenance contract that a customer is not obligated to purchase as a condition to the retail
3016 sale of computer software.

3017 (85) (a) "Other fuels" means products that burn independently to produce heat or
3018 energy.

3019 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
3020 personal property.

3021 (86) (a) "Paging service" means a telecommunications service that provides
3022 transmission of a coded radio signal for the purpose of activating a specific pager.

3023 (b) For purposes of Subsection (86)(a), the transmission of a coded radio signal
3024 includes a transmission by message or sound.

3025 (87) "Pawnbroker" means the same as that term is defined in Section [13-32a-102](#).

3026 (88) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).

3027 (89) (a) "Permanently attached to real property" means that for tangible personal
3028 property attached to real property:

3029 (i) the attachment of the tangible personal property to the real property:

3030 (A) is essential to the use of the tangible personal property; and

3031 (B) suggests that the tangible personal property will remain attached to the real

3032 property in the same place over the useful life of the tangible personal property; or
3033 (ii) if the tangible personal property is detached from the real property, the detachment
3034 would:
3035 (A) cause substantial damage to the tangible personal property; or
3036 (B) require substantial alteration or repair of the real property to which the tangible
3037 personal property is attached.
3038 (b) "Permanently attached to real property" includes:
3039 (i) the attachment of an accessory to the tangible personal property if the accessory is:
3040 (A) essential to the operation of the tangible personal property; and
3041 (B) attached only to facilitate the operation of the tangible personal property;
3042 (ii) a temporary detachment of tangible personal property from real property for a
3043 repair or renovation if the repair or renovation is performed where the tangible personal
3044 property and real property are located; or
3045 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
3046 Subsection (89)(c)(iii) or (iv).
3047 (c) "Permanently attached to real property" does not include:
3048 (i) the attachment of portable or movable tangible personal property to real property if
3049 that portable or movable tangible personal property is attached to real property only for:
3050 (A) convenience;
3051 (B) stability; or
3052 (C) for an obvious temporary purpose;
3053 (ii) the detachment of tangible personal property from real property except for the
3054 detachment described in Subsection (89)(b)(ii);
3055 (iii) an attachment of the following tangible personal property to real property if the
3056 attachment to real property is only through a line that supplies water, electricity, gas,
3057 telecommunications, cable, or supplies a similar item as determined by the commission by rule
3058 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
3059 (A) a computer;
3060 (B) a telephone;
3061 (C) a television; or
3062 (D) tangible personal property similar to Subsections (89)(c)(iii)(A) through (C) as

3063 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
3064 Administrative Rulemaking Act; or

3065 (iv) an item listed in Subsection (130)(c).

3066 (90) "Person" includes any individual, firm, partnership, joint venture, association,
3067 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
3068 municipality, district, or other local governmental entity of the state, or any group or
3069 combination acting as a unit.

3070 (91) "Place of primary use":

3071 (a) for telecommunications service other than mobile telecommunications service,
3072 means the street address representative of where the customer's use of the telecommunications
3073 service primarily occurs, which shall be:

3074 (i) the residential street address of the customer; or

3075 (ii) the primary business street address of the customer; or

3076 (b) for mobile telecommunications service, means the same as that term is defined in
3077 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

3078 (92) (a) "Postpaid calling service" means a telecommunications service a person
3079 obtains by making a payment on a call-by-call basis:

3080 (i) through the use of a:

3081 (A) bank card;

3082 (B) credit card;

3083 (C) debit card; or

3084 (D) travel card; or

3085 (ii) by a charge made to a telephone number that is not associated with the origination
3086 or termination of the telecommunications service.

3087 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
3088 service, that would be a prepaid wireless calling service if the service were exclusively a
3089 telecommunications service.

3090 (93) "Postproduction" means an activity related to the finishing or duplication of a
3091 medium described in Subsection [59-12-104\(54\)\(a\)](#).

3092 (94) "Prepaid calling service" means a telecommunications service:

3093 (a) that allows a purchaser access to telecommunications service that is exclusively

- 3094 telecommunications service;
- 3095 (b) that:
- 3096 (i) is paid for in advance; and
- 3097 (ii) enables the origination of a call using an:
- 3098 (A) access number; or
- 3099 (B) authorization code;
- 3100 (c) that is dialed:
- 3101 (i) manually; or
- 3102 (ii) electronically; and
- 3103 (d) sold in predetermined units or dollars that decline:
- 3104 (i) by a known amount; and
- 3105 (ii) with use.
- 3106 (95) "Prepaid wireless calling service" means a telecommunications service:
- 3107 (a) that provides the right to utilize:
- 3108 (i) mobile wireless service; and
- 3109 (ii) other service that is not a telecommunications service, including:
- 3110 (A) the download of a product transferred electronically;
- 3111 (B) a content service; or
- 3112 (C) an ancillary service;
- 3113 (b) that:
- 3114 (i) is paid for in advance; and
- 3115 (ii) enables the origination of a call using an:
- 3116 (A) access number; or
- 3117 (B) authorization code;
- 3118 (c) that is dialed:
- 3119 (i) manually; or
- 3120 (ii) electronically; and
- 3121 (d) sold in predetermined units or dollars that decline:
- 3122 (i) by a known amount; and
- 3123 (ii) with use.
- 3124 (96) (a) "Prepared food" means:

- 3125 (i) food:
- 3126 (A) sold in a heated state; or
- 3127 (B) heated by a seller;
- 3128 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 3129 item; or
- 3130 (iii) except as provided in Subsection (96)(c), food sold with an eating utensil provided
- 3131 by the seller, including a:
- 3132 (A) plate;
- 3133 (B) knife;
- 3134 (C) fork;
- 3135 (D) spoon;
- 3136 (E) glass;
- 3137 (F) cup;
- 3138 (G) napkin; or
- 3139 (H) straw.
- 3140 (b) "Prepared food" does not include:
- 3141 (i) food that a seller only:
- 3142 (A) cuts;
- 3143 (B) repackages; or
- 3144 (C) pasteurizes; or
- 3145 (ii) (A) the following:
- 3146 (I) raw egg;
- 3147 (II) raw fish;
- 3148 (III) raw meat;
- 3149 (IV) raw poultry; or
- 3150 (V) a food containing an item described in Subsections (96)(b)(ii)(A)(I) through (IV);
- 3151 and
- 3152 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 3153 Food and Drug Administration's Food Code that a consumer cook the items described in
- 3154 Subsection (96)(b)(ii)(A) to prevent food borne illness; or
- 3155 (iii) the following if sold without eating utensils provided by the seller:

3156 (A) food and food ingredients sold by a seller if the seller's proper primary
3157 classification under the 2002 North American Industry Classification System of the federal
3158 Executive Office of the President, Office of Management and Budget, is manufacturing in
3159 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla

3160 Manufacturing;

3161 (B) food and food ingredients sold in an unheated state:

3162 (I) by weight or volume; and

3163 (II) as a single item; or

3164 (C) a bakery item, including:

3165 (I) a bagel;

3166 (II) a bar;

3167 (III) a biscuit;

3168 (IV) bread;

3169 (V) a bun;

3170 (VI) a cake;

3171 (VII) a cookie;

3172 (VIII) a croissant;

3173 (IX) a danish;

3174 (X) a donut;

3175 (XI) a muffin;

3176 (XII) a pastry;

3177 (XIII) a pie;

3178 (XIV) a roll;

3179 (XV) a tart;

3180 (XVI) a torte; or

3181 (XVII) a tortilla.

3182 (c) An eating utensil provided by the seller does not include the following used to
3183 transport the food:

3184 (i) a container; or

3185 (ii) packaging.

3186 (97) "Prescription" means an order, formula, or recipe that is issued:

3187 (a) (i) orally;
3188 (ii) in writing;
3189 (iii) electronically; or
3190 (iv) by any other manner of transmission; and
3191 (b) by a licensed practitioner authorized by the laws of a state.
3192 (98) (a) Except as provided in Subsection (98)(b)(ii) or (iii), "prewritten computer
3193 software" means computer software that is not designed and developed:
3194 (i) by the author or other creator of the computer software; and
3195 (ii) to the specifications of a specific purchaser.
3196 (b) "Prewritten computer software" includes:
3197 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
3198 software is not designed and developed:
3199 (A) by the author or other creator of the computer software; and
3200 (B) to the specifications of a specific purchaser;
3201 (ii) computer software designed and developed by the author or other creator of the
3202 computer software to the specifications of a specific purchaser if the computer software is sold
3203 to a person other than the purchaser; or
3204 (iii) except as provided in Subsection (98)(c), prewritten computer software or a
3205 prewritten portion of prewritten computer software:
3206 (A) that is modified or enhanced to any degree; and
3207 (B) if the modification or enhancement described in Subsection (98)(b)(iii)(A) is
3208 designed and developed to the specifications of a specific purchaser.
3209 (c) "Prewritten computer software" does not include a modification or enhancement
3210 described in Subsection (98)(b)(iii) if the charges for the modification or enhancement are:
3211 (i) reasonable; and
3212 (ii) subject to Subsections 59-12-103(2)(~~e~~)(f)(ii) and (2)(~~f~~)(g)(i), separately stated
3213 on the invoice or other statement of price provided to the purchaser at the time of sale or later,
3214 as demonstrated by:
3215 (A) the books and records the seller keeps at the time of the transaction in the regular
3216 course of business, including books and records the seller keeps at the time of the transaction in
3217 the regular course of business for nontax purposes;

3218 (B) a preponderance of the facts and circumstances at the time of the transaction; and

3219 (C) the understanding of all of the parties to the transaction.

3220 (99) (a) "Private communications service" means a telecommunications service:

3221 (i) that entitles a customer to exclusive or priority use of one or more communications

3222 channels between or among termination points; and

3223 (ii) regardless of the manner in which the one or more communications channels are

3224 connected.

3225 (b) "Private communications service" includes the following provided in connection

3226 with the use of one or more communications channels:

3227 (i) an extension line;

3228 (ii) a station;

3229 (iii) switching capacity; or

3230 (iv) another associated service that is provided in connection with the use of one or

3231 more communications channels as defined in Section [59-12-215](#).

3232 (100) (a) Except as provided in Subsection (100)(b), "product transferred

3233 electronically" means a product transferred electronically that would be subject to a tax under

3234 this chapter if that product was transferred in a manner other than electronically.

3235 (b) "Product transferred electronically" does not include:

3236 (i) an ancillary service;

3237 (ii) computer software; or

3238 (iii) a telecommunications service.

3239 (101) (a) "Prosthetic device" means a device that is worn on or in the body to:

3240 (i) artificially replace a missing portion of the body;

3241 (ii) prevent or correct a physical deformity or physical malfunction; or

3242 (iii) support a weak or deformed portion of the body.

3243 (b) "Prosthetic device" includes:

3244 (i) parts used in the repairs or renovation of a prosthetic device;

3245 (ii) replacement parts for a prosthetic device;

3246 (iii) a dental prosthesis; or

3247 (iv) a hearing aid.

3248 (c) "Prosthetic device" does not include:

- 3249 (i) corrective eyeglasses; or
3250 (ii) contact lenses.
3251 (102) (a) "Protective equipment" means an item:
3252 (i) for human wear; and
3253 (ii) that is:
3254 (A) designed as protection:
3255 (I) to the wearer against injury or disease; or
3256 (II) against damage or injury of other persons or property; and
3257 (B) not suitable for general use.
3258 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3259 commission shall make rules:
3260 (i) listing the items that constitute "protective equipment"; and
3261 (ii) that are consistent with the list of items that constitute "protective equipment"
3262 under the agreement.
3263 (103) (a) For purposes of Subsection [59-12-104\(41\)](#), "publication" means any written
3264 or printed matter, other than a photocopy:
3265 (i) regardless of:
3266 (A) characteristics;
3267 (B) copyright;
3268 (C) form;
3269 (D) format;
3270 (E) method of reproduction; or
3271 (F) source; and
3272 (ii) made available in printed or electronic format.
3273 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3274 commission may by rule define the term "photocopy."
3275 (104) (a) "Purchase price" and "sales price" mean the total amount of consideration:
3276 (i) valued in money; and
3277 (ii) for which tangible personal property, a product transferred electronically, or
3278 services are:
3279 (A) sold;

- 3280 (B) leased; or
- 3281 (C) rented.
- 3282 (b) "Purchase price" and "sales price" include:
- 3283 (i) the seller's cost of the tangible personal property, a product transferred
- 3284 electronically, or services sold;
- 3285 (ii) expenses of the seller, including:
- 3286 (A) the cost of materials used;
- 3287 (B) a labor cost;
- 3288 (C) a service cost;
- 3289 (D) interest;
- 3290 (E) a loss;
- 3291 (F) the cost of transportation to the seller; or
- 3292 (G) a tax imposed on the seller;
- 3293 (iii) a charge by the seller for any service necessary to complete the sale; or
- 3294 (iv) consideration a seller receives from a person other than the purchaser if:
- 3295 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 3296 and
- 3297 (II) the consideration described in Subsection (104)(b)(iv)(A)(I) is directly related to a
- 3298 price reduction or discount on the sale;
- 3299 (B) the seller has an obligation to pass the price reduction or discount through to the
- 3300 purchaser;
- 3301 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 3302 the seller at the time of the sale to the purchaser; and
- 3303 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 3304 seller to claim a price reduction or discount; and
- 3305 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 3306 coupon, or other documentation with the understanding that the person other than the seller
- 3307 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 3308 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 3309 organization allowed a price reduction or discount, except that a preferred customer card that is
- 3310 available to any patron of a seller does not constitute membership in a group or organization

3311 allowed a price reduction or discount; or
3312 (III) the price reduction or discount is identified as a third party price reduction or
3313 discount on the:
3314 (Aa) invoice the purchaser receives; or
3315 (Bb) certificate, coupon, or other documentation the purchaser presents.
3316 (c) "Purchase price" and "sales price" do not include:
3317 (i) a discount:
3318 (A) in a form including:
3319 (I) cash;
3320 (II) term; or
3321 (III) coupon;
3322 (B) that is allowed by a seller;
3323 (C) taken by a purchaser on a sale; and
3324 (D) that is not reimbursed by a third party; or
3325 (ii) subject to Subsections 59-12-103(2)~~(f)~~(f)(ii) and (2)~~(f)~~(g)(i), the following if
3326 separately stated on an invoice, bill of sale, or similar document provided to the purchaser at
3327 the time of sale or later, as demonstrated by the books and records the seller keeps at the time
3328 of the transaction in the regular course of business, including books and records the seller
3329 keeps at the time of the transaction in the regular course of business for nontax purposes, by a
3330 preponderance of the facts and circumstances at the time of the transaction, and by the
3331 understanding of all of the parties to the transaction:
3332 (A) the following from credit extended on the sale of tangible personal property or
3333 services:
3334 (I) a carrying charge;
3335 (II) a financing charge; or
3336 (III) an interest charge;
3337 (B) a delivery charge;
3338 (C) an installation charge;
3339 (D) a manufacturer rebate on a motor vehicle; or
3340 (E) a tax or fee legally imposed directly on the consumer.
3341 (105) "Purchaser" means a person to whom:

- 3342 (a) a sale of tangible personal property is made;
- 3343 (b) a product is transferred electronically; or
- 3344 (c) a service is furnished.
- 3345 (106) "Qualifying data center" means a data center facility that:
- 3346 (a) houses a group of networked server computers in one physical location in order to
- 3347 disseminate, manage, and store data and information;
- 3348 (b) is located in the state;
- 3349 (c) is a new operation constructed on or after July 1, 2016;
- 3350 (d) consists of one or more buildings that total 150,000 or more square feet;
- 3351 (e) is owned or leased by:
- 3352 (i) the operator of the data center facility; or
- 3353 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
- 3354 of the data center facility; and
- 3355 (f) is located on one or more parcels of land that are owned or leased by:
- 3356 (i) the operator of the data center facility; or
- 3357 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
- 3358 of the data center facility.
- 3359 (107) "Regularly rented" means:
- 3360 (a) rented to a guest for value three or more times during a calendar year; or
- 3361 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 3362 value.
- 3363 (108) "Rental" means the same as that term is defined in Subsection (60).
- 3364 (109) (a) Except as provided in Subsection (109)(b), "repairs or renovations of tangible
- 3365 personal property" means:
- 3366 (i) a repair or renovation of tangible personal property that is not permanently attached
- 3367 to real property; or
- 3368 (ii) attaching tangible personal property or a product transferred electronically to other
- 3369 tangible personal property or detaching tangible personal property or a product transferred
- 3370 electronically from other tangible personal property if:
- 3371 (A) the other tangible personal property to which the tangible personal property or
- 3372 product transferred electronically is attached or from which the tangible personal property or

3373 product transferred electronically is detached is not permanently attached to real property; and

3374 (B) the attachment of tangible personal property or a product transferred electronically
3375 to other tangible personal property or detachment of tangible personal property or a product
3376 transferred electronically from other tangible personal property is made in conjunction with a
3377 repair or replacement of tangible personal property or a product transferred electronically.

3378 (b) "Repairs or renovations of tangible personal property" does not include:

3379 (i) attaching prewritten computer software to other tangible personal property if the
3380 other tangible personal property to which the prewritten computer software is attached is not
3381 permanently attached to real property; or

3382 (ii) detaching prewritten computer software from other tangible personal property if the
3383 other tangible personal property from which the prewritten computer software is detached is
3384 not permanently attached to real property.

3385 (110) "Research and development" means the process of inquiry or experimentation
3386 aimed at the discovery of facts, devices, technologies, or applications and the process of
3387 preparing those devices, technologies, or applications for marketing.

3388 (111) (a) "Residential telecommunications services" means a telecommunications
3389 service or an ancillary service that is provided to an individual for personal use:

3390 (i) at a residential address; or

3391 (ii) at an institution, including a nursing home or a school, if the telecommunications
3392 service or ancillary service is provided to and paid for by the individual residing at the
3393 institution rather than the institution.

3394 (b) For purposes of Subsection (111)(a)(i), a residential address includes an:

3395 (i) apartment; or

3396 (ii) other individual dwelling unit.

3397 (112) "Residential use" means the use in or around a home, apartment building,
3398 sleeping quarters, and similar facilities or accommodations.

3399 (113) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
3400 than:

3401 (a) resale;

3402 (b) sublease; or

3403 (c) subrent.

3404 (114) (a) "Retailer" means any person, unless prohibited by the Constitution of the
3405 United States or federal law, that is engaged in a regularly organized business in tangible
3406 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is
3407 selling to the user or consumer and not for resale.

3408 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
3409 engaged in the business of selling to users or consumers within the state.

3410 (115) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
3411 otherwise, in any manner, of tangible personal property or any other taxable transaction under
3412 Subsection 59-12-103(1), for consideration.

3413 (b) "Sale" includes:

3414 (i) installment and credit sales;

3415 (ii) any closed transaction constituting a sale;

3416 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
3417 chapter;

3418 (iv) any transaction if the possession of property is transferred but the seller retains the
3419 title as security for the payment of the price; and

3420 (v) any transaction under which right to possession, operation, or use of any article of
3421 tangible personal property is granted under a lease or contract and the transfer of possession
3422 would be taxable if an outright sale were made.

3423 (116) "Sale at retail" means the same as that term is defined in Subsection (113).

3424 (117) "Sale-leaseback transaction" means a transaction by which title to tangible
3425 personal property or a product transferred electronically that is subject to a tax under this
3426 chapter is transferred:

3427 (a) by a purchaser-lessee;

3428 (b) to a lessor;

3429 (c) for consideration; and

3430 (d) if:

3431 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
3432 of the tangible personal property or product transferred electronically;

3433 (ii) the sale of the tangible personal property or product transferred electronically to the
3434 lessor is intended as a form of financing;

3435 (A) for the tangible personal property or product transferred electronically; and
3436 (B) to the purchaser-lessee; and
3437 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
3438 is required to:

3439 (A) capitalize the tangible personal property or product transferred electronically for
3440 financial reporting purposes; and

3441 (B) account for the lease payments as payments made under a financing arrangement.

3442 (118) "Sales price" means the same as that term is defined in Subsection (104).

3443 (119) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
3444 amounts charged by a school:

3445 (i) sales that are directly related to the school's educational functions or activities
3446 including:

3447 (A) the sale of:

3448 (I) textbooks;

3449 (II) textbook fees;

3450 (III) laboratory fees;

3451 (IV) laboratory supplies; or

3452 (V) safety equipment;

3453 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
3454 that:

3455 (I) a student is specifically required to wear as a condition of participation in a
3456 school-related event or school-related activity; and

3457 (II) is not readily adaptable to general or continued usage to the extent that it takes the
3458 place of ordinary clothing;

3459 (C) sales of the following if the net or gross revenues generated by the sales are
3460 deposited into a school district fund or school fund dedicated to school meals:

3461 (I) food and food ingredients; or

3462 (II) prepared food; or

3463 (D) transportation charges for official school activities; or

3464 (ii) amounts paid to or amounts charged by a school for admission to a school-related
3465 event or school-related activity.

- 3466 (b) "Sales relating to schools" does not include:
- 3467 (i) bookstore sales of items that are not educational materials or supplies;
- 3468 (ii) except as provided in Subsection (119)(a)(i)(B):
- 3469 (A) clothing;
- 3470 (B) clothing accessories or equipment;
- 3471 (C) protective equipment; or
- 3472 (D) sports or recreational equipment; or
- 3473 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 3474 event or school-related activity if the amounts paid or charged are passed through to a person:
- 3475 (A) other than a:
- 3476 (I) school;
- 3477 (II) nonprofit organization authorized by a school board or a governing body of a
- 3478 private school to organize and direct a competitive secondary school activity; or
- 3479 (III) nonprofit association authorized by a school board or a governing body of a
- 3480 private school to organize and direct a competitive secondary school activity; and
- 3481 (B) that is required to collect sales and use taxes under this chapter.
- 3482 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3483 commission may make rules defining the term "passed through."
- 3484 (120) For purposes of this section and Section [59-12-104](#), "school" means:
- 3485 (a) an elementary school or a secondary school that:
- 3486 (i) is a:
- 3487 (A) public school; or
- 3488 (B) private school; and
- 3489 (ii) provides instruction for one or more grades kindergarten through 12; or
- 3490 (b) a public school district.
- 3491 (121) (a) "Seller" means a person that makes a sale, lease, or rental of:
- 3492 (i) tangible personal property;
- 3493 (ii) a product transferred electronically; or
- 3494 (iii) a service.
- 3495 (b) "Seller" includes a marketplace facilitator.
- 3496 (122) (a) "Semiconductor fabricating, processing, research, or development materials"

3497 means tangible personal property or a product transferred electronically if the tangible personal
3498 property or product transferred electronically is:

3499 (i) used primarily in the process of:

3500 (A) (I) manufacturing a semiconductor;

3501 (II) fabricating a semiconductor; or

3502 (III) research or development of a:

3503 (Aa) semiconductor; or

3504 (Bb) semiconductor manufacturing process; or

3505 (B) maintaining an environment suitable for a semiconductor; or

3506 (ii) consumed primarily in the process of:

3507 (A) (I) manufacturing a semiconductor;

3508 (II) fabricating a semiconductor; or

3509 (III) research or development of a:

3510 (Aa) semiconductor; or

3511 (Bb) semiconductor manufacturing process; or

3512 (B) maintaining an environment suitable for a semiconductor.

3513 (b) "Semiconductor fabricating, processing, research, or development materials"

3514 includes:

3515 (i) parts used in the repairs or renovations of tangible personal property or a product
3516 transferred electronically described in Subsection (122)(a); or

3517 (ii) a chemical, catalyst, or other material used to:

3518 (A) produce or induce in a semiconductor a:

3519 (I) chemical change; or

3520 (II) physical change;

3521 (B) remove impurities from a semiconductor; or

3522 (C) improve the marketable condition of a semiconductor.

3523 (123) "Senior citizen center" means a facility having the primary purpose of providing
3524 services to the aged as defined in Section [62A-3-101](#).

3525 (124) (a) Subject to Subsections (124)(b) and (c), "short-term lodging consumable"
3526 means tangible personal property that:

3527 (i) a business that provides accommodations and services described in Subsection

3528 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
3529 to a purchaser;

3530 (ii) is intended to be consumed by the purchaser; and

3531 (iii) is:

3532 (A) included in the purchase price of the accommodations and services; and

3533 (B) not separately stated on an invoice, bill of sale, or other similar document provided
3534 to the purchaser.

3535 (b) "Short-term lodging consumable" includes:

3536 (i) a beverage;

3537 (ii) a brush or comb;

3538 (iii) a cosmetic;

3539 (iv) a hair care product;

3540 (v) lotion;

3541 (vi) a magazine;

3542 (vii) makeup;

3543 (viii) a meal;

3544 (ix) mouthwash;

3545 (x) nail polish remover;

3546 (xi) a newspaper;

3547 (xii) a notepad;

3548 (xiii) a pen;

3549 (xiv) a pencil;

3550 (xv) a razor;

3551 (xvi) saline solution;

3552 (xvii) a sewing kit;

3553 (xviii) shaving cream;

3554 (xix) a shoe shine kit;

3555 (xx) a shower cap;

3556 (xxi) a snack item;

3557 (xxii) soap;

3558 (xxiii) toilet paper;

3559 (xxiv) a toothbrush;
3560 (xxv) toothpaste; or
3561 (xxvi) an item similar to Subsections (124)(b)(i) through (xxv) as the commission may
3562 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3563 Rulemaking Act.

3564 (c) "Short-term lodging consumable" does not include:

3565 (i) tangible personal property that is cleaned or washed to allow the tangible personal
3566 property to be reused; or

3567 (ii) a product transferred electronically.

3568 (125) "Simplified electronic return" means the electronic return:

3569 (a) described in Section 318(C) of the agreement; and

3570 (b) approved by the governing board of the agreement.

3571 (126) "Solar energy" means the sun used as the sole source of energy for producing
3572 electricity.

3573 (127) (a) "Sports or recreational equipment" means an item:

3574 (i) designed for human use; and

3575 (ii) that is:

3576 (A) worn in conjunction with:

3577 (I) an athletic activity; or

3578 (II) a recreational activity; and

3579 (B) not suitable for general use.

3580 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3581 commission shall make rules:

3582 (i) listing the items that constitute "sports or recreational equipment"; and

3583 (ii) that are consistent with the list of items that constitute "sports or recreational
3584 equipment" under the agreement.

3585 (128) "State" means the state of Utah, its departments, and agencies.

3586 (129) "Storage" means any keeping or retention of tangible personal property or any
3587 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
3588 sale in the regular course of business.

3589 (130) (a) Except as provided in Subsection (130)(d) or (e), "tangible personal property"

3590 means personal property that:

3591 (i) may be:

3592 (A) seen;

3593 (B) weighed;

3594 (C) measured;

3595 (D) felt; or

3596 (E) touched; or

3597 (ii) is in any manner perceptible to the senses.

3598 (b) "Tangible personal property" includes:

3599 (i) electricity;

3600 (ii) water;

3601 (iii) gas;

3602 (iv) steam; or

3603 (v) prewritten computer software, regardless of the manner in which the prewritten

3604 computer software is transferred.

3605 (c) "Tangible personal property" includes the following regardless of whether the item

3606 is attached to real property:

3607 (i) a dishwasher;

3608 (ii) a dryer;

3609 (iii) a freezer;

3610 (iv) a microwave;

3611 (v) a refrigerator;

3612 (vi) a stove;

3613 (vii) a washer; or

3614 (viii) an item similar to Subsections (130)(c)(i) through (vii) as determined by the

3615 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

3616 Rulemaking Act.

3617 (d) "Tangible personal property" does not include a product that is transferred

3618 electronically.

3619 (e) "Tangible personal property" does not include the following if attached to real

3620 property, regardless of whether the attachment to real property is only through a line that

3621 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
3622 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3623 Rulemaking Act:

- 3624 (i) a hot water heater;
- 3625 (ii) a water filtration system; or
- 3626 (iii) a water softener system.

3627 (131) (a) "Telecommunications enabling or facilitating equipment, machinery, or
3628 software" means an item listed in Subsection (131)(b) if that item is purchased or leased
3629 primarily to enable or facilitate one or more of the following to function:

- 3630 (i) telecommunications switching or routing equipment, machinery, or software; or
- 3631 (ii) telecommunications transmission equipment, machinery, or software.

3632 (b) The following apply to Subsection (131)(a):

- 3633 (i) a pole;
- 3634 (ii) software;
- 3635 (iii) a supplementary power supply;
- 3636 (iv) temperature or environmental equipment or machinery;
- 3637 (v) test equipment;
- 3638 (vi) a tower; or

3639 (vii) equipment, machinery, or software that functions similarly to an item listed in
3640 Subsections (131)(b)(i) through (vi) as determined by the commission by rule made in
3641 accordance with Subsection (131)(c).

3642 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3643 commission may by rule define what constitutes equipment, machinery, or software that
3644 functions similarly to an item listed in Subsections (131)(b)(i) through (vi).

3645 (132) "Telecommunications equipment, machinery, or software required for 911
3646 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
3647 Sec. 20.18.

3648 (133) "Telecommunications maintenance or repair equipment, machinery, or software"
3649 means equipment, machinery, or software purchased or leased primarily to maintain or repair
3650 one or more of the following, regardless of whether the equipment, machinery, or software is
3651 purchased or leased as a spare part or as an upgrade or modification to one or more of the

3652 following:

3653 (a) telecommunications enabling or facilitating equipment, machinery, or software;

3654 (b) telecommunications switching or routing equipment, machinery, or software; or

3655 (c) telecommunications transmission equipment, machinery, or software.

3656 (134) (a) "Telecommunications service" means the electronic conveyance, routing, or
3657 transmission of audio, data, video, voice, or any other information or signal to a point, or
3658 among or between points.

3659 (b) "Telecommunications service" includes:

3660 (i) an electronic conveyance, routing, or transmission with respect to which a computer
3661 processing application is used to act:

3662 (A) on the code, form, or protocol of the content;

3663 (B) for the purpose of electronic conveyance, routing, or transmission; and

3664 (C) regardless of whether the service:

3665 (I) is referred to as voice over Internet protocol service; or

3666 (II) is classified by the Federal Communications Commission as enhanced or value
3667 added;

3668 (ii) an 800 service;

3669 (iii) a 900 service;

3670 (iv) a fixed wireless service;

3671 (v) a mobile wireless service;

3672 (vi) a postpaid calling service;

3673 (vii) a prepaid calling service;

3674 (viii) a prepaid wireless calling service; or

3675 (ix) a private communications service.

3676 (c) "Telecommunications service" does not include:

3677 (i) advertising, including directory advertising;

3678 (ii) an ancillary service;

3679 (iii) a billing and collection service provided to a third party;

3680 (iv) a data processing and information service if:

3681 (A) the data processing and information service allows data to be:

3682 (I) (Aa) acquired;

- 3683 (Bb) generated;
- 3684 (Cc) processed;
- 3685 (Dd) retrieved; or
- 3686 (Ee) stored; and
- 3687 (II) delivered by an electronic transmission to a purchaser; and
- 3688 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 3689 or information;
- 3690 (v) installation or maintenance of the following on a customer's premises:
- 3691 (A) equipment; or
- 3692 (B) wiring;
- 3693 (vi) Internet access service;
- 3694 (vii) a paging service;
- 3695 (viii) a product transferred electronically, including:
- 3696 (A) music;
- 3697 (B) reading material;
- 3698 (C) a ring tone;
- 3699 (D) software; or
- 3700 (E) video;
- 3701 (ix) a radio and television audio and video programming service:
- 3702 (A) regardless of the medium; and
- 3703 (B) including:
- 3704 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 3705 programming service by a programming service provider;
- 3706 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 3707 (III) audio and video programming services delivered by a commercial mobile radio
- 3708 service provider as defined in 47 C.F.R. Sec. 20.3;
- 3709 (x) a value-added nonvoice data service; or
- 3710 (xi) tangible personal property.
- 3711 (135) (a) "Telecommunications service provider" means a person that:
- 3712 (i) owns, controls, operates, or manages a telecommunications service; and
- 3713 (ii) engages in an activity described in Subsection (135)(a)(i) for the shared use with or

3714 resale to any person of the telecommunications service.

3715 (b) A person described in Subsection (135)(a) is a telecommunications service provider
3716 whether or not the Public Service Commission of Utah regulates:

3717 (i) that person; or

3718 (ii) the telecommunications service that the person owns, controls, operates, or
3719 manages.

3720 (136) (a) "Telecommunications switching or routing equipment, machinery, or
3721 software" means an item listed in Subsection (136)(b) if that item is purchased or leased
3722 primarily for switching or routing:

3723 (i) an ancillary service;

3724 (ii) data communications;

3725 (iii) voice communications; or

3726 (iv) telecommunications service.

3727 (b) The following apply to Subsection (136)(a):

3728 (i) a bridge;

3729 (ii) a computer;

3730 (iii) a cross connect;

3731 (iv) a modem;

3732 (v) a multiplexer;

3733 (vi) plug in circuitry;

3734 (vii) a router;

3735 (viii) software;

3736 (ix) a switch; or

3737 (x) equipment, machinery, or software that functions similarly to an item listed in
3738 Subsections (136)(b)(i) through (ix) as determined by the commission by rule made in
3739 accordance with Subsection (136)(c).

3740 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3741 commission may by rule define what constitutes equipment, machinery, or software that
3742 functions similarly to an item listed in Subsections (136)(b)(i) through (ix).

3743 (137) (a) "Telecommunications transmission equipment, machinery, or software"
3744 means an item listed in Subsection (137)(b) if that item is purchased or leased primarily for

- 3745 sending, receiving, or transporting:
- 3746 (i) an ancillary service;
 - 3747 (ii) data communications;
 - 3748 (iii) voice communications; or
 - 3749 (iv) telecommunications service.
- 3750 (b) The following apply to Subsection (137)(a):
- 3751 (i) an amplifier;
 - 3752 (ii) a cable;
 - 3753 (iii) a closure;
 - 3754 (iv) a conduit;
 - 3755 (v) a controller;
 - 3756 (vi) a duplexer;
 - 3757 (vii) a filter;
 - 3758 (viii) an input device;
 - 3759 (ix) an input/output device;
 - 3760 (x) an insulator;
 - 3761 (xi) microwave machinery or equipment;
 - 3762 (xii) an oscillator;
 - 3763 (xiii) an output device;
 - 3764 (xiv) a pedestal;
 - 3765 (xv) a power converter;
 - 3766 (xvi) a power supply;
 - 3767 (xvii) a radio channel;
 - 3768 (xviii) a radio receiver;
 - 3769 (xix) a radio transmitter;
 - 3770 (xx) a repeater;
 - 3771 (xxi) software;
 - 3772 (xxii) a terminal;
 - 3773 (xxiii) a timing unit;
 - 3774 (xxiv) a transformer;
 - 3775 (xxv) a wire; or

3776 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
3777 Subsections (137)(b)(i) through (xxv) as determined by the commission by rule made in
3778 accordance with Subsection (137)(c).

3779 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3780 commission may by rule define what constitutes equipment, machinery, or software that
3781 functions similarly to an item listed in Subsections (137)(b)(i) through (xxv).

3782 (138) (a) "Textbook for a higher education course" means a textbook or other printed
3783 material that is required for a course:

3784 (i) offered by an institution of higher education; and

3785 (ii) that the purchaser of the textbook or other printed material attends or will attend.

3786 (b) "Textbook for a higher education course" includes a textbook in electronic format.

3787 (139) "Tobacco" means:

3788 (a) a cigarette;

3789 (b) a cigar;

3790 (c) chewing tobacco;

3791 (d) pipe tobacco; or

3792 (e) any other item that contains tobacco.

3793 (140) "Unassisted amusement device" means an amusement device, skill device, or
3794 ride device that is started and stopped by the purchaser or renter of the right to use or operate
3795 the amusement device, skill device, or ride device.

3796 (141) (a) "Use" means the exercise of any right or power over tangible personal
3797 property, a product transferred electronically, or a service under Subsection [59-12-103\(1\)](#),
3798 incident to the ownership or the leasing of that tangible personal property, product transferred
3799 electronically, or service.

3800 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
3801 property, a product transferred electronically, or a service in the regular course of business and
3802 held for resale.

3803 (142) "Value-added nonvoice data service" means a service:

3804 (a) that otherwise meets the definition of a telecommunications service except that a
3805 computer processing application is used to act primarily for a purpose other than conveyance,
3806 routing, or transmission; and

3807 (b) with respect to which a computer processing application is used to act on data or
3808 information:

- 3809 (i) code;
- 3810 (ii) content;
- 3811 (iii) form; or
- 3812 (iv) protocol.

3813 (143) (a) Subject to Subsection (143)(b), "vehicle" means the following that are
3814 required to be titled, registered, or titled and registered:

- 3815 (i) an aircraft as defined in Section 72-10-102;
- 3816 (ii) a vehicle as defined in Section 41-1a-102;
- 3817 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 3818 (iv) a vessel as defined in Section 41-1a-102.

3819 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 3820 (i) a vehicle described in Subsection (143)(a); or
- 3821 (ii) (A) a locomotive;
- 3822 (B) a freight car;
- 3823 (C) railroad work equipment; or
- 3824 (D) other railroad rolling stock.

3825 (144) "Vehicle dealer" means a person engaged in the business of buying, selling, or
3826 exchanging a vehicle as defined in Subsection (143).

3827 (145) (a) "Vertical service" means an ancillary service that:

- 3828 (i) is offered in connection with one or more telecommunications services; and
- 3829 (ii) offers an advanced calling feature that allows a customer to:
 - 3830 (A) identify a caller; and
 - 3831 (B) manage multiple calls and call connections.

3832 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
3833 conference bridging service.

3834 (146) (a) "Voice mail service" means an ancillary service that enables a customer to
3835 receive, send, or store a recorded message.

3836 (b) "Voice mail service" does not include a vertical service that a customer is required
3837 to have in order to utilize a voice mail service.

3838 (147) (a) Except as provided in Subsection (147)(b), "waste energy facility" means a
3839 facility that generates electricity:

3840 (i) using as the primary source of energy waste materials that would be placed in a
3841 landfill or refuse pit if it were not used to generate electricity, including:

3842 (A) tires;

3843 (B) waste coal;

3844 (C) oil shale; or

3845 (D) municipal solid waste; and

3846 (ii) in amounts greater than actually required for the operation of the facility.

3847 (b) "Waste energy facility" does not include a facility that incinerates:

3848 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

3849 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

3850 (148) "Watercraft" means a vessel as defined in Section [73-18-2](#).

3851 (149) "Wind energy" means wind used as the sole source of energy to produce
3852 electricity.

3853 (150) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
3854 location by the United States Postal Service.

3855 Section 34. Section **59-12-103** is amended to read:

3856 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
3857 **tax revenues.**

3858 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
3859 sales price for amounts paid or charged for the following transactions:

3860 (a) retail sales of tangible personal property made within the state;

3861 (b) amounts paid for:

3862 (i) telecommunications service, other than mobile telecommunications service, that
3863 originates and terminates within the boundaries of this state;

3864 (ii) mobile telecommunications service that originates and terminates within the
3865 boundaries of one state only to the extent permitted by the Mobile Telecommunications

3866 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

3867 (iii) an ancillary service associated with a:

3868 (A) telecommunications service described in Subsection (1)(b)(i); or

- 3869 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
- 3870 (c) sales of the following for commercial use:
 - 3871 (i) gas;
 - 3872 (ii) electricity;
 - 3873 (iii) heat;
 - 3874 (iv) coal;
 - 3875 (v) fuel oil; or
 - 3876 (vi) other fuels;
- 3877 (d) sales of the following for residential use:
 - 3878 (i) gas;
 - 3879 (ii) electricity;
 - 3880 (iii) heat;
 - 3881 (iv) coal;
 - 3882 (v) fuel oil; or
 - 3883 (vi) other fuels;
- 3884 (e) sales of prepared food;
- 3885 (f) except as provided in Section [59-12-104](#), amounts paid or charged as admission or
- 3886 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 3887 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 3888 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 3889 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 3890 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 3891 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 3892 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 3893 exhibition, cultural, or athletic activity;
- 3894 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 3895 property, unless Section [59-12-104](#) provides for an exemption from sales and use tax for:
 - 3896 (i) the tangible personal property; and
 - 3897 (ii) parts used in the repairs or renovations of the tangible personal property described
 - 3898 in Subsection (1)(g)(i), regardless of whether:
 - 3899 (A) any parts are actually used in the repairs or renovations of that tangible personal

3900 property; or

3901 (B) the particular parts used in the repairs or renovations of that tangible personal
3902 property are exempt from a tax under this chapter;

3903 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
3904 assisted cleaning or washing of tangible personal property;

3905 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
3906 accommodations and services that are regularly rented for less than 30 consecutive days;

3907 (j) amounts paid or charged for laundry or dry cleaning services;

3908 (k) amounts paid or charged for leases or rentals of tangible personal property if within
3909 this state the tangible personal property is:

3910 (i) stored;

3911 (ii) used; or

3912 (iii) otherwise consumed;

3913 (l) amounts paid or charged for tangible personal property if within this state the
3914 tangible personal property is:

3915 (i) stored;

3916 (ii) used; or

3917 (iii) consumed; and

3918 (m) amounts paid or charged for a sale:

3919 (i) (A) of a product transferred electronically; or

3920 (B) of a repair or renovation of a product transferred electronically; and

3921 (ii) regardless of whether the sale provides:

3922 (A) a right of permanent use of the product; or

3923 (B) a right to use the product that is less than a permanent use, including a right:

3924 (I) for a definite or specified length of time; and

3925 (II) that terminates upon the occurrence of a condition.

3926 (2) (a) Except as provided in Subsections (2)(b) through ~~[(e)]~~ (f), a state tax and a local
3927 tax are imposed on a transaction described in Subsection (1) equal to the sum of:

3928 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

3929 ~~[(A) (I) through March 31, 2019, 4.70%; and]~~

3930 ~~[(H)]~~ (A) ~~[beginning on April 1, 2019;]~~ 4.70% plus the rate specified in Subsection

3931 [~~(13)~~] (12)(a); and

3932 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
3933 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
3934 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
3935 State Sales and Use Tax Act; and

3936 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
3937 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
3938 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
3939 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3940 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3941 transaction under this chapter other than this part.

3942 (b) Except as provided in Subsection [~~(2)(d) or (e)~~] (2)(e) or (f) and subject to
3943 Subsection (2)[~~(j)~~](k), a state tax and a local tax are imposed on a transaction described in
3944 Subsection (1)(d) equal to the sum of:

3945 (i) a state tax imposed on the transaction at a tax rate of 2%; and

3946 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3947 transaction under this chapter other than this part.

3948 (c) Except as provided in Subsection [~~(2)(d) or (e)~~] (2)(e) or (f), a state tax and a local
3949 tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

3950 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
3951 a tax rate of 1.75%; and

3952 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3953 amounts paid or charged for food and food ingredients under this chapter other than this part.

3954 (d) Except as provided in Subsection (2)(e) or (f), a state tax is imposed on amounts
3955 paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at
3956 a rate of 4.85%.

3957 [~~(d)~~] (e) (i) For a bundled transaction that is attributable to food and food ingredients
3958 and tangible personal property other than food and food ingredients, a state tax and a local tax
3959 is imposed on the entire bundled transaction equal to the sum of:

3960 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

3961 (I) the tax rate described in Subsection (2)(a)(i)(A); and

3962 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
3963 Sales and Use Tax Act, if the location of the transaction as determined under Sections
3964 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
3965 Additional State Sales and Use Tax Act; and

3966 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
3967 Sales and Use Tax Act, if the location of the transaction as determined under Sections
3968 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
3969 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3970 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
3971 described in Subsection (2)(a)(ii).

3972 (ii) If an optional computer software maintenance contract is a bundled transaction that
3973 consists of taxable and nontaxable products that are not separately itemized on an invoice or
3974 similar billing document, the purchase of the optional computer software maintenance contract
3975 is 40% taxable under this chapter and 60% nontaxable under this chapter.

3976 (iii) Subject to Subsection (2)~~(c)~~(e)(iv), for a bundled transaction other than a
3977 bundled transaction described in Subsection (2)~~(c)~~(e)(i) or (ii):

3978 (A) if the sales price of the bundled transaction is attributable to tangible personal
3979 property, a product, or a service that is subject to taxation under this chapter and tangible
3980 personal property, a product, or service that is not subject to taxation under this chapter, the
3981 entire bundled transaction is subject to taxation under this chapter unless:

3982 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3983 personal property, product, or service that is not subject to taxation under this chapter from the
3984 books and records the seller keeps in the seller's regular course of business; or

3985 (II) state or federal law provides otherwise; or

3986 (B) if the sales price of a bundled transaction is attributable to two or more items of
3987 tangible personal property, products, or services that are subject to taxation under this chapter
3988 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
3989 higher tax rate unless:

3990 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3991 personal property, product, or service that is subject to taxation under this chapter at the lower
3992 tax rate from the books and records the seller keeps in the seller's regular course of business; or

3993 (II) state or federal law provides otherwise.

3994 (iv) For purposes of Subsection (2)~~(d)~~(e)(iii), books and records that a seller keeps in
3995 the seller's regular course of business includes books and records the seller keeps in the regular
3996 course of business for nontax purposes.

3997 ~~(e)~~ (f) (i) Except as otherwise provided in this chapter and subject to Subsections
3998 (2)~~(e)~~(f)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal
3999 property, a product, or a service that is subject to taxation under this chapter, and the sale,
4000 lease, or rental of tangible personal property, other property, a product, or a service that is not
4001 subject to taxation under this chapter, the entire transaction is subject to taxation under this
4002 chapter unless the seller, at the time of the transaction:

4003 (A) separately states the portion of the transaction that is not subject to taxation under
4004 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

4005 (B) is able to identify by reasonable and verifiable standards, from the books and
4006 records the seller keeps in the seller's regular course of business, the portion of the transaction
4007 that is not subject to taxation under this chapter.

4008 (ii) A purchaser and a seller may correct the taxability of a transaction if:

4009 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
4010 the transaction that is not subject to taxation under this chapter was not separately stated on an
4011 invoice, bill of sale, or similar document provided to the purchaser because of an error or
4012 ignorance of the law; and

4013 (B) the seller is able to identify by reasonable and verifiable standards, from the books
4014 and records the seller keeps in the seller's regular course of business, the portion of the
4015 transaction that is not subject to taxation under this chapter.

4016 (iii) For purposes of Subsections (2)~~(e)~~(f)(i) and (ii), books and records that a seller
4017 keeps in the seller's regular course of business includes books and records the seller keeps in
4018 the regular course of business for nontax purposes.

4019 ~~(f)~~ (g) (i) If the sales price of a transaction is attributable to two or more items of
4020 tangible personal property, products, or services that are subject to taxation under this chapter
4021 at different rates, the entire purchase is subject to taxation under this chapter at the higher tax
4022 rate unless the seller, at the time of the transaction:

4023 (A) separately states the items subject to taxation under this chapter at each of the

4024 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

4025 (B) is able to identify by reasonable and verifiable standards the tangible personal
4026 property, product, or service that is subject to taxation under this chapter at the lower tax rate
4027 from the books and records the seller keeps in the seller's regular course of business.

4028 (ii) For purposes of Subsection (2)~~(f)~~(g)(i), books and records that a seller keeps in
4029 the seller's regular course of business includes books and records the seller keeps in the regular
4030 course of business for nontax purposes.

4031 ~~(g)~~ (h) Subject to Subsections ~~(2)(h) and (i)~~ (2)(i) and (j), a tax rate repeal or tax
4032 rate change for a tax rate imposed under the following shall take effect on the first day of a
4033 calendar quarter:

- 4034 (i) Subsection (2)(a)(i)(A);
- 4035 (ii) Subsection (2)(b)(i);
- 4036 (iii) Subsection (2)(c)(i); or
- 4037 (iv) Subsection (2)~~(f)~~(e)(i)(A)(I).

4038 ~~(h)~~ (i) (i) A tax rate increase takes effect on the first day of the first billing period that
4039 begins on or after the effective date of the tax rate increase if the billing period for the
4040 transaction begins before the effective date of a tax rate increase imposed under:

- 4041 (A) Subsection (2)(a)(i)(A);
- 4042 (B) Subsection (2)(b)(i);
- 4043 (C) Subsection (2)(c)(i); or
- 4044 (D) Subsection (2)~~(f)~~(e)(i)(A)(I).

4045 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
4046 statement for the billing period is rendered on or after the effective date of the repeal of the tax
4047 or the tax rate decrease imposed under:

- 4048 (A) Subsection (2)(a)(i)(A);
- 4049 (B) Subsection (2)(b)(i);
- 4050 (C) Subsection (2)(c)(i); or
- 4051 (D) Subsection (2)~~(f)~~(e)(i)(A)(I).

4052 ~~(i)~~ (j) (i) For a tax rate described in Subsection (2)~~(i)~~(j)(ii), if a tax due on a
4053 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a
4054 tax rate repeal or change in a tax rate takes effect:

- 4055 (A) on the first day of a calendar quarter; and
- 4056 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 4057 (ii) Subsection (2)[~~(j)~~](j)(i) applies to the tax rates described in the following:
- 4058 (A) Subsection (2)(a)(i)(A);
- 4059 (B) Subsection (2)(b)(i);
- 4060 (C) Subsection (2)(c)(i); or
- 4061 (D) Subsection (2)[~~(d)~~](e)(i)(A)(I).
- 4062 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 4063 the commission may by rule define the term "catalogue sale."
- 4064 [~~(j)~~] (k) (i) For a location described in Subsection (2)[~~(j)~~](k)(ii), the commission shall
- 4065 determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based
- 4066 on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.
- 4067 (ii) Subsection (2)[~~(j)~~](k)(i) applies to a location where gas, electricity, heat, coal, fuel
- 4068 oil, or other fuel is furnished through a single meter for two or more of the following uses:
- 4069 (A) a commercial use;
- 4070 (B) an industrial use; or
- 4071 (C) a residential use.
- 4072 (3) (a) The following state taxes shall be deposited into the General Fund:
- 4073 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 4074 (ii) the tax imposed by Subsection (2)(b)(i);
- 4075 (iii) the tax imposed by Subsection (2)(c)(i); [~~or~~] and
- 4076 (iv) the tax imposed by Subsection (2)[~~(d)~~](e)(i)(A)(I).
- 4077 (b) The following local taxes shall be distributed to a county, city, or town as provided
- 4078 in this chapter:
- 4079 (i) the tax imposed by Subsection (2)(a)(ii);
- 4080 (ii) the tax imposed by Subsection (2)(b)(ii);
- 4081 (iii) the tax imposed by Subsection (2)(c)(ii); and
- 4082 (iv) the tax imposed by Subsection (2)[~~(d)~~](e)(i)(B).
- 4083 (c) The state tax imposed by Subsection (2)(d) shall be deposited into the General
- 4084 Fund.
- 4085 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,

4086 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
4087 through (g):

4088 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

4089 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

4090 (B) for the fiscal year; or

4091 (ii) \$17,500,000.

4092 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount

4093 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the

4094 Department of Natural Resources to:

4095 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to

4096 protect sensitive plant and animal species; or

4097 (B) award grants, up to the amount authorized by the Legislature in an appropriations

4098 act, to political subdivisions of the state to implement the measures described in Subsections

4099 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

4100 (ii) Money transferred to the Department of Natural Resources under Subsection

4101 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other

4102 person to list or attempt to have listed a species as threatened or endangered under the

4103 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

4104 (iii) At the end of each fiscal year:

4105 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources

4106 Conservation and Development Fund created in Section 73-10-24;

4107 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

4108 Program Subaccount created in Section 73-10c-5; and

4109 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

4110 Program Subaccount created in Section 73-10c-5.

4111 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in

4112 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund

4113 created in Section 4-18-106.

4114 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described

4115 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water

4116 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of

4117 water rights.

4118 (ii) At the end of each fiscal year:

4119 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
4120 Conservation and Development Fund created in Section 73-10-24;

4121 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
4122 Program Subaccount created in Section 73-10c-5; and

4123 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
4124 Program Subaccount created in Section 73-10c-5.

4125 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
4126 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
4127 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

4128 (ii) In addition to the uses allowed of the Water Resources Conservation and
4129 Development Fund under Section 73-10-24, the Water Resources Conservation and
4130 Development Fund may also be used to:

4131 (A) conduct hydrologic and geotechnical investigations by the Division of Water
4132 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
4133 quantifying surface and ground water resources and describing the hydrologic systems of an
4134 area in sufficient detail so as to enable local and state resource managers to plan for and
4135 accommodate growth in water use without jeopardizing the resource;

4136 (B) fund state required dam safety improvements; and

4137 (C) protect the state's interest in interstate water compact allocations, including the
4138 hiring of technical and legal staff.

4139 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
4140 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
4141 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

4142 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
4143 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
4144 created in Section 73-10c-5 for use by the Division of Drinking Water to:

4145 (i) provide for the installation and repair of collection, treatment, storage, and
4146 distribution facilities for any public water system, as defined in Section 19-4-102;

4147 (ii) develop underground sources of water, including springs and wells; and

4148 (iii) develop surface water sources.

4149 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
4150 2006, the difference between the following amounts shall be expended as provided in this
4151 Subsection (5), if that difference is greater than \$1:

4152 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
4153 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

4154 (ii) \$17,500,000.

4155 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

4156 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
4157 credits; and

4158 (B) expended by the Department of Natural Resources for watershed rehabilitation or
4159 restoration.

4160 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
4161 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
4162 created in Section 73-10-24.

4163 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
4164 remaining difference described in Subsection (5)(a) shall be:

4165 (A) transferred each fiscal year to the Division of Water Resources as dedicated
4166 credits; and

4167 (B) expended by the Division of Water Resources for cloud-seeding projects
4168 authorized by Title 73, Chapter 15, Modification of Weather.

4169 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
4170 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
4171 created in Section 73-10-24.

4172 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
4173 remaining difference described in Subsection (5)(a) shall be deposited into the Water
4174 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
4175 Division of Water Resources for:

4176 (i) preconstruction costs:

4177 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
4178 26, Bear River Development Act; and

4179 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
4180 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

4181 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
4182 Chapter 26, Bear River Development Act;

4183 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
4184 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

4185 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
4186 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

4187 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
4188 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be
4189 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
4190 incurred for employing additional technical staff for the administration of water rights.

4191 (f) At the end of each fiscal year, any unexpended dedicated credits described in
4192 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
4193 Fund created in Section 73-10-24.

4194 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
4195 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
4196 (1) for the fiscal year shall be deposited as follows:

4197 [~~(a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)~~
4198 ~~shall be deposited into the Transportation Investment Fund of 2005 created by Section~~
4199 ~~72-2-124;~~]

4200 [~~(b) for fiscal year 2017-18 only:~~]

4201 [~~(i) 80% of the revenue described in this Subsection (6) shall be deposited into the~~
4202 ~~Transportation Investment Fund of 2005 created by Section 72-2-124; and]~~

4203 [~~(ii) 20% of the revenue described in this Subsection (6) shall be deposited into the~~
4204 ~~Water Infrastructure Restricted Account created by Section 73-10g-103;~~]

4205 [~~(c) for fiscal year 2018-19 only:~~]

4206 [~~(i) 60% of the revenue described in this Subsection (6) shall be deposited into the~~
4207 ~~Transportation Investment Fund of 2005 created by Section 72-2-124; and]~~

4208 [~~(ii) 40% of the revenue described in this Subsection (6) shall be deposited into the~~
4209 ~~Water Infrastructure Restricted Account created by Section 73-10g-103;~~]

4210 ~~[(d) for fiscal year 2019-20 only:]~~

4211 ~~[(i) 40% of the revenue described in this Subsection (6) shall be deposited into the~~
4212 ~~Transportation Investment Fund of 2005 created by Section 72-2-124; and]~~

4213 ~~[(ii) 60% of the revenue described in this Subsection (6) shall be deposited into the~~
4214 ~~Water Infrastructure Restricted Account created by Section 73-10g-103;]~~

4215 ~~[(e)]~~ (a) for fiscal year 2020-21 only:

4216 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
4217 Transportation Investment Fund of 2005 created by Section 72-2-124; and

4218 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
4219 Water Infrastructure Restricted Account created by Section 73-10g-103; and

4220 ~~[(f)]~~ (b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue
4221 described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted
4222 Account created by Section 73-10g-103.

4223 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
4224 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
4225 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
4226 created by Section 72-2-124:

4227 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
4228 the revenues collected from the following taxes, which represents a portion of the
4229 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
4230 on vehicles and vehicle-related products:

4231 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

4232 (B) the tax imposed by Subsection (2)(b)(i);

4233 (C) the tax imposed by Subsection (2)(c)(i); and

4234 (D) the tax imposed by Subsection (2)~~[(d)]~~(e)(i)(A)(I); plus

4235 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
4236 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
4237 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
4238 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

4239 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
4240 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total

4241 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
4242 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
4243 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
4244 (7)(a) equal to the product of:

4245 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
4246 previous fiscal year; and

4247 (B) the total sales and use tax revenue generated by the taxes described in Subsections
4248 (7)(a)(i)(A) through (D) in the current fiscal year.

4249 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
4250 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes
4251 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of
4252 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
4253 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

4254 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
4255 from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited
4256 under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues
4257 collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the
4258 current fiscal year under Subsection (7)(a).

4259 ~~[(8)(a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited~~
4260 ~~under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall~~
4261 ~~deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into~~
4262 ~~the Transportation Investment Fund of 2005 created by Section [72-2-124](#).]~~

4263 ~~[(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under~~
4264 ~~Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit~~
4265 ~~\$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the~~
4266 ~~Transportation Investment Fund of 2005 created by Section [72-2-124](#).]~~

4267 ~~[(c)(i)]~~ (8)(a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited
4268 under Subsections (6) and (7), and subject to Subsection ~~[(8)(c)(ii)]~~ (8)(b), for a fiscal year
4269 beginning on or after July 1, 2018, the commission shall annually deposit into the
4270 Transportation Investment Fund of 2005 created by Section [72-2-124](#) a portion of the taxes
4271 listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the

4272 following taxes:

4273 ~~[(A)]~~ (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

4274 ~~[(B)]~~ (ii) the tax imposed by Subsection (2)(b)(i);

4275 ~~[(C)]~~ (iii) the tax imposed by Subsection (2)(c)(i); and

4276 ~~[(D)]~~ (iv) the tax imposed by Subsection (2)~~[(d)]~~(e)(i)(A)(I).

4277 ~~[(ii)]~~ (b) For a fiscal year beginning on or after July 1, 2019, the commission shall
4278 annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection
4279 ~~[(8)(e)(i)]~~ (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the
4280 current fiscal year by the portion of the tax imposed on motor and special fuel that is sold,
4281 used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

4282 ~~[(iii)]~~ (c) The commission shall annually deposit the amount described in Subsection
4283 ~~[(8)(e)(ii)]~~ (8)(b) into the Transit and Transportation Investment Fund created in Section
4284 72-2-124.

4285 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
4286 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
4287 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

4288 ~~[(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),
4289 in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17
4290 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund
4291 of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on
4292 the transactions described in Subsection (1).]~~

4293 ~~[(b)]~~ (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection
4294 (10)~~[(c)]~~(b), and in addition to any amounts deposited under Subsections (6), (7), and (8), the
4295 Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by
4296 Section 72-2-124 the amount of revenue described as follows:

4297 ~~[(i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%
4298 tax rate on the transactions described in Subsection (1);]~~

4299 ~~[(ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a
4300 .05% tax rate on the transactions described in Subsection (1);]~~

4301 ~~[(iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%
4302 tax rate on the transactions described in Subsection (1);]~~

4303 ~~[(iv)]~~ (i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
4304 .05% tax rate on the transactions described in Subsection (1); and

4305 ~~[(v)]~~ (ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a
4306 .05% tax rate on the transactions described in Subsection (1).

4307 ~~[(c)]~~ (b) For purposes of ~~[Subsections (10)(a) and (b)]~~ Subsection (10)(a), the Division
4308 of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue
4309 generated by amounts paid or charged for food and food ingredients, except for tax revenue
4310 generated by a bundled transaction attributable to food and food ingredients and tangible
4311 personal property other than food and food ingredients described in Subsection (2)~~[(d)]~~(e).

4312 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
4313 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
4314 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
4315 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue
4316 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,
4317 created in Section 63N-2-512.

4318 ~~[(12)(a)]~~ Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the
4319 Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed
4320 under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section
4321 35A-8-308.]

4322 ~~[(b)]~~ Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division
4323 of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under
4324 Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.]

4325 ~~[(13)]~~ (12) (a) The rate specified in this subsection is 0.15%.

4326 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall~~[(i) on or before~~
4327 ~~September 30, 2019, transfer the amount of revenue collected from the rate described in~~
4328 ~~Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the~~
4329 ~~transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the~~
4330 ~~Medicaid Expansion Fund created in Section 26-36b-208; and (ii)], for a fiscal year beginning~~
4331 on or after July 1, 2019, annually transfer the amount of revenue collected from the rate
4332 described in Subsection ~~[(13)]~~ (12)(a) on the transactions that are subject to the sales and use
4333 tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section

4334 26-36b-208.

4335 [~~14~~] (13) Notwithstanding Subsection (3)(a), for each fiscal year beginning with
4336 fiscal year 2020-21, the Division of Finance shall deposit \$200,000 into the General Fund as a
4337 dedicated credit solely for use of the Search and Rescue Financial Assistance Program created
4338 in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

4339 [~~15~~] (14) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of
4340 Finance shall annually transfer \$1,813,400 of the revenue deposited into the Transportation
4341 Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

4342 (b) If the total revenue deposited into the Transportation Investment Fund of 2005
4343 under Subsections (6) through (8) is less than \$1,813,400 for a fiscal year, the Division of
4344 Finance shall transfer the total revenue deposited into the Transportation Investment Fund of
4345 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

4346 Section 35. Section **59-12-104** is amended to read:

4347 **59-12-104. Exemptions.**

4348 Exemptions from the taxes imposed by this chapter are as follows:

4349 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
4350 under Chapter 13, Motor and Special Fuel Tax Act;

4351 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
4352 subdivisions; however, this exemption does not apply to sales of:

4353 (a) construction materials except:

4354 (i) construction materials purchased by or on behalf of institutions of the public
4355 education system as defined in Utah Constitution, Article X, Section 2, provided the
4356 construction materials are clearly identified and segregated and installed or converted to real
4357 property which is owned by institutions of the public education system; and

4358 (ii) construction materials purchased by the state, its institutions, or its political
4359 subdivisions which are installed or converted to real property by employees of the state, its
4360 institutions, or its political subdivisions; or

4361 (b) tangible personal property in connection with the construction, operation,
4362 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
4363 providing additional project capacity, as defined in Section 11-13-103;

4364 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

4365 (i) the proceeds of each sale do not exceed \$1; and
4366 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
4367 the cost of the item described in Subsection (3)(b) as goods consumed; and
4368 (b) Subsection (3)(a) applies to:
4369 (i) food and food ingredients; or
4370 (ii) prepared food;
4371 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
4372 (i) alcoholic beverages;
4373 (ii) food and food ingredients; or
4374 (iii) prepared food;
4375 (b) sales of tangible personal property or a product transferred electronically:
4376 (i) to a passenger;
4377 (ii) by a commercial airline carrier; and
4378 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
4379 (c) services related to Subsection (4)(a) or (b);
4380 ~~[(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts~~
4381 ~~and equipment:]~~
4382 ~~[(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002~~
4383 ~~North American Industry Classification System of the federal Executive Office of the~~
4384 ~~President, Office of Management and Budget; and]~~
4385 ~~[(H) for:]~~
4386 ~~[(Aa) installation in an aircraft, including services relating to the installation of parts or~~
4387 ~~equipment in the aircraft;]~~
4388 ~~[(Bb) renovation of an aircraft; or]~~
4389 ~~[(Cc) repair of an aircraft; or]~~
4390 ~~[(B) for installation in an aircraft operated by a common carrier in interstate or foreign~~
4391 ~~commerce; or]~~
4392 ~~[(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an~~
4393 ~~aircraft operated by a common carrier in interstate or foreign commerce; and]~~
4394 ~~[(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~
4395 ~~a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a~~

4396 refund:]

4397 [~~(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;~~]

4398 [~~(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;~~]

4399 [~~(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for~~

4400 ~~the sale prior to filing for the refund;~~]

4401 [~~(iv) for sales and use taxes paid under this chapter on the sale;~~]

4402 [~~(v) in accordance with Section 59-1-1410; and~~]

4403 [~~(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410;~~

4404 ~~if the person files for the refund on or before September 30, 2011;~~]

4405 (5) sales of parts and equipment for installation in an aircraft operated by a common

4406 carrier in interstate or foreign commerce;

4407 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
4408 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
4409 exhibitor, distributor, or commercial television or radio broadcaster;

4410 (7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of
4411 cleaning or washing of tangible personal property if the cleaning or washing of the tangible
4412 personal property is not assisted cleaning or washing of tangible personal property;

4413 (b) if a seller that sells at the same business location assisted cleaning or washing of
4414 tangible personal property and cleaning or washing of tangible personal property that is not
4415 assisted cleaning or washing of tangible personal property, the exemption described in
4416 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
4417 or washing of the tangible personal property; and

4418 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
4419 Utah Administrative Rulemaking Act, the commission may make rules:

4420 (i) governing the circumstances under which sales are at the same business location;
4421 and

4422 (ii) establishing the procedures and requirements for a seller to separately account for
4423 sales of assisted cleaning or washing of tangible personal property;

4424 (8) sales made to or by religious or charitable institutions in the conduct of their regular
4425 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
4426 fulfilled;

4427 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
4428 this state if the vehicle is:

4429 (a) not registered in this state; and

4430 (b) (i) not used in this state; or

4431 (ii) used in this state:

4432 (A) if the vehicle is not used to conduct business, for a time period that does not
4433 exceed the longer of:

4434 (I) 30 days in any calendar year; or

4435 (II) the time period necessary to transport the vehicle to the borders of this state; or

4436 (B) if the vehicle is used to conduct business, for the time period necessary to transport
4437 the vehicle to the borders of this state;

4438 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

4439 (i) the item is intended for human use; and

4440 (ii) (A) a prescription was issued for the item; or

4441 (B) the item was purchased by a hospital or other medical facility; and

4442 (b) (i) Subsection (10)(a) applies to:

4443 (A) a drug;

4444 (B) a syringe; or

4445 (C) a stoma supply; and

4446 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4447 commission may by rule define the terms:

4448 (A) "syringe"; or

4449 (B) "stoma supply";

4450 (11) purchases or leases exempt under Section [19-12-201](#);

4451 (12) (a) sales of an item described in Subsection (12)(c) served by:

4452 (i) the following if the item described in Subsection (12)(c) is not available to the
4453 general public:

4454 (A) a church; or

4455 (B) a charitable institution; or

4456 (ii) an institution of higher education if:

4457 (A) the item described in Subsection (12)(c) is not available to the general public; or

4458 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
4459 offered by the institution of higher education; or
4460 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
4461 (i) a medical facility; or
4462 (ii) a nursing facility; and
4463 (c) Subsections (12)(a) and (b) apply to:
4464 (i) food and food ingredients;
4465 (ii) prepared food; or
4466 (iii) alcoholic beverages;
4467 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
4468 or a product transferred electronically by a person:
4469 (i) regardless of the number of transactions involving the sale of that tangible personal
4470 property or product transferred electronically by that person; and
4471 (ii) not regularly engaged in the business of selling that type of tangible personal
4472 property or product transferred electronically;
4473 (b) this Subsection (13) does not apply if:
4474 (i) the sale is one of a series of sales of a character to indicate that the person is
4475 regularly engaged in the business of selling that type of tangible personal property or product
4476 transferred electronically;
4477 (ii) the person holds that person out as regularly engaged in the business of selling that
4478 type of tangible personal property or product transferred electronically;
4479 (iii) the person sells an item of tangible personal property or product transferred
4480 electronically that the person purchased as a sale that is exempt under Subsection (25); or
4481 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
4482 this state in which case the tax is based upon:
4483 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
4484 sold; or
4485 (B) in the absence of a bill of sale or other written evidence of value, the fair market
4486 value of the vehicle or vessel being sold at the time of the sale as determined by the
4487 commission; and
4488 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

4489 commission shall make rules establishing the circumstances under which:

4490 (i) a person is regularly engaged in the business of selling a type of tangible personal
4491 property or product transferred electronically;

4492 (ii) a sale of tangible personal property or a product transferred electronically is one of
4493 a series of sales of a character to indicate that a person is regularly engaged in the business of
4494 selling that type of tangible personal property or product transferred electronically; or

4495 (iii) a person holds that person out as regularly engaged in the business of selling a type
4496 of tangible personal property or product transferred electronically;

4497 (14) amounts paid or charged for a purchase or lease of machinery, equipment, normal
4498 operating repair or replacement parts, or materials, except for office equipment or office
4499 supplies, by:

4500 (a) a manufacturing facility that:

4501 (i) is located in the state; and

4502 (ii) uses or consumes the machinery, equipment, normal operating repair or
4503 replacement parts, or materials:

4504 (A) in the manufacturing process to manufacture an item sold as tangible personal
4505 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
4506 Utah Administrative Rulemaking Act; or

4507 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
4508 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
4509 Administrative Rulemaking Act;

4510 (b) an establishment, as the commission defines that term in accordance with Title
4511 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

4512 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
4513 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
4514 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
4515 2002 North American Industry Classification System of the federal Executive Office of the
4516 President, Office of Management and Budget;

4517 (ii) is located in the state; and

4518 (iii) uses or consumes the machinery, equipment, normal operating repair or
4519 replacement parts, or materials in:

4520 (A) the production process to produce an item sold as tangible personal property, as the
4521 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
4522 Administrative Rulemaking Act;

4523 (B) research and development, as the commission may define that phrase in accordance
4524 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

4525 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
4526 produced from mining;

4527 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
4528 mining; or

4529 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

4530 (c) an establishment, as the commission defines that term in accordance with Title 63G,
4531 Chapter 3, Utah Administrative Rulemaking Act, that:

4532 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
4533 American Industry Classification System of the federal Executive Office of the President,
4534 Office of Management and Budget;

4535 (ii) is located in the state; and

4536 (iii) uses or consumes the machinery, equipment, normal operating repair or
4537 replacement parts, or materials in the operation of the web search portal;

4538 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

4539 (i) tooling;

4540 (ii) special tooling;

4541 (iii) support equipment;

4542 (iv) special test equipment; or

4543 (v) parts used in the repairs or renovations of tooling or equipment described in
4544 Subsections (15)(a)(i) through (iv); and

4545 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

4546 (i) the tooling, equipment, or parts are used or consumed exclusively in the
4547 performance of any aerospace or electronics industry contract with the United States
4548 government or any subcontract under that contract; and

4549 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
4550 title to the tooling, equipment, or parts is vested in the United States government as evidenced

4551 by:

4552 (A) a government identification tag placed on the tooling, equipment, or parts; or

4553 (B) listing on a government-approved property record if placing a government
4554 identification tag on the tooling, equipment, or parts is impractical;

4555 (16) sales of newspapers or newspaper subscriptions;

4556 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
4557 product transferred electronically traded in as full or part payment of the purchase price, except
4558 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
4559 trade-ins are limited to other vehicles only, and the tax is based upon:

4560 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
4561 vehicle being traded in; or

4562 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
4563 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
4564 commission; and

4565 (b) Subsection (17)(a) does not apply to the following items of tangible personal
4566 property or products transferred electronically traded in as full or part payment of the purchase
4567 price:

4568 (i) money;

4569 (ii) electricity;

4570 (iii) water;

4571 (iv) gas; or

4572 (v) steam;

4573 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
4574 or a product transferred electronically used or consumed primarily and directly in farming
4575 operations, regardless of whether the tangible personal property or product transferred
4576 electronically:

4577 (A) becomes part of real estate; or

4578 (B) is installed by a~~[:]~~ farmer, contractor, or subcontractor; or

4579 [~~(F)~~ farmer;]

4580 [~~(H)~~ contractor; or]

4581 [~~(H)~~ subcontractor; or]

- 4582 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
4583 product transferred electronically if the tangible personal property or product transferred
4584 electronically is exempt under Subsection (18)(a)(i); and
- 4585 (b) amounts paid or charged for the following are subject to the taxes imposed by this
4586 chapter:
- 4587 (i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or
4588 supplies if used in a manner that is incidental to farming; and
- 4589 (B) tangible personal property that is considered to be used in a manner that is
4590 incidental to farming includes:
- 4591 (I) hand tools; or
4592 (II) maintenance and janitorial equipment and supplies;
- 4593 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
4594 transferred electronically if the tangible personal property or product transferred electronically
4595 is used in an activity other than farming; and
- 4596 (B) tangible personal property or a product transferred electronically that is considered
4597 to be used in an activity other than farming includes:
- 4598 (I) office equipment and supplies; or
4599 (II) equipment and supplies used in:
- 4600 (Aa) the sale or distribution of farm products;
4601 (Bb) research; or
4602 (Cc) transportation; or
- 4603 (iii) a vehicle required to be registered by the laws of this state during the period
4604 ending two years after the date of the vehicle's purchase;
- 4605 (19) sales of hay;
- 4606 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
4607 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
4608 garden, farm, or other agricultural produce is sold by:
- 4609 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
4610 agricultural produce;
- 4611 (b) an employee of the producer described in Subsection (20)(a); or
4612 (c) a member of the immediate family of the producer described in Subsection (20)(a);

4613 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
4614 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

4615 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
4616 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
4617 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
4618 manufacturer, processor, wholesaler, or retailer;

4619 (23) a product stored in the state for resale;

4620 (24) (a) purchases of a product if:

4621 (i) the product is:

4622 (A) purchased outside of this state;

4623 (B) brought into this state:

4624 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

4625 (II) by a nonresident person who is not living or working in this state at the time of the
4626 purchase;

4627 (C) used for the personal use or enjoyment of the nonresident person described in
4628 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

4629 (D) not used in conducting business in this state; and

4630 (ii) for:

4631 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
4632 the product for a purpose for which the product is designed occurs outside of this state;

4633 (B) a boat, the boat is registered outside of this state; or

4634 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
4635 outside of this state;

4636 (b) the exemption provided for in Subsection (24)(a) does not apply to:

4637 (i) a lease or rental of a product; or

4638 (ii) a sale of a vehicle exempt under Subsection (33); and

4639 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
4640 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
4641 following:

4642 (i) conducting business in this state if that phrase has the same meaning in this
4643 Subsection (24) as in Subsection (63);

4644 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
4645 as in Subsection (63); or

4646 (iii) a purpose for which a product is designed if that phrase has the same meaning in
4647 this Subsection (24) as in Subsection (63);

4648 (25) a product purchased for resale in the regular course of business, either in its
4649 original form or as an ingredient or component part of a manufactured or compounded product;

4650 (26) a product upon which a sales or use tax was paid to some other state, or one of its
4651 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
4652 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
4653 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
4654 Act;

4655 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
4656 person for use in compounding a service taxable under the subsections;

4657 (28) purchases made in accordance with the special supplemental nutrition program for
4658 women, infants, and children established in 42 U.S.C. Sec. 1786;

4659 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
4660 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
4661 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
4662 the President, Office of Management and Budget;

4663 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
4664 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

4665 (a) not registered in this state; and

4666 (b) (i) not used in this state; or

4667 (ii) used in this state:

4668 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
4669 time period that does not exceed the longer of:

4670 (I) 30 days in any calendar year; or

4671 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
4672 the borders of this state; or

4673 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
4674 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this

- 4675 state;
- 4676 (31) sales of aircraft manufactured in Utah;
- 4677 (32) amounts paid for the purchase of telecommunications service for purposes of
- 4678 providing telecommunications service;
- 4679 (33) sales, leases, or uses of the following:
- 4680 (a) a vehicle by an authorized carrier; or
- 4681 (b) tangible personal property that is installed on a vehicle:
- 4682 (i) sold or leased to or used by an authorized carrier; and
- 4683 (ii) before the vehicle is placed in service for the first time;
- 4684 (34) (a) 45% of the sales price of any new manufactured home; and
- 4685 (b) 100% of the sales price of any used manufactured home;
- 4686 (35) sales relating to schools and fundraising sales;
- 4687 (36) sales or rentals of durable medical equipment if:
- 4688 (a) a person presents a prescription for the durable medical equipment; and
- 4689 (b) the durable medical equipment is used for home use only;
- 4690 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 4691 Section [72-11-102](#); and
- 4692 (b) the commission shall by rule determine the method for calculating sales exempt
- 4693 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 4694 (38) sales to a ski resort of:
- 4695 (a) snowmaking equipment;
- 4696 (b) ski slope grooming equipment;
- 4697 (c) passenger ropeways as defined in Section [72-11-102](#); or
- 4698 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 4699 described in Subsections (38)(a) through (c);
- 4700 (39) subject to Subsection [59-12-103\(2\)\(j\)](#), sales of natural gas, electricity, heat, coal,
- 4701 fuel oil, or other fuels for industrial use;
- 4702 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 4703 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 4704 [59-12-102](#);
- 4705 (b) if a seller that sells or rents at the same business location the right to use or operate

4706 for amusement, entertainment, or recreation one or more unassisted amusement devices and
4707 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
4708 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
4709 amusement, entertainment, or recreation for the assisted amusement devices; and

4710 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
4711 Utah Administrative Rulemaking Act, the commission may make rules:

4712 (i) governing the circumstances under which sales are at the same business location;
4713 and

4714 (ii) establishing the procedures and requirements for a seller to separately account for
4715 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
4716 assisted amusement devices;

4717 (41) (a) sales of photocopies by:

4718 (i) a governmental entity; or

4719 (ii) an entity within the state system of public education, including:

4720 (A) a school; or

4721 (B) the State Board of Education; or

4722 (b) sales of publications by a governmental entity;

4723 (42) amounts paid for admission to an athletic event at an institution of higher
4724 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
4725 20 U.S.C. Sec. 1681 et seq.;

4726 (43) (a) sales made to or by:

4727 (i) an area agency on aging; or

4728 (ii) a senior citizen center owned by a county, city, or town; or

4729 (b) sales made by a senior citizen center that contracts with an area agency on aging;

4730 (44) sales or leases of semiconductor fabricating, processing, research, or development
4731 materials regardless of whether the semiconductor fabricating, processing, research, or
4732 development materials:

4733 (a) actually come into contact with a semiconductor; or

4734 (b) ultimately become incorporated into real property;

4735 (45) an amount paid by or charged to a purchaser for accommodations and services
4736 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section

4737 59-12-104.2;

4738 (46) [~~beginning on September 1, 2001,~~] the lease or use of a vehicle issued a temporary
4739 sports event registration certificate in accordance with Section 41-3-306 for the event period
4740 specified on the temporary sports event registration certificate;

4741 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
4742 adopted by the Public Service Commission only for purchase of electricity produced from a
4743 new alternative energy source built after January 1, 2016, as designated in the tariff by the
4744 Public Service Commission; and

4745 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
4746 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
4747 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
4748 customer would have paid absent the tariff;

4749 (48) sales or rentals of mobility enhancing equipment if a person presents a
4750 prescription for the mobility enhancing equipment;

4751 (49) sales of water in a:

4752 (a) pipe;

4753 (b) conduit;

4754 (c) ditch; or

4755 (d) reservoir;

4756 (50) sales of currency or coins that constitute legal tender of a state, the United States,
4757 or a foreign nation;

4758 (51) (a) sales of an item described in Subsection (51)(b) if the item:

4759 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and

4760 (ii) has a gold, silver, or platinum content of 50% or more; and

4761 (b) Subsection (51)(a) applies to a gold, silver, or platinum:

4762 (i) ingot;

4763 (ii) bar;

4764 (iii) medallion; or

4765 (iv) decorative coin;

4766 (52) amounts paid on a sale-leaseback transaction;

4767 (53) sales of a prosthetic device:

4768 (a) for use on or in a human; and
4769 (b) (i) for which a prescription is required; or
4770 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
4771 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
4772 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
4773 or equipment is primarily used in the production or postproduction of the following media for
4774 commercial distribution:
4775 (i) a motion picture;
4776 (ii) a television program;
4777 (iii) a movie made for television;
4778 (iv) a music video;
4779 (v) a commercial;
4780 (vi) a documentary; or
4781 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
4782 commission by administrative rule made in accordance with Subsection (54)(d); or
4783 (b) purchases, leases, or rentals of machinery or equipment by an establishment
4784 described in Subsection (54)(c) that is used for the production or postproduction of the
4785 following are subject to the taxes imposed by this chapter:
4786 (i) a live musical performance;
4787 (ii) a live news program; or
4788 (iii) a live sporting event;
4789 (c) the following establishments listed in the 1997 North American Industry
4790 Classification System of the federal Executive Office of the President, Office of Management
4791 and Budget, apply to Subsections (54)(a) and (b):
4792 (i) NAICS Code 512110; or
4793 (ii) NAICS Code 51219; and
4794 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4795 commission may by rule:
4796 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
4797 or
4798 (ii) define:

- 4799 (A) "commercial distribution";
- 4800 (B) "live musical performance";
- 4801 (C) "live news program"; or
- 4802 (D) "live sporting event";
- 4803 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
- 4804 on or before June 30, 2027, of tangible personal property that:
- 4805 (i) is leased or purchased for or by a facility that:
- 4806 (A) is an alternative energy electricity production facility;
- 4807 (B) is located in the state; and
- 4808 (C) (I) becomes operational on or after July 1, 2004; or
- 4809 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 4810 2004, as a result of the use of the tangible personal property;
- 4811 (ii) has an economic life of five or more years; and
- 4812 (iii) is used to make the facility or the increase in capacity of the facility described in
- 4813 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
- 4814 transmission grid including:
- 4815 (A) a wind turbine;
- 4816 (B) generating equipment;
- 4817 (C) a control and monitoring system;
- 4818 (D) a power line;
- 4819 (E) substation equipment;
- 4820 (F) lighting;
- 4821 (G) fencing;
- 4822 (H) pipes; or
- 4823 (I) other equipment used for locating a power line or pole; and
- 4824 (b) this Subsection (55) does not apply to:
- 4825 (i) tangible personal property used in construction of:
- 4826 (A) a new alternative energy electricity production facility; or
- 4827 (B) the increase in the capacity of an alternative energy electricity production facility;
- 4828 (ii) contracted services required for construction and routine maintenance activities;
- 4829 and

4830 (iii) unless the tangible personal property is used or acquired for an increase in capacity
4831 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
4832 acquired after:

4833 (A) the alternative energy electricity production facility described in Subsection
4834 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

4835 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
4836 in Subsection (55)(a)(iii);

4837 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
4838 on or before June 30, 2027, of tangible personal property that:

4839 (i) is leased or purchased for or by a facility that:

4840 (A) is a waste energy production facility;

4841 (B) is located in the state; and

4842 (C) (I) becomes operational on or after July 1, 2004; or

4843 (II) has its generation capacity increased by one or more megawatts on or after July 1,
4844 2004, as a result of the use of the tangible personal property;

4845 (ii) has an economic life of five or more years; and

4846 (iii) is used to make the facility or the increase in capacity of the facility described in
4847 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
4848 transmission grid including:

4849 (A) generating equipment;

4850 (B) a control and monitoring system;

4851 (C) a power line;

4852 (D) substation equipment;

4853 (E) lighting;

4854 (F) fencing;

4855 (G) pipes; or

4856 (H) other equipment used for locating a power line or pole; and

4857 (b) this Subsection (56) does not apply to:

4858 (i) tangible personal property used in construction of:

4859 (A) a new waste energy facility; or

4860 (B) the increase in the capacity of a waste energy facility;

4861 (ii) contracted services required for construction and routine maintenance activities;
4862 and
4863 (iii) unless the tangible personal property is used or acquired for an increase in capacity
4864 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
4865 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
4866 described in Subsection (56)(a)(iii); or
4867 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
4868 in Subsection (56)(a)(iii);
4869 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
4870 or before June 30, 2027, of tangible personal property that:
4871 (i) is leased or purchased for or by a facility that:
4872 (A) is located in the state;
4873 (B) produces fuel from alternative energy, including:
4874 (I) methanol; or
4875 (II) ethanol; and
4876 (C) (I) becomes operational on or after July 1, 2004; or
4877 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
4878 a result of the installation of the tangible personal property;
4879 (ii) has an economic life of five or more years; and
4880 (iii) is installed on the facility described in Subsection (57)(a)(i);
4881 (b) this Subsection (57) does not apply to:
4882 (i) tangible personal property used in construction of:
4883 (A) a new facility described in Subsection (57)(a)(i); or
4884 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
4885 (ii) contracted services required for construction and routine maintenance activities;
4886 and
4887 (iii) unless the tangible personal property is used or acquired for an increase in capacity
4888 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
4889 (A) the facility described in Subsection (57)(a)(i) is operational; or
4890 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
4891 (58) (a) subject to Subsection (58)(b) [~~or (c)~~], sales of tangible personal property or a

4892 product transferred electronically to a person within this state if that tangible personal property
4893 or product transferred electronically is subsequently shipped outside the state and incorporated
4894 pursuant to contract into and becomes a part of real property located outside of this state; and

4895 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
4896 state or political entity to which the tangible personal property is shipped imposes a sales, use,
4897 gross receipts, or other similar transaction excise tax on the transaction against which the other
4898 state or political entity allows a credit for sales and use taxes imposed by this chapter; [~~and~~]

4899 [~~(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~
4900 ~~a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a~~
4901 ~~refund;]~~

4902 [~~(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;]~~

4903 [~~(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on~~
4904 ~~which the sale is made;]~~

4905 [~~(iii) if the person did not claim the exemption allowed by this Subsection (58) for the~~
4906 ~~sale prior to filing for the refund;]~~

4907 [~~(iv) for sales and use taxes paid under this chapter on the sale;]~~

4908 [~~(v) in accordance with Section 59-1-1410; and]~~

4909 [~~(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,~~
4910 ~~if the person files for the refund on or before June 30, 2011;]~~

4911 (59) purchases:

4912 (a) of one or more of the following items in printed or electronic format:

4913 (i) a list containing information that includes one or more:

4914 (A) names; or

4915 (B) addresses; or

4916 (ii) a database containing information that includes one or more:

4917 (A) names; or

4918 (B) addresses; and

4919 (b) used to send direct mail;

4920 (60) redemptions or repurchases of a product by a person if that product was:

4921 (a) delivered to a pawnbroker as part of a pawn transaction; and

4922 (b) redeemed or repurchased within the time period established in a written agreement

4923 between the person and the pawnbroker for redeeming or repurchasing the product;
4924 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
4925 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
4926 and
4927 (ii) has a useful economic life of one or more years; and
4928 (b) the following apply to Subsection (61)(a):
4929 (i) telecommunications enabling or facilitating equipment, machinery, or software;
4930 (ii) telecommunications equipment, machinery, or software required for 911 service;
4931 (iii) telecommunications maintenance or repair equipment, machinery, or software;
4932 (iv) telecommunications switching or routing equipment, machinery, or software; or
4933 (v) telecommunications transmission equipment, machinery, or software;
4934 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
4935 personal property or a product transferred electronically that are used in the research and
4936 development of alternative energy technology; and
4937 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4938 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
4939 purchases of tangible personal property or a product transferred electronically that are used in
4940 the research and development of alternative energy technology;
4941 (63) (a) purchases of tangible personal property or a product transferred electronically
4942 if:
4943 (i) the tangible personal property or product transferred electronically is:
4944 (A) purchased outside of this state;
4945 (B) brought into this state at any time after the purchase described in Subsection
4946 (63)(a)(i)(A); and
4947 (C) used in conducting business in this state; and
4948 (ii) for:
4949 (A) tangible personal property or a product transferred electronically other than the
4950 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
4951 for a purpose for which the property is designed occurs outside of this state; or
4952 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
4953 outside of this state and not required to be registered in this state under Section [41-1a-202](#) or

4954 73-18-9 based on residency;

4955 (b) the exemption provided for in Subsection (63)(a) does not apply to:

4956 (i) a lease or rental of tangible personal property or a product transferred electronically;

4957 or

4958 (ii) a sale of a vehicle exempt under Subsection (33); and

4959 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
4960 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
4961 following:

4962 (i) conducting business in this state if that phrase has the same meaning in this
4963 Subsection (63) as in Subsection (24);

4964 (ii) the first use of tangible personal property or a product transferred electronically if
4965 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

4966 (iii) a purpose for which tangible personal property or a product transferred
4967 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
4968 Subsection (24);

4969 (64) sales of disposable home medical equipment or supplies if:

4970 (a) a person presents a prescription for the disposable home medical equipment or
4971 supplies;

4972 (b) the disposable home medical equipment or supplies are used exclusively by the
4973 person to whom the prescription described in Subsection (64)(a) is issued; and

4974 (c) the disposable home medical equipment and supplies are listed as eligible for
4975 payment under:

4976 (i) Title XVIII, federal Social Security Act; or

4977 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

4978 (65) sales:

4979 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
4980 District Act; or

4981 (b) of tangible personal property to a subcontractor of a public transit district, if the
4982 tangible personal property is:

4983 (i) clearly identified; and

4984 (ii) installed or converted to real property owned by the public transit district;

- 4985 (66) sales of construction materials:
- 4986 (a) purchased on or after July 1, 2010;
- 4987 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 4988 (i) located within a county of the first class; and
- 4989 (ii) that has a United States customs office on its premises; and
- 4990 (c) if the construction materials are:
- 4991 (i) clearly identified;
- 4992 (ii) segregated; and
- 4993 (iii) installed or converted to real property:
- 4994 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 4995 (B) located at the international airport described in Subsection (66)(b);
- 4996 (67) sales of construction materials:
- 4997 (a) purchased on or after July 1, 2008;
- 4998 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 4999 (i) located within a county of the second class; and
- 5000 (ii) that is owned or operated by a city in which an airline as defined in Section
- 5001 [59-2-102](#) is headquartered; and
- 5002 (c) if the construction materials are:
- 5003 (i) clearly identified;
- 5004 (ii) segregated; and
- 5005 (iii) installed or converted to real property:
- 5006 (A) owned or operated by the new airport described in Subsection (67)(b);
- 5007 (B) located at the new airport described in Subsection (67)(b); and
- 5008 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 5009 (68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a
- 5010 common carrier that is a railroad for use in a locomotive engine;
- 5011 (69) purchases and sales described in Section [63H-4-111](#);
- 5012 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 5013 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 5014 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 5015 lists a state or country other than this state as the location of registry of the fixed wing turbine

5016 powered aircraft; or

5017 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
5018 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
5019 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
5020 lists a state or country other than this state as the location of registry of the fixed wing turbine
5021 powered aircraft;

5022 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

5023 (a) to a person admitted to an institution of higher education; and

5024 (b) by a seller, other than a bookstore owned by an institution of higher education, if
5025 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
5026 textbook for a higher education course;

5027 (72) a license fee or tax a municipality imposes in accordance with Subsection
5028 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
5029 level of municipal services;

5030 (73) amounts paid or charged for construction materials used in the construction of a
5031 new or expanding life science research and development facility in the state, if the construction
5032 materials are:

5033 (a) clearly identified;

5034 (b) segregated; and

5035 (c) installed or converted to real property;

5036 (74) amounts paid or charged for:

5037 (a) a purchase or lease of machinery and equipment that:

5038 (i) are used in performing qualified research:

5039 (A) as defined in Section 41(d), Internal Revenue Code; and

5040 (B) in the state; and

5041 (ii) have an economic life of three or more years; and

5042 (b) normal operating repair or replacement parts:

5043 (i) for the machinery and equipment described in Subsection (74)(a); and

5044 (ii) that have an economic life of three or more years;

5045 (75) a sale or lease of tangible personal property used in the preparation of prepared
5046 food if:

5047 (a) for a sale:
5048 (i) the ownership of the seller and the ownership of the purchaser are identical; and
5049 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
5050 tangible personal property prior to making the sale; or
5051 (b) for a lease:
5052 (i) the ownership of the lessor and the ownership of the lessee are identical; and
5053 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
5054 personal property prior to making the lease;
5055 (76) (a) purchases of machinery or equipment if:
5056 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
5057 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
5058 System of the federal Executive Office of the President, Office of Management and Budget;
5059 (ii) the machinery or equipment:
5060 (A) has an economic life of three or more years; and
5061 (B) is used by one or more persons who pay admission or user fees described in
5062 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
5063 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
5064 (A) amounts paid or charged as admission or user fees described in Subsection
5065 59-12-103(1)(f); and
5066 (B) subject to taxation under this chapter; and
5067 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5068 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
5069 previous calendar quarter is:
5070 (i) amounts paid or charged as admission or user fees described in Subsection
5071 59-12-103(1)(f); and
5072 (ii) subject to taxation under this chapter;
5073 (77) purchases of a short-term lodging consumable by a business that provides
5074 accommodations and services described in Subsection 59-12-103(1)(i);
5075 (78) amounts paid or charged to access a database:
5076 (a) if the primary purpose for accessing the database is to view or retrieve information
5077 from the database; and

- 5078 (b) not including amounts paid or charged for a:
- 5079 (i) digital audio work;
- 5080 (ii) digital audio-visual work; or
- 5081 (iii) digital book;
- 5082 (79) amounts paid or charged for a purchase or lease made by an electronic financial
- 5083 payment service, of:
- 5084 (a) machinery and equipment that:
- 5085 (i) are used in the operation of the electronic financial payment service; and
- 5086 (ii) have an economic life of three or more years; and
- 5087 (b) normal operating repair or replacement parts that:
- 5088 (i) are used in the operation of the electronic financial payment service; and
- 5089 (ii) have an economic life of three or more years;
- 5090 (80) [~~beginning on April 1, 2013,~~] sales of a fuel cell as defined in Section [54-15-102](#);
- 5091 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
- 5092 product transferred electronically if the tangible personal property or product transferred
- 5093 electronically:
- 5094 (a) is stored, used, or consumed in the state; and
- 5095 (b) is temporarily brought into the state from another state:
- 5096 (i) during a disaster period as defined in Section [53-2a-1202](#);
- 5097 (ii) by an out-of-state business as defined in Section [53-2a-1202](#);
- 5098 (iii) for a declared state disaster or emergency as defined in Section [53-2a-1202](#); and
- 5099 (iv) for disaster- or emergency-related work as defined in Section [53-2a-1202](#);
- 5100 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
- 5101 in Section [39-9-102](#), made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
- 5102 Recreation Program;
- 5103 (83) amounts paid or charged for a purchase or lease of molten magnesium;
- 5104 (84) amounts paid or charged for a purchase or lease made by a qualifying data center
- 5105 or an occupant of a qualifying data center of machinery, equipment, or normal operating repair
- 5106 or replacement parts, if the machinery, equipment, or normal operating repair or replacement
- 5107 parts:
- 5108 (a) are used in:

- 5109 (i) the operation of the qualifying data center; or
- 5110 (ii) the occupant's operations in the qualifying data center; and
- 5111 (b) have an economic life of one or more years;
- 5112 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
- 5113 vehicle that includes cleaning or washing of the interior of the vehicle;
- 5114 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal
- 5115 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used
- 5116 or consumed:
 - 5117 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
 - 5118 in Section [63M-4-701](#) located in the state;
 - 5119 (b) if the machinery, equipment, normal operating repair or replacement parts,
 - 5120 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:
 - 5121 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
 - 5122 added to gasoline or diesel fuel;
 - 5123 (ii) research and development;
 - 5124 (iii) transporting, storing, or managing raw materials, work in process, finished
 - 5125 products, and waste materials produced from refining gasoline or diesel fuel, or adding
 - 5126 blendstock to gasoline or diesel fuel;
 - 5127 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
 - 5128 refining; or
 - 5129 (v) preventing, controlling, or reducing pollutants from refining; and
 - 5130 (c) [~~beginning on July 1, 2021,~~] if the person holds a valid refiner tax exemption
 - 5131 certification as defined in Section [63M-4-701](#);
 - 5132 (87) amounts paid to or charged by a proprietor for accommodations and services, as
 - 5133 defined in Section [63H-1-205](#), if the proprietor is subject to the MIDA accommodations tax
 - 5134 imposed under Section [63H-1-205](#);
 - 5135 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal
 - 5136 operating repair or replacement parts, or materials, except for office equipment or office
 - 5137 supplies, by an establishment, as the commission defines that term in accordance with Title
 - 5138 [63G](#), Chapter 3, Utah Administrative Rulemaking Act, that:
 - 5139 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North

5140 American Industry Classification System of the federal Executive Office of the President,
5141 Office of Management and Budget;

5142 (b) is located in this state; and

5143 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
5144 materials in the operation of the establishment; and

5145 (89) amounts paid or charged for an item exempt under Section [59-12-104.10](#).

5146 Section 36. **Repealer.**

5147 This bill repeals:

5148 Section [59-7-118.1](#), **Modification of installment due date for deferred foreign**
5149 **income tax.**

5150 Section [59-7-504.1](#), **Modification of estimated payment due date.**

5151 Section [59-7-505.1](#), **Modification of return due date and extension period.**

5152 Section [59-7-507.1](#), **Modification of time for payment of tax.**

5153 Section [59-10-103.2](#), **Additional chapter definitions.**

5154 Section [59-10-114.1](#), **Additional subtraction from income.**

5155 Section [59-10-514.2](#), **Modification of return due date.**

5156 Section [59-10-516.1](#), **Modification of extension dates and requirements.**

5157 Section [59-10-522.1](#), **Limitation on commission authority to extend the time for**
5158 **payment of tax.**

5159 Section [59-10-1403.4](#), **Modification of return filing requirements for pass-through**
5160 **entity.**

5161 Section [59-12-103.3](#), **Sales and use tax base -- Rate for locomotive fuel.**

5162 Section 37. **Retrospective operation.**

5163 The following sections have retrospective operation for a taxable year beginning on or
5164 after January 1, 2021:

5165 (1) Section [59-7-610](#);

5166 (2) Section [59-7-620](#);

5167 (3) Section [59-10-1007](#);

5168 (4) Section [59-10-1017](#);

5169 (5) Section [59-10-1017.1](#);

5170 (6) Section [59-10-1022](#);

- 5171 (7) Section 59-10-1023;
- 5172 (8) Section 59-10-1028;
- 5173 (9) Section 59-10-1035;
- 5174 (10) Section 59-10-1036; and
- 5175 (11) Section 59-10-1403.3.