

**Senator Luz Escamilla** proposes the following substitute bill:

**TAX MODIFICATIONS**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stewart E. Barlow**

Senate Sponsor: Luz Escamilla

Cosponsor: Travis M. Seegmiller

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to tax.

**Highlighted Provisions:**

This bill:

▶ addresses the State Tax Commission's authority to provide tax collection data to counties, cities, towns, metro townships, and the military installation development authority;

▶ 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



25           ▶ makes technical corrections, including eliminating references to repealed  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

28 **Money Appropriated in this Bill:**

29           None

30 **Other Special Clauses:**

31           This bill provides retrospective operation.

32 **Utah Code Sections Affected:**

33 AMENDS:

- 34           **11-41-102**, as last amended by Laws of Utah 2016, Chapter 176  
35           **19-3-106**, as last amended by Laws of Utah 2018, Chapter 376  
36           **26-36b-208**, as last amended by Laws of Utah 2019, Chapters 1 and 393  
37           **35A-8-308**, as last amended by Laws of Utah 2017, Chapters 181 and 421  
38           **35A-8-309**, as last amended by Laws of Utah 2019, Chapter 493  
39           **59-1-401**, as last amended by Laws of Utah 2020, Chapter 294  
40           **59-1-403**, as last amended by Laws of Utah 2020, Chapter 294  
41           **59-1-403.1**, as enacted by Laws of Utah 2018, Chapter 4  
42           **59-1-404**, as last amended by Laws of Utah 2018, Chapter 368  
43           **59-2-103.5**, as last amended by Laws of Utah 2020, Chapter 78  
44           **59-2-1007**, as last amended by Laws of Utah 2018, Chapter 368  
45           **59-2-1602**, as last amended by Laws of Utah 2020, Chapter 447  
46           **59-7-118**, as last amended by Laws of Utah 2019, Chapter 11  
47           **59-7-159**, as last amended by Laws of Utah 2019, Chapters 247 and 465  
48           **59-7-504**, as last amended by Laws of Utah 1995, Chapter 311  
49           **59-7-505**, as last amended by Laws of Utah 1997, Chapter 332  
50           **59-7-507**, as last amended by Laws of Utah 2007, Chapter 269  
51           **59-7-610**, as last amended by Laws of Utah 2020, Chapters 82, 354, 360 and last  
52 amended by Coordination Clause, Laws of Utah 2020, Chapter 360  
53           **59-7-619**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1  
54           **59-7-620**, as last amended by Laws of Utah 2020, Chapter 46  
55           **59-10-103**, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 15

- 56 [59-10-114](#), as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 15
- 57 [59-10-137](#), as last amended by Laws of Utah 2019, Chapters 247 and 465
- 58 [59-10-507](#), as last amended by Laws of Utah 2016, Chapter 87
- 59 [59-10-514](#), as last amended by Laws of Utah 2016, Chapter 87
- 60 [59-10-516](#), as last amended by Laws of Utah 2010, Chapter 271
- 61 [59-10-522](#), as renumbered and amended by Laws of Utah 1987, Chapter 2
- 62 [59-10-1007](#), as last amended by Laws of Utah 2020, Chapters 82, 354, 360 and last
- 63 amended by Coordination Clause, Laws of Utah 2020, Chapter 360
- 64 [59-10-1017](#), as last amended by Laws of Utah 2017, Chapter 389
- 65 [59-10-1017.1](#), as enacted by Laws of Utah 2017, Chapter 389
- 66 [59-10-1022](#), as enacted by Laws of Utah 2008, Chapter 389
- 67 [59-10-1023](#), as enacted by Laws of Utah 2008, Chapter 389
- 68 [59-10-1028](#), as last amended by Laws of Utah 2012, Chapter 399
- 69 [59-10-1035](#), as last amended by Laws of Utah 2017, Chapter 222
- 70 [59-10-1036](#), as enacted by Laws of Utah 2016, Chapter 55
- 71 [59-10-1403](#), as last amended by Laws of Utah 2017, Chapter 270
- 72 [59-10-1403.3](#), as enacted by Laws of Utah 2017, Chapter 270
- 73 [59-12-102](#), as last amended by Laws of Utah 2020, Chapters 354, 365, and 438
- 74 [59-12-103](#), as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
- 75 [59-12-104](#), as last amended by Laws of Utah 2020, Chapters 44, 91, 354, 412, and 438
- 76 [59-12-209](#), as last amended by Laws of Utah 2009, Chapters 212 and 240
- 77 [59-12-210](#), as last amended by Laws of Utah 2009, Chapter 240
- 78 [59-14-212](#), as last amended by Laws of Utah 2007, Chapter 322
- 79 [62A-11-328](#), as last amended by Laws of Utah 2009, Chapter 31
- 80 [63G-2-302](#), as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4

81 REPEALS:

- 82 [59-7-118.1](#), as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 83 [59-7-504.1](#), as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 84 [59-7-505.1](#), as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 85 [59-7-507.1](#), as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 86 [59-10-103.2](#), as enacted by Laws of Utah 2020, Third Special Session, Chapter 4

- 87 [59-10-114.1](#), as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 88 [59-10-514.2](#), as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 89 [59-10-516.1](#), as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 90 [59-10-522.1](#), as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 91 [59-10-1403.4](#), as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
- 92 [59-12-103.3](#), as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 2

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

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

96 **11-41-102. Definitions.**

97 As used in this chapter:

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

99 (a) (i) county; or

100 (ii) municipality; and

101 (b) person.

102 (2) "Municipality" means a:

103 (a) city;

104 (b) town; or

105 (c) metro township.

106 (3) "Payment" includes:

107 (a) a payment;

108 (b) a rebate;

109 (c) a refund; or

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

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

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

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

114 (c) retail shopping facility that has at least two anchor tenants if the total number of  
115 anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square  
116 feet; or

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

- 118 (5) (a) "Sales and use tax" means a tax:
- 119 (i) imposed on transactions within a:
- 120 (A) county; or
- 121 (B) municipality; and
- 122 (ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12,
- 123 Sales and Use Tax Act.
- 124 (b) ~~[Notwithstanding Subsection (5)(a)(ii), "sales]~~ "Sales and use tax" does not include
- 125 a tax authorized under:
- 126 (i) Subsection [59-12-103\(2\)\(a\)\(i\)](#);
- 127 (ii) Subsection [59-12-103\(2\)\(b\)\(i\)](#);
- 128 (iii) Subsection [59-12-103\(2\)\(c\)\(i\)](#);
- 129 (iv) Subsection [59-12-103\(2\)\(d\)](#);
- 130 ~~[(iv)]~~ (v) Subsection [59-12-103\(2\)\(e\)\(i\)\(A\)](#);
- 131 ~~[(v)]~~ (vi) Section [59-12-301](#);
- 132 ~~[(vi)]~~ (vii) Section [59-12-352](#);
- 133 ~~[(vii)]~~ (viii) Section [59-12-353](#);
- 134 ~~[(viii)]~~ (ix) Section [59-12-603](#); or
- 135 ~~[(ix)]~~ (x) Section [59-12-1201](#).
- 136 (6) (a) "Sales and use tax incentive payment" means a payment of revenues:
- 137 (i) to a person;
- 138 (ii) by a:
- 139 (A) county; or
- 140 (B) municipality;
- 141 (iii) to induce the person to locate or relocate a regional retail business within the:
- 142 (A) county; or
- 143 (B) municipality; and
- 144 (iv) that are derived from a sales and use tax.
- 145 (b) "Sales and use tax incentive payment" does not include funding for public
- 146 infrastructure.
- 147 Section 2. Section **19-3-106** is amended to read:
- 148 **19-3-106. Fee for commercial radioactive waste disposal or treatment.**

149 (1) (a) An owner or operator of a commercial radioactive waste treatment or disposal  
150 facility that receives radioactive waste shall pay a fee as provided in Subsection (1)(b).

151 (b) (i) On or after July 1, 2011, the fee shall be established by the department in  
152 accordance with Section 63J-1-504.

153 (ii) In the development of a fee schedule prepared under Subsection (1)(b)(i), the  
154 department may conduct by no later than July 1, 2011, a review of the program costs and  
155 indirect costs of regulating radioactive waste in the state.

156 (iii) In addition to the process required by Section 63J-1-504, the department shall  
157 establish a fee that:

158 (A) is a flat fee, not based on the amount of waste treated or disposed of;

159 (B) provides for reasonable and timely oversight of radioactive waste by the  
160 department; and

161 (C) adequately meets the needs of industry and the department, including allowing for  
162 the department to employ qualified personnel to appropriately oversee industry regulation.

163 (2) (a) The owner or operator shall remit the fees imposed under this section to the  
164 department on or before the 15th day of the month following the month in which the fee  
165 accrued.

166 (b) The department shall deposit the fees received under this section into the  
167 Environmental Quality Restricted Account created in Section 19-1-108.

168 (3) (a) The annual fee required under Subsection (1)(a) shall be reduced by the amount  
169 paid in tax annually by the owner or operator under Section 59-24-103.5.

170 (b) Beginning June 2018, the State Tax Commission shall provide annually on or  
171 before June 1 the tax information described in Subsection 59-1-403[(3)](4)(v) indicating the  
172 amount of tax paid for the previous calendar year under Section 59-24-103.5.

173 (c) The department shall apply the tax amount established in Subsection (3)(b) to  
174 reduce the fee paid during the upcoming fiscal year, beginning fiscal year 2019, by the owner  
175 or operator under Subsection (1)(a).

176 (4) The Legislature shall appropriate the fully burdened cost as determined by the  
177 annual fee set under Subsection (1)(b) to the Environmental Quality Restricted Account created  
178 in Section 19-1-108 from the General Fund for the regulation of radioactive waste treatment  
179 and disposal.

180 (5) If the Legislature fails to appropriate adequate funds to cover the fully burdened  
181 cost as determined by the annual fee set under Subsection (1)(b), the owner or operator shall  
182 pay the balance.

183 (6) Radioactive waste that is subject to a fee under this section is not subject to a fee  
184 under Section 19-6-119.

185 Section 3. Section 26-36b-208 is amended to read:

186 **26-36b-208. Medicaid Expansion Fund.**

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

189 (2) The fund consists of:

190 (a) assessments collected under this chapter;

191 (b) intergovernmental transfers under Section 26-36b-206;

192 (c) savings attributable to the health coverage improvement program as determined by  
193 the department;

194 (d) savings attributable to the enhancement waiver program as determined by the  
195 department;

196 (e) savings attributable to the Medicaid waiver expansion as determined by the  
197 department;

198 (f) savings attributable to the inclusion of psychotropic drugs on the preferred drug list  
199 under Subsection 26-18-2.4(3) as determined by the department;

200 (g) revenues collected from the sales tax described in Subsection 59-12-103[~~(13)~~](12);

201 (h) gifts, grants, donations, or any other conveyance of money that may be made to the  
202 fund from private sources;

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

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

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

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

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

209 (i) the health coverage improvement program;

210 (ii) the enhancement waiver program;

- 211 (iii) a Medicaid waiver expansion; and
- 212 (iv) the outpatient upper payment limit supplemental payments under Section
- 213 26-36b-210.
- 214 (b) A state agency administering the provisions of this chapter may not use:
- 215 (i) funds described in Subsection (2)(b) to pay the cost of private outpatient upper
- 216 payment limit supplemental payments; or
- 217 (ii) money in the fund for any purpose not described in Subsection (4)(a).

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

219 **35A-8-308. Throughput Infrastructure Fund.**

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

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

- 222 (a) all amounts transferred to the fund [~~under Subsection 59-12-103(12)~~] by statute;
- 223 (b) any voluntary contributions received;
- 224 (c) appropriations made to the fund by the Legislature; and
- 225 (d) all amounts received from the repayment of loans made by the impact board under

226 Section 35A-8-309.

227 (3) The state treasurer shall:

- 228 (a) invest the money in the fund by following the procedures and requirements of Title
- 229 51, Chapter 7, State Money Management Act; and
- 230 (b) deposit all interest or other earnings derived from those investments into the fund.

231 Section 5. Section 35A-8-309 is amended to read:

232 **35A-8-309. Throughput Infrastructure Fund administered by impact board --**  
233 **Uses -- Review by board -- Annual report -- First project.**

234 (1) The impact board shall:

- 235 (a) make grants and loans from the Throughput Infrastructure Fund created in Section
- 236 35A-8-308 for a throughput infrastructure project;
- 237 (b) use money transferred to the Throughput Infrastructure Fund in accordance with
- 238 [~~Subsection 59-12-103(12)~~] statute to provide a loan or grant to finance the cost of acquisition
- 239 or construction of a throughput infrastructure project to one or more local political
- 240 subdivisions, including a Utah interlocal agency created under Title 11, Chapter 13, Interlocal
- 241 Cooperation Act;



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

244 (d) determine provisions for repayment of loans;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

273 (7) The board shall include in the annual written report described in Section  
274 35A-1-109:

- 275 (a) the number and type of loans and grants made under this section; and
- 276 (b) a list of local political subdivisions or interlocal agencies that received assistance  
277 under this section.

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

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

- 283 (i) grant up to 2% of the money in the Throughput Infrastructure Fund to the interlocal  
284 agency to pay or reimburse costs incurred by the interlocal agency preliminary to its acquisition  
285 of the throughput infrastructure project; and
- 286 (ii) fund the interlocal agency's application if the application meets all criteria  
287 established by the impact board.

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

289 **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**  
290 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**  
291 **interest.**

292 (1) As used in this section:

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

- 295 (i) has implemented the commission's GenTax system; and
- 296 (ii) at least 30 days before implementing the commission's GenTax system as described  
297 in Subsection (1)(a)(i), has provided notice in a conspicuous place on the commission's website  
298 stating:

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

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

303 (I) a person that files a return after the due date as described in Subsection (2)(a) is

304 subject to the penalty described in Subsection (2)(c)(ii); and

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

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

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

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

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

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

315 (I) this title;

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

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

318 (IV) Section 19-6-410.5;

319 (V) Section 19-6-714;

320 (VI) Section 19-6-805;

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

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

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

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

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

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

328 (B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

329 (C) Chapter 2, Property Tax Act, except for Section 59-2-1309;

330 (D) Chapter 3, Tax Equivalent Property Act; or

331 (E) Chapter 4, Privilege Tax.

332 (d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated  
333 tax, fee, or charge.

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

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

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

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

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

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

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

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

346 (A) \$20; or

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

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

350 (A) \$20; or

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

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

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

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

359 (i) an amended return; or

360 (ii) a return with no tax due.

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

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

365 (ii) the person:

- 366 (A) is subject to a penalty under Subsection (2)(b); and  
367 (B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the  
368 due date for filing a return described in Subsection (2)(a);
- 369 (iii) (A) the person is subject to a penalty under Subsection (2)(b); and  
370 (B) the commission estimates an amount of tax due for that person in accordance with  
371 Subsection 59-1-1406(2);
- 372 (iv) the person:  
373 (A) is mailed a notice of deficiency; and  
374 (B) within a 30-day period after the day on which the notice of deficiency described in  
375 Subsection (3)(a)(iv)(A) is mailed:  
376 (I) does not file a petition for redetermination or a request for agency action; and  
377 (II) fails to pay the tax, fee, or charge due on a return;
- 378 (v) (A) the commission:  
379 (I) issues an order constituting final agency action resulting from a timely filed petition  
380 for redetermination or a timely filed request for agency action; or  
381 (II) is considered to have denied a request for reconsideration under Subsection  
382 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed  
383 request for agency action; and  
384 (B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period  
385 after the date the commission:  
386 (I) issues the order constituting final agency action described in Subsection  
387 (3)(a)(v)(A)(I); or  
388 (II) is considered to have denied the request for reconsideration described in  
389 Subsection (3)(a)(v)(A)(II); or  
390 (vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date  
391 of a final judicial decision resulting from a timely filed petition for judicial review.
- 392 (b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:  
393 (i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with  
394 respect to an unactivated tax, fee, or charge:  
395 (A) \$20; or  
396 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

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

399 (A) \$20; or

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

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

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

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

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

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

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

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

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

425 (5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a  
426 person allowed by law an extension of time for filing a corporate franchise or income tax return  
427 under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return

428 under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in  
429 Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not  
430 including the extension of time, the person fails to pay:

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

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

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

438 (6) If a person does not file a return within an extension of time allowed by Section  
439 59-7-505 or 59-10-516, the person:

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

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

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

443 (A) \$20; or

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

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

447 (A) \$20; or

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

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

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

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

458 (iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge,

459 the penalty is the greater of \$500 per period or 50% of the entire underpayment.

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

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

465 (i) The notice of proposed penalty shall:

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

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

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

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

471 or

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

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

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

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

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

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

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

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

487 (A) the seller meets one or more of the criteria described in Subsection [59-12-107\(2\)\(a\)](#)  
488 or is a seller required to pay or collect and remit sales and use taxes under Subsection  
489 [59-12-107\(2\)\(b\)](#) or (2)(c); and



490 (B) the commission or a county, city, or town may require the seller to collect a tax  
491 under Subsections 59-12-103(2)(a) through [~~(d)~~] (e); or  
492 (ii) the commission issues a final unappealable administrative order determining that:  
493 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)  
494 or is a seller required to pay or collect and remit sales and use taxes under Subsection  
495 59-12-107(2)(b) or (2)(c); and  
496 (B) the commission or a county, city, or town may require the seller to collect a tax  
497 under Subsections 59-12-103(2)(a) through [~~(d)~~] (e).  
498 (d) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not  
499 subject to the penalty under Subsection (7)(a)(ii) if:  
500 (i) (A) a court of competent jurisdiction issues a final unappealable judgment or order  
501 determining that:  
502 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)  
503 or is a seller required to pay or collect and remit sales and use taxes under Subsection  
504 59-12-107(2)(b) or (2)(c); and  
505 (II) the commission or a county, city, or town may require the seller to collect a tax  
506 under Subsections 59-12-103(2)(a) through [~~(d)~~] (e); or  
507 (B) the commission issues a final unappealable administrative order determining that:  
508 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)  
509 or is a seller required to pay or collect and remit sales and use taxes under Subsection  
510 59-12-107(2)(b) or (2)(c); and  
511 (II) the commission or a county, city, or town may require the seller to collect a tax  
512 under Subsections 59-12-103(2)(a) through [~~(d)~~] (e); and  
513 (ii) the seller's intentional disregard of law or rule is warranted by existing law or by a  
514 nonfrivolous argument for the extension, modification, or reversal of existing law or the  
515 establishment of new law.  
516 (8) (a) Subject to Subsections (8)(b) and (c), the penalty for failure to file an  
517 information return, information report, or a complete supporting schedule is \$50 for each  
518 information return, information report, or supporting schedule up to a maximum of \$1,000.  
519 (b) If an employer is subject to a penalty under Subsection (13), the employer may not  
520 be subject to a penalty under Subsection (8)(a).

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

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

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

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

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

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

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

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

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

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

544 (A) a return;

545 (B) an affidavit;

546 (C) a claim; or

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

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

550 (iii) knows that the document described in Subsection (11)(a)(i), if used in connection  
551 with any material matter administered by the commission, would result in an understatement of

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

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

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

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

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

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

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

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

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

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

566 (i) shall be imposed by the commission;

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

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

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

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

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

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

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

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

584 (B) exceed \$1,000.

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

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

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

593 (B) exceed \$5,000.

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

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

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

600 (B) exceed \$25,000.

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

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

604 (I) a return;

605 (II) an affidavit;

606 (III) a claim; or

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

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

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

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

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

- 614 (A) preparing any portion of a document described in Subsection (12)(e)(i)(A);
- 615 (B) presenting any portion of a document described in Subsection (12)(e)(i)(A);
- 616 (C) procuring any portion of a document described in Subsection (12)(e)(i)(A);
- 617 (D) advising in the preparation or presentation of any portion of a document described
- 618 in Subsection (12)(e)(i)(A);
- 619 (E) aiding in the preparation or presentation of any portion of a document described in
- 620 Subsection (12)(e)(i)(A);
- 621 (F) assisting in the preparation or presentation of any portion of a document described
- 622 in Subsection (12)(e)(i)(A); or
- 623 (G) counseling in the preparation or presentation of any portion of a document
- 624 described in Subsection (12)(e)(i)(A).
- 625 (iii) This Subsection (12)(e) applies:
- 626 (A) regardless of whether the person for which the document described in Subsection
- 627 (12)(e)(i)(A) is prepared or presented:
  - 628 (I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or
  - 629 (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and
  - 630 (B) in addition to any other penalty provided by law.
- 631 (iv) Notwithstanding Section [76-3-301](#), for purposes of this Subsection (12)(e), the
- 632 penalty may not:
  - 633 (A) be less than \$1,500; or
  - 634 (B) exceed \$25,000.
- 635 (v) The commission may seek a court order to enjoin a person from engaging in
- 636 conduct that is subject to a penalty under this Subsection (12)(e).
- 637 (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 638 the commission may make rules prescribing the documents that are similar to Subsections
- 639 (12)(e)(i)(A)(I) through (III).
- 640 (f) The statute of limitations for prosecution for a violation of this Subsection (12) is
- 641 the later of six years:
  - 642 (i) from the date the tax should have been remitted; or
  - 643 (ii) after the day on which the person commits the criminal offense.
- 644 (13) (a) Subject to Subsection (13)(b), an employer that is required to file a form with

645 the commission in accordance with Subsection 59-10-406(8) is subject to a penalty described  
646 in Subsection (13)(b) if the employer:

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

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

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

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

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

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

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

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

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

663 (B) fails to file the form.

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

667 Section 7. Section 59-1-403 is amended to read:

668 **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

669 (1) As used in this section:

670 (a) "Distributed tax, fee, or charge" means a tax, fee, or charge the commission  
671 administers under:

672 (i) this title, other than a tax under Chapter 12, Part 2, Local Sales and Use Tax Act;

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

674 (iii) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

675 (iv) Section 19-6-714;

- 676           (v) Section 19-6-805;
- 677           (vi) Section 63H-1-205; or
- 678           (vii) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service
- 679 Charges.
- 680           (b) "Qualifying jurisdiction" means:
- 681           (i) a county, city, town, or metro township; or
- 682           (ii) the military installation development authority created in Section 63H-1-201.
- 683           [~~(+)~~] (2) (a) Any of the following may not divulge or make known in any manner any
- 684 information gained by that person from any return filed with the commission:
- 685           (i) a tax commissioner;
- 686           (ii) an agent, clerk, or other officer or employee of the commission; or
- 687           (iii) a representative, agent, clerk, or other officer or employee of any county, city, or
- 688 town.
- 689           (b) An official charged with the custody of a return filed with the commission is not
- 690 required to produce the return or evidence of anything contained in the return in any action or
- 691 proceeding in any court, except:
- 692           (i) in accordance with judicial order;
- 693           (ii) on behalf of the commission in any action or proceeding under:
- 694           (A) this title; or
- 695           (B) other law under which persons are required to file returns with the commission;
- 696           (iii) on behalf of the commission in any action or proceeding to which the commission
- 697 is a party; or
- 698           (iv) on behalf of any party to any action or proceeding under this title if the report or
- 699 facts shown by the return are directly involved in the action or proceeding.
- 700           (c) Notwithstanding Subsection [~~(+)~~] (2)(b), a court may require the production of, and
- 701 may admit in evidence, any portion of a return or of the facts shown by the return, as are
- 702 specifically pertinent to the action or proceeding.
- 703           [~~(2)~~] (3) This section does not prohibit:
- 704           (a) a person or that person's duly authorized representative from receiving a copy of
- 705 any return or report filed in connection with that person's own tax;
- 706           (b) the publication of statistics as long as the statistics are classified to prevent the

707 identification of particular reports or returns; and

708 (c) the inspection by the attorney general or other legal representative of the state of the  
709 report or return of any taxpayer:

710 (i) who brings action to set aside or review a tax based on the report or return;

711 (ii) against whom an action or proceeding is contemplated or has been instituted under  
712 this title; or

713 (iii) against whom the state has an unsatisfied money judgment.

714 ~~[(3)]~~ (4) (a) Notwithstanding Subsection ~~[(1)]~~ (2) and for purposes of administration,  
715 the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah  
716 Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

717 (i) the United States Internal Revenue Service; or

718 (ii) the revenue service of any other state.

719 (b) Notwithstanding Subsection ~~[(1)]~~ (2) and for all taxes except individual income tax  
720 and corporate franchise tax, the commission may by rule, made in accordance with Title 63G,  
721 Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and  
722 other written statements with the federal government, any other state, any of the political  
723 subdivisions of another state, or any political subdivision of this state, except as limited by  
724 Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal  
725 government grant substantially similar privileges to this state.

726 (c) Notwithstanding Subsection ~~[(1)]~~ (2) and for all taxes except individual income tax  
727 and corporate franchise tax, the commission may by rule, in accordance with Title 63G,  
728 Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information  
729 concerning the identity and other information of taxpayers who have failed to file tax returns or  
730 to pay any tax due.

731 (d) Notwithstanding Subsection ~~[(1)]~~ (2), the commission shall provide to the director  
732 of the Division of Environmental Response and Remediation, as defined in Section 19-6-402,  
733 as requested by the director of the Division of Environmental Response and Remediation, any  
734 records, returns, or other information filed with the commission under Chapter 13, Motor and  
735 Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program  
736 participation fee.

737 (e) Notwithstanding Subsection ~~[(1)]~~ (2), at the request of any person the commission



738 shall provide that person sales and purchase volume data reported to the commission on a  
739 report, return, or other information filed with the commission under:

740 (i) Chapter 13, Part 2, Motor Fuel; or

741 (ii) Chapter 13, Part 4, Aviation Fuel.

742 (f) Notwithstanding Subsection [(†)] (2), upon request from a tobacco product  
743 manufacturer, as defined in Section 59-22-202, the commission shall report to the  
744 manufacturer:

745 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the  
746 manufacturer and reported to the commission for the previous calendar year under Section  
747 59-14-407; and

748 (ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the  
749 manufacturer for which a tax refund was granted during the previous calendar year under  
750 Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

751 (g) Notwithstanding Subsection [(†)] (2), the commission shall notify manufacturers,  
752 distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited  
753 from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

754 (h) Notwithstanding Subsection [(†)] (2), the commission may:

755 (i) provide to the Division of Consumer Protection within the Department of  
756 Commerce and the attorney general data:

757 (A) reported to the commission under Section 59-14-212; or

758 (B) related to a violation under Section 59-14-211; and

759 (ii) upon request, provide to any person data reported to the commission under  
760 Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

761 (i) Notwithstanding Subsection [(†)] (2), the commission shall, at the request of a  
762 committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's  
763 Office of Management and Budget, provide to the committee or office the total amount of  
764 revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act,  
765 for the time period specified by the committee or office.

766 (j) Notwithstanding Subsection [(†)] (2), the commission shall make the directory  
767 required by Section 59-14-603 available for public inspection.

768 (k) Notwithstanding Subsection [(†)] (2), the commission may share information with

769 federal, state, or local agencies as provided in Subsection [59-14-606\(3\)](#).

770 (l) (i) Notwithstanding Subsection [~~(1)~~] [\(2\)](#), the commission shall provide the Office of  
771 Recovery Services within the Department of Human Services any relevant information  
772 obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer  
773 who has become obligated to the Office of Recovery Services.

774 (ii) The information described in Subsection [~~(3)~~] [\(4\)\(l\)\(i\)](#) may be provided by the  
775 Office of Recovery Services to any other state's child support collection agency involved in  
776 enforcing that support obligation.

777 (m) (i) Notwithstanding Subsection [~~(1)~~] [\(2\)](#), upon request from the state court  
778 administrator, the commission shall provide to the state court administrator, the name, address,  
779 telephone number, county of residence, and social security number on resident returns filed  
780 under Chapter 10, Individual Income Tax Act.

781 (ii) The state court administrator may use the information described in Subsection [~~(3)~~]  
782 [\(4\)\(m\)\(i\)](#) only as a source list for the master jury list described in Section [78B-1-106](#).

783 (n) (i) As used in this Subsection [~~(3)~~] [\(4\)\(n\)](#):

784 (A) "GOED" means the Governor's Office of Economic Development created in  
785 Section [63N-1-201](#).

786 (B) "Income tax information" means information gained by the commission that is  
787 required to be attached to or included in a return filed with the commission under Chapter 7,  
788 Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

789 (C) "Other tax information" means information gained by the commission that is  
790 required to be attached to or included in a return filed with the commission except for a return  
791 filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual  
792 Income Tax Act.

793 (D) "Tax information" means income tax information or other tax information.

794 (ii) (A) Notwithstanding Subsection [~~(1)~~] [\(2\)](#) and except as provided in Subsection  
795 [~~(3)~~] [\(4\)\(n\)\(ii\)\(B\)](#) or (C), the commission shall at the request of GOED provide to GOED all  
796 income tax information.

797 (B) For purposes of a request for income tax information made under Subsection [~~(3)~~]  
798 [\(4\)\(n\)\(ii\)\(A\)](#), GOED may not request and the commission may not provide to GOED a person's  
799 address, name, social security number, or taxpayer identification number.

800 (C) In providing income tax information to GOED, the commission shall in all  
801 instances protect the privacy of a person as required by Subsection [~~(3)~~] (4)(n)(ii)(B).

802 (iii) (A) Notwithstanding Subsection [~~(1)~~] (2) and except as provided in Subsection  
803 [~~(3)~~] (4)(n)(iii)(B), the commission shall at the request of GOED provide to GOED other tax  
804 information.

805 (B) Before providing other tax information to GOED, the commission shall redact or  
806 remove any name, address, social security number, or taxpayer identification number.

807 (iv) GOED may provide tax information received from the commission in accordance  
808 with this Subsection [~~(3)~~] (4)(n) only:

809 (A) as a fiscal estimate, fiscal note information, or statistical information; and

810 (B) if the tax information is classified to prevent the identification of a particular  
811 return.

812 (v) (A) A person may not request tax information from GOED under Title 63G,  
813 Chapter 2, Government Records Access and Management Act, or this section, if GOED  
814 received the tax information from the commission in accordance with this Subsection [~~(3)~~]  
815 (4)(n).

816 (B) GOED may not provide to a person that requests tax information in accordance  
817 with Subsection [~~(3)~~] (4)(n)(v)(A) any tax information other than the tax information GOED  
818 provides in accordance with Subsection [~~(3)~~] (4)(n)(iv).

819 (o) Notwithstanding Subsection [~~(1)~~] (2), the commission may provide to the  
820 governing board of the agreement or a taxing official of another state, the District of Columbia,  
821 the United States, or a territory of the United States:

822 (i) the following relating to an agreement sales and use tax:

823 (A) information contained in a return filed with the commission;

824 (B) information contained in a report filed with the commission;

825 (C) a schedule related to Subsection [~~(3)~~] (4)(o)(i)(A) or (B); or

826 (D) a document filed with the commission; or

827 (ii) a report of an audit or investigation made with respect to an agreement sales and  
828 use tax.

829 (p) Notwithstanding Subsection [~~(1)~~] (2), the commission may provide information  
830 concerning a taxpayer's state income tax return or state income tax withholding information to

831 the Driver License Division if the Driver License Division:

832 (i) requests the information; and

833 (ii) provides the commission with a signed release form from the taxpayer allowing the  
834 Driver License Division access to the information.

835 (q) Notwithstanding Subsection [(+) (2)], the commission shall provide to the Utah  
836 Communications Authority, or a division of the Utah Communications Authority, the  
837 information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and  
838 63H-7a-502.

839 (r) Notwithstanding Subsection [(+) (2)], the commission shall provide to the Utah  
840 Educational Savings Plan information related to a resident or nonresident individual's  
841 contribution to a Utah Educational Savings Plan account as designated on the resident or  
842 nonresident's individual income tax return as provided under Section 59-10-1313.

843 (s) Notwithstanding Subsection [(+) (2)], for the purpose of verifying eligibility under  
844 Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the  
845 Department of Health or its designee with the adjusted gross income of an individual if:

846 (i) an eligibility worker with the Department of Health or its designee requests the  
847 information from the commission; and

848 (ii) the eligibility worker has complied with the identity verification and consent  
849 provisions of Sections 26-18-2.5 and 26-40-105.

850 (t) Notwithstanding Subsection [(+) (2)], the commission may provide to a county, as  
851 determined by the commission, information declared on an individual income tax return in  
852 accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption  
853 authorized under Section 59-2-103.

854 (u) Notwithstanding Subsection [(+) (2)], the commission shall provide a report  
855 regarding any access line provider that is over 90 days delinquent in payment to the  
856 commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4,  
857 Prepaid Wireless Telecommunications Service Charges, to the board of the Utah  
858 Communications Authority created in Section 63H-7a-201.

859 (v) Notwithstanding Subsection [(+) (2)], the commission shall provide the Department  
860 of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for  
861 the previous calendar year under Section 59-24-103.5.

862 (w) Notwithstanding Subsection [~~(1)~~] (2), the commission may, upon request, provide  
863 to the Department of Workforce Services any information received under Chapter 10, Part 4,  
864 Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

865 (x) Notwithstanding Subsection [~~(1)~~] (2), the commission may provide the Public  
866 Service Commission or the Division of Public Utilities information related to a seller that  
867 collects and remits to the commission a charge described in Subsection 69-2-405(2), including  
868 the seller's identity and the number of charges described in Subsection 69-2-405(2) that the  
869 seller collects.

870 (y) (i) Notwithstanding Subsection (2), the commission shall provide to each qualifying  
871 jurisdiction the collection data necessary to verify the revenue collected by the commission for  
872 a distributed tax, fee, or charge collected within the qualifying jurisdiction.

873 (ii) In addition to the information provided under Subsection (4)(y)(i), the commission  
874 shall provide a qualifying jurisdiction with copies of returns and other information relating to a  
875 distributed tax, fee, or charge collected within the qualifying jurisdiction.

876 (iii) (A) To obtain the information described in Subsection (4)(y)(ii), the chief  
877 executive officer or the chief executive officer's designee of the qualifying jurisdiction shall  
878 submit a written request to the commission that states the specific information sought and how  
879 the qualifying jurisdiction intends to use the information.

880 (B) The information described in Subsection (4)(y)(ii) is available only in official  
881 matters of the qualifying jurisdiction.

882 (iv) Information that a qualifying jurisdiction receives in response to a request under  
883 this subsection is:

884 (A) classified as a private record under Title 63G, Chapter 2, Government Records  
885 Access and Management Act; and

886 (B) subject to the confidentiality requirements of this section.

887 [~~(4)~~] (5) (a) Each report and return shall be preserved for at least three years.

888 (b) After the three-year period provided in Subsection [~~(4)~~] (5)(a) the commission may  
889 destroy a report or return.

890 [~~(5)~~] (6) (a) Any individual who violates this section is guilty of a class A  
891 misdemeanor.

892 (b) If the individual described in Subsection [~~(5)~~] (6)(a) is an officer or employee of the

893 state, the individual shall be dismissed from office and be disqualified from holding public  
894 office in this state for a period of five years thereafter.

895 (c) Notwithstanding Subsection [~~(5)~~] (6)(a) or (b), GOED, when requesting  
896 information in accordance with Subsection [~~(3)~~] (4)(n)(iii), or an individual who requests  
897 information in accordance with Subsection [~~(3)~~] (4)(n)(v):

898 (i) is not guilty of a class A misdemeanor; and

899 (ii) is not subject to:

900 (A) dismissal from office in accordance with Subsection [~~(5)~~] (6)(b); or

901 (B) disqualification from holding public office in accordance with Subsection [~~(5)~~]  
902 (6)(b).

903 [~~(6)~~] (7) Except as provided in Section 59-1-404, this part does not apply to the  
904 property tax.

905 Section 8. Section 59-1-403.1 is amended to read:

906 **59-1-403.1. Disclosure of return information.**

907 (1) As used in this section:

908 (a) "Office" means:

909 (i) the Office of the Legislative Fiscal Analyst, established in Section 36-12-13;

910 (ii) the Office of Legislative Research and General Counsel, established in Section  
911 36-12-12; or

912 (iii) the Governor's Office of Management and Budget, created in Section 63J-4-201.

913 (b) (i) "Return information" means information gained by the commission that is  
914 required to be attached to or included in a return filed with the commission.

915 (ii) "Return information" does not include information that the commission is  
916 prohibited from disclosing by federal law, federal regulation, or federal publication.

917 (2) (a) Notwithstanding Subsection 59-1-403[~~(1)~~](2), the commission, at the request of  
918 an office, shall provide to the office all return information with the items described in  
919 Subsection (2)(b) removed.

920 (b) For purposes of a request for return information made under Subsection (2)(a), the  
921 commission shall redact or remove any name, address, social security number, or taxpayer  
922 identification number.

923 (3) (a) An office may disclose return information received from the commission in

924 accordance with this section only:

- 925 (i) (A) as a fiscal estimate, fiscal note information, or statistical information; and  
 926 (B) in a manner that reasonably protects the identification of a particular taxpayer; or  
 927 (ii) to another office.

928 (b) A person may not request return information, other than the return information that  
 929 the office discloses in accordance with Subsection (3)(a), from an office under Title 63G,  
 930 Chapter 2, Government Records Access and Management Act, or this section, if that office  
 931 received the return information from the commission in accordance with this section.

932 (c) An office may not disclose to a person that requests return information any return  
 933 information other than the return information that the office discloses in accordance with  
 934 Subsection (3)(a).

935 (4) Any individual who violates Subsection (3)(a):

- 936 (a) is guilty of a class A misdemeanor; and  
 937 (b) shall be:

938 (i) dismissed from office; and

939 (ii) disqualified from holding public office in this state for a period of five years after  
 940 dismissal.

941 (5) (a) An office and the commission may enter into an agreement specifying the  
 942 procedures for accessing, storing, and destroying return information requested in accordance  
 943 with this section.

944 (b) An office's access to return information is governed by this section, and except as  
 945 provided in Subsection (5)(a), may not be limited by any agreement.

946 Section 9. Section **59-1-404** is amended to read:

947 **59-1-404. Definitions -- Confidentiality of commercial information obtained from**  
 948 **a property taxpayer or derived from the commercial information -- Rulemaking**  
 949 **authority -- Exceptions -- Written explanation -- Signature requirements -- Retention of**  
 950 **signed explanation by employer -- Penalty.**

951 (1) As used in this section:

952 (a) "Appraiser" means an individual who holds an appraiser's certificate or license  
 953 issued by the Division of Real Estate under Title 61, Chapter 2g, Real Estate Appraiser  
 954 Licensing and Certification Act and includes an individual associated with an appraiser who

955 assists the appraiser in preparing an appraisal.

956 (b) "Appraisal" is as defined in Section 61-2g-102.

957 (c) (i) "Commercial information" means:

958 (A) information of a commercial nature obtained from a property taxpayer regarding  
959 the property taxpayer's property; or

960 (B) information derived from the information described in this Subsection (1)(c)(i).

961 (ii) (A) "Commercial information" does not include information regarding a property  
962 taxpayer's property if the information is intended for public use.

963 (B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
964 purposes of Subsection (1)(c)(ii)(A), the commission may by rule prescribe the circumstances  
965 under which information is intended for public use.

966 (d) "Consultation service" is as defined in Section 61-2g-102.

967 (e) "Locally assessed property" means property that is assessed by a county assessor in  
968 accordance with Chapter 2, Part 3, County Assessment.

969 (f) "Property taxpayer" means a person that:

970 (i) is a property owner; or

971 (ii) has in effect a contract with a property owner to:

972 (A) make filings on behalf of the property owner;

973 (B) process appeals on behalf of the property owner; or

974 (C) pay a tax under Chapter 2, Property Tax Act, on the property owner's property.

975 (g) "Property taxpayer's property" means property with respect to which a property  
976 taxpayer:

977 (i) owns the property;

978 (ii) makes filings relating to the property;

979 (iii) processes appeals relating to the property; or

980 (iv) pays a tax under Chapter 2, Property Tax Act, on the property.

981 (h) "Protected commercial information" means commercial information that:

982 (i) identifies a specific property taxpayer; or

983 (ii) would reasonably lead to the identity of a specific property taxpayer.

984 (2) An individual listed under Subsection 59-1-403~~(1)~~(2)(a) may not disclose  
985 commercial information:



- 986 (a) obtained in the course of performing any duty that the individual listed under  
987 Subsection 59-1-403~~(1)~~(2)(a) performs under Chapter 2, Property Tax Act; or  
988 (b) relating to an action or proceeding:  
989 (i) with respect to a tax imposed on property in accordance with Chapter 2, Property  
990 Tax Act; and  
991 (ii) that is filed in accordance with:  
992 (A) this chapter;  
993 (B) Chapter 2, Property Tax Act; or  
994 (C) this chapter and Chapter 2, Property Tax Act.  
995 (3) (a) Notwithstanding Subsection (2) and subject to Subsection (3)(c), an individual  
996 listed under Subsection 59-1-403~~(1)~~(2)(a) may disclose the following information:  
997 (i) the assessed value of property;  
998 (ii) the tax rate imposed on property;  
999 (iii) a legal description of property;  
1000 (iv) the physical description or characteristics of property, including a street address or  
1001 parcel number for the property;  
1002 (v) the square footage or acreage of property;  
1003 (vi) the square footage of improvements on property;  
1004 (vii) the name of a property taxpayer;  
1005 (viii) the mailing address of a property taxpayer;  
1006 (ix) the amount of a property tax:  
1007 (A) assessed on property;  
1008 (B) due on property;  
1009 (C) collected on property;  
1010 (D) abated on property; or  
1011 (E) deferred on property;  
1012 (x) the amount of the following relating to property taxes due on property:  
1013 (A) interest;  
1014 (B) costs; or  
1015 (C) other charges;  
1016 (xi) the tax status of property, including:

- 1017 (A) an exemption;
- 1018 (B) a property classification;
- 1019 (C) a bankruptcy filing; or
- 1020 (D) whether the property is the subject of an action or proceeding under this title;
- 1021 (xii) information relating to a tax sale of property; or
- 1022 (xiii) information relating to single-family residential property.
- 1023 (b) Notwithstanding Subsection (2) and subject to Subsection (3)(c), an individual
- 1024 listed under Subsection 59-1-403~~(1)~~(2)(a) shall disclose, upon request, the information
- 1025 described in Subsection 59-2-1007(9).
- 1026 (c) (i) Subject to Subsection (3)(c)(ii), a person may receive the information described
- 1027 in Subsection (3)(a) or (b) in written format.
- 1028 (ii) The following may charge a reasonable fee to cover the actual cost of providing the
- 1029 information described in Subsection (3)(a) or (b) in written format:
- 1030 (A) the commission;
- 1031 (B) a county;
- 1032 (C) a city; or
- 1033 (D) a town.
- 1034 (4) (a) Notwithstanding Subsection (2) and except as provided in Subsection (4)(c), an
- 1035 individual listed under Subsection 59-1-403~~(1)~~(2)(a) shall disclose commercial information:
- 1036 (i) in accordance with judicial order;
- 1037 (ii) on behalf of the commission in any action or proceeding:
- 1038 (A) under this title;
- 1039 (B) under another law under which a property taxpayer is required to disclose
- 1040 commercial information; or
- 1041 (C) to which the commission is a party;
- 1042 (iii) on behalf of any party to any action or proceeding under this title if the commercial
- 1043 information is directly involved in the action or proceeding; or
- 1044 (iv) if the requirements of Subsection (4)(b) are met, that is:
- 1045 (A) relevant to an action or proceeding:
- 1046 (I) filed in accordance with this title; and
- 1047 (II) involving property; or

1048 (B) in preparation for an action or proceeding involving property.  
1049 (b) Commercial information shall be disclosed in accordance with Subsection  
1050 (4)(a)(iv):  
1051 (i) if the commercial information is obtained from:  
1052 (A) a real estate agent if the real estate agent is not a property taxpayer of the property  
1053 that is the subject of the action or proceeding;  
1054 (B) an appraiser if the appraiser:  
1055 (I) is not a property taxpayer of the property that is the subject of the action or  
1056 proceeding; and  
1057 (II) did not receive the commercial information pursuant to Subsection (8);  
1058 (C) a property manager if the property manager is not a property taxpayer of the  
1059 property that is the subject of the action or proceeding; or  
1060 (D) a property taxpayer other than a property taxpayer of the property that is the subject  
1061 of the action or proceeding;  
1062 (ii) regardless of whether the commercial information is disclosed in more than one  
1063 action or proceeding; and  
1064 (iii) (A) if a county board of equalization conducts the action or proceeding, the county  
1065 board of equalization takes action to provide that any commercial information disclosed during  
1066 the action or proceeding may not be disclosed by any person conducting or participating in the  
1067 action or proceeding except as specifically allowed by this section;  
1068 (B) if the commission conducts the action or proceeding, the commission enters a  
1069 protective order or, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
1070 Act, makes rules specifying that any commercial information disclosed during the action or  
1071 proceeding may not be disclosed by any person conducting or participating in the action or  
1072 proceeding except as specifically allowed by this section; or  
1073 (C) if a court of competent jurisdiction conducts the action or proceeding, the court  
1074 enters a protective order specifying that any commercial information disclosed during the  
1075 action or proceeding may not be disclosed by any person conducting or participating in the  
1076 action or proceeding except as specifically allowed by this section.  
1077 (c) Notwithstanding Subsection (4)(a), a court may require the production of, and may  
1078 admit in evidence, commercial information that is specifically pertinent to the action or

1079 proceeding.

1080 (5) Notwithstanding Subsection (2), this section does not prohibit:

1081 (a) the following from receiving a copy of any commercial information relating to the  
1082 basis for assessing a tax that is charged to a property taxpayer:

1083 (i) the property taxpayer;

1084 (ii) a duly authorized representative of the property taxpayer;

1085 (iii) a person that has in effect a contract with the property taxpayer to:

1086 (A) make filings on behalf of the property taxpayer;

1087 (B) process appeals on behalf of the property taxpayer; or

1088 (C) pay a tax under Chapter 2, Property Tax Act, on the property taxpayer's property;

1089 (iv) a property taxpayer that purchases property from another property taxpayer; or

1090 (v) a person that the property taxpayer designates in writing as being authorized to  
1091 receive the commercial information;

1092 (b) the publication of statistics as long as the statistics are classified to prevent the  
1093 identification of a particular property taxpayer's commercial information; or

1094 (c) the inspection by the attorney general or other legal representative of the state or a  
1095 legal representative of a political subdivision of the state of the commercial information of a  
1096 property taxpayer:

1097 (i) that brings action to set aside or review a tax or property valuation based on the  
1098 commercial information;

1099 (ii) against which an action or proceeding is contemplated or has been instituted under  
1100 this title; or

1101 (iii) against which the state or a political subdivision of the state has an unsatisfied  
1102 money judgment.

1103 (6) Notwithstanding Subsection (2), in accordance with Title 63G, Chapter 3, Utah  
1104 Administrative Rulemaking Act, the commission may by rule establish standards authorizing  
1105 an individual listed under Subsection 59-1-403~~(1)~~(2)(a) to disclose commercial information:

1106 (a) (i) in a published decision; or

1107 (ii) in carrying out official duties; and

1108 (b) if that individual listed under Subsection 59-1-403~~(1)~~(2)(a) consults with the  
1109 property taxpayer that provided the commercial information.

- 1110 (7) Notwithstanding Subsection (2):
- 1111 (a) an individual listed under Subsection 59-1-403~~(1)~~(2)(a) may share commercial
- 1112 information with the following:
- 1113 (i) another individual listed in Subsection 59-1-403~~(1)~~(2)(a)(i) or (ii); or
- 1114 (ii) a representative, agent, clerk, or other officer or employee of a county as required
- 1115 to fulfill an obligation created by Chapter 2, Property Tax Act;
- 1116 (b) an individual listed under Subsection 59-1-403~~(1)~~(2)(a) may perform the
- 1117 following to fulfill an obligation created by Chapter 2, Property Tax Act:
- 1118 (i) publish notice;
- 1119 (ii) provide notice; or
- 1120 (iii) file a lien; or
- 1121 (c) the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah
- 1122 Administrative Rulemaking Act, share commercial information gathered from returns and other
- 1123 written statements with the federal government, any other state, any of the political
- 1124 subdivisions of another state, or any political subdivision of this state, if these political
- 1125 subdivisions or the federal government grant substantially similar privileges to this state.
- 1126 (8) Notwithstanding Subsection (2):
- 1127 (a) subject to the limitations in this section, an individual described in Subsection
- 1128 59-1-403~~(1)~~(2)(a) may share the following commercial information with an appraiser:
- 1129 (i) the sales price of locally assessed property and the related financing terms;
- 1130 (ii) capitalization rates and related rates and ratios related to the valuation of locally
- 1131 assessed property; and
- 1132 (iii) income and expense information related to the valuation of locally assessed
- 1133 property; and
- 1134 (b) except as provided in Subsection (4), an appraiser who receives commercial
- 1135 information:
- 1136 (i) may disclose the commercial information:
- 1137 (A) to an individual described in Subsection 59-1-403~~(1)~~(2)(a);
- 1138 (B) to an appraiser;
- 1139 (C) in an appraisal if protected commercial information is removed to protect its
- 1140 confidential nature; or

1141 (D) in performing a consultation service if protected commercial information is not  
1142 disclosed; and

1143 (ii) may not use the commercial information:

1144 (A) for a purpose other than to prepare an appraisal or perform a consultation service;

1145 or

1146 (B) for a purpose intended to be, or which could reasonably be foreseen to be,

1147 anti-competitive to a property taxpayer.

1148 (9) (a) The commission shall:

1149 (i) prepare a written explanation of this section; and

1150 (ii) make the written explanation described in Subsection (9)(a)(i) available to the  
1151 public.

1152 (b) An employer of a person described in Subsection 59-1-403~~(1)~~(2)(a) shall:

1153 (i) provide the written explanation described in Subsection (9)(a)(i) to each person  
1154 described in Subsection 59-1-403~~(1)~~(2)(a) who is reasonably likely to receive commercial  
1155 information;

1156 (ii) require each person who receives a written explanation in accordance with  
1157 Subsection (9)(b)(i) to:

1158 (A) read the written explanation; and

1159 (B) sign the written explanation; and

1160 (iii) retain each written explanation that is signed in accordance with Subsection  
1161 (9)(b)(ii) for a time period:

1162 (A) beginning on the day on which a person signs the written explanation in  
1163 accordance with Subsection (9)(b)(ii); and

1164 (B) ending six years after the day on which the employment of the person described in  
1165 Subsection (9)(b)(iii)(A) by the employer terminates.

1166 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1167 commission shall by rule define "employer."

1168 (10) (a) An individual described in Subsection (1)(a) or 59-1-403~~(1)~~(2)(a), or an  
1169 individual that violates a protective order or similar limitation entered pursuant to Subsection  
1170 (4)(b)(iii), is guilty of a class A misdemeanor if that person:

1171 (i) intentionally discloses commercial information in violation of this section; and

1172 (ii) knows that the disclosure described in Subsection (10)(a)(i) is prohibited by this  
1173 section.

1174 (b) If the individual described in Subsection (10)(a) is an officer or employee of the  
1175 state or a county and is convicted of violating this section, the individual shall be dismissed  
1176 from office and be disqualified from holding public office in this state for a period of five years  
1177 thereafter.

1178 (c) If the individual described in Subsection (10)(a) is an appraiser, the appraiser shall  
1179 forfeit any certification or license received under Title 61, Chapter 2g, Real Estate Appraiser  
1180 Licensing and Certification Act, for a period of five years.

1181 (d) If the individual described in Subsection (10)(a) is an individual associated with an  
1182 appraiser who assists the appraiser in preparing appraisals, the individual shall be prohibited  
1183 from becoming licensed or certified under Title 61, Chapter 2g, Real Estate Appraiser  
1184 Licensing and Certification Act, for a period of five years.

1185 Section 10. Section **59-2-103.5** is amended to read:

1186 **59-2-103.5. Procedures to obtain an exemption for residential property --**  
1187 **Procedure if property owner or property no longer qualifies to receive a residential**  
1188 **exemption.**

1189 (1) Subject to Subsection (8), for residential property other than part-year residential  
1190 property, a county legislative body may adopt an ordinance that requires an owner to file an  
1191 application with the county board of equalization before a residential exemption under Section  
1192 **59-2-103** may be applied to the value of the residential property if:

1193 (a) the residential property was ineligible for the residential exemption during the  
1194 calendar year immediately preceding the calendar year for which the owner is seeking to have  
1195 the residential exemption applied to the value of the residential property;

1196 (b) an ownership interest in the residential property changes; or

1197 (c) the county board of equalization determines that there is reason to believe that the  
1198 residential property no longer qualifies for the residential exemption.

1199 (2) (a) The application described in Subsection (1):

1200 (i) shall be on a form the commission prescribes by rule and makes available to the  
1201 counties;

1202 (ii) shall be signed by the owner of the residential property; and

1203 (iii) may not request the sales price of the residential property.

1204 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1205 commission may make rules prescribing the contents of the form described in Subsection  
1206 (2)(a).

1207 (c) For purposes of the application described in Subsection (1), a county may not  
1208 request information from an owner of a residential property beyond the information provided in  
1209 the form prescribed by the commission under this Subsection (2).

1210 (3) (a) Regardless of whether a county legislative body adopts an ordinance described  
1211 in Subsection (1), before a residential exemption may be applied to the value of part-year  
1212 residential property, an owner of the property shall:

1213 (i) file the application described in Subsection (2)(a) with the county board of  
1214 equalization; and

1215 (ii) include as part of the application described in Subsection (2)(a) a statement that  
1216 certifies:

1217 (A) the date the part-year residential property became residential property;

1218 (B) that the part-year residential property will be used as residential property for 183 or  
1219 more consecutive calendar days during the calendar year for which the owner seeks to obtain  
1220 the residential exemption; and

1221 (C) that the owner, or a member of the owner's household, may not claim a residential  
1222 exemption for any property for the calendar year for which the owner seeks to obtain the  
1223 residential exemption, other than the part-year residential property, or as allowed under Section  
1224 59-2-103 with respect to the primary residence or household furnishings, furniture, and  
1225 equipment of the owner's tenant.

1226 (b) An owner may not obtain a residential exemption for part-year residential property  
1227 unless the owner files an application under this Subsection (3) on or before November 30 of the  
1228 calendar year for which the owner seeks to obtain the residential exemption.

1229 (c) If an owner files an application under this Subsection (3) on or after May 1 of the  
1230 calendar year for which the owner seeks to obtain the residential exemption, the county board  
1231 of equalization may require the owner to pay an application fee of not to exceed \$50.

1232 (4) Except as provided in Subsection (5), if a property owner no longer qualifies to  
1233 receive a residential exemption authorized under Section 59-2-103 for the property owner's



1234 primary residence, the property owner shall:

1235 (a) file a written statement with the county board of equalization of the county in which  
1236 the property is located:

1237 (i) on a form provided by the county board of equalization; and

1238 (ii) notifying the county board of equalization that the property owner no longer  
1239 qualifies to receive a residential exemption authorized under Section 59-2-103 for the property  
1240 owner's primary residence; and

1241 (b) declare on the property owner's individual income tax return under Chapter 10,  
1242 Individual Income Tax Act, for the taxable year for which the property owner no longer  
1243 qualifies to receive a residential exemption authorized under Section 59-2-103 for the property  
1244 owner's primary residence, that the property owner no longer qualifies to receive a residential  
1245 exemption authorized under Section 59-2-103 for the property owner's primary residence.

1246 (5) A property owner is not required to file a written statement or make the declaration  
1247 described in Subsection (4) if the property owner:

1248 (a) changes primary residences;

1249 (b) qualified to receive a residential exemption authorized under Section 59-2-103 for  
1250 the residence that was the property owner's former primary residence; and

1251 (c) qualifies to receive a residential exemption authorized under Section 59-2-103 for  
1252 the residence that is the property owner's current primary residence.

1253 (6) Subsections (2) through (5) do not apply to qualifying exempt primary residential  
1254 rental personal property.

1255 (7) (a) Subject to Subsection (8), for the first calendar year in which a property owner  
1256 qualifies to receive a residential exemption under Section 59-2-103, a county assessor may  
1257 require the property owner to file a signed statement described in Section 59-2-306.

1258 (b) Subject to Subsection (8) and notwithstanding Section 59-2-306, for a calendar year  
1259 after the calendar year described in Subsection (7)(a) in which a property owner qualifies for an  
1260 exemption described in Subsection 59-2-1115(2) for qualifying exempt primary residential  
1261 rental personal property, a signed statement described in Section 59-2-306 with respect to the  
1262 qualifying exempt primary residential rental personal property may only require the property  
1263 owner to certify, under penalty of perjury, that the property owner qualifies for the exemption  
1264 under Subsection 59-2-1115(2).

1265 (8) (a) Subject to the requirements of this Subsection (8) and except as provided in  
1266 Subsection (8)(b), on or before May 1, 2020, a county assessor shall:

1267 (i) notify each owner of residential property that the owner is required to submit a  
1268 written declaration described in Subsection (8)(d) within 30 days after the day on which the  
1269 county assessor mails the notice under this Subsection (8)(a); and

1270 (ii) provide each owner with a form described in Subsection (8)(e) to make the written  
1271 declaration described in Subsection (8)(d).

1272 (b) A county assessor is not required to provide a notice to an owner of residential  
1273 property under Subsection (8)(a) if the situs address of the residential property is the same as  
1274 any one of the following:

1275 (i) the mailing address of the residential property owner or the tenant of the residential  
1276 property;

1277 (ii) the address listed on the:

1278 (A) residential property owner's driver license; or

1279 (B) tenant of the residential property's driver license; or

1280 (iii) the address listed on the:

1281 (A) residential property owner's voter registration; or

1282 (B) tenant of the residential property's voter registration.

1283 (c) After an ownership interest in residential property changes, the county assessor  
1284 shall:

1285 (i) notify the owner of the residential property that the owner is required to submit a  
1286 written declaration described in Subsection (8)(d) within 90 days after the day on which the  
1287 owner receives notice under this Subsection (8)(c); and

1288 (ii) provide the owner of the residential property with the form described in Subsection  
1289 (8)(e) to make the written declaration described in Subsection (8)(d).

1290 (d) An owner of residential property that receives a notice described in Subsection  
1291 (8)(a) or (c) shall submit a written declaration to the county assessor under penalty of perjury  
1292 certifying the information contained in the form provided in Subsection (8)(e).

1293 (e) The written declaration required by Subsection (8)(d) shall be:

1294 (i) signed by the owner of the residential property; and

1295 (ii) in substantially the following form:

1296 "Residential Property Declaration

1297 This form must be submitted to the County Assessor's office where your new residential  
1298 property is located within 90 days of receipt. Failure to do so will result in the county assessor  
1299 taking action that could result in the withdrawal of the primary residential exemption from your  
1300 residential property.

1301 Residential Property Owner Information

1302 Name(s): \_\_\_\_\_  
1303 Home Phone: \_\_\_\_\_  
1304 Work Phone: \_\_\_\_\_  
1305 Mailing Address: \_\_\_\_\_

1306 Residential Property Information

1307 Physical Address: \_\_\_\_\_

1308 Certification

1309 1. Is this property used as a primary residential property or part-year residential  
1310 property for you or another person?

1311 "Part-year residential property" means owned property that is not residential property on  
1312 January 1 of a calendar year but becomes residential property after January 1 of the calendar  
1313 year.

1314 Yes No

1315 2. Will this primary residential property or part-year residential property be occupied  
1316 for 183 or more consecutive calendar days by the owner or another person?

1317 A part-year residential property occupied for 183 or more consecutive calendar days in  
1318 a calendar year by the owner(s) or a tenant is eligible for the exemption.

1319 Yes No

1320 If a property owner or a property owner's spouse claims a residential exemption under  
1321 Utah Code Ann. § 59-2-103 for property in this state that is the primary residence of the  
1322 property owner or the property owner's spouse, that claim of a residential exemption creates a  
1323 rebuttable presumption that the property owner and the property owner's spouse have domicile  
1324 in Utah for income tax purposes. The rebuttable presumption of domicile does not apply if the  
1325 residential property is the primary residence of a tenant of the property owner or the property  
1326 owner's spouse.

1327 Signature

1328 [~~This form must be signed by all owners of the property.~~]

1329 Under penalties of perjury, I declare to the best of my knowledge and belief, this  
1330 declaration and accompanying pages are true, correct, and complete.

1331 \_\_\_\_\_ (Owner signature) \_\_\_\_\_ Date (mm/dd/yyyy)

1332 \_\_\_\_\_ (Owner printed name)"

1333 (f) For purposes of a written declaration described in this Subsection (8), a county may  
1334 not request information from a property owner beyond the information described in the form  
1335 provided in Subsection (8)(e).

1336 (g) (i) If, after receiving a written declaration filed under Subsection (8)(d), the county  
1337 determines that the property has been incorrectly qualified or disqualified to receive a  
1338 residential exemption, the county shall:

- 1339 (A) redetermine the property's qualification to receive a residential exemption; and
- 1340 (B) notify the claimant of the redetermination and its reason for the redetermination.

1341 (ii) The redetermination provided in Subsection (8)(g)(i)(A) is final unless appealed  
1342 within 30 days after the notice required by Subsection (8)(g)(i)(B).

1343 (h) (i) If a residential property owner fails to file a written declaration required by  
1344 Subsection (8)(d), the county assessor shall mail to the owner of the residential property a  
1345 notice that:

1346 (A) the property owner failed to file a written declaration as required by Subsection  
1347 (8)(d); and

1348 (B) the property owner will no longer qualify to receive the residential exemption  
1349 authorized under Section 59-2-103 for the property that is the subject of the written declaration  
1350 if the property owner does not file the written declaration required by Subsection (8)(d) within  
1351 30 days after the day on which the county assessor mails the notice under this Subsection  
1352 (8)(h)(i).

1353 (ii) If a property owner fails to file a written declaration required by Subsection (8)(d)  
1354 after receiving the notice described in Subsection (8)(h)(i), the property owner no longer  
1355 qualifies to receive the residential exemption authorized under Section 59-2-103 in the calendar  
1356 year for the property that is the subject of the written declaration.

1357 (iii) A property owner that is disqualified to receive the residential exemption under

1358 Subsection (8)(h)(ii) may file an application described in Subsection (1) to determine whether  
1359 the owner is eligible to receive the residential exemption.

1360 (i) The requirements of this Subsection (8) do not apply to a county assessor in a  
1361 county that has, for the five calendar years prior to 2019, had in place and enforced an  
1362 ordinance described in Subsection (1).

1363 Section 11. Section **59-2-1007** is amended to read:

1364 **59-2-1007. Objection to assessment by commission -- Application -- Contents of**  
1365 **application -- Amending an application -- Information provided by the commission --**  
1366 **Hearings -- Appeals.**

1367 (1) (a) Subject to the other provisions of this section, if the owner of property assessed  
1368 by the commission objects to the assessment, the owner may apply to the commission for a  
1369 hearing on the objection on or before the later of:

1370 (i) August 1; or

1371 (ii) 90 days after the day on which the commission mails the notice of assessment in  
1372 accordance with Section [59-2-201](#).

1373 (b) The commission shall allow an owner that meets the requirements of Subsection  
1374 (1)(a) to be a party at a hearing under this section.

1375 (2) Subject to the other provisions of this section, a county that objects to the  
1376 assessment of property assessed by the commission may apply to the commission for a hearing  
1377 on the objection:

1378 (a) for an assessment with respect to which the owner has applied to the commission  
1379 for a hearing on the objection under Subsection (1), if the county applies to the commission to  
1380 become a party to the hearing on the objection no later than 60 days after the day on which the  
1381 owner applied to the commission for the hearing on the objection; or

1382 (b) for an assessment with respect to which the owner has not applied to the  
1383 commission for a hearing on the objection under Subsection (1), if the county:

1384 (i) reasonably believes that the commission should have assessed the property for the  
1385 current calendar year at a fair market value that is at least the lesser of an amount that is:

1386 (A) 50% greater than the value at which the commission is assessing the property for  
1387 the current calendar year; or

1388 (B) 50% greater than the value at which the commission assessed the property for the

1389 prior calendar year; and

1390 (ii) applies to the commission for a hearing on the objection no later than 60 days after  
1391 the last day on which the owner could have applied to the commission for a hearing on the  
1392 objection under Subsection (1).

1393 (3) Before a county may apply to the commission for a hearing under this section on an  
1394 objection to an assessment, a majority of the members of the county legislative body shall  
1395 approve filing an application under this section.

1396 (4) (a) The commission shall allow a county that meets the requirements of  
1397 Subsections (2) and (3) to be a party at a hearing under this section.

1398 (b) The commission shall allow an owner to be a party at a hearing under this section  
1399 on an objection to an assessment a county files in accordance with Subsection (2)(b).

1400 (5) An owner or a county shall include in an application under this section:

1401 (a) a written statement:

1402 (i) setting forth the known facts and legal basis supporting a different fair market value  
1403 than the value assessed by the commission; and

1404 (ii) for an assessment described in Subsection (2)(b), establishing the county's  
1405 reasonable belief that the commission should have assessed the property for the current  
1406 calendar year at a fair market value that is at least the lesser of an amount that is:

1407 (A) 50% greater than the value at which the commission is assessing the property for  
1408 the current calendar year; or

1409 (B) 50% greater than the value at which the commission assessed the property for the  
1410 prior calendar year; and

1411 (b) the owner's or county's estimate of the fair market value of the property.

1412 (6) (a) Except as provided in Subsection (6)(b), an owner or a county assessor may  
1413 amend an estimate on an application under this section of the fair market value of the property  
1414 prior to the hearing as provided by rule.

1415 (b) A county may not amend the fair market value of property under this Subsection (6)  
1416 to equal an amount that is less than the lesser of:

1417 (i) the value at which the commission is assessing the property for the current calendar  
1418 year plus 50%; or

1419 (ii) the value at which the commission assessed the property for the prior calendar year

1420 plus 50%.

1421 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1422 commission may make rules governing the procedures for amending an estimate of fair market  
1423 value under this Subsection (6).

1424 (7) In applying to the commission for a hearing on an objection under this section:

1425 (a) a county may estimate the fair market value of the property using a valuation  
1426 methodology the county considers to be appropriate, regardless of:

1427 (i) the valuation methodology used previously in valuing the property; or

1428 (ii) the valuation methodology an owner asserts; and

1429 (b) an owner may estimate the fair market value of the property using a valuation  
1430 methodology the owner considers to be appropriate, regardless of:

1431 (i) the valuation methodology used previously in valuing the property; or

1432 (ii) the valuation methodology a county asserts.

1433 (8) (a) An owner who applies to the commission for a hearing in accordance with  
1434 Subsection (1) shall, for the property for which the owner objects to the commission's  
1435 assessment, file a copy of the application with the county auditor of each county in which the  
1436 property is located.

1437 (b) A county auditor who receives a copy of an application in accordance with  
1438 Subsection (8)(a) shall provide a copy of the application to the county:

1439 (i) assessor;

1440 (ii) attorney;

1441 (iii) legislative body; and

1442 (iv) treasurer.

1443 (9) (a) Upon request, the commission shall provide to a nonprofit organization that  
1444 represents counties in the state the following information regarding an appeal filed under this  
1445 section:

1446 (i) the name of the property owner filing the appeal;

1447 (ii) each year at issue in the appeal;

1448 (iii) the value assessed by the commission for the property that is the subject of the  
1449 appeal; and

1450 (iv) the owner's estimate of value for the property that is the subject of the appeal as

1451 submitted under Subsection (5)(b).

1452 (b) (i) Except as provided in Subsection (9)(b)(ii), a nonprofit organization may not  
1453 disclose the information described in Subsection (9)(a)(iv).

1454 (ii) A nonprofit organization may disclose information described in Subsection  
1455 (9)(a)(iv) to an individual listed under Subsection 59-1-403~~(1)~~(2)(a).

1456 (10) (a) On or before November 15, the commission shall conduct a scheduling  
1457 conference with all parties to a hearing under this section.

1458 (b) At the scheduling conference under Subsection (10)(a), the commission shall  
1459 establish dates for:

1460 (i) the completion of discovery;

1461 (ii) the filing of prehearing motions; and

1462 (iii) conducting a hearing on the objection to the assessment.

1463 (11) (a) The commission shall issue a written decision no later than 120 days after the  
1464 later of the day on which:

1465 (i) the commission completes the hearing under this section; or

1466 (ii) the parties submit all posthearing briefs.

1467 (b) If the commission does not issue a written decision on an objection to an  
1468 assessment under this section within a two-year period after the date an application under this  
1469 section is filed, the objection is considered to be denied, unless the parties stipulate to a  
1470 different time period for resolving the objection.

1471 (c) A party may appeal to the district court in accordance with Section 59-1-601 within  
1472 30 days after the day on which an objection is considered to be denied.

1473 (12) At the hearing on an objection under this section, the commission may increase,  
1474 lower, or sustain the assessment if:

1475 (a) the commission finds an error in the assessment; or

1476 (b) the commission determines that increasing, lowering, or sustaining the assessment  
1477 is necessary to equalize the assessment with other similarly assessed property.

1478 (13) (a) The commission shall send notice of a commission action under Subsection  
1479 (12) to a county auditor if:

1480 (i) the commission proposes to adjust an assessment the commission made in  
1481 accordance with Section 59-2-201;



- 1482 (ii) the county's tax revenues may be affected by the commission's decision; and  
1483 (iii) the county is not a party to the hearing under this section.
- 1484 (b) The written notice described in Subsection (13)(a):  
1485 (i) may be sent by:  
1486 (A) any form of electronic communication;  
1487 (B) first class mail; or  
1488 (C) private carrier; and  
1489 (ii) shall request the county to show good cause why the commission should not adjust  
1490 the assessment by requesting the county to provide to the commission a written statement  
1491 setting forth the known facts and legal basis for not adjusting the assessment within 30 days  
1492 after the day on which the commission sends the written notice.
- 1493 (c) If a county provides a written statement described in Subsection (13)(b) to the  
1494 commission, the commission shall:  
1495 (i) hold a hearing or take other appropriate action to consider the good cause the county  
1496 provides in the written statement; and  
1497 (ii) issue a written decision increasing, lowering, or sustaining the assessment.
- 1498 (d) If a county does not provide a written statement described in Subsection (13)(b) to  
1499 the commission within 30 days after the day on which the commission sends the notice  
1500 described in Subsection (13)(a), the commission shall adjust the assessment and send a copy of  
1501 the commission's written decision to the county.
- 1502 (14) Subsection (13) does not limit the rights of a county as provided in Subsections  
1503 (2) and (4)(a).
- 1504 Section 12. Section **59-2-1602** is amended to read:  
1505 **59-2-1602. Property Tax Valuation Agency Fund -- Creation -- Statewide levy --**  
1506 **Additional county levy.**
- 1507 (1) (a) There is created an agency fund known as the "Property Tax Valuation Agency  
1508 Fund."  
1509 (b) The fund consists of:  
1510 (i) deposits made and penalties received under Subsection (3); and  
1511 (ii) interest on money deposited into the fund.  
1512 (c) Deposits, penalties, and interest described in Subsection (1)(b) shall be disbursed

1513 and used as provided in Section 59-2-1603.

1514 (2) (a) Each county shall annually impose a multicounty assessing and collecting levy  
1515 as provided in this Subsection (2).

1516 (b) The tax rate of the multicounty assessing and collecting levy is:

1517 (i) for a calendar year beginning on or after January 1, 2020, and before January 1,  
1518 2025, .000012; and

1519 (ii) for a calendar year beginning on or after January 1, 2025, the certified revenue levy.

1520 (c) The state treasurer shall allocate revenue collected from the multicounty assessing  
1521 and collecting levy as follows:

1522 (i) 18% of the revenue collected [~~from the base rate~~] shall be deposited into the  
1523 Property Tax Valuation Agency Fund, up to \$500,000 annually; and

1524 (ii) after the deposit described in Subsection (2)(c)(i), all remaining revenue collected  
1525 from the multicounty assessing and collecting levy shall be deposited into the Multicounty  
1526 Appraisal Trust.

1527 (3) (a) The multicounty assessing and collecting levy imposed under Subsection (2)  
1528 shall be separately stated on the tax notice as a multicounty assessing and collecting levy.

1529 (b) The multicounty assessing and collecting levy is:

1530 (i) exempt from Sections 17C-1-403 through 17C-1-406;

1531 (ii) in addition to and exempt from the maximum levies allowable under Section  
1532 59-2-908; and

1533 (iii) exempt from the notice and public hearing requirements of Section 59-2-919.

1534 (c) (i) Each county shall transmit quarterly to the state treasurer the revenue collected  
1535 from the multicounty assessing and collecting levy.

1536 (ii) The revenue transmitted under Subsection (3)(c)(i) shall be transmitted no later  
1537 than the tenth day of the month following the end of the quarter in which the revenue is  
1538 collected.

1539 (iii) If revenue transmitted under Subsection (3)(c)(i) is transmitted after the tenth day  
1540 of the month following the end of the quarter in which the revenue is collected, the county shall  
1541 pay an interest penalty at the rate of 10% each year until the revenue is transmitted.

1542 (d) The state treasurer shall allocate the penalties received under this Subsection (3) in  
1543 the same manner as revenue is allocated under Subsection (2)(c).

- 1544 (4) (a) A county may levy a county additional property tax in accordance with this  
1545 Subsection (4).
- 1546 (b) The county additional property tax:
- 1547 (i) shall be separately stated on the tax notice as a county assessing and collecting levy;  
1548 (ii) may not be incorporated into the rate of any other levy;  
1549 (iii) is exempt from Sections 17C-1-403 through 17C-1-406; and  
1550 (iv) is in addition to and exempt from the maximum levies allowable under Section  
1551 59-2-908.
- 1552 (c) Revenue collected from the county additional property tax shall be used to:
- 1553 (i) promote the accurate valuation and uniform assessment levels of property as  
1554 required by Section 59-2-103;
- 1555 (ii) promote the efficient administration of the property tax system, including the costs  
1556 of assessment, collection, and distribution of property taxes;
- 1557 (iii) fund state mandated actions to meet legislative mandates or judicial or  
1558 administrative orders that relate to promoting:
- 1559 (A) the accurate valuation of property; and  
1560 (B) the establishment and maintenance of uniform assessment levels within and among  
1561 counties; and
- 1562 (iv) establish reappraisal programs that:
- 1563 (A) are adopted by a resolution or ordinance of the county legislative body; and  
1564 (B) conform to rules the commission makes in accordance with Title 63G, Chapter 3,  
1565 Utah Administrative Rulemaking Act.
- 1566 Section 13. Section 59-7-118 is amended to read:
- 1567 **59-7-118. Section 965, Internal Revenue Code -- Installment payments.**
- 1568 (1) Subject to the other provisions of this section, a corporation may pay in  
1569 installments the tax owed under this chapter on deferred foreign income described in Section  
1570 965, Internal Revenue Code.
- 1571 (2) Subsection (1) applies:
- 1572 (a) to a corporation that:
- 1573 (i) is authorized to make an election under Section 965(h), Internal Revenue Code; and  
1574 (ii) apportions deferred foreign income described in Section 965, Internal Revenue

1575 Code, to this state; and

1576 (b) for a tax year in which a corporation makes an election under Section 965(h),  
1577 Internal Revenue Code, for purposes of the corporation's federal income tax.

1578 (3) (a) Except as provided in Subsection (3)(b), the same provisions that apply to an  
1579 election made under Section 965(h), Internal Revenue Code, for federal purposes apply to an  
1580 installment payment made under this section.

1581 (b) A corporation shall make:

1582 (i) the first installment under this section on or before the due date~~[, including any~~  
1583 ~~extension,]~~ of the tax return filed under this chapter for the first taxable year in which the  
1584 corporation reports deferred foreign income described in Section 965, Internal Revenue Code;  
1585 and

1586 (ii) a subsequent installment on or before the due date~~[, including any extension,]~~ of  
1587 the tax return filed under this chapter in each of the following seven years.

1588 Section 14. Section **59-7-159** is amended to read:

1589 **59-7-159. Review of credits allowed under this chapter.**

1590 (1) As used in this section, "committee" means the Revenue and Taxation Interim  
1591 Committee.

1592 (2) (a) The committee shall review the tax credits described in this chapter as provided  
1593 in Subsection (3) and make recommendations concerning whether the tax credits should be  
1594 continued, modified, or repealed.

1595 (b) In conducting the review required under Subsection (2)(a), the committee shall:

1596 (i) schedule time on at least one committee agenda to conduct the review;

1597 (ii) invite state agencies, individuals, and organizations concerned with the tax credit  
1598 under review to provide testimony;

1599 (iii) (A) invite the Governor's Office of Economic Development to present a summary  
1600 and analysis of the information for each tax credit regarding which the Governor's Office of  
1601 Economic Development is required to make a report under this chapter; and

1602 (B) invite the Office of the Legislative Fiscal Analyst to present a summary and  
1603 analysis of the information for each tax credit regarding which the Office of the Legislative  
1604 Fiscal Analyst is required to make a report under this chapter;

1605 (iv) ensure that the committee's recommendations described in this section include an

1606 evaluation of:

- 1607 (A) the cost of the tax credit to the state;
- 1608 (B) the purpose and effectiveness of the tax credit; and
- 1609 (C) the extent to which the state benefits from the tax credit; and
- 1610 (v) undertake other review efforts as determined by the committee chairs or as
- 1611 otherwise required by law.

1612 (3) (a) On or before November 30, 2017, and every three years after 2017, the

1613 committee shall conduct the review required under Subsection (2) of the tax credits allowed

1614 under the following sections:

- 1615 (i) Section 59-7-601;
- 1616 (ii) Section 59-7-607;
- 1617 (iii) Section 59-7-612;
- 1618 (iv) Section 59-7-614.1; and
- 1619 (v) Section 59-7-614.5.

1620 (b) On or before November 30, 2018, and every three years after 2018, the committee

1621 shall conduct the review required under Subsection (2) of the tax credits allowed under the

1622 following sections:

- 1623 (i) Section 59-7-609;
- 1624 (ii) Section 59-7-614.2;
- 1625 (iii) Section 59-7-614.10;
- 1626 (iv) Section 59-7-619;
- 1627 (v) Section 59-7-620; and
- 1628 (vi) Section 59-7-624.

1629 (c) On or before November 30, 2019, and every three years after 2019, the committee

1630 shall conduct the review required under Subsection (2) of the tax credits allowed under the

1631 following sections:

- 1632 (i) Section 59-7-610;
- 1633 (ii) Section 59-7-614; and
- 1634 (iii) Section 59-7-614.7[~~and~~].
- 1635 [~~(iv) Section 59-7-618.~~]

1636 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall

1637 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,  
 1638 2017.

1639 (ii) The committee shall complete a review described in this Subsection (3)(d) three  
 1640 years after the effective date of the tax credit and every three years after the initial review date.

1641 Section 15. Section **59-7-504** is amended to read:

1642 **59-7-504. Estimated tax payments -- Penalty -- Waiver.**

1643 (1) Except as [~~otherwise provided in this section, each~~] provided in Subsection (2), a  
 1644 corporation subject to taxation under this chapter [~~having~~] that has a tax liability of \$3,000 or  
 1645 more in either the current tax year[~~, or which had a tax liability of \$3,000 or more in the~~  
 1646 ~~previous tax year, shall make payments of estimated tax at the same time and using any method~~  
 1647 ~~provided under Section 6655, Internal Revenue Code]~~ or the previous tax year shall make a  
 1648 payment of an estimated tax on or before the day on which the corporation is required to make  
 1649 a payment of an estimated tax for the same time period to the federal government.

1650 [~~(2) The following are modifications or exceptions to the provisions of Section 6655,~~  
 1651 ~~Internal Revenue Code:]~~

1652 (2) The provisions of Section 6655, Internal Revenue Code, shall govern the payment  
 1653 described in Subsection (1), except that:

1654 (a) for the first year a corporation is required to file a return in Utah, that corporation is  
 1655 not subject to Subsection (1) if [~~it~~] the corporation makes a payment on or before the due date  
 1656 of the return, without extensions, equal to or greater than the minimum tax required under  
 1657 Section [59-7-104](#) or [59-7-201](#);

1658 (b) the applicable percentage of the required annual payment, as defined in Section  
 1659 6655, Internal Revenue Code, for annualized income installments, adjusted seasonal  
 1660 installments, and those estimated tax payments based on the current year tax liability shall be:

1661	Installment	Percentage
1662	1st	22.5
1663	2nd	45.0
1664	3rd	67.5
1665	4th	90.0

1666 (c) a large [corporations] corporation shall be treated as any other corporation for

1667 purposes of this section; ~~and~~

1668 (d) if a taxpayer elects a different annualization period than the one used for federal  
1669 purposes, the taxpayer shall make an election with the ~~[Tax Commission]~~ commission at the  
1670 same time as provided under Section 6655, Internal Revenue Code~~[-]; and~~

1671 (e) the due date shall be superseded by the due date for federal estimated payments if  
1672 modified by other federal action.

1673 (3) A penalty shall be added as provided in Section 59-1-401 for any quarterly  
1674 estimated tax payment ~~[which]~~ that is not made in accordance with this section.

1675 (4) There shall be no interest added to any estimated tax payments subject to a penalty  
1676 under this section.

1677 Section 16. Section 59-7-505 is amended to read:

1678 **59-7-505. Returns required -- When due -- Extension of time -- Exemption from**  
1679 **filing.**

1680 (1) Each corporation subject to taxation under this chapter shall make a return, except  
1681 that a group of corporations filing a combined report under Part 4, Combined Reporting, shall  
1682 file one combined report.

1683 (a) The return shall be signed by a responsible officer of the corporation, the signature  
1684 of whom need not be notarized but when signed shall be considered as made under oath.

1685 (b) (i) In cases where receivers, trustees in bankruptcy, or assignees are operating the  
1686 property or business of corporations, those receivers, trustees, or assignees shall make returns  
1687 for such corporations in the same manner and form as corporations are required to make  
1688 returns.

1689 (ii) Any tax due on the basis of such returns made by receivers, trustees, or assignees  
1690 shall be collected in the same manner as if collected from the corporations of whose business  
1691 or property they have custody and control.

1692 ~~[(2) Returns shall be made on or before the 15th day of the fourth month following the~~  
1693 ~~close of the taxable year.]~~

1694 (2) (a) A corporation required to make a return under this chapter shall make a return  
1695 on or before the later of:

1696 (i) the 15th day of the fourth month following the close of the taxable year; or

1697 (ii) the day on which the corporation is required to file a federal income tax return.

1698 (b) Interest accrues from the day on which a return is due under this Subsection (2).

1699 (3) (a) The commission shall allow a taxpayer an extension of time for filing ~~[returns]~~ a  
1700 return.

1701 ~~[(b) The extension under Subsection (3)(a) may not exceed six months.]~~

1702 (b) Except as provided in Subsection (3)(c), the extension described in Subsection  
1703 (3)(a) may be for up to six months.

1704 (c) For a taxable year beginning on or after January 1, 2019, but beginning on or before  
1705 December 31, 2019, a taxpayer may receive an extension described in Subsection (3)(a) for the  
1706 time period that ends on the last day of the extension to file the taxpayer's federal income tax  
1707 return.

1708 (4) Each return shall be made to the commission.

1709 (5) A corporation incorporated or qualified to do business in this state ~~[prior to]~~ before  
1710 January 1, 1973, is not liable for filing a return or paying tax measured by income for the  
1711 taxable year in which ~~[it]~~ the corporation legally terminates ~~[its]~~ the corporation's existence.

1712 (6) A corporation incorporated or qualified to do business or ~~[which had its]~~ that had  
1713 the corporation's authority to do business reinstated on or after January 1, 1973, shall file a  
1714 return and pay the tax measured by income for each period during which ~~[it]~~ the corporation  
1715 had the right to do business in this state, and the return shall be filed and the tax paid within  
1716 three months and 15 days after the close of this period.

1717 (7) If a corporation terminates ~~[its]~~ the corporation's existence under Section  
1718 16-10a-1401, [no returns are required to be filed if a statement is furnished] the corporation is  
1719 not required to file a return if the corporation provides a statement to the commission that no  
1720 business has been conducted during that period.

1721 (8) (a) A corporation commencing to do business in Utah after qualification or  
1722 incorporation with the Division of Corporations and Commercial Code is not required to file a  
1723 return for the period commencing with the date of incorporation or qualification and ending on  
1724 the last day of the same month, if that corporation was not doing business in and received no  
1725 income from sources in the state during such period.

1726 (b) In determining whether a corporation comes within the provisions of this chapter,  
1727 affidavits on behalf of the corporation that it did no business in and received no income from  
1728 sources in Utah during such period shall be filed with the commission.



1729 Section 17. Section **59-7-507** is amended to read:

1730 **59-7-507. Payment of tax.**

1731 (1) (a) If [~~quarterly estimated payments are~~] an estimated payment is not made as  
1732 provided in Section **59-7-504**, the amount of tax imposed by this chapter shall be paid no later  
1733 than the [~~original~~] due date of the return described in Subsection 59-7-505(2).

1734 [~~(b) If an extension of time is necessary for filing a return, as provided in Subsection~~  
1735 ~~59-7-505(3) or Section 59-7-803, payment must be made no later than the original due date of~~  
1736 ~~the return in an amount equal to the lesser of:]~~

1737 (b) If a taxpayer needs an extension of time to file a return, as provided in Section  
1738 59-7-505 or 59-7-803, a taxpayer shall pay, no later than the due date of the return described in  
1739 Subsection 59-7-505(2), an amount equal to the lesser of:

1740 (i) [~~The~~] the greater of:

1741 (A) 90% of the total tax reported on the return for the current taxable year; or

1742 (B) 100% of the minimum tax described in Section **59-7-104**; or

1743 (ii) 100% of the total tax liability for the taxable year immediately preceding the  
1744 current taxable year.

1745 (c) If payment is not made as provided in Subsection (1)(b), the commission shall add  
1746 an extension penalty as provided in Section **59-1-401**, until the tax is paid during the period of  
1747 extension.

1748 (2) (a) For a taxable year beginning on or after January 1, 2019, but beginning on or  
1749 before December 31, 2019, a taxpayer shall receive an extension of time for the payment of the  
1750 amount determined as the tax of the taxpayer, or any part of that amount, for the time period  
1751 that ends on the last day of the extension to pay the taxpayer's federal income tax.

1752 [~~(2) (a) At~~] (b) (i) For a taxable year beginning on or after January 1, 2020, at the  
1753 request of the taxpayer, the commission may extend the time for payment of the amount  
1754 determined as the tax by the taxpayer, or any part of that amount, for a period not to exceed six  
1755 months from the date prescribed for the payment of the tax.

1756 [~~(b) For purposes of Subsection (2)(a), the amount in respect of which the extension is~~  
1757 ~~granted shall be paid on or before the date of the expiration of the period of the extension:]~~

1758 (ii) For purposes of Subsection (2)(b)(i), the taxpayer shall pay the amount for which  
1759 the extension is granted on or before the day on which the period of the extension expires.

1760 Section 18. Section **59-7-610** is amended to read:

1761 **59-7-610. Recycling market development zones tax credits.**

1762 (1) Subject to other provisions of this section, a taxpayer that is a business operating in  
1763 a recycling market development zone as defined in Section **19-13-102** may claim the following  
1764 nonrefundable tax credits:

1765 (a) a tax credit [~~of 5% of~~] equal to the product of the percentage listed in Subsection  
1766 59-7-104(2) and the purchase price paid for machinery and equipment used directly in:

1767 (i) commercial composting; or

1768 (ii) manufacturing facilities or plant units that:

1769 (A) manufacture, process, compound, or produce recycled items of tangible personal  
1770 property for sale; or

1771 (B) reduce or reuse postconsumer waste material; and

1772 (b) a tax credit equal to the lesser of:

1773 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test  
1774 inventory, and utilities made by the taxpayer for establishing and operating recycling or  
1775 composting technology in the state; and

1776 (ii) \$2,000.

1777 (2) (a) To claim a tax credit described in Subsection (1), the taxpayer shall receive  
1778 from the Department of Environmental Quality a written certification, on a form approved by  
1779 the commission, that includes:

1780 (i) a statement that the taxpayer is operating a business within the boundaries of a  
1781 recycling market development zone;

1782 (ii) for a claim of the tax credit described in Subsection (1)(a):

1783 (A) the type of the machinery and equipment that the taxpayer purchased;

1784 (B) the date that the taxpayer purchased the machinery and equipment;

1785 (C) the purchase price for the machinery and equipment;

1786 (D) the total purchase price for all machinery and equipment for which the taxpayer is  
1787 claiming a tax credit;

1788 (E) a statement that the machinery and equipment are integral to the composting or  
1789 recycling process; and

1790 (F) the amount of the taxpayer's tax credit; and

- 1791 (iii) for a claim of the tax credit described in Subsection (1)(b):
- 1792 (A) the type of net expenditure that the taxpayer made to a third party;
- 1793 (B) the date that the taxpayer made the payment to a third party;
- 1794 (C) the amount that the taxpayer paid to each third party;
- 1795 (D) the total amount that the taxpayer paid to all third parties;
- 1796 (E) a statement that the net expenditures support the establishment and operation of
- 1797 recycling or composting technology in the state; and
- 1798 (F) the amount of the taxpayer's tax credit.
- 1799 (b) (i) The Department of Environmental Quality shall provide a taxpayer seeking to
- 1800 claim a tax credit under Subsection (1) with a copy of the written certification.
- 1801 (ii) The taxpayer shall retain a copy of the written certification for the same period of
- 1802 time that a person is required to keep books and records under Section [59-1-1406](#).
- 1803 (c) The Department of Environmental Quality shall submit to the commission an
- 1804 electronic list that includes:
- 1805 (i) the name and identifying information of each taxpayer to which the Department of
- 1806 Environmental Quality issues a written certification; and
- 1807 (ii) for each taxpayer, the amount of each tax credit listed on the written certification.
- 1808 (3) A taxpayer may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or
- 1809 both that exceeds 40% of the taxpayer's state income tax liability as the tax liability is
- 1810 calculated:
- 1811 (a) for the taxable year in which the taxpayer made the purchases or payments;
- 1812 (b) before any other tax credits the taxpayer may claim for the taxable year; and
- 1813 (c) before the taxpayer claims a tax credit authorized by this section.
- 1814 (4) The commission shall make rules governing what information a taxpayer shall file
- 1815 with the commission to verify the entitlement to and amount of a tax credit.
- 1816 (5) Except as provided in Subsections (6) through (8), a taxpayer may carry forward, to
- 1817 the next three taxable years, the amount of a tax credit described in Subsection (1)(a) that the
- 1818 taxpayer does not use for the taxable year.
- 1819 (6) A taxpayer may not claim or carry forward a tax credit described in Subsection
- 1820 (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under
- 1821 Section [63N-2-213](#).

1822 (7) A taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable  
1823 year during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.

1824 (8) A taxpayer may not claim or carry forward a tax credit under this section for a  
1825 taxable year during which the taxpayer claims the targeted business income tax credit under  
1826 Section 59-7-624.

1827 Section 19. Section 59-7-619 is amended to read:

1828 **59-7-619. Nonrefundable high cost infrastructure development tax credit.**

1829 (1) As used in this section:

1830 (a) "High cost infrastructure project" means the same as that term is defined in Section  
1831 63M-4-602.

1832 (b) "Infrastructure cost-burdened entity" means the same as that term is defined in  
1833 Section 63M-4-602.

1834 (c) "Infrastructure-related revenue" means the same as that term is defined in Section  
1835 63M-4-602.

1836 (d) "Office" means the Office of Energy Development created in Section 63M-4-401.

1837 (2) Subject to the other provisions of this section, a corporation that is an infrastructure  
1838 cost-burdened entity may claim a nonrefundable tax credit for development of a high cost  
1839 infrastructure project as provided in this section.

1840 (3) The tax credit under this section is the amount listed as the tax credit amount on a  
1841 tax credit certificate that the office issues under Title 63M, Chapter 4, Part 6, High Cost  
1842 Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the  
1843 taxable year.

1844 (4) An infrastructure cost-burdened entity may carry forward a tax credit under this  
1845 section for a period that does not exceed the next seven taxable years if:

1846 (a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this  
1847 section for a taxable year; and

1848 (b) the amount of the tax credit exceeds the infrastructure cost-burdened entity's tax  
1849 liability under this chapter for that taxable year.

1850 (5) (a) In accordance with Section 59-7-159, the Revenue and Taxation Interim  
1851 Committee shall study the tax credit allowed by this section and make recommendations  
1852 concerning whether the tax credit should be continued, modified, or repealed.

1853 (b) (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by  
1854 this Subsection (5), the office shall provide the following information, if available to the office,  
1855 to the Office of the Legislative Fiscal Analyst:

1856 (A) the amount of tax credit that the office grants to each infrastructure cost-burdened  
1857 entity for each taxable year;

1858 (B) the infrastructure-related revenue generated by each high cost infrastructure  
1859 project;

1860 (C) the information contained in the office's latest report under Section [~~63M-4-505~~]  
1861 [63M-4-605](#); and

1862 (D) any other information that the Office of the Legislative Fiscal Analyst requests.

1863 (ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall  
1864 redact information that identifies a recipient of a tax credit under this section.

1865 (B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting  
1866 the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a  
1867 tax credit, the office may file a request with the Revenue and Taxation Interim Committee to  
1868 provide the information described in Subsection (5)(b)(i) in the aggregate for all infrastructure  
1869 cost-burdened entities that receive the tax credit under this section.

1870 (c) As part of the study required by this Subsection (5), the Office of the Legislative  
1871 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and  
1872 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the  
1873 office under Subsection (5)(b).

1874 (d) The Revenue and Taxation Interim Committee shall ensure that the  
1875 recommendations described in Subsection (5)(a) include an evaluation of:

1876 (i) the cost of the tax credit to the state;

1877 (ii) the purpose and effectiveness of the tax credit; and

1878 (iii) the extent to which the state benefits from the tax credit.

1879 Section 20. Section **59-7-620** is amended to read:

1880 **59-7-620. Nonrefundable tax credit for contribution to state Achieving a Better**  
1881 **Life Experience Program account.**

1882 (1) As used in this section:

1883 (a) "Account" means an account in a qualified ABLE program where the designated

1884 beneficiary of the account is a resident of this state.

1885 (b) "Contributor" means a corporation that:

1886 (i) makes a contribution to an account; and

1887 (ii) receives a statement from the qualified ABLE program itemizing the contribution.

1888 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.

1889 529A.

1890 (d) "Qualified ABLE program" means the same as that term is defined in Section

1891 [35A-12-102](#).

1892 (2) For a taxable year beginning on or after January 1, 2020, but beginning on or before  
1893 December 31, 2020, a contributor to an account may claim a nonrefundable tax credit as  
1894 provided in this section.

1895 (3) Subject to the other provisions of this section, the tax credit is equal to the product  
1896 of:

1897 (a) [~~5%~~] the percentage listed in Subsection [59-7-104\(2\)](#); and

1898 (b) the total amount of contributions:

1899 (i) the contributor makes for the taxable year; and

1900 (ii) for which the contributor receives a statement from the qualified ABLE program  
1901 itemizing the contributions.

1902 (4) A contributor may not claim a tax credit under this section:

1903 (a) for an amount of excess contribution to an account that is returned to the  
1904 contributor; or

1905 (b) with respect to an amount the contributor deducts on a federal income tax return.

1906 (5) A tax credit under this section may not be carried forward or carried back.

1907 Section 21. Section **59-10-103** is amended to read:

1908 **59-10-103. Definitions.**

1909 (1) As used in this chapter:

1910 (a) (i) "Adjusted gross income":

1911 (A) for a resident or nonresident individual, means the same as that term is defined in  
1912 Section 62, Internal Revenue Code; or

1913 (B) for a resident or nonresident estate or trust, is as calculated in Section 67(e),  
1914 Internal Revenue Code.

- 1915 (ii) "Adjusted gross income" does not include:
- 1916 (A) income received from a loan forgiven in accordance with 15 U.S.C. Sec. 636(a)
- 1917 (36), to the extent that a deduction for the expenditures paid with the loan is disallowed, or a
- 1918 similar paycheck protection loan that is authorized by the federal government, provided in
- 1919 response to COVID-19, forgiven if the borrower meets the expenditure requirements, and
- 1920 exempt from federal income tax, to the extent that a deduction for the expenditures paid with
- 1921 the loan is disallowed; or
- 1922 (B) an amount that an individual receives in accordance with Section 6428, Internal
- 1923 Revenue Code, or an amount that an individual receives that is authorized by the federal
- 1924 government as a tax credit for the 2020 tax year, provided in response to COVID-19, paid in
- 1925 advance of the filing of the individual's 2020 federal income tax return, and exempt from
- 1926 federal income tax.
- 1927 (b) "Corporation" includes:
- 1928 (i) an association;
- 1929 (ii) a joint stock company; and
- 1930 (iii) an insurance company.
- 1931 (c) "COVID-19" means:
- 1932 (i) the severe acute respiratory syndrome coronavirus 2; or
- 1933 (ii) the disease caused by severe acute respiratory syndrome coronavirus 2.
- 1934 (d) "Distributable net income" means the same as that term is defined in Section 643,
- 1935 Internal Revenue Code.
- 1936 (e) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 1937 (f) "Employer" means the same as that term is defined in Section [59-10-401](#).
- 1938 (g) "Federal taxable income":
- 1939 (i) for a resident or nonresident individual, means taxable income as defined by Section
- 1940 63, Internal Revenue Code; or
- 1941 (ii) for a resident or nonresident estate or trust, is as calculated in Section 641(a) and
- 1942 (b), Internal Revenue Code.
- 1943 (h) "Fiduciary" means:
- 1944 (i) a guardian;
- 1945 (ii) a trustee;

- 1946 (iii) an executor;
- 1947 (iv) an administrator;
- 1948 (v) a receiver;
- 1949 (vi) a conservator; or
- 1950 (vii) any person acting in any fiduciary capacity for any individual.
- 1951 (i) "Guaranteed annuity interest" means the same as that term is defined in 26 C.F.R.
- 1952 Sec. 1.170A-6(c)(2).
- 1953 (j) "Homesteaded land diminished from the Uintah and Ouray Reservation" means the
- 1954 homesteaded land that was held to have been diminished from the Uintah and Ouray
- 1955 Reservation in Hagen v. Utah, 510 U.S. 399 (1994).
- 1956 (k) "Individual" means a natural person and includes aliens and minors.
- 1957 (l) "Irrevocable trust" means a trust in which the settlor may not revoke or terminate all
- 1958 or part of the trust without the consent of a person who has a substantial beneficial interest in
- 1959 the trust and the interest would be adversely affected by the exercise of the settlor's power to
- 1960 revoke or terminate all or part of the trust.
- 1961 (m) "Military service" means the same as that term is defined in Pub. L. No. 108-189,
- 1962 Sec. 101.
- 1963 (n) "Nonresident individual" means an individual who is not a resident of this state.
- 1964 (o) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a
- 1965 resident estate or trust.
- 1966 (p) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other
- 1967 unincorporated organization:
- 1968 (A) through or by means of which any business, financial operation, or venture is
- 1969 carried on; and
- 1970 (B) that is not, within the meaning of this chapter, a trust, an estate, or a corporation.
- 1971 (ii) "Partnership" does not include any organization not included under the definition of
- 1972 "partnership" in Section 761, Internal Revenue Code.
- 1973 (iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or
- 1974 organization described in Subsection (1)(p)(i).
- 1975 (q) "Pass-through entity" means the same as that term is defined in Section
- 1976 [59-10-1402](#).



1977            (r) "Pass-through entity taxpayer" means the same as that term is defined in Section  
1978 [59-10-1402.](#)

1979            [~~(r)~~] (s) "Qualified nongrantor charitable lead trust" means a trust:

1980            (i) that is irrevocable;

1981            (ii) that has a trust term measured by:

1982            (A) a fixed term of years; or

1983            (B) the life of a person living on the day on which the trust is created;

1984            (iii) under which:

1985            (A) a portion of the value of the trust assets is distributed during the trust term:

1986            (I) to an organization described in Section 170(c), Internal Revenue Code; and

1987            (II) as a guaranteed annuity interest or a unitrust interest; and

1988            (B) assets remaining in the trust at the termination of the trust term are distributed to a

1989 beneficiary:

1990            (I) designated in the trust; and

1991            (II) that is not an organization described in Section 170(c), Internal Revenue Code;

1992            (iv) for which the trust is allowed a deduction under Section 642(c), Internal Revenue

1993 Code; and

1994            (v) under which the grantor of the trust is not treated as the owner of any portion of the

1995 trust for federal income tax purposes.

1996            [~~(r)~~] (t) "Resident individual" means an individual who is domiciled in this state for

1997 any period of time during the taxable year, but only for the duration of the period during which

1998 the individual is domiciled in this state.

1999            [~~(s)~~] (u) "Resident estate" or "resident trust" means the same as that term is defined in

2000 Section [75-7-103.](#)

2001            [~~(t)~~] (v) "Servicemember" means the same as that term is defined in Pub. L. No.

2002 108-189, Sec. 101.

2003            [~~(u)~~] (w) "State income tax percentage for a nonresident estate or trust" means a

2004 percentage equal to a nonresident estate's or trust's state taxable income for the taxable year

2005 divided by the nonresident estate's or trust's total adjusted gross income for that taxable year

2006 after making the adjustments required by:

2007            (i) Section [59-10-202](#);

2008 (ii) Section 59-10-207;

2009 (iii) Section 59-10-209.1; or

2010 (iv) Section 59-10-210.

2011 ~~(v)~~ (x) "State income tax percentage for a nonresident individual" means a percentage

2012 equal to a nonresident individual's state taxable income for the taxable year divided by the

2013 difference between:

2014 (i) subject to Section 59-10-1405, the nonresident individual's total adjusted gross

2015 income for that taxable year, after making the:

2016 (A) additions and subtractions required by Section 59-10-114; and

2017 (B) adjustments required by Section 59-10-115; and

2018 (ii) if the nonresident individual described in Subsection (1)~~(v)~~(x)(i) is a

2019 servicemember, the compensation the servicemember receives for military service if the

2020 servicemember is serving in compliance with military orders.

2021 ~~(w)~~ (y) "State income tax percentage for a part-year resident individual" means, for a

2022 taxable year, a fraction:

2023 (i) the numerator of which is the sum of:

2024 (A) subject to Section 59-10-1404.5, for the time period during the taxable year that the

2025 part-year resident individual is a resident, the part-year resident individual's total adjusted gross

2026 income for that time period, after making the:

2027 (I) additions and subtractions required by Section 59-10-114; and

2028 (II) adjustments required by Section 59-10-115; and

2029 (B) for the time period during the taxable year that the part-year resident individual is a

2030 nonresident, an amount calculated by:

2031 (I) determining the part-year resident individual's adjusted gross income for that time

2032 period, after making the:

2033 (Aa) additions and subtractions required by Section 59-10-114; and

2034 (Bb) adjustments required by Section 59-10-115; and

2035 (II) calculating the portion of the amount determined under Subsection

2036 (1)~~(w)~~(y)(i)(B)(I) that is derived from Utah sources in accordance with Section 59-10-117;

2037 and

2038 (ii) the denominator of which is the difference between:

2039 (A) the part-year resident individual's total adjusted gross income for that taxable year,  
2040 after making the:

2041 (I) additions and subtractions required by Section 59-10-114; and

2042 (II) adjustments required by Section 59-10-115; and

2043 (B) if the part-year resident individual is a servicemember, any compensation the  
2044 servicemember receives for military service during the portion of the taxable year that the  
2045 servicemember is a nonresident if the servicemember is serving in compliance with military  
2046 orders.

2047 [(x)] (z) "Taxable income" or "state taxable income":

2048 (i) subject to Section 59-10-1404.5, for a resident individual, means the resident  
2049 individual's adjusted gross income after making the:

2050 (A) additions and subtractions required by Section 59-10-114; and

2051 (B) adjustments required by Section 59-10-115;

2052 (ii) for a nonresident individual, is an amount calculated by:

2053 (A) determining the nonresident individual's adjusted gross income for the taxable  
2054 year, after making the:

2055 (I) additions and subtractions required by Section 59-10-114; and

2056 (II) adjustments required by Section 59-10-115; and

2057 (B) calculating the portion of the amount determined under Subsection

2058 (1)[(x)](z)(ii)(A) that is derived from Utah sources in accordance with Section 59-10-117;

2059 (iii) for a resident estate or trust, is as calculated under Section 59-10-201.1; and

2060 (iv) for a nonresident estate or trust, is as calculated under Section 59-10-204.

2061 [(y)] (aa) "Taxpayer" means any [~~individual, estate, trust, or beneficiary of an estate or~~  
2062 ~~trust,~~] of the following that has income subject in whole or part to the tax imposed by this  
2063 chapter[-]:

2064 (i) an individual;

2065 (ii) an estate, a trust, or a beneficiary of an estate or a trust that is not a pass-through  
2066 entity or a pass-through entity taxpayer;

2067 (iii) a pass-through entity; or

2068 (iv) a pass-through entity taxpayer.

2069 [(z)] (bb) "Trust term" means a time period:

2070 (i) beginning on the day on which a qualified nongrantor charitable lead trust is  
2071 created; and

2072 (ii) ending on the day on which the qualified nongrantor charitable lead trust described  
2073 in Subsection (1)~~(z)~~(bb)(i) terminates.

2074 ~~(aa)~~ (cc) "Uintah and Ouray Reservation" means the lands recognized as being  
2075 included within the Uintah and Ouray Reservation in:

2076 (i) Hagen v. Utah, 510 U.S. 399 (1994); and

2077 (ii) Ute Indian Tribe v. Utah, 114 F.3d 1513 (10th Cir. 1997).

2078 ~~(bb)~~ (dd) "Unadjusted income" means an amount equal to the difference between:

2079 (i) the total income required to be reported by a resident or nonresident estate or trust  
2080 on the resident or nonresident estate's or trust's federal income tax return for estates and trusts  
2081 for the taxable year; and

2082 (ii) the sum of the following:

2083 (A) fees paid or incurred to the fiduciary of a resident or nonresident estate or trust:

2084 (I) for administering the resident or nonresident estate or trust; and

2085 (II) that the resident or nonresident estate or trust deducts as allowed on the resident or  
2086 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable  
2087 year;

2088 (B) the income distribution deduction that a resident or nonresident estate or trust  
2089 deducts under Section 651 or 661, Internal Revenue Code, as allowed on the resident or  
2090 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable  
2091 year;

2092 (C) the amount that a resident or nonresident estate or trust deducts as a deduction for  
2093 estate tax or generation skipping transfer tax under Section 691(c), Internal Revenue Code, as  
2094 allowed on the resident or nonresident estate's or trust's federal income tax return for estates  
2095 and trusts for the taxable year; and

2096 (D) the amount that a resident or nonresident estate or trust deducts as a personal  
2097 exemption under Section 642(b), Internal Revenue Code, as allowed on the resident or  
2098 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable  
2099 year.

2100 ~~(ee)~~ (ee) "Unitrust interest" means the same as that term is defined in 26 C.F.R. Sec.

2101 1.170A-6(c)(2).

2102 [~~dd~~] (ff) "Ute tribal member" means an individual who is enrolled as a member of the  
2103 Ute Indian Tribe of the Uintah and Ouray Reservation.

2104 [~~ee~~] (gg) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray  
2105 Reservation.

2106 [~~ff~~] (hh) "Wages" means the same as that term is defined in Section [59-10-401](#).

2107 (2) (a) Any term used in this chapter has the same meaning as when used in  
2108 comparable context in the laws of the United States relating to federal income taxes unless a  
2109 different meaning is clearly required.

2110 (b) Any reference to the Internal Revenue Code or to the laws of the United States shall  
2111 mean the Internal Revenue Code or other provisions of the laws of the United States relating to  
2112 federal income taxes that are in effect for the taxable year.

2113 (c) Any reference to a specific section of the Internal Revenue Code or other provision  
2114 of the laws of the United States relating to federal income taxes shall include any  
2115 corresponding or comparable provisions of the Internal Revenue Code as amended,  
2116 redesignated, or reenacted.

2117 Section 22. Section **59-10-114** is amended to read:

2118 **59-10-114. Additions to and subtractions from adjusted gross income of an**  
2119 **individual.**

2120 (1) There shall be added to adjusted gross income of a resident or nonresident  
2121 individual:

2122 (a) a lump sum distribution that the taxpayer does not include in adjusted gross income  
2123 on the taxpayer's federal individual income tax return for the taxable year;

2124 (b) the amount of a child's income calculated under Subsection (4) that:

2125 (i) a parent elects to report on the parent's federal individual income tax return for the  
2126 taxable year; and

2127 (ii) the parent does not include in adjusted gross income on the parent's federal  
2128 individual income tax return for the taxable year;

2129 (c) (i) a withdrawal from a medical care savings account and any penalty imposed for  
2130 the taxable year if:

2131 (A) the resident or nonresident individual does not deduct the amounts on the resident

2132 or nonresident individual's federal individual income tax return under Section 220, Internal  
2133 Revenue Code;

2134 (B) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and

2135 (C) the withdrawal is subtracted on, or used as the basis for claiming a tax credit on, a  
2136 return the resident or nonresident individual files under this chapter;

2137 (ii) a disbursement required to be added to adjusted gross income in accordance with  
2138 Subsection 31A-32a-105(3); or

2139 (iii) an amount required to be added to adjusted gross income in accordance with  
2140 Subsection 31A-32a-105(5)(c);

2141 (d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan,  
2142 from the account of a resident or nonresident individual who is an account owner as defined in  
2143 Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount  
2144 withdrawn from the account of the resident or nonresident individual who is the account  
2145 owner:

2146 (i) is not expended for:

2147 (A) higher education costs as defined in Section 53B-8a-102.5; or

2148 (B) a payment or distribution that qualifies as an exception to the additional tax for  
2149 distributions not used for educational expenses provided in Sections 529(c) and 530(d),  
2150 Internal Revenue Code; and

2151 (ii) is:

2152 (A) subtracted by the resident or nonresident individual:

2153 (I) who is the account owner; and

2154 (II) on the resident or nonresident individual's return filed under this chapter for a  
2155 taxable year beginning on or before December 31, 2007; or

2156 (B) used as the basis for the resident or nonresident individual who is the account  
2157 owner to claim a tax credit under Section 59-10-1017;

2158 (e) except as provided in Subsection (5), for bonds, notes, and other evidences of  
2159 indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other  
2160 evidences of indebtedness:

2161 (i) issued by one or more of the following entities:

2162 (A) a state other than this state;

- 2163 (B) the District of Columbia;
- 2164 (C) a political subdivision of a state other than this state; or
- 2165 (D) an agency or instrumentality of an entity described in Subsections (1)(e)(i)(A)
- 2166 through (C); and
- 2167 (ii) to the extent the interest is not included in adjusted gross income on the taxpayer's
- 2168 federal income tax return for the taxable year;
- 2169 (f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a
- 2170 resident trust of income that was taxed at the trust level for federal tax purposes, but was
- 2171 subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);
- 2172 (g) any distribution received by a resident beneficiary of a nonresident trust of
- 2173 undistributed distributable net income realized by the trust on or after January 1, 2004, if that
- 2174 undistributed distributable net income was taxed at the trust level for federal tax purposes, but
- 2175 was not taxed at the trust level by any state, with undistributed distributable net income
- 2176 considered to be distributed from the most recently accumulated undistributed distributable net
- 2177 income; and
- 2178 (h) any adoption expense:
- 2179 (i) for which a resident or nonresident individual receives reimbursement from another
- 2180 person; and
- 2181 (ii) to the extent to which the resident or nonresident individual subtracts that adoption
- 2182 expense:
- 2183 (A) on a return filed under this chapter for a taxable year beginning on or before
- 2184 December 31, 2007; or
- 2185 (B) from federal taxable income on a federal individual income tax return.
- 2186 (2) There shall be subtracted from adjusted gross income of a resident or nonresident
- 2187 individual:
- 2188 (a) the difference between:
- 2189 (i) the interest or a dividend on an obligation or security of the United States or an
- 2190 authority, commission, instrumentality, or possession of the United States, to the extent that
- 2191 interest or dividend is:
- 2192 (A) included in adjusted gross income for federal income tax purposes for the taxable
- 2193 year; and

2194 (B) exempt from state income taxes under the laws of the United States; and  
2195 (ii) any interest on indebtedness incurred or continued to purchase or carry the  
2196 obligation or security described in Subsection (2)(a)(i);  
2197 (b) [~~for taxable years beginning on or after January 1, 2000;~~] if the conditions of  
2198 Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:  
2199 (i) during a time period that the Ute tribal member resides on homesteaded land  
2200 diminished from the Uintah and Ouray Reservation; and  
2201 (ii) from a source within the Uintah and Ouray Reservation;  
2202 (c) an amount received by a resident or nonresident individual or distribution received  
2203 by a resident or nonresident beneficiary of a resident trust:  
2204 (i) if that amount or distribution constitutes a refund of taxes imposed by:  
2205 (A) a state; or  
2206 (B) the District of Columbia; and  
2207 (ii) to the extent that amount or distribution is included in adjusted gross income for  
2208 that taxable year on the federal individual income tax return of the resident or nonresident  
2209 individual or resident or nonresident beneficiary of a resident trust;  
2210 (d) the amount of a railroad retirement benefit:  
2211 (i) paid:  
2212 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et  
2213 seq.;  
2214 (B) to a resident or nonresident individual; and  
2215 (C) for the taxable year; and  
2216 (ii) to the extent that railroad retirement benefit is included in adjusted gross income on  
2217 that resident or nonresident individual's federal individual income tax return for that taxable  
2218 year;  
2219 (e) an amount:  
2220 (i) received by an enrolled member of an American Indian tribe; and  
2221 (ii) to the extent that the state is not authorized or permitted to impose a tax under this  
2222 part on that amount in accordance with:  
2223 (A) federal law;  
2224 (B) a treaty; or



- 2225 (C) a final decision issued by a court of competent jurisdiction;
- 2226 (f) an amount received:
- 2227 (i) for the interest on a bond, note, or other obligation issued by an entity for which
- 2228 state statute provides an exemption of interest on its bonds from state individual income tax;
- 2229 (ii) by a resident or nonresident individual;
- 2230 (iii) for the taxable year; and
- 2231 (iv) to the extent the amount is included in adjusted gross income on the taxpayer's
- 2232 federal income tax return for the taxable year;
- 2233 (g) the amount of all income, including income apportioned to another state, of a
- 2234 nonmilitary spouse of an active duty military member if:
- 2235 (i) both the nonmilitary spouse and the active duty military member are nonresident
- 2236 individuals;
- 2237 (ii) the active duty military member is stationed in Utah;
- 2238 (iii) the nonmilitary spouse is subject to the residency provisions of 50 U.S.C. Sec.
- 2239 4001(a)(2); and
- 2240 (iv) the income is included in adjusted gross income for federal income tax purposes
- 2241 for the taxable year;
- 2242 (h) for a taxable year beginning on or after January 1, 2019, but beginning on or before
- 2243 December 31, 2019, only:
- 2244 (i) the amount of any FDIC premium paid or incurred by the taxpayer that is
- 2245 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal
- 2246 Revenue Code, on the taxpayer's 2018 federal income tax return; plus
- 2247 (ii) the amount of any FDIC premium paid or incurred by the taxpayer that is
- 2248 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal
- 2249 Revenue Code, for the taxable year;
- 2250 (i) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC
- 2251 premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income
- 2252 tax purposes under Section 162(r), Internal Revenue Code, for the taxable year; ~~and~~
- 2253 (j) for a taxable year beginning on or after January 1, 2020, but beginning on or before
- 2254 December 31, 2020, the amount:
- 2255 (i) of a paycheck protection loan similar to a loan forgiven in accordance with 15

2256 U.S.C. Sec. 636(a)(36) that is:

2257 (A) authorized by the federal government;

2258 (B) provided in response to COVID-19;

2259 (C) forgiven if the borrower meets the expenditure requirements; and

2260 (D) subject to federal income tax, to the extent that a deduction for the expenditures

2261 paid with the loan is disallowed;

2262 (ii) that a resident or a nonresident individual receives that is:

2263 (A) authorized by the federal government as a tax credit for the 2020 tax year;

2264 (B) provided in response to COVID-19;

2265 (C) paid in advance of the filing of the individual's 2020 federal income tax return; and

2266 (D) subject to federal income tax; and

2267 (iii) of any grant funds or forgiven loans that:

2268 (A) the resident or nonresident individual receives from the state, a county within the

2269 state, or a municipality within the state in response to COVID-19;

2270 (B) are funded by using federal revenue received by the state, the county, or the

2271 municipality to respond to COVID-19; and

2272 (C) are included in adjusted gross income[-]; and

2273 (k) an amount of a distribution from a qualified retirement plan under Section 401(a),

2274 Internal Revenue Code, if:

2275 (i) the amount of the distribution is included in adjusted gross income on the resident

2276 or nonresident individual's federal individual income tax return for the taxable year; and

2277 (ii) for the taxable year when the amount of the distribution was contributed to the

2278 qualified retirement plan, the amount of the distribution:

2279 (A) was not included in adjusted gross income on the resident or nonresident

2280 individual's federal individual income tax return for the taxable year; and

2281 (B) was taxed by another state of the United States, the District of Columbia, or a

2282 possession of the United States.

2283 (3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:

2284 (i) the taxpayer is a Ute tribal member; and

2285 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the

2286 requirements of this Subsection (3).

- 2287 (b) The agreement described in Subsection (3)(a):  
2288 (i) may not:  
2289 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;  
2290 (B) provide a subtraction under this section greater than or different from the  
2291 subtraction described in Subsection (2)(b); or  
2292 (C) affect the power of the state to establish rates of taxation; and  
2293 (ii) shall:  
2294 (A) provide for the implementation of the subtraction described in Subsection (2)(b);  
2295 (B) be in writing;  
2296 (C) be signed by:  
2297 (I) the governor; and  
2298 (II) the chair of the Business Committee of the Ute tribe;  
2299 (D) be conditioned on obtaining any approval required by federal law; and  
2300 (E) state the effective date of the agreement.
- 2301 (c) (i) The governor shall report to the commission by no later than February 1 of each  
2302 year regarding whether or not an agreement meeting the requirements of this Subsection (3) is  
2303 in effect.
- 2304 (ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the  
2305 subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or  
2306 after the January 1 following the termination of the agreement.
- 2307 (d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3,  
2308 Utah Administrative Rulemaking Act, the commission may make rules:
- 2309 (i) for determining whether income is derived from a source within the Uintah and  
2310 Ouray Reservation; and  
2311 (ii) that are substantially similar to how adjusted gross income derived from Utah  
2312 sources is determined under Section [59-10-117](#).
- 2313 (4) (a) For purposes of this Subsection (4), "Form 8814" means:  
2314 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's  
2315 Interest and Dividends; or  
2316 (ii) (A) a form designated by the commission in accordance with Subsection  
2317 (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal

2318 individual income taxes the information contained on 2000 Form 8814 is reported on a form  
2319 other than Form 8814; and

2320 (B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter  
2321 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as  
2322 being substantially similar to 2000 Form 8814 if for purposes of federal individual income  
2323 taxes the information contained on 2000 Form 8814 is reported on a form other than Form  
2324 8814.

2325 (b) The amount of a child's income added to adjusted gross income under Subsection  
2326 (1)(b) is equal to the difference between:

2327 (i) the lesser of:

2328 (A) the base amount specified on Form 8814; and

2329 (B) the sum of the following reported on Form 8814:

2330 (I) the child's taxable interest;

2331 (II) the child's ordinary dividends; and

2332 (III) the child's capital gain distributions; and

2333 (ii) the amount not taxed that is specified on Form 8814.

2334 (5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences  
2335 of indebtedness issued by an entity described in Subsections (1)(e)(i)(A) through (D) may not  
2336 be added to adjusted gross income of a resident or nonresident individual if, as annually  
2337 determined by the commission:

2338 (a) for an entity described in Subsection (1)(e)(i)(A) or (B), the entity and all of the  
2339 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on  
2340 income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

2341 (b) for an entity described in Subsection (1)(e)(i)(C) or (D), the following do not  
2342 impose a tax based on income on any part of the bonds, notes, and other evidences of  
2343 indebtedness of this state:

2344 (i) the entity; or

2345 (ii) (A) the state in which the entity is located; or

2346 (B) the District of Columbia, if the entity is located within the District of Columbia.

2347 Section 23. Section **59-10-137** is amended to read:

2348 **59-10-137. Review of credits allowed under this chapter.**

2349 (1) As used in this section, "committee" means the Revenue and Taxation Interim  
2350 Committee.

2351 (2) (a) The committee shall review the tax credits described in this chapter as provided  
2352 in Subsection (3) and make recommendations concerning whether the tax credits should be  
2353 continued, modified, or repealed.

2354 (b) In conducting the review required under Subsection (2)(a), the committee shall:

2355 (i) schedule time on at least one committee agenda to conduct the review;

2356 (ii) invite state agencies, individuals, and organizations concerned with the tax credit  
2357 under review to provide testimony;

2358 (iii) (A) invite the Governor's Office of Economic Development to present a summary  
2359 and analysis of the information for each tax credit regarding which the Governor's Office of  
2360 Economic Development is required to make a report under this chapter; and

2361 (B) invite the Office of the Legislative Fiscal Analyst to present a summary and  
2362 analysis of the information for each tax credit regarding which the Office of the Legislative  
2363 Fiscal Analyst is required to make a report under this chapter;

2364 (iv) ensure that the committee's recommendations described in this section include an  
2365 evaluation of:

2366 (A) the cost of the tax credit to the state;

2367 (B) the purpose and effectiveness of the tax credit; and

2368 (C) the extent to which the state benefits from the tax credit; and

2369 (v) undertake other review efforts as determined by the committee chairs or as  
2370 otherwise required by law.

2371 (3) (a) On or before November 30, 2017, and every three years after 2017, the  
2372 committee shall conduct the review required under Subsection (2) of the tax credits allowed  
2373 under the following sections:

2374 (i) Section 59-10-1004;

2375 (ii) Section 59-10-1010;

2376 (iii) Section 59-10-1015;

2377 (iv) Section 59-10-1025;

2378 (v) Section 59-10-1027;

2379 (vi) Section 59-10-1031;

- 2380 (vii) Section 59-10-1032;
- 2381 (viii) Section 59-10-1035;
- 2382 (ix) Section 59-10-1104;
- 2383 (x) Section 59-10-1105; and
- 2384 (xi) Section 59-10-1108.
- 2385 (b) On or before November 30, 2018, and every three years after 2018, the committee
- 2386 shall conduct the review required under Subsection (2) of the tax credits allowed under the
- 2387 following sections:
- 2388 (i) Section 59-10-1005;
- 2389 (ii) Section 59-10-1006;
- 2390 (iii) Section 59-10-1012;
- 2391 (iv) Section 59-10-1022;
- 2392 (v) Section 59-10-1023;
- 2393 (vi) Section 59-10-1028;
- 2394 (vii) Section 59-10-1034;
- 2395 (viii) Section 59-10-1037;
- 2396 (ix) Section 59-10-1107; and
- 2397 (x) Section 59-10-1112.
- 2398 (c) On or before November 30, 2019, and every three years after 2019, the committee
- 2399 shall conduct the review required under Subsection (2) of the tax credits allowed under the
- 2400 following sections:
- 2401 (i) Section 59-10-1007;
- 2402 (ii) Section 59-10-1014;
- 2403 (iii) Section 59-10-1017;
- 2404 (iv) Section 59-10-1018;
- 2405 (v) Section 59-10-1019;
- 2406 (vi) Section 59-10-1024;
- 2407 (vii) Section 59-10-1029;
- 2408 [~~(viii) Section 59-10-1033;~~]
- 2409 [~~(ix)~~] (viii) Section 59-10-1036;
- 2410 [~~(x)~~] (ix) Section 59-10-1106; and

2411 ~~[(xi)]~~ (x) Section 59-10-1111.

2412 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall  
2413 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,  
2414 2017.

2415 (ii) The committee shall complete a review described in this Subsection (3)(d) three  
2416 years after the effective date of the tax credit and every three years after the initial review date.

2417 Section 24. Section 59-10-507 is amended to read:

2418 **59-10-507. Return by a pass-through entity.**

2419 ~~[(1) As used in this section:]~~

2420 ~~[(a) "Pass-through entity" is as defined in Section 59-10-1402.]~~

2421 ~~[(b) "Taxable]~~ (1) As used in this section, "taxable year" means a year or other time  
2422 period that would be a taxable year of a pass-through entity if the pass-through entity were  
2423 subject to taxation under this chapter.

2424 (2) A pass-through entity having any income derived from or connected with Utah  
2425 sources shall make a return for the taxable year in accordance with Section 59-10-514.

2426 Section 25. Section 59-10-514 is amended to read:

2427 **59-10-514. Return filing requirements -- Rulemaking authority.**

2428 (1) (a) Subject to Subsection (3) and Section 59-10-518:

2429 ~~[(a)]~~ (i) an individual income tax return filed for a tax imposed in accordance with Part  
2430 1, Determination and Reporting of Tax Liability and Information, shall be filed with the  
2431 commission on or before the day on which a federal individual income tax return is due ~~[under~~  
2432 ~~the Internal Revenue Code]~~;

2433 ~~[(b)]~~ (ii) a fiduciary income tax return filed for a tax imposed in accordance with Part  
2434 2, Trusts and Estates, shall be filed with the commission on or before the day on which a  
2435 federal return for estates and trusts is due ~~[under the Internal Revenue Code]~~; or

2436 ~~[(c)]~~ (iii) a return filed in accordance with Section 59-10-507 shall be filed with the  
2437 commission on or before the later of:

2438 (A) the 15th day of the fourth month following the last day of the taxpayer's taxable  
2439 year[.]; or

2440 (B) the day on which the taxpayer is required to file a federal income tax return.

2441 (b) Interest accrues from the day on which a return is due under this Subsection (1).

2442 (2) A person required to make and file a return under this chapter shall, without  
2443 assessment, notice, or demand, pay any tax due:

2444 (a) to the commission; and

2445 (b) before the due date for filing the return, without regard to any extension of time for  
2446 filing the return.

2447 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2448 commission may make rules prescribing what constitutes filing a return with the commission.

2449 Section 26. Section **59-10-516** is amended to read:

2450 **59-10-516. Filing extension -- Payment of tax -- Penalty -- Foreign residency.**

2451 (1) (a) The commission shall allow a taxpayer an extension of time for filing a return.

2452 (b) Except as provided in Subsection (1)(c):

2453 (i) [~~For~~ for] a return filed by a taxpayer except for a partnership, the extension [~~under~~]  
2454 described in Subsection (1)(a) may [~~not exceed~~] be up to six months[-]; and

2455 (ii) [~~For~~ for] a return filed by a partnership, the extension [~~under~~] described in  
2456 Subsection (1)(a) may [~~not exceed~~] be up to five months.

2457 [~~(2)(a) Except as provided in Subsection (2)(b), the commission may not impose on a~~  
2458 ~~taxpayer during the extension period prescribed under Subsection (1) a penalty under Section~~  
2459 ~~59-1-401 if the taxpayer pays, on or before the 15th day of the fourth month following the close~~  
2460 ~~of the taxpayer's taxable year, the lesser of:]~~

2461 (c) For a taxable year beginning on or after January 1, 2019, but beginning on or before  
2462 December 31, 2019, a taxpayer may receive an extension described in Subsection (1)(a) for the  
2463 time period that ends on the last day of the extension to file the taxpayer's federal income tax  
2464 return.

2465 (2) The commission may not impose a penalty under Section 59-1-401 during the  
2466 extension period described in Subsection (1) on:

2467 (a) a pass-through entity, if the pass-through entity, on or before the return due date  
2468 described in Section 59-10-514, pays or withholds the tax on behalf of a pass-through entity  
2469 taxpayer; or

2470 (b) a taxpayer other than a taxpayer described in Subsection (2)(a), if the taxpayer pays,  
2471 on or before the return due date described in Section 59-10-514, an amount equal to the lesser  
2472 of:



2473 (i) 90% of the total tax reported on the return for the current taxable year; or  
2474 (ii) 100% of the total tax liability for the taxable year immediately preceding the current  
2475 taxable year.

2476 ~~[(b)]~~ (3) If a taxpayer fails to meet the requirements of Subsection (2)~~[(a)]~~, the  
2477 commission may apply to the total balance due a penalty as provided in Section 59-1-401.

2478 ~~[(3)]~~ (4) If a federal income tax return filing is lawfully delayed pending a  
2479 determination of qualification for a federal tax exemption due to residency outside of the  
2480 United States, a taxpayer shall file a return within 30 days after that determination is made.

2481 Section 27. Section 59-10-522 is amended to read:

2482 **59-10-522. Extension of time for paying tax.**

2483 (1) (a) For a taxable year beginning on or after January 1, 2019, but beginning on or  
2484 before December 31, 2019, a taxpayer shall receive an extension of time for the payment of the  
2485 amount determined as the tax of the taxpayer, or any part of that amount, for the time period  
2486 that ends on the last day of the extension to pay the taxpayer's federal income tax.

2487 ~~[(1) The]~~ (b) (i) For a taxable year beginning on or after January 1, 2020, the  
2488 commission, except as otherwise provided by this chapter, may extend the time for payment of  
2489 the amount shown, or required to be shown, on any return required under authority of this  
2490 chapter (or any installment thereof), for a reasonable period not to exceed six months from the  
2491 date fixed for payment thereof.

2492 (ii) ~~[Such]~~ The extension may exceed six months in the cases of taxpayers who are  
2493 outside the states of the union and the District of Columbia.

2494 (2) (a) Under rules prescribed by the commission, the time for payment of the amount  
2495 determined as a deficiency may be extended for a period not to exceed 18 months from the date  
2496 fixed for payment of the deficiency, and, in exceptional cases, for a further period not to exceed  
2497 12 months.

2498 (b) An extension under this subsection may be granted only where it is shown to the  
2499 satisfaction of the commission that the payment of a deficiency upon the date fixed for the  
2500 payment thereof will result in undue hardship to the taxpayer.

2501 (c) No extension may be granted if the deficiency is due to negligence, to intentional  
2502 disregard of rules, or to fraud with intent to evade tax.

2503 (3) ~~[Extensions]~~ An extension of time for payment of any portion of a claim for an

2504 unpaid tax under this chapter, allowed in bankruptcy or receivership proceedings, [~~which is~~  
2505 ~~unpaid;~~] may be had in the same manner and subject to the same provisions and limitations as  
2506 provided in Subsection (2) [~~in respect of a deficiency in tax~~].

2507 Section 28. Section **59-10-1007** is amended to read:

2508 **59-10-1007. Recycling market development zones tax credits.**

2509 (1) Subject to other provisions of this section, a claimant, estate, or trust in a recycling  
2510 market development zone as defined in Section **19-13-102** may claim the following  
2511 nonrefundable tax credits:

2512 (a) a tax credit [~~of 5% of~~] equal to the product of the percentage listed in Subsection  
2513 59-10-104(2) and the purchase price paid for machinery and equipment used directly in:

2514 (i) commercial composting; or

2515 (ii) manufacturing facilities or plant units that:

2516 (A) manufacture, process, compound, or produce recycled items of tangible personal  
2517 property for sale; or

2518 (B) reduce or reuse postconsumer waste material; and

2519 (b) a tax credit equal to the lesser of:

2520 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test  
2521 inventory, and utilities made by the claimant, estate, or trust for establishing and operating  
2522 recycling or composting technology in the state; and

2523 (ii) \$2,000.

2524 (2) (a) To claim a tax credit described in Subsection (1), the claimant, estate, or trust  
2525 shall receive from the Department of Environmental Quality a written certification, on a form  
2526 approved by the commission, that includes:

2527 (i) a statement that the claimant, estate, or trust is operating within the boundaries of a  
2528 recycling market development zone;

2529 (ii) for a claim of the tax credit described in Subsection (1)(a):

2530 (A) the type of the machinery and equipment that the claimant, estate, or trust  
2531 purchased;

2532 (B) the date that the claimant, estate, or trust purchased the machinery and equipment;

2533 (C) the purchase price for the machinery and equipment;

2534 (D) the total purchase price for all machinery and equipment for which the claimant,

- 2535 estate, or trust is claiming a tax credit;
- 2536 (E) the amount of the claimant's, estate's, or trust's tax credit; and
- 2537 (F) a statement that the machinery and equipment are integral to the composting or
- 2538 recycling process; and
- 2539 (iii) for a claim of the tax credit described in Subsection (1)(b):
- 2540 (A) the type of net expenditure that the claimant, estate, or trust made to a third party;
- 2541 (B) the date that the claimant, estate, or trust made the payment to a third party;
- 2542 (C) the amount that the claimant, estate, or trust paid to each third party;
- 2543 (D) the total amount that the claimant, estate, or trust paid to all third parties;
- 2544 (E) a statement that the net expenditures support the establishment and operation of
- 2545 recycling or composting technology in the state; and
- 2546 (F) the amount of the claimant's, estate's, or trust's tax credit.
- 2547 (b) (i) The Department of Environmental Quality shall provide a claimant, estate, or
- 2548 trust seeking to claim a tax credit under Subsection (1) with a copy of the written certification.
- 2549 (ii) The claimant, estate, or trust shall retain a copy of the written certification for the
- 2550 same period of time that a person is required to keep books and records under Section
- 2551 [59-1-1406](#).
- 2552 (c) The Department of Environmental Quality shall submit to the commission an
- 2553 electronic list that includes:
- 2554 (i) the name and identifying information of each claimant, estate, or trust to which the
- 2555 Department of Environmental Quality issues a written certification; and
- 2556 (ii) for each claimant, estate, or trust, the amount of each tax credit listed on the written
- 2557 certification.
- 2558 (3) A claimant, estate, or trust may not claim a tax credit under Subsection (1)(a),
- 2559 Subsection (1)(b), or both that exceeds 40% of the claimant's, estate's, or trust's state income
- 2560 tax liability as the tax liability is calculated:
- 2561 (a) for the taxable year in which the claimant, estate, or trust made the purchases or
- 2562 payments;
- 2563 (b) before any other tax credits the claimant, estate, or trust may claim for the taxable
- 2564 year; and
- 2565 (c) before the claimant, estate, or trust claims a tax credit authorized by this section.

2566 (4) The commission shall make rules governing what information a claimant, estate, or  
2567 trust shall file with the commission to verify the entitlement to and amount of a tax credit.

2568 (5) Except as provided in Subsections (6) through (8), a claimant, estate, or trust may  
2569 carry forward, to the next three taxable years, the amount of a tax credit described in  
2570 Subsection (1)(a) that the claimant, estate, or trust does not use for the taxable year.

2571 (6) A claimant, estate, or trust may not claim or carry forward a tax credit described in  
2572 Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries  
2573 forward a tax credit under Section [63N-2-213](#).

2574 (7) A claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b)  
2575 in a taxable year during which the claimant, estate, or trust claims or carries forward a tax  
2576 credit under Section [63N-2-213](#).

2577 (8) A claimant, estate, or trust may not claim or carry forward a tax credit under this  
2578 section for a taxable year during which the claimant, estate, or trust claims the targeted  
2579 business income tax credit under Section [59-10-1112](#).

2580 Section 29. Section **59-10-1017** is amended to read:

2581 **59-10-1017. Utah Educational Savings Plan tax credit.**

2582 (1) As used in this section:

2583 (a) "Account owner" means the same as that term is defined in Section [53B-8a-102](#).

2584 (b) "Grantor trust" means the same as that term is defined in Section [53B-8a-102.5](#).

2585 (c) "Higher education costs" means the same as that term is defined in Section  
2586 [53B-8a-102.5](#).

2587 (d) "Maximum amount of a qualified investment for the taxable year" means, for a  
2588 taxable year, the product of [~~5%~~] the percentage listed in Subsection [59-10-104\(2\)](#) and:

2589 (i) subject to Subsection (1)(d)(iii), for a claimant, estate, or trust that is an account  
2590 owner, if that claimant, estate, or trust is other than husband and wife account owners who file  
2591 a single return jointly, the maximum amount of a qualified investment:

2592 (A) listed in Subsection [53B-8a-106\(1\)\(e\)\(ii\)](#); and

2593 (B) increased or kept for that taxable year in accordance with Subsections  
2594 [53B-8a-106\(1\)\(f\)](#) and (g);

2595 (ii) subject to Subsection (1)(d)(iii), for claimants who are husband and wife account  
2596 owners who file a single return jointly, the maximum amount of a qualified investment:

- 2597 (A) listed in Subsection [53B-8a-106\(1\)\(e\)\(iii\)](#); and
- 2598 (B) increased or kept for that taxable year in accordance with Subsections
- 2599 [53B-8a-106\(1\)\(f\)](#) and (g); or
- 2600 (iii) for a grantor trust:
- 2601 (A) if the owner of the grantor trust has a single filing status or head of household
- 2602 filing status as defined in Section [59-10-1018](#), the amount described in Subsection (1)(d)(i); or
- 2603 (B) if the owner of the grantor trust has a joint filing status as defined in Section
- 2604 [59-10-1018](#), the amount described in Subsection (1)(d)(ii).
- 2605 (e) "Owner of the grantor trust" means the same as that term is defined in Section
- 2606 [53B-8a-102.5](#).
- 2607 (f) "Qualified investment" means the same as that term is defined in Section
- 2608 [53B-8a-102.5](#).
- 2609 (2) Except as provided in Section [59-10-1002.2](#) and subject to the other provisions of
- 2610 this section, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax
- 2611 credit equal to the product of:
- 2612 (a) the amount of a qualified investment made:
- 2613 (i) during the taxable year; and
- 2614 (ii) into an account owned by the claimant, estate, or trust; and
- 2615 [~~(b) 5%.~~]
- 2616 (b) the percentage listed in Subsection [59-10-104\(2\)](#).
- 2617 (3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may
- 2618 make a qualified investment described in Subsection (2).
- 2619 (4) A claimant, estate, or trust that is an account owner may not claim a tax credit
- 2620 under this section with respect to any portion of a qualified investment described in Subsection
- 2621 (2) that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal
- 2622 income tax return.
- 2623 (5) A tax credit under this section may not exceed the maximum amount of a qualified
- 2624 investment for the taxable year.
- 2625 (6) A claimant, estate, or trust that is an account owner may not carry forward or carry
- 2626 back the tax credit under this section.
- 2627 (7) A claimant, estate, or trust may claim a tax credit under this section in addition to

2628 the tax credit described in Section [59-10-1017.1](#).

2629 Section 30. Section **59-10-1017.1** is amended to read:

2630 **59-10-1017.1. Student Prosperity Savings Program tax credit.**

2631 (1) As used in this section, "qualified donation" means an amount donated, in  
2632 accordance with Section [53B-8a-203](#), to the Student Prosperity Savings Program created in  
2633 Section [53B-8a-202](#).

2634 (2) A claimant, estate, or trust may claim a nonrefundable tax credit for a qualified  
2635 donation.

2636 (3) The tax credit equals the product of:

2637 (a) the qualified donation; and

2638 [~~(b) 5%.~~]

2639 (b) the percentage listed in Subsection [59-10-104\(2\)](#).

2640 (4) A claimant, estate, or trust may not claim a tax credit under this section with  
2641 respect to any portion of a qualified donation that a claimant, estate, or trust deducts on a  
2642 federal income tax return.

2643 (5) A claimant, estate, or trust may not carry forward or carry back the portion of the  
2644 tax credit allowed by this section that exceeds the claimant's, estate's, or trust's tax liability for  
2645 the taxable year in which the claimant, estate, or trust claims the tax credit.

2646 (6) A claimant, estate, or trust may claim a tax credit under this section in addition to  
2647 the tax credit described in Section [59-10-1017](#).

2648 Section 31. Section **59-10-1022** is amended to read:

2649 **59-10-1022. Nonrefundable tax credit for capital gain transactions.**

2650 (1) As used in this section:

2651 (a) (i) "Capital gain transaction" means a transaction that results in a:

2652 (A) short-term capital gain; or

2653 (B) long-term capital gain.

2654 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2655 commission may by rule define the term "transaction."

2656 (b) "Commercial domicile" means the principal place from which the trade or business  
2657 of a Utah small business corporation is directed or managed.

2658 (c) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.

2659 (d) "Qualifying stock" means stock that is:  
2660 (i) (A) common; or  
2661 (B) preferred;  
2662 (ii) as defined by the commission by rule made in accordance with Title 63G, Chapter  
2663 3, Utah Administrative Rulemaking Act, originally issued to:  
2664 (A) a claimant, estate, or trust; or  
2665 (B) a partnership if the claimant, estate, or trust that claims a tax credit under this  
2666 section:  
2667 (I) was a partner on the day on which the stock was issued; and  
2668 (II) remains a partner until the last day of the taxable year for which the claimant,  
2669 estate, or trust claims a tax credit under this section; and  
2670 (iii) issued:  
2671 (A) by a Utah small business corporation;  
2672 (B) on or after January 1, 2008; and  
2673 (C) for:  
2674 (I) money; or  
2675 (II) other property, except for stock or securities.  
2676 (e) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.  
2677 (f) (i) "Utah small business corporation" means a corporation that:  
2678 (A) except as provided in Subsection (1)(f)(ii), is a small business corporation as  
2679 defined in Section 1244(c)(3), Internal Revenue Code;  
2680 (B) except as provided in Subsection (1)(f)(iii), meets the requirements of Section  
2681 1244(c)(1)(C), Internal Revenue Code; and  
2682 (C) has its commercial domicile in this state.  
2683 (ii) The dollar amount listed in Section 1244(c)(3)(A) is considered to be \$2,500,000.  
2684 (iii) The phrase "the date the loss on such stock was sustained" in Sections  
2685 1244(c)(1)(C) and 1244(c)(2), Internal Revenue Code, is considered to be "the last day of the  
2686 taxable year for which the claimant, estate, or trust claims a tax credit under this section."  
2687 (2) For taxable years beginning on or after January 1, 2008, a claimant, estate, or trust  
2688 that meets the requirements of Subsection (3) may claim a nonrefundable tax credit equal to the  
2689 product of:

2690 (a) the total amount of the claimant's, estate's, or trust's short-term capital gain or  
2691 long-term capital gain on a capital gain transaction that occurs on or after January 1, 2008; and  
2692 [~~(b) 5%.~~]

2693 (b) the percentage listed in Subsection 59-10-104(2).

2694 (3) For purposes of Subsection (2), a claimant, estate, or trust may claim the  
2695 nonrefundable tax credit allowed by Subsection (2) if:

2696 (a) 70% or more of the gross proceeds of the capital gain transaction are expended:

2697 (i) to purchase qualifying stock in a Utah small business corporation; and

2698 (ii) within a 12-month period after the day on which the capital gain transaction occurs;

2699 and

2700 (b) prior to the purchase of the qualifying stock described in Subsection (3)(a)(i), the  
2701 claimant, estate, or trust did not have an ownership interest in the Utah small business  
2702 corporation that issued the qualifying stock.

2703 (4) A claimant, estate, or trust may not carry forward or carry back a tax credit under  
2704 this section.

2705 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2706 commission may make rules:

2707 (a) defining the term "gross proceeds"; and

2708 (b) prescribing the circumstances under which a claimant, estate, or trust has an  
2709 ownership interest in a Utah small business corporation.

2710 Section 32. Section **59-10-1023** is amended to read:

2711 **59-10-1023. Nonrefundable tax credit for amounts paid under a health benefit**  
2712 **plan.**

2713 (1) As used in this section:

2714 (a) "Claimant with dependents" means a claimant:

2715 (i) regardless of the claimant's filing status for purposes of filing a federal individual  
2716 income tax return for the taxable year; and

2717 (ii) who claims one or more dependents under Section 151, Internal Revenue Code, as  
2718 allowed on the claimant's federal individual income tax return for the taxable year.

2719 (b) "Eligible insured individual" means:

2720 (i) the claimant who is insured under a health benefit plan;



- 2721 (ii) the spouse of the claimant described in Subsection (1)(b)(i) if:
- 2722 (A) the claimant files a single return jointly under this chapter with the claimant's
- 2723 spouse for the taxable year; and
- 2724 (B) the spouse is insured under the health benefit plan described in Subsection
- 2725 (1)(b)(i); or
- 2726 (iii) a dependent of the claimant described in Subsection (1)(b)(i) if:
- 2727 (A) the claimant claims the dependent under Section 151, Internal Revenue Code, as
- 2728 allowed on the claimant's federal individual income tax return for the taxable year; and
- 2729 (B) the dependent is insured under the health benefit plan described in Subsection
- 2730 (1)(b)(i).
- 2731 (c) "Excluded expenses" means an amount a claimant pays for insurance offered under
- 2732 a health benefit plan for a taxable year if:
- 2733 (i) the claimant claims a tax credit for that amount under Section 35, Internal Revenue
- 2734 Code:
- 2735 (A) on the claimant's federal individual income tax return for the taxable year; and
- 2736 (B) with respect to an eligible insured individual;
- 2737 (ii) the claimant deducts that amount under Section 162 or 213, Internal Revenue
- 2738 Code:
- 2739 (A) on the claimant's federal individual income tax return for the taxable year; and
- 2740 (B) with respect to an eligible insured individual; or
- 2741 (iii) the claimant excludes that amount from gross income under Section 106 or 125,
- 2742 Internal Revenue Code, with respect to an eligible insured individual.
- 2743 (d) (i) "Health benefit plan" is as defined in Section [31A-1-301](#).
- 2744 (ii) "Health benefit plan" does not include equivalent self-insurance as defined by the
- 2745 Insurance Department by rule made in accordance with Title 63G, Chapter 3, Utah
- 2746 Administrative Rulemaking Act.
- 2747 (e) "Joint claimant with no dependents" means a husband and wife who:
- 2748 (i) file a single return jointly under this chapter for the taxable year; and
- 2749 (ii) do not claim a dependent under Section 151, Internal Revenue Code, on the
- 2750 husband's and wife's federal individual income tax return for the taxable year.
- 2751 (f) "Single claimant with no dependents" means:

2752 (i) a single individual who:  
2753 (A) files a single federal individual income tax return for the taxable year; and  
2754 (B) does not claim a dependent under Section 151, Internal Revenue Code, on the  
2755 single individual's federal individual income tax return for the taxable year;  
2756 (ii) a head of household:  
2757 (A) as defined in Section 2(b), Internal Revenue Code, who files a single federal  
2758 individual income tax return for the taxable year; and  
2759 (B) who does not claim a dependent under Section 151, Internal Revenue Code, on the  
2760 head of household's federal individual income tax return for the taxable year; or  
2761 (iii) a married individual who:  
2762 (A) does not file a single federal individual income tax return jointly with that married  
2763 individual's spouse for the taxable year; and  
2764 (B) does not claim a dependent under Section 151, Internal Revenue Code, on that  
2765 married individual's federal individual income tax return for the taxable year.  
2766 (2) Subject to Subsection (3), and except as provided in Subsection (4), for taxable  
2767 years beginning on or after January 1, 2009, a claimant may claim a nonrefundable tax credit  
2768 equal to the product of:  
2769 (a) the difference between:  
2770 (i) the total amount the claimant pays during the taxable year for:  
2771 (A) insurance offered under a health benefit plan; and  
2772 (B) an eligible insured individual; and  
2773 (ii) excluded expenses; and  
2774 [~~(b) 5%.~~]  
2775 (b) the percentage listed in Subsection 59-10-104(2).  
2776 (3) The maximum amount of a tax credit described in Subsection (2) a claimant may  
2777 claim on a return for a taxable year is:  
2778 (a) for a single claimant with no dependents, \$300;  
2779 (b) for a joint claimant with no dependents, \$600; or  
2780 (c) for a claimant with dependents, \$900.  
2781 (4) A claimant may not claim a tax credit under this section if the claimant is eligible to  
2782 participate in insurance offered under a health benefit plan maintained and funded in whole or

2783 in part by:

2784 (a) the claimant's employer; or

2785 (b) another person's employer.

2786 (5) A claimant may not carry forward or carry back a tax credit under this section.

2787 Section 33. Section **59-10-1028** is amended to read:

2788 **59-10-1028. Nonrefundable tax credit for capital gain transactions on the**  
2789 **exchange of one form of legal tender for another form of legal tender.**

2790 (1) As used in this section:

2791 (a) "Capital gain transaction" means a transaction that results in a:

2792 (i) short-term capital gain; or

2793 (ii) long-term capital gain.

2794 (b) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.

2795 (c) "Long-term capital loss" is as defined in Section 1222, Internal Revenue Code.

2796 (d) "Net capital gain" means the amount by which the sum of long-term capital gains

2797 and short-term capital gains on a claimant's, estate's, or trust's transactions from exchanges

2798 made for a taxable year of one form of legal tender for another form of legal tender exceeds the

2799 sum of long-term capital losses and short-term capital losses on those transactions for that

2800 taxable year.

2801 (e) "Short-term capital loss" is as defined in Section 1222, Internal Revenue Code.

2802 (f) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.

2803 (2) Except as provided in Section [59-10-1002.2](#), for taxable years beginning on or after

2804 January 1, 2012, a claimant, estate, or trust may claim a nonrefundable tax credit equal to the

2805 product of:

2806 (a) to the extent a net capital gain is included in taxable income, the amount of the

2807 claimant's, estate's, or trust's net capital gain on capital gain transactions from exchanges made

2808 on or after January 1, 2012, for a taxable year, of one form of legal tender for another form of

2809 legal tender; and

2810 [~~(b) 5%.~~]

2811 (b) the percentage listed in Subsection [59-10-104\(2\)](#).

2812 (3) A claimant, estate, or trust may not carry forward or carry back a tax credit under

2813 this section.

2814 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2815 commission may make rules to implement this section.

2816 Section 34. Section **59-10-1035** is amended to read:

2817 **59-10-1035. Nonrefundable tax credit for contribution to state Achieving a Better**  
2818 **Life Experience Program account.**

2819 (1) As used in this section:

2820 (a) "Account" means an account in a qualified ABLE program where the designated  
2821 beneficiary of the account is a resident of this state.

2822 (b) "Contributor" means a claimant, estate, or trust that:

2823 (i) makes a contribution to an account; and

2824 (ii) receives a statement from the qualified ABLE program itemizing the contribution.

2825 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.  
2826 529A.

2827 (d) "Qualified ABLE program" means the same as that term is defined in Section  
2828 [35A-12-102](#).

2829 (2) A contributor to an account may claim a nonrefundable tax credit as provided in  
2830 this section.

2831 (3) Subject to the other provisions of this section, the tax credit is equal to the product  
2832 of:

2833 [~~(a) 5%, and~~]

2834 (a) the percentage listed in Subsection [59-10-104\(2\)](#); and

2835 (b) the total amount of contributions:

2836 (i) the contributor makes for the taxable year; and

2837 (ii) for which the contributor receives a statement from the qualified ABLE program  
2838 itemizing the contributions.

2839 (4) A contributor may not claim a tax credit under this section:

2840 (a) for an amount of excess contribution to an account that is returned to the  
2841 contributor; or

2842 (b) with respect to an amount the contributor deducts on a federal income tax return.

2843 (5) A tax credit under this section may not be carried forward or carried back.

2844 Section 35. Section **59-10-1036** is amended to read:

2845 **59-10-1036. Nonrefundable tax credit for military survivor benefits.**

2846 (1) As used in this section:

2847 (a) "Dependent child" means the same as that term is defined in 10 U.S.C. Sec. 1447.

2848 (b) "Reserve components" means the same as that term is described in 10 U.S.C. Sec.

2849 10101.

2850 (c) "Surviving spouse" means the same as that term is defined in 10 U.S.C. Sec. 1447.

2851 (d) "Survivor benefits" means the amount paid by the federal government in

2852 accordance with 10 U.S.C. Secs. 1447 through 1455.

2853 (2) A surviving spouse or dependent child may claim a nonrefundable tax credit for  
2854 survivor benefits if the benefits are paid due to:2855 (a) the death of a member of the armed forces or reserve components while on active  
2856 duty; or2857 (b) the death of a member of the reserve components that results from a  
2858 service-connected cause while performing inactive duty training.

2859 (3) The tax credit described in Subsection (2) is equal to the product of:

2860 (a) the amount of survivor benefits that the surviving spouse or dependent child  
2861 received during the taxable year; and2862 [~~(b) 5%.~~]2863 (b) the percentage listed in Subsection [59-10-104\(2\)](#).

2864 (4) The tax credit described in Subsection (2):

2865 (a) may not be carried forward or carried back; and

2866 (b) applies to a taxable year beginning on or after January 1, 2017.

2867 Section 36. Section **59-10-1403** is amended to read:2868 **59-10-1403. Income tax treatment of a pass-through entity -- Returns --**2869 **Classification same as under Internal Revenue Code.**2870 (1) Subject to Subsection (3), a pass-through entity is not subject to a tax imposed by  
2871 this chapter.2872 (2) Except as provided in Section [59-10-1403.3](#), the income, gain, loss, deduction, or  
2873 credit of a pass-through entity shall be passed through to one or more pass-through entity  
2874 taxpayers as provided in this part.

2875 (3) A pass-through entity is subject to the return filing requirements of Sections

2876 [59-10-507](#) [~~and~~], [59-10-514](#), and [59-10-516](#).

2877 (4) For purposes of taxation under this title, a pass-through entity that transacts  
2878 business in the state shall be classified in the same manner as the pass-through entity is  
2879 classified for federal income tax purposes.

2880 Section 37. Section **59-10-1403.3** is amended to read:

2881 **59-10-1403.3. Refund of amounts paid or withheld for a pass-through entity.**

2882 (1) As used in this section:

2883 (a) "Committee" means the Revenue and Taxation Interim Committee.

2884 (b) "Qualifying excess withholding" means an amount that:

2885 (i) is paid or withheld:

2886 (A) by a pass-through entity that has a different taxable year than the pass-through  
2887 entity that requests a refund under this section; and

2888 (B) on behalf of the pass-through entity that requests the refund, if the pass-through  
2889 entity that requests the refund also is a pass-through entity taxpayer; and

2890 (ii) is equal to the difference between:

2891 (A) the amount paid or withheld for the taxable year on behalf of the pass-through  
2892 entity that requests the refund; and

2893 (B) the product of [~~5%~~] the percentage listed in Subsection [59-10-104\(2\)](#) and the  
2894 income, described in Subsection [59-10-1403.2\(1\)\(a\)\(i\)](#), of the pass-through entity that requests  
2895 the refund.

2896 (2) For a taxable year ending on or after July 1, 2017, a pass-through entity may claim  
2897 a refund of qualifying excess withholding, if the amount of the qualifying excess withholding is  
2898 equal to or greater than \$250,000.

2899 (3) A pass-through entity that requests a refund of qualifying excess withholding under  
2900 this section shall:

2901 (a) apply to the commission for a refund on or, subject to Subsection (4), after the day  
2902 on which the pass-through entity files the pass-through entity's income tax return; and

2903 (b) provide any information that the commission may require to determine that the  
2904 pass-through entity is eligible to receive the refund.

2905 (4) A pass-through entity shall claim a refund of qualifying excess withholding under  
2906 this section within 30 days after the earlier of the day on which:

2907 (a) the pass-through entity files an income tax return; or

2908 (b) the pass-through entity's income tax return is due, including any extension of due  
2909 date authorized in statute.

2910 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2911 commission may make rules establishing the information that a pass-through entity shall  
2912 provide to the commission to obtain a refund of qualifying excess withholding under this  
2913 section.

2914 (6) (a) On or before November 30, 2018, the committee shall review the \$250,000  
2915 threshold described in Subsection (2) for the purpose of assessing whether the threshold  
2916 amount should be maintained, increased, or decreased.

2917 (b) To assist the committee in conducting the review described in Subsection (6)(a),  
2918 the commission shall provide the committee with:

2919 (i) the total number of refund requests made under this section;

2920 (ii) the total costs of any refunds issued under this section;

2921 (iii) the costs of any audits conducted on refund requests made under this section; and

2922 (iv) an estimation of:

2923 (A) the number of refund requests the commission expects to receive if the Legislature  
2924 increases the threshold;

2925 (B) the number of refund requests the commission expects to receive if the Legislature  
2926 decreases the threshold; and

2927 (C) the costs of any audits the commission would conduct if the Legislature increases  
2928 or decreases the threshold.

2929 Section 38. Section **59-12-102** is amended to read:

2930 **59-12-102. Definitions.**

2931 As used in this chapter:

2932 (1) "800 service" means a telecommunications service that:

2933 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

2934 (b) is typically marketed:

2935 (i) under the name 800 toll-free calling;

2936 (ii) under the name 855 toll-free calling;

2937 (iii) under the name 866 toll-free calling;

- 2938 (iv) under the name 877 toll-free calling;
- 2939 (v) under the name 888 toll-free calling; or
- 2940 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
- 2941 Federal Communications Commission.
- 2942 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 2943 (i) a subscriber purchases;
- 2944 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 2945 the subscriber's:
- 2946 (A) prerecorded announcement; or
- 2947 (B) live service; and
- 2948 (iii) is typically marketed:
- 2949 (A) under the name 900 service; or
- 2950 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 2951 Communications Commission.
- 2952 (b) "900 service" does not include a charge for:
- 2953 (i) a collection service a seller of a telecommunications service provides to a
- 2954 subscriber; or
- 2955 (ii) the following a subscriber sells to the subscriber's customer:
- 2956 (A) a product; or
- 2957 (B) a service.
- 2958 (3) (a) "Admission or user fees" includes season passes.
- 2959 (b) "Admission or user fees" does not include:
- 2960 (i) annual membership dues to private organizations; or
- 2961 (ii) a lesson, including a lesson that involves as part of the lesson equipment or a
- 2962 facility listed in Subsection [59-12-103\(1\)\(f\)](#).
- 2963 (4) "Affiliate" or "affiliated person" means a person that, with respect to another
- 2964 person:
- 2965 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
- 2966 person; or
- 2967 (b) is related to the other person because a third person, or a group of third persons who
- 2968 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,



2969 whether direct or indirect, in the related persons.

2970 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on  
 2971 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax  
 2972 Agreement after November 12, 2002.

2973 (6) "Agreement combined tax rate" means the sum of the tax rates:

2974 (a) listed under Subsection (7); and

2975 (b) that are imposed within a local taxing jurisdiction.

2976 (7) "Agreement sales and use tax" means a tax imposed under:

2977 (a) Subsection [59-12-103\(2\)\(a\)\(i\)\(A\)](#);

2978 (b) Subsection [59-12-103\(2\)\(b\)\(i\)](#);

2979 (c) Subsection [59-12-103\(2\)\(c\)\(i\)](#);

2980 (d) Subsection [59-12-103\(2\)\(d\)](#);

2981 ~~(e)~~ (e) Subsection [59-12-103\(2\)](#)~~(e)~~(i)(A)(I);

2982 ~~(f)~~ (f) Section [59-12-204](#);

2983 ~~(g)~~ (g) Section [59-12-401](#);

2984 ~~(h)~~ (h) Section [59-12-402](#);

2985 ~~(i)~~ (i) Section [59-12-402.1](#);

2986 ~~(j)~~ (j) Section [59-12-703](#);

2987 ~~(k)~~ (k) Section [59-12-802](#);

2988 ~~(l)~~ (l) Section [59-12-804](#);

2989 ~~(m)~~ (m) Section [59-12-1102](#);

2990 ~~(n)~~ (n) Section [59-12-1302](#);

2991 ~~(o)~~ (o) Section [59-12-1402](#);

2992 ~~(p)~~ (p) Section [59-12-1802](#);

2993 ~~(q)~~ (q) Section [59-12-2003](#);

2994 ~~(r)~~ (r) Section [59-12-2103](#);

2995 ~~(s)~~ (s) Section [59-12-2213](#);

2996 ~~(t)~~ (t) Section [59-12-2214](#);

2997 ~~(u)~~ (u) Section [59-12-2215](#);

2998 ~~(v)~~ (v) Section [59-12-2216](#);

2999 ~~(w)~~ (w) Section [59-12-2217](#);

3000 [~~w~~] (x) Section 59-12-2218;  
3001 [~~x~~] (y) Section 59-12-2219; or  
3002 [~~y~~] (z) Section 59-12-2220.  
3003 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.  
3004 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:  
3005 (a) except for:  
3006 (i) an airline as defined in Section 59-2-102; or  
3007 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"  
3008 includes a corporation that is qualified to do business but is not otherwise doing business in the  
3009 state, of an airline; and  
3010 (b) that has the workers, expertise, and facilities to perform the following, regardless of  
3011 whether the business entity performs the following in this state:  
3012 (i) check, diagnose, overhaul, and repair:  
3013 (A) an onboard system of a fixed wing turbine powered aircraft; and  
3014 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;  
3015 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft  
3016 engine;  
3017 (iii) perform at least the following maintenance on a fixed wing turbine powered  
3018 aircraft:  
3019 (A) an inspection;  
3020 (B) a repair, including a structural repair or modification;  
3021 (C) changing landing gear; and  
3022 (D) addressing issues related to an aging fixed wing turbine powered aircraft;  
3023 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and  
3024 completely apply new paint to the fixed wing turbine powered aircraft; and  
3025 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that  
3026 results in a change in the fixed wing turbine powered aircraft's certification requirements by the  
3027 authority that certifies the fixed wing turbine powered aircraft.  
3028 (10) "Alcoholic beverage" means a beverage that:  
3029 (a) is suitable for human consumption; and  
3030 (b) contains .5% or more alcohol by volume.

- 3031 (11) "Alternative energy" means:
- 3032 (a) biomass energy;
- 3033 (b) geothermal energy;
- 3034 (c) hydroelectric energy;
- 3035 (d) solar energy;
- 3036 (e) wind energy; or
- 3037 (f) energy that is derived from:
- 3038 (i) coal-to-liquids;
- 3039 (ii) nuclear fuel;
- 3040 (iii) oil-impregnated diatomaceous earth;
- 3041 (iv) oil sands;
- 3042 (v) oil shale;
- 3043 (vi) petroleum coke; or
- 3044 (vii) waste heat from:
- 3045 (A) an industrial facility; or
- 3046 (B) a power station in which an electric generator is driven through a process in which
- 3047 water is heated, turns into steam, and spins a steam turbine.
- 3048 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production
- 3049 facility" means a facility that:
- 3050 (i) uses alternative energy to produce electricity; and
- 3051 (ii) has a production capacity of two megawatts or greater.
- 3052 (b) A facility is an alternative energy electricity production facility regardless of
- 3053 whether the facility is:
- 3054 (i) connected to an electric grid; or
- 3055 (ii) located on the premises of an electricity consumer.
- 3056 (13) (a) "Ancillary service" means a service associated with, or incidental to, the
- 3057 provision of telecommunications service.
- 3058 (b) "Ancillary service" includes:
- 3059 (i) a conference bridging service;
- 3060 (ii) a detailed communications billing service;
- 3061 (iii) directory assistance;

3062 (iv) a vertical service; or

3063 (v) a voice mail service.

3064 (14) "Area agency on aging" means the same as that term is defined in Section

3065 [62A-3-101](#).

3066 (15) "Assisted amusement device" means an amusement device, skill device, or ride  
3067 device that is started and stopped by an individual:

3068 (a) who is not the purchaser or renter of the right to use or operate the amusement  
3069 device, skill device, or ride device; and

3070 (b) at the direction of the seller of the right to use the amusement device, skill device,  
3071 or ride device.

3072 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or  
3073 washing of tangible personal property if the cleaning or washing labor is primarily performed  
3074 by an individual:

3075 (a) who is not the purchaser of the cleaning or washing of the tangible personal  
3076 property; and

3077 (b) at the direction of the seller of the cleaning or washing of the tangible personal  
3078 property.

3079 (17) "Authorized carrier" means:

3080 (a) in the case of vehicles operated over public highways, the holder of credentials  
3081 indicating that the vehicle is or will be operated pursuant to both the International Registration  
3082 Plan and the International Fuel Tax Agreement;

3083 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating  
3084 certificate or air carrier's operating certificate; or

3085 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling  
3086 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling  
3087 stock in more than one state.

3088 (18) (a) Except as provided in Subsection (18)(b), "biomass energy" means any of the  
3089 following that is used as the primary source of energy to produce fuel or electricity:

3090 (i) material from a plant or tree; or

3091 (ii) other organic matter that is available on a renewable basis, including:

3092 (A) slash and brush from forests and woodlands;

- 3093 (B) animal waste;
- 3094 (C) waste vegetable oil;
- 3095 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
- 3096 wastewater residuals, or through the conversion of a waste material through a nonincineration,
- 3097 thermal conversion process;
- 3098 (E) aquatic plants; and
- 3099 (F) agricultural products.
- 3100 (b) "Biomass energy" does not include:
- 3101 (i) black liquor; or
- 3102 (ii) treated woods.
- 3103 (19) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 3104 property, products, or services if the tangible personal property, products, or services are:
- 3105 (i) distinct and identifiable; and
- 3106 (ii) sold for one nonitemized price.
- 3107 (b) "Bundled transaction" does not include:
- 3108 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 3109 the basis of the selection by the purchaser of the items of tangible personal property included in
- 3110 the transaction;
- 3111 (ii) the sale of real property;
- 3112 (iii) the sale of services to real property;
- 3113 (iv) the retail sale of tangible personal property and a service if:
- 3114 (A) the tangible personal property:
- 3115 (I) is essential to the use of the service; and
- 3116 (II) is provided exclusively in connection with the service; and
- 3117 (B) the service is the true object of the transaction;
- 3118 (v) the retail sale of two services if:
- 3119 (A) one service is provided that is essential to the use or receipt of a second service;
- 3120 (B) the first service is provided exclusively in connection with the second service; and
- 3121 (C) the second service is the true object of the transaction;
- 3122 (vi) a transaction that includes tangible personal property or a product subject to
- 3123 taxation under this chapter and tangible personal property or a product that is not subject to

3124 taxation under this chapter if the:

3125 (A) seller's purchase price of the tangible personal property or product subject to

3126 taxation under this chapter is de minimis; or

3127 (B) seller's sales price of the tangible personal property or product subject to taxation

3128 under this chapter is de minimis; and

3129 (vii) the retail sale of tangible personal property that is not subject to taxation under

3130 this chapter and tangible personal property that is subject to taxation under this chapter if:

3131 (A) that retail sale includes:

3132 (I) food and food ingredients;

3133 (II) a drug;

3134 (III) durable medical equipment;

3135 (IV) mobility enhancing equipment;

3136 (V) an over-the-counter drug;

3137 (VI) a prosthetic device; or

3138 (VII) a medical supply; and

3139 (B) subject to Subsection (19)(f):

3140 (I) the seller's purchase price of the tangible personal property subject to taxation under  
3141 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

3142 (II) the seller's sales price of the tangible personal property subject to taxation under  
3143 this chapter is 50% or less of the seller's total sales price of that retail sale.

3144 (c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a  
3145 service that is distinct and identifiable does not include:

3146 (A) packaging that:

3147 (I) accompanies the sale of the tangible personal property, product, or service; and

3148 (II) is incidental or immaterial to the sale of the tangible personal property, product, or  
3149 service;

3150 (B) tangible personal property, a product, or a service provided free of charge with the  
3151 purchase of another item of tangible personal property, a product, or a service; or

3152 (C) an item of tangible personal property, a product, or a service included in the  
3153 definition of "purchase price."

3154 (ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a

3155 product, or a service is provided free of charge with the purchase of another item of tangible  
3156 personal property, a product, or a service if the sales price of the purchased item of tangible  
3157 personal property, product, or service does not vary depending on the inclusion of the tangible  
3158 personal property, product, or service provided free of charge.

3159 (d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price  
3160 does not include a price that is separately identified by tangible personal property, product, or  
3161 service on the following, regardless of whether the following is in paper format or electronic  
3162 format:

3163 (A) a binding sales document; or

3164 (B) another supporting sales-related document that is available to a purchaser.

3165 (ii) For purposes of Subsection (19)(d)(i), a binding sales document or another  
3166 supporting sales-related document that is available to a purchaser includes:

3167 (A) a bill of sale;

3168 (B) a contract;

3169 (C) an invoice;

3170 (D) a lease agreement;

3171 (E) a periodic notice of rates and services;

3172 (F) a price list;

3173 (G) a rate card;

3174 (H) a receipt; or

3175 (I) a service agreement.

3176 (e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal  
3177 property or a product subject to taxation under this chapter is de minimis if:

3178 (A) the seller's purchase price of the tangible personal property or product is 10% or  
3179 less of the seller's total purchase price of the bundled transaction; or

3180 (B) the seller's sales price of the tangible personal property or product is 10% or less of  
3181 the seller's total sales price of the bundled transaction.

3182 (ii) For purposes of Subsection (19)(b)(vi), a seller:

3183 (A) shall use the seller's purchase price or the seller's sales price to determine if the  
3184 purchase price or sales price of the tangible personal property or product subject to taxation  
3185 under this chapter is de minimis; and

3186 (B) may not use a combination of the seller's purchase price and the seller's sales price  
3187 to determine if the purchase price or sales price of the tangible personal property or product  
3188 subject to taxation under this chapter is de minimis.

3189 (iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service  
3190 contract to determine if the sales price of tangible personal property or a product is de minimis.

3191 (f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of  
3192 the seller's purchase price and the seller's sales price to determine if tangible personal property  
3193 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales  
3194 price of that retail sale.

3195 (20) "Certified automated system" means software certified by the governing board of  
3196 the agreement that:

3197 (a) calculates the agreement sales and use tax imposed within a local taxing  
3198 jurisdiction:

3199 (i) on a transaction; and

3200 (ii) in the states that are members of the agreement;

3201 (b) determines the amount of agreement sales and use tax to remit to a state that is a  
3202 member of the agreement; and

3203 (c) maintains a record of the transaction described in Subsection (20)(a)(i).

3204 (21) "Certified service provider" means an agent certified:

3205 (a) by the governing board of the agreement; and

3206 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax,  
3207 as outlined in the contract between the governing board of the agreement and the certified  
3208 service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the  
3209 seller's own purchases.

3210 (22) (a) Subject to Subsection (22)(b), "clothing" means all human wearing apparel  
3211 suitable for general use.

3212 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3213 commission shall make rules:

3214 (i) listing the items that constitute "clothing"; and

3215 (ii) that are consistent with the list of items that constitute "clothing" under the  
3216 agreement.



3217 (23) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

3218 (24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other  
3219 fuels that does not constitute industrial use under Subsection (57) or residential use under  
3220 Subsection (112).

3221 (25) (a) "Common carrier" means a person engaged in or transacting the business of  
3222 transporting passengers, freight, merchandise, or other property for hire within this state.

3223 (b) (i) "Common carrier" does not include a person that, at the time the person is  
3224 traveling to or from that person's place of employment, transports a passenger to or from the  
3225 passenger's place of employment.

3226 (ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3,  
3227 Utah Administrative Rulemaking Act, the commission may make rules defining what  
3228 constitutes a person's place of employment.

3229 (c) "Common carrier" does not include a person that provides transportation network  
3230 services, as defined in Section [13-51-102](#).

3231 (26) "Component part" includes:

3232 (a) poultry, dairy, and other livestock feed, and their components;

3233 (b) baling ties and twine used in the baling of hay and straw;

3234 (c) fuel used for providing temperature control of orchards and commercial  
3235 greenhouses doing a majority of their business in wholesale sales, and for providing power for  
3236 off-highway type farm machinery; and

3237 (d) feed, seeds, and seedlings.

3238 (27) "Computer" means an electronic device that accepts information:

3239 (a) (i) in digital form; or

3240 (ii) in a form similar to digital form; and

3241 (b) manipulates that information for a result based on a sequence of instructions.

3242 (28) "Computer software" means a set of coded instructions designed to cause:

3243 (a) a computer to perform a task; or

3244 (b) automatic data processing equipment to perform a task.

3245 (29) "Computer software maintenance contract" means a contract that obligates a seller  
3246 of computer software to provide a customer with:

3247 (a) future updates or upgrades to computer software;

3248 (b) support services with respect to computer software; or

3249 (c) a combination of Subsections (29)(a) and (b).

3250 (30) (a) "Conference bridging service" means an ancillary service that links two or  
3251 more participants of an audio conference call or video conference call.

3252 (b) "Conference bridging service" may include providing a telephone number as part of  
3253 the ancillary service described in Subsection (30)(a).

3254 (c) "Conference bridging service" does not include a telecommunications service used  
3255 to reach the ancillary service described in Subsection (30)(a).

3256 (31) "Construction materials" means any tangible personal property that will be  
3257 converted into real property.

3258 (32) "Delivered electronically" means delivered to a purchaser by means other than  
3259 tangible storage media.

3260 (33) (a) "Delivery charge" means a charge:

3261 (i) by a seller of:

3262 (A) tangible personal property;

3263 (B) a product transferred electronically; or

3264 (C) a service; and

3265 (ii) for preparation and delivery of the tangible personal property, product transferred  
3266 electronically, or services described in Subsection (33)(a)(i) to a location designated by the  
3267 purchaser.

3268 (b) "Delivery charge" includes a charge for the following:

3269 (i) transportation;

3270 (ii) shipping;

3271 (iii) postage;

3272 (iv) handling;

3273 (v) crating; or

3274 (vi) packing.

3275 (34) "Detailed telecommunications billing service" means an ancillary service of  
3276 separately stating information pertaining to individual calls on a customer's billing statement.

3277 (35) "Dietary supplement" means a product, other than tobacco, that:

3278 (a) is intended to supplement the diet;

- 3279 (b) contains one or more of the following dietary ingredients:
- 3280 (i) a vitamin;
- 3281 (ii) a mineral;
- 3282 (iii) an herb or other botanical;
- 3283 (iv) an amino acid;
- 3284 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 3285 dietary intake; or
- 3286 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 3287 described in Subsections (35)(b)(i) through (v);
- 3288 (c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:
- 3289 (A) tablet form;
- 3290 (B) capsule form;
- 3291 (C) powder form;
- 3292 (D) softgel form;
- 3293 (E) gelcap form; or
- 3294 (F) liquid form; or
- 3295 (ii) if the product is not intended for ingestion in a form described in Subsections
- 3296 (35)(c)(i)(A) through (F), is not represented:
- 3297 (A) as conventional food; and
- 3298 (B) for use as a sole item of:
- 3299 (I) a meal; or
- 3300 (II) the diet; and
- 3301 (d) is required to be labeled as a dietary supplement:
- 3302 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 3303 (ii) as required by 21 C.F.R. Sec. 101.36.
- 3304 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 3305 musical, spoken, or other sounds.
- 3306 (b) "Digital audio work" includes a ringtone.
- 3307 (37) "Digital audio-visual work" means a series of related images which, when shown
- 3308 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 3309 (38) "Digital book" means a work that is generally recognized in the ordinary and usual

3310 sense as a book.

3311 (39) (a) "Direct mail" means printed material delivered or distributed by United States  
3312 mail or other delivery service:

3313 (i) to:

3314 (A) a mass audience; or

3315 (B) addressees on a mailing list provided:

3316 (I) by a purchaser of the mailing list; or

3317 (II) at the discretion of the purchaser of the mailing list; and

3318 (ii) if the cost of the printed material is not billed directly to the recipients.

3319 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a  
3320 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

3321 (c) "Direct mail" does not include multiple items of printed material delivered to a  
3322 single address.

3323 (40) "Directory assistance" means an ancillary service of providing:

3324 (a) address information; or

3325 (b) telephone number information.

3326 (41) (a) "Disposable home medical equipment or supplies" means medical equipment  
3327 or supplies that:

3328 (i) cannot withstand repeated use; and

3329 (ii) are purchased by, for, or on behalf of a person other than:

3330 (A) a health care facility as defined in Section [26-21-2](#);

3331 (B) a health care provider as defined in Section [78B-3-403](#);

3332 (C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or

3333 (D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).

3334 (b) "Disposable home medical equipment or supplies" does not include:

3335 (i) a drug;

3336 (ii) durable medical equipment;

3337 (iii) a hearing aid;

3338 (iv) a hearing aid accessory;

3339 (v) mobility enhancing equipment; or

3340 (vi) tangible personal property used to correct impaired vision, including:

- 3341 (A) eyeglasses; or
- 3342 (B) contact lenses.
- 3343 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3344 commission may by rule define what constitutes medical equipment or supplies.
- 3345 (42) "Drilling equipment manufacturer" means a facility:
- 3346 (a) located in the state;
- 3347 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 3348 consist of manufacturing component parts of drilling equipment;
- 3349 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 3350 manufacturing process; and
- 3351 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 3352 manufacturing process.
- 3353 (43) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 3354 compound, substance, or preparation that is:
- 3355 (i) recognized in:
- 3356 (A) the official United States Pharmacopoeia;
- 3357 (B) the official Homeopathic Pharmacopoeia of the United States;
- 3358 (C) the official National Formulary; or
- 3359 (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);
- 3360 (ii) intended for use in the:
- 3361 (A) diagnosis of disease;
- 3362 (B) cure of disease;
- 3363 (C) mitigation of disease;
- 3364 (D) treatment of disease; or
- 3365 (E) prevention of disease; or
- 3366 (iii) intended to affect:
- 3367 (A) the structure of the body; or
- 3368 (B) any function of the body.
- 3369 (b) "Drug" does not include:
- 3370 (i) food and food ingredients;
- 3371 (ii) a dietary supplement;

- 3372 (iii) an alcoholic beverage; or  
3373 (iv) a prosthetic device.  
3374 (44) (a) Except as provided in Subsection (44)(c), "durable medical equipment" means  
3375 equipment that:  
3376 (i) can withstand repeated use;  
3377 (ii) is primarily and customarily used to serve a medical purpose;  
3378 (iii) generally is not useful to a person in the absence of illness or injury; and  
3379 (iv) is not worn in or on the body.  
3380 (b) "Durable medical equipment" includes parts used in the repair or replacement of the  
3381 equipment described in Subsection (44)(a).  
3382 (c) "Durable medical equipment" does not include mobility enhancing equipment.  
3383 (45) "Electronic" means:  
3384 (a) relating to technology; and  
3385 (b) having:  
3386 (i) electrical capabilities;  
3387 (ii) digital capabilities;  
3388 (iii) magnetic capabilities;  
3389 (iv) wireless capabilities;  
3390 (v) optical capabilities;  
3391 (vi) electromagnetic capabilities; or  
3392 (vii) capabilities similar to Subsections (45)(b)(i) through (vi).  
3393 (46) "Electronic financial payment service" means an establishment:  
3394 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and  
3395 Clearinghouse Activities, of the 2012 North American Industry Classification System of the  
3396 federal Executive Office of the President, Office of Management and Budget; and  
3397 (b) that performs electronic financial payment services.  
3398 (47) "Employee" means the same as that term is defined in Section [59-10-401](#).  
3399 (48) "Fixed guideway" means a public transit facility that uses and occupies:  
3400 (a) rail for the use of public transit; or  
3401 (b) a separate right-of-way for the use of public transit.  
3402 (49) "Fixed wing turbine powered aircraft" means an aircraft that:

- 3403 (a) is powered by turbine engines;
- 3404 (b) operates on jet fuel; and
- 3405 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 3406 (50) "Fixed wireless service" means a telecommunications service that provides radio
- 3407 communication between fixed points.
- 3408 (51) (a) "Food and food ingredients" means substances:
- 3409 (i) regardless of whether the substances are in:
- 3410 (A) liquid form;
- 3411 (B) concentrated form;
- 3412 (C) solid form;
- 3413 (D) frozen form;
- 3414 (E) dried form; or
- 3415 (F) dehydrated form; and
- 3416 (ii) that are:
- 3417 (A) sold for:
- 3418 (I) ingestion by humans; or
- 3419 (II) chewing by humans; and
- 3420 (B) consumed for the substance's:
- 3421 (I) taste; or
- 3422 (II) nutritional value.
- 3423 (b) "Food and food ingredients" includes an item described in Subsection (96)(b)(iii).
- 3424 (c) "Food and food ingredients" does not include:
- 3425 (i) an alcoholic beverage;
- 3426 (ii) tobacco; or
- 3427 (iii) prepared food.
- 3428 (52) (a) "Fundraising sales" means sales:
- 3429 (i) (A) made by a school; or
- 3430 (B) made by a school student;
- 3431 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 3432 materials, or provide transportation; and
- 3433 (iii) that are part of an officially sanctioned school activity.

3434 (b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity"  
3435 means a school activity:

3436 (i) that is conducted in accordance with a formal policy adopted by the school or school  
3437 district governing the authorization and supervision of fundraising activities;

3438 (ii) that does not directly or indirectly compensate an individual teacher or other  
3439 educational personnel by direct payment, commissions, or payment in kind; and

3440 (iii) the net or gross revenues from which are deposited in a dedicated account  
3441 controlled by the school or school district.

3442 (53) "Geothermal energy" means energy contained in heat that continuously flows  
3443 outward from the earth that is used as the sole source of energy to produce electricity.

3444 (54) "Governing board of the agreement" means the governing board of the agreement  
3445 that is:

3446 (a) authorized to administer the agreement; and

3447 (b) established in accordance with the agreement.

3448 (55) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

3449 (i) the executive branch of the state, including all departments, institutions, boards,  
3450 divisions, bureaus, offices, commissions, and committees;

3451 (ii) the judicial branch of the state, including the courts, the Judicial Council, the  
3452 Administrative Office of the Courts, and similar administrative units in the judicial branch;

3453 (iii) the legislative branch of the state, including the House of Representatives, the  
3454 Senate, the Legislative Printing Office, the Office of Legislative Research and General  
3455 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal  
3456 Analyst;

3457 (iv) the National Guard;

3458 (v) an independent entity as defined in Section 63E-1-102; or

3459 (vi) a political subdivision as defined in Section 17B-1-102.

3460 (b) "Governmental entity" does not include the state systems of public and higher  
3461 education, including:

3462 (i) a school;

3463 (ii) the State Board of Education;

3464 (iii) the Utah Board of Higher Education; or



- 3465 (iv) an institution of higher education described in Section [53B-1-102](#).
- 3466 (56) "Hydroelectric energy" means water used as the sole source of energy to produce  
3467 electricity.
- 3468 (57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or  
3469 other fuels:
- 3470 (a) in mining or extraction of minerals;
- 3471 (b) in agricultural operations to produce an agricultural product up to the time of  
3472 harvest or placing the agricultural product into a storage facility, including:
- 3473 (i) commercial greenhouses;
- 3474 (ii) irrigation pumps;
- 3475 (iii) farm machinery;
- 3476 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered  
3477 under Title 41, Chapter 1a, Part 2, Registration; and
- 3478 (v) other farming activities;
- 3479 (c) in manufacturing tangible personal property at an establishment described in:
- 3480 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of  
3481 the federal Executive Office of the President, Office of Management and Budget; or
- 3482 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North  
3483 American Industry Classification System of the federal Executive Office of the President,  
3484 Office of Management and Budget;
- 3485 (d) by a scrap recycler if:
- 3486 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
3487 one or more of the following items into prepared grades of processed materials for use in new  
3488 products:
- 3489 (A) iron;
- 3490 (B) steel;
- 3491 (C) nonferrous metal;
- 3492 (D) paper;
- 3493 (E) glass;
- 3494 (F) plastic;
- 3495 (G) textile; or

3496 (H) rubber; and  
3497 (ii) the new products under Subsection (57)(d)(i) would otherwise be made with  
3498 nonrecycled materials; or  
3499 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a  
3500 cogeneration facility as defined in Section 54-2-1.  
3501 (58) (a) Except as provided in Subsection (58)(b), "installation charge" means a charge  
3502 for installing:  
3503 (i) tangible personal property; or  
3504 (ii) a product transferred electronically.  
3505 (b) "Installation charge" does not include a charge for:  
3506 (i) repairs or renovations of:  
3507 (A) tangible personal property; or  
3508 (B) a product transferred electronically; or  
3509 (ii) attaching tangible personal property or a product transferred electronically:  
3510 (A) to other tangible personal property; and  
3511 (B) as part of a manufacturing or fabrication process.  
3512 (59) "Institution of higher education" means an institution of higher education listed in  
3513 Section 53B-2-101.  
3514 (60) (a) "Lease" or "rental" means a transfer of possession or control of tangible  
3515 personal property or a product transferred electronically for:  
3516 (i) (A) a fixed term; or  
3517 (B) an indeterminate term; and  
3518 (ii) consideration.  
3519 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the  
3520 amount of consideration may be increased or decreased by reference to the amount realized  
3521 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue  
3522 Code.  
3523 (c) "Lease" or "rental" does not include:  
3524 (i) a transfer of possession or control of property under a security agreement or  
3525 deferred payment plan that requires the transfer of title upon completion of the required  
3526 payments;

3527 (ii) a transfer of possession or control of property under an agreement that requires the  
3528 transfer of title:

3529 (A) upon completion of required payments; and

3530 (B) if the payment of an option price does not exceed the greater of:

3531 (I) \$100; or

3532 (II) 1% of the total required payments; or

3533 (iii) providing tangible personal property along with an operator for a fixed period of  
3534 time or an indeterminate period of time if the operator is necessary for equipment to perform as  
3535 designed.

3536 (d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to  
3537 perform as designed if the operator's duties exceed the:

3538 (i) set-up of tangible personal property;

3539 (ii) maintenance of tangible personal property; or

3540 (iii) inspection of tangible personal property.

3541 (61) "Lesson" means a fixed period of time for the duration of which a trained  
3542 instructor:

3543 (a) is present with a student in person or by video; and

3544 (b) actively instructs the student, including by providing observation or feedback.

3545 (62) "Life science establishment" means an establishment in this state that is classified  
3546 under the following NAICS codes of the 2007 North American Industry Classification System  
3547 of the federal Executive Office of the President, Office of Management and Budget:

3548 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

3549 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

3550 Manufacturing; or

3551 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

3552 (63) "Life science research and development facility" means a facility owned, leased,  
3553 or rented by a life science establishment if research and development is performed in 51% or  
3554 more of the total area of the facility.

3555 (64) "Load and leave" means delivery to a purchaser by use of a tangible storage media  
3556 if the tangible storage media is not physically transferred to the purchaser.

3557 (65) "Local taxing jurisdiction" means a:

- 3558 (a) county that is authorized to impose an agreement sales and use tax;
- 3559 (b) city that is authorized to impose an agreement sales and use tax; or
- 3560 (c) town that is authorized to impose an agreement sales and use tax.
- 3561 (66) "Manufactured home" means the same as that term is defined in Section
- 3562 [15A-1-302](#).
- 3563 (67) "Manufacturing facility" means:
- 3564 (a) an establishment described in:
- 3565 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
- 3566 the federal Executive Office of the President, Office of Management and Budget; or
- 3567 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
- 3568 American Industry Classification System of the federal Executive Office of the President,
- 3569 Office of Management and Budget;
- 3570 (b) a scrap recycler if:
- 3571 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 3572 one or more of the following items into prepared grades of processed materials for use in new
- 3573 products:
- 3574 (A) iron;
- 3575 (B) steel;
- 3576 (C) nonferrous metal;
- 3577 (D) paper;
- 3578 (E) glass;
- 3579 (F) plastic;
- 3580 (G) textile; or
- 3581 (H) rubber; and
- 3582 (ii) the new products under Subsection (67)(b)(i) would otherwise be made with
- 3583 nonrecycled materials; or
- 3584 (c) a cogeneration facility as defined in Section [54-2-1](#) if the cogeneration facility is
- 3585 placed in service on or after May 1, 2006.
- 3586 (68) (a) "Marketplace" means a physical or electronic place, platform, or forum where
- 3587 tangible personal property, a product transferred electronically, or a service is offered for sale.
- 3588 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a

3589 dedicated sales software application.

3590 (69) (a) "Marketplace facilitator" means a person, including an affiliate of the person,  
3591 that enters into a contract, an agreement, or otherwise with sellers, for consideration, to  
3592 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or  
3593 controls and that directly or indirectly:

3594 (i) does any of the following:

3595 (A) lists, makes available, or advertises tangible personal property, a product  
3596 transferred electronically, or a service for sale by a marketplace seller on a marketplace that the  
3597 person owns, operates, or controls;

3598 (B) facilitates the sale of a marketplace seller's tangible personal property, product  
3599 transferred electronically, or service by transmitting or otherwise communicating an offer or  
3600 acceptance of a retail sale between the marketplace seller and a purchaser using the  
3601 marketplace;

3602 (C) owns, rents, licenses, makes available, or operates any electronic or physical  
3603 infrastructure or any property, process, method, copyright, trademark, or patent that connects a  
3604 marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal  
3605 property, a product transferred electronically, or a service;

3606 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible  
3607 personal property, a product transferred electronically, or a service, regardless of ownership or  
3608 control of the tangible personal property, the product transferred electronically, or the service  
3609 that is the subject of the retail sale;

3610 (E) provides software development or research and development activities related to  
3611 any activity described in this Subsection (69)(a)(i), if the software development or research and  
3612 development activity is directly related to the person's marketplace;

3613 (F) provides or offers fulfillment or storage services for a marketplace seller;

3614 (G) sets prices for the sale of tangible personal property, a product transferred  
3615 electronically, or a service by a marketplace seller;

3616 (H) provides or offers customer service to a marketplace seller or a marketplace seller's  
3617 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal  
3618 property, a product transferred electronically, or a service sold by a marketplace seller on the  
3619 person's marketplace; or

- 3620 (I) brands or otherwise identifies sales as those of the person; and  
3621 (ii) does any of the following:  
3622 (A) collects the sales price or purchase price of a retail sale of tangible personal  
3623 property, a product transferred electronically, or a service;  
3624 (B) provides payment processing services for a retail sale of tangible personal property,  
3625 a product transferred electronically, or a service;  
3626 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing  
3627 fee, a fee for inserting or making available tangible personal property, a product transferred  
3628 electronically, or a service on the person's marketplace, or other consideration for the  
3629 facilitation of a retail sale of tangible personal property, a product transferred electronically, or  
3630 a service, regardless of ownership or control of the tangible personal property, the product  
3631 transferred electronically, or the service that is the subject of the retail sale;  
3632 (D) through terms and conditions, an agreement, or another arrangement with a third  
3633 person, collects payment from a purchase for a retail sale of tangible personal property, a  
3634 product transferred electronically, or a service and transmits that payment to the marketplace  
3635 seller, regardless of whether the third person receives compensation or other consideration in  
3636 exchange for the service; or  
3637 (E) provides a virtual currency for a purchaser to use to purchase tangible personal  
3638 property, a product transferred electronically, or service offered for sale.  
3639 (b) "Marketplace facilitator" does not include:  
3640 (i) a person that only provides payment processing services; or  
3641 (ii) a person described in Subsection (69)(a) to the extent the person is facilitating a  
3642 sale for a seller that is a restaurant as defined in Section [59-12-602](#).  
3643 (70) "Marketplace seller" means a seller that makes one or more retail sales through a  
3644 marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the  
3645 seller is required to be registered to collect and remit the tax under this part.  
3646 (71) "Member of the immediate family of the producer" means a person who is related  
3647 to a producer described in Subsection [59-12-104\(20\)\(a\)](#) as a:  
3648 (a) child or stepchild, regardless of whether the child or stepchild is:  
3649 (i) an adopted child or adopted stepchild; or  
3650 (ii) a foster child or foster stepchild;

- 3651 (b) grandchild or stepgrandchild;
- 3652 (c) grandparent or stepgrandparent;
- 3653 (d) nephew or stepnephew;
- 3654 (e) niece or stepniece;
- 3655 (f) parent or stepparent;
- 3656 (g) sibling or stepsibling;
- 3657 (h) spouse;
- 3658 (i) person who is the spouse of a person described in Subsections (71)(a) through (g);

3659 or

- 3660 (j) person similar to a person described in Subsections (71)(a) through (i) as
- 3661 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 3662 Administrative Rulemaking Act.

3663 (72) "Mobile home" means the same as that term is defined in Section [15A-1-302](#).

3664 (73) "Mobile telecommunications service" means the same as that term is defined in

3665 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

3666 (74) (a) "Mobile wireless service" means a telecommunications service, regardless of

3667 the technology used, if:

- 3668 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 3669 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 3670 (iii) the origination point described in Subsection (74)(a)(i) and the termination point
- 3671 described in Subsection (74)(a)(ii) are not fixed.

3672 (b) "Mobile wireless service" includes a telecommunications service that is provided

3673 by a commercial mobile radio service provider.

3674 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3675 commission may by rule define "commercial mobile radio service provider."

3676 (75) (a) Except as provided in Subsection (75)(c), "mobility enhancing equipment"

3677 means equipment that is:

- 3678 (i) primarily and customarily used to provide or increase the ability to move from one
- 3679 place to another;
- 3680 (ii) appropriate for use in a:
- 3681 (A) home; or

3682 (B) motor vehicle; and  
3683 (iii) not generally used by persons with normal mobility.  
3684 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of  
3685 the equipment described in Subsection (75)(a).  
3686 (c) "Mobility enhancing equipment" does not include:  
3687 (i) a motor vehicle;  
3688 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor  
3689 vehicle manufacturer;  
3690 (iii) durable medical equipment; or  
3691 (iv) a prosthetic device.  
3692 (76) "Model 1 seller" means a seller registered under the agreement that has selected a  
3693 certified service provider as the seller's agent to perform the seller's sales and use tax functions  
3694 for agreement sales and use taxes, as outlined in the contract between the governing board of  
3695 the agreement and the certified service provider, other than the seller's obligation under Section  
3696 [59-12-124](#) to remit a tax on the seller's own purchases.  
3697 (77) "Model 2 seller" means a seller registered under the agreement that:  
3698 (a) except as provided in Subsection (77)(b), has selected a certified automated system  
3699 to perform the seller's sales tax functions for agreement sales and use taxes; and  
3700 (b) retains responsibility for remitting all of the sales tax:  
3701 (i) collected by the seller; and  
3702 (ii) to the appropriate local taxing jurisdiction.  
3703 (78) (a) Subject to Subsection (78)(b), "model 3 seller" means a seller registered under  
3704 the agreement that has:  
3705 (i) sales in at least five states that are members of the agreement;  
3706 (ii) total annual sales revenues of at least \$500,000,000;  
3707 (iii) a proprietary system that calculates the amount of tax:  
3708 (A) for an agreement sales and use tax; and  
3709 (B) due to each local taxing jurisdiction; and  
3710 (iv) entered into a performance agreement with the governing board of the agreement.  
3711 (b) For purposes of Subsection (78)(a), "model 3 seller" includes an affiliated group of  
3712 sellers using the same proprietary system.



3713 (79) "Model 4 seller" means a seller that is registered under the agreement and is not a  
3714 model 1 seller, model 2 seller, or model 3 seller.

3715 (80) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

3716 (81) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).

3717 (82) "Oil sands" means impregnated bituminous sands that:

3718 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with  
3719 other hydrocarbons, or otherwise treated;

3720 (b) yield mixtures of liquid hydrocarbon; and

3721 (c) require further processing other than mechanical blending before becoming finished  
3722 petroleum products.

3723 (83) "Oil shale" means a group of fine black to dark brown shales containing kerogen  
3724 material that yields petroleum upon heating and distillation.

3725 (84) "Optional computer software maintenance contract" means a computer software  
3726 maintenance contract that a customer is not obligated to purchase as a condition to the retail  
3727 sale of computer software.

3728 (85) (a) "Other fuels" means products that burn independently to produce heat or  
3729 energy.

3730 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible  
3731 personal property.

3732 (86) (a) "Paging service" means a telecommunications service that provides  
3733 transmission of a coded radio signal for the purpose of activating a specific pager.

3734 (b) For purposes of Subsection (86)(a), the transmission of a coded radio signal  
3735 includes a transmission by message or sound.

3736 (87) "Pawnbroker" means the same as that term is defined in Section [13-32a-102](#).

3737 (88) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).

3738 (89) (a) "Permanently attached to real property" means that for tangible personal  
3739 property attached to real property:

3740 (i) the attachment of the tangible personal property to the real property:

3741 (A) is essential to the use of the tangible personal property; and

3742 (B) suggests that the tangible personal property will remain attached to the real  
3743 property in the same place over the useful life of the tangible personal property; or

3744 (ii) if the tangible personal property is detached from the real property, the detachment  
3745 would:

3746 (A) cause substantial damage to the tangible personal property; or

3747 (B) require substantial alteration or repair of the real property to which the tangible  
3748 personal property is attached.

3749 (b) "Permanently attached to real property" includes:

3750 (i) the attachment of an accessory to the tangible personal property if the accessory is:

3751 (A) essential to the operation of the tangible personal property; and

3752 (B) attached only to facilitate the operation of the tangible personal property;

3753 (ii) a temporary detachment of tangible personal property from real property for a  
3754 repair or renovation if the repair or renovation is performed where the tangible personal  
3755 property and real property are located; or

3756 (iii) property attached to oil, gas, or water pipelines, except for the property listed in  
3757 Subsection (89)(c)(iii) or (iv).

3758 (c) "Permanently attached to real property" does not include:

3759 (i) the attachment of portable or movable tangible personal property to real property if  
3760 that portable or movable tangible personal property is attached to real property only for:

3761 (A) convenience;

3762 (B) stability; or

3763 (C) for an obvious temporary purpose;

3764 (ii) the detachment of tangible personal property from real property except for the  
3765 detachment described in Subsection (89)(b)(ii);

3766 (iii) an attachment of the following tangible personal property to real property if the  
3767 attachment to real property is only through a line that supplies water, electricity, gas,  
3768 telecommunications, cable, or supplies a similar item as determined by the commission by rule  
3769 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

3770 (A) a computer;

3771 (B) a telephone;

3772 (C) a television; or

3773 (D) tangible personal property similar to Subsections (89)(c)(iii)(A) through (C) as  
3774 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

3775 Administrative Rulemaking Act; or  
3776 (iv) an item listed in Subsection (130)(c).  
3777 (90) "Person" includes any individual, firm, partnership, joint venture, association,  
3778 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,  
3779 municipality, district, or other local governmental entity of the state, or any group or  
3780 combination acting as a unit.  
3781 (91) "Place of primary use":  
3782 (a) for telecommunications service other than mobile telecommunications service,  
3783 means the street address representative of where the customer's use of the telecommunications  
3784 service primarily occurs, which shall be:  
3785 (i) the residential street address of the customer; or  
3786 (ii) the primary business street address of the customer; or  
3787 (b) for mobile telecommunications service, means the same as that term is defined in  
3788 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.  
3789 (92) (a) "Postpaid calling service" means a telecommunications service a person  
3790 obtains by making a payment on a call-by-call basis:  
3791 (i) through the use of a:  
3792 (A) bank card;  
3793 (B) credit card;  
3794 (C) debit card; or  
3795 (D) travel card; or  
3796 (ii) by a charge made to a telephone number that is not associated with the origination  
3797 or termination of the telecommunications service.  
3798 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling  
3799 service, that would be a prepaid wireless calling service if the service were exclusively a  
3800 telecommunications service.  
3801 (93) "Postproduction" means an activity related to the finishing or duplication of a  
3802 medium described in Subsection [59-12-104\(54\)\(a\)](#).  
3803 (94) "Prepaid calling service" means a telecommunications service:  
3804 (a) that allows a purchaser access to telecommunications service that is exclusively  
3805 telecommunications service;

- 3806 (b) that:
- 3807 (i) is paid for in advance; and
- 3808 (ii) enables the origination of a call using an:
- 3809 (A) access number; or
- 3810 (B) authorization code;
- 3811 (c) that is dialed:
- 3812 (i) manually; or
- 3813 (ii) electronically; and
- 3814 (d) sold in predetermined units or dollars that decline:
- 3815 (i) by a known amount; and
- 3816 (ii) with use.
- 3817 (95) "Prepaid wireless calling service" means a telecommunications service:
- 3818 (a) that provides the right to utilize:
- 3819 (i) mobile wireless service; and
- 3820 (ii) other service that is not a telecommunications service, including:
- 3821 (A) the download of a product transferred electronically;
- 3822 (B) a content service; or
- 3823 (C) an ancillary service;
- 3824 (b) that:
- 3825 (i) is paid for in advance; and
- 3826 (ii) enables the origination of a call using an:
- 3827 (A) access number; or
- 3828 (B) authorization code;
- 3829 (c) that is dialed:
- 3830 (i) manually; or
- 3831 (ii) electronically; and
- 3832 (d) sold in predetermined units or dollars that decline:
- 3833 (i) by a known amount; and
- 3834 (ii) with use.
- 3835 (96) (a) "Prepared food" means:
- 3836 (i) food:

- 3837 (A) sold in a heated state; or
- 3838 (B) heated by a seller;
- 3839 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 3840 item; or
- 3841 (iii) except as provided in Subsection (96)(c), food sold with an eating utensil provided
- 3842 by the seller, including a:
  - 3843 (A) plate;
  - 3844 (B) knife;
  - 3845 (C) fork;
  - 3846 (D) spoon;
  - 3847 (E) glass;
  - 3848 (F) cup;
  - 3849 (G) napkin; or
  - 3850 (H) straw.
- 3851 (b) "Prepared food" does not include:
  - 3852 (i) food that a seller only:
    - 3853 (A) cuts;
    - 3854 (B) repackages; or
    - 3855 (C) pasteurizes; or
  - 3856 (ii) (A) the following:
    - 3857 (I) raw egg;
    - 3858 (II) raw fish;
    - 3859 (III) raw meat;
    - 3860 (IV) raw poultry; or
    - 3861 (V) a food containing an item described in Subsections (96)(b)(ii)(A)(I) through (IV);
- 3862 and
- 3863 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 3864 Food and Drug Administration's Food Code that a consumer cook the items described in
- 3865 Subsection (96)(b)(ii)(A) to prevent food borne illness; or
- 3866 (iii) the following if sold without eating utensils provided by the seller:
  - 3867 (A) food and food ingredients sold by a seller if the seller's proper primary

3868 classification under the 2002 North American Industry Classification System of the federal  
3869 Executive Office of the President, Office of Management and Budget, is manufacturing in  
3870 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla

3871 Manufacturing;

3872 (B) food and food ingredients sold in an unheated state:

3873 (I) by weight or volume; and

3874 (II) as a single item; or

3875 (C) a bakery item, including:

3876 (I) a bagel;

3877 (II) a bar;

3878 (III) a biscuit;

3879 (IV) bread;

3880 (V) a bun;

3881 (VI) a cake;

3882 (VII) a cookie;

3883 (VIII) a croissant;

3884 (IX) a danish;

3885 (X) a donut;

3886 (XI) a muffin;

3887 (XII) a pastry;

3888 (XIII) a pie;

3889 (XIV) a roll;

3890 (XV) a tart;

3891 (XVI) a torte; or

3892 (XVII) a tortilla.

3893 (c) An eating utensil provided by the seller does not include the following used to  
3894 transport the food:

3895 (i) a container; or

3896 (ii) packaging.

3897 (97) "Prescription" means an order, formula, or recipe that is issued:

3898 (a) (i) orally;

- 3899 (ii) in writing;
- 3900 (iii) electronically; or
- 3901 (iv) by any other manner of transmission; and
- 3902 (b) by a licensed practitioner authorized by the laws of a state.
- 3903 (98) (a) Except as provided in Subsection (98)(b)(ii) or (iii), "prewritten computer
- 3904 software" means computer software that is not designed and developed:
- 3905 (i) by the author or other creator of the computer software; and
- 3906 (ii) to the specifications of a specific purchaser.
- 3907 (b) "Prewritten computer software" includes:
- 3908 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 3909 software is not designed and developed:
- 3910 (A) by the author or other creator of the computer software; and
- 3911 (B) to the specifications of a specific purchaser;
- 3912 (ii) computer software designed and developed by the author or other creator of the
- 3913 computer software to the specifications of a specific purchaser if the computer software is sold
- 3914 to a person other than the purchaser; or
- 3915 (iii) except as provided in Subsection (98)(c), prewritten computer software or a
- 3916 prewritten portion of prewritten computer software:
- 3917 (A) that is modified or enhanced to any degree; and
- 3918 (B) if the modification or enhancement described in Subsection (98)(b)(iii)(A) is
- 3919 designed and developed to the specifications of a specific purchaser.
- 3920 (c) "Prewritten computer software" does not include a modification or enhancement
- 3921 described in Subsection (98)(b)(iii) if the charges for the modification or enhancement are:
- 3922 (i) reasonable; and
- 3923 (ii) subject to Subsections 59-12-103(2)(~~f~~)(f)(ii) and (2)(~~f~~)(g)(i), separately stated
- 3924 on the invoice or other statement of price provided to the purchaser at the time of sale or later,
- 3925 as demonstrated by:
- 3926 (A) the books and records the seller keeps at the time of the transaction in the regular
- 3927 course of business, including books and records the seller keeps at the time of the transaction in
- 3928 the regular course of business for nontax purposes;
- 3929 (B) a preponderance of the facts and circumstances at the time of the transaction; and

- 3930 (C) the understanding of all of the parties to the transaction.
- 3931 (99) (a) "Private communications service" means a telecommunications service:
- 3932 (i) that entitles a customer to exclusive or priority use of one or more communications
- 3933 channels between or among termination points; and
- 3934 (ii) regardless of the manner in which the one or more communications channels are
- 3935 connected.
- 3936 (b) "Private communications service" includes the following provided in connection
- 3937 with the use of one or more communications channels:
- 3938 (i) an extension line;
- 3939 (ii) a station;
- 3940 (iii) switching capacity; or
- 3941 (iv) another associated service that is provided in connection with the use of one or
- 3942 more communications channels as defined in Section [59-12-215](#).
- 3943 (100) (a) Except as provided in Subsection (100)(b), "product transferred
- 3944 electronically" means a product transferred electronically that would be subject to a tax under
- 3945 this chapter if that product was transferred in a manner other than electronically.
- 3946 (b) "Product transferred electronically" does not include:
- 3947 (i) an ancillary service;
- 3948 (ii) computer software; or
- 3949 (iii) a telecommunications service.
- 3950 (101) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 3951 (i) artificially replace a missing portion of the body;
- 3952 (ii) prevent or correct a physical deformity or physical malfunction; or
- 3953 (iii) support a weak or deformed portion of the body.
- 3954 (b) "Prosthetic device" includes:
- 3955 (i) parts used in the repairs or renovation of a prosthetic device;
- 3956 (ii) replacement parts for a prosthetic device;
- 3957 (iii) a dental prosthesis; or
- 3958 (iv) a hearing aid.
- 3959 (c) "Prosthetic device" does not include:
- 3960 (i) corrective eyeglasses; or



- 3961 (ii) contact lenses.
- 3962 (102) (a) "Protective equipment" means an item:
- 3963 (i) for human wear; and
- 3964 (ii) that is:
- 3965 (A) designed as protection:
- 3966 (I) to the wearer against injury or disease; or
- 3967 (II) against damage or injury of other persons or property; and
- 3968 (B) not suitable for general use.
- 3969 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3970 commission shall make rules:
- 3971 (i) listing the items that constitute "protective equipment"; and
- 3972 (ii) that are consistent with the list of items that constitute "protective equipment"
- 3973 under the agreement.
- 3974 (103) (a) For purposes of Subsection [59-12-104\(41\)](#), "publication" means any written
- 3975 or printed matter, other than a photocopy:
- 3976 (i) regardless of:
- 3977 (A) characteristics;
- 3978 (B) copyright;
- 3979 (C) form;
- 3980 (D) format;
- 3981 (E) method of reproduction; or
- 3982 (F) source; and
- 3983 (ii) made available in printed or electronic format.
- 3984 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3985 commission may by rule define the term "photocopy."
- 3986 (104) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 3987 (i) valued in money; and
- 3988 (ii) for which tangible personal property, a product transferred electronically, or
- 3989 services are:
- 3990 (A) sold;
- 3991 (B) leased; or

- 3992 (C) rented.
- 3993 (b) "Purchase price" and "sales price" include:
- 3994 (i) the seller's cost of the tangible personal property, a product transferred
- 3995 electronically, or services sold;
- 3996 (ii) expenses of the seller, including:
- 3997 (A) the cost of materials used;
- 3998 (B) a labor cost;
- 3999 (C) a service cost;
- 4000 (D) interest;
- 4001 (E) a loss;
- 4002 (F) the cost of transportation to the seller; or
- 4003 (G) a tax imposed on the seller;
- 4004 (iii) a charge by the seller for any service necessary to complete the sale; or
- 4005 (iv) consideration a seller receives from a person other than the purchaser if:
- 4006 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 4007 and
- 4008 (II) the consideration described in Subsection (104)(b)(iv)(A)(I) is directly related to a
- 4009 price reduction or discount on the sale;
- 4010 (B) the seller has an obligation to pass the price reduction or discount through to the
- 4011 purchaser;
- 4012 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 4013 the seller at the time of the sale to the purchaser; and
- 4014 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 4015 seller to claim a price reduction or discount; and
- 4016 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 4017 coupon, or other documentation with the understanding that the person other than the seller
- 4018 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 4019 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 4020 organization allowed a price reduction or discount, except that a preferred customer card that is
- 4021 available to any patron of a seller does not constitute membership in a group or organization
- 4022 allowed a price reduction or discount; or

- 4023 (III) the price reduction or discount is identified as a third party price reduction or  
4024 discount on the:
- 4025 (Aa) invoice the purchaser receives; or  
4026 (Bb) certificate, coupon, or other documentation the purchaser presents.  
4027 (c) "Purchase price" and "sales price" do not include:  
4028 (i) a discount:  
4029 (A) in a form including:  
4030 (I) cash;  
4031 (II) term; or  
4032 (III) coupon;  
4033 (B) that is allowed by a seller;  
4034 (C) taken by a purchaser on a sale; and  
4035 (D) that is not reimbursed by a third party; or  
4036 (ii) subject to Subsections 59-12-103(2)~~(f)~~(f)(ii) and (2)~~(f)~~(g)(i), the following if  
4037 separately stated on an invoice, bill of sale, or similar document provided to the purchaser at  
4038 the time of sale or later, as demonstrated by the books and records the seller keeps at the time  
4039 of the transaction in the regular course of business, including books and records the seller  
4040 keeps at the time of the transaction in the regular course of business for nontax purposes, by a  
4041 preponderance of the facts and circumstances at the time of the transaction, and by the  
4042 understanding of all of the parties to the transaction:  
4043 (A) the following from credit extended on the sale of tangible personal property or  
4044 services:  
4045 (I) a carrying charge;  
4046 (II) a financing charge; or  
4047 (III) an interest charge;  
4048 (B) a delivery charge;  
4049 (C) an installation charge;  
4050 (D) a manufacturer rebate on a motor vehicle; or  
4051 (E) a tax or fee legally imposed directly on the consumer.  
4052 (105) "Purchaser" means a person to whom:  
4053 (a) a sale of tangible personal property is made;

- 4054 (b) a product is transferred electronically; or
- 4055 (c) a service is furnished.
- 4056 (106) "Qualifying data center" means a data center facility that:
  - 4057 (a) houses a group of networked server computers in one physical location in order to
  - 4058 disseminate, manage, and store data and information;
  - 4059 (b) is located in the state;
  - 4060 (c) is a new operation constructed on or after July 1, 2016;
  - 4061 (d) consists of one or more buildings that total 150,000 or more square feet;
  - 4062 (e) is owned or leased by:
    - 4063 (i) the operator of the data center facility; or
    - 4064 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
    - 4065 of the data center facility; and
  - 4066 (f) is located on one or more parcels of land that are owned or leased by:
    - 4067 (i) the operator of the data center facility; or
    - 4068 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
    - 4069 of the data center facility.
- 4070 (107) "Regularly rented" means:
  - 4071 (a) rented to a guest for value three or more times during a calendar year; or
  - 4072 (b) advertised or held out to the public as a place that is regularly rented to guests for
  - 4073 value.
- 4074 (108) "Rental" means the same as that term is defined in Subsection (60).
- 4075 (109) (a) Except as provided in Subsection (109)(b), "repairs or renovations of tangible
- 4076 personal property" means:
  - 4077 (i) a repair or renovation of tangible personal property that is not permanently attached
  - 4078 to real property; or
  - 4079 (ii) attaching tangible personal property or a product transferred electronically to other
  - 4080 tangible personal property or detaching tangible personal property or a product transferred
  - 4081 electronically from other tangible personal property if:
    - 4082 (A) the other tangible personal property to which the tangible personal property or
    - 4083 product transferred electronically is attached or from which the tangible personal property or
    - 4084 product transferred electronically is detached is not permanently attached to real property; and

4085 (B) the attachment of tangible personal property or a product transferred electronically  
4086 to other tangible personal property or detachment of tangible personal property or a product  
4087 transferred electronically from other tangible personal property is made in conjunction with a  
4088 repair or replacement of tangible personal property or a product transferred electronically.

4089 (b) "Repairs or renovations of tangible personal property" does not include:

4090 (i) attaching prewritten computer software to other tangible personal property if the  
4091 other tangible personal property to which the prewritten computer software is attached is not  
4092 permanently attached to real property; or

4093 (ii) detaching prewritten computer software from other tangible personal property if the  
4094 other tangible personal property from which the prewritten computer software is detached is  
4095 not permanently attached to real property.

4096 (110) "Research and development" means the process of inquiry or experimentation  
4097 aimed at the discovery of facts, devices, technologies, or applications and the process of  
4098 preparing those devices, technologies, or applications for marketing.

4099 (111) (a) "Residential telecommunications services" means a telecommunications  
4100 service or an ancillary service that is provided to an individual for personal use:

4101 (i) at a residential address; or

4102 (ii) at an institution, including a nursing home or a school, if the telecommunications  
4103 service or ancillary service is provided to and paid for by the individual residing at the  
4104 institution rather than the institution.

4105 (b) For purposes of Subsection (111)(a)(i), a residential address includes an:

4106 (i) apartment; or

4107 (ii) other individual dwelling unit.

4108 (112) "Residential use" means the use in or around a home, apartment building,  
4109 sleeping quarters, and similar facilities or accommodations.

4110 (113) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
4111 than:

4112 (a) resale;

4113 (b) sublease; or

4114 (c) subrent.

4115 (114) (a) "Retailer" means any person, unless prohibited by the Constitution of the

4116 United States or federal law, that is engaged in a regularly organized business in tangible  
4117 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is  
4118 selling to the user or consumer and not for resale.

4119 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
4120 engaged in the business of selling to users or consumers within the state.

4121 (115) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
4122 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
4123 Subsection 59-12-103(1), for consideration.

4124 (b) "Sale" includes:

4125 (i) installment and credit sales;

4126 (ii) any closed transaction constituting a sale;

4127 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
4128 chapter;

4129 (iv) any transaction if the possession of property is transferred but the seller retains the  
4130 title as security for the payment of the price; and

4131 (v) any transaction under which right to possession, operation, or use of any article of  
4132 tangible personal property is granted under a lease or contract and the transfer of possession  
4133 would be taxable if an outright sale were made.

4134 (116) "Sale at retail" means the same as that term is defined in Subsection (113).

4135 (117) "Sale-leaseback transaction" means a transaction by which title to tangible  
4136 personal property or a product transferred electronically that is subject to a tax under this  
4137 chapter is transferred:

4138 (a) by a purchaser-lessee;

4139 (b) to a lessor;

4140 (c) for consideration; and

4141 (d) if:

4142 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase  
4143 of the tangible personal property or product transferred electronically;

4144 (ii) the sale of the tangible personal property or product transferred electronically to the  
4145 lessor is intended as a form of financing:

4146 (A) for the tangible personal property or product transferred electronically; and

4147 (B) to the purchaser-lessee; and  
4148 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee  
4149 is required to:

4150 (A) capitalize the tangible personal property or product transferred electronically for  
4151 financial reporting purposes; and

4152 (B) account for the lease payments as payments made under a financing arrangement.

4153 (118) "Sales price" means the same as that term is defined in Subsection (104).

4154 (119) (a) "Sales relating to schools" means the following sales by, amounts paid to, or  
4155 amounts charged by a school:

4156 (i) sales that are directly related to the school's educational functions or activities  
4157 including:

4158 (A) the sale of:

4159 (I) textbooks;

4160 (II) textbook fees;

4161 (III) laboratory fees;

4162 (IV) laboratory supplies; or

4163 (V) safety equipment;

4164 (B) the sale of a uniform, protective equipment, or sports or recreational equipment  
4165 that:

4166 (I) a student is specifically required to wear as a condition of participation in a  
4167 school-related event or school-related activity; and

4168 (II) is not readily adaptable to general or continued usage to the extent that it takes the  
4169 place of ordinary clothing;

4170 (C) sales of the following if the net or gross revenues generated by the sales are  
4171 deposited into a school district fund or school fund dedicated to school meals:

4172 (I) food and food ingredients; or

4173 (II) prepared food; or

4174 (D) transportation charges for official school activities; or

4175 (ii) amounts paid to or amounts charged by a school for admission to a school-related  
4176 event or school-related activity.

4177 (b) "Sales relating to schools" does not include:

- 4178 (i) bookstore sales of items that are not educational materials or supplies;
- 4179 (ii) except as provided in Subsection (119)(a)(i)(B):
- 4180 (A) clothing;
- 4181 (B) clothing accessories or equipment;
- 4182 (C) protective equipment; or
- 4183 (D) sports or recreational equipment; or
- 4184 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 4185 event or school-related activity if the amounts paid or charged are passed through to a person:
- 4186 (A) other than a:
- 4187 (I) school;
- 4188 (II) nonprofit organization authorized by a school board or a governing body of a
- 4189 private school to organize and direct a competitive secondary school activity; or
- 4190 (III) nonprofit association authorized by a school board or a governing body of a
- 4191 private school to organize and direct a competitive secondary school activity; and
- 4192 (B) that is required to collect sales and use taxes under this chapter.
- 4193 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 4194 commission may make rules defining the term "passed through."
- 4195 (120) For purposes of this section and Section [59-12-104](#), "school" means:
- 4196 (a) an elementary school or a secondary school that:
- 4197 (i) is a:
- 4198 (A) public school; or
- 4199 (B) private school; and
- 4200 (ii) provides instruction for one or more grades kindergarten through 12; or
- 4201 (b) a public school district.
- 4202 (121) (a) "Seller" means a person that makes a sale, lease, or rental of:
- 4203 (i) tangible personal property;
- 4204 (ii) a product transferred electronically; or
- 4205 (iii) a service.
- 4206 (b) "Seller" includes a marketplace facilitator.
- 4207 (122) (a) "Semiconductor fabricating, processing, research, or development materials"
- 4208 means tangible personal property or a product transferred electronically if the tangible personal



4209 property or product transferred electronically is:

4210 (i) used primarily in the process of:

4211 (A) (I) manufacturing a semiconductor;

4212 (II) fabricating a semiconductor; or

4213 (III) research or development of a:

4214 (Aa) semiconductor; or

4215 (Bb) semiconductor manufacturing process; or

4216 (B) maintaining an environment suitable for a semiconductor; or

4217 (ii) consumed primarily in the process of:

4218 (A) (I) manufacturing a semiconductor;

4219 (II) fabricating a semiconductor; or

4220 (III) research or development of a:

4221 (Aa) semiconductor; or

4222 (Bb) semiconductor manufacturing process; or

4223 (B) maintaining an environment suitable for a semiconductor.

4224 (b) "Semiconductor fabricating, processing, research, or development materials"

4225 includes:

4226 (i) parts used in the repairs or renovations of tangible personal property or a product

4227 transferred electronically described in Subsection (122)(a); or

4228 (ii) a chemical, catalyst, or other material used to:

4229 (A) produce or induce in a semiconductor a:

4230 (I) chemical change; or

4231 (II) physical change;

4232 (B) remove impurities from a semiconductor; or

4233 (C) improve the marketable condition of a semiconductor.

4234 (123) "Senior citizen center" means a facility having the primary purpose of providing

4235 services to the aged as defined in Section [62A-3-101](#).

4236 (124) (a) Subject to Subsections (124)(b) and (c), "short-term lodging consumable"

4237 means tangible personal property that:

4238 (i) a business that provides accommodations and services described in Subsection

4239 [59-12-103\(1\)\(i\)](#) purchases as part of a transaction to provide the accommodations and services

- 4240 to a purchaser;
- 4241 (ii) is intended to be consumed by the purchaser; and
- 4242 (iii) is:
- 4243 (A) included in the purchase price of the accommodations and services; and
- 4244 (B) not separately stated on an invoice, bill of sale, or other similar document provided
- 4245 to the purchaser.
- 4246 (b) "Short-term lodging consumable" includes:
- 4247 (i) a beverage;
- 4248 (ii) a brush or comb;
- 4249 (iii) a cosmetic;
- 4250 (iv) a hair care product;
- 4251 (v) lotion;
- 4252 (vi) a magazine;
- 4253 (vii) makeup;
- 4254 (viii) a meal;
- 4255 (ix) mouthwash;
- 4256 (x) nail polish remover;
- 4257 (xi) a newspaper;
- 4258 (xii) a notepad;
- 4259 (xiii) a pen;
- 4260 (xiv) a pencil;
- 4261 (xv) a razor;
- 4262 (xvi) saline solution;
- 4263 (xvii) a sewing kit;
- 4264 (xviii) shaving cream;
- 4265 (xix) a shoe shine kit;
- 4266 (xx) a shower cap;
- 4267 (xxi) a snack item;
- 4268 (xxii) soap;
- 4269 (xxiii) toilet paper;
- 4270 (xxiv) a toothbrush;

4271 (xxv) toothpaste; or  
4272 (xxvi) an item similar to Subsections (124)(b)(i) through (xxv) as the commission may  
4273 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
4274 Rulemaking Act.

4275 (c) "Short-term lodging consumable" does not include:

4276 (i) tangible personal property that is cleaned or washed to allow the tangible personal  
4277 property to be reused; or

4278 (ii) a product transferred electronically.

4279 (125) "Simplified electronic return" means the electronic return:

4280 (a) described in Section 318(C) of the agreement; and

4281 (b) approved by the governing board of the agreement.

4282 (126) "Solar energy" means the sun used as the sole source of energy for producing  
4283 electricity.

4284 (127) (a) "Sports or recreational equipment" means an item:

4285 (i) designed for human use; and

4286 (ii) that is:

4287 (A) worn in conjunction with:

4288 (I) an athletic activity; or

4289 (II) a recreational activity; and

4290 (B) not suitable for general use.

4291 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
4292 commission shall make rules:

4293 (i) listing the items that constitute "sports or recreational equipment"; and

4294 (ii) that are consistent with the list of items that constitute "sports or recreational  
4295 equipment" under the agreement.

4296 (128) "State" means the state of Utah, its departments, and agencies.

4297 (129) "Storage" means any keeping or retention of tangible personal property or any  
4298 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except  
4299 sale in the regular course of business.

4300 (130) (a) Except as provided in Subsection (130)(d) or (e), "tangible personal property"  
4301 means personal property that:

- 4302 (i) may be:
- 4303 (A) seen;
- 4304 (B) weighed;
- 4305 (C) measured;
- 4306 (D) felt; or
- 4307 (E) touched; or
- 4308 (ii) is in any manner perceptible to the senses.
- 4309 (b) "Tangible personal property" includes:
- 4310 (i) electricity;
- 4311 (ii) water;
- 4312 (iii) gas;
- 4313 (iv) steam; or
- 4314 (v) prewritten computer software, regardless of the manner in which the prewritten
- 4315 computer software is transferred.
- 4316 (c) "Tangible personal property" includes the following regardless of whether the item
- 4317 is attached to real property:
- 4318 (i) a dishwasher;
- 4319 (ii) a dryer;
- 4320 (iii) a freezer;
- 4321 (iv) a microwave;
- 4322 (v) a refrigerator;
- 4323 (vi) a stove;
- 4324 (vii) a washer; or
- 4325 (viii) an item similar to Subsections (130)(c)(i) through (vii) as determined by the
- 4326 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 4327 Rulemaking Act.
- 4328 (d) "Tangible personal property" does not include a product that is transferred
- 4329 electronically.
- 4330 (e) "Tangible personal property" does not include the following if attached to real
- 4331 property, regardless of whether the attachment to real property is only through a line that
- 4332 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the

4333 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
4334 Rulemaking Act:

- 4335 (i) a hot water heater;
- 4336 (ii) a water filtration system; or
- 4337 (iii) a water softener system.

4338 (131) (a) "Telecommunications enabling or facilitating equipment, machinery, or  
4339 software" means an item listed in Subsection (131)(b) if that item is purchased or leased  
4340 primarily to enable or facilitate one or more of the following to function:

- 4341 (i) telecommunications switching or routing equipment, machinery, or software; or
- 4342 (ii) telecommunications transmission equipment, machinery, or software.

4343 (b) The following apply to Subsection (131)(a):

- 4344 (i) a pole;
- 4345 (ii) software;
- 4346 (iii) a supplementary power supply;
- 4347 (iv) temperature or environmental equipment or machinery;
- 4348 (v) test equipment;
- 4349 (vi) a tower; or
- 4350 (vii) equipment, machinery, or software that functions similarly to an item listed in

4351 Subsections (131)(b)(i) through (vi) as determined by the commission by rule made in  
4352 accordance with Subsection (131)(c).

4353 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
4354 commission may by rule define what constitutes equipment, machinery, or software that  
4355 functions similarly to an item listed in Subsections (131)(b)(i) through (vi).

4356 (132) "Telecommunications equipment, machinery, or software required for 911  
4357 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.  
4358 Sec. 20.18.

4359 (133) "Telecommunications maintenance or repair equipment, machinery, or software"  
4360 means equipment, machinery, or software purchased or leased primarily to maintain or repair  
4361 one or more of the following, regardless of whether the equipment, machinery, or software is  
4362 purchased or leased as a spare part or as an upgrade or modification to one or more of the  
4363 following:

4364 (a) telecommunications enabling or facilitating equipment, machinery, or software;

4365 (b) telecommunications switching or routing equipment, machinery, or software; or

4366 (c) telecommunications transmission equipment, machinery, or software.

4367 (134) (a) "Telecommunications service" means the electronic conveyance, routing, or

4368 transmission of audio, data, video, voice, or any other information or signal to a point, or

4369 among or between points.

4370 (b) "Telecommunications service" includes:

4371 (i) an electronic conveyance, routing, or transmission with respect to which a computer

4372 processing application is used to act:

4373 (A) on the code, form, or protocol of the content;

4374 (B) for the purpose of electronic conveyance, routing, or transmission; and

4375 (C) regardless of whether the service:

4376 (I) is referred to as voice over Internet protocol service; or

4377 (II) is classified by the Federal Communications Commission as enhanced or value

4378 added;

4379 (ii) an 800 service;

4380 (iii) a 900 service;

4381 (iv) a fixed wireless service;

4382 (v) a mobile wireless service;

4383 (vi) a postpaid calling service;

4384 (vii) a prepaid calling service;

4385 (viii) a prepaid wireless calling service; or

4386 (ix) a private communications service.

4387 (c) "Telecommunications service" does not include:

4388 (i) advertising, including directory advertising;

4389 (ii) an ancillary service;

4390 (iii) a billing and collection service provided to a third party;

4391 (iv) a data processing and information service if:

4392 (A) the data processing and information service allows data to be:

4393 (I) (Aa) acquired;

4394 (Bb) generated;

- 4395 (Cc) processed;
- 4396 (Dd) retrieved; or
- 4397 (Ee) stored; and
- 4398 (II) delivered by an electronic transmission to a purchaser; and
- 4399 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 4400 or information;
- 4401 (v) installation or maintenance of the following on a customer's premises:
- 4402 (A) equipment; or
- 4403 (B) wiring;
- 4404 (vi) Internet access service;
- 4405 (vii) a paging service;
- 4406 (viii) a product transferred electronically, including:
- 4407 (A) music;
- 4408 (B) reading material;
- 4409 (C) a ring tone;
- 4410 (D) software; or
- 4411 (E) video;
- 4412 (ix) a radio and television audio and video programming service:
- 4413 (A) regardless of the medium; and
- 4414 (B) including:
- 4415 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 4416 programming service by a programming service provider;
- 4417 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 4418 (III) audio and video programming services delivered by a commercial mobile radio
- 4419 service provider as defined in 47 C.F.R. Sec. 20.3;
- 4420 (x) a value-added nonvoice data service; or
- 4421 (xi) tangible personal property.
- 4422 (135) (a) "Telecommunications service provider" means a person that:
- 4423 (i) owns, controls, operates, or manages a telecommunications service; and
- 4424 (ii) engages in an activity described in Subsection (135)(a)(i) for the shared use with or
- 4425 resale to any person of the telecommunications service.

4426 (b) A person described in Subsection (135)(a) is a telecommunications service provider  
4427 whether or not the Public Service Commission of Utah regulates:

4428 (i) that person; or

4429 (ii) the telecommunications service that the person owns, controls, operates, or  
4430 manages.

4431 (136) (a) "Telecommunications switching or routing equipment, machinery, or  
4432 software" means an item listed in Subsection (136)(b) if that item is purchased or leased  
4433 primarily for switching or routing:

4434 (i) an ancillary service;

4435 (ii) data communications;

4436 (iii) voice communications; or

4437 (iv) telecommunications service.

4438 (b) The following apply to Subsection (136)(a):

4439 (i) a bridge;

4440 (ii) a computer;

4441 (iii) a cross connect;

4442 (iv) a modem;

4443 (v) a multiplexer;

4444 (vi) plug in circuitry;

4445 (vii) a router;

4446 (viii) software;

4447 (ix) a switch; or

4448 (x) equipment, machinery, or software that functions similarly to an item listed in  
4449 Subsections (136)(b)(i) through (ix) as determined by the commission by rule made in  
4450 accordance with Subsection (136)(c).

4451 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
4452 commission may by rule define what constitutes equipment, machinery, or software that  
4453 functions similarly to an item listed in Subsections (136)(b)(i) through (ix).

4454 (137) (a) "Telecommunications transmission equipment, machinery, or software"  
4455 means an item listed in Subsection (137)(b) if that item is purchased or leased primarily for  
4456 sending, receiving, or transporting:



- 4457 (i) an ancillary service;
- 4458 (ii) data communications;
- 4459 (iii) voice communications; or
- 4460 (iv) telecommunications service.
- 4461 (b) The following apply to Subsection (137)(a):
- 4462 (i) an amplifier;
- 4463 (ii) a cable;
- 4464 (iii) a closure;
- 4465 (iv) a conduit;
- 4466 (v) a controller;
- 4467 (vi) a duplexer;
- 4468 (vii) a filter;
- 4469 (viii) an input device;
- 4470 (ix) an input/output device;
- 4471 (x) an insulator;
- 4472 (xi) microwave machinery or equipment;
- 4473 (xii) an oscillator;
- 4474 (xiii) an output device;
- 4475 (xiv) a pedestal;
- 4476 (xv) a power converter;
- 4477 (xvi) a power supply;
- 4478 (xvii) a radio channel;
- 4479 (xviii) a radio receiver;
- 4480 (xix) a radio transmitter;
- 4481 (xx) a repeater;
- 4482 (xxi) software;
- 4483 (xxii) a terminal;
- 4484 (xxiii) a timing unit;
- 4485 (xxiv) a transformer;
- 4486 (xxv) a wire; or
- 4487 (xxvi) equipment, machinery, or software that functions similarly to an item listed in

4488 Subsections (137)(b)(i) through (xxv) as determined by the commission by rule made in  
4489 accordance with Subsection (137)(c).

4490 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
4491 commission may by rule define what constitutes equipment, machinery, or software that  
4492 functions similarly to an item listed in Subsections (137)(b)(i) through (xxv).

4493 (138) (a) "Textbook for a higher education course" means a textbook or other printed  
4494 material that is required for a course:

4495 (i) offered by an institution of higher education; and

4496 (ii) that the purchaser of the textbook or other printed material attends or will attend.

4497 (b) "Textbook for a higher education course" includes a textbook in electronic format.

4498 (139) "Tobacco" means:

4499 (a) a cigarette;

4500 (b) a cigar;

4501 (c) chewing tobacco;

4502 (d) pipe tobacco; or

4503 (e) any other item that contains tobacco.

4504 (140) "Unassisted amusement device" means an amusement device, skill device, or  
4505 ride device that is started and stopped by the purchaser or renter of the right to use or operate  
4506 the amusement device, skill device, or ride device.

4507 (141) (a) "Use" means the exercise of any right or power over tangible personal  
4508 property, a product transferred electronically, or a service under Subsection [59-12-103\(1\)](#),  
4509 incident to the ownership or the leasing of that tangible personal property, product transferred  
4510 electronically, or service.

4511 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
4512 property, a product transferred electronically, or a service in the regular course of business and  
4513 held for resale.

4514 (142) "Value-added nonvoice data service" means a service:

4515 (a) that otherwise meets the definition of a telecommunications service except that a  
4516 computer processing application is used to act primarily for a purpose other than conveyance,  
4517 routing, or transmission; and

4518 (b) with respect to which a computer processing application is used to act on data or

4519 information:

- 4520 (i) code;
- 4521 (ii) content;
- 4522 (iii) form; or
- 4523 (iv) protocol.

4524 (143) (a) Subject to Subsection (143)(b), "vehicle" means the following that are  
4525 required to be titled, registered, or titled and registered:

- 4526 (i) an aircraft as defined in Section 72-10-102;
- 4527 (ii) a vehicle as defined in Section 41-1a-102;
- 4528 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 4529 (iv) a vessel as defined in Section 41-1a-102.

4530 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 4531 (i) a vehicle described in Subsection (143)(a); or
- 4532 (ii) (A) a locomotive;
- 4533 (B) a freight car;
- 4534 (C) railroad work equipment; or
- 4535 (D) other railroad rolling stock.

4536 (144) "Vehicle dealer" means a person engaged in the business of buying, selling, or  
4537 exchanging a vehicle as defined in Subsection (143).

4538 (145) (a) "Vertical service" means an ancillary service that:

- 4539 (i) is offered in connection with one or more telecommunications services; and
- 4540 (ii) offers an advanced calling feature that allows a customer to:
  - 4541 (A) identify a caller; and
  - 4542 (B) manage multiple calls and call connections.

4543 (b) "Vertical service" includes an ancillary service that allows a customer to manage a  
4544 conference bridging service.

4545 (146) (a) "Voice mail service" means an ancillary service that enables a customer to  
4546 receive, send, or store a recorded message.

4547 (b) "Voice mail service" does not include a vertical service that a customer is required  
4548 to have in order to utilize a voice mail service.

4549 (147) (a) Except as provided in Subsection (147)(b), "waste energy facility" means a

4550 facility that generates electricity:

4551 (i) using as the primary source of energy waste materials that would be placed in a  
4552 landfill or refuse pit if it were not used to generate electricity, including:

4553 (A) tires;

4554 (B) waste coal;

4555 (C) oil shale; or

4556 (D) municipal solid waste; and

4557 (ii) in amounts greater than actually required for the operation of the facility.

4558 (b) "Waste energy facility" does not include a facility that incinerates:

4559 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

4560 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

4561 (148) "Watercraft" means a vessel as defined in Section [73-18-2](#).

4562 (149) "Wind energy" means wind used as the sole source of energy to produce  
4563 electricity.

4564 (150) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic  
4565 location by the United States Postal Service.

4566 Section 39. Section **59-12-103** is amended to read:

4567 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**  
4568 **tax revenues.**

4569 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or  
4570 sales price for amounts paid or charged for the following transactions:

4571 (a) retail sales of tangible personal property made within the state;

4572 (b) amounts paid for:

4573 (i) telecommunications service, other than mobile telecommunications service, that  
4574 originates and terminates within the boundaries of this state;

4575 (ii) mobile telecommunications service that originates and terminates within the  
4576 boundaries of one state only to the extent permitted by the Mobile Telecommunications  
4577 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

4578 (iii) an ancillary service associated with a:

4579 (A) telecommunications service described in Subsection (1)(b)(i); or

4580 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

- 4581 (c) sales of the following for commercial use:
- 4582 (i) gas;
- 4583 (ii) electricity;
- 4584 (iii) heat;
- 4585 (iv) coal;
- 4586 (v) fuel oil; or
- 4587 (vi) other fuels;
- 4588 (d) sales of the following for residential use:
- 4589 (i) gas;
- 4590 (ii) electricity;
- 4591 (iii) heat;
- 4592 (iv) coal;
- 4593 (v) fuel oil; or
- 4594 (vi) other fuels;
- 4595 (e) sales of prepared food;
- 4596 (f) except as provided in Section [59-12-104](#), amounts paid or charged as admission or
- 4597 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 4598 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 4599 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 4600 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 4601 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 4602 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 4603 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 4604 exhibition, cultural, or athletic activity;
- 4605 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 4606 property, unless Section [59-12-104](#) provides for an exemption from sales and use tax for:
- 4607 (i) the tangible personal property; and
- 4608 (ii) parts used in the repairs or renovations of the tangible personal property described
- 4609 in Subsection (1)(g)(i), regardless of whether:
- 4610 (A) any parts are actually used in the repairs or renovations of that tangible personal
- 4611 property; or

4612 (B) the particular parts used in the repairs or renovations of that tangible personal  
4613 property are exempt from a tax under this chapter;

4614 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for  
4615 assisted cleaning or washing of tangible personal property;

4616 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court  
4617 accommodations and services that are regularly rented for less than 30 consecutive days;

4618 (j) amounts paid or charged for laundry or dry cleaning services;

4619 (k) amounts paid or charged for leases or rentals of tangible personal property if within  
4620 this state the tangible personal property is:

4621 (i) stored;

4622 (ii) used; or

4623 (iii) otherwise consumed;

4624 (l) amounts paid or charged for tangible personal property if within this state the  
4625 tangible personal property is:

4626 (i) stored;

4627 (ii) used; or

4628 (iii) consumed; and

4629 (m) amounts paid or charged for a sale:

4630 (i) (A) of a product transferred electronically; or

4631 (B) of a repair or renovation of a product transferred electronically; and

4632 (ii) regardless of whether the sale provides:

4633 (A) a right of permanent use of the product; or

4634 (B) a right to use the product that is less than a permanent use, including a right:

4635 (I) for a definite or specified length of time; and

4636 (II) that terminates upon the occurrence of a condition.

4637 (2) (a) Except as provided in Subsections (2)(b) through ~~(e)~~ (f), a state tax and a local  
4638 tax are imposed on a transaction described in Subsection (1) equal to the sum of:

4639 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

4640 ~~[(A) (I) through March 31, 2019, 4.70%; and]~~

4641 ~~[(H)]~~ (A) ~~[beginning on April 1, 2019,]~~ 4.70% plus the rate specified in Subsection

4642 ~~[(13)]~~ (12)(a); and

4643 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales  
4644 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211  
4645 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional  
4646 State Sales and Use Tax Act; and

4647 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales  
4648 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211  
4649 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state  
4650 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

4651 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
4652 transaction under this chapter other than this part.

4653 (b) Except as provided in Subsection [~~(2)(d) or (e)~~] (2)(e) or (f) and subject to  
4654 Subsection (2)[~~(j)~~](k), a state tax and a local tax are imposed on a transaction described in  
4655 Subsection (1)(d) equal to the sum of:

4656 (i) a state tax imposed on the transaction at a tax rate of 2%; and

4657 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
4658 transaction under this chapter other than this part.

4659 (c) Except as provided in Subsection [~~(2)(d) or (e)~~] (2)(e) or (f), a state tax and a local  
4660 tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

4661 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at  
4662 a tax rate of 1.75%; and

4663 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
4664 amounts paid or charged for food and food ingredients under this chapter other than this part.

4665 (d) Except as provided in Subsection (2)(e) or (f), a state tax is imposed on amounts  
4666 paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at  
4667 a rate of 4.85%.

4668 [~~(d)~~] (e) (i) For a bundled transaction that is attributable to food and food ingredients  
4669 and tangible personal property other than food and food ingredients, a state tax and a local tax  
4670 is imposed on the entire bundled transaction equal to the sum of:

4671 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

4672 (I) the tax rate described in Subsection (2)(a)(i)(A); and

4673 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State

4674 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
4675 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,  
4676 Additional State Sales and Use Tax Act; and

4677 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State  
4678 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
4679 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which  
4680 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

4681 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates  
4682 described in Subsection (2)(a)(ii).

4683 (ii) If an optional computer software maintenance contract is a bundled transaction that  
4684 consists of taxable and nontaxable products that are not separately itemized on an invoice or  
4685 similar billing document, the purchase of the optional computer software maintenance contract  
4686 is 40% taxable under this chapter and 60% nontaxable under this chapter.

4687 (iii) Subject to Subsection (2)(~~f~~)(e)(iv), for a bundled transaction other than a  
4688 bundled transaction described in Subsection (2)(~~f~~)(e)(i) or (ii):

4689 (A) if the sales price of the bundled transaction is attributable to tangible personal  
4690 property, a product, or a service that is subject to taxation under this chapter and tangible  
4691 personal property, a product, or service that is not subject to taxation under this chapter, the  
4692 entire bundled transaction is subject to taxation under this chapter unless:

4693 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
4694 personal property, product, or service that is not subject to taxation under this chapter from the  
4695 books and records the seller keeps in the seller's regular course of business; or

4696 (II) state or federal law provides otherwise; or

4697 (B) if the sales price of a bundled transaction is attributable to two or more items of  
4698 tangible personal property, products, or services that are subject to taxation under this chapter  
4699 at different rates, the entire bundled transaction is subject to taxation under this chapter at the  
4700 higher tax rate unless:

4701 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
4702 personal property, product, or service that is subject to taxation under this chapter at the lower  
4703 tax rate from the books and records the seller keeps in the seller's regular course of business; or

4704 (II) state or federal law provides otherwise.



4705 (iv) For purposes of Subsection (2)~~(d)~~(e)(iii), books and records that a seller keeps in  
4706 the seller's regular course of business includes books and records the seller keeps in the regular  
4707 course of business for nontax purposes.

4708 ~~(e)~~ (f) (i) Except as otherwise provided in this chapter and subject to Subsections  
4709 (2)~~(e)~~(f)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal  
4710 property, a product, or a service that is subject to taxation under this chapter, and the sale,  
4711 lease, or rental of tangible personal property, other property, a product, or a service that is not  
4712 subject to taxation under this chapter, the entire transaction is subject to taxation under this  
4713 chapter unless the seller, at the time of the transaction:

4714 (A) separately states the portion of the transaction that is not subject to taxation under  
4715 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

4716 (B) is able to identify by reasonable and verifiable standards, from the books and  
4717 records the seller keeps in the seller's regular course of business, the portion of the transaction  
4718 that is not subject to taxation under this chapter.

4719 (ii) A purchaser and a seller may correct the taxability of a transaction if:

4720 (A) after the transaction occurs, the purchaser and the seller discover that the portion of  
4721 the transaction that is not subject to taxation under this chapter was not separately stated on an  
4722 invoice, bill of sale, or similar document provided to the purchaser because of an error or  
4723 ignorance of the law; and

4724 (B) the seller is able to identify by reasonable and verifiable standards, from the books  
4725 and records the seller keeps in the seller's regular course of business, the portion of the  
4726 transaction that is not subject to taxation under this chapter.

4727 (iii) For purposes of Subsections (2)~~(e)~~(f)(i) and (ii), books and records that a seller  
4728 keeps in the seller's regular course of business includes books and records the seller keeps in  
4729 the regular course of business for nontax purposes.

4730 ~~(f)~~ (g) (i) If the sales price of a transaction is attributable to two or more items of  
4731 tangible personal property, products, or services that are subject to taxation under this chapter  
4732 at different rates, the entire purchase is subject to taxation under this chapter at the higher tax  
4733 rate unless the seller, at the time of the transaction:

4734 (A) separately states the items subject to taxation under this chapter at each of the  
4735 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

4736 (B) is able to identify by reasonable and verifiable standards the tangible personal  
4737 property, product, or service that is subject to taxation under this chapter at the lower tax rate  
4738 from the books and records the seller keeps in the seller's regular course of business.

4739 (ii) For purposes of Subsection (2)~~(f)~~(g)(i), books and records that a seller keeps in  
4740 the seller's regular course of business includes books and records the seller keeps in the regular  
4741 course of business for nontax purposes.

4742 ~~(g)~~ (h) Subject to Subsections ~~(2)(h) and (i)~~ (2)(i) and (j), a tax rate repeal or tax  
4743 rate change for a tax rate imposed under the following shall take effect on the first day of a  
4744 calendar quarter:

- 4745 (i) Subsection (2)(a)(i)(A);
- 4746 (ii) Subsection (2)(b)(i);
- 4747 (iii) Subsection (2)(c)(i); or
- 4748 (iv) Subsection (2)~~(f)~~(e)(i)(A)(I).

4749 ~~(h)~~ (i) (i) A tax rate increase takes effect on the first day of the first billing period that  
4750 begins on or after the effective date of the tax rate increase if the billing period for the  
4751 transaction begins before the effective date of a tax rate increase imposed under:

- 4752 (A) Subsection (2)(a)(i)(A);
- 4753 (B) Subsection (2)(b)(i);
- 4754 (C) Subsection (2)(c)(i); or
- 4755 (D) Subsection (2)~~(f)~~(e)(i)(A)(I).

4756 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing  
4757 statement for the billing period is rendered on or after the effective date of the repeal of the tax  
4758 or the tax rate decrease imposed under:

- 4759 (A) Subsection (2)(a)(i)(A);
- 4760 (B) Subsection (2)(b)(i);
- 4761 (C) Subsection (2)(c)(i); or
- 4762 (D) Subsection (2)~~(f)~~(e)(i)(A)(I).

4763 ~~(i)~~ (j) (i) For a tax rate described in Subsection (2)~~(i)~~(j)(ii), if a tax due on a  
4764 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a  
4765 tax rate repeal or change in a tax rate takes effect:

- 4766 (A) on the first day of a calendar quarter; and

4767 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

4768 (ii) Subsection (2)[~~(j)~~](j)(i) applies to the tax rates described in the following:

4769 (A) Subsection (2)(a)(i)(A);

4770 (B) Subsection (2)(b)(i);

4771 (C) Subsection (2)(c)(i); or

4772 (D) Subsection (2)[~~(d)~~](e)(i)(A)(I).

4773 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
4774 the commission may by rule define the term "catalogue sale."

4775 [~~(j)~~] (k) (i) For a location described in Subsection (2)[~~(j)~~](k)(ii), the commission shall  
4776 determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based  
4777 on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

4778 (ii) Subsection (2)[~~(j)~~](k)(i) applies to a location where gas, electricity, heat, coal, fuel  
4779 oil, or other fuel is furnished through a single meter for two or more of the following uses:

4780 (A) a commercial use;

4781 (B) an industrial use; or

4782 (C) a residential use.

4783 (3) (a) The following state taxes shall be deposited into the General Fund:

4784 (i) the tax imposed by Subsection (2)(a)(i)(A);

4785 (ii) the tax imposed by Subsection (2)(b)(i);

4786 (iii) the tax imposed by Subsection (2)(c)(i); [~~or~~] and

4787 (iv) the tax imposed by Subsection (2)[~~(d)~~](e)(i)(A)(I).

4788 (b) The following local taxes shall be distributed to a county, city, or town as provided  
4789 in this chapter:

4790 (i) the tax imposed by Subsection (2)(a)(ii);

4791 (ii) the tax imposed by Subsection (2)(b)(ii);

4792 (iii) the tax imposed by Subsection (2)(c)(ii); and

4793 (iv) the tax imposed by Subsection (2)[~~(d)~~](e)(i)(B).

4794 (c) The state tax imposed by Subsection (2)(d) shall be deposited into the General  
4795 Fund.

4796 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
4797 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)

4798 through (g):

4799 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

4800 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

4801 (B) for the fiscal year; or

4802 (ii) \$17,500,000.

4803 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount  
4804 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the  
4805 Department of Natural Resources to:

4806 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to  
4807 protect sensitive plant and animal species; or

4808 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
4809 act, to political subdivisions of the state to implement the measures described in Subsections  
4810 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

4811 (ii) Money transferred to the Department of Natural Resources under Subsection  
4812 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other  
4813 person to list or attempt to have listed a species as threatened or endangered under the  
4814 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

4815 (iii) At the end of each fiscal year:

4816 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
4817 Conservation and Development Fund created in Section 73-10-24;

4818 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
4819 Program Subaccount created in Section 73-10c-5; and

4820 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
4821 Program Subaccount created in Section 73-10c-5.

4822 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in  
4823 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund  
4824 created in Section 4-18-106.

4825 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described  
4826 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water  
4827 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of  
4828 water rights.

- 4829 (ii) At the end of each fiscal year:
- 4830 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
4831 Conservation and Development Fund created in Section 73-10-24;
- 4832 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
4833 Program Subaccount created in Section 73-10c-5; and
- 4834 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
4835 Program Subaccount created in Section 73-10c-5.
- 4836 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described  
4837 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and  
4838 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.
- 4839 (ii) In addition to the uses allowed of the Water Resources Conservation and  
4840 Development Fund under Section 73-10-24, the Water Resources Conservation and  
4841 Development Fund may also be used to:
- 4842 (A) conduct hydrologic and geotechnical investigations by the Division of Water  
4843 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
4844 quantifying surface and ground water resources and describing the hydrologic systems of an  
4845 area in sufficient detail so as to enable local and state resource managers to plan for and  
4846 accommodate growth in water use without jeopardizing the resource;
- 4847 (B) fund state required dam safety improvements; and
- 4848 (C) protect the state's interest in interstate water compact allocations, including the  
4849 hiring of technical and legal staff.
- 4850 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
4851 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount  
4852 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.
- 4853 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
4854 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount  
4855 created in Section 73-10c-5 for use by the Division of Drinking Water to:
- 4856 (i) provide for the installation and repair of collection, treatment, storage, and  
4857 distribution facilities for any public water system, as defined in Section 19-4-102;
- 4858 (ii) develop underground sources of water, including springs and wells; and
- 4859 (iii) develop surface water sources.

4860 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
4861 2006, the difference between the following amounts shall be expended as provided in this  
4862 Subsection (5), if that difference is greater than \$1:

4863 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the  
4864 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

4865 (ii) \$17,500,000.

4866 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

4867 (A) transferred each fiscal year to the Department of Natural Resources as dedicated  
4868 credits; and

4869 (B) expended by the Department of Natural Resources for watershed rehabilitation or  
4870 restoration.

4871 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
4872 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund  
4873 created in Section 73-10-24.

4874 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the  
4875 remaining difference described in Subsection (5)(a) shall be:

4876 (A) transferred each fiscal year to the Division of Water Resources as dedicated  
4877 credits; and

4878 (B) expended by the Division of Water Resources for cloud-seeding projects  
4879 authorized by Title 73, Chapter 15, Modification of Weather.

4880 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
4881 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund  
4882 created in Section 73-10-24.

4883 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the  
4884 remaining difference described in Subsection (5)(a) shall be deposited into the Water  
4885 Resources Conservation and Development Fund created in Section 73-10-24 for use by the  
4886 Division of Water Resources for:

4887 (i) preconstruction costs:

4888 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
4889 26, Bear River Development Act; and

4890 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project

4891 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

4892 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,  
4893 Chapter 26, Bear River Development Act;

4894 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project  
4895 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

4896 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and  
4897 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

4898 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to  
4899 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be  
4900 transferred each year as dedicated credits to the Division of Water Rights to cover the costs  
4901 incurred for employing additional technical staff for the administration of water rights.

4902 (f) At the end of each fiscal year, any unexpended dedicated credits described in  
4903 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development  
4904 Fund created in Section 73-10-24.

4905 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the  
4906 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection  
4907 (1) for the fiscal year shall be deposited as follows:

4908 [~~(a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)~~  
4909 ~~shall be deposited into the Transportation Investment Fund of 2005 created by Section~~  
4910 ~~72-2-124;~~]

4911 [~~(b) for fiscal year 2017-18 only:~~]

4912 [~~(i) 80% of the revenue described in this Subsection (6) shall be deposited into the~~  
4913 ~~Transportation Investment Fund of 2005 created by Section 72-2-124; and]~~

4914 [~~(ii) 20% of the revenue described in this Subsection (6) shall be deposited into the~~  
4915 ~~Water Infrastructure Restricted Account created by Section 73-10g-103;~~]

4916 [~~(c) for fiscal year 2018-19 only:~~]

4917 [~~(i) 60% of the revenue described in this Subsection (6) shall be deposited into the~~  
4918 ~~Transportation Investment Fund of 2005 created by Section 72-2-124; and]~~

4919 [~~(ii) 40% of the revenue described in this Subsection (6) shall be deposited into the~~  
4920 ~~Water Infrastructure Restricted Account created by Section 73-10g-103;~~]

4921 [~~(d) for fiscal year 2019-20 only:~~]

4922 ~~[(i) 40% of the revenue described in this Subsection (6) shall be deposited into the~~  
4923 ~~Transportation Investment Fund of 2005 created by Section 72-2-124; and]~~

4924 ~~[(ii) 60% of the revenue described in this Subsection (6) shall be deposited into the~~  
4925 ~~Water Infrastructure Restricted Account created by Section 73-10g-103;]~~

4926 ~~[(e)]~~ (a) for fiscal year 2020-21 only:

4927 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the  
4928 Transportation Investment Fund of 2005 created by Section 72-2-124; and

4929 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the  
4930 Water Infrastructure Restricted Account created by Section 73-10g-103; and

4931 ~~[(f)]~~ (b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue  
4932 described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted  
4933 Account created by Section 73-10g-103.

4934 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in  
4935 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,  
4936 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005  
4937 created by Section 72-2-124:

4938 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of  
4939 the revenues collected from the following taxes, which represents a portion of the  
4940 approximately 17% of sales and use tax revenues generated annually by the sales and use tax  
4941 on vehicles and vehicle-related products:

4942 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

4943 (B) the tax imposed by Subsection (2)(b)(i);

4944 (C) the tax imposed by Subsection (2)(c)(i); and

4945 (D) the tax imposed by Subsection (2)~~[(d)]~~(e)(i)(A)(I); plus

4946 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the  
4947 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through  
4948 (D) that exceeds the amount collected from the sales and use taxes described in Subsections  
4949 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

4950 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of  
4951 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total  
4952 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)



4953 generated in the current fiscal year than the total percentage of sales and use taxes deposited in  
4954 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection  
4955 (7)(a) equal to the product of:

4956 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the  
4957 previous fiscal year; and

4958 (B) the total sales and use tax revenue generated by the taxes described in Subsections  
4959 (7)(a)(i)(A) through (D) in the current fiscal year.

4960 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under  
4961 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes  
4962 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of  
4963 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in  
4964 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

4965 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected  
4966 from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited  
4967 under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues  
4968 collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the  
4969 current fiscal year under Subsection (7)(a).

4970 ~~[(8)(a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited~~  
4971 ~~under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall~~  
4972 ~~deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into~~  
4973 ~~the Transportation Investment Fund of 2005 created by Section 72-2-124.]~~

4974 ~~[(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under~~  
4975 ~~Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit~~  
4976 ~~\$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the~~  
4977 ~~Transportation Investment Fund of 2005 created by Section 72-2-124.]~~

4978 [(c)(i)] (8)(a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited  
4979 under Subsections (6) and (7), and subject to Subsection [(8)(c)(ii)] (8)(b), for a fiscal year  
4980 beginning on or after July 1, 2018, the commission shall annually deposit into the  
4981 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes  
4982 listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the  
4983 following taxes:

4984 ~~[(A)]~~ (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

4985 ~~[(B)]~~ (ii) the tax imposed by Subsection (2)(b)(i);

4986 ~~[(C)]~~ (iii) the tax imposed by Subsection (2)(c)(i); and

4987 ~~[(D)]~~ (iv) the tax imposed by Subsection (2)~~[(d)]~~(e)(i)(A)(I).

4988 ~~[(ii)]~~ (b) For a fiscal year beginning on or after July 1, 2019, the commission shall  
4989 annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection  
4990 ~~[(8)(e)(i)]~~ (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the  
4991 current fiscal year by the portion of the tax imposed on motor and special fuel that is sold,  
4992 used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

4993 ~~[(iii)]~~ (c) The commission shall annually deposit the amount described in Subsection  
4994 ~~[(8)(e)(ii)]~~ (8)(b) into the Transit ~~[and]~~ Transportation Investment Fund created in Section  
4995 [72-2-124](#).

4996 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
4997 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund  
4998 created by Section [35A-8-1009](#) and expended as provided in Section [35A-8-1009](#).

4999 ~~[(10)(a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),~~  
5000 ~~in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17~~  
5001 ~~fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund~~  
5002 ~~of 2005 created by Section [72-2-124](#) the amount of tax revenue generated by a .05% tax rate on~~  
5003 ~~the transactions described in Subsection (1).]~~

5004 ~~[(b)]~~ (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection  
5005 (10)~~[(c)]~~(b), and in addition to any amounts deposited under Subsections (6), (7), and (8), the  
5006 Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by  
5007 Section [72-2-124](#) the amount of revenue described as follows:

5008 ~~[(i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%~~  
5009 ~~tax rate on the transactions described in Subsection (1).]~~

5010 ~~[(ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a~~  
5011 ~~.05% tax rate on the transactions described in Subsection (1).]~~

5012 ~~[(iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%~~  
5013 ~~tax rate on the transactions described in Subsection (1).]~~

5014 ~~[(iv)]~~ (i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a

5015 .05% tax rate on the transactions described in Subsection (1); and

5016 ~~[(v)]~~ (ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a

5017 .05% tax rate on the transactions described in Subsection (1).

5018 ~~[(c)]~~ (b) For purposes of ~~[Subsections (10)(a) and (b)]~~ Subsection (10)(a), the Division

5019 of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue

5020 generated by amounts paid or charged for food and food ingredients, except for tax revenue

5021 generated by a bundled transaction attributable to food and food ingredients and tangible

5022 personal property other than food and food ingredients described in Subsection (2)~~[(d)]~~(e).

5023 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the

5024 fiscal year during which the Division of Finance receives notice under Section [63N-2-510](#) that

5025 construction on a qualified hotel, as defined in Section [63N-2-502](#), has begun, the Division of

5026 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue

5027 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,

5028 created in Section [63N-2-512](#).

5029 ~~[(12)(a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the~~

5030 ~~Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed~~

5031 ~~under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section~~

5032 [35A-8-308](#).]

5033 ~~[(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division~~

5034 ~~of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under~~

5035 ~~Subsection (3)(a) into the Throughput Infrastructure Fund created by Section [35A-8-308](#).]~~

5036 ~~[(13)]~~ (12) (a) The rate specified in this subsection is 0.15%.

5037 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall~~[(i) on or before~~

5038 ~~September 30, 2019, transfer the amount of revenue collected from the rate described in~~

5039 ~~Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the~~

5040 ~~transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the~~

5041 ~~Medicaid Expansion Fund created in Section [26-36b-208](#), and (ii)]<sub>2</sub>, for a fiscal year beginning~~

5042 ~~on or after July 1, 2019, annually transfer the amount of revenue collected from the rate~~

5043 ~~described in Subsection ~~[(13)]~~ (12)(a) on the transactions that are subject to the sales and use~~

5044 ~~tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section~~

5045 [26-36b-208](#).

5046            [~~(14)~~] (13) Notwithstanding Subsection (3)(a), for each fiscal year beginning with  
5047 fiscal year 2020-21, the Division of Finance shall deposit \$200,000 into the General Fund as a  
5048 dedicated credit solely for use of the Search and Rescue Financial Assistance Program created  
5049 in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

5050            [~~(15)~~] (14) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of  
5051 Finance shall annually transfer \$1,813,400 of the revenue deposited into the Transportation  
5052 Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

5053            (b) If the total revenue deposited into the Transportation Investment Fund of 2005  
5054 under Subsections (6) through (8) is less than \$1,813,400 for a fiscal year, the Division of  
5055 Finance shall transfer the total revenue deposited into the Transportation Investment Fund of  
5056 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

5057            Section 40. Section **59-12-104** is amended to read:

5058            **59-12-104. Exemptions.**

5059            Exemptions from the taxes imposed by this chapter are as follows:

5060            (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax  
5061 under Chapter 13, Motor and Special Fuel Tax Act;

5062            (2) subject to Section [59-12-104.6](#), sales to the state, its institutions, and its political  
5063 subdivisions; however, this exemption does not apply to sales of:

5064            (a) construction materials except:

5065            (i) construction materials purchased by or on behalf of institutions of the public  
5066 education system as defined in Utah Constitution, Article X, Section 2, provided the  
5067 construction materials are clearly identified and segregated and installed or converted to real  
5068 property which is owned by institutions of the public education system; and

5069            (ii) construction materials purchased by the state, its institutions, or its political  
5070 subdivisions which are installed or converted to real property by employees of the state, its  
5071 institutions, or its political subdivisions; or

5072            (b) tangible personal property in connection with the construction, operation,  
5073 maintenance, repair, or replacement of a project, as defined in Section [11-13-103](#), or facilities  
5074 providing additional project capacity, as defined in Section [11-13-103](#);

5075            (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

5076            (i) the proceeds of each sale do not exceed \$1; and

5077 (ii) the seller or operator of the vending machine reports an amount equal to 150% of  
5078 the cost of the item described in Subsection (3)(b) as goods consumed; and

5079 (b) Subsection (3)(a) applies to:

5080 (i) food and food ingredients; or

5081 (ii) prepared food;

5082 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

5083 (i) alcoholic beverages;

5084 (ii) food and food ingredients; or

5085 (iii) prepared food;

5086 (b) sales of tangible personal property or a product transferred electronically:

5087 (i) to a passenger;

5088 (ii) by a commercial airline carrier; and

5089 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or

5090 (c) services related to Subsection (4)(a) or (b);

5091 ~~[(5)(a)(i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts~~  
5092 ~~and equipment:]~~

5093 ~~[(A)(I) by an establishment described in NAICS Code 336411 or 336412 of the 2002~~  
5094 ~~North American Industry Classification System of the federal Executive Office of the~~  
5095 ~~President, Office of Management and Budget; and]~~

5096 ~~[(H) for:]~~

5097 ~~[(Aa) installation in an aircraft, including services relating to the installation of parts or~~  
5098 ~~equipment in the aircraft;]~~

5099 ~~[(Bb) renovation of an aircraft; or]~~

5100 ~~[(Cc) repair of an aircraft; or]~~

5101 ~~[(B) for installation in an aircraft operated by a common carrier in interstate or foreign~~  
5102 ~~commerce; or]~~

5103 ~~[(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an~~  
5104 ~~aircraft operated by a common carrier in interstate or foreign commerce; and]~~

5105 ~~[(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~  
5106 ~~a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a~~  
5107 ~~refund:]~~

5108 ~~[(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;]~~  
5109 ~~[(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;]~~  
5110 ~~[(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for~~  
5111 ~~the sale prior to filing for the refund;]~~  
5112 ~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~  
5113 ~~[(v) in accordance with Section 59-1-1410; and]~~  
5114 ~~[(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,~~  
5115 ~~if the person files for the refund on or before September 30, 2011;]~~

5116 (5) sales of parts and equipment for installation in an aircraft operated by a common  
5117 carrier in interstate or foreign commerce;

5118 (6) sales of commercials, motion picture films, prerecorded audio program tapes or  
5119 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture  
5120 exhibitor, distributor, or commercial television or radio broadcaster;

5121 (7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of  
5122 cleaning or washing of tangible personal property if the cleaning or washing of the tangible  
5123 personal property is not assisted cleaning or washing of tangible personal property;

5124 (b) if a seller that sells at the same business location assisted cleaning or washing of  
5125 tangible personal property and cleaning or washing of tangible personal property that is not  
5126 assisted cleaning or washing of tangible personal property, the exemption described in  
5127 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning  
5128 or washing of the tangible personal property; and

5129 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,  
5130 Utah Administrative Rulemaking Act, the commission may make rules:

5131 (i) governing the circumstances under which sales are at the same business location;  
5132 and

5133 (ii) establishing the procedures and requirements for a seller to separately account for  
5134 sales of assisted cleaning or washing of tangible personal property;

5135 (8) sales made to or by religious or charitable institutions in the conduct of their regular  
5136 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are  
5137 fulfilled;

5138 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of

5139 this state if the vehicle is:

5140 (a) not registered in this state; and

5141 (b) (i) not used in this state; or

5142 (ii) used in this state:

5143 (A) if the vehicle is not used to conduct business, for a time period that does not

5144 exceed the longer of:

5145 (I) 30 days in any calendar year; or

5146 (II) the time period necessary to transport the vehicle to the borders of this state; or

5147 (B) if the vehicle is used to conduct business, for the time period necessary to transport

5148 the vehicle to the borders of this state;

5149 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

5150 (i) the item is intended for human use; and

5151 (ii) (A) a prescription was issued for the item; or

5152 (B) the item was purchased by a hospital or other medical facility; and

5153 (b) (i) Subsection (10)(a) applies to:

5154 (A) a drug;

5155 (B) a syringe; or

5156 (C) a stoma supply; and

5157 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

5158 commission may by rule define the terms:

5159 (A) "syringe"; or

5160 (B) "stoma supply";

5161 (11) purchases or leases exempt under Section [19-12-201](#);

5162 (12) (a) sales of an item described in Subsection (12)(c) served by:

5163 (i) the following if the item described in Subsection (12)(c) is not available to the

5164 general public:

5165 (A) a church; or

5166 (B) a charitable institution; or

5167 (ii) an institution of higher education if:

5168 (A) the item described in Subsection (12)(c) is not available to the general public; or

5169 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan

5170 offered by the institution of higher education; or  
5171 (b) sales of an item described in Subsection (12)(c) provided for a patient by:  
5172 (i) a medical facility; or  
5173 (ii) a nursing facility; and  
5174 (c) Subsections (12)(a) and (b) apply to:  
5175 (i) food and food ingredients;  
5176 (ii) prepared food; or  
5177 (iii) alcoholic beverages;  
5178 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property  
5179 or a product transferred electronically by a person:  
5180 (i) regardless of the number of transactions involving the sale of that tangible personal  
5181 property or product transferred electronically by that person; and  
5182 (ii) not regularly engaged in the business of selling that type of tangible personal  
5183 property or product transferred electronically;  
5184 (b) this Subsection (13) does not apply if:  
5185 (i) the sale is one of a series of sales of a character to indicate that the person is  
5186 regularly engaged in the business of selling that type of tangible personal property or product  
5187 transferred electronically;  
5188 (ii) the person holds that person out as regularly engaged in the business of selling that  
5189 type of tangible personal property or product transferred electronically;  
5190 (iii) the person sells an item of tangible personal property or product transferred  
5191 electronically that the person purchased as a sale that is exempt under Subsection (25); or  
5192 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of  
5193 this state in which case the tax is based upon:  
5194 (A) the bill of sale or other written evidence of value of the vehicle or vessel being  
5195 sold; or  
5196 (B) in the absence of a bill of sale or other written evidence of value, the fair market  
5197 value of the vehicle or vessel being sold at the time of the sale as determined by the  
5198 commission; and  
5199 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
5200 commission shall make rules establishing the circumstances under which:



- 5201 (i) a person is regularly engaged in the business of selling a type of tangible personal  
5202 property or product transferred electronically;
- 5203 (ii) a sale of tangible personal property or a product transferred electronically is one of  
5204 a series of sales of a character to indicate that a person is regularly engaged in the business of  
5205 selling that type of tangible personal property or product transferred electronically; or
- 5206 (iii) a person holds that person out as regularly engaged in the business of selling a type  
5207 of tangible personal property or product transferred electronically;
- 5208 (14) amounts paid or charged for a purchase or lease of machinery, equipment, normal  
5209 operating repair or replacement parts, or materials, except for office equipment or office  
5210 supplies, by:
- 5211 (a) a manufacturing facility that:
- 5212 (i) is located in the state; and
- 5213 (ii) uses or consumes the machinery, equipment, normal operating repair or  
5214 replacement parts, or materials:
- 5215 (A) in the manufacturing process to manufacture an item sold as tangible personal  
5216 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,  
5217 Utah Administrative Rulemaking Act; or
- 5218 (B) for a scrap recycler, to process an item sold as tangible personal property, as the  
5219 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah  
5220 Administrative Rulemaking Act;
- 5221 (b) an establishment, as the commission defines that term in accordance with Title  
5222 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
- 5223 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS  
5224 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal  
5225 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the  
5226 2002 North American Industry Classification System of the federal Executive Office of the  
5227 President, Office of Management and Budget;
- 5228 (ii) is located in the state; and
- 5229 (iii) uses or consumes the machinery, equipment, normal operating repair or  
5230 replacement parts, or materials in:
- 5231 (A) the production process to produce an item sold as tangible personal property, as the

5232 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah  
5233 Administrative Rulemaking Act;

5234 (B) research and development, as the commission may define that phrase in accordance  
5235 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

5236 (C) transporting, storing, or managing tailings, overburden, or similar waste materials  
5237 produced from mining;

5238 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in  
5239 mining; or

5240 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

5241 (c) an establishment, as the commission defines that term in accordance with Title 63G,  
5242 Chapter 3, Utah Administrative Rulemaking Act, that:

5243 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North  
5244 American Industry Classification System of the federal Executive Office of the President,  
5245 Office of Management and Budget;

5246 (ii) is located in the state; and

5247 (iii) uses or consumes the machinery, equipment, normal operating repair or  
5248 replacement parts, or materials in the operation of the web search portal;

5249 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

5250 (i) tooling;

5251 (ii) special tooling;

5252 (iii) support equipment;

5253 (iv) special test equipment; or

5254 (v) parts used in the repairs or renovations of tooling or equipment described in  
5255 Subsections (15)(a)(i) through (iv); and

5256 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

5257 (i) the tooling, equipment, or parts are used or consumed exclusively in the  
5258 performance of any aerospace or electronics industry contract with the United States  
5259 government or any subcontract under that contract; and

5260 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),  
5261 title to the tooling, equipment, or parts is vested in the United States government as evidenced  
5262 by:

- 5263 (A) a government identification tag placed on the tooling, equipment, or parts; or  
5264 (B) listing on a government-approved property record if placing a government  
5265 identification tag on the tooling, equipment, or parts is impractical;
- 5266 (16) sales of newspapers or newspaper subscriptions;
- 5267 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a  
5268 product transferred electronically traded in as full or part payment of the purchase price, except  
5269 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,  
5270 trade-ins are limited to other vehicles only, and the tax is based upon:
- 5271 (i) the bill of sale or other written evidence of value of the vehicle being sold and the  
5272 vehicle being traded in; or
- 5273 (ii) in the absence of a bill of sale or other written evidence of value, the then existing  
5274 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the  
5275 commission; and
- 5276 (b) Subsection (17)(a) does not apply to the following items of tangible personal  
5277 property or products transferred electronically traded in as full or part payment of the purchase  
5278 price:
- 5279 (i) money;
- 5280 (ii) electricity;
- 5281 (iii) water;
- 5282 (iv) gas; or
- 5283 (v) steam;
- 5284 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property  
5285 or a product transferred electronically used or consumed primarily and directly in farming  
5286 operations, regardless of whether the tangible personal property or product transferred  
5287 electronically:
- 5288 (A) becomes part of real estate; or
- 5289 (B) is installed by a[+] farmer, contractor, or subcontractor; or
- 5290 [~~(F)~~ farmer;]
- 5291 [~~(H)~~ contractor; or]
- 5292 [~~(H)~~ subcontractor; or]
- 5293 (ii) sales of parts used in the repairs or renovations of tangible personal property or a

5294 product transferred electronically if the tangible personal property or product transferred  
5295 electronically is exempt under Subsection (18)(a)(i); and

5296 (b) amounts paid or charged for the following are subject to the taxes imposed by this  
5297 chapter:

5298 (i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or  
5299 supplies if used in a manner that is incidental to farming; and

5300 (B) tangible personal property that is considered to be used in a manner that is  
5301 incidental to farming includes:

5302 (I) hand tools; or

5303 (II) maintenance and janitorial equipment and supplies;

5304 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product  
5305 transferred electronically if the tangible personal property or product transferred electronically  
5306 is used in an activity other than farming; and

5307 (B) tangible personal property or a product transferred electronically that is considered  
5308 to be used in an activity other than farming includes:

5309 (I) office equipment and supplies; or

5310 (II) equipment and supplies used in:

5311 (Aa) the sale or distribution of farm products;

5312 (Bb) research; or

5313 (Cc) transportation; or

5314 (iii) a vehicle required to be registered by the laws of this state during the period  
5315 ending two years after the date of the vehicle's purchase;

5316 (19) sales of hay;

5317 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or  
5318 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or  
5319 garden, farm, or other agricultural produce is sold by:

5320 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other  
5321 agricultural produce;

5322 (b) an employee of the producer described in Subsection (20)(a); or

5323 (c) a member of the immediate family of the producer described in Subsection (20)(a);

5324 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued

5325 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

5326 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,  
5327 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,  
5328 wholesaler, or retailer for use in packaging tangible personal property to be sold by that  
5329 manufacturer, processor, wholesaler, or retailer;

5330 (23) a product stored in the state for resale;

5331 (24) (a) purchases of a product if:

5332 (i) the product is:

5333 (A) purchased outside of this state;

5334 (B) brought into this state:

5335 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

5336 (II) by a nonresident person who is not living or working in this state at the time of the  
5337 purchase;

5338 (C) used for the personal use or enjoyment of the nonresident person described in  
5339 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

5340 (D) not used in conducting business in this state; and

5341 (ii) for:

5342 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of  
5343 the product for a purpose for which the product is designed occurs outside of this state;

5344 (B) a boat, the boat is registered outside of this state; or

5345 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
5346 outside of this state;

5347 (b) the exemption provided for in Subsection (24)(a) does not apply to:

5348 (i) a lease or rental of a product; or

5349 (ii) a sale of a vehicle exempt under Subsection (33); and

5350 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
5351 purposes of Subsection (24)(a), the commission may by rule define what constitutes the  
5352 following:

5353 (i) conducting business in this state if that phrase has the same meaning in this  
5354 Subsection (24) as in Subsection (63);

5355 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)

5356 as in Subsection (63); or

5357 (iii) a purpose for which a product is designed if that phrase has the same meaning in  
5358 this Subsection (24) as in Subsection (63);

5359 (25) a product purchased for resale in the regular course of business, either in its  
5360 original form or as an ingredient or component part of a manufactured or compounded product;

5361 (26) a product upon which a sales or use tax was paid to some other state, or one of its  
5362 subdivisions, except that the state shall be paid any difference between the tax paid and the tax  
5363 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if  
5364 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax  
5365 Act;

5366 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a  
5367 person for use in compounding a service taxable under the subsections;

5368 (28) purchases made in accordance with the special supplemental nutrition program for  
5369 women, infants, and children established in 42 U.S.C. Sec. 1786;

5370 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other  
5371 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code  
5372 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of  
5373 the President, Office of Management and Budget;

5374 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State  
5375 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

5376 (a) not registered in this state; and

5377 (b) (i) not used in this state; or

5378 (ii) used in this state:

5379 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a  
5380 time period that does not exceed the longer of:

5381 (I) 30 days in any calendar year; or

5382 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to  
5383 the borders of this state; or

5384 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time  
5385 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this  
5386 state;

- 5387 (31) sales of aircraft manufactured in Utah;
- 5388 (32) amounts paid for the purchase of telecommunications service for purposes of  
5389 providing telecommunications service;
- 5390 (33) sales, leases, or uses of the following:
- 5391 (a) a vehicle by an authorized carrier; or
- 5392 (b) tangible personal property that is installed on a vehicle:
- 5393 (i) sold or leased to or used by an authorized carrier; and
- 5394 (ii) before the vehicle is placed in service for the first time;
- 5395 (34) (a) 45% of the sales price of any new manufactured home; and
- 5396 (b) 100% of the sales price of any used manufactured home;
- 5397 (35) sales relating to schools and fundraising sales;
- 5398 (36) sales or rentals of durable medical equipment if:
- 5399 (a) a person presents a prescription for the durable medical equipment; and
- 5400 (b) the durable medical equipment is used for home use only;
- 5401 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in  
5402 Section [72-11-102](#); and
- 5403 (b) the commission shall by rule determine the method for calculating sales exempt  
5404 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 5405 (38) sales to a ski resort of:
- 5406 (a) snowmaking equipment;
- 5407 (b) ski slope grooming equipment;
- 5408 (c) passenger ropeways as defined in Section [72-11-102](#); or
- 5409 (d) parts used in the repairs or renovations of equipment or passenger ropeways  
5410 described in Subsections (38)(a) through (c);
- 5411 (39) subject to Subsection [59-12-103\(2\)\(j\)](#), sales of natural gas, electricity, heat, coal,  
5412 fuel oil, or other fuels for industrial use;
- 5413 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for  
5414 amusement, entertainment, or recreation an unassisted amusement device as defined in Section  
5415 [59-12-102](#);
- 5416 (b) if a seller that sells or rents at the same business location the right to use or operate  
5417 for amusement, entertainment, or recreation one or more unassisted amusement devices and

5418 one or more assisted amusement devices, the exemption described in Subsection (40)(a)  
5419 applies if the seller separately accounts for the sales or rentals of the right to use or operate for  
5420 amusement, entertainment, or recreation for the assisted amusement devices; and

5421 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,  
5422 Utah Administrative Rulemaking Act, the commission may make rules:

5423 (i) governing the circumstances under which sales are at the same business location;  
5424 and

5425 (ii) establishing the procedures and requirements for a seller to separately account for  
5426 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for  
5427 assisted amusement devices;

5428 (41) (a) sales of photocopies by:

5429 (i) a governmental entity; or

5430 (ii) an entity within the state system of public education, including:

5431 (A) a school; or

5432 (B) the State Board of Education; or

5433 (b) sales of publications by a governmental entity;

5434 (42) amounts paid for admission to an athletic event at an institution of higher  
5435 education that is subject to the provisions of Title IX of the Education Amendments of 1972,  
5436 20 U.S.C. Sec. 1681 et seq.;

5437 (43) (a) sales made to or by:

5438 (i) an area agency on aging; or

5439 (ii) a senior citizen center owned by a county, city, or town; or

5440 (b) sales made by a senior citizen center that contracts with an area agency on aging;

5441 (44) sales or leases of semiconductor fabricating, processing, research, or development  
5442 materials regardless of whether the semiconductor fabricating, processing, research, or  
5443 development materials:

5444 (a) actually come into contact with a semiconductor; or

5445 (b) ultimately become incorporated into real property;

5446 (45) an amount paid by or charged to a purchaser for accommodations and services  
5447 described in Subsection [59-12-103\(1\)\(i\)](#) to the extent the amount is exempt under Section  
5448 [59-12-104.2](#);



5449 (46) [~~beginning on September 1, 2001,~~] the lease or use of a vehicle issued a temporary  
5450 sports event registration certificate in accordance with Section 41-3-306 for the event period  
5451 specified on the temporary sports event registration certificate;

5452 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff  
5453 adopted by the Public Service Commission only for purchase of electricity produced from a  
5454 new alternative energy source built after January 1, 2016, as designated in the tariff by the  
5455 Public Service Commission; and

5456 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies  
5457 only to the portion of the tariff rate a customer pays under the tariff described in Subsection  
5458 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the  
5459 customer would have paid absent the tariff;

5460 (48) sales or rentals of mobility enhancing equipment if a person presents a  
5461 prescription for the mobility enhancing equipment;

5462 (49) sales of water in a:

5463 (a) pipe;

5464 (b) conduit;

5465 (c) ditch; or

5466 (d) reservoir;

5467 (50) sales of currency or coins that constitute legal tender of a state, the United States,  
5468 or a foreign nation;

5469 (51) (a) sales of an item described in Subsection (51)(b) if the item:

5470 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and

5471 (ii) has a gold, silver, or platinum content of 50% or more; and

5472 (b) Subsection (51)(a) applies to a gold, silver, or platinum:

5473 (i) ingot;

5474 (ii) bar;

5475 (iii) medallion; or

5476 (iv) decorative coin;

5477 (52) amounts paid on a sale-leaseback transaction;

5478 (53) sales of a prosthetic device:

5479 (a) for use on or in a human; and

5480 (b) (i) for which a prescription is required; or  
5481 (ii) if the prosthetic device is purchased by a hospital or other medical facility;  
5482 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of  
5483 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery  
5484 or equipment is primarily used in the production or postproduction of the following media for  
5485 commercial distribution:  
5486 (i) a motion picture;  
5487 (ii) a television program;  
5488 (iii) a movie made for television;  
5489 (iv) a music video;  
5490 (v) a commercial;  
5491 (vi) a documentary; or  
5492 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the  
5493 commission by administrative rule made in accordance with Subsection (54)(d); or  
5494 (b) purchases, leases, or rentals of machinery or equipment by an establishment  
5495 described in Subsection (54)(c) that is used for the production or postproduction of the  
5496 following are subject to the taxes imposed by this chapter:  
5497 (i) a live musical performance;  
5498 (ii) a live news program; or  
5499 (iii) a live sporting event;  
5500 (c) the following establishments listed in the 1997 North American Industry  
5501 Classification System of the federal Executive Office of the President, Office of Management  
5502 and Budget, apply to Subsections (54)(a) and (b):  
5503 (i) NAICS Code 512110; or  
5504 (ii) NAICS Code 51219; and  
5505 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
5506 commission may by rule:  
5507 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);  
5508 or  
5509 (ii) define:  
5510 (A) "commercial distribution";

- 5511 (B) "live musical performance";
- 5512 (C) "live news program"; or
- 5513 (D) "live sporting event";
- 5514 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
- 5515 on or before June 30, 2027, of tangible personal property that:
- 5516 (i) is leased or purchased for or by a facility that:
- 5517 (A) is an alternative energy electricity production facility;
- 5518 (B) is located in the state; and
- 5519 (C) (I) becomes operational on or after July 1, 2004; or
- 5520 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 5521 2004, as a result of the use of the tangible personal property;
- 5522 (ii) has an economic life of five or more years; and
- 5523 (iii) is used to make the facility or the increase in capacity of the facility described in
- 5524 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
- 5525 transmission grid including:
- 5526 (A) a wind turbine;
- 5527 (B) generating equipment;
- 5528 (C) a control and monitoring system;
- 5529 (D) a power line;
- 5530 (E) substation equipment;
- 5531 (F) lighting;
- 5532 (G) fencing;
- 5533 (H) pipes; or
- 5534 (I) other equipment used for locating a power line or pole; and
- 5535 (b) this Subsection (55) does not apply to:
- 5536 (i) tangible personal property used in construction of:
- 5537 (A) a new alternative energy electricity production facility; or
- 5538 (B) the increase in the capacity of an alternative energy electricity production facility;
- 5539 (ii) contracted services required for construction and routine maintenance activities;
- 5540 and
- 5541 (iii) unless the tangible personal property is used or acquired for an increase in capacity

5542 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or  
5543 acquired after:

5544 (A) the alternative energy electricity production facility described in Subsection  
5545 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

5546 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described  
5547 in Subsection (55)(a)(iii);

5548 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but  
5549 on or before June 30, 2027, of tangible personal property that:

5550 (i) is leased or purchased for or by a facility that:

5551 (A) is a waste energy production facility;

5552 (B) is located in the state; and

5553 (C) (I) becomes operational on or after July 1, 2004; or

5554 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
5555 2004, as a result of the use of the tangible personal property;

5556 (ii) has an economic life of five or more years; and

5557 (iii) is used to make the facility or the increase in capacity of the facility described in  
5558 Subsection (56)(a)(i) operational up to the point of interconnection with an existing  
5559 transmission grid including:

5560 (A) generating equipment;

5561 (B) a control and monitoring system;

5562 (C) a power line;

5563 (D) substation equipment;

5564 (E) lighting;

5565 (F) fencing;

5566 (G) pipes; or

5567 (H) other equipment used for locating a power line or pole; and

5568 (b) this Subsection (56) does not apply to:

5569 (i) tangible personal property used in construction of:

5570 (A) a new waste energy facility; or

5571 (B) the increase in the capacity of a waste energy facility;

5572 (ii) contracted services required for construction and routine maintenance activities;

5573 and

5574 (iii) unless the tangible personal property is used or acquired for an increase in capacity  
5575 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

5576 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as  
5577 described in Subsection (56)(a)(iii); or

5578 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described  
5579 in Subsection (56)(a)(iii);

5580 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on  
5581 or before June 30, 2027, of tangible personal property that:

5582 (i) is leased or purchased for or by a facility that:

5583 (A) is located in the state;

5584 (B) produces fuel from alternative energy, including:

5585 (I) methanol; or

5586 (II) ethanol; and

5587 (C) (I) becomes operational on or after July 1, 2004; or

5588 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as  
5589 a result of the installation of the tangible personal property;

5590 (ii) has an economic life of five or more years; and

5591 (iii) is installed on the facility described in Subsection (57)(a)(i);

5592 (b) this Subsection (57) does not apply to:

5593 (i) tangible personal property used in construction of:

5594 (A) a new facility described in Subsection (57)(a)(i); or

5595 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

5596 (ii) contracted services required for construction and routine maintenance activities;

5597 and

5598 (iii) unless the tangible personal property is used or acquired for an increase in capacity  
5599 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

5600 (A) the facility described in Subsection (57)(a)(i) is operational; or

5601 (B) the increased capacity described in Subsection (57)(a)(i) is operational;

5602 (58) (a) subject to Subsection (58)(b) [~~or (c)~~], sales of tangible personal property or a  
5603 product transferred electronically to a person within this state if that tangible personal property

5604 or product transferred electronically is subsequently shipped outside the state and incorporated  
5605 pursuant to contract into and becomes a part of real property located outside of this state; and

5606 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other  
5607 state or political entity to which the tangible personal property is shipped imposes a sales, use,  
5608 gross receipts, or other similar transaction excise tax on the transaction against which the other  
5609 state or political entity allows a credit for sales and use taxes imposed by this chapter; ~~[and]~~

5610 ~~[(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~  
5611 ~~a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a~~  
5612 ~~refund:]~~

5613 ~~[(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;]~~

5614 ~~[(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on~~  
5615 ~~which the sale is made;]~~

5616 ~~[(iii) if the person did not claim the exemption allowed by this Subsection (58) for the~~  
5617 ~~sale prior to filing for the refund;]~~

5618 ~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~

5619 ~~[(v) in accordance with Section 59-1-1410; and]~~

5620 ~~[(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,~~  
5621 ~~if the person files for the refund on or before June 30, 2011;]~~

5622 (59) purchases:

5623 (a) of one or more of the following items in printed or electronic format:

5624 (i) a list containing information that includes one or more:

5625 (A) names; or

5626 (B) addresses; or

5627 (ii) a database containing information that includes one or more:

5628 (A) names; or

5629 (B) addresses; and

5630 (b) used to send direct mail;

5631 (60) redemptions or repurchases of a product by a person if that product was:

5632 (a) delivered to a pawnbroker as part of a pawn transaction; and

5633 (b) redeemed or repurchased within the time period established in a written agreement  
5634 between the person and the pawnbroker for redeeming or repurchasing the product;

5635 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:  
5636 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;  
5637 and  
5638 (ii) has a useful economic life of one or more years; and  
5639 (b) the following apply to Subsection (61)(a):  
5640 (i) telecommunications enabling or facilitating equipment, machinery, or software;  
5641 (ii) telecommunications equipment, machinery, or software required for 911 service;  
5642 (iii) telecommunications maintenance or repair equipment, machinery, or software;  
5643 (iv) telecommunications switching or routing equipment, machinery, or software; or  
5644 (v) telecommunications transmission equipment, machinery, or software;  
5645 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible  
5646 personal property or a product transferred electronically that are used in the research and  
5647 development of alternative energy technology; and  
5648 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
5649 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes  
5650 purchases of tangible personal property or a product transferred electronically that are used in  
5651 the research and development of alternative energy technology;  
5652 (63) (a) purchases of tangible personal property or a product transferred electronically  
5653 if:  
5654 (i) the tangible personal property or product transferred electronically is:  
5655 (A) purchased outside of this state;  
5656 (B) brought into this state at any time after the purchase described in Subsection  
5657 (63)(a)(i)(A); and  
5658 (C) used in conducting business in this state; and  
5659 (ii) for:  
5660 (A) tangible personal property or a product transferred electronically other than the  
5661 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property  
5662 for a purpose for which the property is designed occurs outside of this state; or  
5663 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
5664 outside of this state and not required to be registered in this state under Section [41-1a-202](#) or  
5665 [73-18-9](#) based on residency;

5666 (b) the exemption provided for in Subsection (63)(a) does not apply to:  
5667 (i) a lease or rental of tangible personal property or a product transferred electronically;  
5668 or  
5669 (ii) a sale of a vehicle exempt under Subsection (33); and  
5670 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
5671 purposes of Subsection (63)(a), the commission may by rule define what constitutes the  
5672 following:  
5673 (i) conducting business in this state if that phrase has the same meaning in this  
5674 Subsection (63) as in Subsection (24);  
5675 (ii) the first use of tangible personal property or a product transferred electronically if  
5676 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or  
5677 (iii) a purpose for which tangible personal property or a product transferred  
5678 electronically is designed if that phrase has the same meaning in this Subsection (63) as in  
5679 Subsection (24);  
5680 (64) sales of disposable home medical equipment or supplies if:  
5681 (a) a person presents a prescription for the disposable home medical equipment or  
5682 supplies;  
5683 (b) the disposable home medical equipment or supplies are used exclusively by the  
5684 person to whom the prescription described in Subsection (64)(a) is issued; and  
5685 (c) the disposable home medical equipment and supplies are listed as eligible for  
5686 payment under:  
5687 (i) Title XVIII, federal Social Security Act; or  
5688 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;  
5689 (65) sales:  
5690 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit  
5691 District Act; or  
5692 (b) of tangible personal property to a subcontractor of a public transit district, if the  
5693 tangible personal property is:  
5694 (i) clearly identified; and  
5695 (ii) installed or converted to real property owned by the public transit district;  
5696 (66) sales of construction materials:



- 5697 (a) purchased on or after July 1, 2010;
- 5698 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 5699 (i) located within a county of the first class; and
- 5700 (ii) that has a United States customs office on its premises; and
- 5701 (c) if the construction materials are:
- 5702 (i) clearly identified;
- 5703 (ii) segregated; and
- 5704 (iii) installed or converted to real property:
- 5705 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 5706 (B) located at the international airport described in Subsection (66)(b);
- 5707 (67) sales of construction materials:
- 5708 (a) purchased on or after July 1, 2008;
- 5709 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 5710 (i) located within a county of the second class; and
- 5711 (ii) that is owned or operated by a city in which an airline as defined in Section
- 5712 [59-2-102](#) is headquartered; and
- 5713 (c) if the construction materials are:
- 5714 (i) clearly identified;
- 5715 (ii) segregated; and
- 5716 (iii) installed or converted to real property:
- 5717 (A) owned or operated by the new airport described in Subsection (67)(b);
- 5718 (B) located at the new airport described in Subsection (67)(b); and
- 5719 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 5720 (68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a
- 5721 common carrier that is a railroad for use in a locomotive engine;
- 5722 (69) purchases and sales described in Section [63H-4-111](#);
- 5723 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 5724 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 5725 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 5726 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 5727 powered aircraft; or

5728 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul  
5729 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of  
5730 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration  
5731 lists a state or country other than this state as the location of registry of the fixed wing turbine  
5732 powered aircraft;

5733 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

5734 (a) to a person admitted to an institution of higher education; and

5735 (b) by a seller, other than a bookstore owned by an institution of higher education, if  
5736 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a  
5737 textbook for a higher education course;

5738 (72) a license fee or tax a municipality imposes in accordance with Subsection  
5739 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced  
5740 level of municipal services;

5741 (73) amounts paid or charged for construction materials used in the construction of a  
5742 new or expanding life science research and development facility in the state, if the construction  
5743 materials are:

5744 (a) clearly identified;

5745 (b) segregated; and

5746 (c) installed or converted to real property;

5747 (74) amounts paid or charged for:

5748 (a) a purchase or lease of machinery and equipment that:

5749 (i) are used in performing qualified research:

5750 (A) as defined in Section 41(d), Internal Revenue Code; and

5751 (B) in the state; and

5752 (ii) have an economic life of three or more years; and

5753 (b) normal operating repair or replacement parts:

5754 (i) for the machinery and equipment described in Subsection (74)(a); and

5755 (ii) that have an economic life of three or more years;

5756 (75) a sale or lease of tangible personal property used in the preparation of prepared  
5757 food if:

5758 (a) for a sale:

- 5759 (i) the ownership of the seller and the ownership of the purchaser are identical; and  
5760 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that  
5761 tangible personal property prior to making the sale; or
- 5762 (b) for a lease:
- 5763 (i) the ownership of the lessor and the ownership of the lessee are identical; and  
5764 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible  
5765 personal property prior to making the lease;
- 5766 (76) (a) purchases of machinery or equipment if:
- 5767 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,  
5768 Gambling, and Recreation Industries, of the 2012 North American Industry Classification  
5769 System of the federal Executive Office of the President, Office of Management and Budget;
- 5770 (ii) the machinery or equipment:
- 5771 (A) has an economic life of three or more years; and  
5772 (B) is used by one or more persons who pay admission or user fees described in  
5773 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and  
5774 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- 5775 (A) amounts paid or charged as admission or user fees described in Subsection  
5776 59-12-103(1)(f); and  
5777 (B) subject to taxation under this chapter; and  
5778 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
5779 commission may make rules for verifying that 51% of a purchaser's sales revenue for the  
5780 previous calendar quarter is:
- 5781 (i) amounts paid or charged as admission or user fees described in Subsection  
5782 59-12-103(1)(f); and  
5783 (ii) subject to taxation under this chapter;
- 5784 (77) purchases of a short-term lodging consumable by a business that provides  
5785 accommodations and services described in Subsection 59-12-103(1)(i);  
5786 (78) amounts paid or charged to access a database:
- 5787 (a) if the primary purpose for accessing the database is to view or retrieve information  
5788 from the database; and  
5789 (b) not including amounts paid or charged for a:

- 5790 (i) digital audio work;
- 5791 (ii) digital audio-visual work; or
- 5792 (iii) digital book;
- 5793 (79) amounts paid or charged for a purchase or lease made by an electronic financial
- 5794 payment service, of:
  - 5795 (a) machinery and equipment that:
    - 5796 (i) are used in the operation of the electronic financial payment service; and
    - 5797 (ii) have an economic life of three or more years; and
  - 5798 (b) normal operating repair or replacement parts that:
    - 5799 (i) are used in the operation of the electronic financial payment service; and
    - 5800 (ii) have an economic life of three or more years;
- 5801 (80) [~~beginning on April 1, 2013,~~] sales of a fuel cell as defined in Section 54-15-102;
- 5802 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
- 5803 product transferred electronically if the tangible personal property or product transferred
- 5804 electronically:
  - 5805 (a) is stored, used, or consumed in the state; and
  - 5806 (b) is temporarily brought into the state from another state:
    - 5807 (i) during a disaster period as defined in Section 53-2a-1202;
    - 5808 (ii) by an out-of-state business as defined in Section 53-2a-1202;
    - 5809 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
    - 5810 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
- 5811 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
- 5812 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
- 5813 Recreation Program;
- 5814 (83) amounts paid or charged for a purchase or lease of molten magnesium;
- 5815 (84) amounts paid or charged for a purchase or lease made by a qualifying data center
- 5816 or an occupant of a qualifying data center of machinery, equipment, or normal operating repair
- 5817 or replacement parts, if the machinery, equipment, or normal operating repair or replacement
- 5818 parts:
  - 5819 (a) are used in:
    - 5820 (i) the operation of the qualifying data center; or

- 5821 (ii) the occupant's operations in the qualifying data center; and
- 5822 (b) have an economic life of one or more years;
- 5823 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
- 5824 vehicle that includes cleaning or washing of the interior of the vehicle;
- 5825 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal
- 5826 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used
- 5827 or consumed:
- 5828 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
- 5829 in Section [63M-4-701](#) located in the state;
- 5830 (b) if the machinery, equipment, normal operating repair or replacement parts,
- 5831 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:
- 5832 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
- 5833 added to gasoline or diesel fuel;
- 5834 (ii) research and development;
- 5835 (iii) transporting, storing, or managing raw materials, work in process, finished
- 5836 products, and waste materials produced from refining gasoline or diesel fuel, or adding
- 5837 blendstock to gasoline or diesel fuel;
- 5838 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
- 5839 refining; or
- 5840 (v) preventing, controlling, or reducing pollutants from refining; and
- 5841 (c) [~~beginning on July 1, 2021,~~] if the person holds a valid refiner tax exemption
- 5842 certification as defined in Section [63M-4-701](#);
- 5843 (87) amounts paid to or charged by a proprietor for accommodations and services, as
- 5844 defined in Section [63H-1-205](#), if the proprietor is subject to the MIDA accommodations tax
- 5845 imposed under Section [63H-1-205](#);
- 5846 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal
- 5847 operating repair or replacement parts, or materials, except for office equipment or office
- 5848 supplies, by an establishment, as the commission defines that term in accordance with Title
- 5849 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
- 5850 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
- 5851 American Industry Classification System of the federal Executive Office of the President,

5852 Office of Management and Budget;

5853 (b) is located in this state; and

5854 (c) uses the machinery, equipment, normal operating repair or replacement parts, or  
5855 materials in the operation of the establishment; and

5856 (89) amounts paid or charged for an item exempt under Section 59-12-104.10.

5857 Section 41. Section 59-12-209 is amended to read:

5858 **59-12-209. Participation of qualifying jurisdictions in administration and**  
5859 **enforcement of certain local sales and use taxes -- Petition for reconsideration relating to**  
5860 **the redistribution of certain sales and use tax revenues.**

5861 (1) As used in this section, "qualifying jurisdiction" means the same as that term is  
5862 defined in Section 59-1-403.

5863 [(1)] (2) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, a  
5864 [county, city, or town] qualifying jurisdiction does not have the right to any of the following,  
5865 except as specifically allowed by Subsection [(2)] (3) and Section 59-12-210:

5866 (a) to inspect, review, or have access to any taxpayer sales and use tax records; or

5867 (b) to be informed of, participate in, intervene in, or appeal from any adjudicative  
5868 proceeding commenced pursuant to Section 63G-4-201 to determine the liability of any  
5869 taxpayer for sales and use taxes imposed pursuant to this chapter.

5870 [(2)] (3) (a) [~~Counties, cities, and towns~~] A qualifying jurisdiction shall have access to  
5871 records and information on file with the commission, and shall have the right to notice of, and  
5872 rights to intervene in or to appeal from, a proposed final agency action of the commission as  
5873 provided in this Subsection [(2)] (3).

5874 (b) If the commission, following a formal adjudicative proceeding commenced  
5875 pursuant to Title 63G, Chapter 4, Administrative Procedures Act, proposes to take final agency  
5876 action that would reduce the amount of sales and use tax liability alleged in the notice of  
5877 deficiency, the commission shall provide notice of a proposed agency action to each [qualified  
5878 county, city, and town. (c) ~~For purposes of this Subsection (2), a county, city, or town is a~~  
5879 ~~qualified county, city, or town if a~~] qualifying jurisdiction if the proposed final agency action  
5880 reduces a tax under this chapter distributable to that [county, city, or town] qualifying  
5881 jurisdiction by more than \$10,000 below the amount of the tax that would have been  
5882 distributable to that [~~county, city, or town~~] qualifying jurisdiction had a notice of deficiency, as

5883 described in Section 59-1-1405, not been reduced.

5884 ~~[(d)]~~ (c) A ~~[qualified county, city, or town]~~ qualifying jurisdiction that receives notice  
5885 described in Subsection (3)(b) may designate a representative who shall have the right to  
5886 review the record of the formal hearing and any other commission records relating to a  
5887 proposed final agency action subject to the confidentiality provisions of Section 59-1-403.

5888 ~~[(e)]~~ (d) No later than 10 days after receiving the notice of the commission's proposed  
5889 final agency action, a ~~[qualified county, city, or town]~~ qualifying jurisdiction may file a notice  
5890 of intervention with the commission.

5891 ~~[(f)]~~ (e) No later than 20 days after filing a notice of intervention, if a ~~[qualified county,~~  
5892 ~~city, or town]~~ qualifying jurisdiction objects to the proposed final agency action, that ~~[qualified~~  
5893 ~~county, city, or town]~~ qualifying jurisdiction may file a petition for reconsideration with the  
5894 commission and shall serve copies of the petition on the taxpayer and the appropriate division  
5895 in the commission.

5896 ~~[(g)]~~ (f) The taxpayer and appropriate division in the commission may each file a  
5897 response to the petition for reconsideration within 20 days of receipt of the petition for  
5898 reconsideration.

5899 ~~[(h)]~~ (g) (i) After consideration of the petition for reconsideration and any response,  
5900 and any additional proceeding the commission considers appropriate, the commission may  
5901 affirm, modify, or amend its proposed final agency action.

5902 (ii) A taxpayer and any ~~[qualified county, city, or town]~~ qualifying jurisdiction that has  
5903 filed a petition for reconsideration may appeal the final agency action.

5904 ~~[(i)]~~ (h) (i) Notwithstanding Subsections ~~[(2)]~~ (3)(a) through ~~[(h)]~~ (g) and subject to  
5905 Subsection ~~[(2)(i)]~~ (3)(h)(ii), the following may file a petition for reconsideration with the  
5906 commission:

5907 (A) an original recipient political subdivision as defined in Section 59-12-210.1 that  
5908 receives a notice from the commission in accordance with Subsection 59-12-210.1(2); or

5909 (B) a secondary recipient political subdivision as defined in Section 59-12-210.1 that  
5910 receives a notice from the commission in accordance with Subsection 59-12-210.1(2).

5911 (ii) An original recipient political subdivision or secondary recipient political  
5912 subdivision that files a petition for reconsideration with the commission under Subsection  
5913 ~~[(2)(i)]~~ (3)(h)(i) shall file the petition no later than 20 days after the later of:

5914 (A) the date the original recipient political subdivision or secondary recipient political  
5915 subdivision receives the notice described in Subsection [(2)(+)] (3)(h)(i) from the commission;  
5916 or

5917 (B) the date the commission makes the redistribution as defined in Section 59-12-210.1  
5918 that is the subject of the notice described in Subsection [(2)(+)] (3)(h)(i).

5919 Section 42. Section 59-12-210 is amended to read:

5920 **59-12-210. Commission to provide data to counties.**

5921 (1) As used in this section, "qualifying jurisdiction" means the same as that term is  
5922 defined in Section 59-1-403.

5923 [(+)] (2) (a) The commission shall provide to each [county] qualifying jurisdiction the  
5924 sales and use tax collection data necessary to verify that sales and use tax revenues collected by  
5925 the commission are distributed to each [county, city, and town] qualifying jurisdiction in  
5926 accordance with Sections 59-12-211 through 59-12-215.

5927 (b) The data described in Subsection [(+)] (2)(a) shall include the commission's reports  
5928 of seller sales, sales and use tax distribution reports, and a breakdown of local revenues.

5929 [(2)] (3) (a) In addition to the access to information provided in Subsection (1) and  
5930 Section 59-12-109, the commission shall provide a [county, city, and town] qualifying  
5931 jurisdiction with copies of returns and other information required by this chapter relating to a  
5932 tax under this chapter.

5933 (b) The information described in Subsection [(2)] (3)(a) is available only in official  
5934 matters and must be requested in writing by the chief executive officer or the chief executive  
5935 officer's designee.

5936 (c) The request described in Subsection [(2)] (3)(b) shall specifically indicate the  
5937 information being sought and how the information will be used.

5938 (d) Information received pursuant to the request described in Subsection [(2)] (3)(b)  
5939 shall be:

- 5940 (i) classified as private or protected under Section 63G-2-302 or 63G-2-305; and
- 5941 (ii) subject to the confidentiality provisions of Section 59-1-403.

5942 Section 43. Section 59-14-212 is amended to read:

5943 **59-14-212. Reporting of imported cigarettes -- Penalty.**

5944 (1) Except as provided under Subsection (2), any manufacturer, distributor, wholesaler,



5945 or retail dealer who under Section 59-14-205 affixes a stamp to an individual package or  
5946 container of cigarettes imported to the United States shall provide to the commission the  
5947 following as they pertain to the imported cigarettes:

5948 (a) a copy of the importer's federal import permit;  
5949 (b) the customs form showing the tax information required by federal law;  
5950 (c) a statement signed under penalty of perjury by the manufacturer or importer that the  
5951 manufacturer or importer has complied with:

5952 (i) 15 U.S.C. 1333 of the Federal Cigarette Labeling and Advertising Act, regarding  
5953 warning labels and other package information; and

5954 (ii) 15 U.S.C. 1335a of the Federal Cigarette Labeling and Advertising Act, regarding  
5955 reporting of added ingredients;

5956 (d) the name of the person from whom the person affixing the stamp received the  
5957 cigarettes;

5958 (e) the name of the person to whom the person affixing the stamp delivered the  
5959 cigarettes, unless the person receiving the cigarettes was the ultimate consumer;

5960 (f) the quantity of cigarettes in the package or container; and

5961 (g) the brand and brand style of the cigarettes.

5962 (2) Subsection (1) does not apply to cigarettes sold or intended to be sold as duty-free  
5963 merchandise by a duty-free sales enterprise in accordance with the provisions of 19 U.S.C.  
5964 1555(b) and any implementing regulations unless the cigarettes are brought back into the  
5965 customs territory for resale within the customs territory.

5966 (3) The information under Subsection (1) shall be provided on a quarterly basis on  
5967 forms specified by the agency.

5968 (4) A person who fails to comply with the reporting requirement or provides false or  
5969 misleading information under Subsection (1):

5970 (a) is guilty of a class B misdemeanor; and

5971 (b) may be subject to:

5972 (i) revocation or suspension of a license issued under Section 59-14-202; and

5973 (ii) a civil penalty imposed by the commission in an amount not to exceed the greater  
5974 of:

5975 (A) 500% of the retail value of the cigarettes for which a report was not properly made;

5976 or

5977 (B) \$5,000.

5978 (5) The information under Subsection (1) may be disclosed by the commission as  
5979 provided under Subsection ~~59-1-403~~(4)(g).

5980 Section 44. Section **62A-11-328** is amended to read:

5981 **62A-11-328. Information received from State Tax Commission provided to other**  
5982 **states' child support collection agencies.**

5983 The office shall, upon request, provide to any other state's child support collection  
5984 agency the information which it receives from the State Tax Commission under Subsection  
5985 ~~59-1-403~~(4)(l), with regard to a support debt which that agency is involved in enforcing.

5986 Section 45. Section **63G-2-302** is amended to read:

5987 **63G-2-302. Private records.**

5988 (1) The following records are private:

5989 (a) records concerning an individual's eligibility for unemployment insurance benefits,  
5990 social services, welfare benefits, or the determination of benefit levels;

5991 (b) records containing data on individuals describing medical history, diagnosis,  
5992 condition, treatment, evaluation, or similar medical data;

5993 (c) records of publicly funded libraries that when examined alone or with other records  
5994 identify a patron;

5995 (d) records received by or generated by or for:

5996 (i) the Independent Legislative Ethics Commission, except for:

5997 (A) the commission's summary data report that is required under legislative rule; and

5998 (B) any other document that is classified as public under legislative rule; or

5999 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,  
6000 unless the record is classified as public under legislative rule;

6001 (e) records received by, or generated by or for, the Independent Executive Branch  
6002 Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review  
6003 of Executive Branch Ethics Complaints;

6004 (f) records received or generated for a Senate confirmation committee concerning  
6005 character, professional competence, or physical or mental health of an individual:

6006 (i) if, prior to the meeting, the chair of the committee determines release of the records:

6007 (A) reasonably could be expected to interfere with the investigation undertaken by the  
6008 committee; or

6009 (B) would create a danger of depriving a person of a right to a fair proceeding or  
6010 impartial hearing; and

6011 (ii) after the meeting, if the meeting was closed to the public;

6012 (g) employment records concerning a current or former employee of, or applicant for  
6013 employment with, a governmental entity that would disclose that individual's home address,  
6014 home telephone number, social security number, insurance coverage, marital status, or payroll  
6015 deductions;

6016 (h) records or parts of records under Section 63G-2-303 that a current or former  
6017 employee identifies as private according to the requirements of that section;

6018 (i) that part of a record indicating a person's social security number or federal employer  
6019 identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202,  
6020 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

6021 (j) that part of a voter registration record identifying a voter's:

6022 (i) driver license or identification card number;

6023 (ii) social security number, or last four digits of the social security number;

6024 (iii) email address; or

6025 (iv) date of birth;

6026 (k) a voter registration record that is classified as a private record by the lieutenant  
6027 governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or  
6028 20A-2-204(4)(b);

6029 (l) a voter registration record that is withheld under Subsection 20A-2-104(7);

6030 (m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any  
6031 verification submitted in support of the form;

6032 (n) a record that:

6033 (i) contains information about an individual;

6034 (ii) is voluntarily provided by the individual; and

6035 (iii) goes into an electronic database that:

6036 (A) is designated by and administered under the authority of the Chief Information  
6037 Officer; and

6038 (B) acts as a repository of information about the individual that can be electronically  
6039 retrieved and used to facilitate the individual's online interaction with a state agency;  
6040 (o) information provided to the Commissioner of Insurance under:  
6041 (i) Subsection 31A-23a-115(3)(a);  
6042 (ii) Subsection 31A-23a-302(4); or  
6043 (iii) Subsection 31A-26-210(4);  
6044 (p) information obtained through a criminal background check under Title 11, Chapter  
6045 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;  
6046 (q) information provided by an offender that is:  
6047 (i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap  
6048 Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and  
6049 (ii) not required to be made available to the public under Subsection 77-41-110(4) or  
6050 77-43-108(4);  
6051 (r) a statement and any supporting documentation filed with the attorney general in  
6052 accordance with Section 34-45-107, if the federal law or action supporting the filing involves  
6053 homeland security;  
6054 (s) electronic toll collection customer account information received or collected under  
6055 Section 72-6-118 and customer information described in Section 17B-2a-815 received or  
6056 collected by a public transit district, including contact and payment information and customer  
6057 travel data;  
6058 (t) an email address provided by a military or overseas voter under Section  
6059 20A-16-501;  
6060 (u) a completed military-overseas ballot that is electronically transmitted under Title  
6061 20A, Chapter 16, Uniform Military and Overseas Voters Act;  
6062 (v) records received by or generated by or for the Political Subdivisions Ethics Review  
6063 Commission established in Section 63A-15-201, except for:  
6064 (i) the commission's summary data report that is required in Section 63A-15-202; and  
6065 (ii) any other document that is classified as public in accordance with Title 63A,  
6066 Chapter 15, Political Subdivisions Ethics Review Commission;  
6067 (w) a record described in Section 53G-9-604 that verifies that a parent was notified of  
6068 an incident or threat;

- 6069 (x) a criminal background check or credit history report conducted in accordance with  
6070 Section [63A-3-201](#);
- 6071 (y) a record described in Subsection [53-5a-104\(7\)](#);
- 6072 (z) the following portions of a record maintained by a county for the purpose of  
6073 administering property taxes, an individual's:
- 6074 (i) email address;
- 6075 (ii) phone number; or
- 6076 (iii) personal financial information related to a person's payment method; [~~and~~]
- 6077 (aa) a record concerning an individual's eligibility for an exemption, deferral,  
6078 abatement, or relief under:
- 6079 (i) Title 59, Chapter 2, Part 11, Exemptions, Deferrals, and Abatements;
- 6080 (ii) Title 59, Chapter 2, Part 12, Property Tax Relief;
- 6081 (iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or
- 6082 (iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions[-]; and
- 6083 (bb) a record provided by the State Tax Commission in response to a request under  
6084 Subsection [59-1-403\(3\)\(y\)\(iii\)](#).
- 6085 (2) The following records are private if properly classified by a governmental entity:
- 6086 (a) records concerning a current or former employee of, or applicant for employment  
6087 with a governmental entity, including performance evaluations and personal status information  
6088 such as race, religion, or disabilities, but not including records that are public under Subsection  
6089 [63G-2-301\(2\)\(b\)](#) or [63G-2-301\(3\)\(o\)](#) or private under Subsection (1)(b);
- 6090 (b) records describing an individual's finances, except that the following are public:
- 6091 (i) records described in Subsection [63G-2-301\(2\)](#);
- 6092 (ii) information provided to the governmental entity for the purpose of complying with  
6093 a financial assurance requirement; or
- 6094 (iii) records that must be disclosed in accordance with another statute;
- 6095 (c) records of independent state agencies if the disclosure of those records would  
6096 conflict with the fiduciary obligations of the agency;
- 6097 (d) other records containing data on individuals the disclosure of which constitutes a  
6098 clearly unwarranted invasion of personal privacy;
- 6099 (e) records provided by the United States or by a government entity outside the state

6100 that are given with the requirement that the records be managed as private records, if the  
6101 providing entity states in writing that the record would not be subject to public disclosure if  
6102 retained by it;

6103 (f) any portion of a record in the custody of the Division of Aging and Adult Services,  
6104 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a  
6105 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

6106 (g) audio and video recordings created by a body-worn camera, as defined in Section  
6107 77-7a-103, that record sound or images inside a home or residence except for recordings that:

6108 (i) depict the commission of an alleged crime;

6109 (ii) record any encounter between a law enforcement officer and a person that results in  
6110 death or bodily injury, or includes an instance when an officer fires a weapon;

6111 (iii) record any encounter that is the subject of a complaint or a legal proceeding  
6112 against a law enforcement officer or law enforcement agency;

6113 (iv) contain an officer involved critical incident as defined in Subsection  
6114 76-2-408(1)(f); or

6115 (v) have been requested for reclassification as a public record by a subject or  
6116 authorized agent of a subject featured in the recording.

6117 (3) (a) As used in this Subsection (3), "medical records" means medical reports,  
6118 records, statements, history, diagnosis, condition, treatment, and evaluation.

6119 (b) Medical records in the possession of the University of Utah Hospital, its clinics,  
6120 doctors, or affiliated entities are not private records or controlled records under Section  
6121 63G-2-304 when the records are sought:

6122 (i) in connection with any legal or administrative proceeding in which the patient's  
6123 physical, mental, or emotional condition is an element of any claim or defense; or

6124 (ii) after a patient's death, in any legal or administrative proceeding in which any party  
6125 relies upon the condition as an element of the claim or defense.

6126 (c) Medical records are subject to production in a legal or administrative proceeding  
6127 according to state or federal statutes or rules of procedure and evidence as if the medical  
6128 records were in the possession of a nongovernmental medical care provider.

6129 Section 46. **Repealer.**

6130 This bill repeals:

6131 Section [59-7-118.1](#), **Modification of installment due date for deferred foreign**  
6132 **income tax.**

6133 Section [59-7-504.1](#), **Modification of estimated payment due date.**

6134 Section [59-7-505.1](#), **Modification of return due date and extension period.**

6135 Section [59-7-507.1](#), **Modification of time for payment of tax.**

6136 Section [59-10-103.2](#), **Additional chapter definitions.**

6137 Section [59-10-114.1](#), **Additional subtraction from income.**

6138 Section [59-10-514.2](#), **Modification of return due date.**

6139 Section [59-10-516.1](#), **Modification of extension dates and requirements.**

6140 Section [59-10-522.1](#), **Limitation on commission authority to extend the time for**  
6141 **payment of tax.**

6142 Section [59-10-1403.4](#), **Modification of return filing requirements for pass-through**  
6143 **entity.**

6144 Section [59-12-103.3](#), **Sales and use tax base -- Rate for locomotive fuel.**

6145 Section 47. **Retrospective operation.**

6146 The following sections have retrospective operation for a taxable year beginning on or  
6147 after January 1, 2021:

6148 (1) Section [59-7-610](#);

6149 (2) Section [59-7-620](#);

6150 (3) Section [59-10-1007](#);

6151 (4) Section [59-10-1017](#);

6152 (5) Section [59-10-1017.1](#);

6153 (6) Section [59-10-1022](#);

6154 (7) Section [59-10-1023](#);

6155 (8) Section [59-10-1028](#);

6156 (9) Section [59-10-1035](#);

6157 (10) Section [59-10-1036](#); and

6158 (11) Section [59-10-1403.3](#).