

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

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25 ► makes technical corrections, including eliminating references to repealed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

93

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)~~[(d)]~~(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.

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

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

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

26-36b-208. Medicaid Expansion Fund.

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

(2) The fund consists of:

(a) assessments collected under this chapter;

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

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

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

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

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

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

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

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

(j) additional amounts as appropriated by the Legislature.

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

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

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

(i) the health coverage improvement program;

(ii) the enhancement waiver program;

(iii) a Medicaid waiver expansion; and

(iv) the outpatient upper payment limit supplemental payments under Section

26-36b-210.

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

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

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

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

35A-8-308. Throughput Infrastructure Fund.

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

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

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

(b) any voluntary contributions received;

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

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

(3) The state treasurer shall:

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

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

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

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

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

(1) The impact board shall:

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

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

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

(d) determine provisions for repayment of loans;

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

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

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

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

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

(5) (a) The impact board shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

(I) this title;

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

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

(IV) Section 19-6-410.5;

(V) Section 19-6-714;

(VI) Section 19-6-805;

(VII) Section 34A-2-202;

(VIII) Section 40-6-14; or

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

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

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

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

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

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

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

(E) Chapter 4, Privilege Tax.

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

(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:

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

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

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

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

(iv) the person:

(A) is mailed a notice of deficiency; and

(B) within a 30-day period after the day on which the notice of deficiency described in Subsection (3)(a)(iv)(A) is mailed:

(I) does not file a petition for redetermination or a request for agency action; and

(II) fails to pay the tax, fee, or charge due on a return;

(v) (A) the commission:

(I) issues an order constituting final agency action resulting from a timely filed petition for redetermination or a timely filed request for agency action; or

(II) is considered to have denied a request for reconsideration under Subsection 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed request for agency action; and

(B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period after the date the commission:

(I) issues the order constituting final agency action described in Subsection (3)(a)(v)(A)(I); or

(II) is considered to have denied the request for reconsideration described in Subsection (3)(a)(v)(A)(II); or

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

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

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

(A) \$20; or

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

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

(A) \$20; or

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

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

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

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

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

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

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

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

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

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

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

- (i) for a person filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b); or
- (ii) for a person filing an individual income tax return under Chapter 10, Individual Income Tax Act, the payment required by Subsection 59-10-516(2).

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

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

- (a) is not subject to a penalty in the amount described in Subsection (5)(b); and
- (b) is subject to a penalty in an amount equal to the sum of:

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

(A) \$20; or

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

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

(A) \$20; or

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

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

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

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

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

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

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

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

(i) The notice of proposed penalty shall:

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

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

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

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

or

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

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

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

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

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

(II) in accordance with Section 59-1-1404.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) a return;

(B) an affidavit;

(C) a claim; or

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) shall be imposed by the commission;

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

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

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

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

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

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

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

(A) be less than \$500; or

(B) exceed \$1,000.

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

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

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

(B) exceed \$5,000.

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

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

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

(B) exceed \$25,000.

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

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

(I) a return;

(II) an affidavit;

(III) a claim; or

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

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

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

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

(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

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

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

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

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

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

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

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

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

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

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

(B) fails to file the form.

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

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

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

(1) As used in this section:

(a) "Distributed tax, fee, or charge" means a tax, fee, or charge:

(i) the commission administers under:

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

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

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

(D) Section 19-6-805;

(E) Section 63H-1-205; or

(F) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges;

and

(ii) with respect to which the commission distributes the revenue collected from the tax, fee, or charge to a qualifying jurisdiction.

(b) "Qualifying jurisdiction" means:

(i) a county, city, town, or metro township; or

(ii) the military installation development authority created in Section 63H-1-201.

~~[(+)]~~ (2) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection ~~[(+)]~~ (2)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

~~[(2)]~~ (3) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

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

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

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

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

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

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

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

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

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

(e) Notwithstanding Subsection [(+) (2)], at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

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

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

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

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

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

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

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

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

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

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

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

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

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

(k) Notwithstanding Subsection ~~[(1)]~~ (2), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

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

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

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

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

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

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

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

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

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

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

(B) For purposes of a request for income tax information made under Subsection ~~[(3)]~~ (4)(n)(ii)(A), GOED may not request and the commission may not provide to GOED a person's

address, name, social security number, or taxpayer identification number.

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

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

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

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

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

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

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

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

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

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

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

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

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

(D) a document filed with the commission; or

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

(p) Notwithstanding Subsection ~~[(1)]~~ (2), the commission may provide information

concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

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

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

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

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

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

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

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

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

(v) Notwithstanding Subsection [(+) (2)], the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for

the previous calendar year under Section 59-24-103.5.

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

(x) Notwithstanding Subsection [(4)] (2), the commission may provide the Public Service Commission or the Division of Public Utilities information related to a seller that collects and remits to the commission a charge described in Subsection 69-2-405(2), including the seller's identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

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

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

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

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

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

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

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

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

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

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

(b) If the individual described in Subsection ~~[(5)]~~ (6)(a) is an officer or employee of the state, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

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

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

(ii) is not subject to:

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

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

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

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

59-1-403.1. Disclosure of return information.

(1) As used in this section:

(a) "Office" means:

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

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

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

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

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

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

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

(3) (a) An office may disclose return information received from the commission in accordance with this section only:

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

(B) in a manner that reasonably protects the identification of a particular taxpayer; or

(ii) to another office.

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

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

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

(a) is guilty of a class A misdemeanor; and

(b) shall be:

(i) dismissed from office; and

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

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

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

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

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

(1) As used in this section:

(a) "Appraiser" means an individual who holds an appraiser's certificate or license issued by the Division of Real Estate under Title 61, Chapter 2g, Real Estate Appraiser

Licensing and Certification Act and includes an individual associated with an appraiser who assists the appraiser in preparing an appraisal.

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

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

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

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

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

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

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

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

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

(i) is a property owner; or

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

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

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

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

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

(i) owns the property;

(ii) makes filings relating to the property;

(iii) processes appeals relating to the property; or

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

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

(i) identifies a specific property taxpayer; or

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

(2) An individual listed under Subsection 59-1-403[(1)](2)(a) may not disclose

986 commercial information:

987 (a) obtained in the course of performing any duty that the individual listed under

988 Subsection 59-1-403[(+)](2)(a) performs under Chapter 2, Property Tax Act; or

989 (b) relating to an action or proceeding:

990 (i) with respect to a tax imposed on property in accordance with Chapter 2, Property

991 Tax Act; and

992 (ii) that is filed in accordance with:

993 (A) this chapter;

994 (B) Chapter 2, Property Tax Act; or

995 (C) this chapter and Chapter 2, Property Tax Act.

996 (3) (a) Notwithstanding Subsection (2) and subject to Subsection (3)(c), an individual

997 listed under Subsection 59-1-403[(+)](2)(a) may disclose the following information:

998 (i) the assessed value of property;

999 (ii) the tax rate imposed on property;

1000 (iii) a legal description of property;

1001 (iv) the physical description or characteristics of property, including a street address or

1002 parcel number for the property;

1003 (v) the square footage or acreage of property;

1004 (vi) the square footage of improvements on property;

1005 (vii) the name of a property taxpayer;

1006 (viii) the mailing address of a property taxpayer;

1007 (ix) the amount of a property tax:

1008 (A) assessed on property;

1009 (B) due on property;

1010 (C) collected on property;

1011 (D) abated on property; or

1012 (E) deferred on property;

1013 (x) the amount of the following relating to property taxes due on property:

1014 (A) interest;

1015 (B) costs; or

1016 (C) other charges;

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

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

1079 admit in evidence, commercial information that is specifically pertinent to the action or
1080 proceeding.

1081 (5) Notwithstanding Subsection (2), this section does not prohibit:

1082 (a) the following from receiving a copy of any commercial information relating to the
1083 basis for assessing a tax that is charged to a property taxpayer:

1084 (i) the property taxpayer;

1085 (ii) a duly authorized representative of the property taxpayer;

1086 (iii) a person that has in effect a contract with the property taxpayer to:

1087 (A) make filings on behalf of the property taxpayer;

1088 (B) process appeals on behalf of the property taxpayer; or

1089 (C) pay a tax under Chapter 2, Property Tax Act, on the property taxpayer's property;

1090 (iv) a property taxpayer that purchases property from another property taxpayer; or

1091 (v) a person that the property taxpayer designates in writing as being authorized to
1092 receive the commercial information;

1093 (b) the publication of statistics as long as the statistics are classified to prevent the
1094 identification of a particular property taxpayer's commercial information; or

1095 (c) the inspection by the attorney general or other legal representative of the state or a
1096 legal representative of a political subdivision of the state of the commercial information of a
1097 property taxpayer:

1098 (i) that brings action to set aside or review a tax or property valuation based on the
1099 commercial information;

1100 (ii) against which an action or proceeding is contemplated or has been instituted under
1101 this title; or

1102 (iii) against which the state or a political subdivision of the state has an unsatisfied
1103 money judgment.

1104 (6) Notwithstanding Subsection (2), in accordance with Title 63G, Chapter 3, Utah
1105 Administrative Rulemaking Act, the commission may by rule establish standards authorizing
1106 an individual listed under Subsection 59-1-403~~(1)~~(2)(a) to disclose commercial information:

1107 (a) (i) in a published decision; or

1108 (ii) in carrying out official duties; and

1109 (b) if that individual listed under Subsection 59-1-403~~(1)~~(2)(a) consults with the

1110 property taxpayer that provided the commercial information.

1111 (7) Notwithstanding Subsection (2):

1112 (a) an individual listed under Subsection 59-1-403~~(1)~~(2)(a) may share commercial

1113 information with the following:

1114 (i) another individual listed in Subsection 59-1-403~~(1)~~(2)(a)(i) or (ii); or

1115 (ii) a representative, agent, clerk, or other officer or employee of a county as required

1116 to fulfill an obligation created by Chapter 2, Property Tax Act;

1117 (b) an individual listed under Subsection 59-1-403~~(1)~~(2)(a) may perform the

1118 following to fulfill an obligation created by Chapter 2, Property Tax Act:

1119 (i) publish notice;

1120 (ii) provide notice; or

1121 (iii) file a lien; or

1122 (c) the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah

1123 Administrative Rulemaking Act, share commercial information gathered from returns and other

1124 written statements with the federal government, any other state, any of the political

1125 subdivisions of another state, or any political subdivision of this state, if these political

1126 subdivisions or the federal government grant substantially similar privileges to this state.

1127 (8) Notwithstanding Subsection (2):

1128 (a) subject to the limitations in this section, an individual described in Subsection

1129 59-1-403~~(1)~~(2)(a) may share the following commercial information with an appraiser:

1130 (i) the sales price of locally assessed property and the related financing terms;

1131 (ii) capitalization rates and related rates and ratios related to the valuation of locally

1132 assessed property; and

1133 (iii) income and expense information related to the valuation of locally assessed

1134 property; and

1135 (b) except as provided in Subsection (4), an appraiser who receives commercial

1136 information:

1137 (i) may disclose the commercial information:

1138 (A) to an individual described in Subsection 59-1-403~~(1)~~(2)(a);

1139 (B) to an appraiser;

1140 (C) in an appraisal if protected commercial information is removed to protect its

1141 confidential nature; or
1142 (D) in performing a consultation service if protected commercial information is not
1143 disclosed; and
1144 (ii) may not use the commercial information:
1145 (A) for a purpose other than to prepare an appraisal or perform a consultation service;
1146 or
1147 (B) for a purpose intended to be, or which could reasonably be foreseen to be,
1148 anti-competitive to a property taxpayer.
1149 (9) (a) The commission shall:
1150 (i) prepare a written explanation of this section; and
1151 (ii) make the written explanation described in Subsection (9)(a)(i) available to the
1152 public.
1153 (b) An employer of a person described in Subsection 59-1-403[(+)](2)(a) shall:
1154 (i) provide the written explanation described in Subsection (9)(a)(i) to each person
1155 described in Subsection 59-1-403[(+)](2)(a) who is reasonably likely to receive commercial
1156 information;
1157 (ii) require each person who receives a written explanation in accordance with
1158 Subsection (9)(b)(i) to:
1159 (A) read the written explanation; and
1160 (B) sign the written explanation; and
1161 (iii) retain each written explanation that is signed in accordance with Subsection
1162 (9)(b)(ii) for a time period:
1163 (A) beginning on the day on which a person signs the written explanation in
1164 accordance with Subsection (9)(b)(ii); and
1165 (B) ending six years after the day on which the employment of the person described in
1166 Subsection (9)(b)(iii)(A) by the employer terminates.
1167 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1168 commission shall by rule define "employer."
1169 (10) (a) An individual described in Subsection (1)(a) or 59-1-403[(+)](2)(a), or an
1170 individual that violates a protective order or similar limitation entered pursuant to Subsection
1171 (4)(b)(iii), is guilty of a class A misdemeanor if that person:

(i) intentionally discloses commercial information in violation of this section; and
(ii) knows that the disclosure described in Subsection (10)(a)(i) is prohibited by this section.

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

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

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

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

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

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

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

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

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

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

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

1203 (ii) shall be signed by the owner of the residential property; and
1204 (iii) may not request the sales price of the residential property.
1205 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1206 commission may make rules prescribing the contents of the form described in Subsection
1207 (2)(a).
1208 (c) For purposes of the application described in Subsection (1), a county may not
1209 request information from an owner of a residential property beyond the information provided in
1210 the form prescribed by the commission under this Subsection (2).
1211 (3) (a) Regardless of whether a county legislative body adopts an ordinance described
1212 in Subsection (1), before a residential exemption may be applied to the value of part-year
1213 residential property, an owner of the property shall:
1214 (i) file the application described in Subsection (2)(a) with the county board of
1215 equalization; and
1216 (ii) include as part of the application described in Subsection (2)(a) a statement that
1217 certifies:
1218 (A) the date the part-year residential property became residential property;
1219 (B) that the part-year residential property will be used as residential property for 183 or
1220 more consecutive calendar days during the calendar year for which the owner seeks to obtain
1221 the residential exemption; and
1222 (C) that the owner, or a member of the owner's household, may not claim a residential
1223 exemption for any property for the calendar year for which the owner seeks to obtain the
1224 residential exemption, other than the part-year residential property, or as allowed under Section
1225 [59-2-103](#) with respect to the primary residence or household furnishings, furniture, and
1226 equipment of the owner's tenant.
1227 (b) An owner may not obtain a residential exemption for part-year residential property
1228 unless the owner files an application under this Subsection (3) on or before November 30 of the
1229 calendar year for which the owner seeks to obtain the residential exemption.
1230 (c) If an owner files an application under this Subsection (3) on or after May 1 of the
1231 calendar year for which the owner seeks to obtain the residential exemption, the county board
1232 of equalization may require the owner to pay an application fee of not to exceed \$50.
1233 (4) Except as provided in Subsection (5), if a property owner no longer qualifies to

1234 receive a residential exemption authorized under Section 59-2-103 for the property owner's
1235 primary residence, the property owner shall:

1236 (a) file a written statement with the county board of equalization of the county in which
1237 the property is located:

1238 (i) on a form provided by the county board of equalization; and

1239 (ii) notifying the county board of equalization that the property owner no longer
1240 qualifies to receive a residential exemption authorized under Section 59-2-103 for the property
1241 owner's primary residence; and

1242 (b) declare on the property owner's individual income tax return under Chapter 10,
1243 Individual Income Tax Act, for the taxable year for which the property owner no longer
1244 qualifies to receive a residential exemption authorized under Section 59-2-103 for the property
1245 owner's primary residence, that the property owner no longer qualifies to receive a residential
1246 exemption authorized under Section 59-2-103 for the property owner's primary residence.

1247 (5) A property owner is not required to file a written statement or make the declaration
1248 described in Subsection (4) if the property owner:

1249 (a) changes primary residences;

1250 (b) qualified to receive a residential exemption authorized under Section 59-2-103 for
1251 the residence that was the property owner's former primary residence; and

1252 (c) qualifies to receive a residential exemption authorized under Section 59-2-103 for
1253 the residence that is the property owner's current primary residence.

1254 (6) Subsections (2) through (5) do not apply to qualifying exempt primary residential
1255 rental personal property.

1256 (7) (a) Subject to Subsection (8), for the first calendar year in which a property owner
1257 qualifies to receive a residential exemption under Section 59-2-103, a county assessor may
1258 require the property owner to file a signed statement described in Section 59-2-306.

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

1265 under Subsection 59-2-1115(2).

1266 (8) (a) Subject to the requirements of this Subsection (8) and except as provided in
1267 Subsection (8)(b), on or before May 1, 2020, a county assessor shall:

1268 (i) notify each owner of residential property that the owner is required to submit a
1269 written declaration described in Subsection (8)(d) within 30 days after the day on which the
1270 county assessor mails the notice under this Subsection (8)(a); and

1271 (ii) provide each owner with a form described in Subsection (8)(e) to make the written
1272 declaration described in Subsection (8)(d).

1273 (b) A county assessor is not required to provide a notice to an owner of residential
1274 property under Subsection (8)(a) if the situs address of the residential property is the same as
1275 any one of the following:

1276 (i) the mailing address of the residential property owner or the tenant of the residential
1277 property;

1278 (ii) the address listed on the:

1279 (A) residential property owner's driver license; or

1280 (B) tenant of the residential property's driver license; or

1281 (iii) the address listed on the:

1282 (A) residential property owner's voter registration; or

1283 (B) tenant of the residential property's voter registration.

1284 (c) After an ownership interest in residential property changes, the county assessor
1285 shall:

1286 (i) notify the owner of the residential property that the owner is required to submit a
1287 written declaration described in Subsection (8)(d) within 90 days after the day on which the
1288 owner receives notice under this Subsection (8)(c); and

1289 (ii) provide the owner of the residential property with the form described in Subsection
1290 (8)(e) to make the written declaration described in Subsection (8)(d).

1291 (d) An owner of residential property that receives a notice described in Subsection
1292 (8)(a) or (c) shall submit a written declaration to the county assessor under penalty of perjury
1293 certifying the information contained in the form provided in Subsection (8)(e).

1294 (e) The written declaration required by Subsection (8)(d) shall be:

1295 (i) signed by the owner of the residential property; and

1296 (ii) in substantially the following form:

1297 "Residential Property Declaration

1298 This form must be submitted to the County Assessor's office where your new residential
1299 property is located within 90 days of receipt. Failure to do so will result in the county assessor
1300 taking action that could result in the withdrawal of the primary residential exemption from your
1301 residential property.

1302 Residential Property Owner Information

1303 Name(s): _____

1304 Home Phone: _____

1305 Work Phone: _____

1306 Mailing Address: _____

1307 Residential Property Information

1308 Physical Address: _____

1309 Certification

1310 1. Is this property used as a primary residential property or part-year residential
1311 property for you or another person?

1312 "Part-year residential property" means owned property that is not residential property on
1313 January 1 of a calendar year but becomes residential property after January 1 of the calendar
1314 year.

1315 Yes No

1316 2. Will this primary residential property or part-year residential property be occupied
1317 for 183 or more consecutive calendar days by the owner or another person?

1318 A part-year residential property occupied for 183 or more consecutive calendar days in
1319 a calendar year by the owner(s) or a tenant is eligible for the exemption.

1320 Yes No

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

1327 owner's spouse.

1328 Signature

1329 ~~[This form must be signed by all owners of the property.]~~

1330 Under penalties of perjury, I declare to the best of my knowledge and belief, this

1331 declaration and accompanying pages are true, correct, and complete.

1332 _____(Owner signature) _____Date (mm/dd/yyyy)

1333 _____(Owner printed name)"

1334 (f) For purposes of a written declaration described in this Subsection (8), a county may
1335 not request information from a property owner beyond the information described in the form
1336 provided in Subsection (8)(e).

1337 (g) (i) If, after receiving a written declaration filed under Subsection (8)(d), the county
1338 determines that the property has been incorrectly qualified or disqualified to receive a
1339 residential exemption, the county shall:

1340 (A) redetermine the property's qualification to receive a residential exemption; and

1341 (B) notify the claimant of the redetermination and its reason for the redetermination.

1342 (ii) The redetermination provided in Subsection (8)(g)(i)(A) is final unless appealed
1343 within 30 days after the notice required by Subsection (8)(g)(i)(B).

1344 (h) (i) If a residential property owner fails to file a written declaration required by
1345 Subsection (8)(d), the county assessor shall mail to the owner of the residential property a
1346 notice that:

1347 (A) the property owner failed to file a written declaration as required by Subsection
1348 (8)(d); and

1349 (B) the property owner will no longer qualify to receive the residential exemption
1350 authorized under Section 59-2-103 for the property that is the subject of the written declaration
1351 if the property owner does not file the written declaration required by Subsection (8)(d) within
1352 30 days after the day on which the county assessor mails the notice under this Subsection
1353 (8)(h)(i).

1354 (ii) If a property owner fails to file a written declaration required by Subsection (8)(d)
1355 after receiving the notice described in Subsection (8)(h)(i), the property owner no longer
1356 qualifies to receive the residential exemption authorized under Section 59-2-103 in the calendar
1357 year for the property that is the subject of the written declaration.

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

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

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

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

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

(i) August 1; or

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) a written statement:

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

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

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

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

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

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

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

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

1420 (ii) the value at which the commission assessed the property for the prior calendar year
1421 plus 50%.

1422 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1423 commission may make rules governing the procedures for amending an estimate of fair market
1424 value under this Subsection (6).

1425 (7) In applying to the commission for a hearing on an objection under this section:

1426 (a) a county may estimate the fair market value of the property using a valuation
1427 methodology the county considers to be appropriate, regardless of:

1428 (i) the valuation methodology used previously in valuing the property; or

1429 (ii) the valuation methodology an owner asserts; and

1430 (b) an owner may estimate the fair market value of the property using a valuation
1431 methodology the owner considers to be appropriate, regardless of:

1432 (i) the valuation methodology used previously in valuing the property; or

1433 (ii) the valuation methodology a county asserts.

1434 (8) (a) An owner who applies to the commission for a hearing in accordance with
1435 Subsection (1) shall, for the property for which the owner objects to the commission's
1436 assessment, file a copy of the application with the county auditor of each county in which the
1437 property is located.

1438 (b) A county auditor who receives a copy of an application in accordance with
1439 Subsection (8)(a) shall provide a copy of the application to the county:

1440 (i) assessor;

1441 (ii) attorney;

1442 (iii) legislative body; and

1443 (iv) treasurer.

1444 (9) (a) Upon request, the commission shall provide to a nonprofit organization that
1445 represents counties in the state the following information regarding an appeal filed under this
1446 section:

1447 (i) the name of the property owner filing the appeal;

1448 (ii) each year at issue in the appeal;

1449 (iii) the value assessed by the commission for the property that is the subject of the
1450 appeal; and

(iv) the owner's estimate of value for the property that is the subject of the appeal as submitted under Subsection (5)(b).

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

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

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

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

(i) the completion of discovery;

(ii) the filing of prehearing motions; and

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

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

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

(ii) the parties submit all posthearing briefs.

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

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

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

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

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

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

(i) the commission proposes to adjust an assessment the commission made in

1482 accordance with Section 59-2-201;

1483 (ii) the county's tax revenues may be affected by the commission's decision; and

1484 (iii) the county is not a party to the hearing under this section.

1485 (b) The written notice described in Subsection (13)(a):

1486 (i) may be sent by:

1487 (A) any form of electronic communication;

1488 (B) first class mail; or

1489 (C) private carrier; and

1490 (ii) shall request the county to show good cause why the commission should not adjust

1491 the assessment by requesting the county to provide to the commission a written statement

1492 setting forth the known facts and legal basis for not adjusting the assessment within 30 days

1493 after the day on which the commission sends the written notice.

1494 (c) If a county provides a written statement described in Subsection (13)(b) to the
1495 commission, the commission shall:

1496 (i) hold a hearing or take other appropriate action to consider the good cause the county
1497 provides in the written statement; and

1498 (ii) issue a written decision increasing, lowering, or sustaining the assessment.

1499 (d) If a county does not provide a written statement described in Subsection (13)(b) to
1500 the commission within 30 days after the day on which the commission sends the notice
1501 described in Subsection (13)(a), the commission shall adjust the assessment and send a copy of
1502 the commission's written decision to the county.

1503 (14) Subsection (13) does not limit the rights of a county as provided in Subsections
1504 (2) and (4)(a).

1505 Section 12. Section 59-2-1602 is amended to read:

1506 **59-2-1602. Property Tax Valuation Agency Fund -- Creation -- Statewide levy --**
1507 **Additional county levy.**

1508 (1) (a) There is created an agency fund known as the "Property Tax Valuation Agency
1509 Fund."

1510 (b) The fund consists of:

1511 (i) deposits made and penalties received under Subsection (3); and

1512 (ii) interest on money deposited into the fund.

1513 (c) Deposits, penalties, and interest described in Subsection (1)(b) shall be disbursed
1514 and used as provided in Section 59-2-1603.

1515 (2) (a) Each county shall annually impose a multicounty assessing and collecting levy
1516 as provided in this Subsection (2).

1517 (b) The tax rate of the multicounty assessing and collecting levy is:

1518 (i) for a calendar year beginning on or after January 1, 2020, and before January 1,
1519 2025, .000012; and

1520 (ii) for a calendar year beginning on or after January 1, 2025, the certified revenue levy.

1521 (c) The state treasurer shall allocate revenue collected from the multicounty assessing
1522 and collecting levy as follows:

1523 (i) 18% of the revenue collected [~~from the base rate~~] shall be deposited into the
1524 Property Tax Valuation Agency Fund, up to \$500,000 annually; and

1525 (ii) after the deposit described in Subsection (2)(c)(i), all remaining revenue collected
1526 from the multicounty assessing and collecting levy shall be deposited into the Multicounty
1527 Appraisal Trust.

1528 (3) (a) The multicounty assessing and collecting levy imposed under Subsection (2)
1529 shall be separately stated on the tax notice as a multicounty assessing and collecting levy.

1530 (b) The multicounty assessing and collecting levy is:

1531 (i) exempt from Sections 17C-1-403 through 17C-1-406;

1532 (ii) in addition to and exempt from the maximum levies allowable under Section
1533 59-2-908; and

1534 (iii) exempt from the notice and public hearing requirements of Section 59-2-919.

1535 (c) (i) Each county shall transmit quarterly to the state treasurer the revenue collected
1536 from the multicounty assessing and collecting levy.

1537 (ii) The revenue transmitted under Subsection (3)(c)(i) shall be transmitted no later
1538 than the tenth day of the month following the end of the quarter in which the revenue is
1539 collected.

1540 (iii) If revenue transmitted under Subsection (3)(c)(i) is transmitted after the tenth day
1541 of the month following the end of the quarter in which the revenue is collected, the county shall
1542 pay an interest penalty at the rate of 10% each year until the revenue is transmitted.

1543 (d) The state treasurer shall allocate the penalties received under this Subsection (3) in

1544 the same manner as revenue is allocated under Subsection (2)(c).

1545 (4) (a) A county may levy a county additional property tax in accordance with this
1546 Subsection (4).

1547 (b) The county additional property tax:

1548 (i) shall be separately stated on the tax notice as a county assessing and collecting levy;

1549 (ii) may not be incorporated into the rate of any other levy;

1550 (iii) is exempt from Sections 17C-1-403 through 17C-1-406; and

1551 (iv) is in addition to and exempt from the maximum levies allowable under Section

1552 59-2-908.

1553 (c) Revenue collected from the county additional property tax shall be used to:

1554 (i) promote the accurate valuation and uniform assessment levels of property as
1555 required by Section 59-2-103;

1556 (ii) promote the efficient administration of the property tax system, including the costs
1557 of assessment, collection, and distribution of property taxes;

1558 (iii) fund state mandated actions to meet legislative mandates or judicial or
1559 administrative orders that relate to promoting:

1560 (A) the accurate valuation of property; and

1561 (B) the establishment and maintenance of uniform assessment levels within and among
1562 counties; and

1563 (iv) establish reappraisal programs that:

1564 (A) are adopted by a resolution or ordinance of the county legislative body; and

1565 (B) conform to rules the commission makes in accordance with Title 63G, Chapter 3,
1566 Utah Administrative Rulemaking Act.

1567 Section 13. Section 59-7-118 is amended to read:

1568 **59-7-118. Section 965, Internal Revenue Code -- Installment payments.**

1569 (1) Subject to the other provisions of this section, a corporation may pay in
1570 installments the tax owed under this chapter on deferred foreign income described in Section
1571 965, Internal Revenue Code.

1572 (2) Subsection (1) applies:

1573 (a) to a corporation that:

1574 (i) is authorized to make an election under Section 965(h), Internal Revenue Code; and

1575 (ii) apportions deferred foreign income described in Section 965, Internal Revenue
1576 Code, to this state; and

1577 (b) for a tax year in which a corporation makes an election under Section 965(h),
1578 Internal Revenue Code, for purposes of the corporation's federal income tax.

1579 (3) (a) Except as provided in Subsection (3)(b), the same provisions that apply to an
1580 election made under Section 965(h), Internal Revenue Code, for federal purposes apply to an
1581 installment payment made under this section.

1582 (b) A corporation shall make:

1583 (i) the first installment under this section on or before the due date~~[, including any~~
1584 ~~extension,]~~ of the tax return filed under this chapter for the first taxable year in which the
1585 corporation reports deferred foreign income described in Section 965, Internal Revenue Code;
1586 and

1587 (ii) a subsequent installment on or before the due date~~[, including any extension,]~~ of
1588 the tax return filed under this chapter in each of the following seven years.

1589 Section 14. Section **59-7-159** is amended to read:

1590 **59-7-159. Review of credits allowed under this chapter.**

1591 (1) As used in this section, "committee" means the Revenue and Taxation Interim
1592 Committee.

1593 (2) (a) The committee shall review the tax credits described in this chapter as provided
1594 in Subsection (3) and make recommendations concerning whether the tax credits should be
1595 continued, modified, or repealed.

1596 (b) In conducting the review required under Subsection (2)(a), the committee shall:

1597 (i) schedule time on at least one committee agenda to conduct the review;

1598 (ii) invite state agencies, individuals, and organizations concerned with the tax credit
1599 under review to provide testimony;

1600 (iii) (A) invite the Governor's Office of Economic Development to present a summary
1601 and analysis of the information for each tax credit regarding which the Governor's Office of
1602 Economic Development is required to make a report under this chapter; and

1603 (B) invite the Office of the Legislative Fiscal Analyst to present a summary and
1604 analysis of the information for each tax credit regarding which the Office of the Legislative
1605 Fiscal Analyst is required to make a report under this chapter;

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

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

otherwise required by law.

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

- (i) Section 59-7-601;
- (ii) Section 59-7-607;
- (iii) Section 59-7-612;
- (iv) Section 59-7-614.1; and
- (v) Section 59-7-614.5.

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

- (i) Section 59-7-609;
- (ii) Section 59-7-614.2;
- (iii) Section 59-7-614.10;
- (iv) Section 59-7-619;
- (v) Section 59-7-620; and
- (vi) Section 59-7-624.

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

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

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

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

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

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

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

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

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

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

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

Installment	Percentage
1st	22.5
2nd	45.0
3rd	67.5
4th	90.0

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1698 (ii) the day on which the corporation is required to file a federal income tax return.
1699 (b) Interest accrues from the day on which a return is due under this Subsection (2).
1700 (3) (a) The commission shall allow a taxpayer an extension of time for filing [returns] a
1701 return.
1702 [~~(b) The extension under Subsection (3)(a) may not exceed six months.~~]
1703 (b) Except as provided in Subsection (3)(c), the extension described in Subsection
1704 (3)(a) may be for up to six months.
1705 (c) For a taxable year beginning on or after January 1, 2019, but beginning on or before
1706 December 31, 2019, a taxpayer may receive an extension described in Subsection (3)(a) for the
1707 time period that ends on the last day of the extension to file the taxpayer's federal income tax
1708 return.
1709 (4) Each return shall be made to the commission.
1710 (5) A corporation incorporated or qualified to do business in this state [~~prior to~~] before
1711 January 1, 1973, is not liable for filing a return or paying tax measured by income for the
1712 taxable year in which [it] the corporation legally terminates [its] the corporation's existence.
1713 (6) A corporation incorporated or qualified to do business or [~~which had its~~] that had
1714 the corporation's authority to do business reinstated on or after January 1, 1973, shall file a
1715 return and pay the tax measured by income for each period during which [it] the corporation
1716 had the right to do business in this state, and the return shall be filed and the tax paid within
1717 three months and 15 days after the close of this period.
1718 (7) If a corporation terminates [its] the corporation's existence under Section
1719 16-10a-1401, [~~no returns are required to be filed if a statement is furnished~~] the corporation is
1720 not required to file a return if the corporation provides a statement to the commission that no
1721 business has been conducted during that period.
1722 (8) (a) A corporation commencing to do business in Utah after qualification or
1723 incorporation with the Division of Corporations and Commercial Code is not required to file a
1724 return for the period commencing with the date of incorporation or qualification and ending on
1725 the last day of the same month, if that corporation was not doing business in and received no
1726 income from sources in the state during such period.
1727 (b) In determining whether a corporation comes within the provisions of this chapter,
1728 affidavits on behalf of the corporation that it did no business in and received no income from

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

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

59-7-507. Payment of tax.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) commercial composting; or

(ii) manufacturing facilities or plant units that:

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

(B) reduce or reuse postconsumer waste material; and

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

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

(ii) \$2,000.

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

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

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

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

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

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

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

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

1791 (F) the amount of the taxpayer's tax credit; and
1792 (iii) for a claim of the tax credit described in Subsection (1)(b):
1793 (A) the type of net expenditure that the taxpayer made to a third party;
1794 (B) the date that the taxpayer made the payment to a third party;
1795 (C) the amount that the taxpayer paid to each third party;
1796 (D) the total amount that the taxpayer paid to all third parties;
1797 (E) a statement that the net expenditures support the establishment and operation of
1798 recycling or composting technology in the state; and
1799 (F) the amount of the taxpayer's tax credit.

1800 (b) (i) The Department of Environmental Quality shall provide a taxpayer seeking to
1801 claim a tax credit under Subsection (1) with a copy of the written certification.

1802 (ii) The taxpayer shall retain a copy of the written certification for the same period of
1803 time that a person is required to keep books and records under Section [59-1-1406](#).

1804 (c) The Department of Environmental Quality shall submit to the commission an
1805 electronic list that includes:

1806 (i) the name and identifying information of each taxpayer to which the Department of
1807 Environmental Quality issues a written certification; and
1808 (ii) for each taxpayer, the amount of each tax credit listed on the written certification.

1809 (3) A taxpayer may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or
1810 both that exceeds 40% of the taxpayer's state income tax liability as the tax liability is
1811 calculated:

1812 (a) for the taxable year in which the taxpayer made the purchases or payments;
1813 (b) before any other tax credits the taxpayer may claim for the taxable year; and
1814 (c) before the taxpayer claims a tax credit authorized by this section.

1815 (4) The commission shall make rules governing what information a taxpayer shall file
1816 with the commission to verify the entitlement to and amount of a tax credit.

1817 (5) Except as provided in Subsections (6) through (8), a taxpayer may carry forward, to
1818 the next three taxable years, the amount of a tax credit described in Subsection (1)(a) that the
1819 taxpayer does not use for the taxable year.

1820 (6) A taxpayer may not claim or carry forward a tax credit described in Subsection
1821 (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under

1822 Section [63N-2-213](#).

1823 (7) A taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable
1824 year during which the taxpayer claims or carries forward a tax credit under Section [63N-2-213](#).

1825 (8) A taxpayer may not claim or carry forward a tax credit under this section for a
1826 taxable year during which the taxpayer claims the targeted business income tax credit under
1827 Section [59-7-624](#).

1828 Section 19. Section **59-7-619** is amended to read:

1829 **59-7-619. Nonrefundable high cost infrastructure development tax credit.**

1830 (1) As used in this section:

1831 (a) "High cost infrastructure project" means the same as that term is defined in Section
1832 [63M-4-602](#).

1833 (b) "Infrastructure cost-burdened entity" means the same as that term is defined in
1834 Section [63M-4-602](#).

1835 (c) "Infrastructure-related revenue" means the same as that term is defined in Section
1836 [63M-4-602](#).

1837 (d) "Office" means the Office of Energy Development created in Section [63M-4-401](#).

1838 (2) Subject to the other provisions of this section, a corporation that is an infrastructure
1839 cost-burdened entity may claim a nonrefundable tax credit for development of a high cost
1840 infrastructure project as provided in this section.

1841 (3) The tax credit under this section is the amount listed as the tax credit amount on a
1842 tax credit certificate that the office issues under Title 63M, Chapter 4, Part 6, High Cost
1843 Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the
1844 taxable year.

1845 (4) An infrastructure cost-burdened entity may carry forward a tax credit under this
1846 section for a period that does not exceed the next seven taxable years if:

1847 (a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this
1848 section for a taxable year; and

1849 (b) the amount of the tax credit exceeds the infrastructure cost-burdened entity's tax
1850 liability under this chapter for that taxable year.

1851 (5) (a) In accordance with Section [59-7-159](#), the Revenue and Taxation Interim
1852 Committee shall study the tax credit allowed by this section and make recommendations

1853 concerning whether the tax credit should be continued, modified, or repealed.

1854 (b) (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by
1855 this Subsection (5), the office shall provide the following information, if available to the office,
1856 to the Office of the Legislative Fiscal Analyst:

1857 (A) the amount of tax credit that the office grants to each infrastructure cost-burdened
1858 entity for each taxable year;

1859 (B) the infrastructure-related revenue generated by each high cost infrastructure
1860 project;

1861 (C) the information contained in the office's latest report under Section [~~63M-4-505~~]
1862 [63M-4-605](#); and

1863 (D) any other information that the Office of the Legislative Fiscal Analyst requests.

1864 (ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall
1865 redact information that identifies a recipient of a tax credit under this section.

1866 (B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting
1867 the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a
1868 tax credit, the office may file a request with the Revenue and Taxation Interim Committee to
1869 provide the information described in Subsection (5)(b)(i) in the aggregate for all infrastructure
1870 cost-burdened entities that receive the tax credit under this section.

1871 (c) As part of the study required by this Subsection (5), the Office of the Legislative
1872 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and
1873 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the
1874 office under Subsection (5)(b).

1875 (d) The Revenue and Taxation Interim Committee shall ensure that the
1876 recommendations described in Subsection (5)(a) include an evaluation of:

1877 (i) the cost of the tax credit to the state;

1878 (ii) the purpose and effectiveness of the tax credit; and

1879 (iii) the extent to which the state benefits from the tax credit.

1880 Section 20. Section **59-7-620** is amended to read:

1881 **59-7-620. Nonrefundable tax credit for contribution to state Achieving a Better**
1882 **Life Experience Program account.**

1883 (1) As used in this section:

1884 (a) "Account" means an account in a qualified ABLE program where the designated
1885 beneficiary of the account is a resident of this state.

1886 (b) "Contributor" means a corporation that:

1887 (i) makes a contribution to an account; and

1888 (ii) receives a statement from the qualified ABLE program itemizing the contribution.

1889 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.
1890 529A.

1891 (d) "Qualified ABLE program" means the same as that term is defined in Section
1892 [35A-12-102](#).

1893 (2) For a taxable year beginning on or after January 1, 2020, but beginning on or before
1894 December 31, 2020, a contributor to an account may claim a nonrefundable tax credit as
1895 provided in this section.

1896 (3) Subject to the other provisions of this section, the tax credit is equal to the product
1897 of:

1898 (a) ~~[5%]~~ the percentage listed in Subsection [59-7-104\(2\)](#); and

1899 (b) the total amount of contributions:

1900 (i) the contributor makes for the taxable year; and

1901 (ii) for which the contributor receives a statement from the qualified ABLE program
1902 itemizing the contributions.

1903 (4) A contributor may not claim a tax credit under this section:

1904 (a) for an amount of excess contribution to an account that is returned to the
1905 contributor; or

1906 (b) with respect to an amount the contributor deducts on a federal income tax return.

1907 (5) A tax credit under this section may not be carried forward or carried back.

1908 Section 21. Section **59-10-103** is amended to read:

1909 **59-10-103. Definitions.**

1910 (1) As used in this chapter:

1911 (a) (i) "Adjusted gross income":

1912 (A) for a resident or nonresident individual, means the same as that term is defined in
1913 Section 62, Internal Revenue Code; or

1914 (B) for a resident or nonresident estate or trust, is as calculated in Section 67(e),

1915 Internal Revenue Code.

1916 (ii) "Adjusted gross income" does not include:

1917 (A) income received from a loan forgiven in accordance with 15 U.S.C. Sec. 636(a)
1918 (36), to the extent that a deduction for the expenditures paid with the loan is disallowed, or a
1919 similar paycheck protection loan that is authorized by the federal government, provided in
1920 response to COVID-19, forgiven if the borrower meets the expenditure requirements, and
1921 exempt from federal income tax, to the extent that a deduction for the expenditures paid with
1922 the loan is disallowed; or

1923 (B) an amount that an individual receives in accordance with Section 6428, Internal
1924 Revenue Code, or an amount that an individual receives that is authorized by the federal
1925 government as a tax credit for the 2020 tax year, provided in response to COVID-19, paid in
1926 advance of the filing of the individual's 2020 federal income tax return, and exempt from
1927 federal income tax.

1928 (b) "Corporation" includes:

1929 (i) an association;

1930 (ii) a joint stock company; and

1931 (iii) an insurance company.

1932 (c) "COVID-19" means:

1933 (i) the severe acute respiratory syndrome coronavirus 2; or

1934 (ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

1935 (d) "Distributable net income" means the same as that term is defined in Section 643,
1936 Internal Revenue Code.

1937 (e) "Employee" means the same as that term is defined in Section 59-10-401.

1938 (f) "Employer" means the same as that term is defined in Section 59-10-401.

1939 (g) "Federal taxable income":

1940 (i) for a resident or nonresident individual, means taxable income as defined by Section
1941 63, Internal Revenue Code; or

1942 (ii) for a resident or nonresident estate or trust, is as calculated in Section 641(a) and
1943 (b), Internal Revenue Code.

1944 (h) "Fiduciary" means:

1945 (i) a guardian;

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

1977 [59-10-1402.](#)

1978 (r) "Pass-through entity taxpayer" means the same as that term is defined in Section

1979 [59-10-1402.](#)

1980 ~~[(q)]~~ (s) "Qualified nongrantor charitable lead trust" means a trust:

1981 (i) that is irrevocable;

1982 (ii) that has a trust term measured by:

1983 (A) a fixed term of years; or

1984 (B) the life of a person living on the day on which the trust is created;

1985 (iii) under which:

1986 (A) a portion of the value of the trust assets is distributed during the trust term:

1987 (I) to an organization described in Section 170(c), Internal Revenue Code; and

1988 (II) as a guaranteed annuity interest or a unitrust interest; and

1989 (B) assets remaining in the trust at the termination of the trust term are distributed to a
1990 beneficiary:

1991 (I) designated in the trust; and

1992 (II) that is not an organization described in Section 170(c), Internal Revenue Code;

1993 (iv) for which the trust is allowed a deduction under Section 642(c), Internal Revenue
1994 Code; and

1995 (v) under which the grantor of the trust is not treated as the owner of any portion of the
1996 trust for federal income tax purposes.

1997 ~~[(r)]~~ (t) "Resident individual" means an individual who is domiciled in this state for
1998 any period of time during the taxable year, but only for the duration of the period during which
1999 the individual is domiciled in this state.

2000 ~~[(s)]~~ (u) "Resident estate" or "resident trust" means the same as that term is defined in
2001 Section [75-7-103](#).

2002 ~~[(t)]~~ (v) "Servicemember" means the same as that term is defined in Pub. L. No.
2003 108-189, Sec. 101.

2004 ~~[(u)]~~ (w) "State income tax percentage for a nonresident estate or trust" means a
2005 percentage equal to a nonresident estate's or trust's state taxable income for the taxable year
2006 divided by the nonresident estate's or trust's total adjusted gross income for that taxable year
2007 after making the adjustments required by:

2008 (i) Section 59-10-202;
2009 (ii) Section 59-10-207;
2010 (iii) Section 59-10-209.1; or
2011 (iv) Section 59-10-210.
2012 ~~[(w)]~~ (x) "State income tax percentage for a nonresident individual" means a percentage
2013 equal to a nonresident individual's state taxable income for the taxable year divided by the
2014 difference between:
2015 (i) subject to Section 59-10-1405, the nonresident individual's total adjusted gross
2016 income for that taxable year, after making the:
2017 (A) additions and subtractions required by Section 59-10-114; and
2018 (B) adjustments required by Section 59-10-115; and
2019 (ii) if the nonresident individual described in Subsection (1)~~[(w)]~~(x)(i) is a
2020 servicemember, the compensation the servicemember receives for military service if the
2021 servicemember is serving in compliance with military orders.
2022 ~~[(w)]~~ (y) "State income tax percentage for a part-year resident individual" means, for a
2023 taxable year, a fraction:
2024 (i) the numerator of which is the sum of:
2025 (A) subject to Section 59-10-1404.5, for the time period during the taxable year that the
2026 part-year resident individual is a resident, the part-year resident individual's total adjusted gross
2027 income for that time period, after making the:
2028 (I) additions and subtractions required by Section 59-10-114; and
2029 (II) adjustments required by Section 59-10-115; and
2030 (B) for the time period during the taxable year that the part-year resident individual is a
2031 nonresident, an amount calculated by:
2032 (I) determining the part-year resident individual's adjusted gross income for that time
2033 period, after making the:
2034 (Aa) additions and subtractions required by Section 59-10-114; and
2035 (Bb) adjustments required by Section 59-10-115; and
2036 (II) calculating the portion of the amount determined under Subsection
2037 (1)~~[(w)]~~(y)(i)(B)(I) that is derived from Utah sources in accordance with Section 59-10-117;
2038 and

2039 (ii) the denominator of which is the difference between:
2040 (A) the part-year resident individual's total adjusted gross income for that taxable year,
2041 after making the:
2042 (I) additions and subtractions required by Section 59-10-114; and
2043 (II) adjustments required by Section 59-10-115; and
2044 (B) if the part-year resident individual is a servicemember, any compensation the
2045 servicemember receives for military service during the portion of the taxable year that the
2046 servicemember is a nonresident if the servicemember is serving in compliance with military
2047 orders.
2048 ~~[(x)]~~ (z) "Taxable income" or "state taxable income":
2049 (i) subject to Section 59-10-1404.5, for a resident individual, means the resident
2050 individual's adjusted gross income after making the:
2051 (A) additions and subtractions required by Section 59-10-114; and
2052 (B) adjustments required by Section 59-10-115;
2053 (ii) for a nonresident individual, is an amount calculated by:
2054 (A) determining the nonresident individual's adjusted gross income for the taxable
2055 year, after making the:
2056 (I) additions and subtractions required by Section 59-10-114; and
2057 (II) adjustments required by Section 59-10-115; and
2058 (B) calculating the portion of the amount determined under Subsection
2059 (1)~~[(x)]~~(z)(ii)(A) that is derived from Utah sources in accordance with Section 59-10-117;
2060 (iii) for a resident estate or trust, is as calculated under Section 59-10-201.1; and
2061 (iv) for a nonresident estate or trust, is as calculated under Section 59-10-204.
2062 ~~[(y)]~~ (aa) "Taxpayer" means any ~~[individual, estate, trust, or beneficiary of an estate or~~
2063 ~~trust,]~~ of the following that has income subject in whole or part to the tax imposed by this
2064 chapter[-:];
2065 (i) an individual;
2066 (ii) an estate, a trust, or a beneficiary of an estate or a trust that is not a pass-through
2067 entity or a pass-through entity taxpayer;
2068 (iii) a pass-through entity; or
2069 (iv) a pass-through entity taxpayer.

2070 ~~[(z)]~~ (bb) "Trust term" means a time period:
2071 (i) beginning on the day on which a qualified nongrantor charitable lead trust is
2072 created; and
2073 (ii) ending on the day on which the qualified nongrantor charitable lead trust described
2074 in Subsection (1)~~[(z)]~~(bb)(i) terminates.
2075 ~~[(aa)]~~ (cc) "Uintah and Ouray Reservation" means the lands recognized as being
2076 included within the Uintah and Ouray Reservation in:
2077 (i) Hagen v. Utah, 510 U.S. 399 (1994); and
2078 (ii) Ute Indian Tribe v. Utah, 114 F.3d 1513 (10th Cir. 1997).
2079 ~~[(bb)]~~ (dd) "Unadjusted income" means an amount equal to the difference between:
2080 (i) the total income required to be reported by a resident or nonresident estate or trust
2081 on the resident or nonresident estate's or trust's federal income tax return for estates and trusts
2082 for the taxable year; and
2083 (ii) the sum of the following:
2084 (A) fees paid or incurred to the fiduciary of a resident or nonresident estate or trust:
2085 (I) for administering the resident or nonresident estate or trust; and
2086 (II) that the resident or nonresident estate or trust deducts as allowed on the resident or
2087 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable
2088 year;
2089 (B) the income distribution deduction that a resident or nonresident estate or trust
2090 deducts under Section 651 or 661, Internal Revenue Code, as allowed on the resident or
2091 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable
2092 year;
2093 (C) the amount that a resident or nonresident estate or trust deducts as a deduction for
2094 estate tax or generation skipping transfer tax under Section 691(c), Internal Revenue Code, as
2095 allowed on the resident or nonresident estate's or trust's federal income tax return for estates
2096 and trusts for the taxable year; and
2097 (D) the amount that a resident or nonresident estate or trust deducts as a personal
2098 exemption under Section 642(b), Internal Revenue Code, as allowed on the resident or
2099 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable
2100 year.

2101 ~~[(ee)]~~ (ee) "Unitrust interest" means the same as that term is defined in 26 C.F.R. Sec.
2102 1.170A-6(c)(2).

2103 ~~[(dd)]~~ (ff) "Ute tribal member" means an individual who is enrolled as a member of the
2104 Ute Indian Tribe of the Uintah and Ouray Reservation.

2105 ~~[(ee)]~~ (gg) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray
2106 Reservation.

2107 ~~[(ff)]~~ (hh) "Wages" means the same as that term is defined in Section [59-10-401](#).

2108 (2) (a) Any term used in this chapter has the same meaning as when used in
2109 comparable context in the laws of the United States relating to federal income taxes unless a
2110 different meaning is clearly required.

2111 (b) Any reference to the Internal Revenue Code or to the laws of the United States shall
2112 mean the Internal Revenue Code or other provisions of the laws of the United States relating to
2113 federal income taxes that are in effect for the taxable year.

2114 (c) Any reference to a specific section of the Internal Revenue Code or other provision
2115 of the laws of the United States relating to federal income taxes shall include any
2116 corresponding or comparable provisions of the Internal Revenue Code as amended,
2117 redesignated, or reenacted.

2118 Section 22. Section **59-10-114** is amended to read:

2119 **59-10-114. Additions to and subtractions from adjusted gross income of an**
2120 **individual.**

2121 (1) There shall be added to adjusted gross income of a resident or nonresident
2122 individual:

2123 (a) a lump sum distribution that the taxpayer does not include in adjusted gross income
2124 on the taxpayer's federal individual income tax return for the taxable year;

2125 (b) the amount of a child's income calculated under Subsection (4) that:

2126 (i) a parent elects to report on the parent's federal individual income tax return for the
2127 taxable year; and

2128 (ii) the parent does not include in adjusted gross income on the parent's federal
2129 individual income tax return for the taxable year;

2130 (c) (i) a withdrawal from a medical care savings account and any penalty imposed for
2131 the taxable year if:

2132 (A) the resident or nonresident individual does not deduct the amounts on the resident
2133 or nonresident individual's federal individual income tax return under Section 220, Internal
2134 Revenue Code;

2135 (B) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and

2136 (C) the withdrawal is subtracted on, or used as the basis for claiming a tax credit on, a
2137 return the resident or nonresident individual files under this chapter;

2138 (ii) a disbursement required to be added to adjusted gross income in accordance with
2139 Subsection 31A-32a-105(3); or

2140 (iii) an amount required to be added to adjusted gross income in accordance with
2141 Subsection 31A-32a-105(5)(c);

2142 (d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan,
2143 from the account of a resident or nonresident individual who is an account owner as defined in
2144 Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount
2145 withdrawn from the account of the resident or nonresident individual who is the account
2146 owner:

2147 (i) is not expended for:

2148 (A) higher education costs as defined in Section 53B-8a-102.5; or

2149 (B) a payment or distribution that qualifies as an exception to the additional tax for
2150 distributions not used for educational expenses provided in Sections 529(c) and 530(d),
2151 Internal Revenue Code; and

2152 (ii) is:

2153 (A) subtracted by the resident or nonresident individual:

2154 (I) who is the account owner; and

2155 (II) on the resident or nonresident individual's return filed under this chapter for a
2156 taxable year beginning on or before December 31, 2007; or

2157 (B) used as the basis for the resident or nonresident individual who is the account
2158 owner to claim a tax credit under Section 59-10-1017;

2159 (e) except as provided in Subsection (5), for bonds, notes, and other evidences of
2160 indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other
2161 evidences of indebtedness:

2162 (i) issued by one or more of the following entities:

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

2194 year; and

2195 (B) exempt from state income taxes under the laws of the United States; and

2196 (ii) any interest on indebtedness incurred or continued to purchase or carry the

2197 obligation or security described in Subsection (2)(a)(i);

2198 (b) ~~[for taxable years beginning on or after January 1, 2000,]~~ if the conditions of

2199 Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:

2200 (i) during a time period that the Ute tribal member resides on homesteaded land

2201 diminished from the Uintah and Ouray Reservation; and

2202 (ii) from a source within the Uintah and Ouray Reservation;

2203 (c) an amount received by a resident or nonresident individual or distribution received

2204 by a resident or nonresident beneficiary of a resident trust:

2205 (i) if that amount or distribution constitutes a refund of taxes imposed by:

2206 (A) a state; or

2207 (B) the District of Columbia; and

2208 (ii) to the extent that amount or distribution is included in adjusted gross income for

2209 that taxable year on the federal individual income tax return of the resident or nonresident

2210 individual or resident or nonresident beneficiary of a resident trust;

2211 (d) the amount of a railroad retirement benefit:

2212 (i) paid:

2213 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et

2214 seq.;

2215 (B) to a resident or nonresident individual; and

2216 (C) for the taxable year; and

2217 (ii) to the extent that railroad retirement benefit is included in adjusted gross income on

2218 that resident or nonresident individual's federal individual income tax return for that taxable

2219 year;

2220 (e) an amount:

2221 (i) received by an enrolled member of an American Indian tribe; and

2222 (ii) to the extent that the state is not authorized or permitted to impose a tax under this

2223 part on that amount in accordance with:

2224 (A) federal law;

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

2256 (i) of a paycheck protection loan similar to a loan forgiven in accordance with 15
2257 U.S.C. Sec. 636(a)(36) that is:

2258 (A) authorized by the federal government;

2259 (B) provided in response to COVID-19;

2260 (C) forgiven if the borrower meets the expenditure requirements; and

2261 (D) subject to federal income tax, to the extent that a deduction for the expenditures
2262 paid with the loan is disallowed;

2263 (ii) that a resident or a nonresident individual receives that is:

2264 (A) authorized by the federal government as a tax credit for the 2020 tax year;

2265 (B) provided in response to COVID-19;

2266 (C) paid in advance of the filing of the individual's 2020 federal income tax return; and

2267 (D) subject to federal income tax; and

2268 (iii) of any grant funds or forgiven loans that:

2269 (A) the resident or nonresident individual receives from the state, a county within the
2270 state, or a municipality within the state in response to COVID-19;

2271 (B) are funded by using federal revenue received by the state, the county, or the
2272 municipality to respond to COVID-19; and

2273 (C) are included in adjusted gross income[-]; and

2274 (k) an amount of a distribution from a qualified retirement plan under Section 401(a),
2275 Internal Revenue Code, if:

2276 (i) the amount of the distribution is included in adjusted gross income on the resident
2277 or nonresident individual's federal individual income tax return for the taxable year; and

2278 (ii) for the taxable year when the amount of the distribution was contributed to the
2279 qualified retirement plan, the amount of the distribution:

2280 (A) was not included in adjusted gross income on the resident or nonresident
2281 individual's federal individual income tax return for the taxable year; and

2282 (B) was taxed by another state of the United States, the District of Columbia, or a
2283 possession of the United States.

2284 (3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:

2285 (i) the taxpayer is a Ute tribal member; and

2286 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the

2287 requirements of this Subsection (3).

2288 (b) The agreement described in Subsection (3)(a):

2289 (i) may not:

2290 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

2291 (B) provide a subtraction under this section greater than or different from the

2292 subtraction described in Subsection (2)(b); or

2293 (C) affect the power of the state to establish rates of taxation; and

2294 (ii) shall:

2295 (A) provide for the implementation of the subtraction described in Subsection (2)(b);

2296 (B) be in writing;

2297 (C) be signed by:

2298 (I) the governor; and

2299 (II) the chair of the Business Committee of the Ute tribe;

2300 (D) be conditioned on obtaining any approval required by federal law; and

2301 (E) state the effective date of the agreement.

2302 (c) (i) The governor shall report to the commission by no later than February 1 of each

2303 year regarding whether or not an agreement meeting the requirements of this Subsection (3) is

2304 in effect.

2305 (ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the

2306 subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or

2307 after the January 1 following the termination of the agreement.

2308 (d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3,

2309 Utah Administrative Rulemaking Act, the commission may make rules:

2310 (i) for determining whether income is derived from a source within the Uintah and

2311 Ouray Reservation; and

2312 (ii) that are substantially similar to how adjusted gross income derived from Utah

2313 sources is determined under Section [59-10-117](#).

2314 (4) (a) For purposes of this Subsection (4), "Form 8814" means:

2315 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's

2316 Interest and Dividends; or

2317 (ii) (A) a form designated by the commission in accordance with Subsection

2318 (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal
2319 individual income taxes the information contained on 2000 Form 8814 is reported on a form
2320 other than Form 8814; and

2321 (B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter
2322 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as
2323 being substantially similar to 2000 Form 8814 if for purposes of federal individual income
2324 taxes the information contained on 2000 Form 8814 is reported on a form other than Form
2325 8814.

2326 (b) The amount of a child's income added to adjusted gross income under Subsection
2327 (1)(b) is equal to the difference between:

2328 (i) the lesser of:

2329 (A) the base amount specified on Form 8814; and

2330 (B) the sum of the following reported on Form 8814:

2331 (I) the child's taxable interest;

2332 (II) the child's ordinary dividends; and

2333 (III) the child's capital gain distributions; and

2334 (ii) the amount not taxed that is specified on Form 8814.

2335 (5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences
2336 of indebtedness issued by an entity described in Subsections (1)(e)(i)(A) through (D) may not
2337 be added to adjusted gross income of a resident or nonresident individual if, as annually
2338 determined by the commission:

2339 (a) for an entity described in Subsection (1)(e)(i)(A) or (B), the entity and all of the
2340 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on
2341 income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

2342 (b) for an entity described in Subsection (1)(e)(i)(C) or (D), the following do not
2343 impose a tax based on income on any part of the bonds, notes, and other evidences of
2344 indebtedness of this state:

2345 (i) the entity; or

2346 (ii) (A) the state in which the entity is located; or

2347 (B) the District of Columbia, if the entity is located within the District of Columbia.

2348 Section 23. Section **59-10-137** is amended to read:

2349 **59-10-137. Review of credits allowed under this chapter.**

2350 (1) As used in this section, "committee" means the Revenue and Taxation Interim
2351 Committee.

2352 (2) (a) The committee shall review the tax credits described in this chapter as provided
2353 in Subsection (3) and make recommendations concerning whether the tax credits should be
2354 continued, modified, or repealed.

2355 (b) In conducting the review required under Subsection (2)(a), the committee shall:

2356 (i) schedule time on at least one committee agenda to conduct the review;

2357 (ii) invite state agencies, individuals, and organizations concerned with the tax credit
2358 under review to provide testimony;

2359 (iii) (A) invite the Governor's Office of Economic Development to present a summary
2360 and analysis of the information for each tax credit regarding which the Governor's Office of
2361 Economic Development is required to make a report under this chapter; and

2362 (B) invite the Office of the Legislative Fiscal Analyst to present a summary and
2363 analysis of the information for each tax credit regarding which the Office of the Legislative
2364 Fiscal Analyst is required to make a report under this chapter;

2365 (iv) ensure that the committee's recommendations described in this section include an
2366 evaluation of:

2367 (A) the cost of the tax credit to the state;

2368 (B) the purpose and effectiveness of the tax credit; and

2369 (C) the extent to which the state benefits from the tax credit; and

2370 (v) undertake other review efforts as determined by the committee chairs or as
2371 otherwise required by law.

2372 (3) (a) On or before November 30, 2017, and every three years after 2017, the
2373 committee shall conduct the review required under Subsection (2) of the tax credits allowed
2374 under the following sections:

2375 (i) Section 59-10-1004;

2376 (ii) Section 59-10-1010;

2377 (iii) Section 59-10-1015;

2378 (iv) Section 59-10-1025;

2379 (v) Section 59-10-1027;

2380 (vi) Section 59-10-1031;

2381 (vii) Section 59-10-1032;

2382 (viii) Section 59-10-1035;

2383 (ix) Section 59-10-1104;

2384 (x) Section 59-10-1105; and

2385 (xi) Section 59-10-1108.

2386 (b) On or before November 30, 2018, and every three years after 2018, the committee

2387 shall conduct the review required under Subsection (2) of the tax credits allowed under the

2388 following sections:

2389 (i) Section 59-10-1005;

2390 (ii) Section 59-10-1006;

2391 (iii) Section 59-10-1012;

2392 (iv) Section 59-10-1022;

2393 (v) Section 59-10-1023;

2394 (vi) Section 59-10-1028;

2395 (vii) Section 59-10-1034;

2396 (viii) Section 59-10-1037;

2397 (ix) Section 59-10-1107; and

2398 (x) Section 59-10-1112.

2399 (c) On or before November 30, 2019, and every three years after 2019, the committee

2400 shall conduct the review required under Subsection (2) of the tax credits allowed under the

2401 following sections:

2402 (i) Section 59-10-1007;

2403 (ii) Section 59-10-1014;

2404 (iii) Section 59-10-1017;

2405 (iv) Section 59-10-1018;

2406 (v) Section 59-10-1019;

2407 (vi) Section 59-10-1024;

2408 (vii) Section 59-10-1029;

2409 [~~(viii) Section 59-10-1033;~~]

2410 [~~(ix)~~] (viii) Section 59-10-1036;

2411 ~~[(x)]~~ (ix) Section 59-10-1106; and

2412 ~~[(xi)]~~ (x) Section 59-10-1111.

2413 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall
2414 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,
2415 2017.

2416 (ii) The committee shall complete a review described in this Subsection (3)(d) three
2417 years after the effective date of the tax credit and every three years after the initial review date.

2418 Section 24. Section 59-10-507 is amended to read:

2419 **59-10-507. Return by a pass-through entity.**

2420 ~~[(1) As used in this section:]~~

2421 ~~[(a) "Pass-through entity" is as defined in Section 59-10-1402.]~~

2422 ~~[(b) "Taxable"]~~ (1) As used in this section, "taxable year" means a year or other time
2423 period that would be a taxable year of a pass-through entity if the pass-through entity were
2424 subject to taxation under this chapter.

2425 (2) A pass-through entity having any income derived from or connected with Utah
2426 sources shall make a return for the taxable year in accordance with Section 59-10-514.

2427 Section 25. Section 59-10-514 is amended to read:

2428 **59-10-514. Return filing requirements -- Rulemaking authority.**

2429 (1) (a) Subject to Subsection (3) and Section 59-10-518:

2430 ~~[(a)]~~ (i) an individual income tax return filed for a tax imposed in accordance with Part
2431 1, Determination and Reporting of Tax Liability and Information, shall be filed with the
2432 commission on or before the day on which a federal individual income tax return is due ~~[under~~
2433 ~~the Internal Revenue Code]~~;

2434 ~~[(b)]~~ (ii) a fiduciary income tax return filed for a tax imposed in accordance with Part
2435 2, Trusts and Estates, shall be filed with the commission on or before the day on which a
2436 federal return for estates and trusts is due ~~[under the Internal Revenue Code]~~; or

2437 ~~[(c)]~~ (iii) a return filed in accordance with Section 59-10-507 shall be filed with the
2438 commission on or before the later of:

2439 (A) the 15th day of the fourth month following the last day of the taxpayer's taxable
2440 year[-]; or

2441 (B) the day on which the taxpayer is required to file a federal income tax return.

(b) Interest accrues from the day on which a return is due under this Subsection (1).

(2) A person required to make and file a return under this chapter shall, without assessment, notice, or demand, pay any tax due:

(a) to the commission; and

(b) before the due date for filing the return, without regard to any extension of time for filing the return.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing what constitutes filing a return with the commission.

Section 26. Section **59-10-516** is amended to read:

59-10-516. Filing extension -- Payment of tax -- Penalty -- Foreign residency.

(1) (a) The commission shall allow a taxpayer an extension of time for filing a return.

(b) Except as provided in Subsection (1)(c):

(i) ~~[For]~~ for a return filed by a taxpayer except for a partnership, the extension ~~[under]~~ described in Subsection (1)(a) may ~~[not exceed]~~ be up to six months[-]; and

(ii) ~~[For]~~ for a return filed by a partnership, the extension ~~[under]~~ described in Subsection (1)(a) may ~~[not exceed]~~ be up to five months.

~~[(2) (a) Except as provided in Subsection (2)(b), the commission may not impose on a taxpayer during the extension period prescribed under Subsection (1) a penalty under Section 59-1-401 if the taxpayer pays, on or before the 15th day of the fourth month following the close of the taxpayer's taxable year, the lesser of:]~~

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

(2) The commission may not impose a penalty under Section 59-1-401 during the extension period described in Subsection (1) on:

(a) a pass-through entity, if the pass-through entity, on or before the return due date described in Section 59-10-514, pays or withholds the tax on behalf of a pass-through entity taxpayer; or

(b) a taxpayer other than a taxpayer described in Subsection (2)(a), if the taxpayer pays, on or before the return due date described in Section 59-10-514, an amount equal to the lesser

2473 of:

2474 (i) 90% of the total tax reported on the return for the current taxable year; or
2475 (ii) 100% of the total tax liability for the taxable year immediately preceding the current
2476 taxable year.

2477 ~~[(b)]~~ (3) If a taxpayer fails to meet the requirements of Subsection (2)~~[(a)]~~, the
2478 commission may apply to the total balance due a penalty as provided in Section 59-1-401.

2479 ~~[(3)]~~ (4) If a federal income tax return filing is lawfully delayed pending a
2480 determination of qualification for a federal tax exemption due to residency outside of the
2481 United States, a taxpayer shall file a return within 30 days after that determination is made.

2482 Section 27. Section 59-10-522 is amended to read:

2483 **59-10-522. Extension of time for paying tax.**

2484 (1) (a) For a taxable year beginning on or after January 1, 2019, but beginning on or
2485 before December 31, 2019, a taxpayer shall receive an extension of time for the payment of the
2486 amount determined as the tax of the taxpayer, or any part of that amount, for the time period
2487 that ends on the last day of the extension to pay the taxpayer's federal income tax.

2488 ~~[(1)-The]~~ (b) (i) For a taxable year beginning on or after January 1, 2020, the
2489 commission, except as otherwise provided by this chapter, may extend the time for payment of
2490 the amount shown, or required to be shown, on any return required under authority of this
2491 chapter (or any installment thereof), for a reasonable period not to exceed six months from the
2492 date fixed for payment thereof.

2493 (ii) ~~[Such]~~ The extension may exceed six months in the cases of taxpayers who are
2494 outside the states of the union and the District of Columbia.

2495 (2) (a) Under rules prescribed by the commission, the time for payment of the amount
2496 determined as a deficiency may be extended for a period not to exceed 18 months from the date
2497 fixed for payment of the deficiency, and, in exceptional cases, for a further period not to exceed
2498 12 months.

2499 (b) An extension under this subsection may be granted only where it is shown to the
2500 satisfaction of the commission that the payment of a deficiency upon the date fixed for the
2501 payment thereof will result in undue hardship to the taxpayer.

2502 (c) No extension may be granted if the deficiency is due to negligence, to intentional
2503 disregard of rules, or to fraud with intent to evade tax.

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

Section 28. Section **59-10-1007** is amended to read:

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

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

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

(i) commercial composting; or

(ii) manufacturing facilities or plant units that:

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

(B) reduce or reuse postconsumer waste material; and

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

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

(ii) \$2,000.

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

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

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

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

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

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

2535 (D) the total purchase price for all machinery and equipment for which the claimant,
2536 estate, or trust is claiming a tax credit;

2537 (E) the amount of the claimant's, estate's, or trust's tax credit; and

2538 (F) a statement that the machinery and equipment are integral to the composting or
2539 recycling process; and

2540 (iii) for a claim of the tax credit described in Subsection (1)(b):

2541 (A) the type of net expenditure that the claimant, estate, or trust made to a third party;

2542 (B) the date that the claimant, estate, or trust made the payment to a third party;

2543 (C) the amount that the claimant, estate, or trust paid to each third party;

2544 (D) the total amount that the claimant, estate, or trust paid to all third parties;

2545 (E) a statement that the net expenditures support the establishment and operation of
2546 recycling or composting technology in the state; and

2547 (F) the amount of the claimant's, estate's, or trust's tax credit.

2548 (b) (i) The Department of Environmental Quality shall provide a claimant, estate, or
2549 trust seeking to claim a tax credit under Subsection (1) with a copy of the written certification.

2550 (ii) The claimant, estate, or trust shall retain a copy of the written certification for the
2551 same period of time that a person is required to keep books and records under Section
2552 [59-1-1406](#).

2553 (c) The Department of Environmental Quality shall submit to the commission an
2554 electronic list that includes:

2555 (i) the name and identifying information of each claimant, estate, or trust to which the
2556 Department of Environmental Quality issues a written certification; and

2557 (ii) for each claimant, estate, or trust, the amount of each tax credit listed on the written
2558 certification.

2559 (3) A claimant, estate, or trust may not claim a tax credit under Subsection (1)(a),
2560 Subsection (1)(b), or both that exceeds 40% of the claimant's, estate's, or trust's state income
2561 tax liability as the tax liability is calculated:

2562 (a) for the taxable year in which the claimant, estate, or trust made the purchases or
2563 payments;

2564 (b) before any other tax credits the claimant, estate, or trust may claim for the taxable
2565 year; and

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

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

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

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

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

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

Section 29. Section 59-10-1017 is amended to read:

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

(1) As used in this section:

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

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

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

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

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

(A) listed in Subsection 53B-8a-106(1)(e)(ii); and

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

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

2597 owners who file a single return jointly, the maximum amount of a qualified investment:

2598 (A) listed in Subsection 53B-8a-106(1)(e)(iii); and

2599 (B) increased or kept for that taxable year in accordance with Subsections

2600 53B-8a-106(1)(f) and (g); or

2601 (iii) for a grantor trust:

2602 (A) if the owner of the grantor trust has a single filing status or head of household

2603 filing status as defined in Section 59-10-1018, the amount described in Subsection (1)(d)(i); or

2604 (B) if the owner of the grantor trust has a joint filing status as defined in Section

2605 59-10-1018, the amount described in Subsection (1)(d)(ii).

2606 (e) "Owner of the grantor trust" means the same as that term is defined in Section

2607 53B-8a-102.5.

2608 (f) "Qualified investment" means the same as that term is defined in Section

2609 53B-8a-102.5.

2610 (2) Except as provided in Section 59-10-1002.2 and subject to the other provisions of

2611 this section, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax

2612 credit equal to the product of:

2613 (a) the amount of a qualified investment made:

2614 (i) during the taxable year; and

2615 (ii) into an account owned by the claimant, estate, or trust; and

2616 ~~[(b) 5%.]~~

2617 (b) the percentage listed in Subsection 59-10-104(2).

2618 (3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may

2619 make a qualified investment described in Subsection (2).

2620 (4) A claimant, estate, or trust that is an account owner may not claim a tax credit

2621 under this section with respect to any portion of a qualified investment described in Subsection

2622 (2) that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal

2623 income tax return.

2624 (5) A tax credit under this section may not exceed the maximum amount of a qualified

2625 investment for the taxable year.

2626 (6) A claimant, estate, or trust that is an account owner may not carry forward or carry

2627 back the tax credit under this section.

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

Section 30. Section 59-10-1017.1 is amended to read:

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

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

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

(3) The tax credit equals the product of:

(a) the qualified donation; and

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

(b) the percentage listed in Subsection 59-10-104(2).

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

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

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

Section 31. Section 59-10-1022 is amended to read:

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

(1) As used in this section:

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

(A) short-term capital gain; or

(B) long-term capital gain.

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

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

2659 (c) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.
2660 (d) "Qualifying stock" means stock that is:
2661 (i) (A) common; or
2662 (B) preferred;
2663 (ii) as defined by the commission by rule made in accordance with Title 63G, Chapter
2664 3, Utah Administrative Rulemaking Act, originally issued to:
2665 (A) a claimant, estate, or trust; or
2666 (B) a partnership if the claimant, estate, or trust that claims a tax credit under this
2667 section:
2668 (I) was a partner on the day on which the stock was issued; and
2669 (II) remains a partner until the last day of the taxable year for which the claimant,
2670 estate, or trust claims a tax credit under this section; and
2671 (iii) issued:
2672 (A) by a Utah small business corporation;
2673 (B) on or after January 1, 2008; and
2674 (C) for:
2675 (I) money; or
2676 (II) other property, except for stock or securities.
2677 (e) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.
2678 (f) (i) "Utah small business corporation" means a corporation that:
2679 (A) except as provided in Subsection (1)(f)(ii), is a small business corporation as
2680 defined in Section 1244(c)(3), Internal Revenue Code;
2681 (B) except as provided in Subsection (1)(f)(iii), meets the requirements of Section
2682 1244(c)(1)(C), Internal Revenue Code; and
2683 (C) has its commercial domicile in this state.
2684 (ii) The dollar amount listed in Section 1244(c)(3)(A) is considered to be \$2,500,000.
2685 (iii) The phrase "the date the loss on such stock was sustained" in Sections
2686 1244(c)(1)(C) and 1244(c)(2), Internal Revenue Code, is considered to be "the last day of the
2687 taxable year for which the claimant, estate, or trust claims a tax credit under this section."
2688 (2) For taxable years beginning on or after January 1, 2008, a claimant, estate, or trust
2689 that meets the requirements of Subsection (3) may claim a nonrefundable tax credit equal to the

2690 product of:

2691 (a) the total amount of the claimant's, estate's, or trust's short-term capital gain or
2692 long-term capital gain on a capital gain transaction that occurs on or after January 1, 2008; and
2693 ~~[(b) 5%.]~~

2694 (b) the percentage listed in Subsection [59-10-104\(2\)](#).

2695 (3) For purposes of Subsection (2), a claimant, estate, or trust may claim the
2696 nonrefundable tax credit allowed by Subsection (2) if:

2697 (a) 70% or more of the gross proceeds of the capital gain transaction are expended:

2698 (i) to purchase qualifying stock in a Utah small business corporation; and

2699 (ii) within a 12-month period after the day on which the capital gain transaction occurs;

2700 and

2701 (b) prior to the purchase of the qualifying stock described in Subsection (3)(a)(i), the
2702 claimant, estate, or trust did not have an ownership interest in the Utah small business
2703 corporation that issued the qualifying stock.

2704 (4) A claimant, estate, or trust may not carry forward or carry back a tax credit under
2705 this section.

2706 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2707 commission may make rules:

2708 (a) defining the term "gross proceeds"; and

2709 (b) prescribing the circumstances under which a claimant, estate, or trust has an
2710 ownership interest in a Utah small business corporation.

2711 Section 32. Section **59-10-1023** is amended to read:

2712 **59-10-1023. Nonrefundable tax credit for amounts paid under a health benefit**
2713 **plan.**

2714 (1) As used in this section:

2715 (a) "Claimant with dependents" means a claimant:

2716 (i) regardless of the claimant's filing status for purposes of filing a federal individual
2717 income tax return for the taxable year; and

2718 (ii) who claims one or more dependents under Section 151, Internal Revenue Code, as
2719 allowed on the claimant's federal individual income tax return for the taxable year.

2720 (b) "Eligible insured individual" means:

2721 (i) the claimant who is insured under a health benefit plan;
2722 (ii) the spouse of the claimant described in Subsection (1)(b)(i) if:
2723 (A) the claimant files a single return jointly under this chapter with the claimant's
2724 spouse for the taxable year; and
2725 (B) the spouse is insured under the health benefit plan described in Subsection
2726 (1)(b)(i); or
2727 (iii) a dependent of the claimant described in Subsection (1)(b)(i) if:
2728 (A) the claimant claims the dependent under Section 151, Internal Revenue Code, as
2729 allowed on the claimant's federal individual income tax return for the taxable year; and
2730 (B) the dependent is insured under the health benefit plan described in Subsection
2731 (1)(b)(i).
2732 (c) "Excluded expenses" means an amount a claimant pays for insurance offered under
2733 a health benefit plan for a taxable year if:
2734 (i) the claimant claims a tax credit for that amount under Section 35, Internal Revenue
2735 Code:
2736 (A) on the claimant's federal individual income tax return for the taxable year; and
2737 (B) with respect to an eligible insured individual;
2738 (ii) the claimant deducts that amount under Section 162 or 213, Internal Revenue
2739 Code:
2740 (A) on the claimant's federal individual income tax return for the taxable year; and
2741 (B) with respect to an eligible insured individual; or
2742 (iii) the claimant excludes that amount from gross income under Section 106 or 125,
2743 Internal Revenue Code, with respect to an eligible insured individual.
2744 (d) (i) "Health benefit plan" is as defined in Section 31A-1-301.
2745 (ii) "Health benefit plan" does not include equivalent self-insurance as defined by the
2746 Insurance Department by rule made in accordance with Title 63G, Chapter 3, Utah
2747 Administrative Rulemaking Act.
2748 (e) "Joint claimant with no dependents" means a husband and wife who:
2749 (i) file a single return jointly under this chapter for the taxable year; and
2750 (ii) do not claim a dependent under Section 151, Internal Revenue Code, on the
2751 husband's and wife's federal individual income tax return for the taxable year.

2752 (f) "Single claimant with no dependents" means:
2753 (i) a single individual who:
2754 (A) files a single federal individual income tax return for the taxable year; and
2755 (B) does not claim a dependent under Section 151, Internal Revenue Code, on the
2756 single individual's federal individual income tax return for the taxable year;
2757 (ii) a head of household:
2758 (A) as defined in Section 2(b), Internal Revenue Code, who files a single federal
2759 individual income tax return for the taxable year; and
2760 (B) who does not claim a dependent under Section 151, Internal Revenue Code, on the
2761 head of household's federal individual income tax return for the taxable year; or
2762 (iii) a married individual who:
2763 (A) does not file a single federal individual income tax return jointly with that married
2764 individual's spouse for the taxable year; and
2765 (B) does not claim a dependent under Section 151, Internal Revenue Code, on that
2766 married individual's federal individual income tax return for the taxable year.
2767 (2) Subject to Subsection (3), and except as provided in Subsection (4), for taxable
2768 years beginning on or after January 1, 2009, a claimant may claim a nonrefundable tax credit
2769 equal to the product of:
2770 (a) the difference between:
2771 (i) the total amount the claimant pays during the taxable year for:
2772 (A) insurance offered under a health benefit plan; and
2773 (B) an eligible insured individual; and
2774 (ii) excluded expenses; and
2775 ~~[(b) 5%.]~~
2776 (b) the percentage listed in Subsection [59-10-104\(2\)](#).
2777 (3) The maximum amount of a tax credit described in Subsection (2) a claimant may
2778 claim on a return for a taxable year is:
2779 (a) for a single claimant with no dependents, \$300;
2780 (b) for a joint claimant with no dependents, \$600; or
2781 (c) for a claimant with dependents, \$900.
2782 (4) A claimant may not claim a tax credit under this section if the claimant is eligible to

2783 participate in insurance offered under a health benefit plan maintained and funded in whole or
2784 in part by:

2785 (a) the claimant's employer; or

2786 (b) another person's employer.

2787 (5) A claimant may not carry forward or carry back a tax credit under this section.

2788 Section 33. Section **59-10-1028** is amended to read:

2789 **59-10-1028. Nonrefundable tax credit for capital gain transactions on the**
2790 **exchange of one form of legal tender for another form of legal tender.**

2791 (1) As used in this section:

2792 (a) "Capital gain transaction" means a transaction that results in a:

2793 (i) short-term capital gain; or

2794 (ii) long-term capital gain.

2795 (b) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.

2796 (c) "Long-term capital loss" is as defined in Section 1222, Internal Revenue Code.

2797 (d) "Net capital gain" means the amount by which the sum of long-term capital gains

2798 and short-term capital gains on a claimant's, estate's, or trust's transactions from exchanges

2799 made for a taxable year of one form of legal tender for another form of legal tender exceeds the

2800 sum of long-term capital losses and short-term capital losses on those transactions for that

2801 taxable year.

2802 (e) "Short-term capital loss" is as defined in Section 1222, Internal Revenue Code.

2803 (f) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.

2804 (2) Except as provided in Section [59-10-1002.2](#), for taxable years beginning on or after

2805 January 1, 2012, a claimant, estate, or trust may claim a nonrefundable tax credit equal to the

2806 product of:

2807 (a) to the extent a net capital gain is included in taxable income, the amount of the
2808 claimant's, estate's, or trust's net capital gain on capital gain transactions from exchanges made
2809 on or after January 1, 2012, for a taxable year, of one form of legal tender for another form of
2810 legal tender; and

2811 ~~[(b) 5%.]~~

2812 (b) the percentage listed in Subsection [59-10-104\(2\)](#).

2813 (3) A claimant, estate, or trust may not carry forward or carry back a tax credit under

2814 this section.

2815 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2816 commission may make rules to implement this section.

2817 Section 34. Section **59-10-1035** is amended to read:

2818 **59-10-1035. Nonrefundable tax credit for contribution to state Achieving a Better**
2819 **Life Experience Program account.**

2820 (1) As used in this section:

2821 (a) "Account" means an account in a qualified ABLE program where the designated
2822 beneficiary of the account is a resident of this state.

2823 (b) "Contributor" means a claimant, estate, or trust that:

2824 (i) makes a contribution to an account; and

2825 (ii) receives a statement from the qualified ABLE program itemizing the contribution.

2826 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.
2827 529A.

2828 (d) "Qualified ABLE program" means the same as that term is defined in Section
2829 [35A-12-102](#).

2830 (2) A contributor to an account may claim a nonrefundable tax credit as provided in
2831 this section.

2832 (3) Subject to the other provisions of this section, the tax credit is equal to the product
2833 of:

2834 [~~(a) 5%; and~~]

2835 (a) the percentage listed in Subsection [59-10-104\(2\)](#); and

2836 (b) the total amount of contributions:

2837 (i) the contributor makes for the taxable year; and

2838 (ii) for which the contributor receives a statement from the qualified ABLE program
2839 itemizing the contributions.

2840 (4) A contributor may not claim a tax credit under this section:

2841 (a) for an amount of excess contribution to an account that is returned to the
2842 contributor; or

2843 (b) with respect to an amount the contributor deducts on a federal income tax return.

2844 (5) A tax credit under this section may not be carried forward or carried back.

2845 Section 35. Section **59-10-1036** is amended to read:

2846 **59-10-1036. Nonrefundable tax credit for military survivor benefits.**

2847 (1) As used in this section:

2848 (a) "Dependent child" means the same as that term is defined in 10 U.S.C. Sec. 1447.

2849 (b) "Reserve components" means the same as that term is described in 10 U.S.C. Sec.
2850 10101.

2851 (c) "Surviving spouse" means the same as that term is defined in 10 U.S.C. Sec. 1447.

2852 (d) "Survivor benefits" means the amount paid by the federal government in
2853 accordance with 10 U.S.C. Secs. 1447 through 1455.

2854 (2) A surviving spouse or dependent child may claim a nonrefundable tax credit for
2855 survivor benefits if the benefits are paid due to:

2856 (a) the death of a member of the armed forces or reserve components while on active
2857 duty; or

2858 (b) the death of a member of the reserve components that results from a
2859 service-connected cause while performing inactive duty training.

2860 (3) The tax credit described in Subsection (2) is equal to the product of:

2861 (a) the amount of survivor benefits that the surviving spouse or dependent child
2862 received during the taxable year; and

2863 [~~(b) 5%.~~]

2864 (b) the percentage listed in Subsection [59-10-104\(2\)](#).

2865 (4) The tax credit described in Subsection (2):

2866 (a) may not be carried forward or carried back; and

2867 (b) applies to a taxable year beginning on or after January 1, 2017.

2868 Section 36. Section **59-10-1403** is amended to read:

2869 **59-10-1403. Income tax treatment of a pass-through entity -- Returns --**
2870 **Classification same as under Internal Revenue Code.**

2871 (1) Subject to Subsection (3), a pass-through entity is not subject to a tax imposed by
2872 this chapter.

2873 (2) Except as provided in Section [59-10-1403.3](#), the income, gain, loss, deduction, or
2874 credit of a pass-through entity shall be passed through to one or more pass-through entity
2875 taxpayers as provided in this part.

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

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

Section 37. Section 59-10-1403.3 is amended to read:

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

(1) As used in this section:

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

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

(i) is paid or withheld:

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

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

(ii) is equal to the difference between:

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

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

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

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

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

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

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

2907 this section within 30 days after the earlier of the day on which:

2908 (a) the pass-through entity files an income tax return; or

2909 (b) the pass-through entity's income tax return is due, including any extension of due
2910 date authorized in statute.

2911 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2912 commission may make rules establishing the information that a pass-through entity shall
2913 provide to the commission to obtain a refund of qualifying excess withholding under this
2914 section.

2915 (6) (a) On or before November 30, 2018, the committee shall review the \$250,000
2916 threshold described in Subsection (2) for the purpose of assessing whether the threshold
2917 amount should be maintained, increased, or decreased.

2918 (b) To assist the committee in conducting the review described in Subsection (6)(a),
2919 the commission shall provide the committee with:

2920 (i) the total number of refund requests made under this section;

2921 (ii) the total costs of any refunds issued under this section;

2922 (iii) the costs of any audits conducted on refund requests made under this section; and

2923 (iv) an estimation of:

2924 (A) the number of refund requests the commission expects to receive if the Legislature
2925 increases the threshold;

2926 (B) the number of refund requests the commission expects to receive if the Legislature
2927 decreases the threshold; and

2928 (C) the costs of any audits the commission would conduct if the Legislature increases
2929 or decreases the threshold.

2930 Section 38. Section **59-12-102** is amended to read:

2931 **59-12-102. Definitions.**

2932 As used in this chapter:

2933 (1) "800 service" means a telecommunications service that:

2934 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

2935 (b) is typically marketed:

2936 (i) under the name 800 toll-free calling;

2937 (ii) under the name 855 toll-free calling;

2938 (iii) under the name 866 toll-free calling;
2939 (iv) under the name 877 toll-free calling;
2940 (v) under the name 888 toll-free calling; or
2941 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
2942 Federal Communications Commission.

2943 (2) (a) "900 service" means an inbound toll telecommunications service that:
2944 (i) a subscriber purchases;
2945 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
2946 the subscriber's:
2947 (A) prerecorded announcement; or
2948 (B) live service; and
2949 (iii) is typically marketed:
2950 (A) under the name 900 service; or
2951 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
2952 Communications Commission.

2953 (b) "900 service" does not include a charge for:
2954 (i) a collection service a seller of a telecommunications service provides to a
2955 subscriber; or
2956 (ii) the following a subscriber sells to the subscriber's customer:
2957 (A) a product; or
2958 (B) a service.

2959 (3) (a) "Admission or user fees" includes season passes.
2960 (b) "Admission or user fees" does not include:
2961 (i) annual membership dues to private organizations; or
2962 (ii) a lesson, including a lesson that involves as part of the lesson equipment or a
2963 facility listed in Subsection [59-12-103](#)(1)(f).

2964 (4) "Affiliate" or "affiliated person" means a person that, with respect to another
2965 person:
2966 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
2967 person; or
2968 (b) is related to the other person because a third person, or a group of third persons who

2969 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,
2970 whether direct or indirect, in the related persons.

2971 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
2972 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
2973 Agreement after November 12, 2002.

2974 (6) "Agreement combined tax rate" means the sum of the tax rates:

2975 (a) listed under Subsection (7); and

2976 (b) that are imposed within a local taxing jurisdiction.

2977 (7) "Agreement sales and use tax" means a tax imposed under:

2978 (a) Subsection 59-12-103(2)(a)(i)(A);

2979 (b) Subsection 59-12-103(2)(b)(i);

2980 (c) Subsection 59-12-103(2)(c)(i);

2981 (d) Subsection 59-12-103(2)(d);

2982 ~~[(d)]~~ (e) Subsection 59-12-103(2)~~[(d)]~~(e)(i)(A)(I);

2983 ~~[(e)]~~ (f) Section 59-12-204;

2984 ~~[(f)]~~ (g) Section 59-12-401;

2985 ~~[(g)]~~ (h) Section 59-12-402;

2986 ~~[(h)]~~ (i) Section 59-12-402.1;

2987 ~~[(i)]~~ (j) Section 59-12-703;

2988 ~~[(j)]~~ (k) Section 59-12-802;

2989 ~~[(k)]~~ (l) Section 59-12-804;

2990 ~~[(l)]~~ (m) Section 59-12-1102;

2991 ~~[(m)]~~ (n) Section 59-12-1302;

2992 ~~[(n)]~~ (o) Section 59-12-1402;

2993 ~~[(o)]~~ (p) Section 59-12-1802;

2994 ~~[(p)]~~ (q) Section 59-12-2003;

2995 ~~[(q)]~~ (r) Section 59-12-2103;

2996 ~~[(r)]~~ (s) Section 59-12-2213;

2997 ~~[(s)]~~ (t) Section 59-12-2214;

2998 ~~[(t)]~~ (u) Section 59-12-2215;

2999 ~~[(u)]~~ (v) Section 59-12-2216;

3000 [~~(v)~~] (w) Section 59-12-2217;
3001 [~~(w)~~] (x) Section 59-12-2218;
3002 [~~(x)~~] (y) Section 59-12-2219; or
3003 [~~(y)~~] (z) Section 59-12-2220.
3004 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
3005 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
3006 (a) except for:
3007 (i) an airline as defined in Section 59-2-102; or
3008 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
3009 includes a corporation that is qualified to do business but is not otherwise doing business in the
3010 state, of an airline; and
3011 (b) that has the workers, expertise, and facilities to perform the following, regardless of
3012 whether the business entity performs the following in this state:
3013 (i) check, diagnose, overhaul, and repair:
3014 (A) an onboard system of a fixed wing turbine powered aircraft; and
3015 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
3016 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
3017 engine;
3018 (iii) perform at least the following maintenance on a fixed wing turbine powered
3019 aircraft:
3020 (A) an inspection;
3021 (B) a repair, including a structural repair or modification;
3022 (C) changing landing gear; and
3023 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
3024 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
3025 completely apply new paint to the fixed wing turbine powered aircraft; and
3026 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
3027 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
3028 authority that certifies the fixed wing turbine powered aircraft.
3029 (10) "Alcoholic beverage" means a beverage that:
3030 (a) is suitable for human consumption; and

- 3031 (b) contains .5% or more alcohol by volume.
- 3032 (11) "Alternative energy" means:
- 3033 (a) biomass energy;
- 3034 (b) geothermal energy;
- 3035 (c) hydroelectric energy;
- 3036 (d) solar energy;
- 3037 (e) wind energy; or
- 3038 (f) energy that is derived from:
- 3039 (i) coal-to-liquids;
- 3040 (ii) nuclear fuel;
- 3041 (iii) oil-impregnated diatomaceous earth;
- 3042 (iv) oil sands;
- 3043 (v) oil shale;
- 3044 (vi) petroleum coke; or
- 3045 (vii) waste heat from:
- 3046 (A) an industrial facility; or
- 3047 (B) a power station in which an electric generator is driven through a process in which
- 3048 water is heated, turns into steam, and spins a steam turbine.
- 3049 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production
- 3050 facility" means a facility that:
- 3051 (i) uses alternative energy to produce electricity; and
- 3052 (ii) has a production capacity of two megawatts or greater.
- 3053 (b) A facility is an alternative energy electricity production facility regardless of
- 3054 whether the facility is:
- 3055 (i) connected to an electric grid; or
- 3056 (ii) located on the premises of an electricity consumer.
- 3057 (13) (a) "Ancillary service" means a service associated with, or incidental to, the
- 3058 provision of telecommunications service.
- 3059 (b) "Ancillary service" includes:
- 3060 (i) a conference bridging service;
- 3061 (ii) a detailed communications billing service;

3062 (iii) directory assistance;

3063 (iv) a vertical service; or

3064 (v) a voice mail service.

3065 (14) "Area agency on aging" means the same as that term is defined in Section

3066 [62A-3-101](#).

3067 (15) "Assisted amusement device" means an amusement device, skill device, or ride
3068 device that is started and stopped by an individual:

3069 (a) who is not the purchaser or renter of the right to use or operate the amusement
3070 device, skill device, or ride device; and

3071 (b) at the direction of the seller of the right to use the amusement device, skill device,
3072 or ride device.

3073 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or
3074 washing of tangible personal property if the cleaning or washing labor is primarily performed
3075 by an individual:

3076 (a) who is not the purchaser of the cleaning or washing of the tangible personal
3077 property; and

3078 (b) at the direction of the seller of the cleaning or washing of the tangible personal
3079 property.

3080 (17) "Authorized carrier" means:

3081 (a) in the case of vehicles operated over public highways, the holder of credentials
3082 indicating that the vehicle is or will be operated pursuant to both the International Registration
3083 Plan and the International Fuel Tax Agreement;

3084 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
3085 certificate or air carrier's operating certificate; or

3086 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
3087 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
3088 stock in more than one state.

3089 (18) (a) Except as provided in Subsection (18)(b), "biomass energy" means any of the
3090 following that is used as the primary source of energy to produce fuel or electricity:

3091 (i) material from a plant or tree; or

3092 (ii) other organic matter that is available on a renewable basis, including:

- 3093 (A) slash and brush from forests and woodlands;
3094 (B) animal waste;
3095 (C) waste vegetable oil;
3096 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
3097 wastewater residuals, or through the conversion of a waste material through a nonincineration,
3098 thermal conversion process;
3099 (E) aquatic plants; and
3100 (F) agricultural products.
- 3101 (b) "Biomass energy" does not include:
3102 (i) black liquor; or
3103 (ii) treated woods.
- 3104 (19) (a) "Bundled transaction" means the sale of two or more items of tangible personal
3105 property, products, or services if the tangible personal property, products, or services are:
3106 (i) distinct and identifiable; and
3107 (ii) sold for one nonitemized price.
- 3108 (b) "Bundled transaction" does not include:
3109 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
3110 the basis of the selection by the purchaser of the items of tangible personal property included in
3111 the transaction;
3112 (ii) the sale of real property;
3113 (iii) the sale of services to real property;
3114 (iv) the retail sale of tangible personal property and a service if:
3115 (A) the tangible personal property:
3116 (I) is essential to the use of the service; and
3117 (II) is provided exclusively in connection with the service; and
3118 (B) the service is the true object of the transaction;
3119 (v) the retail sale of two services if:
3120 (A) one service is provided that is essential to the use or receipt of a second service;
3121 (B) the first service is provided exclusively in connection with the second service; and
3122 (C) the second service is the true object of the transaction;
3123 (vi) a transaction that includes tangible personal property or a product subject to

3124 taxation under this chapter and tangible personal property or a product that is not subject to
3125 taxation under this chapter if the:

3126 (A) seller's purchase price of the tangible personal property or product subject to
3127 taxation under this chapter is de minimis; or

3128 (B) seller's sales price of the tangible personal property or product subject to taxation
3129 under this chapter is de minimis; and

3130 (vii) the retail sale of tangible personal property that is not subject to taxation under
3131 this chapter and tangible personal property that is subject to taxation under this chapter if:

3132 (A) that retail sale includes:

3133 (I) food and food ingredients;

3134 (II) a drug;

3135 (III) durable medical equipment;

3136 (IV) mobility enhancing equipment;

3137 (V) an over-the-counter drug;

3138 (VI) a prosthetic device; or

3139 (VII) a medical supply; and

3140 (B) subject to Subsection (19)(f):

3141 (I) the seller's purchase price of the tangible personal property subject to taxation under
3142 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

3143 (II) the seller's sales price of the tangible personal property subject to taxation under
3144 this chapter is 50% or less of the seller's total sales price of that retail sale.

3145 (c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a
3146 service that is distinct and identifiable does not include:

3147 (A) packaging that:

3148 (I) accompanies the sale of the tangible personal property, product, or service; and

3149 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
3150 service;

3151 (B) tangible personal property, a product, or a service provided free of charge with the
3152 purchase of another item of tangible personal property, a product, or a service; or

3153 (C) an item of tangible personal property, a product, or a service included in the
3154 definition of "purchase price."

(ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

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

(ii) For purposes of Subsection (19)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

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

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

(ii) For purposes of Subsection (19)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation

3186 under this chapter is de minimis; and

3187 (B) may not use a combination of the seller's purchase price and the seller's sales price
3188 to determine if the purchase price or sales price of the tangible personal property or product
3189 subject to taxation under this chapter is de minimis.

3190 (iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service
3191 contract to determine if the sales price of tangible personal property or a product is de minimis.

3192 (f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of
3193 the seller's purchase price and the seller's sales price to determine if tangible personal property
3194 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
3195 price of that retail sale.

3196 (20) "Certified automated system" means software certified by the governing board of
3197 the agreement that:

3198 (a) calculates the agreement sales and use tax imposed within a local taxing
3199 jurisdiction:

3200 (i) on a transaction; and

3201 (ii) in the states that are members of the agreement;

3202 (b) determines the amount of agreement sales and use tax to remit to a state that is a
3203 member of the agreement; and

3204 (c) maintains a record of the transaction described in Subsection (20)(a)(i).

3205 (21) "Certified service provider" means an agent certified:

3206 (a) by the governing board of the agreement; and

3207 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax,
3208 as outlined in the contract between the governing board of the agreement and the certified
3209 service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the
3210 seller's own purchases.

3211 (22) (a) Subject to Subsection (22)(b), "clothing" means all human wearing apparel
3212 suitable for general use.

3213 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3214 commission shall make rules:

3215 (i) listing the items that constitute "clothing"; and

3216 (ii) that are consistent with the list of items that constitute "clothing" under the

3217 agreement.

3218 (23) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

3219 (24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
3220 fuels that does not constitute industrial use under Subsection (57) or residential use under
3221 Subsection (112).

3222 (25) (a) "Common carrier" means a person engaged in or transacting the business of
3223 transporting passengers, freight, merchandise, or other property for hire within this state.

3224 (b) (i) "Common carrier" does not include a person that, at the time the person is
3225 traveling to or from that person's place of employment, transports a passenger to or from the
3226 passenger's place of employment.

3227 (ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3,
3228 Utah Administrative Rulemaking Act, the commission may make rules defining what
3229 constitutes a person's place of employment.

3230 (c) "Common carrier" does not include a person that provides transportation network
3231 services, as defined in Section [13-51-102](#).

3232 (26) "Component part" includes:

3233 (a) poultry, dairy, and other livestock feed, and their components;

3234 (b) baling ties and twine used in the baling of hay and straw;

3235 (c) fuel used for providing temperature control of orchards and commercial
3236 greenhouses doing a majority of their business in wholesale sales, and for providing power for
3237 off-highway type farm machinery; and

3238 (d) feed, seeds, and seedlings.

3239 (27) "Computer" means an electronic device that accepts information:

3240 (a) (i) in digital form; or

3241 (ii) in a form similar to digital form; and

3242 (b) manipulates that information for a result based on a sequence of instructions.

3243 (28) "Computer software" means a set of coded instructions designed to cause:

3244 (a) a computer to perform a task; or

3245 (b) automatic data processing equipment to perform a task.

3246 (29) "Computer software maintenance contract" means a contract that obligates a seller
3247 of computer software to provide a customer with:

- 3248 (a) future updates or upgrades to computer software;
- 3249 (b) support services with respect to computer software; or
- 3250 (c) a combination of Subsections (29)(a) and (b).
- 3251 (30) (a) "Conference bridging service" means an ancillary service that links two or
- 3252 more participants of an audio conference call or video conference call.
- 3253 (b) "Conference bridging service" may include providing a telephone number as part of
- 3254 the ancillary service described in Subsection (30)(a).
- 3255 (c) "Conference bridging service" does not include a telecommunications service used
- 3256 to reach the ancillary service described in Subsection (30)(a).
- 3257 (31) "Construction materials" means any tangible personal property that will be
- 3258 converted into real property.
- 3259 (32) "Delivered electronically" means delivered to a purchaser by means other than
- 3260 tangible storage media.
- 3261 (33) (a) "Delivery charge" means a charge:
- 3262 (i) by a seller of:
- 3263 (A) tangible personal property;
- 3264 (B) a product transferred electronically; or
- 3265 (C) a service; and
- 3266 (ii) for preparation and delivery of the tangible personal property, product transferred
- 3267 electronically, or services described in Subsection (33)(a)(i) to a location designated by the
- 3268 purchaser.
- 3269 (b) "Delivery charge" includes a charge for the following:
- 3270 (i) transportation;
- 3271 (ii) shipping;
- 3272 (iii) postage;
- 3273 (iv) handling;
- 3274 (v) crating; or
- 3275 (vi) packing.
- 3276 (34) "Detailed telecommunications billing service" means an ancillary service of
- 3277 separately stating information pertaining to individual calls on a customer's billing statement.
- 3278 (35) "Dietary supplement" means a product, other than tobacco, that:

- 3279 (a) is intended to supplement the diet;
- 3280 (b) contains one or more of the following dietary ingredients:
- 3281 (i) a vitamin;
- 3282 (ii) a mineral;
- 3283 (iii) an herb or other botanical;
- 3284 (iv) an amino acid;
- 3285 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 3286 dietary intake; or
- 3287 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 3288 described in Subsections (35)(b)(i) through (v);
- 3289 (c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:
- 3290 (A) tablet form;
- 3291 (B) capsule form;
- 3292 (C) powder form;
- 3293 (D) softgel form;
- 3294 (E) gelcap form; or
- 3295 (F) liquid form; or
- 3296 (ii) if the product is not intended for ingestion in a form described in Subsections
- 3297 (35)(c)(i)(A) through (F), is not represented:
- 3298 (A) as conventional food; and
- 3299 (B) for use as a sole item of:
- 3300 (I) a meal; or
- 3301 (II) the diet; and
- 3302 (d) is required to be labeled as a dietary supplement:
- 3303 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 3304 (ii) as required by 21 C.F.R. Sec. 101.36.
- 3305 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 3306 musical, spoken, or other sounds.
- 3307 (b) "Digital audio work" includes a ringtone.
- 3308 (37) "Digital audio-visual work" means a series of related images which, when shown
- 3309 in succession, imparts an impression of motion, together with accompanying sounds, if any.

3310 (38) "Digital book" means a work that is generally recognized in the ordinary and usual
3311 sense as a book.

3312 (39) (a) "Direct mail" means printed material delivered or distributed by United States
3313 mail or other delivery service:

3314 (i) to:

3315 (A) a mass audience; or

3316 (B) addressees on a mailing list provided:

3317 (I) by a purchaser of the mailing list; or

3318 (II) at the discretion of the purchaser of the mailing list; and

3319 (ii) if the cost of the printed material is not billed directly to the recipients.

3320 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
3321 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

3322 (c) "Direct mail" does not include multiple items of printed material delivered to a
3323 single address.

3324 (40) "Directory assistance" means an ancillary service of providing:

3325 (a) address information; or

3326 (b) telephone number information.

3327 (41) (a) "Disposable home medical equipment or supplies" means medical equipment
3328 or supplies that:

3329 (i) cannot withstand repeated use; and

3330 (ii) are purchased by, for, or on behalf of a person other than:

3331 (A) a health care facility as defined in Section 26-21-2;

3332 (B) a health care provider as defined in Section 78B-3-403;

3333 (C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or

3334 (D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).

3335 (b) "Disposable home medical equipment or supplies" does not include:

3336 (i) a drug;

3337 (ii) durable medical equipment;

3338 (iii) a hearing aid;

3339 (iv) a hearing aid accessory;

3340 (v) mobility enhancing equipment; or

- 3341 (vi) tangible personal property used to correct impaired vision, including:
3342 (A) eyeglasses; or
3343 (B) contact lenses.
- 3344 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3345 commission may by rule define what constitutes medical equipment or supplies.
- 3346 (42) "Drilling equipment manufacturer" means a facility:
3347 (a) located in the state;
3348 (b) with respect to which 51% or more of the manufacturing activities of the facility
3349 consist of manufacturing component parts of drilling equipment;
3350 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
3351 manufacturing process; and
3352 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
3353 manufacturing process.
- 3354 (43) (a) "Drug" means a compound, substance, or preparation, or a component of a
3355 compound, substance, or preparation that is:
3356 (i) recognized in:
3357 (A) the official United States Pharmacopoeia;
3358 (B) the official Homeopathic Pharmacopoeia of the United States;
3359 (C) the official National Formulary; or
3360 (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);
3361 (ii) intended for use in the:
3362 (A) diagnosis of disease;
3363 (B) cure of disease;
3364 (C) mitigation of disease;
3365 (D) treatment of disease; or
3366 (E) prevention of disease; or
3367 (iii) intended to affect:
3368 (A) the structure of the body; or
3369 (B) any function of the body.
- 3370 (b) "Drug" does not include:
3371 (i) food and food ingredients;

- 3372 (ii) a dietary supplement;
- 3373 (iii) an alcoholic beverage; or
- 3374 (iv) a prosthetic device.
- 3375 (44) (a) Except as provided in Subsection (44)(c), "durable medical equipment" means
- 3376 equipment that:
- 3377 (i) can withstand repeated use;
- 3378 (ii) is primarily and customarily used to serve a medical purpose;
- 3379 (iii) generally is not useful to a person in the absence of illness or injury; and
- 3380 (iv) is not worn in or on the body.
- 3381 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 3382 equipment described in Subsection (44)(a).
- 3383 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 3384 (45) "Electronic" means:
- 3385 (a) relating to technology; and
- 3386 (b) having:
- 3387 (i) electrical capabilities;
- 3388 (ii) digital capabilities;
- 3389 (iii) magnetic capabilities;
- 3390 (iv) wireless capabilities;
- 3391 (v) optical capabilities;
- 3392 (vi) electromagnetic capabilities; or
- 3393 (vii) capabilities similar to Subsections (45)(b)(i) through (vi).
- 3394 (46) "Electronic financial payment service" means an establishment:
- 3395 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 3396 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 3397 federal Executive Office of the President, Office of Management and Budget; and
- 3398 (b) that performs electronic financial payment services.
- 3399 (47) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 3400 (48) "Fixed guideway" means a public transit facility that uses and occupies:
- 3401 (a) rail for the use of public transit; or
- 3402 (b) a separate right-of-way for the use of public transit.

- 3403 (49) "Fixed wing turbine powered aircraft" means an aircraft that:
3404 (a) is powered by turbine engines;
3405 (b) operates on jet fuel; and
3406 (c) has wings that are permanently attached to the fuselage of the aircraft.
3407 (50) "Fixed wireless service" means a telecommunications service that provides radio
3408 communication between fixed points.
3409 (51) (a) "Food and food ingredients" means substances:
3410 (i) regardless of whether the substances are in:
3411 (A) liquid form;
3412 (B) concentrated form;
3413 (C) solid form;
3414 (D) frozen form;
3415 (E) dried form; or
3416 (F) dehydrated form; and
3417 (ii) that are:
3418 (A) sold for:
3419 (I) ingestion by humans; or
3420 (II) chewing by humans; and
3421 (B) consumed for the substance's:
3422 (I) taste; or
3423 (II) nutritional value.
3424 (b) "Food and food ingredients" includes an item described in Subsection (96)(b)(iii).
3425 (c) "Food and food ingredients" does not include:
3426 (i) an alcoholic beverage;
3427 (ii) tobacco; or
3428 (iii) prepared food.
3429 (52) (a) "Fundraising sales" means sales:
3430 (i) (A) made by a school; or
3431 (B) made by a school student;
3432 (ii) that are for the purpose of raising funds for the school to purchase equipment,
3433 materials, or provide transportation; and

3434 (iii) that are part of an officially sanctioned school activity.

3435 (b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity"

3436 means a school activity:

3437 (i) that is conducted in accordance with a formal policy adopted by the school or school
3438 district governing the authorization and supervision of fundraising activities;

3439 (ii) that does not directly or indirectly compensate an individual teacher or other
3440 educational personnel by direct payment, commissions, or payment in kind; and

3441 (iii) the net or gross revenues from which are deposited in a dedicated account
3442 controlled by the school or school district.

3443 (53) "Geothermal energy" means energy contained in heat that continuously flows
3444 outward from the earth that is used as the sole source of energy to produce electricity.

3445 (54) "Governing board of the agreement" means the governing board of the agreement
3446 that is:

3447 (a) authorized to administer the agreement; and

3448 (b) established in accordance with the agreement.

3449 (55) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

3450 (i) the executive branch of the state, including all departments, institutions, boards,
3451 divisions, bureaus, offices, commissions, and committees;

3452 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
3453 Administrative Office of the Courts, and similar administrative units in the judicial branch;

3454 (iii) the legislative branch of the state, including the House of Representatives, the
3455 Senate, the Legislative Printing Office, the Office of Legislative Research and General
3456 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
3457 Analyst;

3458 (iv) the National Guard;

3459 (v) an independent entity as defined in Section 63E-1-102; or

3460 (vi) a political subdivision as defined in Section 17B-1-102.

3461 (b) "Governmental entity" does not include the state systems of public and higher
3462 education, including:

3463 (i) a school;

3464 (ii) the State Board of Education;

- 3465 (iii) the Utah Board of Higher Education; or
- 3466 (iv) an institution of higher education described in Section 53B-1-102.
- 3467 (56) "Hydroelectric energy" means water used as the sole source of energy to produce
- 3468 electricity.
- 3469 (57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 3470 other fuels:
- 3471 (a) in mining or extraction of minerals;
- 3472 (b) in agricultural operations to produce an agricultural product up to the time of
- 3473 harvest or placing the agricultural product into a storage facility, including:
- 3474 (i) commercial greenhouses;
- 3475 (ii) irrigation pumps;
- 3476 (iii) farm machinery;
- 3477 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
- 3478 under Title 41, Chapter 1a, Part 2, Registration; and
- 3479 (v) other farming activities;
- 3480 (c) in manufacturing tangible personal property at an establishment described in:
- 3481 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
- 3482 the federal Executive Office of the President, Office of Management and Budget; or
- 3483 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
- 3484 American Industry Classification System of the federal Executive Office of the President,
- 3485 Office of Management and Budget;
- 3486 (d) by a scrap recycler if:
- 3487 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 3488 one or more of the following items into prepared grades of processed materials for use in new
- 3489 products:
- 3490 (A) iron;
- 3491 (B) steel;
- 3492 (C) nonferrous metal;
- 3493 (D) paper;
- 3494 (E) glass;
- 3495 (F) plastic;

3496 (G) textile; or
3497 (H) rubber; and
3498 (ii) the new products under Subsection (57)(d)(i) would otherwise be made with
3499 nonrecycled materials; or
3500 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
3501 cogeneration facility as defined in Section 54-2-1.
3502 (58) (a) Except as provided in Subsection (58)(b), "installation charge" means a charge
3503 for installing:
3504 (i) tangible personal property; or
3505 (ii) a product transferred electronically.
3506 (b) "Installation charge" does not include a charge for:
3507 (i) repairs or renovations of:
3508 (A) tangible personal property; or
3509 (B) a product transferred electronically; or
3510 (ii) attaching tangible personal property or a product transferred electronically:
3511 (A) to other tangible personal property; and
3512 (B) as part of a manufacturing or fabrication process.
3513 (59) "Institution of higher education" means an institution of higher education listed in
3514 Section 53B-2-101.
3515 (60) (a) "Lease" or "rental" means a transfer of possession or control of tangible
3516 personal property or a product transferred electronically for:
3517 (i) (A) a fixed term; or
3518 (B) an indeterminate term; and
3519 (ii) consideration.
3520 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
3521 amount of consideration may be increased or decreased by reference to the amount realized
3522 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
3523 Code.
3524 (c) "Lease" or "rental" does not include:
3525 (i) a transfer of possession or control of property under a security agreement or
3526 deferred payment plan that requires the transfer of title upon completion of the required

3527 payments;

3528 (ii) a transfer of possession or control of property under an agreement that requires the

3529 transfer of title:

3530 (A) upon completion of required payments; and

3531 (B) if the payment of an option price does not exceed the greater of:

3532 (I) \$100; or

3533 (II) 1% of the total required payments; or

3534 (iii) providing tangible personal property along with an operator for a fixed period of

3535 time or an indeterminate period of time if the operator is necessary for equipment to perform as

3536 designed.

3537 (d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to

3538 perform as designed if the operator's duties exceed the:

3539 (i) set-up of tangible personal property;

3540 (ii) maintenance of tangible personal property; or

3541 (iii) inspection of tangible personal property.

3542 (61) "Lesson" means a fixed period of time for the duration of which a trained

3543 instructor:

3544 (a) is present with a student in person or by video; and

3545 (b) actively instructs the student, including by providing observation or feedback.

3546 (62) "Life science establishment" means an establishment in this state that is classified

3547 under the following NAICS codes of the 2007 North American Industry Classification System

3548 of the federal Executive Office of the President, Office of Management and Budget:

3549 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

3550 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

3551 Manufacturing; or

3552 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

3553 (63) "Life science research and development facility" means a facility owned, leased,

3554 or rented by a life science establishment if research and development is performed in 51% or

3555 more of the total area of the facility.

3556 (64) "Load and leave" means delivery to a purchaser by use of a tangible storage media

3557 if the tangible storage media is not physically transferred to the purchaser.

3558 (65) "Local taxing jurisdiction" means a:
3559 (a) county that is authorized to impose an agreement sales and use tax;
3560 (b) city that is authorized to impose an agreement sales and use tax; or
3561 (c) town that is authorized to impose an agreement sales and use tax.
3562 (66) "Manufactured home" means the same as that term is defined in Section
3563 15A-1-302.
3564 (67) "Manufacturing facility" means:
3565 (a) an establishment described in:
3566 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
3567 the federal Executive Office of the President, Office of Management and Budget; or
3568 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
3569 American Industry Classification System of the federal Executive Office of the President,
3570 Office of Management and Budget;
3571 (b) a scrap recycler if:
3572 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
3573 one or more of the following items into prepared grades of processed materials for use in new
3574 products:
3575 (A) iron;
3576 (B) steel;
3577 (C) nonferrous metal;
3578 (D) paper;
3579 (E) glass;
3580 (F) plastic;
3581 (G) textile; or
3582 (H) rubber; and
3583 (ii) the new products under Subsection (67)(b)(i) would otherwise be made with
3584 nonrecycled materials; or
3585 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
3586 placed in service on or after May 1, 2006.
3587 (68) (a) "Marketplace" means a physical or electronic place, platform, or forum where
3588 tangible personal property, a product transferred electronically, or a service is offered for sale.

(b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.

(69) (a) "Marketplace facilitator" means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller's product through a marketplace that the person owns, operates, or controls and that directly or indirectly:

(i) does any of the following:

(A) lists, makes available, or advertises tangible personal property, a product transferred electronically, or a service for sale by a marketplace seller on a marketplace that the person owns, operates, or controls;

(B) facilitates the sale of a marketplace seller's tangible personal property, product transferred electronically, or service by transmitting or otherwise communicating an offer or acceptance of a retail sale between the marketplace seller and a purchaser using the marketplace;

(C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects a marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;

(D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(E) provides software development or research and development activities related to any activity described in this Subsection (69)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;

(F) provides or offers fulfillment or storage services for a marketplace seller;

(G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;

(H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the

3620 person's marketplace; or

3621 (I) brands or otherwise identifies sales as those of the person; and

3622 (ii) does any of the following:

3623 (A) collects the sales price or purchase price of a retail sale of tangible personal

3624 property, a product transferred electronically, or a service;

3625 (B) provides payment processing services for a retail sale of tangible personal property,

3626 a product transferred electronically, or a service;

3627 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing

3628 fee, a fee for inserting or making available tangible personal property, a product transferred

3629 electronically, or a service on the person's marketplace, or other consideration for the

3630 facilitation of a retail sale of tangible personal property, a product transferred electronically, or

3631 a service, regardless of ownership or control of the tangible personal property, the product

3632 transferred electronically, or the service that is the subject of the retail sale;

3633 (D) through terms and conditions, an agreement, or another arrangement with a third

3634 person, collects payment from a purchase for a retail sale of tangible personal property, a

3635 product transferred electronically, or a service and transmits that payment to the marketplace

3636 seller, regardless of whether the third person receives compensation or other consideration in

3637 exchange for the service; or

3638 (E) provides a virtual currency for a purchaser to use to purchase tangible personal

3639 property, a product transferred electronically, or service offered for sale.

3640 (b) "Marketplace facilitator" does not include:

3641 (i) a person that only provides payment processing services; or

3642 (ii) a person described in Subsection (69)(a) to the extent the person is facilitating a

3643 sale for a seller that is a restaurant as defined in Section 59-12-602.

3644 (70) "Marketplace seller" means a seller that makes one or more retail sales through a

3645 marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the

3646 seller is required to be registered to collect and remit the tax under this part.

3647 (71) "Member of the immediate family of the producer" means a person who is related

3648 to a producer described in Subsection 59-12-104(20)(a) as a:

3649 (a) child or stepchild, regardless of whether the child or stepchild is:

3650 (i) an adopted child or adopted stepchild; or

- 3651 (ii) a foster child or foster stepchild;
3652 (b) grandchild or stepgrandchild;
3653 (c) grandparent or stepgrandparent;
3654 (d) nephew or stepnephew;
3655 (e) niece or stepniece;
3656 (f) parent or stepparent;
3657 (g) sibling or stepsibling;
3658 (h) spouse;
3659 (i) person who is the spouse of a person described in Subsections (71)(a) through (g);

3660 or

- 3661 (j) person similar to a person described in Subsections (71)(a) through (i) as
3662 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
3663 Administrative Rulemaking Act.

3664 (72) "Mobile home" means the same as that term is defined in Section [15A-1-302](#).

3665 (73) "Mobile telecommunications service" means the same as that term is defined in
3666 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

3667 (74) (a) "Mobile wireless service" means a telecommunications service, regardless of
3668 the technology used, if:

- 3669 (i) the origination point of the conveyance, routing, or transmission is not fixed;
3670 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
3671 (iii) the origination point described in Subsection (74)(a)(i) and the termination point
3672 described in Subsection (74)(a)(ii) are not fixed.

3673 (b) "Mobile wireless service" includes a telecommunications service that is provided
3674 by a commercial mobile radio service provider.

3675 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3676 commission may by rule define "commercial mobile radio service provider."

3677 (75) (a) Except as provided in Subsection (75)(c), "mobility enhancing equipment"
3678 means equipment that is:

- 3679 (i) primarily and customarily used to provide or increase the ability to move from one
3680 place to another;
3681 (ii) appropriate for use in a:

- 3682 (A) home; or
3683 (B) motor vehicle; and
3684 (iii) not generally used by persons with normal mobility.
- 3685 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
3686 the equipment described in Subsection (75)(a).
- 3687 (c) "Mobility enhancing equipment" does not include:
3688 (i) a motor vehicle;
3689 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
3690 vehicle manufacturer;
3691 (iii) durable medical equipment; or
3692 (iv) a prosthetic device.
- 3693 (76) "Model 1 seller" means a seller registered under the agreement that has selected a
3694 certified service provider as the seller's agent to perform the seller's sales and use tax functions
3695 for agreement sales and use taxes, as outlined in the contract between the governing board of
3696 the agreement and the certified service provider, other than the seller's obligation under Section
3697 [59-12-124](#) to remit a tax on the seller's own purchases.
- 3698 (77) "Model 2 seller" means a seller registered under the agreement that:
3699 (a) except as provided in Subsection (77)(b), has selected a certified automated system
3700 to perform the seller's sales tax functions for agreement sales and use taxes; and
3701 (b) retains responsibility for remitting all of the sales tax:
3702 (i) collected by the seller; and
3703 (ii) to the appropriate local taxing jurisdiction.
- 3704 (78) (a) Subject to Subsection (78)(b), "model 3 seller" means a seller registered under
3705 the agreement that has:
3706 (i) sales in at least five states that are members of the agreement;
3707 (ii) total annual sales revenues of at least \$500,000,000;
3708 (iii) a proprietary system that calculates the amount of tax:
3709 (A) for an agreement sales and use tax; and
3710 (B) due to each local taxing jurisdiction; and
3711 (iv) entered into a performance agreement with the governing board of the agreement.
3712 (b) For purposes of Subsection (78)(a), "model 3 seller" includes an affiliated group of

3713 sellers using the same proprietary system.

3714 (79) "Model 4 seller" means a seller that is registered under the agreement and is not a
3715 model 1 seller, model 2 seller, or model 3 seller.

3716 (80) "Modular home" means a modular unit as defined in Section 15A-1-302.

3717 (81) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

3718 (82) "Oil sands" means impregnated bituminous sands that:

3719 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
3720 other hydrocarbons, or otherwise treated;

3721 (b) yield mixtures of liquid hydrocarbon; and

3722 (c) require further processing other than mechanical blending before becoming finished
3723 petroleum products.

3724 (83) "Oil shale" means a group of fine black to dark brown shales containing kerogen
3725 material that yields petroleum upon heating and distillation.

3726 (84) "Optional computer software maintenance contract" means a computer software
3727 maintenance contract that a customer is not obligated to purchase as a condition to the retail
3728 sale of computer software.

3729 (85) (a) "Other fuels" means products that burn independently to produce heat or
3730 energy.

3731 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
3732 personal property.

3733 (86) (a) "Paging service" means a telecommunications service that provides
3734 transmission of a coded radio signal for the purpose of activating a specific pager.

3735 (b) For purposes of Subsection (86)(a), the transmission of a coded radio signal
3736 includes a transmission by message or sound.

3737 (87) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

3738 (88) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

3739 (89) (a) "Permanently attached to real property" means that for tangible personal
3740 property attached to real property:

3741 (i) the attachment of the tangible personal property to the real property:

3742 (A) is essential to the use of the tangible personal property; and

3743 (B) suggests that the tangible personal property will remain attached to the real

3744 property in the same place over the useful life of the tangible personal property; or
3745 (ii) if the tangible personal property is detached from the real property, the detachment
3746 would:
3747 (A) cause substantial damage to the tangible personal property; or
3748 (B) require substantial alteration or repair of the real property to which the tangible
3749 personal property is attached.
3750 (b) "Permanently attached to real property" includes:
3751 (i) the attachment of an accessory to the tangible personal property if the accessory is:
3752 (A) essential to the operation of the tangible personal property; and
3753 (B) attached only to facilitate the operation of the tangible personal property;
3754 (ii) a temporary detachment of tangible personal property from real property for a
3755 repair or renovation if the repair or renovation is performed where the tangible personal
3756 property and real property are located; or
3757 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
3758 Subsection (89)(c)(iii) or (iv).
3759 (c) "Permanently attached to real property" does not include:
3760 (i) the attachment of portable or movable tangible personal property to real property if
3761 that portable or movable tangible personal property is attached to real property only for:
3762 (A) convenience;
3763 (B) stability; or
3764 (C) for an obvious temporary purpose;
3765 (ii) the detachment of tangible personal property from real property except for the
3766 detachment described in Subsection (89)(b)(ii);
3767 (iii) an attachment of the following tangible personal property to real property if the
3768 attachment to real property is only through a line that supplies water, electricity, gas,
3769 telecommunications, cable, or supplies a similar item as determined by the commission by rule
3770 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
3771 (A) a computer;
3772 (B) a telephone;
3773 (C) a television; or
3774 (D) tangible personal property similar to Subsections (89)(c)(iii)(A) through (C) as

3775 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
3776 Administrative Rulemaking Act; or

3777 (iv) an item listed in Subsection (130)(c).

3778 (90) "Person" includes any individual, firm, partnership, joint venture, association,
3779 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
3780 municipality, district, or other local governmental entity of the state, or any group or
3781 combination acting as a unit.

3782 (91) "Place of primary use":

3783 (a) for telecommunications service other than mobile telecommunications service,
3784 means the street address representative of where the customer's use of the telecommunications
3785 service primarily occurs, which shall be:

3786 (i) the residential street address of the customer; or

3787 (ii) the primary business street address of the customer; or

3788 (b) for mobile telecommunications service, means the same as that term is defined in
3789 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

3790 (92) (a) "Postpaid calling service" means a telecommunications service a person
3791 obtains by making a payment on a call-by-call basis:

3792 (i) through the use of a:

3793 (A) bank card;

3794 (B) credit card;

3795 (C) debit card; or

3796 (D) travel card; or

3797 (ii) by a charge made to a telephone number that is not associated with the origination
3798 or termination of the telecommunications service.

3799 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
3800 service, that would be a prepaid wireless calling service if the service were exclusively a
3801 telecommunications service.

3802 (93) "Postproduction" means an activity related to the finishing or duplication of a
3803 medium described in Subsection [59-12-104\(54\)\(a\)](#).

3804 (94) "Prepaid calling service" means a telecommunications service:

3805 (a) that allows a purchaser access to telecommunications service that is exclusively

3806 telecommunications service;

3807 (b) that:

3808 (i) is paid for in advance; and

3809 (ii) enables the origination of a call using an:

3810 (A) access number; or

3811 (B) authorization code;

3812 (c) that is dialed:

3813 (i) manually; or

3814 (ii) electronically; and

3815 (d) sold in predetermined units or dollars that decline:

3816 (i) by a known amount; and

3817 (ii) with use.

3818 (95) "Prepaid wireless calling service" means a telecommunications service:

3819 (a) that provides the right to utilize:

3820 (i) mobile wireless service; and

3821 (ii) other service that is not a telecommunications service, including:

3822 (A) the download of a product transferred electronically;

3823 (B) a content service; or

3824 (C) an ancillary service;

3825 (b) that:

3826 (i) is paid for in advance; and

3827 (ii) enables the origination of a call using an:

3828 (A) access number; or

3829 (B) authorization code;

3830 (c) that is dialed:

3831 (i) manually; or

3832 (ii) electronically; and

3833 (d) sold in predetermined units or dollars that decline:

3834 (i) by a known amount; and

3835 (ii) with use.

3836 (96) (a) "Prepared food" means:

3837 (i) food:
3838 (A) sold in a heated state; or
3839 (B) heated by a seller;
3840 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
3841 item; or
3842 (iii) except as provided in Subsection (96)(c), food sold with an eating utensil provided
3843 by the seller, including a:
3844 (A) plate;
3845 (B) knife;
3846 (C) fork;
3847 (D) spoon;
3848 (E) glass;
3849 (F) cup;
3850 (G) napkin; or
3851 (H) straw.
3852 (b) "Prepared food" does not include:
3853 (i) food that a seller only:
3854 (A) cuts;
3855 (B) repackages; or
3856 (C) pasteurizes; or
3857 (ii) (A) the following:
3858 (I) raw egg;
3859 (II) raw fish;
3860 (III) raw meat;
3861 (IV) raw poultry; or
3862 (V) a food containing an item described in Subsections (96)(b)(ii)(A)(I) through (IV);
3863 and
3864 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
3865 Food and Drug Administration's Food Code that a consumer cook the items described in
3866 Subsection (96)(b)(ii)(A) to prevent food borne illness; or
3867 (iii) the following if sold without eating utensils provided by the seller:

3868 (A) food and food ingredients sold by a seller if the seller's proper primary
3869 classification under the 2002 North American Industry Classification System of the federal
3870 Executive Office of the President, Office of Management and Budget, is manufacturing in
3871 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
3872 Manufacturing;

3873 (B) food and food ingredients sold in an unheated state:

3874 (I) by weight or volume; and

3875 (II) as a single item; or

3876 (C) a bakery item, including:

3877 (I) a bagel;

3878 (II) a bar;

3879 (III) a biscuit;

3880 (IV) bread;

3881 (V) a bun;

3882 (VI) a cake;

3883 (VII) a cookie;

3884 (VIII) a croissant;

3885 (IX) a danish;

3886 (X) a donut;

3887 (XI) a muffin;

3888 (XII) a pastry;

3889 (XIII) a pie;

3890 (XIV) a roll;

3891 (XV) a tart;

3892 (XVI) a torte; or

3893 (XVII) a tortilla.

3894 (c) An eating utensil provided by the seller does not include the following used to
3895 transport the food:

3896 (i) a container; or

3897 (ii) packaging.

3898 (97) "Prescription" means an order, formula, or recipe that is issued:

3899 (a) (i) orally;
3900 (ii) in writing;
3901 (iii) electronically; or
3902 (iv) by any other manner of transmission; and
3903 (b) by a licensed practitioner authorized by the laws of a state.
3904 (98) (a) Except as provided in Subsection (98)(b)(ii) or (iii), "prewritten computer
3905 software" means computer software that is not designed and developed:
3906 (i) by the author or other creator of the computer software; and
3907 (ii) to the specifications of a specific purchaser.
3908 (b) "Prewritten computer software" includes:
3909 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
3910 software is not designed and developed:
3911 (A) by the author or other creator of the computer software; and
3912 (B) to the specifications of a specific purchaser;
3913 (ii) computer software designed and developed by the author or other creator of the
3914 computer software to the specifications of a specific purchaser if the computer software is sold
3915 to a person other than the purchaser; or
3916 (iii) except as provided in Subsection (98)(c), prewritten computer software or a
3917 prewritten portion of prewritten computer software:
3918 (A) that is modified or enhanced to any degree; and
3919 (B) if the modification or enhancement described in Subsection (98)(b)(iii)(A) is
3920 designed and developed to the specifications of a specific purchaser.
3921 (c) "Prewritten computer software" does not include a modification or enhancement
3922 described in Subsection (98)(b)(iii) if the charges for the modification or enhancement are:
3923 (i) reasonable; and
3924 (ii) subject to Subsections 59-12-103(2)(~~f~~)(f)(ii) and (2)(~~f~~)(g)(i), separately stated
3925 on the invoice or other statement of price provided to the purchaser at the time of sale or later,
3926 as demonstrated by:
3927 (A) the books and records the seller keeps at the time of the transaction in the regular
3928 course of business, including books and records the seller keeps at the time of the transaction in
3929 the regular course of business for nontax purposes;

3930 (B) a preponderance of the facts and circumstances at the time of the transaction; and
3931 (C) the understanding of all of the parties to the transaction.

3932 (99) (a) "Private communications service" means a telecommunications service:

3933 (i) that entitles a customer to exclusive or priority use of one or more communications
3934 channels between or among termination points; and

3935 (ii) regardless of the manner in which the one or more communications channels are
3936 connected.

3937 (b) "Private communications service" includes the following provided in connection
3938 with the use of one or more communications channels:

3939 (i) an extension line;

3940 (ii) a station;

3941 (iii) switching capacity; or

3942 (iv) another associated service that is provided in connection with the use of one or
3943 more communications channels as defined in Section [59-12-215](#).

3944 (100) (a) Except as provided in Subsection (100)(b), "product transferred
3945 electronically" means a product transferred electronically that would be subject to a tax under
3946 this chapter if that product was transferred in a manner other than electronically.

3947 (b) "Product transferred electronically" does not include:

3948 (i) an ancillary service;

3949 (ii) computer software; or

3950 (iii) a telecommunications service.

3951 (101) (a) "Prosthetic device" means a device that is worn on or in the body to:

3952 (i) artificially replace a missing portion of the body;

3953 (ii) prevent or correct a physical deformity or physical malfunction; or

3954 (iii) support a weak or deformed portion of the body.

3955 (b) "Prosthetic device" includes:

3956 (i) parts used in the repairs or renovation of a prosthetic device;

3957 (ii) replacement parts for a prosthetic device;

3958 (iii) a dental prosthesis; or

3959 (iv) a hearing aid.

3960 (c) "Prosthetic device" does not include:

3961 (i) corrective eyeglasses; or
3962 (ii) contact lenses.
3963 (102) (a) "Protective equipment" means an item:
3964 (i) for human wear; and
3965 (ii) that is:
3966 (A) designed as protection:
3967 (I) to the wearer against injury or disease; or
3968 (II) against damage or injury of other persons or property; and
3969 (B) not suitable for general use.
3970 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3971 commission shall make rules:
3972 (i) listing the items that constitute "protective equipment"; and
3973 (ii) that are consistent with the list of items that constitute "protective equipment"
3974 under the agreement.
3975 (103) (a) For purposes of Subsection 59-12-104(41), "publication" means any written
3976 or printed matter, other than a photocopy:
3977 (i) regardless of:
3978 (A) characteristics;
3979 (B) copyright;
3980 (C) form;
3981 (D) format;
3982 (E) method of reproduction; or
3983 (F) source; and
3984 (ii) made available in printed or electronic format.
3985 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3986 commission may by rule define the term "photocopy."
3987 (104) (a) "Purchase price" and "sales price" mean the total amount of consideration:
3988 (i) valued in money; and
3989 (ii) for which tangible personal property, a product transferred electronically, or
3990 services are:
3991 (A) sold;

3992 (B) leased; or
3993 (C) rented.
3994 (b) "Purchase price" and "sales price" include:
3995 (i) the seller's cost of the tangible personal property, a product transferred
3996 electronically, or services sold;
3997 (ii) expenses of the seller, including:
3998 (A) the cost of materials used;
3999 (B) a labor cost;
4000 (C) a service cost;
4001 (D) interest;
4002 (E) a loss;
4003 (F) the cost of transportation to the seller; or
4004 (G) a tax imposed on the seller;
4005 (iii) a charge by the seller for any service necessary to complete the sale; or
4006 (iv) consideration a seller receives from a person other than the purchaser if:
4007 (A) (I) the seller actually receives consideration from a person other than the purchaser;
4008 and
4009 (II) the consideration described in Subsection (104)(b)(iv)(A)(I) is directly related to a
4010 price reduction or discount on the sale;
4011 (B) the seller has an obligation to pass the price reduction or discount through to the
4012 purchaser;
4013 (C) the amount of the consideration attributable to the sale is fixed and determinable by
4014 the seller at the time of the sale to the purchaser; and
4015 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
4016 seller to claim a price reduction or discount; and
4017 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
4018 coupon, or other documentation with the understanding that the person other than the seller
4019 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
4020 (II) the purchaser identifies that purchaser to the seller as a member of a group or
4021 organization allowed a price reduction or discount, except that a preferred customer card that is
4022 available to any patron of a seller does not constitute membership in a group or organization

4023 allowed a price reduction or discount; or
4024 (III) the price reduction or discount is identified as a third party price reduction or
4025 discount on the:
4026 (Aa) invoice the purchaser receives; or
4027 (Bb) certificate, coupon, or other documentation the purchaser presents.
4028 (c) "Purchase price" and "sales price" do not include:
4029 (i) a discount:
4030 (A) in a form including:
4031 (I) cash;
4032 (II) term; or
4033 (III) coupon;
4034 (B) that is allowed by a seller;
4035 (C) taken by a purchaser on a sale; and
4036 (D) that is not reimbursed by a third party; or
4037 (ii) subject to Subsections 59-12-103(2)(~~f~~)(f)(ii) and (2)(~~f~~)(g)(i), the following if
4038 separately stated on an invoice, bill of sale, or similar document provided to the purchaser at
4039 the time of sale or later, as demonstrated by the books and records the seller keeps at the time
4040 of the transaction in the regular course of business, including books and records the seller
4041 keeps at the time of the transaction in the regular course of business for nontax purposes, by a
4042 preponderance of the facts and circumstances at the time of the transaction, and by the
4043 understanding of all of the parties to the transaction:
4044 (A) the following from credit extended on the sale of tangible personal property or
4045 services:
4046 (I) a carrying charge;
4047 (II) a financing charge; or
4048 (III) an interest charge;
4049 (B) a delivery charge;
4050 (C) an installation charge;
4051 (D) a manufacturer rebate on a motor vehicle; or
4052 (E) a tax or fee legally imposed directly on the consumer.
4053 (105) "Purchaser" means a person to whom:

- 4054 (a) a sale of tangible personal property is made;
4055 (b) a product is transferred electronically; or
4056 (c) a service is furnished.
- 4057 (106) "Qualifying data center" means a data center facility that:
4058 (a) houses a group of networked server computers in one physical location in order to
4059 disseminate, manage, and store data and information;
4060 (b) is located in the state;
4061 (c) is a new operation constructed on or after July 1, 2016;
4062 (d) consists of one or more buildings that total 150,000 or more square feet;
4063 (e) is owned or leased by:
4064 (i) the operator of the data center facility; or
4065 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
4066 of the data center facility; and
4067 (f) is located on one or more parcels of land that are owned or leased by:
4068 (i) the operator of the data center facility; or
4069 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
4070 of the data center facility.
- 4071 (107) "Regularly rented" means:
4072 (a) rented to a guest for value three or more times during a calendar year; or
4073 (b) advertised or held out to the public as a place that is regularly rented to guests for
4074 value.
- 4075 (108) "Rental" means the same as that term is defined in Subsection (60).
4076 (109) (a) Except as provided in Subsection (109)(b), "repairs or renovations of tangible
4077 personal property" means:
4078 (i) a repair or renovation of tangible personal property that is not permanently attached
4079 to real property; or
4080 (ii) attaching tangible personal property or a product transferred electronically to other
4081 tangible personal property or detaching tangible personal property or a product transferred
4082 electronically from other tangible personal property if:
4083 (A) the other tangible personal property to which the tangible personal property or
4084 product transferred electronically is attached or from which the tangible personal property or

product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(110) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(111) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (111)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(112) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(113) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

4116 (114) (a) "Retailer" means any person, unless prohibited by the Constitution of the
4117 United States or federal law, that is engaged in a regularly organized business in tangible
4118 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is
4119 selling to the user or consumer and not for resale.

4120 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
4121 engaged in the business of selling to users or consumers within the state.

4122 (115) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
4123 otherwise, in any manner, of tangible personal property or any other taxable transaction under
4124 Subsection 59-12-103(1), for consideration.

4125 (b) "Sale" includes:

4126 (i) installment and credit sales;

4127 (ii) any closed transaction constituting a sale;

4128 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
4129 chapter;

4130 (iv) any transaction if the possession of property is transferred but the seller retains the
4131 title as security for the payment of the price; and

4132 (v) any transaction under which right to possession, operation, or use of any article of
4133 tangible personal property is granted under a lease or contract and the transfer of possession
4134 would be taxable if an outright sale were made.

4135 (116) "Sale at retail" means the same as that term is defined in Subsection (113).

4136 (117) "Sale-leaseback transaction" means a transaction by which title to tangible
4137 personal property or a product transferred electronically that is subject to a tax under this
4138 chapter is transferred:

4139 (a) by a purchaser-lessee;

4140 (b) to a lessor;

4141 (c) for consideration; and

4142 (d) if:

4143 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
4144 of the tangible personal property or product transferred electronically;

4145 (ii) the sale of the tangible personal property or product transferred electronically to the
4146 lessor is intended as a form of financing;

4147 (A) for the tangible personal property or product transferred electronically; and
4148 (B) to the purchaser-lessee; and
4149 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
4150 is required to:

4151 (A) capitalize the tangible personal property or product transferred electronically for
4152 financial reporting purposes; and

4153 (B) account for the lease payments as payments made under a financing arrangement.

4154 (118) "Sales price" means the same as that term is defined in Subsection (104).

4155 (119) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
4156 amounts charged by a school:

4157 (i) sales that are directly related to the school's educational functions or activities
4158 including:

4159 (A) the sale of:

4160 (I) textbooks;

4161 (II) textbook fees;

4162 (III) laboratory fees;

4163 (IV) laboratory supplies; or

4164 (V) safety equipment;

4165 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
4166 that:

4167 (I) a student is specifically required to wear as a condition of participation in a
4168 school-related event or school-related activity; and

4169 (II) is not readily adaptable to general or continued usage to the extent that it takes the
4170 place of ordinary clothing;

4171 (C) sales of the following if the net or gross revenues generated by the sales are
4172 deposited into a school district fund or school fund dedicated to school meals:

4173 (I) food and food ingredients; or

4174 (II) prepared food; or

4175 (D) transportation charges for official school activities; or

4176 (ii) amounts paid to or amounts charged by a school for admission to a school-related
4177 event or school-related activity.

4178 (b) "Sales relating to schools" does not include:
4179 (i) bookstore sales of items that are not educational materials or supplies;
4180 (ii) except as provided in Subsection (119)(a)(i)(B):
4181 (A) clothing;
4182 (B) clothing accessories or equipment;
4183 (C) protective equipment; or
4184 (D) sports or recreational equipment; or
4185 (iii) amounts paid to or amounts charged by a school for admission to a school-related
4186 event or school-related activity if the amounts paid or charged are passed through to a person:
4187 (A) other than a:
4188 (I) school;
4189 (II) nonprofit organization authorized by a school board or a governing body of a
4190 private school to organize and direct a competitive secondary school activity; or
4191 (III) nonprofit association authorized by a school board or a governing body of a
4192 private school to organize and direct a competitive secondary school activity; and
4193 (B) that is required to collect sales and use taxes under this chapter.
4194 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4195 commission may make rules defining the term "passed through."
4196 (120) For purposes of this section and Section [59-12-104](#), "school" means:
4197 (a) an elementary school or a secondary school that:
4198 (i) is a:
4199 (A) public school; or
4200 (B) private school; and
4201 (ii) provides instruction for one or more grades kindergarten through 12; or
4202 (b) a public school district.
4203 (121) (a) "Seller" means a person that makes a sale, lease, or rental of:
4204 (i) tangible personal property;
4205 (ii) a product transferred electronically; or
4206 (iii) a service.
4207 (b) "Seller" includes a marketplace facilitator.
4208 (122) (a) "Semiconductor fabricating, processing, research, or development materials"

4209 means tangible personal property or a product transferred electronically if the tangible personal
4210 property or product transferred electronically is:

4211 (i) used primarily in the process of:

4212 (A) (I) manufacturing a semiconductor;

4213 (II) fabricating a semiconductor; or

4214 (III) research or development of a:

4215 (Aa) semiconductor; or

4216 (Bb) semiconductor manufacturing process; or

4217 (B) maintaining an environment suitable for a semiconductor; or

4218 (ii) consumed primarily in the process of:

4219 (A) (I) manufacturing a semiconductor;

4220 (II) fabricating a semiconductor; or

4221 (III) research or development of a:

4222 (Aa) semiconductor; or

4223 (Bb) semiconductor manufacturing process; or

4224 (B) maintaining an environment suitable for a semiconductor.

4225 (b) "Semiconductor fabricating, processing, research, or development materials"

4226 includes:

4227 (i) parts used in the repairs or renovations of tangible personal property or a product
4228 transferred electronically described in Subsection (122)(a); or

4229 (ii) a chemical, catalyst, or other material used to:

4230 (A) produce or induce in a semiconductor a:

4231 (I) chemical change; or

4232 (II) physical change;

4233 (B) remove impurities from a semiconductor; or

4234 (C) improve the marketable condition of a semiconductor.

4235 (123) "Senior citizen center" means a facility having the primary purpose of providing
4236 services to the aged as defined in Section [62A-3-101](#).

4237 (124) (a) Subject to Subsections (124)(b) and (c), "short-term lodging consumable"
4238 means tangible personal property that:

4239 (i) a business that provides accommodations and services described in Subsection

4240 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
4241 to a purchaser;
4242 (ii) is intended to be consumed by the purchaser; and
4243 (iii) is:
4244 (A) included in the purchase price of the accommodations and services; and
4245 (B) not separately stated on an invoice, bill of sale, or other similar document provided
4246 to the purchaser.
4247 (b) "Short-term lodging consumable" includes:
4248 (i) a beverage;
4249 (ii) a brush or comb;
4250 (iii) a cosmetic;
4251 (iv) a hair care product;
4252 (v) lotion;
4253 (vi) a magazine;
4254 (vii) makeup;
4255 (viii) a meal;
4256 (ix) mouthwash;
4257 (x) nail polish remover;
4258 (xi) a newspaper;
4259 (xii) a notepad;
4260 (xiii) a pen;
4261 (xiv) a pencil;
4262 (xv) a razor;
4263 (xvi) saline solution;
4264 (xvii) a sewing kit;
4265 (xviii) shaving cream;
4266 (xix) a shoe shine kit;
4267 (xx) a shower cap;
4268 (xxi) a snack item;
4269 (xxii) soap;
4270 (xxiii) toilet paper;

4271 (xxiv) a toothbrush;
4272 (xxv) toothpaste; or
4273 (xxvi) an item similar to Subsections (124)(b)(i) through (xxv) as the commission may
4274 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
4275 Rulemaking Act.

4276 (c) "Short-term lodging consumable" does not include:

4277 (i) tangible personal property that is cleaned or washed to allow the tangible personal
4278 property to be reused; or

4279 (ii) a product transferred electronically.

4280 (125) "Simplified electronic return" means the electronic return:

4281 (a) described in Section 318(C) of the agreement; and

4282 (b) approved by the governing board of the agreement.

4283 (126) "Solar energy" means the sun used as the sole source of energy for producing
4284 electricity.

4285 (127) (a) "Sports or recreational equipment" means an item:

4286 (i) designed for human use; and

4287 (ii) that is:

4288 (A) worn in conjunction with:

4289 (I) an athletic activity; or

4290 (II) a recreational activity; and

4291 (B) not suitable for general use.

4292 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4293 commission shall make rules:

4294 (i) listing the items that constitute "sports or recreational equipment"; and

4295 (ii) that are consistent with the list of items that constitute "sports or recreational
4296 equipment" under the agreement.

4297 (128) "State" means the state of Utah, its departments, and agencies.

4298 (129) "Storage" means any keeping or retention of tangible personal property or any
4299 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
4300 sale in the regular course of business.

4301 (130) (a) Except as provided in Subsection (130)(d) or (e), "tangible personal property"

4302 means personal property that:

4303 (i) may be:

4304 (A) seen;

4305 (B) weighed;

4306 (C) measured;

4307 (D) felt; or

4308 (E) touched; or

4309 (ii) is in any manner perceptible to the senses.

4310 (b) "Tangible personal property" includes:

4311 (i) electricity;

4312 (ii) water;

4313 (iii) gas;

4314 (iv) steam; or

4315 (v) prewritten computer software, regardless of the manner in which the prewritten

4316 computer software is transferred.

4317 (c) "Tangible personal property" includes the following regardless of whether the item

4318 is attached to real property:

4319 (i) a dishwasher;

4320 (ii) a dryer;

4321 (iii) a freezer;

4322 (iv) a microwave;

4323 (v) a refrigerator;

4324 (vi) a stove;

4325 (vii) a washer; or

4326 (viii) an item similar to Subsections (130)(c)(i) through (vii) as determined by the

4327 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

4328 Rulemaking Act.

4329 (d) "Tangible personal property" does not include a product that is transferred

4330 electronically.

4331 (e) "Tangible personal property" does not include the following if attached to real

4332 property, regardless of whether the attachment to real property is only through a line that

4333 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
4334 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
4335 Rulemaking Act:

- 4336 (i) a hot water heater;
- 4337 (ii) a water filtration system; or
- 4338 (iii) a water softener system.

4339 (131) (a) "Telecommunications enabling or facilitating equipment, machinery, or
4340 software" means an item listed in Subsection (131)(b) if that item is purchased or leased
4341 primarily to enable or facilitate one or more of the following to function:

- 4342 (i) telecommunications switching or routing equipment, machinery, or software; or
- 4343 (ii) telecommunications transmission equipment, machinery, or software.

4344 (b) The following apply to Subsection (131)(a):

- 4345 (i) a pole;
- 4346 (ii) software;
- 4347 (iii) a supplementary power supply;
- 4348 (iv) temperature or environmental equipment or machinery;
- 4349 (v) test equipment;
- 4350 (vi) a tower; or

4351 (vii) equipment, machinery, or software that functions similarly to an item listed in
4352 Subsections (131)(b)(i) through (vi) as determined by the commission by rule made in
4353 accordance with Subsection (131)(c).

4354 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4355 commission may by rule define what constitutes equipment, machinery, or software that
4356 functions similarly to an item listed in Subsections (131)(b)(i) through (vi).

4357 (132) "Telecommunications equipment, machinery, or software required for 911
4358 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
4359 Sec. 20.18.

4360 (133) "Telecommunications maintenance or repair equipment, machinery, or software"
4361 means equipment, machinery, or software purchased or leased primarily to maintain or repair
4362 one or more of the following, regardless of whether the equipment, machinery, or software is
4363 purchased or leased as a spare part or as an upgrade or modification to one or more of the

4364 following:

4365 (a) telecommunications enabling or facilitating equipment, machinery, or software;

4366 (b) telecommunications switching or routing equipment, machinery, or software; or

4367 (c) telecommunications transmission equipment, machinery, or software.

4368 (134) (a) "Telecommunications service" means the electronic conveyance, routing, or

4369 transmission of audio, data, video, voice, or any other information or signal to a point, or

4370 among or between points.

4371 (b) "Telecommunications service" includes:

4372 (i) an electronic conveyance, routing, or transmission with respect to which a computer
4373 processing application is used to act:

4374 (A) on the code, form, or protocol of the content;

4375 (B) for the purpose of electronic conveyance, routing, or transmission; and

4376 (C) regardless of whether the service:

4377 (I) is referred to as voice over Internet protocol service; or

4378 (II) is classified by the Federal Communications Commission as enhanced or value

4379 added;

4380 (ii) an 800 service;

4381 (iii) a 900 service;

4382 (iv) a fixed wireless service;

4383 (v) a mobile wireless service;

4384 (vi) a postpaid calling service;

4385 (vii) a prepaid calling service;

4386 (viii) a prepaid wireless calling service; or

4387 (ix) a private communications service.

4388 (c) "Telecommunications service" does not include:

4389 (i) advertising, including directory advertising;

4390 (ii) an ancillary service;

4391 (iii) a billing and collection service provided to a third party;

4392 (iv) a data processing and information service if:

4393 (A) the data processing and information service allows data to be:

4394 (I) (Aa) acquired;

4395 (Bb) generated;
4396 (Cc) processed;
4397 (Dd) retrieved; or
4398 (Ee) stored; and
4399 (II) delivered by an electronic transmission to a purchaser; and
4400 (B) the purchaser's primary purpose for the underlying transaction is the processed data
4401 or information;
4402 (v) installation or maintenance of the following on a customer's premises:
4403 (A) equipment; or
4404 (B) wiring;
4405 (vi) Internet access service;
4406 (vii) a paging service;
4407 (viii) a product transferred electronically, including:
4408 (A) music;
4409 (B) reading material;
4410 (C) a ring tone;
4411 (D) software; or
4412 (E) video;
4413 (ix) a radio and television audio and video programming service:
4414 (A) regardless of the medium; and
4415 (B) including:
4416 (I) furnishing conveyance, routing, or transmission of a television audio and video
4417 programming service by a programming service provider;
4418 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
4419 (III) audio and video programming services delivered by a commercial mobile radio
4420 service provider as defined in 47 C.F.R. Sec. 20.3;
4421 (x) a value-added nonvoice data service; or
4422 (xi) tangible personal property.
4423 (135) (a) "Telecommunications service provider" means a person that:
4424 (i) owns, controls, operates, or manages a telecommunications service; and
4425 (ii) engages in an activity described in Subsection (135)(a)(i) for the shared use with or

4426 resale to any person of the telecommunications service.

4427 (b) A person described in Subsection (135)(a) is a telecommunications service provider
4428 whether or not the Public Service Commission of Utah regulates:

4429 (i) that person; or

4430 (ii) the telecommunications service that the person owns, controls, operates, or
4431 manages.

4432 (136) (a) "Telecommunications switching or routing equipment, machinery, or
4433 software" means an item listed in Subsection (136)(b) if that item is purchased or leased
4434 primarily for switching or routing:

4435 (i) an ancillary service;

4436 (ii) data communications;

4437 (iii) voice communications; or

4438 (iv) telecommunications service.

4439 (b) The following apply to Subsection (136)(a):

4440 (i) a bridge;

4441 (ii) a computer;

4442 (iii) a cross connect;

4443 (iv) a modem;

4444 (v) a multiplexer;

4445 (vi) plug in circuitry;

4446 (vii) a router;

4447 (viii) software;

4448 (ix) a switch; or

4449 (x) equipment, machinery, or software that functions similarly to an item listed in
4450 Subsections (136)(b)(i) through (ix) as determined by the commission by rule made in
4451 accordance with Subsection (136)(c).

4452 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4453 commission may by rule define what constitutes equipment, machinery, or software that
4454 functions similarly to an item listed in Subsections (136)(b)(i) through (ix).

4455 (137) (a) "Telecommunications transmission equipment, machinery, or software"
4456 means an item listed in Subsection (137)(b) if that item is purchased or leased primarily for

4457 sending, receiving, or transporting:
4458 (i) an ancillary service;
4459 (ii) data communications;
4460 (iii) voice communications; or
4461 (iv) telecommunications service.
4462 (b) The following apply to Subsection (137)(a):
4463 (i) an amplifier;
4464 (ii) a cable;
4465 (iii) a closure;
4466 (iv) a conduit;
4467 (v) a controller;
4468 (vi) a duplexer;
4469 (vii) a filter;
4470 (viii) an input device;
4471 (ix) an input/output device;
4472 (x) an insulator;
4473 (xi) microwave machinery or equipment;
4474 (xii) an oscillator;
4475 (xiii) an output device;
4476 (xiv) a pedestal;
4477 (xv) a power converter;
4478 (xvi) a power supply;
4479 (xvii) a radio channel;
4480 (xviii) a radio receiver;
4481 (xix) a radio transmitter;
4482 (xx) a repeater;
4483 (xxi) software;
4484 (xxii) a terminal;
4485 (xxiii) a timing unit;
4486 (xxiv) a transformer;
4487 (xxv) a wire; or

4488 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
4489 Subsections (137)(b)(i) through (xxv) as determined by the commission by rule made in
4490 accordance with Subsection (137)(c).

4491 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4492 commission may by rule define what constitutes equipment, machinery, or software that
4493 functions similarly to an item listed in Subsections (137)(b)(i) through (xxv).

4494 (138) (a) "Textbook for a higher education course" means a textbook or other printed
4495 material that is required for a course:

4496 (i) offered by an institution of higher education; and

4497 (ii) that the purchaser of the textbook or other printed material attends or will attend.

4498 (b) "Textbook for a higher education course" includes a textbook in electronic format.

4499 (139) "Tobacco" means:

4500 (a) a cigarette;

4501 (b) a cigar;

4502 (c) chewing tobacco;

4503 (d) pipe tobacco; or

4504 (e) any other item that contains tobacco.

4505 (140) "Unassisted amusement device" means an amusement device, skill device, or
4506 ride device that is started and stopped by the purchaser or renter of the right to use or operate
4507 the amusement device, skill device, or ride device.

4508 (141) (a) "Use" means the exercise of any right or power over tangible personal
4509 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
4510 incident to the ownership or the leasing of that tangible personal property, product transferred
4511 electronically, or service.

4512 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
4513 property, a product transferred electronically, or a service in the regular course of business and
4514 held for resale.

4515 (142) "Value-added nonvoice data service" means a service:

4516 (a) that otherwise meets the definition of a telecommunications service except that a
4517 computer processing application is used to act primarily for a purpose other than conveyance,
4518 routing, or transmission; and

4519 (b) with respect to which a computer processing application is used to act on data or
4520 information:

- 4521 (i) code;
- 4522 (ii) content;
- 4523 (iii) form; or
- 4524 (iv) protocol.

4525 (143) (a) Subject to Subsection (143)(b), "vehicle" means the following that are
4526 required to be titled, registered, or titled and registered:

- 4527 (i) an aircraft as defined in Section 72-10-102;
- 4528 (ii) a vehicle as defined in Section 41-1a-102;
- 4529 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 4530 (iv) a vessel as defined in Section 41-1a-102.

4531 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 4532 (i) a vehicle described in Subsection (143)(a); or
- 4533 (ii) (A) a locomotive;
- 4534 (B) a freight car;
- 4535 (C) railroad work equipment; or
- 4536 (D) other railroad rolling stock.

4537 (144) "Vehicle dealer" means a person engaged in the business of buying, selling, or
4538 exchanging a vehicle as defined in Subsection (143).

4539 (145) (a) "Vertical service" means an ancillary service that:

- 4540 (i) is offered in connection with one or more telecommunications services; and
- 4541 (ii) offers an advanced calling feature that allows a customer to:
 - 4542 (A) identify a caller; and
 - 4543 (B) manage multiple calls and call connections.

4544 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
4545 conference bridging service.

4546 (146) (a) "Voice mail service" means an ancillary service that enables a customer to
4547 receive, send, or store a recorded message.

4548 (b) "Voice mail service" does not include a vertical service that a customer is required
4549 to have in order to utilize a voice mail service.

4550 (147) (a) Except as provided in Subsection (147)(b), "waste energy facility" means a
4551 facility that generates electricity:

4552 (i) using as the primary source of energy waste materials that would be placed in a
4553 landfill or refuse pit if it were not used to generate electricity, including:

4554 (A) tires;

4555 (B) waste coal;

4556 (C) oil shale; or

4557 (D) municipal solid waste; and

4558 (ii) in amounts greater than actually required for the operation of the facility.

4559 (b) "Waste energy facility" does not include a facility that incinerates:

4560 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

4561 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

4562 (148) "Watercraft" means a vessel as defined in Section 73-18-2.

4563 (149) "Wind energy" means wind used as the sole source of energy to produce
4564 electricity.

4565 (150) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
4566 location by the United States Postal Service.

4567 Section 39. Section **59-12-103** is amended to read:

4568 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
4569 **tax revenues.**

4570 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
4571 sales price for amounts paid or charged for the following transactions:

4572 (a) retail sales of tangible personal property made within the state;

4573 (b) amounts paid for:

4574 (i) telecommunications service, other than mobile telecommunications service, that
4575 originates and terminates within the boundaries of this state;

4576 (ii) mobile telecommunications service that originates and terminates within the
4577 boundaries of one state only to the extent permitted by the Mobile Telecommunications

4578 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

4579 (iii) an ancillary service associated with a:

4580 (A) telecommunications service described in Subsection (1)(b)(i); or

- 4581 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
4582 (c) sales of the following for commercial use:
4583 (i) gas;
4584 (ii) electricity;
4585 (iii) heat;
4586 (iv) coal;
4587 (v) fuel oil; or
4588 (vi) other fuels;
4589 (d) sales of the following for residential use:
4590 (i) gas;
4591 (ii) electricity;
4592 (iii) heat;
4593 (iv) coal;
4594 (v) fuel oil; or
4595 (vi) other fuels;
4596 (e) sales of prepared food;
4597 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
4598 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
4599 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
4600 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
4601 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
4602 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
4603 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
4604 horseback rides, sports activities, or any other amusement, entertainment, recreation,
4605 exhibition, cultural, or athletic activity;
4606 (g) amounts paid or charged for services for repairs or renovations of tangible personal
4607 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
4608 (i) the tangible personal property; and
4609 (ii) parts used in the repairs or renovations of the tangible personal property described
4610 in Subsection (1)(g)(i), regardless of whether:
4611 (A) any parts are actually used in the repairs or renovations of that tangible personal

4612 property; or
4613 (B) the particular parts used in the repairs or renovations of that tangible personal
4614 property are exempt from a tax under this chapter;
4615 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
4616 assisted cleaning or washing of tangible personal property;
4617 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
4618 accommodations and services that are regularly rented for less than 30 consecutive days;
4619 (j) amounts paid or charged for laundry or dry cleaning services;
4620 (k) amounts paid or charged for leases or rentals of tangible personal property if within
4621 this state the tangible personal property is:
4622 (i) stored;
4623 (ii) used; or
4624 (iii) otherwise consumed;
4625 (l) amounts paid or charged for tangible personal property if within this state the
4626 tangible personal property is:
4627 (i) stored;
4628 (ii) used; or
4629 (iii) consumed; and
4630 (m) amounts paid or charged for a sale:
4631 (i) (A) of a product transferred electronically; or
4632 (B) of a repair or renovation of a product transferred electronically; and
4633 (ii) regardless of whether the sale provides:
4634 (A) a right of permanent use of the product; or
4635 (B) a right to use the product that is less than a permanent use, including a right:
4636 (I) for a definite or specified length of time; and
4637 (II) that terminates upon the occurrence of a condition.
4638 (2) (a) Except as provided in Subsections (2)(b) through ~~[(e)]~~ (f), a state tax and a local
4639 tax are imposed on a transaction described in Subsection (1) equal to the sum of:
4640 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
4641 ~~[(A) (I) through March 31, 2019, 4.70%; and]~~
4642 ~~[(H)]~~ (A) ~~[beginning on April 1, 2019,]~~ 4.70% plus the rate specified in Subsection

4643 ~~[(13)]~~ (12)(a); and

4644 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
4645 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
4646 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
4647 State Sales and Use Tax Act; and

4648 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
4649 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
4650 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
4651 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

4652 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
4653 transaction under this chapter other than this part.

4654 (b) Except as provided in Subsection ~~[(2)(d) or (e)]~~ (2)(e) or (f) and subject to
4655 Subsection (2)~~[(f)]~~(k), a state tax and a local tax are imposed on a transaction described in
4656 Subsection (1)(d) equal to the sum of:

4657 (i) a state tax imposed on the transaction at a tax rate of 2%; and

4658 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
4659 transaction under this chapter other than this part.

4660 (c) Except as provided in Subsection ~~[(2)(d) or (e)]~~ (2)(e) or (f), a state tax and a local
4661 tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

4662 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
4663 a tax rate of 1.75%; and

4664 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
4665 amounts paid or charged for food and food ingredients under this chapter other than this part.

4666 (d) Except as provided in Subsection (2)(e) or (f), a state tax is imposed on amounts
4667 paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at
4668 a rate of 4.85%.

4669 ~~[(d)]~~ (e) (i) For a bundled transaction that is attributable to food and food ingredients
4670 and tangible personal property other than food and food ingredients, a state tax and a local tax
4671 is imposed on the entire bundled transaction equal to the sum of:

4672 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

4673 (I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(~~+~~)(e)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(~~+~~)(e)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

4705 (II) state or federal law provides otherwise.

4706 (iv) For purposes of Subsection (2)~~(f)~~(e)(iii), books and records that a seller keeps in
4707 the seller's regular course of business includes books and records the seller keeps in the regular
4708 course of business for nontax purposes.

4709 ~~(e)~~ (f) (i) Except as otherwise provided in this chapter and subject to Subsections
4710 (2)~~(e)~~(f)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal
4711 property, a product, or a service that is subject to taxation under this chapter, and the sale,
4712 lease, or rental of tangible personal property, other property, a product, or a service that is not
4713 subject to taxation under this chapter, the entire transaction is subject to taxation under this
4714 chapter unless the seller, at the time of the transaction:

4715 (A) separately states the portion of the transaction that is not subject to taxation under
4716 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

4717 (B) is able to identify by reasonable and verifiable standards, from the books and
4718 records the seller keeps in the seller's regular course of business, the portion of the transaction
4719 that is not subject to taxation under this chapter.

4720 (ii) A purchaser and a seller may correct the taxability of a transaction if:

4721 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
4722 the transaction that is not subject to taxation under this chapter was not separately stated on an
4723 invoice, bill of sale, or similar document provided to the purchaser because of an error or
4724 ignorance of the law; and

4725 (B) the seller is able to identify by reasonable and verifiable standards, from the books
4726 and records the seller keeps in the seller's regular course of business, the portion of the
4727 transaction that is not subject to taxation under this chapter.

4728 (iii) For purposes of Subsections (2)~~(e)~~(f)(i) and (ii), books and records that a seller
4729 keeps in the seller's regular course of business includes books and records the seller keeps in
4730 the regular course of business for nontax purposes.

4731 ~~(f)~~ (g) (i) If the sales price of a transaction is attributable to two or more items of
4732 tangible personal property, products, or services that are subject to taxation under this chapter
4733 at different rates, the entire purchase is subject to taxation under this chapter at the higher tax
4734 rate unless the seller, at the time of the transaction:

4735 (A) separately states the items subject to taxation under this chapter at each of the

4736 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

4737 (B) is able to identify by reasonable and verifiable standards the tangible personal
4738 property, product, or service that is subject to taxation under this chapter at the lower tax rate
4739 from the books and records the seller keeps in the seller's regular course of business.

4740 (ii) For purposes of Subsection (2)~~[(f)]~~(g)(i), books and records that a seller keeps in
4741 the seller's regular course of business includes books and records the seller keeps in the regular
4742 course of business for nontax purposes.

4743 ~~[(g)]~~ (h) Subject to Subsections ~~[(2)(h) and (i)]~~ (2)(i) and (j), a tax rate repeal or tax
4744 rate change for a tax rate imposed under the following shall take effect on the first day of a
4745 calendar quarter:

4746 (i) Subsection (2)(a)(i)(A);

4747 (ii) Subsection (2)(b)(i);

4748 (iii) Subsection (2)(c)(i); or

4749 (iv) Subsection (2)~~[(f)]~~(e)(i)(A)(I).

4750 ~~[(h)]~~ (i) (i) A tax rate increase takes effect on the first day of the first billing period that
4751 begins on or after the effective date of the tax rate increase if the billing period for the
4752 transaction begins before the effective date of a tax rate increase imposed under:

4753 (A) Subsection (2)(a)(i)(A);

4754 (B) Subsection (2)(b)(i);

4755 (C) Subsection (2)(c)(i); or

4756 (D) Subsection (2)~~[(f)]~~(e)(i)(A)(I).

4757 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
4758 statement for the billing period is rendered on or after the effective date of the repeal of the tax
4759 or the tax rate decrease imposed under:

4760 (A) Subsection (2)(a)(i)(A);

4761 (B) Subsection (2)(b)(i);

4762 (C) Subsection (2)(c)(i); or

4763 (D) Subsection (2)~~[(f)]~~(e)(i)(A)(I).

4764 ~~[(i)]~~ (j) (i) For a tax rate described in Subsection (2)~~[(i)]~~(j)(ii), if a tax due on a
4765 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a
4766 tax rate repeal or change in a tax rate takes effect:

4767 (A) on the first day of a calendar quarter; and
4768 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

4769 (ii) Subsection (2)[~~(j)~~](j)(i) applies to the tax rates described in the following:

4770 (A) Subsection (2)(a)(i)(A);

4771 (B) Subsection (2)(b)(i);

4772 (C) Subsection (2)(c)(i); or

4773 (D) Subsection (2)[~~(d)~~](e)(i)(A)(I).

4774 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
4775 the commission may by rule define the term "catalogue sale."

4776 [~~(j)~~] (k) (i) For a location described in Subsection (2)[~~(j)~~](k)(ii), the commission shall
4777 determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based
4778 on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

4779 (ii) Subsection (2)[~~(j)~~](k)(i) applies to a location where gas, electricity, heat, coal, fuel
4780 oil, or other fuel is furnished through a single meter for two or more of the following uses:

4781 (A) a commercial use;

4782 (B) an industrial use; or

4783 (C) a residential use.

4784 (3) (a) The following state taxes shall be deposited into the General Fund:

4785 (i) the tax imposed by Subsection (2)(a)(i)(A);

4786 (ii) the tax imposed by Subsection (2)(b)(i);

4787 (iii) the tax imposed by Subsection (2)(c)(i); [~~or~~] and

4788 (iv) the tax imposed by Subsection (2)[~~(d)~~](e)(i)(A)(I).

4789 (b) The following local taxes shall be distributed to a county, city, or town as provided
4790 in this chapter:

4791 (i) the tax imposed by Subsection (2)(a)(ii);

4792 (ii) the tax imposed by Subsection (2)(b)(ii);

4793 (iii) the tax imposed by Subsection (2)(c)(ii); and

4794 (iv) the tax imposed by Subsection (2)[~~(d)~~](e)(i)(B).

4795 (c) The state tax imposed by Subsection (2)(d) shall be deposited into the General
4796 Fund.

4797 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,

4798 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
4799 through (g):

4800 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

4801 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

4802 (B) for the fiscal year; or

4803 (ii) \$17,500,000.

4804 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
4805 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
4806 Department of Natural Resources to:

4807 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
4808 protect sensitive plant and animal species; or

4809 (B) award grants, up to the amount authorized by the Legislature in an appropriations
4810 act, to political subdivisions of the state to implement the measures described in Subsections
4811 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

4812 (ii) Money transferred to the Department of Natural Resources under Subsection
4813 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
4814 person to list or attempt to have listed a species as threatened or endangered under the
4815 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

4816 (iii) At the end of each fiscal year:

4817 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
4818 Conservation and Development Fund created in Section 73-10-24;

4819 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
4820 Program Subaccount created in Section 73-10c-5; and

4821 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
4822 Program Subaccount created in Section 73-10c-5.

4823 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
4824 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
4825 created in Section 4-18-106.

4826 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
4827 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
4828 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of

4829 water rights.

4830 (ii) At the end of each fiscal year:

4831 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
4832 Conservation and Development Fund created in Section 73-10-24;

4833 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
4834 Program Subaccount created in Section 73-10c-5; and

4835 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
4836 Program Subaccount created in Section 73-10c-5.

4837 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
4838 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
4839 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

4840 (ii) In addition to the uses allowed of the Water Resources Conservation and
4841 Development Fund under Section 73-10-24, the Water Resources Conservation and
4842 Development Fund may also be used to:

4843 (A) conduct hydrologic and geotechnical investigations by the Division of Water
4844 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
4845 quantifying surface and ground water resources and describing the hydrologic systems of an
4846 area in sufficient detail so as to enable local and state resource managers to plan for and
4847 accommodate growth in water use without jeopardizing the resource;

4848 (B) fund state required dam safety improvements; and

4849 (C) protect the state's interest in interstate water compact allocations, including the
4850 hiring of technical and legal staff.

4851 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
4852 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
4853 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

4854 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
4855 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
4856 created in Section 73-10c-5 for use by the Division of Drinking Water to:

4857 (i) provide for the installation and repair of collection, treatment, storage, and
4858 distribution facilities for any public water system, as defined in Section 19-4-102;

4859 (ii) develop underground sources of water, including springs and wells; and

4860 (iii) develop surface water sources.

4861 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
4862 2006, the difference between the following amounts shall be expended as provided in this
4863 Subsection (5), if that difference is greater than \$1:

4864 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
4865 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

4866 (ii) \$17,500,000.

4867 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

4868 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
4869 credits; and

4870 (B) expended by the Department of Natural Resources for watershed rehabilitation or
4871 restoration.

4872 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
4873 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
4874 created in Section 73-10-24.

4875 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
4876 remaining difference described in Subsection (5)(a) shall be:

4877 (A) transferred each fiscal year to the Division of Water Resources as dedicated
4878 credits; and

4879 (B) expended by the Division of Water Resources for cloud-seeding projects
4880 authorized by Title 73, Chapter 15, Modification of Weather.

4881 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
4882 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
4883 created in Section 73-10-24.

4884 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
4885 remaining difference described in Subsection (5)(a) shall be deposited into the Water
4886 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
4887 Division of Water Resources for:

4888 (i) preconstruction costs:

4889 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
4890 26, Bear River Development Act; and

4891 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
4892 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;
4893 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
4894 Chapter 26, Bear River Development Act;
4895 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
4896 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and
4897 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
4898 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).
4899 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
4900 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be
4901 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
4902 incurred for employing additional technical staff for the administration of water rights.
4903 (f) At the end of each fiscal year, any unexpended dedicated credits described in
4904 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
4905 Fund created in Section 73-10-24.
4906 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
4907 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
4908 (1) for the fiscal year shall be deposited as follows:
4909 ~~[(a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)~~
4910 ~~shall be deposited into the Transportation Investment Fund of 2005 created by Section~~
4911 ~~72-2-124;]~~
4912 ~~[(b) for fiscal year 2017-18 only:]~~
4913 ~~[(i) 80% of the revenue described in this Subsection (6) shall be deposited into the~~
4914 ~~Transportation Investment Fund of 2005 created by Section 72-2-124; and]~~
4915 ~~[(ii) 20% of the revenue described in this Subsection (6) shall be deposited into the~~
4916 ~~Water Infrastructure Restricted Account created by Section 73-10g-103;]~~
4917 ~~[(c) for fiscal year 2018-19 only:]~~
4918 ~~[(i) 60% of the revenue described in this Subsection (6) shall be deposited into the~~
4919 ~~Transportation Investment Fund of 2005 created by Section 72-2-124; and]~~
4920 ~~[(ii) 40% of the revenue described in this Subsection (6) shall be deposited into the~~
4921 ~~Water Infrastructure Restricted Account created by Section 73-10g-103;]~~

4922 ~~[(d) for fiscal year 2019-20 only:]~~

4923 ~~[(i) 40% of the revenue described in this Subsection (6) shall be deposited into the~~
4924 ~~Transportation Investment Fund of 2005 created by Section 72-2-124; and]~~

4925 ~~[(ii) 60% of the revenue described in this Subsection (6) shall be deposited into the~~
4926 ~~Water Infrastructure Restricted Account created by Section 73-10g-103;]~~

4927 ~~[(e)]~~ (a) for fiscal year 2020-21 only:

4928 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
4929 Transportation Investment Fund of 2005 created by Section 72-2-124; and

4930 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
4931 Water Infrastructure Restricted Account created by Section 73-10g-103; and

4932 ~~[(f)]~~ (b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue
4933 described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted
4934 Account created by Section 73-10g-103.

4935 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
4936 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
4937 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
4938 created by Section 72-2-124:

4939 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
4940 the revenues collected from the following taxes, which represents a portion of the
4941 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
4942 on vehicles and vehicle-related products:

4943 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

4944 (B) the tax imposed by Subsection (2)(b)(i);

4945 (C) the tax imposed by Subsection (2)(c)(i); and

4946 (D) the tax imposed by Subsection (2)~~[(d)]~~(e)(i)(A)(I); plus

4947 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
4948 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
4949 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
4950 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

4951 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
4952 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total

lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

(iii) In all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

~~[(8)(a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.]~~

~~[(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.]~~

~~[(c)(i)]~~ (8)(a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsections (6) and (7), and subject to Subsection ~~[(8)(c)(ii)]~~ (8)(b), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the

4984 following taxes:

4985 ~~[(A)]~~ (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

4986 ~~[(B)]~~ (ii) the tax imposed by Subsection (2)(b)(i);

4987 ~~[(C)]~~ (iii) the tax imposed by Subsection (2)(c)(i); and

4988 ~~[(D)]~~ (iv) the tax imposed by Subsection (2)~~[(d)]~~(e)(i)(A)(I).

4989 ~~[(ii)]~~ (b) For a fiscal year beginning on or after July 1, 2019, the commission shall
4990 annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection
4991 ~~[(8)(c)(i)]~~ (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the
4992 current fiscal year by the portion of the tax imposed on motor and special fuel that is sold,
4993 used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

4994 ~~[(iii)]~~ (c) The commission shall annually deposit the amount described in Subsection
4995 ~~[(8)(c)(ii)]~~ (8)(b) into the Transit ~~[and]~~ Transportation Investment Fund created in Section
4996 72-2-124.

4997 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
4998 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
4999 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

5000 ~~[(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),~~
5001 ~~in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17~~
5002 ~~fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund~~
5003 ~~of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on~~
5004 ~~the transactions described in Subsection (1).]~~

5005 ~~[(b)]~~ (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection
5006 (10)~~[(c)]~~(b), and in addition to any amounts deposited under Subsections (6), (7), and (8), the
5007 Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by
5008 Section 72-2-124 the amount of revenue described as follows:

5009 ~~[(i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%~~
5010 ~~tax rate on the transactions described in Subsection (1).]~~

5011 ~~[(ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a~~
5012 ~~.05% tax rate on the transactions described in Subsection (1).]~~

5013 ~~[(iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%~~
5014 ~~tax rate on the transactions described in Subsection (1).]~~

5015 ~~[(iv)]~~ (i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
5016 .05% tax rate on the transactions described in Subsection (1); and

5017 ~~[(v)]~~ (ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a
5018 .05% tax rate on the transactions described in Subsection (1).

5019 ~~[(c)]~~ (b) For purposes of ~~[Subsections (10)(a) and (b)]~~ Subsection (10)(a), the Division
5020 of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue
5021 generated by amounts paid or charged for food and food ingredients, except for tax revenue
5022 generated by a bundled transaction attributable to food and food ingredients and tangible
5023 personal property other than food and food ingredients described in Subsection (2)~~[(d)]~~(e).

5024 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
5025 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
5026 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
5027 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue
5028 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,
5029 created in Section 63N-2-512.

5030 ~~[(12)(a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the~~
5031 ~~Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed~~
5032 ~~under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section~~
5033 35A-8-308.]

5034 ~~[(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division~~
5035 ~~of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under~~
5036 ~~Subsection (3)(a) into the Throughput Infrastructure Fund created by Section~~ 35A-8-308.]

5037 ~~[(13)]~~ (12) (a) The rate specified in this subsection is 0.15%.

5038 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall~~[(i) on or before~~
5039 ~~September 30, 2019, transfer the amount of revenue collected from the rate described in~~
5040 ~~Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the~~
5041 ~~transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the~~
5042 ~~Medicaid Expansion Fund created in Section~~ 26-36b-208, ~~and (ii)]~~, for a fiscal year beginning
5043 on or after July 1, 2019, annually transfer the amount of revenue collected from the rate
5044 described in Subsection ~~[(13)]~~ (12)(a) on the transactions that are subject to the sales and use
5045 tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section

5046 26-36b-208.

5047 ~~[(14)]~~ (13) Notwithstanding Subsection (3)(a), for each fiscal year beginning with
5048 fiscal year 2020-21, the Division of Finance shall deposit \$200,000 into the General Fund as a
5049 dedicated credit solely for use of the Search and Rescue Financial Assistance Program created
5050 in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

5051 ~~[(15)]~~ (14) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of
5052 Finance shall annually transfer \$1,813,400 of the revenue deposited into the Transportation
5053 Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

5054 (b) If the total revenue deposited into the Transportation Investment Fund of 2005
5055 under Subsections (6) through (8) is less than \$1,813,400 for a fiscal year, the Division of
5056 Finance shall transfer the total revenue deposited into the Transportation Investment Fund of
5057 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

5058 Section 40. Section **59-12-104** is amended to read:

5059 **59-12-104. Exemptions.**

5060 Exemptions from the taxes imposed by this chapter are as follows:

5061 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
5062 under Chapter 13, Motor and Special Fuel Tax Act;

5063 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
5064 subdivisions; however, this exemption does not apply to sales of:

5065 (a) construction materials except:

5066 (i) construction materials purchased by or on behalf of institutions of the public
5067 education system as defined in Utah Constitution, Article X, Section 2, provided the
5068 construction materials are clearly identified and segregated and installed or converted to real
5069 property which is owned by institutions of the public education system; and

5070 (ii) construction materials purchased by the state, its institutions, or its political
5071 subdivisions which are installed or converted to real property by employees of the state, its
5072 institutions, or its political subdivisions; or

5073 (b) tangible personal property in connection with the construction, operation,
5074 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
5075 providing additional project capacity, as defined in Section 11-13-103;

5076 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

5077 (i) the proceeds of each sale do not exceed \$1; and
 5078 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
 5079 the cost of the item described in Subsection (3)(b) as goods consumed; and
 5080 (b) Subsection (3)(a) applies to:
 5081 (i) food and food ingredients; or
 5082 (ii) prepared food;
 5083 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
 5084 (i) alcoholic beverages;
 5085 (ii) food and food ingredients; or
 5086 (iii) prepared food;
 5087 (b) sales of tangible personal property or a product transferred electronically:
 5088 (i) to a passenger;
 5089 (ii) by a commercial airline carrier; and
 5090 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
 5091 (c) services related to Subsection (4)(a) or (b);
 5092 ~~[(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts~~
 5093 ~~and equipment:]~~
 5094 ~~[(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002~~
 5095 ~~North American Industry Classification System of the federal Executive Office of the~~
 5096 ~~President, Office of Management and Budget; and]~~
 5097 ~~[(H) for:]~~
 5098 ~~[(Aa) installation in an aircraft, including services relating to the installation of parts or~~
 5099 ~~equipment in the aircraft;]~~
 5100 ~~[(Bb) renovation of an aircraft; or]~~
 5101 ~~[(Cc) repair of an aircraft; or]~~
 5102 ~~[(B) for installation in an aircraft operated by a common carrier in interstate or foreign~~
 5103 ~~commerce; or]~~
 5104 ~~[(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an~~
 5105 ~~aircraft operated by a common carrier in interstate or foreign commerce; and]~~
 5106 ~~[(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~
 5107 ~~a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a~~

5108 refund;]

5109 ~~[(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;]~~

5110 ~~[(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;]~~

5111 ~~[(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for~~

5112 ~~the sale prior to filing for the refund;]~~

5113 ~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~

5114 ~~[(v) in accordance with Section 59-1-1410; and]~~

5115 ~~[(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,~~

5116 ~~if the person files for the refund on or before September 30, 2011;]~~

5117 (5) sales of parts and equipment for installation in an aircraft operated by a common

5118 carrier in interstate or foreign commerce;

5119 (6) sales of commercials, motion picture films, prerecorded audio program tapes or

5120 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture

5121 exhibitor, distributor, or commercial television or radio broadcaster;

5122 (7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of

5123 cleaning or washing of tangible personal property if the cleaning or washing of the tangible

5124 personal property is not assisted cleaning or washing of tangible personal property;

5125 (b) if a seller that sells at the same business location assisted cleaning or washing of

5126 tangible personal property and cleaning or washing of tangible personal property that is not

5127 assisted cleaning or washing of tangible personal property, the exemption described in

5128 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning

5129 or washing of the tangible personal property; and

5130 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,

5131 Utah Administrative Rulemaking Act, the commission may make rules:

5132 (i) governing the circumstances under which sales are at the same business location;

5133 and

5134 (ii) establishing the procedures and requirements for a seller to separately account for

5135 sales of assisted cleaning or washing of tangible personal property;

5136 (8) sales made to or by religious or charitable institutions in the conduct of their regular

5137 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are

5138 fulfilled;

5139 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
5140 this state if the vehicle is:

- 5141 (a) not registered in this state; and
- 5142 (b) (i) not used in this state; or
- 5143 (ii) used in this state:

- 5144 (A) if the vehicle is not used to conduct business, for a time period that does not
5145 exceed the longer of:
- 5146 (I) 30 days in any calendar year; or
- 5147 (II) the time period necessary to transport the vehicle to the borders of this state; or
- 5148 (B) if the vehicle is used to conduct business, for the time period necessary to transport
5149 the vehicle to the borders of this state;

5150 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

- 5151 (i) the item is intended for human use; and
- 5152 (ii) (A) a prescription was issued for the item; or
- 5153 (B) the item was purchased by a hospital or other medical facility; and

5154 (b) (i) Subsection (10)(a) applies to:

- 5155 (A) a drug;
- 5156 (B) a syringe; or
- 5157 (C) a stoma supply; and

5158 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5159 commission may by rule define the terms:

- 5160 (A) "syringe"; or
- 5161 (B) "stoma supply";

5162 (11) purchases or leases exempt under Section [19-12-201](#);

5163 (12) (a) sales of an item described in Subsection (12)(c) served by:

- 5164 (i) the following if the item described in Subsection (12)(c) is not available to the
5165 general public:
- 5166 (A) a church; or
- 5167 (B) a charitable institution; or
- 5168 (ii) an institution of higher education if:
- 5169 (A) the item described in Subsection (12)(c) is not available to the general public; or

5170 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
5171 offered by the institution of higher education; or
5172 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
5173 (i) a medical facility; or
5174 (ii) a nursing facility; and
5175 (c) Subsections (12)(a) and (b) apply to:
5176 (i) food and food ingredients;
5177 (ii) prepared food; or
5178 (iii) alcoholic beverages;
5179 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
5180 or a product transferred electronically by a person:
5181 (i) regardless of the number of transactions involving the sale of that tangible personal
5182 property or product transferred electronically by that person; and
5183 (ii) not regularly engaged in the business of selling that type of tangible personal
5184 property or product transferred electronically;
5185 (b) this Subsection (13) does not apply if:
5186 (i) the sale is one of a series of sales of a character to indicate that the person is
5187 regularly engaged in the business of selling that type of tangible personal property or product
5188 transferred electronically;
5189 (ii) the person holds that person out as regularly engaged in the business of selling that
5190 type of tangible personal property or product transferred electronically;
5191 (iii) the person sells an item of tangible personal property or product transferred
5192 electronically that the person purchased as a sale that is exempt under Subsection (25); or
5193 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
5194 this state in which case the tax is based upon:
5195 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
5196 sold; or
5197 (B) in the absence of a bill of sale or other written evidence of value, the fair market
5198 value of the vehicle or vessel being sold at the time of the sale as determined by the
5199 commission; and
5200 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

5201 commission shall make rules establishing the circumstances under which:

5202 (i) a person is regularly engaged in the business of selling a type of tangible personal
5203 property or product transferred electronically;

5204 (ii) a sale of tangible personal property or a product transferred electronically is one of
5205 a series of sales of a character to indicate that a person is regularly engaged in the business of
5206 selling that type of tangible personal property or product transferred electronically; or

5207 (iii) a person holds that person out as regularly engaged in the business of selling a type
5208 of tangible personal property or product transferred electronically;

5209 (14) amounts paid or charged for a purchase or lease of machinery, equipment, normal
5210 operating repair or replacement parts, or materials, except for office equipment or office
5211 supplies, by:

5212 (a) a manufacturing facility that:

5213 (i) is located in the state; and

5214 (ii) uses or consumes the machinery, equipment, normal operating repair or
5215 replacement parts, or materials:

5216 (A) in the manufacturing process to manufacture an item sold as tangible personal
5217 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
5218 Utah Administrative Rulemaking Act; or

5219 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
5220 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
5221 Administrative Rulemaking Act;

5222 (b) an establishment, as the commission defines that term in accordance with Title
5223 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

5224 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
5225 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
5226 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
5227 2002 North American Industry Classification System of the federal Executive Office of the
5228 President, Office of Management and Budget;

5229 (ii) is located in the state; and

5230 (iii) uses or consumes the machinery, equipment, normal operating repair or
5231 replacement parts, or materials in:

5232 (A) the production process to produce an item sold as tangible personal property, as the
5233 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
5234 Administrative Rulemaking Act;

5235 (B) research and development, as the commission may define that phrase in accordance
5236 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

5237 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
5238 produced from mining;

5239 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
5240 mining; or

5241 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

5242 (c) an establishment, as the commission defines that term in accordance with Title 63G,
5243 Chapter 3, Utah Administrative Rulemaking Act, that:

5244 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
5245 American Industry Classification System of the federal Executive Office of the President,
5246 Office of Management and Budget;

5247 (ii) is located in the state; and

5248 (iii) uses or consumes the machinery, equipment, normal operating repair or
5249 replacement parts, or materials in the operation of the web search portal;

5250 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

5251 (i) tooling;

5252 (ii) special tooling;

5253 (iii) support equipment;

5254 (iv) special test equipment; or

5255 (v) parts used in the repairs or renovations of tooling or equipment described in
5256 Subsections (15)(a)(i) through (iv); and

5257 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

5258 (i) the tooling, equipment, or parts are used or consumed exclusively in the
5259 performance of any aerospace or electronics industry contract with the United States
5260 government or any subcontract under that contract; and

5261 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
5262 title to the tooling, equipment, or parts is vested in the United States government as evidenced

5263 by:

5264 (A) a government identification tag placed on the tooling, equipment, or parts; or

5265 (B) listing on a government-approved property record if placing a government
5266 identification tag on the tooling, equipment, or parts is impractical;

5267 (16) sales of newspapers or newspaper subscriptions;

5268 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
5269 product transferred electronically traded in as full or part payment of the purchase price, except
5270 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
5271 trade-ins are limited to other vehicles only, and the tax is based upon:

5272 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
5273 vehicle being traded in; or

5274 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
5275 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
5276 commission; and

5277 (b) Subsection (17)(a) does not apply to the following items of tangible personal
5278 property or products transferred electronically traded in as full or part payment of the purchase
5279 price:

5280 (i) money;

5281 (ii) electricity;

5282 (iii) water;

5283 (iv) gas; or

5284 (v) steam;

5285 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
5286 or a product transferred electronically used or consumed primarily and directly in farming
5287 operations, regardless of whether the tangible personal property or product transferred
5288 electronically:

5289 (A) becomes part of real estate; or

5290 (B) is installed by a~~[:]~~ farmer, contractor, or subcontractor; or

5291 ~~[(F) farmer;]~~

5292 ~~[(H) contractor; or]~~

5293 ~~[(HH) subcontractor; or]~~

5294 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
5295 product transferred electronically if the tangible personal property or product transferred
5296 electronically is exempt under Subsection (18)(a)(i); and

5297 (b) amounts paid or charged for the following are subject to the taxes imposed by this
5298 chapter:

5299 (i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or
5300 supplies if used in a manner that is incidental to farming; and

5301 (B) tangible personal property that is considered to be used in a manner that is
5302 incidental to farming includes:

5303 (I) hand tools; or

5304 (II) maintenance and janitorial equipment and supplies;

5305 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
5306 transferred electronically if the tangible personal property or product transferred electronically
5307 is used in an activity other than farming; and

5308 (B) tangible personal property or a product transferred electronically that is considered
5309 to be used in an activity other than farming includes:

5310 (I) office equipment and supplies; or

5311 (II) equipment and supplies used in:

5312 (Aa) the sale or distribution of farm products;

5313 (Bb) research; or

5314 (Cc) transportation; or

5315 (iii) a vehicle required to be registered by the laws of this state during the period
5316 ending two years after the date of the vehicle's purchase;

5317 (19) sales of hay;

5318 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
5319 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
5320 garden, farm, or other agricultural produce is sold by:

5321 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
5322 agricultural produce;

5323 (b) an employee of the producer described in Subsection (20)(a); or

5324 (c) a member of the immediate family of the producer described in Subsection (20)(a);

5325 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
5326 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

5327 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
5328 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
5329 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
5330 manufacturer, processor, wholesaler, or retailer;

5331 (23) a product stored in the state for resale;

5332 (24) (a) purchases of a product if:

5333 (i) the product is:

5334 (A) purchased outside of this state;

5335 (B) brought into this state:

5336 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
5337 (II) by a nonresident person who is not living or working in this state at the time of the
5338 purchase;

5339 (C) used for the personal use or enjoyment of the nonresident person described in
5340 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

5341 (D) not used in conducting business in this state; and

5342 (ii) for:

5343 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
5344 the product for a purpose for which the product is designed occurs outside of this state;

5345 (B) a boat, the boat is registered outside of this state; or

5346 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
5347 outside of this state;

5348 (b) the exemption provided for in Subsection (24)(a) does not apply to:

5349 (i) a lease or rental of a product; or

5350 (ii) a sale of a vehicle exempt under Subsection (33); and

5351 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
5352 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
5353 following:

5354 (i) conducting business in this state if that phrase has the same meaning in this
5355 Subsection (24) as in Subsection (63);

5356 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
5357 as in Subsection (63); or

5358 (iii) a purpose for which a product is designed if that phrase has the same meaning in
5359 this Subsection (24) as in Subsection (63);

5360 (25) a product purchased for resale in the regular course of business, either in its
5361 original form or as an ingredient or component part of a manufactured or compounded product;

5362 (26) a product upon which a sales or use tax was paid to some other state, or one of its
5363 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
5364 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
5365 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
5366 Act;

5367 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
5368 person for use in compounding a service taxable under the subsections;

5369 (28) purchases made in accordance with the special supplemental nutrition program for
5370 women, infants, and children established in 42 U.S.C. Sec. 1786;

5371 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
5372 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
5373 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
5374 the President, Office of Management and Budget;

5375 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
5376 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

5377 (a) not registered in this state; and

5378 (b) (i) not used in this state; or

5379 (ii) used in this state:

5380 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
5381 time period that does not exceed the longer of:

5382 (I) 30 days in any calendar year; or

5383 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
5384 the borders of this state; or

5385 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
5386 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this

5387 state;

5388 (31) sales of aircraft manufactured in Utah;

5389 (32) amounts paid for the purchase of telecommunications service for purposes of

5390 providing telecommunications service;

5391 (33) sales, leases, or uses of the following:

5392 (a) a vehicle by an authorized carrier; or

5393 (b) tangible personal property that is installed on a vehicle:

5394 (i) sold or leased to or used by an authorized carrier; and

5395 (ii) before the vehicle is placed in service for the first time;

5396 (34) (a) 45% of the sales price of any new manufactured home; and

5397 (b) 100% of the sales price of any used manufactured home;

5398 (35) sales relating to schools and fundraising sales;

5399 (36) sales or rentals of durable medical equipment if:

5400 (a) a person presents a prescription for the durable medical equipment; and

5401 (b) the durable medical equipment is used for home use only;

5402 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in

5403 Section 72-11-102; and

5404 (b) the commission shall by rule determine the method for calculating sales exempt

5405 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

5406 (38) sales to a ski resort of:

5407 (a) snowmaking equipment;

5408 (b) ski slope grooming equipment;

5409 (c) passenger ropeways as defined in Section 72-11-102; or

5410 (d) parts used in the repairs or renovations of equipment or passenger ropeways

5411 described in Subsections (38)(a) through (c);

5412 (39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal,

5413 fuel oil, or other fuels for industrial use;

5414 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for

5415 amusement, entertainment, or recreation an unassisted amusement device as defined in Section

5416 59-12-102;

5417 (b) if a seller that sells or rents at the same business location the right to use or operate

5418 for amusement, entertainment, or recreation one or more unassisted amusement devices and
5419 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
5420 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
5421 amusement, entertainment, or recreation for the assisted amusement devices; and

5422 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
5423 Utah Administrative Rulemaking Act, the commission may make rules:

5424 (i) governing the circumstances under which sales are at the same business location;
5425 and

5426 (ii) establishing the procedures and requirements for a seller to separately account for
5427 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
5428 assisted amusement devices;

5429 (41) (a) sales of photocopies by:

5430 (i) a governmental entity; or

5431 (ii) an entity within the state system of public education, including:

5432 (A) a school; or

5433 (B) the State Board of Education; or

5434 (b) sales of publications by a governmental entity;

5435 (42) amounts paid for admission to an athletic event at an institution of higher
5436 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
5437 20 U.S.C. Sec. 1681 et seq.;

5438 (43) (a) sales made to or by:

5439 (i) an area agency on aging; or

5440 (ii) a senior citizen center owned by a county, city, or town; or

5441 (b) sales made by a senior citizen center that contracts with an area agency on aging;

5442 (44) sales or leases of semiconductor fabricating, processing, research, or development
5443 materials regardless of whether the semiconductor fabricating, processing, research, or
5444 development materials:

5445 (a) actually come into contact with a semiconductor; or

5446 (b) ultimately become incorporated into real property;

5447 (45) an amount paid by or charged to a purchaser for accommodations and services
5448 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section

5449 59-12-104.2;

5450 (46) [~~beginning on September 1, 2001,~~] the lease or use of a vehicle issued a temporary
5451 sports event registration certificate in accordance with Section 41-3-306 for the event period
5452 specified on the temporary sports event registration certificate;

5453 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
5454 adopted by the Public Service Commission only for purchase of electricity produced from a
5455 new alternative energy source built after January 1, 2016, as designated in the tariff by the
5456 Public Service Commission; and

5457 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
5458 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
5459 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
5460 customer would have paid absent the tariff;

5461 (48) sales or rentals of mobility enhancing equipment if a person presents a
5462 prescription for the mobility enhancing equipment;

5463 (49) sales of water in a:

5464 (a) pipe;

5465 (b) conduit;

5466 (c) ditch; or

5467 (d) reservoir;

5468 (50) sales of currency or coins that constitute legal tender of a state, the United States,
5469 or a foreign nation;

5470 (51) (a) sales of an item described in Subsection (51)(b) if the item:

5471 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and

5472 (ii) has a gold, silver, or platinum content of 50% or more; and

5473 (b) Subsection (51)(a) applies to a gold, silver, or platinum:

5474 (i) ingot;

5475 (ii) bar;

5476 (iii) medallion; or

5477 (iv) decorative coin;

5478 (52) amounts paid on a sale-leaseback transaction;

5479 (53) sales of a prosthetic device:

5480 (a) for use on or in a human; and
5481 (b) (i) for which a prescription is required; or
5482 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
5483 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
5484 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
5485 or equipment is primarily used in the production or postproduction of the following media for
5486 commercial distribution:
5487 (i) a motion picture;
5488 (ii) a television program;
5489 (iii) a movie made for television;
5490 (iv) a music video;
5491 (v) a commercial;
5492 (vi) a documentary; or
5493 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
5494 commission by administrative rule made in accordance with Subsection (54)(d); or
5495 (b) purchases, leases, or rentals of machinery or equipment by an establishment
5496 described in Subsection (54)(c) that is used for the production or postproduction of the
5497 following are subject to the taxes imposed by this chapter:
5498 (i) a live musical performance;
5499 (ii) a live news program; or
5500 (iii) a live sporting event;
5501 (c) the following establishments listed in the 1997 North American Industry
5502 Classification System of the federal Executive Office of the President, Office of Management
5503 and Budget, apply to Subsections (54)(a) and (b):
5504 (i) NAICS Code 512110; or
5505 (ii) NAICS Code 51219; and
5506 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5507 commission may by rule:
5508 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
5509 or
5510 (ii) define:

5511 (A) "commercial distribution";
5512 (B) "live musical performance";
5513 (C) "live news program"; or
5514 (D) "live sporting event";
5515 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
5516 on or before June 30, 2027, of tangible personal property that:
5517 (i) is leased or purchased for or by a facility that:
5518 (A) is an alternative energy electricity production facility;
5519 (B) is located in the state; and
5520 (C) (I) becomes operational on or after July 1, 2004; or
5521 (II) has its generation capacity increased by one or more megawatts on or after July 1,
5522 2004, as a result of the use of the tangible personal property;
5523 (ii) has an economic life of five or more years; and
5524 (iii) is used to make the facility or the increase in capacity of the facility described in
5525 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
5526 transmission grid including:
5527 (A) a wind turbine;
5528 (B) generating equipment;
5529 (C) a control and monitoring system;
5530 (D) a power line;
5531 (E) substation equipment;
5532 (F) lighting;
5533 (G) fencing;
5534 (H) pipes; or
5535 (I) other equipment used for locating a power line or pole; and
5536 (b) this Subsection (55) does not apply to:
5537 (i) tangible personal property used in construction of:
5538 (A) a new alternative energy electricity production facility; or
5539 (B) the increase in the capacity of an alternative energy electricity production facility;
5540 (ii) contracted services required for construction and routine maintenance activities;
5541 and

5542 (iii) unless the tangible personal property is used or acquired for an increase in capacity
5543 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
5544 acquired after:

5545 (A) the alternative energy electricity production facility described in Subsection
5546 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

5547 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
5548 in Subsection (55)(a)(iii);

5549 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
5550 on or before June 30, 2027, of tangible personal property that:

5551 (i) is leased or purchased for or by a facility that:

5552 (A) is a waste energy production facility;

5553 (B) is located in the state; and

5554 (C) (I) becomes operational on or after July 1, 2004; or

5555 (II) has its generation capacity increased by one or more megawatts on or after July 1,
5556 2004, as a result of the use of the tangible personal property;

5557 (ii) has an economic life of five or more years; and

5558 (iii) is used to make the facility or the increase in capacity of the facility described in
5559 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
5560 transmission grid including:

5561 (A) generating equipment;

5562 (B) a control and monitoring system;

5563 (C) a power line;

5564 (D) substation equipment;

5565 (E) lighting;

5566 (F) fencing;

5567 (G) pipes; or

5568 (H) other equipment used for locating a power line or pole; and

5569 (b) this Subsection (56) does not apply to:

5570 (i) tangible personal property used in construction of:

5571 (A) a new waste energy facility; or

5572 (B) the increase in the capacity of a waste energy facility;

5573 (ii) contracted services required for construction and routine maintenance activities;
5574 and
5575 (iii) unless the tangible personal property is used or acquired for an increase in capacity
5576 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
5577 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
5578 described in Subsection (56)(a)(iii); or
5579 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
5580 in Subsection (56)(a)(iii);
5581 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
5582 or before June 30, 2027, of tangible personal property that:
5583 (i) is leased or purchased for or by a facility that:
5584 (A) is located in the state;
5585 (B) produces fuel from alternative energy, including:
5586 (I) methanol; or
5587 (II) ethanol; and
5588 (C) (I) becomes operational on or after July 1, 2004; or
5589 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
5590 a result of the installation of the tangible personal property;
5591 (ii) has an economic life of five or more years; and
5592 (iii) is installed on the facility described in Subsection (57)(a)(i);
5593 (b) this Subsection (57) does not apply to:
5594 (i) tangible personal property used in construction of:
5595 (A) a new facility described in Subsection (57)(a)(i); or
5596 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
5597 (ii) contracted services required for construction and routine maintenance activities;
5598 and
5599 (iii) unless the tangible personal property is used or acquired for an increase in capacity
5600 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
5601 (A) the facility described in Subsection (57)(a)(i) is operational; or
5602 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
5603 (58) (a) subject to Subsection (58)(b) [~~or (c)~~], sales of tangible personal property or a

product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state; and

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; ~~[and]~~

~~[(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund;]~~

~~[(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;]~~

~~[(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;]~~

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

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

~~[(v) in accordance with Section 59-1-1410; and]~~

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

(59) purchases:

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

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

(A) names; or

(B) addresses; or

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

(A) names; or

(B) addresses; and

(b) used to send direct mail;

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

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

(b) redeemed or repurchased within the time period established in a written agreement

5635 between the person and the pawnbroker for redeeming or repurchasing the product;
5636 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
5637 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
5638 and
5639 (ii) has a useful economic life of one or more years; and
5640 (b) the following apply to Subsection (61)(a):
5641 (i) telecommunications enabling or facilitating equipment, machinery, or software;
5642 (ii) telecommunications equipment, machinery, or software required for 911 service;
5643 (iii) telecommunications maintenance or repair equipment, machinery, or software;
5644 (iv) telecommunications switching or routing equipment, machinery, or software; or
5645 (v) telecommunications transmission equipment, machinery, or software;
5646 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
5647 personal property or a product transferred electronically that are used in the research and
5648 development of alternative energy technology; and
5649 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5650 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
5651 purchases of tangible personal property or a product transferred electronically that are used in
5652 the research and development of alternative energy technology;
5653 (63) (a) purchases of tangible personal property or a product transferred electronically
5654 if:
5655 (i) the tangible personal property or product transferred electronically is:
5656 (A) purchased outside of this state;
5657 (B) brought into this state at any time after the purchase described in Subsection
5658 (63)(a)(i)(A); and
5659 (C) used in conducting business in this state; and
5660 (ii) for:
5661 (A) tangible personal property or a product transferred electronically other than the
5662 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
5663 for a purpose for which the property is designed occurs outside of this state; or
5664 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
5665 outside of this state and not required to be registered in this state under Section 41-1a-202 or

5666 73-18-9 based on residency;

5667 (b) the exemption provided for in Subsection (63)(a) does not apply to:

5668 (i) a lease or rental of tangible personal property or a product transferred electronically;

5669 or

5670 (ii) a sale of a vehicle exempt under Subsection (33); and

5671 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
5672 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
5673 following:

5674 (i) conducting business in this state if that phrase has the same meaning in this
5675 Subsection (63) as in Subsection (24);

5676 (ii) the first use of tangible personal property or a product transferred electronically if
5677 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

5678 (iii) a purpose for which tangible personal property or a product transferred
5679 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
5680 Subsection (24);

5681 (64) sales of disposable home medical equipment or supplies if:

5682 (a) a person presents a prescription for the disposable home medical equipment or
5683 supplies;

5684 (b) the disposable home medical equipment or supplies are used exclusively by the
5685 person to whom the prescription described in Subsection (64)(a) is issued; and

5686 (c) the disposable home medical equipment and supplies are listed as eligible for
5687 payment under:

5688 (i) Title XVIII, federal Social Security Act; or

5689 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

5690 (65) sales:

5691 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
5692 District Act; or

5693 (b) of tangible personal property to a subcontractor of a public transit district, if the
5694 tangible personal property is:

5695 (i) clearly identified; and

5696 (ii) installed or converted to real property owned by the public transit district;

5697 (66) sales of construction materials:
5698 (a) purchased on or after July 1, 2010;
5699 (b) purchased by, on behalf of, or for the benefit of an international airport:
5700 (i) located within a county of the first class; and
5701 (ii) that has a United States customs office on its premises; and
5702 (c) if the construction materials are:
5703 (i) clearly identified;
5704 (ii) segregated; and
5705 (iii) installed or converted to real property:
5706 (A) owned or operated by the international airport described in Subsection (66)(b); and
5707 (B) located at the international airport described in Subsection (66)(b);
5708 (67) sales of construction materials:
5709 (a) purchased on or after July 1, 2008;
5710 (b) purchased by, on behalf of, or for the benefit of a new airport:
5711 (i) located within a county of the second class; and
5712 (ii) that is owned or operated by a city in which an airline as defined in Section
5713 59-2-102 is headquartered; and
5714 (c) if the construction materials are:
5715 (i) clearly identified;
5716 (ii) segregated; and
5717 (iii) installed or converted to real property:
5718 (A) owned or operated by the new airport described in Subsection (67)(b);
5719 (B) located at the new airport described in Subsection (67)(b); and
5720 (C) as part of the construction of the new airport described in Subsection (67)(b);
5721 (68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a
5722 common carrier that is a railroad for use in a locomotive engine;
5723 (69) purchases and sales described in Section 63H-4-111;
5724 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
5725 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
5726 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
5727 lists a state or country other than this state as the location of registry of the fixed wing turbine

5728 powered aircraft; or

5729 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul

5730 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of

5731 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration

5732 lists a state or country other than this state as the location of registry of the fixed wing turbine

5733 powered aircraft;

5734 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

5735 (a) to a person admitted to an institution of higher education; and

5736 (b) by a seller, other than a bookstore owned by an institution of higher education, if

5737 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a

5738 textbook for a higher education course;

5739 (72) a license fee or tax a municipality imposes in accordance with Subsection

5740 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced

5741 level of municipal services;

5742 (73) amounts paid or charged for construction materials used in the construction of a

5743 new or expanding life science research and development facility in the state, if the construction

5744 materials are:

5745 (a) clearly identified;

5746 (b) segregated; and

5747 (c) installed or converted to real property;

5748 (74) amounts paid or charged for:

5749 (a) a purchase or lease of machinery and equipment that:

5750 (i) are used in performing qualified research:

5751 (A) as defined in Section 41(d), Internal Revenue Code; and

5752 (B) in the state; and

5753 (ii) have an economic life of three or more years; and

5754 (b) normal operating repair or replacement parts:

5755 (i) for the machinery and equipment described in Subsection (74)(a); and

5756 (ii) that have an economic life of three or more years;

5757 (75) a sale or lease of tangible personal property used in the preparation of prepared

5758 food if:

5759 (a) for a sale:
5760 (i) the ownership of the seller and the ownership of the purchaser are identical; and
5761 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
5762 tangible personal property prior to making the sale; or
5763 (b) for a lease:
5764 (i) the ownership of the lessor and the ownership of the lessee are identical; and
5765 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
5766 personal property prior to making the lease;
5767 (76) (a) purchases of machinery or equipment if:
5768 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
5769 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
5770 System of the federal Executive Office of the President, Office of Management and Budget;
5771 (ii) the machinery or equipment:
5772 (A) has an economic life of three or more years; and
5773 (B) is used by one or more persons who pay admission or user fees described in
5774 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
5775 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
5776 (A) amounts paid or charged as admission or user fees described in Subsection
5777 59-12-103(1)(f); and
5778 (B) subject to taxation under this chapter; and
5779 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5780 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
5781 previous calendar quarter is:
5782 (i) amounts paid or charged as admission or user fees described in Subsection
5783 59-12-103(1)(f); and
5784 (ii) subject to taxation under this chapter;
5785 (77) purchases of a short-term lodging consumable by a business that provides
5786 accommodations and services described in Subsection 59-12-103(1)(i);
5787 (78) amounts paid or charged to access a database:
5788 (a) if the primary purpose for accessing the database is to view or retrieve information
5789 from the database; and

5790 (b) not including amounts paid or charged for a:
5791 (i) digital audio work;
5792 (ii) digital audio-visual work; or
5793 (iii) digital book;
5794 (79) amounts paid or charged for a purchase or lease made by an electronic financial
5795 payment service, of:
5796 (a) machinery and equipment that:
5797 (i) are used in the operation of the electronic financial payment service; and
5798 (ii) have an economic life of three or more years; and
5799 (b) normal operating repair or replacement parts that:
5800 (i) are used in the operation of the electronic financial payment service; and
5801 (ii) have an economic life of three or more years;
5802 (80) ~~[beginning on April 1, 2013,]~~ sales of a fuel cell as defined in Section 54-15-102;
5803 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
5804 product transferred electronically if the tangible personal property or product transferred
5805 electronically:
5806 (a) is stored, used, or consumed in the state; and
5807 (b) is temporarily brought into the state from another state:
5808 (i) during a disaster period as defined in Section 53-2a-1202;
5809 (ii) by an out-of-state business as defined in Section 53-2a-1202;
5810 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
5811 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
5812 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
5813 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
5814 Recreation Program;
5815 (83) amounts paid or charged for a purchase or lease of molten magnesium;
5816 (84) amounts paid or charged for a purchase or lease made by a qualifying data center
5817 or an occupant of a qualifying data center of machinery, equipment, or normal operating repair
5818 or replacement parts, if the machinery, equipment, or normal operating repair or replacement
5819 parts:
5820 (a) are used in:

5821 (i) the operation of the qualifying data center; or
5822 (ii) the occupant's operations in the qualifying data center; and
5823 (b) have an economic life of one or more years;
5824 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
5825 vehicle that includes cleaning or washing of the interior of the vehicle;
5826 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal
5827 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used
5828 or consumed:
5829 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
5830 in Section 63M-4-701 located in the state;
5831 (b) if the machinery, equipment, normal operating repair or replacement parts,
5832 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:
5833 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
5834 added to gasoline or diesel fuel;
5835 (ii) research and development;
5836 (iii) transporting, storing, or managing raw materials, work in process, finished
5837 products, and waste materials produced from refining gasoline or diesel fuel, or adding
5838 blendstock to gasoline or diesel fuel;
5839 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
5840 refining; or
5841 (v) preventing, controlling, or reducing pollutants from refining; and
5842 (c) ~~[beginning on July 1, 2021,]~~ if the person holds a valid refiner tax exemption
5843 certification as defined in Section 63M-4-701;
5844 (87) amounts paid to or charged by a proprietor for accommodations and services, as
5845 defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax
5846 imposed under Section 63H-1-205;
5847 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal
5848 operating repair or replacement parts, or materials, except for office equipment or office
5849 supplies, by an establishment, as the commission defines that term in accordance with Title
5850 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
5851 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North

5852 American Industry Classification System of the federal Executive Office of the President,
5853 Office of Management and Budget;

5854 (b) is located in this state; and

5855 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
5856 materials in the operation of the establishment; and

5857 (89) amounts paid or charged for an item exempt under Section 59-12-104.10.

5858 Section 41. Section 59-12-209 is amended to read:

5859 **59-12-209. Participation of qualifying jurisdictions in administration and**
5860 **enforcement of certain local sales and use taxes -- Petition for reconsideration relating to**
5861 **the redistribution of certain sales and use tax revenues.**

5862 (1) As used in this section, "qualifying jurisdiction" means the same as that term is
5863 defined in Section 59-1-403.

5864 [(1)] (2) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, a
5865 [county, city, or town] qualifying jurisdiction does not have the right to any of the following,
5866 except as specifically allowed by Subsection [(2)] (3) and Section 59-12-210:

5867 (a) to inspect, review, or have access to any taxpayer sales and use tax records; or

5868 (b) to be informed of, participate in, intervene in, or appeal from any adjudicative
5869 proceeding commenced pursuant to Section 63G-4-201 to determine the liability of any
5870 taxpayer for sales and use taxes imposed pursuant to this chapter.

5871 [(2)] (3) (a) [Counties, cities, and towns] A qualifying jurisdiction shall have access to
5872 records and information on file with the commission, and shall have the right to notice of, and
5873 rights to intervene in or to appeal from, a proposed final agency action of the commission as
5874 provided in this Subsection [(2)] (3).

5875 (b) If the commission, following a formal adjudicative proceeding commenced
5876 pursuant to Title 63G, Chapter 4, Administrative Procedures Act, proposes to take final agency
5877 action that would reduce the amount of sales and use tax liability alleged in the notice of
5878 deficiency, the commission shall provide notice of a proposed agency action to each [qualified
5879 county, city, and town. (c) For purposes of this Subsection (2), a county, city, or town is a
5880 qualified county, city, or town if a qualifying jurisdiction if the proposed final agency action
5881 reduces a tax under this chapter distributable to that [county, city, or town] qualifying
5882 jurisdiction by more than \$10,000 below the amount of the tax that would have been

distributable to that ~~[county, city, or town]~~ qualifying jurisdiction had a notice of deficiency, as described in Section 59-1-1405, not been reduced.

~~[(d)]~~ (c) A ~~[qualified county, city, or town]~~ qualifying jurisdiction that receives notice described in Subsection (3)(b) may designate a representative who shall have the right to review the record of the formal hearing and any other commission records relating to a proposed final agency action subject to the confidentiality provisions of Section 59-1-403.

~~[(e)]~~ (d) No later than 10 days after receiving the notice of the commission's proposed final agency action, a ~~[qualified county, city, or town]~~ qualifying jurisdiction may file a notice of intervention with the commission.

~~[(f)]~~ (e) No later than 20 days after filing a notice of intervention, if a ~~[qualified county, city, or town]~~ qualifying jurisdiction objects to the proposed final agency action, that ~~[qualified county, city, or town]~~ qualifying jurisdiction may file a petition for reconsideration with the commission and shall serve copies of the petition on the taxpayer and the appropriate division in the commission.

~~[(g)]~~ (f) The taxpayer and appropriate division in the commission may each file a response to the petition for reconsideration within 20 days of receipt of the petition for reconsideration.

~~[(h)]~~ (g) (i) After consideration of the petition for reconsideration and any response, and any additional proceeding the commission considers appropriate, the commission may affirm, modify, or amend its proposed final agency action.

(ii) A taxpayer and any ~~[qualified county, city, or town]~~ qualifying jurisdiction that has filed a petition for reconsideration may appeal the final agency action.

~~[(i)]~~ (h) (i) Notwithstanding Subsections ~~[(2)]~~ (3)(a) through ~~[(h)]~~ (g) and subject to Subsection ~~[(2)(i)]~~ (3)(h)(ii), the following may file a petition for reconsideration with the commission:

(A) an original recipient political subdivision as defined in Section 59-12-210.1 that receives a notice from the commission in accordance with Subsection 59-12-210.1(2); or

(B) a secondary recipient political subdivision as defined in Section 59-12-210.1 that receives a notice from the commission in accordance with Subsection 59-12-210.1(2).

(ii) An original recipient political subdivision or secondary recipient political subdivision that files a petition for reconsideration with the commission under Subsection

5914 [(2)(i)] (3)(h)(i) shall file the petition no later than 20 days after the later of:

5915 (A) the date the original recipient political subdivision or secondary recipient political
5916 subdivision receives the notice described in Subsection [(2)(i)] (3)(h)(i) from the commission;
5917 or

5918 (B) the date the commission makes the redistribution as defined in Section 59-12-210.1
5919 that is the subject of the notice described in Subsection [(2)(i)] (3)(h)(i).

5920 Section 42. Section 59-12-210 is amended to read:

5921 **59-12-210. Commission to provide data to counties.**

5922 (1) As used in this section, "qualifying jurisdiction" means the same as that term is
5923 defined in Section 59-1-403.

5924 [(+)] (2) (a) The commission shall provide to each [county] qualifying jurisdiction the
5925 sales and use tax collection data necessary to verify that sales and use tax revenues collected by
5926 the commission are distributed to each [county, city, and town] qualifying jurisdiction in
5927 accordance with Sections 59-12-211 through 59-12-215.

5928 (b) The data described in Subsection [(+)] (2)(a) shall include the commission's reports
5929 of seller sales, sales and use tax distribution reports, and a breakdown of local revenues.

5930 [(2)] (3) (a) In addition to the access to information provided in Subsection (1) and
5931 Section 59-12-109, the commission shall provide a [county, city, or town] qualifying
5932 jurisdiction with copies of returns and other information required by this chapter relating to a
5933 tax under this chapter.

5934 (b) The information described in Subsection [(2)] (3)(a) is available only in official
5935 matters and must be requested in writing by the chief executive officer or the chief executive
5936 officer's designee.

5937 (c) The request described in Subsection [(2)] (3)(b) shall specifically indicate the
5938 information being sought and how the information will be used.

5939 (d) Information received pursuant to the request described in Subsection [(2)] (3)(b)
5940 shall be:

5941 (i) classified as private or protected under Section 63G-2-302 or 63G-2-305; and

5942 (ii) subject to the confidentiality provisions of Section 59-1-403.

5943 Section 43. Section 59-14-212 is amended to read:

5944 **59-14-212. Reporting of imported cigarettes -- Penalty.**

(1) Except as provided under Subsection (2), any manufacturer, distributor, wholesaler, or retail dealer who under Section 59-14-205 affixes a stamp to an individual package or container of cigarettes imported to the United States shall provide to the commission the following as they pertain to the imported cigarettes:

(a) a copy of the importer's federal import permit;

(b) the customs form showing the tax information required by federal law;

(c) a statement signed under penalty of perjury by the manufacturer or importer that the manufacturer or importer has complied with:

(i) 15 U.S.C. 1333 of the Federal Cigarette Labeling and Advertising Act, regarding warning labels and other package information; and

(ii) 15 U.S.C. 1335a of the Federal Cigarette Labeling and Advertising Act, regarding reporting of added ingredients;

(d) the name of the person from whom the person affixing the stamp received the cigarettes;

(e) the name of the person to whom the person affixing the stamp delivered the cigarettes, unless the person receiving the cigarettes was the ultimate consumer;

(f) the quantity of cigarettes in the package or container; and

(g) the brand and brand style of the cigarettes.

(2) Subsection (1) does not apply to cigarettes sold or intended to be sold as duty-free merchandise by a duty-free sales enterprise in accordance with the provisions of 19 U.S.C. 1555(b) and any implementing regulations unless the cigarettes are brought back into the customs territory for resale within the customs territory.

(3) The information under Subsection (1) shall be provided on a quarterly basis on forms specified by the agency.

(4) A person who fails to comply with the reporting requirement or provides false or misleading information under Subsection (1):

(a) is guilty of a class B misdemeanor; and

(b) may be subject to:

(i) revocation or suspension of a license issued under Section 59-14-202; and

(ii) a civil penalty imposed by the commission in an amount not to exceed the greater of:

5976 (A) 500% of the retail value of the cigarettes for which a report was not properly made;
5977 or

5978 (B) \$5,000.

5979 (5) The information under Subsection (1) may be disclosed by the commission as
5980 provided under Subsection 59-1-403[(3)](4)(g).

5981 Section 44. Section 62A-11-328 is amended to read:

5982 **62A-11-328. Information received from State Tax Commission provided to other**
5983 **states' child support collection agencies.**

5984 The office shall, upon request, provide to any other state's child support collection
5985 agency the information which it receives from the State Tax Commission under Subsection
5986 59-1-403[(3)](4)(l), with regard to a support debt which that agency is involved in enforcing.

5987 Section 45. Section 63G-2-302 is amended to read:

5988 **63G-2-302. Private records.**

5989 (1) The following records are private:

5990 (a) records concerning an individual's eligibility for unemployment insurance benefits,
5991 social services, welfare benefits, or the determination of benefit levels;

5992 (b) records containing data on individuals describing medical history, diagnosis,
5993 condition, treatment, evaluation, or similar medical data;

5994 (c) records of publicly funded libraries that when examined alone or with other records
5995 identify a patron;

5996 (d) records received by or generated by or for:

5997 (i) the Independent Legislative Ethics Commission, except for:

5998 (A) the commission's summary data report that is required under legislative rule; and

5999 (B) any other document that is classified as public under legislative rule; or

6000 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,
6001 unless the record is classified as public under legislative rule;

6002 (e) records received by, or generated by or for, the Independent Executive Branch
6003 Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review
6004 of Executive Branch Ethics Complaints;

6005 (f) records received or generated for a Senate confirmation committee concerning
6006 character, professional competence, or physical or mental health of an individual:

6007 (i) if, prior to the meeting, the chair of the committee determines release of the records:
6008 (A) reasonably could be expected to interfere with the investigation undertaken by the
6009 committee; or
6010 (B) would create a danger of depriving a person of a right to a fair proceeding or
6011 impartial hearing; and
6012 (ii) after the meeting, if the meeting was closed to the public;
6013 (g) employment records concerning a current or former employee of, or applicant for
6014 employment with, a governmental entity that would disclose that individual's home address,
6015 home telephone number, social security number, insurance coverage, marital status, or payroll
6016 deductions;
6017 (h) records or parts of records under Section 63G-2-303 that a current or former
6018 employee identifies as private according to the requirements of that section;
6019 (i) that part of a record indicating a person's social security number or federal employer
6020 identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202,
6021 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;
6022 (j) that part of a voter registration record identifying a voter's:
6023 (i) driver license or identification card number;
6024 (ii) social security number, or last four digits of the social security number;
6025 (iii) email address; or
6026 (iv) date of birth;
6027 (k) a voter registration record that is classified as a private record by the lieutenant
6028 governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or
6029 20A-2-204(4)(b);
6030 (l) a voter registration record that is withheld under Subsection 20A-2-104(7);
6031 (m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any
6032 verification submitted in support of the form;
6033 (n) a record that:
6034 (i) contains information about an individual;
6035 (ii) is voluntarily provided by the individual; and
6036 (iii) goes into an electronic database that:
6037 (A) is designated by and administered under the authority of the Chief Information

6038 Officer; and

6039 (B) acts as a repository of information about the individual that can be electronically

6040 retrieved and used to facilitate the individual's online interaction with a state agency;

6041 (o) information provided to the Commissioner of Insurance under:

6042 (i) Subsection 31A-23a-115(3)(a);

6043 (ii) Subsection 31A-23a-302(4); or

6044 (iii) Subsection 31A-26-210(4);

6045 (p) information obtained through a criminal background check under Title 11, Chapter

6046 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

6047 (q) information provided by an offender that is:

6048 (i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap

6049 Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and

6050 (ii) not required to be made available to the public under Subsection 77-41-110(4) or

6051 77-43-108(4);

6052 (r) a statement and any supporting documentation filed with the attorney general in

6053 accordance with Section 34-45-107, if the federal law or action supporting the filing involves

6054 homeland security;

6055 (s) electronic toll collection customer account information received or collected under

6056 Section 72-6-118 and customer information described in Section 17B-2a-815 received or

6057 collected by a public transit district, including contact and payment information and customer

6058 travel data;

6059 (t) an email address provided by a military or overseas voter under Section

6060 20A-16-501;

6061 (u) a completed military-overseas ballot that is electronically transmitted under Title

6062 20A, Chapter 16, Uniform Military and Overseas Voters Act;

6063 (v) records received by or generated by or for the Political Subdivisions Ethics Review

6064 Commission established in Section 63A-15-201, except for:

6065 (i) the commission's summary data report that is required in Section 63A-15-202; and

6066 (ii) any other document that is classified as public in accordance with Title 63A,

6067 Chapter 15, Political Subdivisions Ethics Review Commission;

6068 (w) a record described in Section 53G-9-604 that verifies that a parent was notified of

6069 an incident or threat;

6070 (x) a criminal background check or credit history report conducted in accordance with

6071 Section [63A-3-201](#);

6072 (y) a record described in Subsection [53-5a-104\(7\)](#);

6073 (z) the following portions of a record maintained by a county for the purpose of

6074 administering property taxes, an individual's:

6075 (i) email address;

6076 (ii) phone number; or

6077 (iii) personal financial information related to a person's payment method; [~~and~~]

6078 (aa) a record concerning an individual's eligibility for an exemption, deferral,

6079 abatement, or relief under:

6080 (i) Title 59, Chapter 2, Part 11, Exemptions, Deferrals, and Abatements;

6081 (ii) Title 59, Chapter 2, Part 12, Property Tax Relief;

6082 (iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or

6083 (iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions[-]; and

6084 (bb) a record provided by the State Tax Commission in response to a request under

6085 Subsection [59-1-403\(3\)\(y\)\(iii\)](#).

6086 (2) The following records are private if properly classified by a governmental entity:

6087 (a) records concerning a current or former employee of, or applicant for employment

6088 with a governmental entity, including performance evaluations and personal status information

6089 such as race, religion, or disabilities, but not including records that are public under Subsection

6090 [63G-2-301\(2\)\(b\)](#) or [63G-2-301\(3\)\(o\)](#) or private under Subsection (1)(b);

6091 (b) records describing an individual's finances, except that the following are public:

6092 (i) records described in Subsection [63G-2-301\(2\)](#);

6093 (ii) information provided to the governmental entity for the purpose of complying with

6094 a financial assurance requirement; or

6095 (iii) records that must be disclosed in accordance with another statute;

6096 (c) records of independent state agencies if the disclosure of those records would

6097 conflict with the fiduciary obligations of the agency;

6098 (d) other records containing data on individuals the disclosure of which constitutes a

6099 clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

(ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(iv) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3) (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

Section 46. **Repealer.**

6131 This bill repeals:
6132 Section [59-7-118.1](#), Modification of installment due date for deferred foreign
6133 income tax.
6134 Section [59-7-504.1](#), Modification of estimated payment due date.
6135 Section [59-7-505.1](#), Modification of return due date and extension period.
6136 Section [59-7-507.1](#), Modification of time for payment of tax.
6137 Section [59-10-103.2](#), Additional chapter definitions.
6138 Section [59-10-114.1](#), Additional subtraction from income.
6139 Section [59-10-514.2](#), Modification of return due date.
6140 Section [59-10-516.1](#), Modification of extension dates and requirements.
6141 Section [59-10-522.1](#), Limitation on commission authority to extend the time for
6142 payment of tax.
6143 Section [59-10-1403.4](#), Modification of return filing requirements for pass-through
6144 entity.
6145 Section [59-12-103.3](#), Sales and use tax base -- Rate for locomotive fuel.
6146 Section 47. **Retrospective operation.**
6147 The following sections have retrospective operation for a taxable year beginning on or
6148 after January 1, 2021:
6149 (1) Section [59-7-610](#);
6150 (2) Section [59-7-620](#);
6151 (3) Section [59-10-1007](#);
6152 (4) Section [59-10-1017](#);
6153 (5) Section [59-10-1017.1](#);
6154 (6) Section [59-10-1022](#);
6155 (7) Section [59-10-1023](#);
6156 (8) Section [59-10-1028](#);
6157 (9) Section [59-10-1035](#);
6158 (10) Section [59-10-1036](#); and
6159 (11) Section [59-10-1403.3](#).