

Representative Melissa G. Ballard proposes the following substitute bill:

ALTERNATIVE FUEL INCENTIVES AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Melissa G. Ballard

Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill modifies incentives for the production and use of alternative fuels.

Highlighted Provisions:

This bill:

- ▶ modifies the corporate and individual tax credits for commercial energy systems that use solar equipment to produce electricity;
- ▶ creates refundable and nonrefundable corporate and individual tax credits for certain hydrogen fuel cells and hydrogen production systems;
- ▶ provides a process for a lessee of a renewable energy system, a hydrogen fuel cell, or a hydrogen production system income tax credit to obtain a written certification;
- ▶ modifies sales and use tax definitions to:
 - add hydrogen to the list of fuels that are subject to a lower sales and use tax rate if for residential use and a sales tax exemption if for industrial use;
 - extend the sales and use tax exemption for sales of electricity made under a Public Service Commission tariff to include electricity produced with a hydrogen fuel cell; and
 - exempt sales of electricity made under a Public Service Commission tariff to include electricity produced with a hydrogen fuel cell from municipal energy



tax;

- defines "infrastructure" to include hydrogen fuel production or distribution projects for purposes of qualifying for a high cost infrastructure development tax credit;

- repeals the Alternative Energy Development Tax Credit Act and related tax credits; and

- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-7-159, as last amended by Laws of Utah 2019, Chapters 247 and 465

59-7-614, as last amended by Laws of Utah 2019, Chapter 247

59-7-619, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

59-10-137, as last amended by Laws of Utah 2019, Chapters 247 and 465

59-10-1014, as last amended by Laws of Utah 2019, Chapter 247

59-10-1034, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

59-10-1106, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

59-12-102, as last amended by Laws of Utah 2020, Chapters 354, 365, and 438

59-12-103, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20

63M-4-401, as last amended by Laws of Utah 2019, Chapter 247

63M-4-602, as last amended by Laws of Utah 2019, Chapter 501

ENACTS:

59-7-626, Utah Code Annotated 1953

59-10-1113, Utah Code Annotated 1953

REPEALS:

59-7-614.7, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

59-10-1029, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

63M-4-501, as enacted by Laws of Utah 2012, Chapter 410

63M-4-502, as enacted by Laws of Utah 2012, Chapter 410

57 **63M-4-503**, as last amended by Laws of Utah 2018, Chapter 149

58 **63M-4-504**, as enacted by Laws of Utah 2012, Chapter 410

59 **63M-4-505**, as last amended by Laws of Utah 2016, Chapters 13 and 135

60

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

62 Section 1. Section **59-7-159** is amended to read:

63 **59-7-159. Review of credits allowed under this chapter.**

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

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

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

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

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

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

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

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

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

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

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

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

86 (3) (a) On or before November 30, 2017, and every three years after 2017, the
87 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)]~~ (iii) 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 2. Section 59-7-614 is amended to read:

59-7-614. Renewable energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

- 119 (a) (i) "Active solar system" means a system of equipment that is capable of:
120 (A) collecting and converting incident solar radiation into thermal, mechanical, or
121 electrical energy; and
122 (B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate
123 apparatus to storage or to the point of use.
124 (ii) "Active solar system" includes water heating, space heating or cooling, and
125 electrical or mechanical energy generation.
- 126 (b) "Biomass system" means a system of apparatus and equipment for use in:
127 (i) converting material into biomass energy, as defined in Section 59-12-102; and
128 (ii) transporting the biomass energy by separate apparatus to the point of use or storage.
- 129 (c) "Commercial energy system" means a system that is:
130 (i) (A) an active solar system;
131 (B) a biomass system;
132 (C) a direct use geothermal system;
133 (D) a geothermal electricity system;
134 (E) a geothermal heat pump system;
135 (F) a hydroenergy system;
136 (G) a passive solar system; or
137 (H) a wind system;
138 (ii) located in the state; and
139 (iii) used:
140 (A) to supply energy to a commercial unit; or
141 (B) as a commercial enterprise.
- 142 (d) "Commercial enterprise" means an entity, the purpose of which is to produce;
143 (i) electrical, mechanical, or thermal energy for sale from a commercial energy system;
144 or
145 (ii) hydrogen for sale from a hydrogen production system.
- 146 (e) (i) "Commercial unit" means a building or structure that an entity uses to transact
147 business.
148 (ii) Notwithstanding Subsection (1)(e)(i):
149 (A) with respect to an active solar system used for agricultural water pumping or a

wind system, each individual energy generating device is considered to be a commercial unit;
or

(B) if an energy system is the building or structure that an entity uses to transact business, a commercial unit is the complete energy system itself.

(f) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.

(g) "Fuel cell" means any electrochemical device and any accompanying system components that:

(i) react hydrogen with oxygen to produce electricity; and

(ii) produce zero emissions of carbon dioxide, nitrides of oxygen, or sulfides of oxygen.

~~[(g)]~~ (h) "Geothermal electricity" means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

~~[(h)]~~ (i) "Geothermal energy" means energy generated by heat that is contained in the earth.

~~[(i)]~~ (j) "Geothermal heat pump system" means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

~~[(j)]~~ (k) "Hydroenergy system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

(l) "Hydrogen production system" means a system of apparatus and equipment, located in this state, that uses:

(i) electricity from a renewable energy source to create hydrogen gas from water, regardless of whether the renewable energy source is at a separate facility or the same facility

as the system of apparatus and equipment; or

(ii) uses renewable natural gas to produce hydrogen gas.

~~[(k)]~~ (m) "Office" means the Office of Energy Development created in Section 63M-4-401.

~~[(h)]~~ (n) (i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and ~~its~~ the structure's operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.

(ii) "Passive solar system" includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

~~[(m)]~~ (o) "Photovoltaic system" means an active solar system that generates electricity from sunlight.

~~[(n)]~~ (p) (i) "Principal recovery portion" means the portion of a lease payment that constitutes the cost a person incurs in acquiring a commercial energy system.

(ii) "Principal recovery portion" does not include:

(A) an interest charge; or

(B) a maintenance expense.

(q) "Renewable energy source" means the same as that term is defined in Section 54-17-601.

~~[(o)]~~ (r) "Residential energy system" means the following used to supply energy to or for a residential unit:

(i) an active solar system;

(ii) a biomass system;

(iii) a direct use geothermal system;

(iv) a geothermal heat pump system;

(v) a hydroenergy system;

(vi) a passive solar system; or

(vii) a wind system.

~~[(p)]~~ (s) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling unit that:

(A) is located in the state; and

(B) serves as a dwelling for a person, group of persons, or a family.

(ii) "Residential unit" does not include property subject to a fee under:

(A) Section 59-2-405;

(B) Section 59-2-405.1;

(C) Section 59-2-405.2;

(D) Section 59-2-405.3; or

(E) Section 72-10-110.5.

~~[(q)]~~ (t) "Wind system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use, sale, or storage.

(2) A taxpayer may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) (a) Subject to the other provisions of this Subsection (3), a taxpayer may claim a nonrefundable tax credit under this Subsection (3) with respect to a residential unit the taxpayer owns or uses if:

(i) the taxpayer:

(A) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

(B) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit; and

~~[(ii) the residential energy system is completed and placed in service on or after January 1, 2007; and]~~

~~[(iii)]~~ (ii) the taxpayer obtains a written certification from the office in accordance with Subsection ~~[(7)]~~ (8).

(b) (i) Subject to Subsections (3)(b)(ii) through (iv) and, as applicable, Subsection (3)(c) or (d), the tax credit is equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential unit the taxpayer owns or uses.

(ii) A tax credit under this Subsection (3) may include installation costs.

(iii) A taxpayer may claim a tax credit under this Subsection (3) for the taxable year in which the residential energy system is completed and placed in service.

(iv) If the amount of a tax credit under this Subsection (3) exceeds a taxpayer's tax liability under this chapter for a taxable year, the taxpayer may carry forward the amount of the tax credit exceeding the liability [~~may be carried forward~~] for a period that does not exceed the next four taxable years.

(c) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a residential energy system, other than a photovoltaic system, may not exceed \$2,000 per residential unit.

(d) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a photovoltaic system may not exceed:

(i) for a system installed on or after January 1, 2018, but on or before December 31, 2020, \$1,600;

(ii) for a system installed on or after January 1, 2021, but on or before December 31, 2021, \$1,200;

(iii) for a system installed on or after January 1, 2022, but on or before December 31, 2022, \$800;

(iv) for a system installed on or after January 1, 2023, but on or before December 31, 2023, \$400; and

(v) for a system installed on or after January 1, 2024, \$0.

(e) If a taxpayer sells a residential unit to another person before the taxpayer claims the tax credit under this Subsection (3):

(i) the taxpayer may assign the tax credit to the other person; and

(ii) (A) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit; or

(B) if the other person files a return under Chapter 10, Individual Income Tax Act, the other person may claim the tax credit under Section 59-10-1014 as if the other person had met the requirements of Section 59-10-1014 to claim the tax credit.

(4) (a) Subject to the other provisions of this Subsection (4), a taxpayer may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

(i) the commercial energy system does not use:

(A) wind, geothermal electricity, [~~solar~~], or biomass equipment capable of producing a

total of 660 or more kilowatts of electricity; or

(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

(ii) the taxpayer purchases or participates in the financing of the commercial energy system;

(iii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

~~[(iv) the commercial energy system is completed and placed in service on or after January 1, 2007; and]~~

(iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (6) or (7) for fuel cell use or hydrogen production using electricity for which the taxpayer claims a tax credit under this Subsection (4); and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection ~~[(7)]~~ (8).

(b) (i) Subject to Subsections (4)(b)(ii) through ~~[(v)]~~ (iv), the tax credit is equal to 10% of the reasonable costs of the commercial energy system.

(ii) A tax credit under this Subsection (4) may include installation costs.

(iii) A taxpayer ~~[may claim]~~ is eligible to claim a tax credit under this Subsection (4) for the taxable year in which the commercial energy system is completed and placed in service.

~~[(iv) A tax credit under this Subsection (4) may not be carried forward or carried back.]~~

~~[(v)]~~ (iv) The total amount of tax credit a taxpayer may claim under this Subsection (4) may not exceed \$50,000 per commercial unit.

(c) (i) Subject to Subsections (4)(c)(ii) and (iii), a taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the taxpayer ~~[confirms that the lessor irrevocably elects not to claim the tax credit]~~ obtains a written certification from the office in accordance with Subsection (8).

(ii) A taxpayer described in Subsection (4)(c)(i) may claim as a tax credit under this Subsection (4) only the principal recovery portion of the lease payments.

(iii) A taxpayer described in Subsection (4)(c)(i) may claim a tax credit under this Subsection (4) for a period that does not exceed seven taxable years after the ~~[date]~~ day on

which the lease begins, as stated in the lease agreement.

(5) (a) Subject to the other provisions of this Subsection (5), a taxpayer may claim a refundable tax credit under this Subsection (5) with respect to a commercial energy system if:

(i) (A) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or

(B) the commercial energy system uses solar equipment capable of producing a total of 2,000 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

~~[(iii) the commercial energy system is completed and placed in service on or after January 1, 2007; and]~~

(iii) the taxpayer has not claimed and will not claim a tax credit under Subsection (6) or (7) for fuel cell use or hydrogen production using electricity for which the taxpayer claims a tax credit under this Subsection (5); and

(iv) the taxpayer obtains a written certification from the office in accordance with Subsection ~~[(7)]~~ (8).

(b) (i) Subject to ~~[Subsections]~~ Subsection (5)(b)(ii) ~~[and (iii)]~~, a tax credit under this Subsection (5) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A taxpayer is eligible to claim a tax credit under this Subsection (5) ~~[may be claimed]~~ for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

~~[(iii) A tax credit under this Subsection (5) may not be carried forward or carried back.]~~

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (5) if the taxpayer ~~[confirms that the lessor irrevocably elects not to claim the tax credit]~~ obtains a written certification from the office in accordance with Subsection (8).

~~[(6) (a) Subject to the other provisions of this Subsection (6), a taxpayer may claim a~~

refundable tax credit as provided in this Subsection (6) if:]

~~[(i) the taxpayer owns a commercial energy system that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity;]~~

~~[(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or]~~

~~[(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;]~~

~~[(iii) the taxpayer does not claim a tax credit under Subsection (4);]~~

~~[(iv) the commercial energy system is completed and placed in service on or after January 1, 2015; and]~~

~~[(v) the taxpayer obtains a written certification from the office in accordance with Subsection (7).]~~

~~[(b) (i) Subject to Subsections (6)(b)(ii) and (iii), a tax credit under this Subsection (6) is equal to the product of:]~~

~~[(A) 0.35 cents; and]~~

~~[(B) the kilowatt hours of electricity produced and used or sold during the taxable year.]~~

~~[(ii) A tax credit under this Subsection (6) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.]~~

~~[(iii) A tax credit under this Subsection (6) may not be carried forward or carried back.]~~

~~[(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (6) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.]~~

(6) (a) A taxpayer may claim a nonrefundable tax credit as provided in this Subsection (6) if:

(i) the taxpayer owns a fuel cell that has a rated capacity for generating electricity of five megawatts or smaller;

(ii) the fuel cell is completed and placed in service in this state on or after January 1, 2022;

(iii) the fuel cell supplies all or part of the electricity required by commercial units

owned or used by the taxpayer;

(iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (4), (5), or (7) or Section [59-7-626](#) for electricity or hydrogen used to meet the requirements of this Subsection (6); and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsections (6)(b)(ii) through (iv), a tax credit under this Subsection (6) is equal to 10% of the reasonable costs of the fuel cell.

(ii) A tax credit under this Subsection (6) may include installation costs.

(iii) A taxpayer is eligible to claim a tax credit under this Subsection (6) for the taxable year in which the fuel cell is placed in service.

(iv) If the amount of a tax credit under this Subsection (6) exceeds a taxpayer's tax liability under this chapter for a taxable year, the taxpayer may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next four taxable years.

(c) (i) Subject to Subsections (6)(c)(ii) and (iii), a taxpayer that is a lessee of a fuel cell installed on a commercial unit may claim a tax credit under this Subsection (6) if the lessee obtains a written certification from the office in accordance with Subsection (8).

(ii) A taxpayer described in Subsection (6)(c)(i) may claim as a tax credit under this Subsection (6) only the principal recovery portion of the lease payments.

(iii) A taxpayer described in Subsection (6)(c)(i) may claim a tax credit under this Subsection (6) for a period that does not exceed seven taxable years after the day on which the lease begins, as stated in the lease agreement.

(7) (a) A taxpayer may claim a refundable tax credit as provided in this Subsection (7) if:

(i) the taxpayer owns a hydrogen production system;

(ii) the hydrogen production system is completed and placed in service on or after January 1, 2022;

(iii) the taxpayer sells as a commercial enterprise, or supplies for the taxpayer's own use in commercial units, the hydrogen produced from the hydrogen production system for use in:

(A) a vehicle; or

398 (B) a fuel cell that has a rated capacity for generating electricity of five megawatts or
399 less;

400 (iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (4),
401 (5), or (6) or Section 59-7-626 for electricity or hydrogen used to meet the requirements of this
402 Subsection (7); and

403 (v) the taxpayer obtains a written certification from the office in accordance with
404 Subsection (8).

405 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), a tax credit under this Subsection (7)
406 is equal to the product of:

407 (A) \$2.34; and

408 (B) the number of kilograms of hydrogen produced and stored, used, or sold during the
409 taxable year.

410 (ii) A taxpayer may not receive a tax credit under this Subsection (7) for more than 365
411 metric tons of hydrogen per taxable year.

412 (iii) A taxpayer is eligible to claim a tax credit under this Subsection (7) for production
413 occurring during a period of 48 months beginning with the month in which the hydrogen
414 production system is placed in commercial service.

415 (c) (i) Subject to Subsections (7)(c)(ii) and (iii), a taxpayer that is a lessee of a
416 hydrogen production system installed on a commercial unit may claim a tax credit under this
417 Subsection (7) if the lessee obtains a written certification from the office in accordance with
418 Subsection (8).

419 (ii) A taxpayer described in Subsection (7)(c)(i) may claim as a tax credit under this
420 Subsection (7) only the principal recovery portion of the lease payments.

421 (iii) A taxpayer described in Subsection (7)(c)(i) may claim a tax credit under this
422 Subsection (7) for a period that does not exceed seven taxable years after the day on which the
423 lease begins, as stated in the lease agreement.

424 [~~(7)~~] (8) (a) Before a taxpayer, including a lessee under Subsection (4), (5), (6), or (7),
425 may claim a tax credit under this section, the taxpayer shall obtain a written certification from
426 the office.

427 (b) The office shall issue a taxpayer that is not a lessee a written certification if the
428 office determines that:

(i) the taxpayer meets the requirements of this section to receive a tax credit; and

(ii) the residential energy system ~~[or]~~, the commercial energy system, the fuel cell, or the hydrogen production system with respect to which the taxpayer seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system ~~[or]~~, the commercial energy system, the fuel cell, or the hydrogen production system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(c) The office shall issue a taxpayer that is a lessee a written certification if the office receives:

(i) a copy of the lessor's written certification or other proof, in a form established by the office, that the lessor qualified for a tax credit under Subsection (4), (5), (6), or (7); and

(ii) proof that the lessor irrevocably elects not to claim the tax credit for which the lessor qualified.

~~[(e)]~~ (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a residential energy system ~~[or]~~, a commercial energy system, a fuel cell, or a hydrogen production system meets the requirements of Subsection ~~[(7)]~~ (8)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3) ~~[or]~~, (4), or (6), establishing the reasonable costs of a residential energy system ~~[or]~~, a commercial energy system, or a fuel cell, as an amount per unit of energy production.

~~[(d)]~~ (e) A taxpayer, including a lessee, that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

~~[(e)]~~ (f) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each taxpayer or lessee to which the office issues a written certification; and

(ii) for each taxpayer or lessee:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the renewable energy system was installed.

~~[(8)]~~ (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

~~[(9)]~~ (10) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

Section 3. Section **59-7-619** is amended to read:

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 4. Section **59-7-626** is enacted to read:

59-7-626. Refundable tax credit for nonrenewable hydrogen production system.

(1) As used in this section:

(a) "Commercial enterprise" means an entity, the purpose of which is to produce

522 hydrogen for sale from a hydrogen production system.

523 (b) "Commercial unit" means a building or structure that an entity uses to transact
524 business.

525 (c) "Hydrogen production system" means a system of apparatus and equipment, located
526 in this state, that produces hydrogen from nonrenewable sources.

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

528 (2) (a) A taxpayer may claim a refundable credit under this section if:

529 (i) the taxpayer owns a hydrogen production system;

530 (ii) the hydrogen production system is completed and placed in service on or after
531 January 1, 2022;

532 (iii) the taxpayer sells as a commercial enterprise, or supplies for the taxpayer's own
533 use in commercial units, the hydrogen produced from the hydrogen production system for use
534 in:

535 (A) a vehicle; or

536 (B) a fuel cell that has a rated capacity for generating electricity of five megawatts or
537 less;

538 (iv) the taxpayer has not claimed and will not claim a tax credit under Section [59-7-614](#)
539 for electricity or hydrogen used to meet the requirements of this section; and

540 (v) the taxpayer obtains a written certification from the office in accordance with
541 Subsection (3).

542 (b) (i) Subject to Subsections (2)(b)(ii) and (iii), a tax credit under this section is equal
543 to the product of:

544 (A) \$2.34; and

545 (B) the number of kilograms of hydrogen produced and stored, used, or sold during the
546 taxable year.

547 (ii) A taxpayer may not receive a tax credit under this section for more than 365 metric
548 tons of hydrogen per taxable year.

549 (iii) A taxpayer is eligible to claim a tax credit under this section for production
550 occurring during a period of 48 months beginning with the month in which the hydrogen
551 production system is placed in commercial service.

552 (c) (i) Subject to Subsections (2)(c)(ii) and (iii), a taxpayer that is a lessee of a

hydrogen production system installed on a commercial unit may claim a tax credit under this section if the lessee obtains a written certification from the office in accordance with Subsection (3).

(ii) A taxpayer described in Subsection (2)(c)(i) may claim as a tax credit under this section only the principal recovery portion of the lease payments.

(iii) A taxpayer described in Subsection (2)(c)(i) may claim a tax credit under this section for a period that does not exceed seven taxable years after the day on which the lease begins, as stated in the lease agreement.

(3) (a) Before a taxpayer, including a lessee, may claim a tax credit under this section, the taxpayer shall obtain a written certification from the office.

(b) The office shall issue a taxpayer that is not a lessee a written certification if the office determines that:

(i) the taxpayer meets the requirements of this section to receive a tax credit; and

(ii) the hydrogen production system with respect to which the taxpayer seeks to claim a tax credit:

(A) has been completely installed; and

(B) is safe, reliable, efficient, and technically feasible to ensure that the hydrogen production system uses the state's nonrenewable energy resources in an appropriate and economic manner.

(c) The office shall issue a taxpayer that is a lessee a written certification if the office receives:

(i) a copy of the lessor's written certification or other proof, in a form established by the office, that the lessor qualified for a tax credit under this section; and

(ii) proof that the lessor irrevocably elects not to claim the tax credit for which the lessor qualified.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules for determining whether a hydrogen production system meets the requirements of Subsection (3)(b)(ii).

(e) A taxpayer, including a lessee, that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section [59-1-1406](#).

(f) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each taxpayer or lessee to which the office issues a written certification; and

(ii) for each taxpayer or lessee:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the hydrogen production system was installed.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(5) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

Section 5. Section **59-10-137** is amended to read:

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

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

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

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

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

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

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

(B) invite the Office of the Legislative Fiscal Analyst to present a summary and analysis of the information for each tax credit regarding which the Office of the Legislative 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 59-10-1004;
- (ii) Section 59-10-1010;
- (iii) Section 59-10-1015;
- (iv) Section 59-10-1025;
- (v) Section 59-10-1027;
- (vi) Section 59-10-1031;
- (vii) Section 59-10-1032;
- (viii) Section 59-10-1035;
- (ix) Section 59-10-1104;
- (x) Section 59-10-1105; and
- (xi) Section 59-10-1108.

(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 59-10-1005;
- (ii) Section 59-10-1006;
- (iii) Section 59-10-1012;
- (iv) Section 59-10-1022;
- (v) Section 59-10-1023;
- (vi) Section 59-10-1028;
- (vii) Section 59-10-1034;
- (viii) Section 59-10-1037;
- (ix) Section 59-10-1107; and
- (x) Section 59-10-1112.

(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 59-10-1007;
- (ii) Section 59-10-1014;
- (iii) Section 59-10-1017;
- (iv) Section 59-10-1018;
- (v) Section 59-10-1019;
- (vi) Section 59-10-1024;
- ~~[(vii) Section 59-10-1029;]~~
- ~~[(viii)]~~ (vii) Section 59-10-1033;
- ~~[(ix)]~~ (viii) Section 59-10-1036;
- ~~[(x)]~~ (ix) Section 59-10-1106; and
- ~~[(xi)]~~ (x) Section 59-10-1111.

(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 6. Section 59-10-1014 is amended to read:

59-10-1014. Nonrefundable renewable energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) (i) "Active solar system" means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and

(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.

(ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102; and

(ii) transporting the biomass energy by separate apparatus to the point of use or storage.

(c) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.

(d) "Fuel cell" means the same as that term is defined in Section [59-7-614](#).

~~[(d)]~~ (e) "Geothermal electricity" means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

~~[(e)]~~ (f) "Geothermal energy" means energy generated by heat that is contained in the earth.

~~[(f)]~~ (g) "Geothermal heat pump system" means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

~~[(g)]~~ (h) "Hydroenergy system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

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

~~[(i)]~~ (j) (i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.

(ii) "Passive solar system" includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

~~[(j)]~~ (k) "Photovoltaic system" means an active solar system that generates electricity from sunlight.

~~[(k)]~~ (l) (i) "Principal recovery portion" means the portion of a lease payment that

constitutes the cost a person incurs in acquiring a residential energy system.

(ii) "Principal recovery portion" does not include:

(A) an interest charge; or

(B) a maintenance expense.

~~[(H)]~~ (m) "Residential energy system" means the following used to supply energy to or for a residential unit:

(i) an active solar system;

(ii) a biomass system;

(iii) a direct use geothermal system;

(iv) a geothermal heat pump system;

(v) a hydroenergy system;

(vi) a passive solar system; or

(vii) a wind system.

~~[(m)]~~ (n) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling unit that:

(A) is located in the state; and

(B) serves as a dwelling for a person, group of persons, or a family.

(ii) "Residential unit" does not include property subject to a fee under:

(A) Section 59-2-405;

(B) Section 59-2-405.1;

(C) Section 59-2-405.2;

(D) Section 59-2-405.3; or

(E) Section 72-10-110.5.

~~[(n)]~~ (o) "Wind system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use or storage.

(2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

~~[(3) For a taxable year beginning on or after January 1, 2007, a]~~

(3) (a) A claimant, estate, or trust may claim a nonrefundable tax credit under this

[section] Subsection (3) with respect to a residential unit the claimant, estate, or trust owns or uses if:

~~[(a)]~~ (i) the claimant, estate, or trust:

~~[(i)]~~ (A) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

~~[(ii)]~~ (B) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit; and

~~[(b) the residential energy system is installed on or after January 1, 2007; and]~~

~~[(c)]~~ (ii) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (5).

~~[(4)(a)]~~ (b) For a residential energy system, other than a photovoltaic system, the tax credit described in this section is equal to the lesser of:

(i) 25% of the reasonable costs, including installation costs, of each residential energy system installed with respect to each residential unit the claimant, estate, or trust owns or uses; and

(ii) \$2,000.

~~[(b) Subject to Subsection (5)(d), for]~~

(c) For a residential energy system that is a photovoltaic system, the tax credit described in this section is equal to the lesser of:

(i) 25% of the reasonable costs, including installation costs, of each system installed with respect to each residential unit the claimant, estate, or trust owns or uses; or

(ii) (A) for a system installed on or after January 1, 2007, but on or before December 31, 2017, \$2,000;

(B) for a system installed on or after January 1, 2018, but on or before December 31, 2020, \$1,600;

(C) for a system installed on or after January 1, 2021, but on or before December 31, 2021, \$1,200;

(D) for a system installed on or after January 1, 2022, but on or before December 31, 2022, \$800;

(E) for a system installed on or after January 1, 2023, but on or before December 31, 2023, \$400; and

(F) for a system installed on or after January 1, 2024, \$0.

~~[(e)]~~ (d) (i) The office shall determine the amount of the tax credit that a claimant, estate, or trust may claim and list that amount on the written certification that the office issues under Subsection (5).

(ii) The claimant, estate, or trust may claim the tax credit in the amount listed on the written certification that the office issues under Subsection (5).

~~[(d)]~~ (e) A claimant, estate, or trust may claim a tax credit under this Subsection (3) for the taxable year in which the residential energy system is installed.

~~[(e)]~~ (f) If the amount of a tax credit listed on the written certification exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next four taxable years.

~~[(f)]~~ (g) A claimant, estate, or trust may claim a tax credit with respect to additional residential energy systems or parts of residential energy systems for a subsequent taxable year if the total amount of tax credit the claimant, estate, or trust claims does not exceed \$2,000 per residential unit.

~~[(g)]~~ (h) (i) Subject to Subsections ~~[(4)(g)(i)]~~ (3)(h)(ii) and (iii), a claimant, estate, or trust that leases a residential energy system installed on a residential unit may claim a tax credit under this Subsection (3) if the claimant, estate, or trust ~~[confirms that the lessor irrevocably elects not to claim the tax credit]~~ obtains a written certification in accordance with Subsection (5).

(ii) A claimant, estate, or trust described in Subsection ~~[(4)(g)(i)]~~ (3)(h)(i) that leases a residential energy system may claim as a tax credit under this Subsection (3) only the principal recovery portion of the lease payments.

(iii) A claimant, estate, or trust described in Subsection ~~[(4)(g)(i)]~~ (3)(h)(i) that leases a residential energy system may claim a tax credit under this Subsection (3) for a period that does not exceed seven taxable years ~~[after the date]~~ from the day on which the lease begins, as stated in the lease agreement.

~~[(h)]~~ (i) If a claimant, estate, or trust sells a residential unit to another person before the claimant, estate, or trust claims the tax credit under this Subsection (3):

(i) the claimant, estate, or trust may assign the tax credit to the other person; and

(ii) (A) if the other person files a return under Chapter 7, Corporate Franchise and Income Taxes, the other person may claim the tax credit as if the other person had met the requirements of Section 59-7-614 to claim the tax credit; or

(B) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit.

(4) (a) A claimant, estate, or trust may claim a nonrefundable tax credit as provided in this Subsection (4) if:

(i) the claimant, estate, or trust owns a fuel cell that has a rated capacity for generating electricity of five megawatts or smaller;

(ii) the fuel cell is completed and placed in service in this state on or after January 1, 2022;

(iii) the fuel cell supplies all or part of the electricity required by commercial units owned or used by the claimant, estate, or trust;

(iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection 59-10-1106(3), (4), or (5) or Section 59-10-1113 for electricity or hydrogen used to meet the requirements of this Subsection (4); and

(v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (5).

(b) (i) Subject to Subsections (4)(b)(ii) through (iv), a tax credit under this Subsection (4) is equal to 10% of the reasonable costs of the fuel cell.

(ii) A tax credit under this Subsection (4) may include installation costs.

(iii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (4) for the taxable year in which the fuel cell is placed in service.

(iv) If the amount of a tax credit listed on the written certification exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next four taxable years.

(c) (i) Subject to Subsections (4)(c)(ii) and (iii), a claimant, estate, or trust that is a lessee of a fuel cell installed on a commercial unit may claim a tax credit under this Subsection (4) if the lessee obtains a written certification from the office in accordance with Subsection

832 (5).

833 (ii) A claimant, estate, or trust described in Subsection (4)(c)(i) may claim as a tax
834 credit under this Subsection (4) only the principal recovery portion of the lease payments.

835 (iii) A claimant, estate, or trust described in Subsection (4)(c)(i) may claim a tax credit
836 under this Subsection (4) for a period that does not exceed seven taxable years after the day on
837 which the lease begins, as stated in the lease agreement.

838 (5) (a) Before a claimant, estate, or trust, including a lessee, may claim a tax credit
839 under this section, the claimant, estate, or trust shall obtain a written certification from the
840 office.

841 (b) The office shall issue a claimant, estate, or trust that is not a lessee a written
842 certification if the office determines that:

843 (i) the claimant, estate, or trust meets the requirements of this section to receive a tax
844 credit; and

845 (ii) the office determines that the residential energy system or the fuel cell with respect
846 to which the claimant, estate, or trust seeks to claim a tax credit:

847 (A) has been completely installed;

848 (B) is a viable system for saving or producing energy from renewable resources; and

849 (C) is safe, reliable, efficient, and technically feasible to ensure that the residential
850 energy system or the fuel cell uses the state's renewable and nonrenewable energy resources in
851 an appropriate and economic manner.

852 (c) The office shall issue a claimant, estate, or trustee that is a lessee a written
853 certification if the office receives:

854 (i) a copy of the lessor's written certification or other proof, in a form established by the
855 office, that the lessor qualified for a tax credit under this section; and

856 (ii) proof that the lessor irrevocably elects not to claim the tax credit for which the
857 lessor qualified.

858 ~~[(c)]~~ (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
859 Act, the office may make rules:

860 (i) for determining whether a residential energy system or a fuel cell meets the
861 requirements of Subsection (5)(b)(ii); and

862 (ii) for purposes of determining the amount of a tax credit that a claimant, estate, or

trust may receive under Subsection (3) or (4), establishing the reasonable costs of a residential energy system or a fuel cell, as an amount per unit of energy production.

~~[(d)]~~(e) A claimant, estate, or trust, including a lessee, that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

~~[(e)]~~(f) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each claimant, estate, ~~[or]~~ trust, or lessee to which the office issues a written certification; and

(ii) for each claimant, estate, ~~[or]~~ trust, or lessee:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the renewable energy system or the fuel cell was installed.

(6) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

(7) A purchaser of one or more solar units that claims a tax credit under Section 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

Section 7. Section **59-10-1034** is amended to read:

59-10-1034. Nonrefundable high cost infrastructure development tax credit.

(1) As used in this section:

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

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

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

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

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

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63M, Chapter 4, Part 6, High Cost

894 Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the
895 taxable year.

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

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

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

902 (5) (a) In accordance with Section [59-10-137](#), the Revenue and Taxation Interim
903 Committee shall study the tax credit allowed by this section and make recommendations
904 concerning whether the tax credit should be continued, modified, or repealed.

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

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

910 (B) the infrastructure-related revenue generated by each high cost infrastructure
911 project;

912 (C) the information contained in the office's latest report under Section [~~63M-4-505~~]
913 [63M-4-605](#); and

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

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

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

922 (c) As part of the study required by this Subsection (5), the Office of the Legislative
923 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and
924 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the

925 office under Subsection (5)(b).

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

- 928 (i) the cost of the tax credit to the state;
- 929 (ii) the purpose and effectiveness of the tax credit; and
- 930 (iii) the extent to which the state benefits from the tax credit.

931 Section 8. Section **59-10-1106** is amended to read:

932 **59-10-1106. Refundable renewable energy systems tax credits -- Definitions --**

933 **Certification -- Rulemaking authority.**

934 (1) As used in this section:

935 (a) "Active solar system" means the same as that term is defined in Section
936 [59-10-1014](#).

937 (b) "Biomass system" means the same as that term is defined in Section [59-10-1014](#).

938 (c) "Commercial energy system" means the same as that term is defined in Section
939 [59-7-614](#).

940 (d) "Commercial enterprise" means the same as that term is defined in Section
941 [59-7-614](#).

942 (e) ~~[(f)]~~ (f) "Commercial unit" means the same as that term is defined in Section [59-7-614](#).

943 ~~[(ii) Notwithstanding Subsection (1)(c)(i):]~~

944 ~~[(A) with respect to an active solar system used for agricultural water pumping or a~~
945 ~~wind system, each individual energy generating device is considered to be a commercial unit;~~
946 ~~or]~~

947 ~~[(B) if an energy system is the building or structure that a claimant, estate, or trust uses~~
948 ~~to transact business, a commercial unit is the complete energy system itself.]~~

949 (f) "Direct use geothermal system" means the same as that term is defined in Section
950 [59-10-1014](#).

951 (g) "Fuel cell" means the same as that term is defined in Section [59-7-614](#).

952 ~~[(g)]~~ (h) "Geothermal electricity" means the same as that term is defined in Section
953 [59-10-1014](#).

954 ~~[(h)]~~ (i) "Geothermal energy" means the same as that term is defined in Section
955 [59-10-1014](#).

956 ~~[(i)]~~ (j) "Geothermal heat pump system" means the same as that term is defined in
957 Section [59-10-1014](#).

958 ~~[(j)]~~ (k) "Hydroenergy system" means the same as that term is defined in Section
959 [59-10-1014](#).

960 (l) "Hydrogen production system" means the same as that term is defined in Section
961 [59-7-614](#).

962 ~~[(k)]~~ (m) "Office" means the Office of Energy Development created in Section
963 [63M-4-401](#).

964 ~~[(l)]~~ (n) "Passive solar system" means the same as that term is defined in Section
965 [59-10-1014](#).

966 ~~[(m)]~~ (o) "Principal recovery portion" means the same as that term is defined in Section
967 [59-10-1014](#).

968 ~~[(n)]~~ (p) "Wind system" means the same as that term is defined in Section [59-10-1014](#).

969 (2) A claimant, estate, or trust may claim an energy system tax credit as provided in
970 this section against a tax due under this chapter for a taxable year.

971 (3) (a) Subject to the other provisions of this Subsection (3), a claimant, estate, or trust
972 may claim a refundable tax credit under this Subsection (3) with respect to a commercial
973 energy system if:

974 (i) the commercial energy system does not use:

975 (A) wind, geothermal electricity, ~~[solar,]~~ or biomass equipment capable of producing a
976 total of 660 or more kilowatts of electricity; or

977 (B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

978 (ii) the claimant, estate, or trust purchases or participates in the financing of the
979 commercial energy system;

980 (iii) (A) the commercial energy system supplies all or part of the energy required by
981 commercial units owned or used by the claimant, estate, or trust; or

982 (B) the claimant, estate, or trust sells all or part of the energy produced by the
983 commercial energy system as a commercial enterprise;

984 ~~[(iv) the commercial energy system is completed and placed in service on or after~~
985 ~~January 1, 2007; and]~~

986 (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under

Subsection (5) or Subsection 59-10-1014(4) for fuel cell use or hydrogen production using electricity for which the claimant, estate, or trust claims a tax credit under this Subsection (3); and

(v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (6).

(b) (i) Subject to Subsections (3)(b)(ii) through ~~[(v)]~~ (iv), the tax credit is equal to 10% of the reasonable costs of the commercial energy system.

(ii) A tax credit under this Subsection (3) may include installation costs.

(iii) A claimant, estate, or trust ~~[may claim]~~ is eligible to claim a tax credit under this Subsection (3) for the taxable year in which the commercial energy system is completed and placed in service.

~~[(iv) A tax credit under this Subsection (3) may not be carried forward or carried back.]~~

~~[(v)]~~ (iv) The total amount of tax credit a claimant, estate, or trust may claim under this Subsection (3) may not exceed \$50,000 per commercial unit.

(c) (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (3) if the claimant, estate, or trust ~~[confirms that the lessor irrevocably elects not to claim the tax credit]~~ obtains a written certification from the office in accordance with Subsection (6).

(ii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim as a tax credit under this Subsection (3) only the principal recovery portion of the lease payments.

(iii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim a tax credit under this Subsection (3) for a period that does not exceed seven taxable years after the ~~[date]~~ day on which the lease begins, as stated in the lease agreement.

(4) (a) Subject to the other provisions of this Subsection (4), a claimant, estate, or trust may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

(i) (A) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or

(B) the commercial energy system uses solar equipment capable of producing a total of 2,000 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise; and

~~[(iii) the commercial energy system is completed and placed in service on or after January 1, 2007; and]~~

(iii) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (5) or Subsection 59-10-1014(4) for fuel cell use or hydrogen production using electricity for which the claimant, estate, or trust claims a tax credit under this Subsection (4); and

(iv) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (6).

(b) (i) Subject to ~~[Subsections]~~ Subsection (4)(b)(ii) ~~[and (iii)]~~, a tax credit under this Subsection (4) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (4) ~~[may be claimed]~~ for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

~~[(iii) A tax credit under this Subsection (4) may not be carried forward or back.]~~

(c) A claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the claimant, estate, or trust ~~[confirms that the lessor irrevocably elects not to claim the tax credit]~~ obtains a written certification from the office in accordance with Subsection (6).

~~[(5)(a) Subject to the other provisions of this Subsection (5), a claimant, estate, or trust may claim a refundable tax credit as provided in this Subsection (5) if:]~~

~~[(i) the claimant, estate, or trust owns a commercial energy system that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity;]~~

~~[(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or]~~

~~[(B) the claimant, estate, or trust sells all or part of the energy produced by the~~

1049 commercial energy system as a commercial enterprise;]
1050 ~~[(iii) the claimant, estate, or trust does not claim a tax credit under Subsection (3);]~~
1051 ~~[(iv) the commercial energy system is completed and placed in service on or after~~
1052 ~~January 1, 2015; and]~~
1053 ~~[(v) the claimant, estate, or trust obtains a written certification from the office in~~
1054 ~~accordance with Subsection (6).]~~
1055 ~~[(b) (i) Subject to Subsections (5)(b)(ii) and (iii), a tax credit under this Subsection (5)~~
1056 ~~is equal to the product of:]~~
1057 ~~[(A) 0.35 cents; and]~~
1058 ~~[(B) the kilowatt hours of electricity produced and used or sold during the taxable~~
1059 ~~year.]~~
1060 ~~[(ii) A tax credit under this Subsection (5) may be claimed for production occurring~~
1061 ~~during a period of 48 months beginning with the month in which the commercial energy~~
1062 ~~system is placed in commercial service.]~~
1063 ~~[(iii) A tax credit under this Subsection (5) may not be carried forward or carried back.]~~
1064 ~~[(c) A claimant, estate, or trust that is a lessee of a commercial energy system installed~~
1065 ~~on a commercial unit may claim a tax credit under this Subsection (5) if the claimant, estate, or~~
1066 ~~trust confirms that the lessor irrevocably elects not to claim the tax credit.]~~
1067 (5) (a) A claimant, estate, or trust may claim a refundable tax credit as provided in this
1068 Subsection (5) if:
1069 (i) the claimant, estate, or trust owns a hydrogen production system;
1070 (ii) the hydrogen production system is completed and placed in service on or after
1071 January 1, 2022;
1072 (iii) the claimant, estate, or trust sells as a commercial enterprise, or supplies for the
1073 claimant's, estate's, or trust's own use in commercial units, the hydrogen produced from the
1074 hydrogen production system for use in:
1075 (A) a vehicle; or
1076 (B) a fuel cell that has a rated capacity for generating electricity of five megawatts or
1077 less;
1078 (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under
1079 Subsection (3), (4), or 59-10-1014(4) or Section 59-10-1113 for electricity or hydrogen used to

1080 meet the requirements of this Subsection (5); and

1081 (v) the claimant, estate, or trust obtains a written certification from the office in
1082 accordance with Subsection (6).

1083 (b) (i) Subject to Subsections (5)(b)(ii) and (iii), a tax credit under this Subsection (5)
1084 is equal to the product of:

1085 (A) \$2.34; and

1086 (B) the number of kilograms of hydrogen produced and stored, used, or sold during the
1087 taxable year.

1088 (ii) A claimant, estate, or trust may not receive a tax credit under this Subsection (5) for
1089 more than 365 metric tons of hydrogen per taxable year.

1090 (iii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (5)
1091 for production occurring during a period of 48 months beginning with the month in which the
1092 hydrogen production system is placed in commercial service.

1093 (c) (i) Subject to Subsections (5)(c)(ii) and (iii), a claimant, estate, or trust that is a
1094 lessee of a hydrogen production system installed on a commercial unit may claim a tax credit
1095 under this Subsection (5) if the lessee obtains a written certification from the office in
1096 accordance with Subsection (6).

1097 (ii) A claimant, estate, or trust described in Subsection (5)(c)(i) may claim as a tax
1098 credit under this Subsection (5) only the principal recovery portion of the lease payments.

1099 (iii) A claimant, estate, or trust described in Subsection (5)(c)(i) may claim a tax credit
1100 under this Subsection (5) for a period that does not exceed seven taxable years after the day on
1101 which the lease begins, as stated in the lease agreement.

1102 (6) (a) Before a claimant, estate, or trust, including a lessee, may claim a tax credit
1103 under this section, the claimant, estate, or trust shall obtain a written certification from the
1104 office.

1105 (b) The office shall issue a claimant, estate, or trust that is not a lessee a written
1106 certification if the office determines that:

1107 (i) the claimant, estate, or trust meets the requirements of this section to receive a tax
1108 credit; and

1109 (ii) ~~[the office determines that]~~ the commercial energy system or the hydrogen
1110 production system with respect to which the claimant, estate, or trust seeks to claim a tax

1111 credit:

1112 (A) has been completely installed;

1113 (B) is a viable system for saving or producing energy from renewable resources; and

1114 (C) is safe, reliable, efficient, and technically feasible to ensure that the commercial
1115 energy system or the hydrogen production system uses the state's renewable and nonrenewable
1116 resources in an appropriate and economic manner.

1117 (c) The office shall issue a claimant, estate, or trust that is a lessee a written
1118 certification if the office receives:

1119 (i) a copy of the lessor's written certification or other proof, in a form established by the
1120 office, that the lessor qualified for a tax credit under this section; and

1121 (ii) proof that the lessor irrevocably elects not to claim the tax credit for which the
1122 lessor qualified.

1123 ~~[(c)]~~ (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
1124 Act, the office may make rules:

1125 (i) for determining whether a commercial energy system or a hydrogen production
1126 system meets the requirements of Subsection (6)(b)(ii); and

1127 (ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs
1128 of a commercial energy system, as an amount per unit of energy production.

1129 ~~[(d)]~~ (e) A claimant, estate, or trust, including a lessee, that obtains a written
1130 certification from the office shall retain the certification for the same time period a person is
1131 required to keep books and records under Section [59-1-1406](#).

1132 (f) The office shall submit to the commission an electronic list that includes:

1133 (i) the name and identifying information of each claimant, estate, trust, or lessee to
1134 which the office issues a written certification; and

1135 (ii) for each claimant, estate, trust, or lessee:

1136 (A) the amount of the tax credit listed on the written certification; and

1137 (B) the date the commercial energy system or the hydrogen production system was
1138 installed.

1139 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1140 commission may make rules to address the certification of a tax credit under this section.

1141 (8) A tax credit under this section is in addition to any tax credits provided under the

laws or rules and regulations of the United States.

(9) A purchaser of one or more solar units that claims a tax credit under Section [59-10-1024](#) for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

Section 9. Section **59-10-1113** is enacted to read:

59-10-1113. Refundable tax credit for nonrenewable hydrogen production system.

(1) As used in this section:

(a) "Commercial enterprise" means the same as that term is defined in Section [59-7-626](#).

(b) "Commercial unit" means the same as that term is defined in Section [59-7-626](#).

(c) "Hydrogen production system" means the same as that term is defined in Section [59-7-626](#).

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

(2) (a) A claimant, estate, or trust may claim a refundable credit under this section if:

(i) the claimant, estate, or trust owns a hydrogen production system;

(ii) the hydrogen production system is completed and placed in service on or after January 1, 2022;

(iii) the claimant, estate, or trust sells as a commercial enterprise, or supplies for the claimant's, estate's, or trust's own use in commercial units, the hydrogen produced from the hydrogen production system for use in:

(A) a vehicle; or

(B) a fuel cell that has a rated capacity for generating electricity of five megawatts or less;

(iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Section [59-10-1014](#) or [59-10-1106](#) for electricity or hydrogen used to meet the requirements of this section; and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (3).

(b) (i) Subject to Subsections (2)(b)(ii) and (iii), a tax credit under this section is equal to the product of:

(A) \$2.34; and

1173 (B) the number of kilograms of hydrogen produced and stored, used, or sold during the
1174 taxable year.

1175 (ii) A claimant, estate, or trust may not receive a tax credit under this section for more
1176 than 365 metric tons of hydrogen per taxable year.

1177 (iii) A claimant, estate, or trust is eligible to claim a tax credit under this section for
1178 production occurring during a period of 48 months beginning with the month in which the
1179 hydrogen production system is placed in commercial service.

1180 (c) (i) Subject to Subsections (2)(c)(ii) and (iii), a claimant, estate, or trust that is a
1181 lessee of a hydrogen production system installed on a commercial unit may claim a tax credit
1182 under this section if the lessee obtains a written certification from the office in accordance with
1183 Subsection (3).

1184 (ii) A claimant, estate, or trust described in Subsection (2)(c)(i) may claim as a tax
1185 credit under this section only the principal recovery portion of the lease payments.

1186 (iii) A claimant, estate, or trust described in Subsection (2)(c)(i) may claim a tax credit
1187 under this section for a period that does not exceed seven taxable years after the day on which
1188 the lease begins, as stated in the lease agreement.

1189 (3) (a) Before a claimant, estate, or trust, including a lessee, may claim a tax credit
1190 under this section, the claimant, estate, or trust shall obtain a written certification from the
1191 office.

1192 (b) The office shall issue a claimant, estate, or trust that is not a lessee a written
1193 certification if the office determines that:

1194 (i) the claimant, estate, or trust meets the requirements of this section to receive a tax
1195 credit; and

1196 (ii) the hydrogen production system with respect to which the claimant, estate, or trust
1197 seeks to claim a tax credit:

1198 (A) has been completely installed;

1199 (B) is safe, reliable, efficient, and technically feasible to ensure that the
1200 hydrogen production system uses the state's nonrenewable energy resources in an
1201 appropriate and economic manner.

1202 (c) The office shall issue a claimant, estate, or trust that is a lessee a written
1203 certification if the office receives:

(i) a copy of the lessor's written certification or other proof, in a form established by the office, that the lessor qualified for a tax credit under this section; and

(ii) proof that the lessor irrevocably elects not to claim the tax credit for which the lessor qualified.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules for determining whether a hydrogen production system meets the requirements of this Subsection (3)(b)(ii).

(e) A claimant, estate, or trust, including a lessee, that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section [59-1-1406](#).

(f) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each claimant, estate, trust, or lessee to which the office issues a written certification; and

(ii) for each claimant, estate, trust, or lessee:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the hydrogen production system was installed.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(5) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

Section 10. Section **59-12-102** is amended to read:

59-12-102. Definitions.

As used in this chapter:

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

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

(b) is typically marketed:

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

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

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

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

1235 (v) under the name 888 toll-free calling; or
1236 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
1237 Federal Communications Commission.

1238 (2) (a) "900 service" means an inbound toll telecommunications service that:
1239 (i) a subscriber purchases;
1240 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
1241 the subscriber's:

1242 (A) prerecorded announcement; or
1243 (B) live service; and
1244 (iii) is typically marketed:
1245 (A) under the name 900 service; or
1246 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
1247 Communications Commission.

1248 (b) "900 service" does not include a charge for:
1249 (i) a collection service a seller of a telecommunications service provides to a
1250 subscriber; or
1251 (ii) the following a subscriber sells to the subscriber's customer:
1252 (A) a product; or
1253 (B) a service.

1254 (3) (a) "Admission or user fees" includes season passes.
1255 (b) "Admission or user fees" does not include:
1256 (i) annual membership dues to private organizations; or
1257 (ii) a lesson, including a lesson that involves as part of the lesson equipment or a
1258 facility listed in Subsection [59-12-103](#)(1)(f).

1259 (4) "Affiliate" or "affiliated person" means a person that, with respect to another
1260 person:
1261 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
1262 person; or
1263 (b) is related to the other person because a third person, or a group of third persons who
1264 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,
1265 whether direct or indirect, in the related persons.

1266 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
1267 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
1268 Agreement after November 12, 2002.

1269 (6) "Agreement combined tax rate" means the sum of the tax rates:

1270 (a) listed under Subsection (7); and

1271 (b) that are imposed within a local taxing jurisdiction.

1272 (7) "Agreement sales and use tax" means a tax imposed under:

1273 (a) Subsection 59-12-103(2)(a)(i)(A);

1274 (b) Subsection 59-12-103(2)(b)(i);

1275 (c) Subsection 59-12-103(2)(c)(i);

1276 (d) Subsection 59-12-103(2)(d)(i)(A)(I);

1277 (e) Section 59-12-204;

1278 (f) Section 59-12-401;

1279 (g) Section 59-12-402;

1280 (h) Section 59-12-402.1;

1281 (i) Section 59-12-703;

1282 (j) Section 59-12-802;

1283 (k) Section 59-12-804;

1284 (l) Section 59-12-1102;

1285 (m) Section 59-12-1302;

1286 (n) Section 59-12-1402;

1287 (o) Section 59-12-1802;

1288 (p) Section 59-12-2003;

1289 (q) Section 59-12-2103;

1290 (r) Section 59-12-2213;

1291 (s) Section 59-12-2214;

1292 (t) Section 59-12-2215;

1293 (u) Section 59-12-2216;

1294 (v) Section 59-12-2217;

1295 (w) Section 59-12-2218;

1296 (x) Section 59-12-2219; or

- 1297 (y) Section 59-12-2220.
- 1298 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 1299 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 1300 (a) except for:
- 1301 (i) an airline as defined in Section 59-2-102; or
- 1302 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 1303 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 1304 state, of an airline; and
- 1305 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 1306 whether the business entity performs the following in this state:
- 1307 (i) check, diagnose, overhaul, and repair:
- 1308 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 1309 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 1310 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 1311 engine;
- 1312 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 1313 aircraft:
- 1314 (A) an inspection;
- 1315 (B) a repair, including a structural repair or modification;
- 1316 (C) changing landing gear; and
- 1317 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 1318 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 1319 completely apply new paint to the fixed wing turbine powered aircraft; and
- 1320 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 1321 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 1322 authority that certifies the fixed wing turbine powered aircraft.
- 1323 (10) "Alcoholic beverage" means a beverage that:
- 1324 (a) is suitable for human consumption; and
- 1325 (b) contains .5% or more alcohol by volume.
- 1326 (11) "Alternative energy" means:
- 1327 (a) biomass energy;

- 1328 (b) hydrogen fuel cell system energy;
1329 [~~(b)~~] (c) geothermal energy;
1330 [~~(c)~~] (d) hydroelectric energy;
1331 [~~(d)~~] (e) solar energy;
1332 [~~(e)~~] (f) wind energy; or
1333 [~~(f)~~] (g) energy that is derived from:
1334 (i) coal-to-liquids;
1335 (ii) nuclear fuel;
1336 (iii) oil-impregnated diatomaceous earth;
1337 (iv) oil sands;
1338 (v) oil shale;
1339 (vi) petroleum coke; or
1340 (vii) waste heat from:
1341 (A) an industrial facility; or
1342 (B) a power station in which an electric generator is driven through a process in which
1343 water is heated, turns into steam, and spins a steam turbine.
1344 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production
1345 facility" means a facility that:
1346 (i) uses alternative energy to produce electricity; and
1347 (ii) has a production capacity of two megawatts or greater.
1348 (b) A facility is an alternative energy electricity production facility regardless of
1349 whether the facility is:
1350 (i) connected to an electric grid; or
1351 (ii) located on the premises of an electricity consumer.
1352 (13) (a) "Ancillary service" means a service associated with, or incidental to, the
1353 provision of telecommunications service.
1354 (b) "Ancillary service" includes:
1355 (i) a conference bridging service;
1356 (ii) a detailed communications billing service;
1357 (iii) directory assistance;
1358 (iv) a vertical service; or

1359 (v) a voice mail service.

1360 (14) "Area agency on aging" means the same as that term is defined in Section

1361 62A-3-101.

1362 (15) "Assisted amusement device" means an amusement device, skill device, or ride
1363 device that is started and stopped by an individual:

1364 (a) who is not the purchaser or renter of the right to use or operate the amusement
1365 device, skill device, or ride device; and

1366 (b) at the direction of the seller of the right to use the amusement device, skill device,
1367 or ride device.

1368 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or
1369 washing of tangible personal property if the cleaning or washing labor is primarily performed
1370 by an individual:

1371 (a) who is not the purchaser of the cleaning or washing of the tangible personal
1372 property; and

1373 (b) at the direction of the seller of the cleaning or washing of the tangible personal
1374 property.

1375 (17) "Authorized carrier" means:

1376 (a) in the case of vehicles operated over public highways, the holder of credentials
1377 indicating that the vehicle is or will be operated pursuant to both the International Registration
1378 Plan and the International Fuel Tax Agreement;

1379 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
1380 certificate or air carrier's operating certificate; or

1381 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
1382 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
1383 stock in more than one state.

1384 (18) (a) [~~Except as provided in Subsection (18)(b), "biomass"~~] "Biomass energy" means
1385 any of the following that is used as the primary source of energy to produce fuel or electricity:

1386 (i) material from a plant or tree; or

1387 (ii) other organic matter that is available on a renewable basis, including:

1388 (A) slash and brush from forests and woodlands;

1389 (B) animal waste;

1390 (C) waste vegetable oil;

1391 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of

1392 wastewater residuals, or through the conversion of a waste material through a nonincineration,

1393 thermal conversion process;

1394 (E) aquatic plants; and

1395 (F) agricultural products.

1396 (b) "Biomass energy" does not include:

1397 (i) black liquor; or

1398 (ii) treated woods.

1399 (19) (a) "Bundled transaction" means the sale of two or more items of tangible personal

1400 property, products, or services if the tangible personal property, products, or services are:

1401 (i) distinct and identifiable; and

1402 (ii) sold for one nonitemized price.

1403 (b) "Bundled transaction" does not include:

1404 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on

1405 the basis of the selection by the purchaser of the items of tangible personal property included in

1406 the transaction;

1407 (ii) the sale of real property;

1408 (iii) the sale of services to real property;

1409 (iv) the retail sale of tangible personal property and a service if:

1410 (A) the tangible personal property:

1411 (I) is essential to the use of the service; and

1412 (II) is provided exclusively in connection with the service; and

1413 (B) the service is the true object of the transaction;

1414 (v) the retail sale of two services if:

1415 (A) one service is provided that is essential to the use or receipt of a second service;

1416 (B) the first service is provided exclusively in connection with the second service; and

1417 (C) the second service is the true object of the transaction;

1418 (vi) a transaction that includes tangible personal property or a product subject to

1419 taxation under this chapter and tangible personal property or a product that is not subject to

1420 taxation under this chapter if the:

1421 (A) seller's purchase price of the tangible personal property or product subject to
1422 taxation under this chapter is de minimis; or

1423 (B) seller's sales price of the tangible personal property or product subject to taxation
1424 under this chapter is de minimis; and

1425 (vii) the retail sale of tangible personal property that is not subject to taxation under
1426 this chapter and tangible personal property that is subject to taxation under this chapter if:

1427 (A) that retail sale includes:

1428 (I) food and food ingredients;

1429 (II) a drug;

1430 (III) durable medical equipment;

1431 (IV) mobility enhancing equipment;

1432 (V) an over-the-counter drug;

1433 (VI) a prosthetic device; or

1434 (VII) a medical supply; and

1435 (B) subject to Subsection (19)(f):

1436 (I) the seller's purchase price of the tangible personal property subject to taxation under
1437 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

1438 (II) the seller's sales price of the tangible personal property subject to taxation under
1439 this chapter is 50% or less of the seller's total sales price of that retail sale.

1440 (c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a
1441 service that is distinct and identifiable does not include:

1442 (A) packaging that:

1443 (I) accompanies the sale of the tangible personal property, product, or service; and

1444 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
1445 service;

1446 (B) tangible personal property, a product, or a service provided free of charge with the
1447 purchase of another item of tangible personal property, a product, or a service; or

1448 (C) an item of tangible personal property, a product, or a service included in the
1449 definition of "purchase price."

1450 (ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a
1451 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 under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price

1483 to determine if the purchase price or sales price of the tangible personal property or product
1484 subject to taxation under this chapter is de minimis.

1485 (iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service
1486 contract to determine if the sales price of tangible personal property or a product is de minimis.

1487 (f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of
1488 the seller's purchase price and the seller's sales price to determine if tangible personal property
1489 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
1490 price of that retail sale.

1491 (20) "Certified automated system" means software certified by the governing board of
1492 the agreement that:

1493 (a) calculates the agreement sales and use tax imposed within a local taxing
1494 jurisdiction:

1495 (i) on a transaction; and

1496 (ii) in the states that are members of the agreement;

1497 (b) determines the amount of agreement sales and use tax to remit to a state that is a
1498 member of the agreement; and

1499 (c) maintains a record of the transaction described in Subsection (20)(a)(i).

1500 (21) "Certified service provider" means an agent certified:

1501 (a) by the governing board of the agreement; and

1502 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax,
1503 as outlined in the contract between the governing board of the agreement and the certified
1504 service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the
1505 seller's own purchases.

1506 (22) (a) Subject to Subsection (22)(b), "clothing" means all human wearing apparel
1507 suitable for general use.

1508 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1509 commission shall make rules:

1510 (i) listing the items that constitute "clothing"; and

1511 (ii) that are consistent with the list of items that constitute "clothing" under the
1512 agreement.

1513 (23) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

1514 (24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, hydrogen,
1515 or other fuels that does not constitute industrial use under Subsection (57) or residential use
1516 under Subsection (112).

1517 (25) (a) "Common carrier" means a person engaged in or transacting the business of
1518 transporting passengers, freight, merchandise, or other property for hire within this state.

1519 (b) (i) "Common carrier" does not include a person that, at the time the person is
1520 traveling to or from that person's place of employment, transports a passenger to or from the
1521 passenger's place of employment.

1522 (ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3,
1523 Utah Administrative Rulemaking Act, the commission may make rules defining what
1524 constitutes a person's place of employment.

1525 (c) "Common carrier" does not include a person that provides transportation network
1526 services, as defined in Section 13-51-102.

1527 (26) "Component part" includes:

1528 (a) poultry, dairy, and other livestock feed, and their components;

1529 (b) baling ties and twine used in the baling of hay and straw;

1530 (c) fuel used for providing temperature control of orchards and commercial
1531 greenhouses doing a majority of their business in wholesale sales, and for providing power for
1532 off-highway type farm machinery; and

1533 (d) feed, seeds, and seedlings.

1534 (27) "Computer" means an electronic device that accepts information:

1535 (a) (i) in digital form; or

1536 (ii) in a form similar to digital form; and

1537 (b) manipulates that information for a result based on a sequence of instructions.

1538 (28) "Computer software" means a set of coded instructions designed to cause:

1539 (a) a computer to perform a task; or

1540 (b) automatic data processing equipment to perform a task.

1541 (29) "Computer software maintenance contract" means a contract that obligates a seller
1542 of computer software to provide a customer with:

1543 (a) future updates or upgrades to computer software;

1544 (b) support services with respect to computer software; or

1545 (c) a combination of Subsections (29)(a) and (b).

1546 (30) (a) "Conference bridging service" means an ancillary service that links two or
1547 more participants of an audio conference call or video conference call.

1548 (b) "Conference bridging service" may include providing a telephone number as part of
1549 the ancillary service described in Subsection (30)(a).

1550 (c) "Conference bridging service" does not include a telecommunications service used
1551 to reach the ancillary service described in Subsection (30)(a).

1552 (31) "Construction materials" means any tangible personal property that will be
1553 converted into real property.

1554 (32) "Delivered electronically" means delivered to a purchaser by means other than
1555 tangible storage media.

1556 (33) (a) "Delivery charge" means a charge:

1557 (i) by a seller of:

1558 (A) tangible personal property;

1559 (B) a product transferred electronically; or

1560 (C) a service; and

1561 (ii) for preparation and delivery of the tangible personal property, product transferred
1562 electronically, or services described in Subsection (33)(a)(i) to a location designated by the
1563 purchaser.

1564 (b) "Delivery charge" includes a charge for the following:

1565 (i) transportation;

1566 (ii) shipping;

1567 (iii) postage;

1568 (iv) handling;

1569 (v) crating; or

1570 (vi) packing.

1571 (34) "Detailed telecommunications billing service" means an ancillary service of
1572 separately stating information pertaining to individual calls on a customer's billing statement.

1573 (35) "Dietary supplement" means a product, other than tobacco, that:

1574 (a) is intended to supplement the diet;

1575 (b) contains one or more of the following dietary ingredients:

- 1576 (i) a vitamin;
1577 (ii) a mineral;
1578 (iii) an herb or other botanical;
1579 (iv) an amino acid;
1580 (v) a dietary substance for use by humans to supplement the diet by increasing the total
1581 dietary intake; or
1582 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
1583 described in Subsections (35)(b)(i) through (v);
1584 (c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:
1585 (A) tablet form;
1586 (B) capsule form;
1587 (C) powder form;
1588 (D) softgel form;
1589 (E) gelcap form; or
1590 (F) liquid form; or
1591 (ii) if the product is not intended for ingestion in a form described in Subsections
1592 (35)(c)(i)(A) through (F), is not represented:
1593 (A) as conventional food; and
1594 (B) for use as a sole item of:
1595 (I) a meal; or
1596 (II) the diet; and
1597 (d) is required to be labeled as a dietary supplement:
1598 (i) identifiable by the "Supplemental Facts" box found on the label; and
1599 (ii) as required by 21 C.F.R. Sec. 101.36.
1600 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
1601 musical, spoken, or other sounds.
1602 (b) "Digital audio work" includes a ringtone.
1603 (37) "Digital audio-visual work" means a series of related images which, when shown
1604 in succession, imparts an impression of motion, together with accompanying sounds, if any.
1605 (38) "Digital book" means a work that is generally recognized in the ordinary and usual
1606 sense as a book.

1607 (39) (a) "Direct mail" means printed material delivered or distributed by United States
1608 mail or other delivery service:

1609 (i) to:

1610 (A) a mass audience; or

1611 (B) addressees on a mailing list provided:

1612 (I) by a purchaser of the mailing list; or

1613 (II) at the discretion of the purchaser of the mailing list; and

1614 (ii) if the cost of the printed material is not billed directly to the recipients.

1615 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
1616 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

1617 (c) "Direct mail" does not include multiple items of printed material delivered to a
1618 single address.

1619 (40) "Directory assistance" means an ancillary service of providing:

1620 (a) address information; or

1621 (b) telephone number information.

1622 (41) (a) "Disposable home medical equipment or supplies" means medical equipment
1623 or supplies that:

1624 (i) cannot withstand repeated use; and

1625 (ii) are purchased by, for, or on behalf of a person other than:

1626 (A) a health care facility as defined in Section 26-21-2;

1627 (B) a health care provider as defined in Section 78B-3-403;

1628 (C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or

1629 (D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).

1630 (b) "Disposable home medical equipment or supplies" does not include:

1631 (i) a drug;

1632 (ii) durable medical equipment;

1633 (iii) a hearing aid;

1634 (iv) a hearing aid accessory;

1635 (v) mobility enhancing equipment; or

1636 (vi) tangible personal property used to correct impaired vision, including:

1637 (A) eyeglasses; or

1638 (B) contact lenses.

1639 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1640 commission may by rule define what constitutes medical equipment or supplies.

1641 (42) "Drilling equipment manufacturer" means a facility:

1642 (a) located in the state;

1643 (b) with respect to which 51% or more of the manufacturing activities of the facility

1644 consist of manufacturing component parts of drilling equipment;

1645 (c) that uses pressure of 800,000 or more pounds per square inch as part of the

1646 manufacturing process; and

1647 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the

1648 manufacturing process.

1649 (43) (a) "Drug" means a compound, substance, or preparation, or a component of a

1650 compound, substance, or preparation that is:

1651 (i) recognized in:

1652 (A) the official United States Pharmacopoeia;

1653 (B) the official Homeopathic Pharmacopoeia of the United States;

1654 (C) the official National Formulary; or

1655 (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);

1656 (ii) intended for use in the:

1657 (A) diagnosis of disease;

1658 (B) cure of disease;

1659 (C) mitigation of disease;

1660 (D) treatment of disease; or

1661 (E) prevention of disease; or

1662 (iii) intended to affect:

1663 (A) the structure of the body; or

1664 (B) any function of the body.

1665 (b) "Drug" does not include:

1666 (i) food and food ingredients;

1667 (ii) a dietary supplement;

1668 (iii) an alcoholic beverage; or

- 1669 (iv) a prosthetic device.
- 1670 (44) (a) [~~Except as provided in Subsection (44)(c), "durable"~~] "Durable medical
- 1671 equipment" means equipment that:
- 1672 (i) can withstand repeated use;
- 1673 (ii) is primarily and customarily used to serve a medical purpose;
- 1674 (iii) generally is not useful to a person in the absence of illness or injury; and
- 1675 (iv) is not worn in or on the body.
- 1676 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 1677 equipment described in Subsection (44)(a).
- 1678 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 1679 (45) "Electronic" means:
- 1680 (a) relating to technology; and
- 1681 (b) having:
- 1682 (i) electrical capabilities;
- 1683 (ii) digital capabilities;
- 1684 (iii) magnetic capabilities;
- 1685 (iv) wireless capabilities;
- 1686 (v) optical capabilities;
- 1687 (vi) electromagnetic capabilities; or
- 1688 (vii) capabilities similar to Subsections (45)(b)(i) through (vi).
- 1689 (46) "Electronic financial payment service" means an establishment:
- 1690 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 1691 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 1692 federal Executive Office of the President, Office of Management and Budget; and
- 1693 (b) that performs electronic financial payment services.
- 1694 (47) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 1695 (48) "Fixed guideway" means a public transit facility that uses and occupies:
- 1696 (a) rail for the use of public transit; or
- 1697 (b) a separate right-of-way for the use of public transit.
- 1698 (49) "Fixed wing turbine powered aircraft" means an aircraft that:
- 1699 (a) is powered by turbine engines;

- 1700 (b) operates on jet fuel; and
- 1701 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 1702 (50) "Fixed wireless service" means a telecommunications service that provides radio
- 1703 communication between fixed points.
- 1704 (51) (a) "Food and food ingredients" means substances:
- 1705 (i) regardless of whether the substances are in:
- 1706 (A) liquid form;
- 1707 (B) concentrated form;
- 1708 (C) solid form;
- 1709 (D) frozen form;
- 1710 (E) dried form; or
- 1711 (F) dehydrated form; and
- 1712 (ii) that are:
- 1713 (A) sold for:
- 1714 (I) ingestion by humans; or
- 1715 (II) chewing by humans; and
- 1716 (B) consumed for the substance's:
- 1717 (I) taste; or
- 1718 (II) nutritional value.
- 1719 (b) "Food and food ingredients" includes an item described in Subsection (96)(b)(iii).
- 1720 (c) "Food and food ingredients" does not include:
- 1721 (i) an alcoholic beverage;
- 1722 (ii) tobacco; or
- 1723 (iii) prepared food.
- 1724 (52) (a) "Fundraising sales" means sales:
- 1725 (i) (A) made by a school; or
- 1726 (B) made by a school student;
- 1727 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 1728 materials, or provide transportation; and
- 1729 (iii) that are part of an officially sanctioned school activity.
- 1730 (b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity"

1731 means a school activity:

1732 (i) that is conducted in accordance with a formal policy adopted by the school or school
1733 district governing the authorization and supervision of fundraising activities;

1734 (ii) that does not directly or indirectly compensate an individual teacher or other
1735 educational personnel by direct payment, commissions, or payment in kind; and

1736 (iii) the net or gross revenues from which are deposited in a dedicated account
1737 controlled by the school or school district.

1738 (53) "Geothermal energy" means energy contained in heat that continuously flows
1739 outward from the earth that is used as the sole source of energy to produce electricity.

1740 (54) "Governing board of the agreement" means the governing board of the agreement
1741 that is:

1742 (a) authorized to administer the agreement; and

1743 (b) established in accordance with the agreement.

1744 (55) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

1745 (i) the executive branch of the state, including all departments, institutions, boards,
1746 divisions, bureaus, offices, commissions, and committees;

1747 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
1748 Administrative Office of the Courts, and similar administrative units in the judicial branch;

1749 (iii) the legislative branch of the state, including the House of Representatives, the
1750 Senate, the Legislative Printing Office, the Office of Legislative Research and General
1751 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
1752 Analyst;

1753 (iv) the National Guard;

1754 (v) an independent entity as defined in Section 63E-1-102; or

1755 (vi) a political subdivision as defined in Section 17B-1-102.

1756 (b) "Governmental entity" does not include the state systems of public and higher
1757 education, including:

1758 (i) a school;

1759 (ii) the State Board of Education;

1760 (iii) the Utah Board of Higher Education; or

1761 (iv) an institution of higher education described in Section 53B-1-102.

1762 (56) "Hydroelectric energy" means water used as the sole source of energy to produce
1763 electricity.

1764 (57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
1765 hydrogen, or other fuels:

1766 (a) in mining or extraction of minerals;

1767 (b) in agricultural operations to produce an agricultural product up to the time of
1768 harvest or placing the agricultural product into a storage facility, including:

1769 (i) commercial greenhouses;

1770 (ii) irrigation pumps;

1771 (iii) farm machinery;

1772 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered
1773 under Title 41, Chapter 1a, Part 2, Registration; and

1774 (v) other farming activities;

1775 (c) in manufacturing tangible personal property at an establishment described in:

1776 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
1777 the federal Executive Office of the President, Office of Management and Budget; or

1778 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
1779 American Industry Classification System of the federal Executive Office of the President,
1780 Office of Management and Budget;

1781 (d) by a scrap recycler if:

1782 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
1783 one or more of the following items into prepared grades of processed materials for use in new
1784 products:

1785 (A) iron;

1786 (B) steel;

1787 (C) nonferrous metal;

1788 (D) paper;

1789 (E) glass;

1790 (F) plastic;

1791 (G) textile; or

1792 (H) rubber; and

(ii) the new products under Subsection (57)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

(58) (a) [~~Except as provided in Subsection (58)(b), "installation"~~] "Installation charge" means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

(b) "Installation charge" does not include a charge for:

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

(59) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.

(60) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:

(i) (A) a fixed term; or

(B) an indeterminate term; and

(ii) consideration.

(b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.

(c) "Lease" or "rental" does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the

1824 transfer of title:

1825 (A) upon completion of required payments; and

1826 (B) if the payment of an option price does not exceed the greater of:

1827 (I) \$100; or

1828 (II) 1% of the total required payments; or

1829 (iii) providing tangible personal property along with an operator for a fixed period of

1830 time or an indeterminate period of time if the operator is necessary for equipment to perform as

1831 designed.

1832 (d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to

1833 perform as designed if the operator's duties exceed the:

1834 (i) set-up of tangible personal property;

1835 (ii) maintenance of tangible personal property; or

1836 (iii) inspection of tangible personal property.

1837 (61) "Lesson" means a fixed period of time for the duration of which a trained

1838 instructor:

1839 (a) is present with a student in person or by video; and

1840 (b) actively instructs the student, including by providing observation or feedback.

1841 (62) "Life science establishment" means an establishment in this state that is classified

1842 under the following NAICS codes of the 2007 North American Industry Classification System

1843 of the federal Executive Office of the President, Office of Management and Budget:

1844 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

1845 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

1846 Manufacturing; or

1847 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

1848 (63) "Life science research and development facility" means a facility owned, leased,

1849 or rented by a life science establishment if research and development is performed in 51% or

1850 more of the total area of the facility.

1851 (64) "Load and leave" means delivery to a purchaser by use of a tangible storage media

1852 if the tangible storage media is not physically transferred to the purchaser.

1853 (65) "Local taxing jurisdiction" means a:

1854 (a) county that is authorized to impose an agreement sales and use tax;

1855 (b) city that is authorized to impose an agreement sales and use tax; or
1856 (c) town that is authorized to impose an agreement sales and use tax.
1857 (66) "Manufactured home" means the same as that term is defined in Section
1858 15A-1-302.
1859 (67) "Manufacturing facility" means:
1860 (a) an establishment described in:
1861 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
1862 the federal Executive Office of the President, Office of Management and Budget; or
1863 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
1864 American Industry Classification System of the federal Executive Office of the President,
1865 Office of Management and Budget;
1866 (b) a scrap recycler if:
1867 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
1868 one or more of the following items into prepared grades of processed materials for use in new
1869 products:
1870 (A) iron;
1871 (B) steel;
1872 (C) nonferrous metal;
1873 (D) paper;
1874 (E) glass;
1875 (F) plastic;
1876 (G) textile; or
1877 (H) rubber; and
1878 (ii) the new products under Subsection (67)(b)(i) would otherwise be made with
1879 nonrecycled materials; or
1880 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
1881 placed in service on or after May 1, 2006.
1882 (68) (a) "Marketplace" means a physical or electronic place, platform, or forum where
1883 tangible personal property, a product transferred electronically, or a service is offered for sale.
1884 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a
1885 dedicated sales software application.

1886 (69) (a) "Marketplace facilitator" means a person, including an affiliate of the person,
1887 that enters into a contract, an agreement, or otherwise with sellers, for consideration, to
1888 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or
1889 controls and that directly or indirectly:

1890 (i) does any of the following:

1891 (A) lists, makes available, or advertises tangible personal property, a product
1892 transferred electronically, or a service for sale by a marketplace seller on a marketplace that the
1893 person owns, operates, or controls;

1894 (B) facilitates the sale of a marketplace seller's tangible personal property, product
1895 transferred electronically, or service by transmitting or otherwise communicating an offer or
1896 acceptance of a retail sale between the marketplace seller and a purchaser using the
1897 marketplace;

1898 (C) owns, rents, licenses, makes available, or operates any electronic or physical
1899 infrastructure or any property, process, method, copyright, trademark, or patent that connects a
1900 marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal
1901 property, a product transferred electronically, or a service;

1902 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible
1903 personal property, a product transferred electronically, or a service, regardless of ownership or
1904 control of the tangible personal property, the product transferred electronically, or the service
1905 that is the subject of the retail sale;

1906 (E) provides software development or research and development activities related to
1907 any activity described in this Subsection (69)(a)(i), if the software development or research and
1908 development activity is directly related to the person's marketplace;

1909 (F) provides or offers fulfillment or storage services for a marketplace seller;

1910 (G) sets prices for the sale of tangible personal property, a product transferred
1911 electronically, or a service by a marketplace seller;

1912 (H) provides or offers customer service to a marketplace seller or a marketplace seller's
1913 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal
1914 property, a product transferred electronically, or a service sold by a marketplace seller on the
1915 person's marketplace; or

1916 (I) brands or otherwise identifies sales as those of the person; and

1917 (ii) does any of the following:

1918 (A) collects the sales price or purchase price of a retail sale of tangible personal
1919 property, a product transferred electronically, or a service;

1920 (B) provides payment processing services for a retail sale of tangible personal property,
1921 a product transferred electronically, or a service;

1922 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing
1923 fee, a fee for inserting or making available tangible personal property, a product transferred
1924 electronically, or a service on the person's marketplace, or other consideration for the
1925 facilitation of a retail sale of tangible personal property, a product transferred electronically, or
1926 a service, regardless of ownership or control of the tangible personal property, the product
1927 transferred electronically, or the service that is the subject of the retail sale;

1928 (D) through terms and conditions, an agreement, or another arrangement with a third
1929 person, collects payment from a purchase for a retail sale of tangible personal property, a
1930 product transferred electronically, or a service and transmits that payment to the marketplace
1931 seller, regardless of whether the third person receives compensation or other consideration in
1932 exchange for the service; or

1933 (E) provides a virtual currency for a purchaser to use to purchase tangible personal
1934 property, a product transferred electronically, or service offered for sale.

1935 (b) "Marketplace facilitator" does not include:

1936 (i) a person that only provides payment processing services; or

1937 (ii) a person described in Subsection (69)(a) to the extent the person is facilitating a
1938 sale for a seller that is a restaurant as defined in Section [59-12-602](#).

1939 (70) "Marketplace seller" means a seller that makes one or more retail sales through a
1940 marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the
1941 seller is required to be registered to collect and remit the tax under this part.

1942 (71) "Member of the immediate family of the producer" means a person who is related
1943 to a producer described in Subsection [59-12-104](#)(20)(a) as a:

1944 (a) child or stepchild, regardless of whether the child or stepchild is:

1945 (i) an adopted child or adopted stepchild; or

1946 (ii) a foster child or foster stepchild;

1947 (b) grandchild or stepgrandchild;

1948 (c) grandparent or stepgrandparent;
1949 (d) nephew or stepnephew;
1950 (e) niece or stepniece;
1951 (f) parent or stepparent;
1952 (g) sibling or stepsibling;
1953 (h) spouse;
1954 (i) person who is the spouse of a person described in Subsections (71)(a) through (g);
1955 or
1956 (j) person similar to a person described in Subsections (71)(a) through (i) as
1957 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
1958 Administrative Rulemaking Act.
1959 (72) "Mobile home" means the same as that term is defined in Section 15A-1-302.
1960 (73) "Mobile telecommunications service" means the same as that term is defined in
1961 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
1962 (74) (a) "Mobile wireless service" means a telecommunications service, regardless of
1963 the technology used, if:
1964 (i) the origination point of the conveyance, routing, or transmission is not fixed;
1965 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
1966 (iii) the origination point described in Subsection (74)(a)(i) and the termination point
1967 described in Subsection (74)(a)(ii) are not fixed.
1968 (b) "Mobile wireless service" includes a telecommunications service that is provided
1969 by a commercial mobile radio service provider.
1970 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1971 commission may by rule define "commercial mobile radio service provider."
1972 (75) (a) [~~Except as provided in Subsection (75)(c), "mobility"~~] "Mobility enhancing
1973 equipment" means equipment that is:
1974 (i) primarily and customarily used to provide or increase the ability to move from one
1975 place to another;
1976 (ii) appropriate for use in a:
1977 (A) home; or
1978 (B) motor vehicle; and

- 1979 (iii) not generally used by persons with normal mobility.
- 1980 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
- 1981 the equipment described in Subsection (75)(a).
- 1982 (c) "Mobility enhancing equipment" does not include:
- 1983 (i) a motor vehicle;
- 1984 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
- 1985 vehicle manufacturer;
- 1986 (iii) durable medical equipment; or
- 1987 (iv) a prosthetic device.
- 1988 (76) "Model 1 seller" means a seller registered under the agreement that has selected a
- 1989 certified service provider as the seller's agent to perform the seller's sales and use tax functions
- 1990 for agreement sales and use taxes, as outlined in the contract between the governing board of
- 1991 the agreement and the certified service provider, other than the seller's obligation under Section
- 1992 [59-12-124](#) to remit a tax on the seller's own purchases.
- 1993 (77) "Model 2 seller" means a seller registered under the agreement that:
- 1994 (a) except as provided in Subsection (77)(b), has selected a certified automated system
- 1995 to perform the seller's sales tax functions for agreement sales and use taxes; and
- 1996 (b) retains responsibility for remitting all of the sales tax:
- 1997 (i) collected by the seller; and
- 1998 (ii) to the appropriate local taxing jurisdiction.
- 1999 (78) (a) Subject to Subsection (78)(b), "model 3 seller" means a seller registered under
- 2000 the agreement that has:
- 2001 (i) sales in at least five states that are members of the agreement;
- 2002 (ii) total annual sales revenues of at least \$500,000,000;
- 2003 (iii) a proprietary system that calculates the amount of tax:
- 2004 (A) for an agreement sales and use tax; and
- 2005 (B) due to each local taxing jurisdiction; and
- 2006 (iv) entered into a performance agreement with the governing board of the agreement.
- 2007 (b) [~~For purposes of Subsection (78)(a), "model~~] "Model 3 seller" includes an affiliated
- 2008 group of sellers using the same proprietary system.
- 2009 (79) "Model 4 seller" means a seller that is registered under the agreement and is not a

2010 model 1 seller, model 2 seller, or model 3 seller.

2011 (80) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

2012 (81) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).

2013 (82) "Oil sands" means impregnated bituminous sands that:

2014 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with

2015 other hydrocarbons, or otherwise treated;

2016 (b) yield mixtures of liquid hydrocarbon; and

2017 (c) require further processing other than mechanical blending before becoming finished

2018 petroleum products.

2019 (83) "Oil shale" means a group of fine black to dark brown shales containing kerogen

2020 material that yields petroleum upon heating and distillation.

2021 (84) "Optional computer software maintenance contract" means a computer software

2022 maintenance contract that a customer is not obligated to purchase as a condition to the retail

2023 sale of computer software.

2024 (85) (a) "Other fuels" means products that burn independently to produce heat or

2025 energy.

2026 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible

2027 personal property.

2028 (86) (a) "Paging service" means a telecommunications service that provides

2029 transmission of a coded radio signal for the purpose of activating a specific pager.

2030 (b) For purposes of Subsection (86)(a), the transmission of a coded radio signal

2031 includes a transmission by message or sound.

2032 (87) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).

2033 ~~[(87)]~~ (88) "Pawnbroker" means the same as that term is defined in Section

2034 [13-32a-102](#).

2035 ~~[(88) "Pawn transaction" means the same as that term is defined in Section~~

2036 ~~[13-32a-102](#).]~~

2037 (89) (a) "Permanently attached to real property" means that for tangible personal

2038 property attached to real property:

2039 (i) the attachment of the tangible personal property to the real property:

2040 (A) is essential to the use of the tangible personal property; and

2041 (B) suggests that the tangible personal property will remain attached to the real
2042 property in the same place over the useful life of the tangible personal property; or
2043 (ii) if the tangible personal property is detached from the real property, the detachment
2044 would:

2045 (A) cause substantial damage to the tangible personal property; or
2046 (B) require substantial alteration or repair of the real property to which the tangible
2047 personal property is attached.

2048 (b) "Permanently attached to real property" includes:

2049 (i) the attachment of an accessory to the tangible personal property if the accessory is:

2050 (A) essential to the operation of the tangible personal property; and
2051 (B) attached only to facilitate the operation of the tangible personal property;

2052 (ii) a temporary detachment of tangible personal property from real property for a
2053 repair or renovation if the repair or renovation is performed where the tangible personal
2054 property and real property are located; or

2055 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
2056 Subsection (89)(c)(iii) or (iv).

2057 (c) "Permanently attached to real property" does not include:

2058 (i) the attachment of portable or movable tangible personal property to real property if
2059 that portable or movable tangible personal property is attached to real property only for:

2060 (A) convenience;
2061 (B) stability; or
2062 (C) for an obvious temporary purpose;

2063 (ii) the detachment of tangible personal property from real property except for the
2064 detachment described in Subsection (89)(b)(ii);

2065 (iii) an attachment of the following tangible personal property to real property if the
2066 attachment to real property is only through a line that supplies water, electricity, gas,
2067 telecommunications, cable, or supplies a similar item as determined by the commission by rule
2068 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

2069 (A) a computer;
2070 (B) a telephone;
2071 (C) a television; or

2072 (D) tangible personal property similar to Subsections (89)(c)(iii)(A) through (C) as
2073 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
2074 Administrative Rulemaking Act; or

2075 (iv) an item listed in Subsection (130)(c).

2076 (90) "Person" includes any individual, firm, partnership, joint venture, association,
2077 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
2078 municipality, district, or other local governmental entity of the state, or any group or
2079 combination acting as a unit.

2080 (91) "Place of primary use":

2081 (a) for telecommunications service other than mobile telecommunications service,
2082 means the street address representative of where the customer's use of the telecommunications
2083 service primarily occurs, which shall be:

2084 (i) the residential street address of the customer; or

2085 (ii) the primary business street address of the customer; or

2086 (b) for mobile telecommunications service, means the same as that term is defined in
2087 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2088 (92) (a) "Postpaid calling service" means a telecommunications service a person
2089 obtains by making a payment on a call-by-call basis:

2090 (i) through the use of a:

2091 (A) bank card;

2092 (B) credit card;

2093 (C) debit card; or

2094 (D) travel card; or

2095 (ii) by a charge made to a telephone number that is not associated with the origination
2096 or termination of the telecommunications service.

2097 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
2098 service, that would be a prepaid wireless calling service if the service were exclusively a
2099 telecommunications service.

2100 (93) "Postproduction" means an activity related to the finishing or duplication of a
2101 medium described in Subsection [59-12-104\(54\)\(a\)](#).

2102 (94) "Prepaid calling service" means a telecommunications service:

- 2103 (a) that allows a purchaser access to telecommunications service that is exclusively
2104 telecommunications service;
- 2105 (b) that:
- 2106 (i) is paid for in advance; and
- 2107 (ii) enables the origination of a call using an:
- 2108 (A) access number; or
- 2109 (B) authorization code;
- 2110 (c) that is dialed:
- 2111 (i) manually; or
- 2112 (ii) electronically; and
- 2113 (d) sold in predetermined units or dollars that decline:
- 2114 (i) by a known amount; and
- 2115 (ii) with use.
- 2116 (95) "Prepaid wireless calling service" means a telecommunications service:
- 2117 (a) that provides the right to utilize:
- 2118 (i) mobile wireless service; and
- 2119 (ii) other service that is not a telecommunications service, including:
- 2120 (A) the download of a product transferred electronically;
- 2121 (B) a content service; or
- 2122 (C) an ancillary service;
- 2123 (b) that:
- 2124 (i) is paid for in advance; and
- 2125 (ii) enables the origination of a call using an:
- 2126 (A) access number; or
- 2127 (B) authorization code;
- 2128 (c) that is dialed:
- 2129 (i) manually; or
- 2130 (ii) electronically; and
- 2131 (d) sold in predetermined units or dollars that decline:
- 2132 (i) by a known amount; and
- 2133 (ii) with use.

2134 (96) (a) "Prepared food" means:
2135 (i) food:
2136 (A) sold in a heated state; or
2137 (B) heated by a seller;
2138 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
2139 item; or
2140 (iii) except as provided in Subsection (96)(c), food sold with an eating utensil provided
2141 by the seller, including a:
2142 (A) plate;
2143 (B) knife;
2144 (C) fork;
2145 (D) spoon;
2146 (E) glass;
2147 (F) cup;
2148 (G) napkin; or
2149 (H) straw.
2150 (b) "Prepared food" does not include:
2151 (i) food that a seller only:
2152 (A) cuts;
2153 (B) repackages; or
2154 (C) pasteurizes; or
2155 (ii) (A) the following:
2156 (I) raw egg;
2157 (II) raw fish;
2158 (III) raw meat;
2159 (IV) raw poultry; or
2160 (V) a food containing an item described in Subsections (96)(b)(ii)(A)(I) through (IV);
2161 and
2162 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
2163 Food and Drug Administration's Food Code that a consumer cook the items described in
2164 Subsection (96)(b)(ii)(A) to prevent food borne illness; or

- 2165 (iii) the following if sold without eating utensils provided by the seller:
- 2166 (A) food and food ingredients sold by a seller if the seller's proper primary
- 2167 classification under the 2002 North American Industry Classification System of the federal
- 2168 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 2169 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 2170 Manufacturing;
- 2171 (B) food and food ingredients sold in an unheated state:
- 2172 (I) by weight or volume; and
- 2173 (II) as a single item; or
- 2174 (C) a bakery item, including:
- 2175 (I) a bagel;
- 2176 (II) a bar;
- 2177 (III) a biscuit;
- 2178 (IV) bread;
- 2179 (V) a bun;
- 2180 (VI) a cake;
- 2181 (VII) a cookie;
- 2182 (VIII) a croissant;
- 2183 (IX) a danish;
- 2184 (X) a donut;
- 2185 (XI) a muffin;
- 2186 (XII) a pastry;
- 2187 (XIII) a pie;
- 2188 (XIV) a roll;
- 2189 (XV) a tart;
- 2190 (XVI) a torte; or
- 2191 (XVII) a tortilla.
- 2192 (c) An eating utensil provided by the seller does not include the following used to
- 2193 transport the food:
- 2194 (i) a container; or
- 2195 (ii) packaging.

2196 (97) "Prescription" means an order, formula, or recipe that is issued:
2197 (a) (i) orally;
2198 (ii) in writing;
2199 (iii) electronically; or
2200 (iv) by any other manner of transmission; and
2201 (b) by a licensed practitioner authorized by the laws of a state.

2202 (98) (a) ~~[Except as provided in Subsection (98)(b)(ii) or (iii), "prewritten]~~ "Prewritten
2203 computer software" means computer software that is not designed and developed:
2204 (i) by the author or other creator of the computer software; and
2205 (ii) to the specifications of a specific purchaser.

2206 (b) "Prewritten computer software" includes:
2207 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
2208 software is not designed and developed:
2209 (A) by the author or other creator of the computer software; and
2210 (B) to the specifications of a specific purchaser;
2211 (ii) computer software designed and developed by the author or other creator of the
2212 computer software to the specifications of a specific purchaser if the computer software is sold
2213 to a person other than the purchaser; or
2214 (iii) except as provided in Subsection (98)(c), prewritten computer software or a
2215 prewritten portion of prewritten computer software:
2216 (A) that is modified or enhanced to any degree; and
2217 (B) if the modification or enhancement described in Subsection (98)(b)(iii)(A) is
2218 designed and developed to the specifications of a specific purchaser.

2219 (c) "Prewritten computer software" does not include a modification or enhancement
2220 described in Subsection (98)(b)(iii) if the charges for the modification or enhancement are:
2221 (i) reasonable; and
2222 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
2223 invoice or other statement of price provided to the purchaser at the time of sale or later, as
2224 demonstrated by:
2225 (A) the books and records the seller keeps at the time of the transaction in the regular
2226 course of business, including books and records the seller keeps at the time of the transaction in

2227 the regular course of business for nontax purposes;

2228 (B) a preponderance of the facts and circumstances at the time of the transaction; and

2229 (C) the understanding of all of the parties to the transaction.

2230 (99) (a) "Private communications service" means a telecommunications service:

2231 (i) that entitles a customer to exclusive or priority use of one or more communications

2232 channels between or among termination points; and

2233 (ii) regardless of the manner in which the one or more communications channels are

2234 connected.

2235 (b) "Private communications service" includes the following provided in connection

2236 with the use of one or more communications channels:

2237 (i) an extension line;

2238 (ii) a station;

2239 (iii) switching capacity; or

2240 (iv) another associated service that is provided in connection with the use of one or

2241 more communications channels as defined in Section 59-12-215.

2242 (100) (a) [~~Except as provided in Subsection (100)(b), "product"~~] "Product transferred

2243 electronically" means a product transferred electronically that would be subject to a tax under

2244 this chapter if that product was transferred in a manner other than electronically.

2245 (b) "Product transferred electronically" does not include:

2246 (i) an ancillary service;

2247 (ii) computer software; or

2248 (iii) a telecommunications service.

2249 (101) (a) "Prosthetic device" means a device that is worn on or in the body to:

2250 (i) artificially replace a missing portion of the body;

2251 (ii) prevent or correct a physical deformity or physical malfunction; or

2252 (iii) support a weak or deformed portion of the body.

2253 (b) "Prosthetic device" includes:

2254 (i) parts used in the repairs or renovation of a prosthetic device;

2255 (ii) replacement parts for a prosthetic device;

2256 (iii) a dental prosthesis; or

2257 (iv) a hearing aid.

2258 (c) "Prosthetic device" does not include:
2259 (i) corrective eyeglasses; or
2260 (ii) contact lenses.
2261 (102) (a) "Protective equipment" means an item:
2262 (i) for human wear; and
2263 (ii) that is:
2264 (A) designed as protection:
2265 (I) to the wearer against injury or disease; or
2266 (II) against damage or injury of other persons or property; and
2267 (B) not suitable for general use.
2268 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2269 commission shall make rules:
2270 (i) listing the items that constitute "protective equipment"; and
2271 (ii) that are consistent with the list of items that constitute "protective equipment"
2272 under the agreement.
2273 (103) (a) For purposes of Subsection 59-12-104(41), "publication" means any written
2274 or printed matter, other than a photocopy:
2275 (i) regardless of:
2276 (A) characteristics;
2277 (B) copyright;
2278 (C) form;
2279 (D) format;
2280 (E) method of reproduction; or
2281 (F) source; and
2282 (ii) made available in printed or electronic format.
2283 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2284 commission may by rule define the term "photocopy."
2285 (104) (a) "Purchase price" and "sales price" mean the total amount of consideration:
2286 (i) valued in money; and
2287 (ii) for which tangible personal property, a product transferred electronically, or
2288 services are:

2289 (A) sold;
2290 (B) leased; or
2291 (C) rented.
2292 (b) "Purchase price" and "sales price" include:
2293 (i) the seller's cost of the tangible personal property, a product transferred
2294 electronically, or services sold;
2295 (ii) expenses of the seller, including:
2296 (A) the cost of materials used;
2297 (B) a labor cost;
2298 (C) a service cost;
2299 (D) interest;
2300 (E) a loss;
2301 (F) the cost of transportation to the seller; or
2302 (G) a tax imposed on the seller;
2303 (iii) a charge by the seller for any service necessary to complete the sale; or
2304 (iv) consideration a seller receives from a person other than the purchaser if:
2305 (A) (I) the seller actually receives consideration from a person other than the purchaser;
2306 and
2307 (II) the consideration described in Subsection (104)(b)(iv)(A)(I) is directly related to a
2308 price reduction or discount on the sale;
2309 (B) the seller has an obligation to pass the price reduction or discount through to the
2310 purchaser;
2311 (C) the amount of the consideration attributable to the sale is fixed and determinable by
2312 the seller at the time of the sale to the purchaser; and
2313 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
2314 seller to claim a price reduction or discount; and
2315 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
2316 coupon, or other documentation with the understanding that the person other than the seller
2317 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
2318 (II) the purchaser identifies that purchaser to the seller as a member of a group or
2319 organization allowed a price reduction or discount, except that a preferred customer card that is

2320 available to any patron of a seller does not constitute membership in a group or organization
2321 allowed a price reduction or discount; or
2322 (III) the price reduction or discount is identified as a third party price reduction or
2323 discount on the:
2324 (Aa) invoice the purchaser receives; or
2325 (Bb) certificate, coupon, or other documentation the purchaser presents.
2326 (c) "Purchase price" and "sales price" do not include:
2327 (i) a discount:
2328 (A) in a form including:
2329 (I) cash;
2330 (II) term; or
2331 (III) coupon;
2332 (B) that is allowed by a seller;
2333 (C) taken by a purchaser on a sale; and
2334 (D) that is not reimbursed by a third party; or
2335 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
2336 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
2337 sale or later, as demonstrated by the books and records the seller keeps at the time of the
2338 transaction in the regular course of business, including books and records the seller keeps at the
2339 time of the transaction in the regular course of business for nontax purposes, by a
2340 preponderance of the facts and circumstances at the time of the transaction, and by the
2341 understanding of all of the parties to the transaction:
2342 (A) the following from credit extended on the sale of tangible personal property or
2343 services:
2344 (I) a carrying charge;
2345 (II) a financing charge; or
2346 (III) an interest charge;
2347 (B) a delivery charge;
2348 (C) an installation charge;
2349 (D) a manufacturer rebate on a motor vehicle; or
2350 (E) a tax or fee legally imposed directly on the consumer.

- 2351 (105) "Purchaser" means a person to whom:
2352 (a) a sale of tangible personal property is made;
2353 (b) a product is transferred electronically; or
2354 (c) a service is furnished.
- 2355 (106) "Qualifying data center" means a data center facility that:
2356 (a) houses a group of networked server computers in one physical location in order to
2357 disseminate, manage, and store data and information;
2358 (b) is located in the state;
2359 (c) is a new operation constructed on or after July 1, 2016;
2360 (d) consists of one or more buildings that total 150,000 or more square feet;
2361 (e) is owned or leased by:
2362 (i) the operator of the data center facility; or
2363 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
2364 of the data center facility; and
2365 (f) is located on one or more parcels of land that are owned or leased by:
2366 (i) the operator of the data center facility; or
2367 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
2368 of the data center facility.
- 2369 (107) "Regularly rented" means:
2370 (a) rented to a guest for value three or more times during a calendar year; or
2371 (b) advertised or held out to the public as a place that is regularly rented to guests for
2372 value.
- 2373 (108) "Rental" means the same as that term is defined in Subsection (60).
- 2374 (109) (a) [~~Except as provided in Subsection (109)(b), "repairs"~~] "Repairs" or renovations
2375 of tangible personal property" means:
2376 (i) a repair or renovation of tangible personal property that is not permanently attached
2377 to real property; or
2378 (ii) attaching tangible personal property or a product transferred electronically to other
2379 tangible personal property or detaching tangible personal property or a product transferred
2380 electronically from other tangible personal property if:
2381 (A) the other tangible personal property to which the tangible personal property or

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

2413 (c) subrent.

2414 (114) (a) "Retailer" means any person, unless prohibited by the Constitution of the
2415 United States or federal law, that is engaged in a regularly organized business in tangible
2416 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is
2417 selling to the user or consumer and not for resale.

2418 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
2419 engaged in the business of selling to users or consumers within the state.

2420 (115) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
2421 otherwise, in any manner, of tangible personal property or any other taxable transaction under
2422 Subsection 59-12-103(1), for consideration.

2423 (b) "Sale" includes:

2424 (i) installment and credit sales;

2425 (ii) any closed transaction constituting a sale;

2426 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
2427 chapter;

2428 (iv) any transaction if the possession of property is transferred but the seller retains the
2429 title as security for the payment of the price; and

2430 (v) any transaction under which right to possession, operation, or use of any article of
2431 tangible personal property is granted under a lease or contract and the transfer of possession
2432 would be taxable if an outright sale were made.

2433 (116) "Sale at retail" means the same as that term is defined in Subsection (113).

2434 (117) "Sale-leaseback transaction" means a transaction by which title to tangible
2435 personal property or a product transferred electronically that is subject to a tax under this
2436 chapter is transferred:

2437 (a) by a purchaser-lessee;

2438 (b) to a lessor;

2439 (c) for consideration; and

2440 (d) if:

2441 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
2442 of the tangible personal property or product transferred electronically;

2443 (ii) the sale of the tangible personal property or product transferred electronically to the

2444 lessor is intended as a form of financing:

2445 (A) for the tangible personal property or product transferred electronically; and

2446 (B) to the purchaser-lessee; and

2447 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee

2448 is required to:

2449 (A) capitalize the tangible personal property or product transferred electronically for

2450 financial reporting purposes; and

2451 (B) account for the lease payments as payments made under a financing arrangement.

2452 (118) "Sales price" means the same as that term is defined in Subsection (104).

2453 (119) (a) "Sales relating to schools" means the following sales by, amounts paid to, or

2454 amounts charged by a school:

2455 (i) sales that are directly related to the school's educational functions or activities

2456 including:

2457 (A) the sale of:

2458 (I) textbooks;

2459 (II) textbook fees;

2460 (III) laboratory fees;

2461 (IV) laboratory supplies; or

2462 (V) safety equipment;

2463 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

2464 that:

2465 (I) a student is specifically required to wear as a condition of participation in a

2466 school-related event or school-related activity; and

2467 (II) is not readily adaptable to general or continued usage to the extent that it takes the

2468 place of ordinary clothing;

2469 (C) sales of the following if the net or gross revenues generated by the sales are

2470 deposited into a school district fund or school fund dedicated to school meals:

2471 (I) food and food ingredients; or

2472 (II) prepared food; or

2473 (D) transportation charges for official school activities; or

2474 (ii) amounts paid to or amounts charged by a school for admission to a school-related

2475 event or school-related activity.

2476 (b) "Sales relating to schools" does not include:

2477 (i) bookstore sales of items that are not educational materials or supplies;

2478 (ii) except as provided in Subsection (119)(a)(i)(B):

2479 (A) clothing;

2480 (B) clothing accessories or equipment;

2481 (C) protective equipment; or

2482 (D) sports or recreational equipment; or

2483 (iii) amounts paid to or amounts charged by a school for admission to a school-related

2484 event or school-related activity if the amounts paid or charged are passed through to a person:

2485 (A) other than a:

2486 (I) school;

2487 (II) nonprofit organization authorized by a school board or a governing body of a

2488 private school to organize and direct a competitive secondary school activity; or

2489 (III) nonprofit association authorized by a school board or a governing body of a

2490 private school to organize and direct a competitive secondary school activity; and

2491 (B) that is required to collect sales and use taxes under this chapter.

2492 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2493 commission may make rules defining the term "passed through."

2494 (120) For purposes of this section and Section 59-12-104, "school" means:

2495 (a) an elementary school or a secondary school that:

2496 (i) is a:

2497 (A) public school; or

2498 (B) private school; and

2499 (ii) provides instruction for one or more grades kindergarten through 12; or

2500 (b) a public school district.

2501 (121) (a) "Seller" means a person that makes a sale, lease, or rental of:

2502 (i) tangible personal property;

2503 (ii) a product transferred electronically; or

2504 (iii) a service.

2505 (b) "Seller" includes a marketplace facilitator.

2506 (122) (a) "Semiconductor fabricating, processing, research, or development materials"
2507 means tangible personal property or a product transferred electronically if the tangible personal
2508 property or product transferred electronically is:

2509 (i) used primarily in the process of:

2510 (A) (I) manufacturing a semiconductor;

2511 (II) fabricating a semiconductor; or

2512 (III) research or development of a:

2513 (Aa) semiconductor; or

2514 (Bb) semiconductor manufacturing process; or

2515 (B) maintaining an environment suitable for a semiconductor; or

2516 (ii) consumed primarily in the process of:

2517 (A) (I) manufacturing a semiconductor;

2518 (II) fabricating a semiconductor; or

2519 (III) research or development of a:

2520 (Aa) semiconductor; or

2521 (Bb) semiconductor manufacturing process; or

2522 (B) maintaining an environment suitable for a semiconductor.

2523 (b) "Semiconductor fabricating, processing, research, or development materials"

2524 includes:

2525 (i) parts used in the repairs or renovations of tangible personal property or a product

2526 transferred electronically described in Subsection (122)(a); or

2527 (ii) a chemical, catalyst, or other material used to:

2528 (A) produce or induce in a semiconductor a:

2529 (I) chemical change; or

2530 (II) physical change;

2531 (B) remove impurities from a semiconductor; or

2532 (C) improve the marketable condition of a semiconductor.

2533 (123) "Senior citizen center" means a facility having the primary purpose of providing

2534 services to the aged as defined in Section [62A-3-101](#).

2535 (124) (a) [~~Subject to Subsections (124)(b) and (c), "short-term"~~] "Short-term lodging

2536 consumable" means tangible personal property that:

2537 (i) a business that provides accommodations and services described in Subsection
2538 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
2539 to a purchaser;
2540 (ii) is intended to be consumed by the purchaser; and
2541 (iii) is:
2542 (A) included in the purchase price of the accommodations and services; and
2543 (B) not separately stated on an invoice, bill of sale, or other similar document provided
2544 to the purchaser.
2545 (b) "Short-term lodging consumable" includes:
2546 (i) a beverage;
2547 (ii) a brush or comb;
2548 (iii) a cosmetic;
2549 (iv) a hair care product;
2550 (v) lotion;
2551 (vi) a magazine;
2552 (vii) makeup;
2553 (viii) a meal;
2554 (ix) mouthwash;
2555 (x) nail polish remover;
2556 (xi) a newspaper;
2557 (xii) a notepad;
2558 (xiii) a pen;
2559 (xiv) a pencil;
2560 (xv) a razor;
2561 (xvi) saline solution;
2562 (xvii) a sewing kit;
2563 (xviii) shaving cream;
2564 (xix) a shoe shine kit;
2565 (xx) a shower cap;
2566 (xxi) a snack item;
2567 (xxii) soap;

2568 (xxiii) toilet paper;
2569 (xxiv) a toothbrush;
2570 (xxv) toothpaste; or
2571 (xxvi) an item similar to Subsections (124)(b)(i) through (xxv) as the commission may
2572 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2573 Rulemaking Act.

2574 (c) "Short-term lodging consumable" does not include:

2575 (i) tangible personal property that is cleaned or washed to allow the tangible personal
2576 property to be reused; or
2577 (ii) a product transferred electronically.

2578 (125) "Simplified electronic return" means the electronic return:

2579 (a) described in Section 318(C) of the agreement; and

2580 (b) approved by the governing board of the agreement.

2581 (126) "Solar energy" means the sun used as the sole source of energy for producing
2582 electricity.

2583 (127) (a) "Sports or recreational equipment" means an item:

2584 (i) designed for human use; and

2585 (ii) that is:

2586 (A) worn in conjunction with:

2587 (I) an athletic activity; or

2588 (II) a recreational activity; and

2589 (B) not suitable for general use.

2590 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2591 commission shall make rules:

2592 (i) listing the items that constitute "sports or recreational equipment"; and

2593 (ii) that are consistent with the list of items that constitute "sports or recreational
2594 equipment" under the agreement.

2595 (128) "State" means the state of Utah, its departments, and agencies.

2596 (129) "Storage" means any keeping or retention of tangible personal property or any
2597 other taxable transaction under Subsection [59-12-103\(1\)](#), in this state for any purpose except
2598 sale in the regular course of business.

2599 (130) (a) [~~Except as provided in Subsection (130)(d) or (e), "tangible]~~ "Tangible
2600 personal property" means personal property that:
2601 (i) may be:
2602 (A) seen;
2603 (B) weighed;
2604 (C) measured;
2605 (D) felt; or
2606 (E) touched; or
2607 (ii) is in any manner perceptible to the senses.
2608 (b) "Tangible personal property" includes:
2609 (i) electricity;
2610 (ii) water;
2611 (iii) gas;
2612 (iv) steam; or
2613 (v) prewritten computer software, regardless of the manner in which the prewritten
2614 computer software is transferred.
2615 (c) "Tangible personal property" includes the following regardless of whether the item
2616 is attached to real property:
2617 (i) a dishwasher;
2618 (ii) a dryer;
2619 (iii) a freezer;
2620 (iv) a microwave;
2621 (v) a refrigerator;
2622 (vi) a stove;
2623 (vii) a washer; or
2624 (viii) an item similar to Subsections (130)(c)(i) through (vii) as determined by the
2625 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2626 Rulemaking Act.
2627 (d) "Tangible personal property" does not include a product that is transferred
2628 electronically.
2629 (e) "Tangible personal property" does not include the following if attached to real

2630 property, regardless of whether the attachment to real property is only through a line that
2631 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
2632 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2633 Rulemaking Act:

- 2634 (i) a hot water heater;
- 2635 (ii) a water filtration system; or
- 2636 (iii) a water softener system.

2637 (131) (a) "Telecommunications enabling or facilitating equipment, machinery, or
2638 software" means an item listed in Subsection (131)(b) if that item is purchased or leased
2639 primarily to enable or facilitate one or more of the following to function:

- 2640 (i) telecommunications switching or routing equipment, machinery, or software; or
- 2641 (ii) telecommunications transmission equipment, machinery, or software.

2642 (b) The following apply to Subsection (131)(a):

- 2643 (i) a pole;
- 2644 (ii) software;
- 2645 (iii) a supplementary power supply;
- 2646 (iv) temperature or environmental equipment or machinery;
- 2647 (v) test equipment;
- 2648 (vi) a tower; or
- 2649 (vii) equipment, machinery, or software that functions similarly to an item listed in
2650 Subsections (131)(b)(i) through (vi) as determined by the commission by rule made in
2651 accordance with Subsection (131)(c).

2652 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2653 commission may by rule define what constitutes equipment, machinery, or software that
2654 functions similarly to an item listed in Subsections (131)(b)(i) through (vi).

2655 (132) "Telecommunications equipment, machinery, or software required for 911
2656 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
2657 Sec. 20.18.

2658 (133) "Telecommunications maintenance or repair equipment, machinery, or software"
2659 means equipment, machinery, or software purchased or leased primarily to maintain or repair
2660 one or more of the following, regardless of whether the equipment, machinery, or software is

2661 purchased or leased as a spare part or as an upgrade or modification to one or more of the
2662 following:

2663 (a) telecommunications enabling or facilitating equipment, machinery, or software;

2664 (b) telecommunications switching or routing equipment, machinery, or software; or

2665 (c) telecommunications transmission equipment, machinery, or software.

2666 (134) (a) "Telecommunications service" means the electronic conveyance, routing, or
2667 transmission of audio, data, video, voice, or any other information or signal to a point, or
2668 among or between points.

2669 (b) "Telecommunications service" includes:

2670 (i) an electronic conveyance, routing, or transmission with respect to which a computer
2671 processing application is used to act:

2672 (A) on the code, form, or protocol of the content;

2673 (B) for the purpose of electronic conveyance, routing, or transmission; and

2674 (C) regardless of whether the service:

2675 (I) is referred to as voice over Internet protocol service; or

2676 (II) is classified by the Federal Communications Commission as enhanced or value
2677 added;

2678 (ii) an 800 service;

2679 (iii) a 900 service;

2680 (iv) a fixed wireless service;

2681 (v) a mobile wireless service;

2682 (vi) a postpaid calling service;

2683 (vii) a prepaid calling service;

2684 (viii) a prepaid wireless calling service; or

2685 (ix) a private communications service.

2686 (c) "Telecommunications service" does not include:

2687 (i) advertising, including directory advertising;

2688 (ii) an ancillary service;

2689 (iii) a billing and collection service provided to a third party;

2690 (iv) a data processing and information service if:

2691 (A) the data processing and information service allows data to be:

2692 (I) (Aa) acquired;
2693 (Bb) generated;
2694 (Cc) processed;
2695 (Dd) retrieved; or
2696 (Ee) stored; and
2697 (II) delivered by an electronic transmission to a purchaser; and
2698 (B) the purchaser's primary purpose for the underlying transaction is the processed data
2699 or information;
2700 (v) installation or maintenance of the following on a customer's premises:
2701 (A) equipment; or
2702 (B) wiring;
2703 (vi) Internet access service;
2704 (vii) a paging service;
2705 (viii) a product transferred electronically, including:
2706 (A) music;
2707 (B) reading material;
2708 (C) a ring tone;
2709 (D) software; or
2710 (E) video;
2711 (ix) a radio and television audio and video programming service:
2712 (A) regardless of the medium; and
2713 (B) including:
2714 (I) furnishing conveyance, routing, or transmission of a television audio and video
2715 programming service by a programming service provider;
2716 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
2717 (III) audio and video programming services delivered by a commercial mobile radio
2718 service provider as defined in 47 C.F.R. Sec. 20.3;
2719 (x) a value-added nonvoice data service; or
2720 (xi) tangible personal property.
2721 (135) (a) "Telecommunications service provider" means a person that:
2722 (i) owns, controls, operates, or manages a telecommunications service; and

2723 (ii) engages in an activity described in Subsection (135)(a)(i) for the shared use with or
2724 resale to any person of the telecommunications service.

2725 (b) A person described in Subsection (135)(a) is a telecommunications service provider
2726 whether or not the Public Service Commission of Utah regulates:

2727 (i) that person; or

2728 (ii) the telecommunications service that the person owns, controls, operates, or
2729 manages.

2730 (136) (a) "Telecommunications switching or routing equipment, machinery, or
2731 software" means an item listed in Subsection (136)(b) if that item is purchased or leased
2732 primarily for switching or routing:

2733 (i) an ancillary service;

2734 (ii) data communications;

2735 (iii) voice communications; or

2736 (iv) telecommunications service.

2737 (b) The following apply to Subsection (136)(a):

2738 (i) a bridge;

2739 (ii) a computer;

2740 (iii) a cross connect;

2741 (iv) a modem;

2742 (v) a multiplexer;

2743 (vi) plug in circuitry;

2744 (vii) a router;

2745 (viii) software;

2746 (ix) a switch; or

2747 (x) equipment, machinery, or software that functions similarly to an item listed in
2748 Subsections (136)(b)(i) through (ix) as determined by the commission by rule made in
2749 accordance with Subsection (136)(c).

2750 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2751 commission may by rule define what constitutes equipment, machinery, or software that
2752 functions similarly to an item listed in Subsections (136)(b)(i) through (ix).

2753 (137) (a) "Telecommunications transmission equipment, machinery, or software"

2754 means an item listed in Subsection (137)(b) if that item is purchased or leased primarily for
2755 sending, receiving, or transporting:

- 2756 (i) an ancillary service;
- 2757 (ii) data communications;
- 2758 (iii) voice communications; or
- 2759 (iv) telecommunications service.

2760 (b) The following apply to Subsection (137)(a):

- 2761 (i) an amplifier;
- 2762 (ii) a cable;
- 2763 (iii) a closure;
- 2764 (iv) a conduit;
- 2765 (v) a controller;
- 2766 (vi) a duplexer;
- 2767 (vii) a filter;
- 2768 (viii) an input device;
- 2769 (ix) an input/output device;
- 2770 (x) an insulator;
- 2771 (xi) microwave machinery or equipment;
- 2772 (xii) an oscillator;
- 2773 (xiii) an output device;
- 2774 (xiv) a pedestal;
- 2775 (xv) a power converter;
- 2776 (xvi) a power supply;
- 2777 (xvii) a radio channel;
- 2778 (xviii) a radio receiver;
- 2779 (xix) a radio transmitter;
- 2780 (xx) a repeater;
- 2781 (xxi) software;
- 2782 (xxii) a terminal;
- 2783 (xxiii) a timing unit;
- 2784 (xxiv) a transformer;

2785 (xxv) a wire; or
2786 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
2787 Subsections (137)(b)(i) through (xxv) as determined by the commission by rule made in
2788 accordance with Subsection (137)(c).

2789 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2790 commission may by rule define what constitutes equipment, machinery, or software that
2791 functions similarly to an item listed in Subsections (137)(b)(i) through (xxv).

2792 (138) (a) "Textbook for a higher education course" means a textbook or other printed
2793 material that is required for a course:

2794 (i) offered by an institution of higher education; and
2795 (ii) that the purchaser of the textbook or other printed material attends or will attend.

2796 (b) "Textbook for a higher education course" includes a textbook in electronic format.

2797 (139) "Tobacco" means:

2798 (a) a cigarette;
2799 (b) a cigar;
2800 (c) chewing tobacco;
2801 (d) pipe tobacco; or
2802 (e) any other item that contains tobacco.

2803 (140) "Unassisted amusement device" means an amusement device, skill device, or
2804 ride device that is started and stopped by the purchaser or renter of the right to use or operate
2805 the amusement device, skill device, or ride device.

2806 (141) (a) "Use" means the exercise of any right or power over tangible personal
2807 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
2808 incident to the ownership or the leasing of that tangible personal property, product transferred
2809 electronically, or service.

2810 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
2811 property, a product transferred electronically, or a service in the regular course of business and
2812 held for resale.

2813 (142) "Value-added nonvoice data service" means a service:

2814 (a) that otherwise meets the definition of a telecommunications service except that a
2815 computer processing application is used to act primarily for a purpose other than conveyance,

2816 routing, or transmission; and

2817 (b) with respect to which a computer processing application is used to act on data or
2818 information:

2819 (i) code;

2820 (ii) content;

2821 (iii) form; or

2822 (iv) protocol.

2823 (143) (a) Subject to Subsection (143)(b), "vehicle" means the following that are
2824 required to be titled, registered, or titled and registered:

2825 (i) an aircraft as defined in Section 72-10-102;

2826 (ii) a vehicle as defined in Section 41-1a-102;

2827 (iii) an off-highway vehicle as defined in Section 41-22-2; or

2828 (iv) a vessel as defined in Section 41-1a-102.

2829 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

2830 (i) a vehicle described in Subsection (143)(a); or

2831 (ii) (A) a locomotive;

2832 (B) a freight car;

2833 (C) railroad work equipment; or

2834 (D) other railroad rolling stock.

2835 (144) "Vehicle dealer" means a person engaged in the business of buying, selling, or
2836 exchanging a vehicle as defined in Subsection (143).

2837 (145) (a) "Vertical service" means an ancillary service that:

2838 (i) is offered in connection with one or more telecommunications services; and

2839 (ii) offers an advanced calling feature that allows a customer to:

2840 (A) identify a caller; and

2841 (B) manage multiple calls and call connections.

2842 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
2843 conference bridging service.

2844 (146) (a) "Voice mail service" means an ancillary service that enables a customer to
2845 receive, send, or store a recorded message.

2846 (b) "Voice mail service" does not include a vertical service that a customer is required

2847 to have in order to utilize a voice mail service.

2848 (147) (a) [~~Except as provided in Subsection (147)(b), "waste"~~] "Waste energy facility"

2849 means a facility that generates electricity:

2850 (i) using as the primary source of energy waste materials that would be placed in a

2851 landfill or refuse pit if it were not used to generate electricity, including:

2852 (A) tires;

2853 (B) waste coal;

2854 (C) oil shale; or

2855 (D) municipal solid waste; and

2856 (ii) in amounts greater than actually required for the operation of the facility.

2857 (b) "Waste energy facility" does not include a facility that incinerates:

2858 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

2859 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

2860 (148) "Watercraft" means a vessel as defined in Section 73-18-2.

2861 (149) "Wind energy" means wind used as the sole source of energy to produce
2862 electricity.

2863 (150) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
2864 location by the United States Postal Service.

2865 Section 11. Section **59-12-103** is amended to read:

2866 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
2867 **tax revenue.**

2868 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
2869 sales price for amounts paid or charged for the following transactions:

2870 (a) retail sales of tangible personal property made within the state;

2871 (b) amounts paid for:

2872 (i) telecommunications service, other than mobile telecommunications service, that
2873 originates and terminates within the boundaries of this state;

2874 (ii) mobile telecommunications service that originates and terminates within the
2875 boundaries of one state only to the extent permitted by the Mobile Telecommunications
2876 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

2877 (iii) an ancillary service associated with a:

- 2878 (A) telecommunications service described in Subsection (1)(b)(i); or
2879 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
2880 (c) sales of the following for commercial use:
2881 (i) gas;
2882 (ii) electricity;
2883 (iii) heat;
2884 (iv) coal;
2885 (v) fuel oil; ~~or~~
2886 (vi) hydrogen; or
2887 ~~[(vi)]~~ (vii) other fuels;
2888 (d) sales of the following for residential use:
2889 (i) gas;
2890 (ii) electricity;
2891 (iii) heat;
2892 (iv) coal;
2893 (v) fuel oil; ~~or~~
2894 (vi) hydrogen; or
2895 ~~[(vi)]~~ (vii) other fuels;
2896 (e) sales of prepared food;
2897 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
2898 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
2899 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
2900 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
2901 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
2902 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
2903 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
2904 horseback rides, sports activities, or any other amusement, entertainment, recreation,
2905 exhibition, cultural, or athletic activity;
2906 (g) amounts paid or charged for services for repairs or renovations of tangible personal
2907 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
2908 (i) the tangible personal property; and

2909 (ii) parts used in the repairs or renovations of the tangible personal property described
2910 in Subsection (1)(g)(i), regardless of whether:

2911 (A) any parts are actually used in the repairs or renovations of that tangible personal
2912 property; or

2913 (B) the particular parts used in the repairs or renovations of that tangible personal
2914 property are exempt from a tax under this chapter;

2915 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
2916 assisted cleaning or washing of tangible personal property;

2917 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
2918 accommodations and services that are regularly rented for less than 30 consecutive days;

2919 (j) amounts paid or charged for laundry or dry cleaning services;

2920 (k) amounts paid or charged for leases or rentals of tangible personal property if within
2921 this state the tangible personal property is:

2922 (i) stored;

2923 (ii) used; or

2924 (iii) otherwise consumed;

2925 (l) amounts paid or charged for tangible personal property if within this state the
2926 tangible personal property is:

2927 (i) stored;

2928 (ii) used; or

2929 (iii) consumed; and

2930 (m) amounts paid or charged for a sale:

2931 (i) (A) of a product transferred electronically; or

2932 (B) of a repair or renovation of a product transferred electronically; and

2933 (ii) regardless of whether the sale provides:

2934 (A) a right of permanent use of the product; or

2935 (B) a right to use the product that is less than a permanent use, including a right:

2936 (I) for a definite or specified length of time; and

2937 (II) that terminates upon the occurrence of a condition.

2938 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
2939 are imposed on a transaction described in Subsection (1) equal to the sum of:

2940 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
2941 (A) (I) through March 31, 2019, 4.70%; and
2942 (II) beginning on April 1, 2019, 4.70% plus the rate specified in Subsection (13)(a);
2943 and
2944 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
2945 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
2946 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
2947 State Sales and Use Tax Act; and
2948 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
2949 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
2950 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
2951 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
2952 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2953 transaction under this chapter other than this part.
2954 (b) Except as provided in Subsection (2)(d) or (e) and subject to Subsection (2)(j), a
2955 state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to
2956 the sum of:
2957 (i) a state tax imposed on the transaction at a tax rate of 2%; and
2958 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2959 transaction under this chapter other than this part.
2960 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax are
2961 imposed on amounts paid or charged for food and food ingredients equal to the sum of:
2962 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
2963 a tax rate of 1.75%; and
2964 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2965 amounts paid or charged for food and food ingredients under this chapter other than this part.
2966 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
2967 tangible personal property other than food and food ingredients, a state tax and a local tax is
2968 imposed on the entire bundled transaction equal to the sum of:
2969 (A) a state tax imposed on the entire bundled transaction equal to the sum of:
2970 (I) the tax rate described in Subsection (2)(a)(i)(A); and

2971 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
2972 Sales and Use Tax Act, if the location of the transaction as determined under Sections
2973 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
2974 Additional State Sales and Use Tax Act; and

2975 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
2976 Sales and Use Tax Act, if the location of the transaction as determined under Sections
2977 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
2978 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2979 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
2980 described in Subsection (2)(a)(ii).

2981 (ii) If an optional computer software maintenance contract is a bundled transaction that
2982 consists of taxable and nontaxable products that are not separately itemized on an invoice or
2983 similar billing document, the purchase of the optional computer software maintenance contract
2984 is 40% taxable under this chapter and 60% nontaxable under this chapter.

2985 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
2986 transaction described in Subsection (2)(d)(i) or (ii):

2987 (A) if the sales price of the bundled transaction is attributable to tangible personal
2988 property, a product, or a service that is subject to taxation under this chapter and tangible
2989 personal property, a product, or service that is not subject to taxation under this chapter, the
2990 entire bundled transaction is subject to taxation under this chapter unless:

2991 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2992 personal property, product, or service that is not subject to taxation under this chapter from the
2993 books and records the seller keeps in the seller's regular course of business; or

2994 (II) state or federal law provides otherwise; or

2995 (B) if the sales price of a bundled transaction is attributable to two or more items of
2996 tangible personal property, products, or services that are subject to taxation under this chapter
2997 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
2998 higher tax rate unless:

2999 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3000 personal property, product, or service that is subject to taxation under this chapter at the lower
3001 tax rate from the books and records the seller keeps in the seller's regular course of business; or

3002 (II) state or federal law provides otherwise.

3003 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
3004 seller's regular course of business includes books and records the seller keeps in the regular
3005 course of business for nontax purposes.

3006 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
3007 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
3008 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
3009 of tangible personal property, other property, a product, or a service that is not subject to
3010 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
3011 the seller, at the time of the transaction:

3012 (A) separately states the portion of the transaction that is not subject to taxation under
3013 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

3014 (B) is able to identify by reasonable and verifiable standards, from the books and
3015 records the seller keeps in the seller's regular course of business, the portion of the transaction
3016 that is not subject to taxation under this chapter.

3017 (ii) A purchaser and a seller may correct the taxability of a transaction if:

3018 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
3019 the transaction that is not subject to taxation under this chapter was not separately stated on an
3020 invoice, bill of sale, or similar document provided to the purchaser because of an error or
3021 ignorance of the law; and

3022 (B) the seller is able to identify by reasonable and verifiable standards, from the books
3023 and records the seller keeps in the seller's regular course of business, the portion of the
3024 transaction that is not subject to taxation under this chapter.

3025 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
3026 in the seller's regular course of business includes books and records the seller keeps in the
3027 regular course of business for nontax purposes.

3028 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
3029 personal property, products, or services that are subject to taxation under this chapter at
3030 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
3031 unless the seller, at the time of the transaction:

3032 (A) separately states the items subject to taxation under this chapter at each of the

3033 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

3034 (B) is able to identify by reasonable and verifiable standards the tangible personal
3035 property, product, or service that is subject to taxation under this chapter at the lower tax rate
3036 from the books and records the seller keeps in the seller's regular course of business.

3037 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
3038 seller's regular course of business includes books and records the seller keeps in the regular
3039 course of business for nontax purposes.

3040 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
3041 rate imposed under the following shall take effect on the first day of a calendar quarter:

3042 (i) Subsection (2)(a)(i)(A);

3043 (ii) Subsection (2)(b)(i);

3044 (iii) Subsection (2)(c)(i); or

3045 (iv) Subsection (2)(d)(i)(A)(I).

3046 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
3047 begins on or after the effective date of the tax rate increase if the billing period for the
3048 transaction begins before the effective date of a tax rate increase imposed under:

3049 (A) Subsection (2)(a)(i)(A);

3050 (B) Subsection (2)(b)(i);

3051 (C) Subsection (2)(c)(i); or

3052 (D) Subsection (2)(d)(i)(A)(I).

3053 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
3054 statement for the billing period is rendered on or after the effective date of the repeal of the tax
3055 or the tax rate decrease imposed under:

3056 (A) Subsection (2)(a)(i)(A);

3057 (B) Subsection (2)(b)(i);

3058 (C) Subsection (2)(c)(i); or

3059 (D) Subsection (2)(d)(i)(A)(I).

3060 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
3061 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
3062 change in a tax rate takes effect:

3063 (A) on the first day of a calendar quarter; and

3064 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

3065 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

3066 (A) Subsection (2)(a)(i)(A);

3067 (B) Subsection (2)(b)(i);

3068 (C) Subsection (2)(c)(i); or

3069 (D) Subsection (2)(d)(i)(A)(I).

3070 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
3071 the commission may by rule define the term "catalogue sale."

3072 (j) (i) For a location described in Subsection (2)(j)(ii), the commission shall determine
3073 the taxable status of a sale of gas, electricity, heat, coal, fuel oil, hydrogen, or other fuel based
3074 on the predominant use of the gas, electricity, heat, coal, fuel oil, hydrogen, or other fuel at the
3075 location.

3076 (ii) Subsection (2)(j)(i) applies to a location where gas, electricity, heat, coal, fuel oil,
3077 hydrogen, or other fuel is furnished through a single meter for two or more of the following
3078 uses:

3079 (A) a commercial use;

3080 (B) an industrial use; or

3081 (C) a residential use.

3082 (3) (a) The following state taxes shall be deposited into the General Fund:

3083 (i) the tax imposed by Subsection (2)(a)(i)(A);

3084 (ii) the tax imposed by Subsection (2)(b)(i);

3085 (iii) the tax imposed by Subsection (2)(c)(i); or

3086 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

3087 (b) The following local taxes shall be distributed to a county, city, or town as provided
3088 in this chapter:

3089 (i) the tax imposed by Subsection (2)(a)(ii);

3090 (ii) the tax imposed by Subsection (2)(b)(ii);

3091 (iii) the tax imposed by Subsection (2)(c)(ii); and

3092 (iv) the tax imposed by Subsection (2)(d)(i)(B).

3093 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3094 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)

3095 through (g):

3096 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

3097 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

3098 (B) for the fiscal year; or

3099 (ii) \$17,500,000.

3100 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount

3101 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the

3102 Department of Natural Resources to:

3103 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
3104 protect sensitive plant and animal species; or

3105 (B) award grants, up to the amount authorized by the Legislature in an appropriations
3106 act, to political subdivisions of the state to implement the measures described in Subsections
3107 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

3108 (ii) Money transferred to the Department of Natural Resources under Subsection
3109 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
3110 person to list or attempt to have listed a species as threatened or endangered under the
3111 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

3112 (iii) At the end of each fiscal year:

3113 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
3114 Conservation and Development Fund created in Section 73-10-24;

3115 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
3116 Program Subaccount created in Section 73-10c-5; and

3117 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
3118 Program Subaccount created in Section 73-10c-5.

3119 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
3120 Subsection (4)(a) shall be deposited each year ~~[in]~~ into the Agriculture Resource Development
3121 Fund created in Section 4-18-106.

3122 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
3123 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
3124 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
3125 water rights.

3126 (ii) At the end of each fiscal year:

3127 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources

3128 Conservation and Development Fund created in Section 73-10-24;

3129 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

3130 Program Subaccount created in Section 73-10c-5; and

3131 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

3132 Program Subaccount created in Section 73-10c-5.

3133 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described

3134 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and

3135 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

3136 (ii) In addition to the uses allowed of the Water Resources Conservation and

3137 Development Fund under Section 73-10-24, the Water Resources Conservation and

3138 Development Fund may also be used to:

3139 (A) conduct hydrologic and geotechnical investigations by the Division of Water

3140 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of

3141 quantifying surface and ground water resources and describing the hydrologic systems of an

3142 area in sufficient detail so as to enable local and state resource managers to plan for and

3143 accommodate growth in water use without jeopardizing the resource;

3144 (B) fund state required dam safety improvements; and

3145 (C) protect the state's interest in interstate water compact allocations, including the

3146 hiring of technical and legal staff.

3147 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described

3148 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount

3149 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

3150 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described

3151 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount

3152 created in Section 73-10c-5 for use by the Division of Drinking Water to:

3153 (i) provide for the installation and repair of collection, treatment, storage, and

3154 distribution facilities for any public water system, as defined in Section 19-4-102;

3155 (ii) develop underground sources of water, including springs and wells; and

3156 (iii) develop surface water sources.

3157 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3158 2006, the difference between the following amounts shall be expended as provided in this
3159 Subsection (5), if that difference is greater than \$1:

3160 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
3161 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

3162 (ii) \$17,500,000.

3163 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

3164 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
3165 credits; and

3166 (B) expended by the Department of Natural Resources for watershed rehabilitation or
3167 restoration.

3168 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
3169 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
3170 created in Section 73-10-24.

3171 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
3172 remaining difference described in Subsection (5)(a) shall be:

3173 (A) transferred each fiscal year to the Division of Water Resources as dedicated
3174 credits; and

3175 (B) expended by the Division of Water Resources for cloud-seeding projects
3176 authorized by Title 73, Chapter 15, Modification of Weather.

3177 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
3178 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
3179 created in Section 73-10-24.

3180 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
3181 remaining difference described in Subsection (5)(a) shall be deposited into the Water
3182 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
3183 Division of Water Resources for:

3184 (i) preconstruction costs:

3185 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
3186 26, Bear River Development Act; and

3187 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project

3188 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

3189 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,

3190 Chapter 26, Bear River Development Act;

3191 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project

3192 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

3193 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and

3194 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

3195 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to

3196 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be

3197 transferred each year as dedicated credits to the Division of Water Rights to cover the costs

3198 incurred for employing additional technical staff for the administration of water rights.

3199 (f) At the end of each fiscal year, any unexpended dedicated credits described in

3200 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development

3201 Fund created in Section 73-10-24.

3202 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the

3203 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection

3204 (1) for the fiscal year shall be deposited as follows:

3205 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)

3206 shall be deposited into the Transportation Investment Fund of 2005 created by Section

3207 72-2-124;

3208 (b) for fiscal year 2017-18 only:

3209 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the

3210 Transportation Investment Fund of 2005 created by Section 72-2-124; and

3211 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the

3212 Water Infrastructure Restricted Account created by Section 73-10g-103;

3213 (c) for fiscal year 2018-19 only:

3214 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the

3215 Transportation Investment Fund of 2005 created by Section 72-2-124; and

3216 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the

3217 Water Infrastructure Restricted Account created by Section 73-10g-103;

3218 (d) for fiscal year 2019-20 only:

3219 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the
3220 Transportation Investment Fund of 2005 created by Section 72-2-124; and
3221 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the
3222 Water Infrastructure Restricted Account created by Section 73-10g-103;
3223 (e) for fiscal year 2020-21 only:
3224 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
3225 Transportation Investment Fund of 2005 created by Section 72-2-124; and
3226 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
3227 Water Infrastructure Restricted Account created by Section 73-10g-103; and
3228 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
3229 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
3230 created by Section 73-10g-103.
3231 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
3232 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
3233 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
3234 created by Section 72-2-124:
3235 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
3236 the ~~[revenues]~~ revenue collected from the following taxes, which represents a portion of the
3237 approximately 17% of sales and use tax ~~[revenues]~~ revenue generated annually by the sales and
3238 use tax on vehicles and vehicle-related products:
3239 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;
3240 (B) the tax imposed by Subsection (2)(b)(i);
3241 (C) the tax imposed by Subsection (2)(c)(i); and
3242 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus
3243 (ii) an amount equal to 30% of the growth in the amount of ~~[revenues]~~ revenue
3244 collected in the current fiscal year from the sales and use taxes described in Subsections
3245 (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes
3246 described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.
3247 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
3248 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total
3249 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]~~ revenue 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]~~ revenue 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]~~ revenue 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]~~ revenue 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) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsections (6) and (7), and subject to Subsection (8)(c)(ii), 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]~~ revenue collected from the following taxes:

3281 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;
3282 (B) the tax imposed by Subsection (2)(b)(i);
3283 (C) the tax imposed by Subsection (2)(c)(i); and
3284 (D) the tax imposed by Subsection (2)(d)(i)(A)(I).

3285 (ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually
3286 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i)
3287 by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year
3288 by the portion of the tax imposed on motor and special fuel that is sold, used, or received for
3289 sale or use in this state that exceeds 29.4 cents per gallon.

3290 (iii) The commission shall annually deposit the amount described in Subsection
3291 (8)(c)(ii) into the Transit and Transportation Investment Fund created in Section 72-2-124.

3292 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
3293 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
3294 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

3295 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),
3296 in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17
3297 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund
3298 of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on
3299 the transactions described in Subsection (1).

3300 (b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in
3301 addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance
3302 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
3303 amount of revenue described as follows:

3304 (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%
3305 tax rate on the transactions described in Subsection (1);

3306 (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05%
3307 tax rate on the transactions described in Subsection (1);

3308 (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%
3309 tax rate on the transactions described in Subsection (1);

3310 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
3311 .05% tax rate on the transactions described in Subsection (1); and

3312 (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%
3313 tax rate on the transactions described in Subsection (1).

3314 (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not
3315 deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts
3316 paid or charged for food and food ingredients, except for tax revenue generated by a bundled
3317 transaction attributable to food and food ingredients and tangible personal property other than
3318 food and food ingredients described in Subsection (2)(d).

3319 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
3320 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
3321 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
3322 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue
3323 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,
3324 created in Section 63N-2-512.

3325 (12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the
3326 Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed
3327 under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

3328 (b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of
3329 Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under
3330 Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

3331 (13) (a) The rate specified in this subsection is 0.15%.

3332 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall~~[(i) on or before~~
3333 ~~September 30, 2019, transfer the amount of revenue collected from the rate described in~~
3334 ~~Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the~~
3335 ~~transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the~~
3336 ~~Medicaid Expansion Fund created in Section 26-36b-208, and (ii)]~~, for a fiscal year beginning
3337 on or after July 1, 2019, annually transfer the amount of revenue collected from the rate
3338 described in Subsection (13)(a) on the transactions that are subject to the sales and use tax
3339 under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section
3340 26-36b-208.

3341 (14) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
3342 2020-21, the Division of Finance shall deposit \$200,000 into the General Fund as a dedicated

credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(15) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of Finance shall annually transfer \$1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) is less than \$1,813,400 for a fiscal year, the Division of Finance shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

Section 12. Section **63M-4-401** is amended to read:

63M-4-401. Office of Energy Development -- Creation -- Director -- Purpose -- Rulemaking regarding confidential information -- Fees.

(1) There is created an Office of Energy Development.

(2) (a) The governor's energy advisor shall serve as the director of the office or appoint a director of the office.

(b) The director:

(i) shall, if the governor's energy advisor appoints a director under Subsection (2)(a), report to the governor's energy advisor; and

(ii) may appoint staff as funding within existing budgets allows.

(c) The office may consolidate energy staff and functions existing in the state energy program.

(3) The purposes of the office are to:

(a) serve as the primary resource for advancing energy and mineral development in the state;

(b) implement:

(i) the state energy policy under Section **63M-4-301**; and

(ii) the governor's energy and mineral development goals and objectives;

(c) advance energy education, outreach, and research, including the creation of elementary, higher education, and technical college energy education programs;

(d) promote energy and mineral development workforce initiatives; and

(e) support collaborative research initiatives targeted at Utah-specific energy and

3374 mineral development.

3375 (4) By following the procedures and requirements of Title 63J, Chapter 5, Federal
3376 Funds Procedures Act, the office may:

3377 (a) seek federal grants or loans;

3378 (b) seek to participate in federal programs; and

3379 (c) in accordance with applicable federal program guidelines, administer federally
3380 funded state energy programs.

3381 (5) The office shall perform the duties required by Sections [11-42a-106](#)[;] and
3382 [59-5-102](#)[, ~~59-7-614.7~~, ~~59-10-1029~~, Part 5, Alternative Energy Development Tax Credit Act,]
3383 and Part 6, High Cost Infrastructure Development Tax Credit Act.

3384 (6) (a) For purposes of administering this section, the office may make rules, by
3385 following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative
3386 Rulemaking Act, to maintain as confidential, and not as a public record, information that the
3387 office receives from any source.

3388 (b) The office shall maintain information the office receives from any source at the
3389 level of confidentiality assigned by the source.

3390 (7) The office may charge application, filing, and processing fees in amounts
3391 determined by the office in accordance with Section [63J-1-504](#) as dedicated credits for
3392 performing office duties described in this part.

3393 Section 13. Section **63M-4-602** is amended to read:

3394 **63M-4-602. Definitions.**

3395 As used in this part:

3396 (1) "Applicant" means a person that conducts business in the state and that applies for a
3397 tax credit under this part.

3398 (2) "Fuel standard compliance project" means a project designed to retrofit a fuel
3399 refinery in order to make the refinery capable of producing fuel that complies with the United
3400 States Environmental Protection Agency's Tier 3 gasoline sulfur standard described in 40
3401 C.F.R. Sec. 79.54.

3402 (3) "High cost infrastructure project" means a project:

3403 (a) (i) that expands or creates new industrial, mining, manufacturing, or agriculture
3404 activity in the state, not including a retail business;

3405 (ii) that involves new investment of at least \$50,000,000 in an existing industrial,
3406 mining, manufacturing, or agriculture entity, by the entity; or
3407 (iii) for the construction of a plant or other facility, including a fueling station, for the
3408 storage, production, or distribution of hydrogen fuel used for transportation, electricity
3409 generation, or industrial use;
3410 (b) that requires or is directly facilitated by infrastructure construction; and
3411 (c) for which the cost of infrastructure construction to the entity creating the project is
3412 greater than:
3413 (i) 10% of the total cost of the project; or
3414 (ii) \$10,000,000.
3415 (4) "Infrastructure" means:
3416 (a) an energy delivery project as defined in Section 63H-2-102;
3417 (b) a railroad as defined in Section 54-2-1;
3418 (c) a fuel standard compliance project;
3419 (d) a road improvement project;
3420 (e) a water self-supply project;
3421 (f) a water removal system project;
3422 (g) a solution-mined subsurface salt cavern; or
3423 (h) a project that is designed to:
3424 (i) increase the capacity for water delivery to a water user in the state; ~~or~~
3425 (ii) increase the capability of an existing water delivery system or related facility to
3426 deliver water to a water user in the state~~[-];~~ or
3427 (i) a hydrogen fuel production or distribution project.
3428 (5) (a) "Infrastructure cost-burdened entity" means an applicant that enters into an
3429 agreement with the office that qualifies the applicant to receive a tax credit as provided in this
3430 part.
3431 (b) "Infrastructure cost-burdened entity" includes a pass-through entity taxpayer, as
3432 defined in Section 59-10-1402, of a person described in Subsection (5)(a).
3433 (6) "Infrastructure-related revenue" means an amount of tax revenue, for an entity
3434 creating a high cost infrastructure project, in a taxable year, that is directly attributable to a high
3435 cost infrastructure project, under:

- 3436 (a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
3437 (b) Title 59, Chapter 10, Individual Income Tax Act; and
3438 (c) Title 59, Chapter 12, Sales and Use Tax Act.
- 3439 (7) "Office" means the Office of Energy Development created in Section 63M-4-401.
3440 (8) "Tax credit" means a tax credit under Section 59-7-619 or 59-10-1034.
3441 (9) "Tax credit certificate" means a certificate issued by the office to an infrastructure
3442 cost-burdened entity that:
- 3443 (a) lists the name of the infrastructure cost-burdened entity;
3444 (b) lists the infrastructure cost-burdened entity's taxpayer identification number;
3445 (c) lists, for a taxable year, the amount of the tax credit authorized for the infrastructure
3446 cost-burdened entity under this part; and
3447 (d) includes other information as determined by the office.
- 3448 **Section 14. Repealer.**
3449 This bill repeals:
3450 Section 59-7-614.7, **Nonrefundable alternative energy development tax credit.**
3451 Section 59-10-1029, **Nonrefundable alternative energy development tax credit.**
3452 Section 63M-4-501, **Title.**
3453 Section 63M-4-502, **Definitions.**
3454 Section 63M-4-503, **Tax credits.**
3455 Section 63M-4-504, **Qualifications for tax credit -- Procedure.**
3456 Section 63M-4-505, **Report to the Legislature.**
- 3457 **Section 15. Effective date.**
3458 (1) Except as provided in Subsections (2) and (3), this bill takes effect on July 1, 2021.
3459 (2) The changes to the following sections take effect on January 1, 2022:
3460 (a) Section 59-7-159;
3461 (b) Section 59-10-137;
3462 (c) Section 59-12-102; and
3463 (d) Section 59-12-103.
3464 (3) The changes to the following sections take effect for a taxable year beginning on or
3465 after January 1, 2022:
3466 (a) Section 59-7-614;

3467 (b) Section [59-7-614.7](#);
3468 (c) Section [59-7-626](#);
3469 (d) Section [59-10-1014](#);
3470 (e) Section [59-10-1029](#);
3471 (f) Section [59-10-1106](#);
3472 (g) Section [59-10-1113](#);
3473 (h) Section [63M-4-401](#);
3474 (i) Section [63M-4-501](#);
3475 (j) Section [63M-4-502](#);
3476 (k) Section [63M-4-503](#);
3477 (l) Section [63M-4-504](#);
3478 (m) Section [63M-4-505](#); and
3479 (n) Section [63M-4-602](#).