

TAX MODIFICATIONS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stewart E. Barlow

Senate Sponsor: Luz Escamilla

Cosponsor:

Travis M. Seegmiller

LONG TITLE

General Description:

This bill modifies provisions related to tax.

Highlighted Provisions:

This bill:

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

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

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

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

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

- makes technical corrections, including eliminating references to repealed provisions, eliminating redundant or obsolete language, and updating cross-references.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

This bill provides coordination clauses.

Utah Code Sections Affected:**AMENDS:**

11-41-102, as last amended by Laws of Utah 2016, Chapter 176

19-3-106, as last amended by Laws of Utah 2018, Chapter 376

26-36b-208, as last amended by Laws of Utah 2019, Chapters 1 and 393

35A-8-308, as last amended by Laws of Utah 2017, Chapters 181 and 421

35A-8-309, as last amended by Laws of Utah 2019, Chapter 493

59-1-401, as last amended by Laws of Utah 2020, Chapter 294

59-1-403, as last amended by Laws of Utah 2020, Chapter 294

59-1-403.1, as enacted by Laws of Utah 2018, Chapter 4

59-1-404, as last amended by Laws of Utah 2018, Chapter 368

59-2-103.5, as last amended by Laws of Utah 2020, Chapter 78

59-2-1007, as last amended by Laws of Utah 2018, Chapter 368

59-2-1602, as last amended by Laws of Utah 2020, Chapter 447

59-7-118, as last amended by Laws of Utah 2019, Chapter 11

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

59-7-504, as last amended by Laws of Utah 1995, Chapter 311

59-7-505, as last amended by Laws of Utah 1997, Chapter 332

59-7-507, as last amended by Laws of Utah 2007, Chapter 269

59-7-610, as last amended by Laws of Utah 2020, Chapters 82, 354, 360 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 360

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

59-7-620, as last amended by Laws of Utah 2020, Chapter 46

57 **59-10-103**, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 15
58 **59-10-114**, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 15
59 **59-10-137**, as last amended by Laws of Utah 2019, Chapters 247 and 465
60 **59-10-507**, as last amended by Laws of Utah 2016, Chapter 87
61 **59-10-514**, as last amended by Laws of Utah 2016, Chapter 87
62 **59-10-516**, as last amended by Laws of Utah 2010, Chapter 271
63 **59-10-522**, as renumbered and amended by Laws of Utah 1987, Chapter 2
64 **59-10-1007**, as last amended by Laws of Utah 2020, Chapters 82, 354, 360 and last
65 amended by Coordination Clause, Laws of Utah 2020, Chapter 360
66 **59-10-1017**, as last amended by Laws of Utah 2017, Chapter 389
67 **59-10-1017.1**, as enacted by Laws of Utah 2017, Chapter 389
68 **59-10-1022**, as enacted by Laws of Utah 2008, Chapter 389
69 **59-10-1023**, as enacted by Laws of Utah 2008, Chapter 389
70 **59-10-1028**, as last amended by Laws of Utah 2012, Chapter 399
71 **59-10-1035**, as last amended by Laws of Utah 2017, Chapter 222
72 **59-10-1036**, as enacted by Laws of Utah 2016, Chapter 55
73 **59-10-1403**, as last amended by Laws of Utah 2017, Chapter 270
74 **59-10-1403.3**, as enacted by Laws of Utah 2017, Chapter 270
75 **59-12-102**, as last amended by Laws of Utah 2020, Chapters 354, 365, and 438
76 **59-12-103**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
77 **59-12-104**, as last amended by Laws of Utah 2020, Chapters 44, 91, 354, 412, and 438
78 **59-12-209**, as last amended by Laws of Utah 2009, Chapters 212 and 240
79 **59-12-210**, as last amended by Laws of Utah 2009, Chapter 240
80 **59-14-212**, as last amended by Laws of Utah 2007, Chapter 322
81 **62A-11-328**, as last amended by Laws of Utah 2009, Chapter 31
82 **63G-2-302**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
83 REPEALS:
84 **59-7-118.1**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4

85 **59-7-504.1**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
86 **59-7-505.1**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
87 **59-7-507.1**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
88 **59-10-103.2**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
89 **59-10-114.1**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
90 **59-10-514.2**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
91 **59-10-516.1**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
92 **59-10-522.1**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
93 **59-10-1403.4**, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
94 **59-12-103.3**, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 2

95 **Utah Code Sections Affected by Coordination Clause:**

96 **10-1-304**, as last amended by Laws of Utah 2012, Chapter 410
97 **10-3c-204**, as enacted by Laws of Utah 2015, Chapter 352
98 **59-12-102**, as last amended by Laws of Utah 2020, Chapters 354, 365, and 438
99 **59-12-209**, as last amended by Laws of Utah 2009, Chapters 212 and 240
100 **59-12-210**, as last amended by Laws of Utah 2009, Chapter 240

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

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

104 **11-41-102. Definitions.**

105 As used in this chapter:

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

107 (a) (i) county; or

108 (ii) municipality; and

109 (b) person.

110 (2) "Municipality" means a:

111 (a) city;

112 (b) town; or

(c) metro township.

(3) "Payment" includes:

(a) a payment;

(b) a rebate;

(c) a refund; or

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

(4) "Regional retail business" means a:

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

(b) dealer as defined in Section 41-1a-102;

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

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

(5) (a) "Sales and use tax" means a tax:

(i) imposed on transactions within a:

(A) county; or

(B) municipality; and

(ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12, Sales and Use Tax Act.

(b) ~~[Notwithstanding Subsection (5)(a)(ii), "sales"]~~ "Sales and use tax" does not include a tax authorized under:

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

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

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

~~(iv) Subsection 59-12-103(2)(d);~~

~~[(iv)]~~ (v) Subsection 59-12-103(2)~~[(d)]~~(e)(i)(A);

~~[(v)]~~ (vi) Section 59-12-301;

~~[(vi)]~~ (vii) Section 59-12-352;

141 [~~(vii)~~] (viii) Section 59-12-353;
142 [~~(viii)~~] (ix) Section 59-12-603; or
143 [~~(ix)~~] (x) Section 59-12-1201.

144 (6) (a) "Sales and use tax incentive payment" means a payment of revenues:

145 (i) to a person;

146 (ii) by a:

147 (A) county; or

148 (B) municipality;

149 (iii) to induce the person to locate or relocate a regional retail business within the:

150 (A) county; or

151 (B) municipality; and

152 (iv) that are derived from a sales and use tax.

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

155 Section 2. Section 19-3-106 is amended to read:

156 **19-3-106. Fee for commercial radioactive waste disposal or treatment.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26-36b-208. Medicaid Expansion Fund.

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

- 197 (2) The fund consists of:
- 198 (a) assessments collected under this chapter;
- 199 (b) intergovernmental transfers under Section 26-36b-206;
- 200 (c) savings attributable to the health coverage improvement program as determined by
- 201 the department;
- 202 (d) savings attributable to the enhancement waiver program as determined by the
- 203 department;
- 204 (e) savings attributable to the Medicaid waiver expansion as determined by the
- 205 department;
- 206 (f) savings attributable to the inclusion of psychotropic drugs on the preferred drug list
- 207 under Subsection 26-18-2.4(3) as determined by the department;
- 208 (g) revenues collected from the sales tax described in Subsection 59-12-103[~~(13)~~](12);
- 209 (h) gifts, grants, donations, or any other conveyance of money that may be made to the
- 210 fund from private sources;
- 211 (i) interest earned on money in the fund; and
- 212 (j) additional amounts as appropriated by the Legislature.
- 213 (3) (a) The fund shall earn interest.
- 214 (b) All interest earned on fund money shall be deposited into the fund.
- 215 (4) (a) A state agency administering the provisions of this chapter may use money from
- 216 the fund to pay the costs, not otherwise paid for with federal funds or other revenue sources, of:
- 217 (i) the health coverage improvement program;
- 218 (ii) the enhancement waiver program;
- 219 (iii) a Medicaid waiver expansion; and
- 220 (iv) the outpatient upper payment limit supplemental payments under Section
- 221 26-36b-210.
- 222 (b) A state agency administering the provisions of this chapter may not use:
- 223 (i) funds described in Subsection (2)(b) to pay the cost of private outpatient upper
- 224 payment limit supplemental payments; or

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

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

35A-8-308. Throughput Infrastructure Fund.

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

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

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

(b) any voluntary contributions received;

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

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

(3) The state treasurer shall:

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

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

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

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

(1) The impact board shall:

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

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

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

(d) determine provisions for repayment of loans;

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

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

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

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

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

(5) (a) The impact board shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

(I) this title;

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

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

(IV) Section 19-6-410.5;

(V) Section 19-6-714;

(VI) Section 19-6-805;

(VII) Section 34A-2-202;

(VIII) Section 40-6-14; or

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

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

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

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

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

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

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

(E) Chapter 4, Privilege Tax.

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

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

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

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

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

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

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

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

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

(A) \$20; or

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

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

(A) \$20; or

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

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

(III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is

365 filed more than 15 days after the due date described in Subsection (2)(a).

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

367 (i) an amended return; or

368 (ii) a return with no tax due.

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

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

373 (ii) the person:

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

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

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

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

380 (iv) the person:

381 (A) is mailed a notice of deficiency; and

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

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

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

386 (v) (A) the commission:

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

389 (II) is considered to have denied a request for reconsideration under Subsection
390 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed
391 request for agency action; and

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

after the date the commission:

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

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

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

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

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

(A) \$20; or

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

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

(A) \$20; or

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

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

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

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

of the underpayment.

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) \$20; or

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

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

(A) \$20; or

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

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

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

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

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

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

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

(i) The notice of proposed penalty shall:

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

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

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

477 penalty is proposed may:

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

479 or

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

481 (iii) A person against whom a penalty is proposed in accordance with this Subsection

482 (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with

483 the commission.

484 (iv) (A) If the commission determines that a person is liable for a penalty under this

485 Subsection (7), the commission shall assess the penalty and give notice and demand for

486 payment.

487 (B) The commission shall mail the notice and demand for payment described in

488 Subsection (7)(b)(iv)(A):

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

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

491 (c) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not

492 subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

493 (i) a court of competent jurisdiction issues a final unappealable judgment or order

494 determining that:

495 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)

496 or is a seller required to pay or collect and remit sales and use taxes under Subsection

497 59-12-107(2)(b) or (2)(c); and

498 (B) the commission or a county, city, or town may require the seller to collect a tax

499 under Subsections 59-12-103(2)(a) through ~~(d)~~ (e); or

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

501 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)

502 or is a seller required to pay or collect and remit sales and use taxes under Subsection

503 59-12-107(2)(b) or (2)(c); and

504 (B) the commission or a county, city, or town may require the seller to collect a tax

under Subsections 59-12-103(2)(a) through ~~[(d)]~~ (e).

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

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

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

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

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

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

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

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

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

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

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

Subsection 59-10-406(3)(b)(ii).

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

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

(i) is subject to a penalty described in Subsection (2); and
(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

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

(i) is subject to a penalty described in Subsection (2); and
(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:
(i) commits an act described in Subsection (11)(b) with respect to one or more of the following documents:

(A) a return;
(B) an affidavit;
(C) a claim; or
(D) a document similar to Subsections (11)(a)(i)(A) through (C);
(ii) knows or has reason to believe that the document described in Subsection (11)(a)(i) will be used in connection with any material matter administered by the commission; and
(iii) knows that the document described in Subsection (11)(a)(i), if used in connection with any material matter administered by the commission, would result in an understatement of another person's liability for a tax, fee, or charge.

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

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

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

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

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

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

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

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

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

(i) shall be imposed by the commission;

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

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

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

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

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

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

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

(A) be less than \$500; or

(B) exceed \$1,000.

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

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

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

(B) exceed \$5,000.

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

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

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

(B) exceed \$25,000.

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

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

(I) a return;

(II) an affidavit;

(III) a claim; or

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

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

617 Subsection (12)(e)(i)(A):

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

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

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

622 (A) preparing any portion of a document described in Subsection (12)(e)(i)(A);

623 (B) presenting any portion of a document described in Subsection (12)(e)(i)(A);

624 (C) procuring any portion of a document described in Subsection (12)(e)(i)(A);

625 (D) advising in the preparation or presentation of any portion of a document described
626 in Subsection (12)(e)(i)(A);

627 (E) aiding in the preparation or presentation of any portion of a document described in
628 Subsection (12)(e)(i)(A);

629 (F) assisting in the preparation or presentation of any portion of a document described
630 in Subsection (12)(e)(i)(A); or

631 (G) counseling in the preparation or presentation of any portion of a document
632 described in Subsection (12)(e)(i)(A).

633 (iii) This Subsection (12)(e) applies:

634 (A) regardless of whether the person for which the document described in Subsection
635 (12)(e)(i)(A) is prepared or presented:

636 (I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or

637 (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and

638 (B) in addition to any other penalty provided by law.

639 (iv) Notwithstanding Section [76-3-301](#), for purposes of this Subsection (12)(e), the
640 penalty may not:

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

642 (B) exceed \$25,000.

643 (v) The commission may seek a court order to enjoin a person from engaging in
644 conduct that is subject to a penalty under this Subsection (12)(e).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) fails to file the form.

(14) Upon making a record of its actions, and upon reasonable cause shown, the

commission may waive, reduce, or compromise any of the penalties or interest imposed under this part.

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

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

(1) As used in this section:

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

(i) the commission administers under:

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

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

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

(D) Section [19-6-805](#);

(E) Section [63H-1-205](#); or

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

and

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

(b) "Qualifying jurisdiction" means:

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

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

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

(i) a tax commissioner;

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

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

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

- 701 (i) in accordance with judicial order;
- 702 (ii) on behalf of the commission in any action or proceeding under:
- 703 (A) this title; or
- 704 (B) other law under which persons are required to file returns with the commission;
- 705 (iii) on behalf of the commission in any action or proceeding to which the commission
- 706 is a party; or
- 707 (iv) on behalf of any party to any action or proceeding under this title if the report or
- 708 facts shown by the return are directly involved in the action or proceeding.
- 709 (c) Notwithstanding Subsection ~~[(1)]~~ (2)(b), a court may require the production of, and
- 710 may admit in evidence, any portion of a return or of the facts shown by the return, as are
- 711 specifically pertinent to the action or proceeding.
- 712 ~~[(2)]~~ (3) This section does not prohibit:
- 713 (a) a person or that person's duly authorized representative from receiving a copy of
- 714 any return or report filed in connection with that person's own tax;
- 715 (b) the publication of statistics as long as the statistics are classified to prevent the
- 716 identification of particular reports or returns; and
- 717 (c) the inspection by the attorney general or other legal representative of the state of the
- 718 report or return of any taxpayer:
- 719 (i) who brings action to set aside or review a tax based on the report or return;
- 720 (ii) against whom an action or proceeding is contemplated or has been instituted under
- 721 this title; or
- 722 (iii) against whom the state has an unsatisfied money judgment.
- 723 ~~[(3)]~~ (4) (a) Notwithstanding Subsection ~~[(1)]~~ (2) and for purposes of administration,
- 724 the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah
- 725 Administrative Rulemaking Act, provide for a reciprocal exchange of information with:
- 726 (i) the United States Internal Revenue Service; or
- 727 (ii) the revenue service of any other state.
- 728 (b) Notwithstanding Subsection ~~[(1)]~~ (2) and for all taxes except individual income tax

and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

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

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

(e) Notwithstanding Subsection ~~[(1)]~~ (2), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

- (i) Chapter 13, Part 2, Motor Fuel; or
- (ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection ~~[(1)]~~ (2), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

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

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

(g) Notwithstanding Subsection ~~[(1)]~~ (2), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection ~~[(1)]~~ (2), the commission may:

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

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

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

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

(i) Notwithstanding Subsection ~~[(1)]~~ (2), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Management and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection ~~[(1)]~~ (2), the commission shall make the directory required by Section 59-14-603 available for public inspection.

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

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

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

enforcing that support obligation.

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

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

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

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

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

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

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

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

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

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

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

information.

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

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

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

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

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

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

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

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

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

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

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

(D) a document filed with the commission; or

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

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

841 (i) requests the information; and

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

844 (q) Notwithstanding Subsection [(†)] (2), the commission shall provide to the Utah
845 Communications Authority, or a division of the Utah Communications Authority, the
846 information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and
847 63H-7a-502.

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

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

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

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

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

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

868 (v) Notwithstanding Subsection [(†)] (2), the commission shall provide the Department

of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) is not subject to:

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

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

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

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

59-1-403.1. Disclosure of return information.

(1) As used in this section:

(a) "Office" means:

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

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

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

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

(ii) "Return information" does not include information that the commission is

prohibited from disclosing by federal law, federal regulation, or federal publication.

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

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

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

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

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

(ii) to another office.

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

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

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

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

(b) shall be:

(i) dismissed from office; and

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

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

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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

(i) is a property owner; or

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

- 981 (A) make filings on behalf of the property owner;
- 982 (B) process appeals on behalf of the property owner; or
- 983 (C) pay a tax under Chapter 2, Property Tax Act, on the property owner's property.
- 984 (g) "Property taxpayer's property" means property with respect to which a property
- 985 taxpayer:
- 986 (i) owns the property;
- 987 (ii) makes filings relating to the property;
- 988 (iii) processes appeals relating to the property; or
- 989 (iv) pays a tax under Chapter 2, Property Tax Act, on the property.
- 990 (h) "Protected commercial information" means commercial information that:
- 991 (i) identifies a specific property taxpayer; or
- 992 (ii) would reasonably lead to the identity of a specific property taxpayer.
- 993 (2) An individual listed under Subsection 59-1-403~~[(1)]~~(2)(a) may not disclose
- 994 commercial information:
- 995 (a) obtained in the course of performing any duty that the individual listed under
- 996 Subsection 59-1-403~~[(1)]~~(2)(a) performs under Chapter 2, Property Tax Act; or
- 997 (b) relating to an action or proceeding:
- 998 (i) with respect to a tax imposed on property in accordance with Chapter 2, Property
- 999 Tax Act; and
- 1000 (ii) that is filed in accordance with:
- 1001 (A) this chapter;
- 1002 (B) Chapter 2, Property Tax Act; or
- 1003 (C) this chapter and Chapter 2, Property Tax Act.
- 1004 (3) (a) Notwithstanding Subsection (2) and subject to Subsection (3)(c), an individual
- 1005 listed under Subsection 59-1-403~~[(1)]~~(2)(a) may disclose the following information:
- 1006 (i) the assessed value of property;
- 1007 (ii) the tax rate imposed on property;
- 1008 (iii) a legal description of property;

- 1009 (iv) the physical description or characteristics of property, including a street address or
1010 parcel number for the property;
- 1011 (v) the square footage or acreage of property;
- 1012 (vi) the square footage of improvements on property;
- 1013 (vii) the name of a property taxpayer;
- 1014 (viii) the mailing address of a property taxpayer;
- 1015 (ix) the amount of a property tax:
- 1016 (A) assessed on property;
- 1017 (B) due on property;
- 1018 (C) collected on property;
- 1019 (D) abated on property; or
- 1020 (E) deferred on property;
- 1021 (x) the amount of the following relating to property taxes due on property:
- 1022 (A) interest;
- 1023 (B) costs; or
- 1024 (C) other charges;
- 1025 (xi) the tax status of property, including:
- 1026 (A) an exemption;
- 1027 (B) a property classification;
- 1028 (C) a bankruptcy filing; or
- 1029 (D) whether the property is the subject of an action or proceeding under this title;
- 1030 (xii) information relating to a tax sale of property; or
- 1031 (xiii) information relating to single-family residential property.
- 1032 (b) Notwithstanding Subsection (2) and subject to Subsection (3)(c), an individual
1033 listed under Subsection 59-1-403~~[(1)]~~(2)(a) shall disclose, upon request, the information
1034 described in Subsection 59-2-1007(9).
- 1035 (c) (i) Subject to Subsection (3)(c)(ii), a person may receive the information described
1036 in Subsection (3)(a) or (b) in written format.

1037 (ii) The following may charge a reasonable fee to cover the actual cost of providing the
1038 information described in Subsection (3)(a) or (b) in written format:

1039 (A) the commission;

1040 (B) a county;

1041 (C) a city; or

1042 (D) a town.

1043 (4) (a) Notwithstanding Subsection (2) and except as provided in Subsection (4)(c), an
1044 individual listed under Subsection 59-1-403[~~(1)~~](2)(a) shall disclose commercial information:

1045 (i) in accordance with judicial order;

1046 (ii) on behalf of the commission in any action or proceeding:

1047 (A) under this title;

1048 (B) under another law under which a property taxpayer is required to disclose
1049 commercial information; or

1050 (C) to which the commission is a party;

1051 (iii) on behalf of any party to any action or proceeding under this title if the commercial
1052 information is directly involved in the action or proceeding; or

1053 (iv) if the requirements of Subsection (4)(b) are met, that is:

1054 (A) relevant to an action or proceeding:

1055 (I) filed in accordance with this title; and

1056 (II) involving property; or

1057 (B) in preparation for an action or proceeding involving property.

1058 (b) Commercial information shall be disclosed in accordance with Subsection
1059 (4)(a)(iv):

1060 (i) if the commercial information is obtained from:

1061 (A) a real estate agent if the real estate agent is not a property taxpayer of the property
1062 that is the subject of the action or proceeding;

1063 (B) an appraiser if the appraiser:

1064 (I) is not a property taxpayer of the property that is the subject of the action or

1065 proceeding; and

1066 (II) did not receive the commercial information pursuant to Subsection (8);

1067 (C) a property manager if the property manager is not a property taxpayer of the

1068 property that is the subject of the action or proceeding; or

1069 (D) a property taxpayer other than a property taxpayer of the property that is the subject

1070 of the action or proceeding;

1071 (ii) regardless of whether the commercial information is disclosed in more than one

1072 action or proceeding; and

1073 (iii) (A) if a county board of equalization conducts the action or proceeding, the county

1074 board of equalization takes action to provide that any commercial information disclosed during

1075 the action or proceeding may not be disclosed by any person conducting or participating in the

1076 action or proceeding except as specifically allowed by this section;

1077 (B) if the commission conducts the action or proceeding, the commission enters a

1078 protective order or, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking

1079 Act, makes rules specifying that any commercial information disclosed during the action or

1080 proceeding may not be disclosed by any person conducting or participating in the action or

1081 proceeding except as specifically allowed by this section; or

1082 (C) if a court of competent jurisdiction conducts the action or proceeding, the court

1083 enters a protective order specifying that any commercial information disclosed during the

1084 action or proceeding may not be disclosed by any person conducting or participating in the

1085 action or proceeding except as specifically allowed by this section.

1086 (c) Notwithstanding Subsection (4)(a), a court may require the production of, and may

1087 admit in evidence, commercial information that is specifically pertinent to the action or

1088 proceeding.

1089 (5) Notwithstanding Subsection (2), this section does not prohibit:

1090 (a) the following from receiving a copy of any commercial information relating to the

1091 basis for assessing a tax that is charged to a property taxpayer:

1092 (i) the property taxpayer;

- 1093 (ii) a duly authorized representative of the property taxpayer;
- 1094 (iii) a person that has in effect a contract with the property taxpayer to:
- 1095 (A) make filings on behalf of the property taxpayer;
- 1096 (B) process appeals on behalf of the property taxpayer; or
- 1097 (C) pay a tax under Chapter 2, Property Tax Act, on the property taxpayer's property;
- 1098 (iv) a property taxpayer that purchases property from another property taxpayer; or
- 1099 (v) a person that the property taxpayer designates in writing as being authorized to
- 1100 receive the commercial information;
- 1101 (b) the publication of statistics as long as the statistics are classified to prevent the
- 1102 identification of a particular property taxpayer's commercial information; or
- 1103 (c) the inspection by the attorney general or other legal representative of the state or a
- 1104 legal representative of a political subdivision of the state of the commercial information of a
- 1105 property taxpayer:
- 1106 (i) that brings action to set aside or review a tax or property valuation based on the
- 1107 commercial information;
- 1108 (ii) against which an action or proceeding is contemplated or has been instituted under
- 1109 this title; or
- 1110 (iii) against which the state or a political subdivision of the state has an unsatisfied
- 1111 money judgment.
- 1112 (6) Notwithstanding Subsection (2), in accordance with Title 63G, Chapter 3, Utah
- 1113 Administrative Rulemaking Act, the commission may by rule establish standards authorizing
- 1114 an individual listed under Subsection 59-1-403~~(1)~~(2)(a) to disclose commercial information:
- 1115 (a) (i) in a published decision; or
- 1116 (ii) in carrying out official duties; and
- 1117 (b) if that individual listed under Subsection 59-1-403~~(1)~~(2)(a) consults with the
- 1118 property taxpayer that provided the commercial information.
- 1119 (7) Notwithstanding Subsection (2):
- 1120 (a) an individual listed under Subsection 59-1-403~~(1)~~(2)(a) may share commercial

1121 information with the following:

1122 (i) another individual listed in Subsection 59-1-403~~(1)~~(2)(a)(i) or (ii); or

1123 (ii) a representative, agent, clerk, or other officer or employee of a county as required
1124 to fulfill an obligation created by Chapter 2, Property Tax Act;

1125 (b) an individual listed under Subsection 59-1-403~~(1)~~(2)(a) may perform the
1126 following to fulfill an obligation created by Chapter 2, Property Tax Act:

1127 (i) publish notice;

1128 (ii) provide notice; or

1129 (iii) file a lien; or

1130 (c) the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah
1131 Administrative Rulemaking Act, share commercial information gathered from returns and other
1132 written statements with the federal government, any other state, any of the political
1133 subdivisions of another state, or any political subdivision of this state, if these political
1134 subdivisions or the federal government grant substantially similar privileges to this state.

1135 (8) Notwithstanding Subsection (2):

1136 (a) subject to the limitations in this section, an individual described in Subsection
1137 59-1-403~~(1)~~(2)(a) may share the following commercial information with an appraiser:

1138 (i) the sales price of locally assessed property and the related financing terms;

1139 (ii) capitalization rates and related rates and ratios related to the valuation of locally
1140 assessed property; and

1141 (iii) income and expense information related to the valuation of locally assessed
1142 property; and

1143 (b) except as provided in Subsection (4), an appraiser who receives commercial
1144 information:

1145 (i) may disclose the commercial information:

1146 (A) to an individual described in Subsection 59-1-403~~(1)~~(2)(a);

1147 (B) to an appraiser;

1148 (C) in an appraisal if protected commercial information is removed to protect its

1149 confidential nature; or
1150 (D) in performing a consultation service if protected commercial information is not
1151 disclosed; and
1152 (ii) may not use the commercial information:
1153 (A) for a purpose other than to prepare an appraisal or perform a consultation service;
1154 or
1155 (B) for a purpose intended to be, or which could reasonably be foreseen to be,
1156 anti-competitive to a property taxpayer.
1157 (9) (a) The commission shall:
1158 (i) prepare a written explanation of this section; and
1159 (ii) make the written explanation described in Subsection (9)(a)(i) available to the
1160 public.
1161 (b) An employer of a person described in Subsection 59-1-403~~(1)~~(2)(a) shall:
1162 (i) provide the written explanation described in Subsection (9)(a)(i) to each person
1163 described in Subsection 59-1-403~~(1)~~(2)(a) who is reasonably likely to receive commercial
1164 information;
1165 (ii) require each person who receives a written explanation in accordance with
1166 Subsection (9)(b)(i) to:
1167 (A) read the written explanation; and
1168 (B) sign the written explanation; and
1169 (iii) retain each written explanation that is signed in accordance with Subsection
1170 (9)(b)(ii) for a time period:
1171 (A) beginning on the day on which a person signs the written explanation in
1172 accordance with Subsection (9)(b)(ii); and
1173 (B) ending six years after the day on which the employment of the person described in
1174 Subsection (9)(b)(iii)(A) by the employer terminates.
1175 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1176 commission shall by rule define "employer."

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

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

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

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

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

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

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

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

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

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

1205 (b) an ownership interest in the residential property changes; or
1206 (c) the county board of equalization determines that there is reason to believe that the
1207 residential property no longer qualifies for the residential exemption.

1208 (2) (a) The application described in Subsection (1):
1209 (i) shall be on a form the commission prescribes by rule and makes available to the
1210 counties;
1211 (ii) shall be signed by the owner of the residential property; and
1212 (iii) may not request the sales price of the residential property.

1213 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1214 commission may make rules prescribing the contents of the form described in Subsection
1215 (2)(a).

1216 (c) For purposes of the application described in Subsection (1), a county may not
1217 request information from an owner of a residential property beyond the information provided in
1218 the form prescribed by the commission under this Subsection (2).

1219 (3) (a) Regardless of whether a county legislative body adopts an ordinance described
1220 in Subsection (1), before a residential exemption may be applied to the value of part-year
1221 residential property, an owner of the property shall:

1222 (i) file the application described in Subsection (2)(a) with the county board of
1223 equalization; and
1224 (ii) include as part of the application described in Subsection (2)(a) a statement that
1225 certifies:

1226 (A) the date the part-year residential property became residential property;
1227 (B) that the part-year residential property will be used as residential property for 183 or
1228 more consecutive calendar days during the calendar year for which the owner seeks to obtain
1229 the residential exemption; and
1230 (C) that the owner, or a member of the owner's household, may not claim a residential
1231 exemption for any property for the calendar year for which the owner seeks to obtain the
1232 residential exemption, other than the part-year residential property, or as allowed under Section

1233 59-2-103 with respect to the primary residence or household furnishings, furniture, and
1234 equipment of the owner's tenant.

1235 (b) An owner may not obtain a residential exemption for part-year residential property
1236 unless the owner files an application under this Subsection (3) on or before November 30 of the
1237 calendar year for which the owner seeks to obtain the residential exemption.

1238 (c) If an owner files an application under this Subsection (3) on or after May 1 of the
1239 calendar year for which the owner seeks to obtain the residential exemption, the county board
1240 of equalization may require the owner to pay an application fee of not to exceed \$50.

1241 (4) Except as provided in Subsection (5), if a property owner no longer qualifies to
1242 receive a residential exemption authorized under Section 59-2-103 for the property owner's
1243 primary residence, the property owner shall:

1244 (a) file a written statement with the county board of equalization of the county in which
1245 the property is located:

1246 (i) on a form provided by the county board of equalization; and

1247 (ii) notifying the county board of equalization that the property owner no longer
1248 qualifies to receive a residential exemption authorized under Section 59-2-103 for the property
1249 owner's primary residence; and

1250 (b) declare on the property owner's individual income tax return under Chapter 10,
1251 Individual Income Tax Act, for the taxable year for which the property owner no longer
1252 qualifies to receive a residential exemption authorized under Section 59-2-103 for the property
1253 owner's primary residence, that the property owner no longer qualifies to receive a residential
1254 exemption authorized under Section 59-2-103 for the property owner's primary residence.

1255 (5) A property owner is not required to file a written statement or make the declaration
1256 described in Subsection (4) if the property owner:

1257 (a) changes primary residences;

1258 (b) qualified to receive a residential exemption authorized under Section 59-2-103 for
1259 the residence that was the property owner's former primary residence; and

1260 (c) qualifies to receive a residential exemption authorized under Section 59-2-103 for

the residence that is the property owner's current primary residence.

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

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

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

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

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

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

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

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

(ii) the address listed on the:

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

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

- 1289 (iii) the address listed on the:
- 1290 (A) residential property owner's voter registration; or
- 1291 (B) tenant of the residential property's voter registration.
- 1292 (c) After an ownership interest in residential property changes, the county assessor
- 1293 shall:
- 1294 (i) notify the owner of the residential property that the owner is required to submit a
- 1295 written declaration described in Subsection (8)(d) within 90 days after the day on which the
- 1296 owner receives notice under this Subsection (8)(c); and
- 1297 (ii) provide the owner of the residential property with the form described in Subsection
- 1298 (8)(e) to make the written declaration described in Subsection (8)(d).
- 1299 (d) An owner of residential property that receives a notice described in Subsection
- 1300 (8)(a) or (c) shall submit a written declaration to the county assessor under penalty of perjury
- 1301 certifying the information contained in the form provided in Subsection (8)(e).
- 1302 (e) The written declaration required by Subsection (8)(d) shall be:
- 1303 (i) signed by the owner of the residential property; and
- 1304 (ii) in substantially the following form:

"Residential Property Declaration

1306 This form must be submitted to the County Assessor's office where your new residential

1307 property is located within 90 days of receipt. Failure to do so will result in the county assessor

1308 taking action that could result in the withdrawal of the primary residential exemption from your

1309 residential property.

Residential Property Owner Information

1311 Name(s): _____

1312 Home Phone: _____

1313 Work Phone: _____

1314 Mailing Address: _____

Residential Property Information

1316 Physical Address: _____

1317 Certification

1318 1. Is this property used as a primary residential property or part-year residential
1319 property for you or another person?

1320 "Part-year residential property" means owned property that is not residential property on
1321 January 1 of a calendar year but becomes residential property after January 1 of the calendar
1322 year.

1323 Yes No

1324 2. Will this primary residential property or part-year residential property be occupied
1325 for 183 or more consecutive calendar days by the owner or another person?

1326 A part-year residential property occupied for 183 or more consecutive calendar days in
1327 a calendar year by the owner(s) or a tenant is eligible for the exemption.

1328 Yes No

1329 If a property owner or a property owner's spouse claims a residential exemption under
1330 Utah Code Ann. § 59-2-103 for property in this state that is the primary residence of the
1331 property owner or the property owner's spouse, that claim of a residential exemption creates a
1332 rebuttable presumption that the property owner and the property owner's spouse have domicile
1333 in Utah for income tax purposes. The rebuttable presumption of domicile does not apply if the
1334 residential property is the primary residence of a tenant of the property owner or the property
1335 owner's spouse.

1336 Signature

1337 ~~[This form must be signed by all owners of the property.]~~

1338 Under penalties of perjury, I declare to the best of my knowledge and belief, this
1339 declaration and accompanying pages are true, correct, and complete.

1340 _____(Owner signature) _____Date (mm/dd/yyyy)

1341 _____(Owner printed name)"

1342 (f) For purposes of a written declaration described in this Subsection (8), a county may
1343 not request information from a property owner beyond the information described in the form
1344 provided in Subsection (8)(e).

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) August 1; or

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

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

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

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

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

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

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

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

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

1401 objection under Subsection (1).

1402 (3) Before a county may apply to the commission for a hearing under this section on an
1403 objection to an assessment, a majority of the members of the county legislative body shall
1404 approve filing an application under this section.

1405 (4) (a) The commission shall allow a county that meets the requirements of
1406 Subsections (2) and (3) to be a party at a hearing under this section.

1407 (b) The commission shall allow an owner to be a party at a hearing under this section
1408 on an objection to an assessment a county files in accordance with Subsection (2)(b).

1409 (5) An owner or a county shall include in an application under this section:

1410 (a) a written statement:

1411 (i) setting forth the known facts and legal basis supporting a different fair market value
1412 than the value assessed by the commission; and

1413 (ii) for an assessment described in Subsection (2)(b), establishing the county's
1414 reasonable belief that the commission should have assessed the property for the current
1415 calendar year at a fair market value that is at least the lesser of an amount that is:

1416 (A) 50% greater than the value at which the commission is assessing the property for
1417 the current calendar year; or

1418 (B) 50% greater than the value at which the commission assessed the property for the
1419 prior calendar year; and

1420 (b) the owner's or county's estimate of the fair market value of the property.

1421 (6) (a) Except as provided in Subsection (6)(b), an owner or a county assessor may
1422 amend an estimate on an application under this section of the fair market value of the property
1423 prior to the hearing as provided by rule.

1424 (b) A county may not amend the fair market value of property under this Subsection (6)
1425 to equal an amount that is less than the lesser of:

1426 (i) the value at which the commission is assessing the property for the current calendar
1427 year plus 50%; or

1428 (ii) the value at which the commission assessed the property for the prior calendar year

1429 plus 50%.

1430 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1431 commission may make rules governing the procedures for amending an estimate of fair market
1432 value under this Subsection (6).

1433 (7) In applying to the commission for a hearing on an objection under this section:

1434 (a) a county may estimate the fair market value of the property using a valuation
1435 methodology the county considers to be appropriate, regardless of:

1436 (i) the valuation methodology used previously in valuing the property; or

1437 (ii) the valuation methodology an owner asserts; and

1438 (b) an owner may estimate the fair market value of the property using a valuation
1439 methodology the owner considers to be appropriate, regardless of:

1440 (i) the valuation methodology used previously in valuing the property; or

1441 (ii) the valuation methodology a county asserts.

1442 (8) (a) An owner who applies to the commission for a hearing in accordance with
1443 Subsection (1) shall, for the property for which the owner objects to the commission's
1444 assessment, file a copy of the application with the county auditor of each county in which the
1445 property is located.

1446 (b) A county auditor who receives a copy of an application in accordance with
1447 Subsection (8)(a) shall provide a copy of the application to the county:

1448 (i) assessor;

1449 (ii) attorney;

1450 (iii) legislative body; and

1451 (iv) treasurer.

1452 (9) (a) Upon request, the commission shall provide to a nonprofit organization that
1453 represents counties in the state the following information regarding an appeal filed under this
1454 section:

1455 (i) the name of the property owner filing the appeal;

1456 (ii) each year at issue in the appeal;

1457 (iii) the value assessed by the commission for the property that is the subject of the
1458 appeal; and

1459 (iv) the owner's estimate of value for the property that is the subject of the appeal as
1460 submitted under Subsection (5)(b).

1461 (b) (i) Except as provided in Subsection (9)(b)(ii), a nonprofit organization may not
1462 disclose the information described in Subsection (9)(a)(iv).

1463 (ii) A nonprofit organization may disclose information described in Subsection
1464 (9)(a)(iv) to an individual listed under Subsection 59-1-403~~(1)~~(2)(a).

1465 (10) (a) On or before November 15, the commission shall conduct a scheduling
1466 conference with all parties to a hearing under this section.

1467 (b) At the scheduling conference under Subsection (10)(a), the commission shall
1468 establish dates for:

1469 (i) the completion of discovery;

1470 (ii) the filing of prehearing motions; and

1471 (iii) conducting a hearing on the objection to the assessment.

1472 (11) (a) The commission shall issue a written decision no later than 120 days after the
1473 later of the day on which:

1474 (i) the commission completes the hearing under this section; or

1475 (ii) the parties submit all posthearing briefs.

1476 (b) If the commission does not issue a written decision on an objection to an
1477 assessment under this section within a two-year period after the date an application under this
1478 section is filed, the objection is considered to be denied, unless the parties stipulate to a
1479 different time period for resolving the objection.

1480 (c) A party may appeal to the district court in accordance with Section 59-1-601 within
1481 30 days after the day on which an objection is considered to be denied.

1482 (12) At the hearing on an objection under this section, the commission may increase,
1483 lower, or sustain the assessment if:

1484 (a) the commission finds an error in the assessment; or

1485 (b) the commission determines that increasing, lowering, or sustaining the assessment
1486 is necessary to equalize the assessment with other similarly assessed property.

1487 (13) (a) The commission shall send notice of a commission action under Subsection
1488 (12) to a county auditor if:

1489 (i) the commission proposes to adjust an assessment the commission made in
1490 accordance with Section 59-2-201;

1491 (ii) the county's tax revenues may be affected by the commission's decision; and

1492 (iii) the county is not a party to the hearing under this section.

1493 (b) The written notice described in Subsection (13)(a):

1494 (i) may be sent by:

1495 (A) any form of electronic communication;

1496 (B) first class mail; or

1497 (C) private carrier; and

1498 (ii) shall request the county to show good cause why the commission should not adjust
1499 the assessment by requesting the county to provide to the commission a written statement
1500 setting forth the known facts and legal basis for not adjusting the assessment within 30 days
1501 after the day on which the commission sends the written notice.

1502 (c) If a county provides a written statement described in Subsection (13)(b) to the
1503 commission, the commission shall:

1504 (i) hold a hearing or take other appropriate action to consider the good cause the county
1505 provides in the written statement; and

1506 (ii) issue a written decision increasing, lowering, or sustaining the assessment.

1507 (d) If a county does not provide a written statement described in Subsection (13)(b) to
1508 the commission within 30 days after the day on which the commission sends the notice
1509 described in Subsection (13)(a), the commission shall adjust the assessment and send a copy of
1510 the commission's written decision to the county.

1511 (14) Subsection (13) does not limit the rights of a county as provided in Subsections
1512 (2) and (4)(a).

1513 Section 12. Section **59-2-1602** is amended to read:

1514 **59-2-1602. Property Tax Valuation Agency Fund -- Creation -- Statewide levy --**
1515 **Additional county levy.**

1516 (1) (a) There is created an agency fund known as the "Property Tax Valuation Agency
1517 Fund."

1518 (b) The fund consists of:

1519 (i) deposits made and penalties received under Subsection (3); and

1520 (ii) interest on money deposited into the fund.

1521 (c) Deposits, penalties, and interest described in Subsection (1)(b) shall be disbursed
1522 and used as provided in Section **59-2-1603**.

1523 (2) (a) Each county shall annually impose a multicounty assessing and collecting levy
1524 as provided in this Subsection (2).

1525 (b) The tax rate of the multicounty assessing and collecting levy is:

1526 (i) for a calendar year beginning on or after January 1, 2020, and before January 1,
1527 2025, .000012; and

1528 (ii) for a calendar year beginning on or after January 1, 2025, the certified revenue levy.

1529 (c) The state treasurer shall allocate revenue collected from the multicounty assessing
1530 and collecting levy as follows:

1531 (i) 18% of the revenue collected [~~from the base rate~~] shall be deposited into the
1532 Property Tax Valuation Agency Fund, up to \$500,000 annually; and

1533 (ii) after the deposit described in Subsection (2)(c)(i), all remaining revenue collected
1534 from the multicounty assessing and collecting levy shall be deposited into the Multicounty
1535 Appraisal Trust.

1536 (3) (a) The multicounty assessing and collecting levy imposed under Subsection (2)
1537 shall be separately stated on the tax notice as a multicounty assessing and collecting levy.

1538 (b) The multicounty assessing and collecting levy is:

1539 (i) exempt from Sections **17C-1-403** through **17C-1-406**;

1540 (ii) in addition to and exempt from the maximum levies allowable under Section

- 1541 59-2-908; and
- 1542 (iii) exempt from the notice and public hearing requirements of Section 59-2-919.
- 1543 (c) (i) Each county shall transmit quarterly to the state treasurer the revenue collected
- 1544 from the multicounty assessing and collecting levy.
- 1545 (ii) The revenue transmitted under Subsection (3)(c)(i) shall be transmitted no later
- 1546 than the tenth day of the month following the end of the quarter in which the revenue is
- 1547 collected.
- 1548 (iii) If revenue transmitted under Subsection (3)(c)(i) is transmitted after the tenth day
- 1549 of the month following the end of the quarter in which the revenue is collected, the county shall
- 1550 pay an interest penalty at the rate of 10% each year until the revenue is transmitted.
- 1551 (d) The state treasurer shall allocate the penalties received under this Subsection (3) in
- 1552 the same manner as revenue is allocated under Subsection (2)(c).
- 1553 (4) (a) A county may levy a county additional property tax in accordance with this
- 1554 Subsection (4).
- 1555 (b) The county additional property tax:
- 1556 (i) shall be separately stated on the tax notice as a county assessing and collecting levy;
- 1557 (ii) may not be incorporated into the rate of any other levy;
- 1558 (iii) is exempt from Sections 17C-1-403 through 17C-1-406; and
- 1559 (iv) is in addition to and exempt from the maximum levies allowable under Section
- 1560 59-2-908.
- 1561 (c) Revenue collected from the county additional property tax shall be used to:
- 1562 (i) promote the accurate valuation and uniform assessment levels of property as
- 1563 required by Section 59-2-103;
- 1564 (ii) promote the efficient administration of the property tax system, including the costs
- 1565 of assessment, collection, and distribution of property taxes;
- 1566 (iii) fund state mandated actions to meet legislative mandates or judicial or
- 1567 administrative orders that relate to promoting:
- 1568 (A) the accurate valuation of property; and

1569 (B) the establishment and maintenance of uniform assessment levels within and among
1570 counties; and

1571 (iv) establish reappraisal programs that:

1572 (A) are adopted by a resolution or ordinance of the county legislative body; and

1573 (B) conform to rules the commission makes in accordance with Title 63G, Chapter 3,
1574 Utah Administrative Rulemaking Act.

1575 Section 13. Section **59-7-118** is amended to read:

1576 **59-7-118. Section 965, Internal Revenue Code -- Installment payments.**

1577 (1) Subject to the other provisions of this section, a corporation may pay in
1578 installments the tax owed under this chapter on deferred foreign income described in Section
1579 965, Internal Revenue Code.

1580 (2) Subsection (1) applies:

1581 (a) to a corporation that:

1582 (i) is authorized to make an election under Section 965(h), Internal Revenue Code; and

1583 (ii) apportions deferred foreign income described in Section 965, Internal Revenue
1584 Code, to this state; and

1585 (b) for a tax year in which a corporation makes an election under Section 965(h),
1586 Internal Revenue Code, for purposes of the corporation's federal income tax.

1587 (3) (a) Except as provided in Subsection (3)(b), the same provisions that apply to an
1588 election made under Section 965(h), Internal Revenue Code, for federal purposes apply to an
1589 installment payment made under this section.

1590 (b) A corporation shall make:

1591 (i) the first installment under this section on or before the due date~~[, including any~~
1592 ~~extension,]~~ of the tax return filed under this chapter for the first taxable year in which the
1593 corporation reports deferred foreign income described in Section 965, Internal Revenue Code;
1594 and

1595 (ii) a subsequent installment on or before the due date~~[, including any extension,]~~ of
1596 the tax return filed under this chapter in each of the following seven years.

1597 Section 14. Section **59-7-159** is amended to read:

1598 **59-7-159. Review of credits allowed under this chapter.**

1599 (1) As used in this section, "committee" means the Revenue and Taxation Interim
1600 Committee.

1601 (2) (a) The committee shall review the tax credits described in this chapter as provided
1602 in Subsection (3) and make recommendations concerning whether the tax credits should be
1603 continued, modified, or repealed.

1604 (b) In conducting the review required under Subsection (2)(a), the committee shall:

1605 (i) schedule time on at least one committee agenda to conduct the review;

1606 (ii) invite state agencies, individuals, and organizations concerned with the tax credit
1607 under review to provide testimony;

1608 (iii) (A) invite the Governor's Office of Economic Development to present a summary
1609 and analysis of the information for each tax credit regarding which the Governor's Office of
1610 Economic Development is required to make a report under this chapter; and

1611 (B) invite the Office of the Legislative Fiscal Analyst to present a summary and
1612 analysis of the information for each tax credit regarding which the Office of the Legislative
1613 Fiscal Analyst is required to make a report under this chapter;

1614 (iv) ensure that the committee's recommendations described in this section include an
1615 evaluation of:

1616 (A) the cost of the tax credit to the state;

1617 (B) the purpose and effectiveness of the tax credit; and

1618 (C) the extent to which the state benefits from the tax credit; and

1619 (v) undertake other review efforts as determined by the committee chairs or as
1620 otherwise required by law.

1621 (3) (a) On or before November 30, 2017, and every three years after 2017, the
1622 committee shall conduct the review required under Subsection (2) of the tax credits allowed
1623 under the following sections:

1624 (i) Section **59-7-601**;

- 1625 (ii) Section 59-7-607;
1626 (iii) Section 59-7-612;
1627 (iv) Section 59-7-614.1; and
1628 (v) Section 59-7-614.5.

1629 (b) On or before November 30, 2018, and every three years after 2018, the committee
1630 shall conduct the review required under Subsection (2) of the tax credits allowed under the
1631 following sections:

- 1632 (i) Section 59-7-609;
1633 (ii) Section 59-7-614.2;
1634 (iii) Section 59-7-614.10;
1635 (iv) Section 59-7-619;
1636 (v) Section 59-7-620; and
1637 (vi) Section 59-7-624.

1638 (c) On or before November 30, 2019, and every three years after 2019, the committee
1639 shall conduct the review required under Subsection (2) of the tax credits allowed under the
1640 following sections:

- 1641 (i) Section 59-7-610;
1642 (ii) Section 59-7-614; and
1643 (iii) Section 59-7-614.7[; ~~and~~].
1644 [~~(iv) Section 59-7-618.~~]

1645 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall
1646 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,
1647 2017.

1648 (ii) The committee shall complete a review described in this Subsection (3)(d) three
1649 years after the effective date of the tax credit and every three years after the initial review date.

1650 Section 15. Section 59-7-504 is amended to read:

1651 **59-7-504. Estimated tax payments -- Penalty -- Waiver.**

1652 (1) Except as [~~otherwise provided in this section, each~~] provided in Subsection (2), a

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1708 (3) (a) The commission shall allow a taxpayer an extension of time for filing ~~[returns]~~ a
1709 return.

1710 ~~[(b) The extension under Subsection (3)(a) may not exceed six months.]~~

1711 (b) Except as provided in Subsection (3)(c), the extension described in Subsection
1712 (3)(a) may be for up to six months.

1713 (c) For a taxable year beginning on or after January 1, 2019, but beginning on or before
1714 December 31, 2019, a taxpayer may receive an extension described in Subsection (3)(a) for the
1715 time period that ends on the last day of the extension to file the taxpayer's federal income tax
1716 return.

1717 (4) Each return shall be made to the commission.

1718 (5) A corporation incorporated or qualified to do business in this state ~~[prior to]~~ before
1719 January 1, 1973, is not liable for filing a return or paying tax measured by income for the
1720 taxable year in which ~~[it]~~ the corporation legally terminates ~~[its]~~ the corporation's existence.

1721 (6) A corporation incorporated or qualified to do business or ~~[which had its]~~ that had
1722 the corporation's authority to do business reinstated on or after January 1, 1973, shall file a
1723 return and pay the tax measured by income for each period during which ~~[it]~~ the corporation
1724 had the right to do business in this state, and the return shall be filed and the tax paid within
1725 three months and 15 days after the close of this period.

1726 (7) If a corporation terminates ~~[its]~~ the corporation's existence under Section
1727 16-10a-1401, [no returns are required to be filed if a statement is furnished] the corporation is
1728 not required to file a return if the corporation provides a statement to the commission that no
1729 business has been conducted during that period.

1730 (8) (a) A corporation commencing to do business in Utah after qualification or
1731 incorporation with the Division of Corporations and Commercial Code is not required to file a
1732 return for the period commencing with the date of incorporation or qualification and ending on
1733 the last day of the same month, if that corporation was not doing business in and received no
1734 income from sources in the state during such period.

1735 (b) In determining whether a corporation comes within the provisions of this chapter,

affidavits on behalf of the corporation that it did no business in and received no income from sources in Utah during such period shall be filed with the commission.

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

59-7-507. Payment of tax.

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

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

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

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

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

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

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

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

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

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

months from the date prescribed for the payment of the tax.

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

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

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

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

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

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

(i) commercial composting; or

(ii) manufacturing facilities or plant units that:

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

(B) reduce or reuse postconsumer waste material; and

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

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

(ii) \$2,000.

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

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

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

- 1792 (A) the type of the machinery and equipment that the taxpayer purchased;
1793 (B) the date that the taxpayer purchased the machinery and equipment;
1794 (C) the purchase price for the machinery and equipment;
1795 (D) the total purchase price for all machinery and equipment for which the taxpayer is
1796 claiming a tax credit;
1797 (E) a statement that the machinery and equipment are integral to the composting or
1798 recycling process; and
1799 (F) the amount of the taxpayer's tax credit; and
1800 (iii) for a claim of the tax credit described in Subsection (1)(b):
1801 (A) the type of net expenditure that the taxpayer made to a third party;
1802 (B) the date that the taxpayer made the payment to a third party;
1803 (C) the amount that the taxpayer paid to each third party;
1804 (D) the total amount that the taxpayer paid to all third parties;
1805 (E) a statement that the net expenditures support the establishment and operation of
1806 recycling or composting technology in the state; and
1807 (F) the amount of the taxpayer's tax credit.
1808 (b) (i) The Department of Environmental Quality shall provide a taxpayer seeking to
1809 claim a tax credit under Subsection (1) with a copy of the written certification.
1810 (ii) The taxpayer shall retain a copy of the written certification for the same period of
1811 time that a person is required to keep books and records under Section [59-1-1406](#).
1812 (c) The Department of Environmental Quality shall submit to the commission an
1813 electronic list that includes:
1814 (i) the name and identifying information of each taxpayer to which the Department of
1815 Environmental Quality issues a written certification; and
1816 (ii) for each taxpayer, the amount of each tax credit listed on the written certification.
1817 (3) A taxpayer may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or
1818 both that exceeds 40% of the taxpayer's state income tax liability as the tax liability is
1819 calculated:

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

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

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

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

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

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

Section 19. 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 20. Section **59-7-620** is amended to read:

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

(1) As used in this section:

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

(b) "Contributor" means a corporation that:

- (i) makes a contribution to an account; and
- (ii) receives a statement from the qualified ABLE program itemizing the contribution.

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

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

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

1904 (3) Subject to the other provisions of this section, the tax credit is equal to the product
1905 of:

1906 (a) [5%] the percentage listed in Subsection [59-7-104\(2\)](#); and

1907 (b) the total amount of contributions:

1908 (i) the contributor makes for the taxable year; and

1909 (ii) for which the contributor receives a statement from the qualified ABLE program
1910 itemizing the contributions.

1911 (4) A contributor may not claim a tax credit under this section:

1912 (a) for an amount of excess contribution to an account that is returned to the
1913 contributor; or

1914 (b) with respect to an amount the contributor deducts on a federal income tax return.

1915 (5) A tax credit under this section may not be carried forward or carried back.

1916 Section 21. Section **59-10-103** is amended to read:

1917 **59-10-103. Definitions.**

1918 (1) As used in this chapter:

1919 (a) (i) "Adjusted gross income":

1920 (A) for a resident or nonresident individual, means the same as that term is defined in
1921 Section 62, Internal Revenue Code; or

1922 (B) for a resident or nonresident estate or trust, is as calculated in Section 67(e),
1923 Internal Revenue Code.

1924 (ii) "Adjusted gross income" does not include:

1925 (A) income received from a loan forgiven in accordance with 15 U.S.C. Sec. 636(a)

1926 (36), to the extent that a deduction for the expenditures paid with the loan is disallowed, or a

1927 similar paycheck protection loan that is authorized by the federal government, provided in

1928 response to COVID-19, forgiven if the borrower meets the expenditure requirements, and

1929 exempt from federal income tax, to the extent that a deduction for the expenditures paid with
1930 the loan is disallowed; or

1931 (B) an amount that an individual receives in accordance with Section 6428, Internal

1932 Revenue Code, or an amount that an individual receives that is authorized by the federal
1933 government as a tax credit for the 2020 tax year, provided in response to COVID-19, paid in
1934 advance of the filing of the individual's 2020 federal income tax return, and exempt from
1935 federal income tax.

1936 (b) "Corporation" includes:

1937 (i) an association;

1938 (ii) a joint stock company; and

1939 (iii) an insurance company.

1940 (c) "COVID-19" means:

1941 (i) the severe acute respiratory syndrome coronavirus 2; or

1942 (ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

1943 (d) "Distributable net income" means the same as that term is defined in Section 643,
1944 Internal Revenue Code.

1945 (e) "Employee" means the same as that term is defined in Section 59-10-401.

1946 (f) "Employer" means the same as that term is defined in Section 59-10-401.

1947 (g) "Federal taxable income":

1948 (i) for a resident or nonresident individual, means taxable income as defined by Section
1949 63, Internal Revenue Code; or

1950 (ii) for a resident or nonresident estate or trust, is as calculated in Section 641(a) and

1951 (b), Internal Revenue Code.

1952 (h) "Fiduciary" means:

1953 (i) a guardian;

1954 (ii) a trustee;

1955 (iii) an executor;

1956 (iv) an administrator;

1957 (v) a receiver;

1958 (vi) a conservator; or

1959 (vii) any person acting in any fiduciary capacity for any individual.

- 1960 (i) "Guaranteed annuity interest" means the same as that term is defined in 26 C.F.R.
1961 Sec. 1.170A-6(c)(2).
- 1962 (j) "Homesteaded land diminished from the Uintah and Ouray Reservation" means the
1963 homesteaded land that was held to have been diminished from the Uintah and Ouray
1964 Reservation in *Hagen v. Utah*, 510 U.S. 399 (1994).
- 1965 (k) "Individual" means a natural person and includes aliens and minors.
- 1966 (l) "Irrevocable trust" means a trust in which the settlor may not revoke or terminate all
1967 or part of the trust without the consent of a person who has a substantial beneficial interest in
1968 the trust and the interest would be adversely affected by the exercise of the settlor's power to
1969 revoke or terminate all or part of the trust.
- 1970 (m) "Military service" means the same as that term is defined in Pub. L. No. 108-189,
1971 Sec. 101.
- 1972 (n) "Nonresident individual" means an individual who is not a resident of this state.
- 1973 (o) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a
1974 resident estate or trust.
- 1975 (p) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other
1976 unincorporated organization:
- 1977 (A) through or by means of which any business, financial operation, or venture is
1978 carried on; and
- 1979 (B) that is not, within the meaning of this chapter, a trust, an estate, or a corporation.
- 1980 (ii) "Partnership" does not include any organization not included under the definition of
1981 "partnership" in Section 761, Internal Revenue Code.
- 1982 (iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or
1983 organization described in Subsection (1)(p)(i).
- 1984 (q) "Pass-through entity" means the same as that term is defined in Section
1985 59-10-1402.
- 1986 (r) "Pass-through entity taxpayer" means the same as that term is defined in Section
1987 59-10-1402.

1988 ~~[(q)]~~ (s) "Qualified nongrantor charitable lead trust" means a trust:

1989 (i) that is irrevocable;

1990 (ii) that has a trust term measured by:

1991 (A) a fixed term of years; or

1992 (B) the life of a person living on the day on which the trust is created;

1993 (iii) under which:

1994 (A) a portion of the value of the trust assets is distributed during the trust term:

1995 (I) to an organization described in Section 170(c), Internal Revenue Code; and

1996 (II) as a guaranteed annuity interest or a unitrust interest; and

1997 (B) assets remaining in the trust at the termination of the trust term are distributed to a

1998 beneficiary:

1999 (I) designated in the trust; and

2000 (II) that is not an organization described in Section 170(c), Internal Revenue Code;

2001 (iv) for which the trust is allowed a deduction under Section 642(c), Internal Revenue

2002 Code; and

2003 (v) under which the grantor of the trust is not treated as the owner of any portion of the

2004 trust for federal income tax purposes.

2005 ~~[(r)]~~ (t) "Resident individual" means an individual who is domiciled in this state for

2006 any period of time during the taxable year, but only for the duration of the period during which

2007 the individual is domiciled in this state.

2008 ~~[(s)]~~ (u) "Resident estate" or "resident trust" means the same as that term is defined in

2009 Section [75-7-103](#).

2010 ~~[(t)]~~ (v) "Servicemember" means the same as that term is defined in Pub. L. No.

2011 108-189, Sec. 101.

2012 ~~[(u)]~~ (w) "State income tax percentage for a nonresident estate or trust" means a

2013 percentage equal to a nonresident estate's or trust's state taxable income for the taxable year

2014 divided by the nonresident estate's or trust's total adjusted gross income for that taxable year

2015 after making the adjustments required by:

- 2016 (i) Section 59-10-202;
- 2017 (ii) Section 59-10-207;
- 2018 (iii) Section 59-10-209.1; or
- 2019 (iv) Section 59-10-210.
- 2020 ~~[(v)]~~ (x) "State income tax percentage for a nonresident individual" means a percentage
- 2021 equal to a nonresident individual's state taxable income for the taxable year divided by the
- 2022 difference between:
- 2023 (i) subject to Section 59-10-1405, the nonresident individual's total adjusted gross
- 2024 income for that taxable year, after making the:
- 2025 (A) additions and subtractions required by Section 59-10-114; and
- 2026 (B) adjustments required by Section 59-10-115; and
- 2027 (ii) if the nonresident individual described in Subsection (1)~~[(v)]~~(x)(i) is a
- 2028 servicemember, the compensation the servicemember receives for military service if the
- 2029 servicemember is serving in compliance with military orders.
- 2030 ~~[(w)]~~ (y) "State income tax percentage for a part-year resident individual" means, for a
- 2031 taxable year, a fraction:
- 2032 (i) the numerator of which is the sum of:
- 2033 (A) subject to Section 59-10-1404.5, for the time period during the taxable year that the
- 2034 part-year resident individual is a resident, the part-year resident individual's total adjusted gross
- 2035 income for that time period, after making the:
- 2036 (I) additions and subtractions required by Section 59-10-114; and
- 2037 (II) adjustments required by Section 59-10-115; and
- 2038 (B) for the time period during the taxable year that the part-year resident individual is a
- 2039 nonresident, an amount calculated by:
- 2040 (I) determining the part-year resident individual's adjusted gross income for that time
- 2041 period, after making the:
- 2042 (Aa) additions and subtractions required by Section 59-10-114; and
- 2043 (Bb) adjustments required by Section 59-10-115; and

2044 (II) calculating the portion of the amount determined under Subsection
2045 (1)[~~(w)~~](y)(i)(B)(I) that is derived from Utah sources in accordance with Section 59-10-117;
2046 and
2047 (ii) the denominator of which is the difference between:
2048 (A) the part-year resident individual's total adjusted gross income for that taxable year,
2049 after making the:
2050 (I) additions and subtractions required by Section 59-10-114; and
2051 (II) adjustments required by Section 59-10-115; and
2052 (B) if the part-year resident individual is a servicemember, any compensation the
2053 servicemember receives for military service during the portion of the taxable year that the
2054 servicemember is a nonresident if the servicemember is serving in compliance with military
2055 orders.
2056 [~~(x)~~] (z) "Taxable income" or "state taxable income":
2057 (i) subject to Section 59-10-1404.5, for a resident individual, means the resident
2058 individual's adjusted gross income after making the:
2059 (A) additions and subtractions required by Section 59-10-114; and
2060 (B) adjustments required by Section 59-10-115;
2061 (ii) for a nonresident individual, is an amount calculated by:
2062 (A) determining the nonresident individual's adjusted gross income for the taxable
2063 year, after making the:
2064 (I) additions and subtractions required by Section 59-10-114; and
2065 (II) adjustments required by Section 59-10-115; and
2066 (B) calculating the portion of the amount determined under Subsection
2067 (1)[~~(x)~~](z)(ii)(A) that is derived from Utah sources in accordance with Section 59-10-117;
2068 (iii) for a resident estate or trust, is as calculated under Section 59-10-201.1; and
2069 (iv) for a nonresident estate or trust, is as calculated under Section 59-10-204.
2070 [~~(y)~~] (aa) "Taxpayer" means any [~~individual, estate, trust, or beneficiary of an estate or~~
2071 ~~trust,~~] of the following that has income subject in whole or part to the tax imposed by this

2072 chapter[-:];

2073 (i) an individual;

2074 (ii) an estate, a trust, or a beneficiary of an estate or a trust that is not a pass-through

2075 entity or a pass-through entity taxpayer;

2076 (iii) a pass-through entity; or

2077 (iv) a pass-through entity taxpayer.

2078 ~~[(z)]~~ (bb) "Trust term" means a time period:

2079 (i) beginning on the day on which a qualified nongrantor charitable lead trust is

2080 created; and

2081 (ii) ending on the day on which the qualified nongrantor charitable lead trust described

2082 in Subsection (1)~~[(z)]~~(bb)(i) terminates.

2083 ~~[(aa)]~~ (cc) "Uintah and Ouray Reservation" means the lands recognized as being

2084 included within the Uintah and Ouray Reservation in:

2085 (i) Hagen v. Utah, 510 U.S. 399 (1994); and

2086 (ii) Ute Indian Tribe v. Utah, 114 F.3d 1513 (10th Cir. 1997).

2087 ~~[(bb)]~~ (dd) "Unadjusted income" means an amount equal to the difference between:

2088 (i) the total income required to be reported by a resident or nonresident estate or trust

2089 on the resident or nonresident estate's or trust's federal income tax return for estates and trusts

2090 for the taxable year; and

2091 (ii) the sum of the following:

2092 (A) fees paid or incurred to the fiduciary of a resident or nonresident estate or trust:

2093 (I) for administering the resident or nonresident estate or trust; and

2094 (II) that the resident or nonresident estate or trust deducts as allowed on the resident or

2095 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable

2096 year;

2097 (B) the income distribution deduction that a resident or nonresident estate or trust

2098 deducts under Section 651 or 661, Internal Revenue Code, as allowed on the resident or

2099 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable

2100 year;

2101 (C) the amount that a resident or nonresident estate or trust deducts as a deduction for
2102 estate tax or generation skipping transfer tax under Section 691(c), Internal Revenue Code, as
2103 allowed on the resident or nonresident estate's or trust's federal income tax return for estates
2104 and trusts for the taxable year; and

2105 (D) the amount that a resident or nonresident estate or trust deducts as a personal
2106 exemption under Section 642(b), Internal Revenue Code, as allowed on the resident or
2107 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable
2108 year.

2109 [~~ee~~] (ee) "Unitrust interest" means the same as that term is defined in 26 C.F.R. Sec.
2110 1.170A-6(c)(2).

2111 [~~dd~~] (ff) "Ute tribal member" means an individual who is enrolled as a member of the
2112 Ute Indian Tribe of the Uintah and Ouray Reservation.

2113 [~~ee~~] (gg) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray
2114 Reservation.

2115 [~~ff~~] (hh) "Wages" means the same as that term is defined in Section 59-10-401.

2116 (2) (a) Any term used in this chapter has the same meaning as when used in
2117 comparable context in the laws of the United States relating to federal income taxes unless a
2118 different meaning is clearly required.

2119 (b) Any reference to the Internal Revenue Code or to the laws of the United States shall
2120 mean the Internal Revenue Code or other provisions of the laws of the United States relating to
2121 federal income taxes that are in effect for the taxable year.

2122 (c) Any reference to a specific section of the Internal Revenue Code or other provision
2123 of the laws of the United States relating to federal income taxes shall include any
2124 corresponding or comparable provisions of the Internal Revenue Code as amended,
2125 redesignated, or reenacted.

2126 Section 22. Section 59-10-114 is amended to read:

2127 **59-10-114. Additions to and subtractions from adjusted gross income of an**

2128 **individual.**

2129 (1) There shall be added to adjusted gross income of a resident or nonresident
2130 individual:

2131 (a) a lump sum distribution that the taxpayer does not include in adjusted gross income
2132 on the taxpayer's federal individual income tax return for the taxable year;

2133 (b) the amount of a child's income calculated under Subsection (4) that:

2134 (i) a parent elects to report on the parent's federal individual income tax return for the
2135 taxable year; and

2136 (ii) the parent does not include in adjusted gross income on the parent's federal
2137 individual income tax return for the taxable year;

2138 (c) (i) a withdrawal from a medical care savings account and any penalty imposed for
2139 the taxable year if:

2140 (A) the resident or nonresident individual does not deduct the amounts on the resident
2141 or nonresident individual's federal individual income tax return under Section 220, Internal
2142 Revenue Code;

2143 (B) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and

2144 (C) the withdrawal is subtracted on, or used as the basis for claiming a tax credit on, a
2145 return the resident or nonresident individual files under this chapter;

2146 (ii) a disbursement required to be added to adjusted gross income in accordance with
2147 Subsection 31A-32a-105(3); or

2148 (iii) an amount required to be added to adjusted gross income in accordance with
2149 Subsection 31A-32a-105(5)(c);

2150 (d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan,
2151 from the account of a resident or nonresident individual who is an account owner as defined in
2152 Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount
2153 withdrawn from the account of the resident or nonresident individual who is the account
2154 owner:

2155 (i) is not expended for:

2156 (A) higher education costs as defined in Section 53B-8a-102.5; or
2157 (B) a payment or distribution that qualifies as an exception to the additional tax for
2158 distributions not used for educational expenses provided in Sections 529(c) and 530(d),
2159 Internal Revenue Code; and
2160 (ii) is:
2161 (A) subtracted by the resident or nonresident individual:
2162 (I) who is the account owner; and
2163 (II) on the resident or nonresident individual's return filed under this chapter for a
2164 taxable year beginning on or before December 31, 2007; or
2165 (B) used as the basis for the resident or nonresident individual who is the account
2166 owner to claim a tax credit under Section 59-10-1017;
2167 (e) except as provided in Subsection (5), for bonds, notes, and other evidences of
2168 indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other
2169 evidences of indebtedness:
2170 (i) issued by one or more of the following entities:
2171 (A) a state other than this state;
2172 (B) the District of Columbia;
2173 (C) a political subdivision of a state other than this state; or
2174 (D) an agency or instrumentality of an entity described in Subsections (1)(e)(i)(A)
2175 through (C); and
2176 (ii) to the extent the interest is not included in adjusted gross income on the taxpayer's
2177 federal income tax return for the taxable year;
2178 (f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a
2179 resident trust of income that was taxed at the trust level for federal tax purposes, but was
2180 subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);
2181 (g) any distribution received by a resident beneficiary of a nonresident trust of
2182 undistributed distributable net income realized by the trust on or after January 1, 2004, if that
2183 undistributed distributable net income was taxed at the trust level for federal tax purposes, but

2184 was not taxed at the trust level by any state, with undistributed distributable net income
2185 considered to be distributed from the most recently accumulated undistributed distributable net
2186 income; and

2187 (h) any adoption expense:

2188 (i) for which a resident or nonresident individual receives reimbursement from another
2189 person; and

2190 (ii) to the extent to which the resident or nonresident individual subtracts that adoption
2191 expense:

2192 (A) on a return filed under this chapter for a taxable year beginning on or before
2193 December 31, 2007; or

2194 (B) from federal taxable income on a federal individual income tax return.

2195 (2) There shall be subtracted from adjusted gross income of a resident or nonresident
2196 individual:

2197 (a) the difference between:

2198 (i) the interest or a dividend on an obligation or security of the United States or an
2199 authority, commission, instrumentality, or possession of the United States, to the extent that
2200 interest or dividend is:

2201 (A) included in adjusted gross income for federal income tax purposes for the taxable
2202 year; and

2203 (B) exempt from state income taxes under the laws of the United States; and

2204 (ii) any interest on indebtedness incurred or continued to purchase or carry the
2205 obligation or security described in Subsection (2)(a)(i);

2206 (b) ~~[for taxable years beginning on or after January 1, 2000;]~~ if the conditions of
2207 Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:

2208 (i) during a time period that the Ute tribal member resides on homesteaded land
2209 diminished from the Uintah and Ouray Reservation; and

2210 (ii) from a source within the Uintah and Ouray Reservation;

2211 (c) an amount received by a resident or nonresident individual or distribution received

2212 by a resident or nonresident beneficiary of a resident trust:

2213 (i) if that amount or distribution constitutes a refund of taxes imposed by:

2214 (A) a state; or

2215 (B) the District of Columbia; and

2216 (ii) to the extent that amount or distribution is included in adjusted gross income for

2217 that taxable year on the federal individual income tax return of the resident or nonresident

2218 individual or resident or nonresident beneficiary of a resident trust;

2219 (d) the amount of a railroad retirement benefit:

2220 (i) paid:

2221 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et

2222 seq.;

2223 (B) to a resident or nonresident individual; and

2224 (C) for the taxable year; and

2225 (ii) to the extent that railroad retirement benefit is included in adjusted gross income on

2226 that resident or nonresident individual's federal individual income tax return for that taxable

2227 year;

2228 (e) an amount:

2229 (i) received by an enrolled member of an American Indian tribe; and

2230 (ii) to the extent that the state is not authorized or permitted to impose a tax under this

2231 part on that amount in accordance with:

2232 (A) federal law;

2233 (B) a treaty; or

2234 (C) a final decision issued by a court of competent jurisdiction;

2235 (f) an amount received:

2236 (i) for the interest on a bond, note, or other obligation issued by an entity for which

2237 state statute provides an exemption of interest on its bonds from state individual income tax;

2238 (ii) by a resident or nonresident individual;

2239 (iii) for the taxable year; and

2240 (iv) to the extent the amount is included in adjusted gross income on the taxpayer's
2241 federal income tax return for the taxable year;

2242 (g) the amount of all income, including income apportioned to another state, of a
2243 nonmilitary spouse of an active duty military member if:

2244 (i) both the nonmilitary spouse and the active duty military member are nonresident
2245 individuals;

2246 (ii) the active duty military member is stationed in Utah;

2247 (iii) the nonmilitary spouse is subject to the residency provisions of 50 U.S.C. Sec.
2248 4001(a)(2); and

2249 (iv) the income is included in adjusted gross income for federal income tax purposes
2250 for the taxable year;

2251 (h) for a taxable year beginning on or after January 1, 2019, but beginning on or before
2252 December 31, 2019, only:

2253 (i) the amount of any FDIC premium paid or incurred by the taxpayer that is
2254 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal
2255 Revenue Code, on the taxpayer's 2018 federal income tax return; plus

2256 (ii) the amount of any FDIC premium paid or incurred by the taxpayer that is
2257 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal
2258 Revenue Code, for the taxable year;

2259 (i) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC
2260 premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income
2261 tax purposes under Section 162(r), Internal Revenue Code, for the taxable year; ~~and~~

2262 (j) for a taxable year beginning on or after January 1, 2020, but beginning on or before
2263 December 31, 2020, the amount:

2264 (i) of a paycheck protection loan similar to a loan forgiven in accordance with 15
2265 U.S.C. Sec. 636(a)(36) that is:

2266 (A) authorized by the federal government;

2267 (B) provided in response to COVID-19;

2268 (C) forgiven if the borrower meets the expenditure requirements; and
2269 (D) subject to federal income tax, to the extent that a deduction for the expenditures
2270 paid with the loan is disallowed;

2271 (ii) that a resident or a nonresident individual receives that is:
2272 (A) authorized by the federal government as a tax credit for the 2020 tax year;
2273 (B) provided in response to COVID-19;
2274 (C) paid in advance of the filing of the individual's 2020 federal income tax return; and
2275 (D) subject to federal income tax; and
2276 (iii) of any grant funds or forgiven loans that:
2277 (A) the resident or nonresident individual receives from the state, a county within the
2278 state, or a municipality within the state in response to COVID-19;
2279 (B) are funded by using federal revenue received by the state, the county, or the
2280 municipality to respond to COVID-19; and
2281 (C) are included in adjusted gross income[:]; and
2282 (k) an amount of a distribution from a qualified retirement plan under Section 401(a),
2283 Internal Revenue Code, if:
2284 (i) the amount of the distribution is included in adjusted gross income on the resident
2285 or nonresident individual's federal individual income tax return for the taxable year; and
2286 (ii) for the taxable year when the amount of the distribution was contributed to the
2287 qualified retirement plan, the amount of the distribution:
2288 (A) was not included in adjusted gross income on the resident or nonresident
2289 individual's federal individual income tax return for the taxable year; and
2290 (B) was taxed by another state of the United States, the District of Columbia, or a
2291 possession of the United States.

2292 (3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:
2293 (i) the taxpayer is a Ute tribal member; and
2294 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the
2295 requirements of this Subsection (3).

2296 (b) The agreement described in Subsection (3)(a):
 2297 (i) may not:
 2298 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
 2299 (B) provide a subtraction under this section greater than or different from the
 2300 subtraction described in Subsection (2)(b); or
 2301 (C) affect the power of the state to establish rates of taxation; and
 2302 (ii) shall:
 2303 (A) provide for the implementation of the subtraction described in Subsection (2)(b);
 2304 (B) be in writing;
 2305 (C) be signed by:
 2306 (I) the governor; and
 2307 (II) the chair of the Business Committee of the Ute tribe;
 2308 (D) be conditioned on obtaining any approval required by federal law; and
 2309 (E) state the effective date of the agreement.
 2310 (c) (i) The governor shall report to the commission by no later than February 1 of each
 2311 year regarding whether or not an agreement meeting the requirements of this Subsection (3) is
 2312 in effect.
 2313 (ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the
 2314 subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or
 2315 after the January 1 following the termination of the agreement.
 2316 (d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3,
 2317 Utah Administrative Rulemaking Act, the commission may make rules:
 2318 (i) for determining whether income is derived from a source within the Uintah and
 2319 Ouray Reservation; and
 2320 (ii) that are substantially similar to how adjusted gross income derived from Utah
 2321 sources is determined under Section [59-10-117](#).
 2322 (4) (a) For purposes of this Subsection (4), "Form 8814" means:
 2323 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's

2324 Interest and Dividends; or

2325 (ii) (A) a form designated by the commission in accordance with Subsection
2326 (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal
2327 individual income taxes the information contained on 2000 Form 8814 is reported on a form
2328 other than Form 8814; and

2329 (B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter
2330 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as
2331 being substantially similar to 2000 Form 8814 if for purposes of federal individual income
2332 taxes the information contained on 2000 Form 8814 is reported on a form other than Form
2333 8814.

2334 (b) The amount of a child's income added to adjusted gross income under Subsection
2335 (1)(b) is equal to the difference between:

2336 (i) the lesser of:

2337 (A) the base amount specified on Form 8814; and

2338 (B) the sum of the following reported on Form 8814:

2339 (I) the child's taxable interest;

2340 (II) the child's ordinary dividends; and

2341 (III) the child's capital gain distributions; and

2342 (ii) the amount not taxed that is specified on Form 8814.

2343 (5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences
2344 of indebtedness issued by an entity described in Subsections (1)(e)(i)(A) through (D) may not
2345 be added to adjusted gross income of a resident or nonresident individual if, as annually
2346 determined by the commission:

2347 (a) for an entity described in Subsection (1)(e)(i)(A) or (B), the entity and all of the
2348 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on
2349 income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

2350 (b) for an entity described in Subsection (1)(e)(i)(C) or (D), the following do not
2351 impose a tax based on income on any part of the bonds, notes, and other evidences of

2352 indebtedness of this state:

2353 (i) the entity; or

2354 (ii) (A) the state in which the entity is located; or

2355 (B) the District of Columbia, if the entity is located within the District of Columbia.

2356 Section 23. Section **59-10-137** is amended to read:

2357 **59-10-137. Review of credits allowed under this chapter.**

2358 (1) As used in this section, "committee" means the Revenue and Taxation Interim
2359 Committee.

2360 (2) (a) The committee shall review the tax credits described in this chapter as provided
2361 in Subsection (3) and make recommendations concerning whether the tax credits should be
2362 continued, modified, or repealed.

2363 (b) In conducting the review required under Subsection (2)(a), the committee shall:

2364 (i) schedule time on at least one committee agenda to conduct the review;

2365 (ii) invite state agencies, individuals, and organizations concerned with the tax credit
2366 under review to provide testimony;

2367 (iii) (A) invite the Governor's Office of Economic Development to present a summary
2368 and analysis of the information for each tax credit regarding which the Governor's Office of
2369 Economic Development is required to make a report under this chapter; and

2370 (B) invite the Office of the Legislative Fiscal Analyst to present a summary and
2371 analysis of the information for each tax credit regarding which the Office of the Legislative
2372 Fiscal Analyst is required to make a report under this chapter;

2373 (iv) ensure that the committee's recommendations described in this section include an
2374 evaluation of:

2375 (A) the cost of the tax credit to the state;

2376 (B) the purpose and effectiveness of the tax credit; and

2377 (C) the extent to which the state benefits from the tax credit; and

2378 (v) undertake other review efforts as determined by the committee chairs or as
2379 otherwise required by law.

2380 (3) (a) On or before November 30, 2017, and every three years after 2017, the
2381 committee shall conduct the review required under Subsection (2) of the tax credits allowed
2382 under the following sections:

- 2383 (i) Section 59-10-1004;
- 2384 (ii) Section 59-10-1010;
- 2385 (iii) Section 59-10-1015;
- 2386 (iv) Section 59-10-1025;
- 2387 (v) Section 59-10-1027;
- 2388 (vi) Section 59-10-1031;
- 2389 (vii) Section 59-10-1032;
- 2390 (viii) Section 59-10-1035;
- 2391 (ix) Section 59-10-1104;
- 2392 (x) Section 59-10-1105; and
- 2393 (xi) Section 59-10-1108.

2394 (b) On or before November 30, 2018, and every three years after 2018, the committee
2395 shall conduct the review required under Subsection (2) of the tax credits allowed under the
2396 following sections:

- 2397 (i) Section 59-10-1005;
- 2398 (ii) Section 59-10-1006;
- 2399 (iii) Section 59-10-1012;
- 2400 (iv) Section 59-10-1022;
- 2401 (v) Section 59-10-1023;
- 2402 (vi) Section 59-10-1028;
- 2403 (vii) Section 59-10-1034;
- 2404 (viii) Section 59-10-1037;
- 2405 (ix) Section 59-10-1107; and
- 2406 (x) Section 59-10-1112.

2407 (c) On or before November 30, 2019, and every three years after 2019, the committee

2408 shall conduct the review required under Subsection (2) of the tax credits allowed under the
2409 following sections:

- 2410 (i) Section 59-10-1007;
- 2411 (ii) Section 59-10-1014;
- 2412 (iii) Section 59-10-1017;
- 2413 (iv) Section 59-10-1018;
- 2414 (v) Section 59-10-1019;
- 2415 (vi) Section 59-10-1024;
- 2416 (vii) Section 59-10-1029;
- 2417 [~~(viii) Section 59-10-1033;~~]
- 2418 [~~(ix)~~] (viii) Section 59-10-1036;
- 2419 [~~(x)~~] (ix) Section 59-10-1106; and
- 2420 [~~(xi)~~] (x) Section 59-10-1111.

2421 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall
2422 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,
2423 2017.

2424 (ii) The committee shall complete a review described in this Subsection (3)(d) three
2425 years after the effective date of the tax credit and every three years after the initial review date.

2426 Section 24. Section 59-10-507 is amended to read:

2427 **59-10-507. Return by a pass-through entity.**

2428 [~~(1) As used in this section:~~]

2429 [~~(a) "Pass-through entity" is as defined in Section 59-10-1402.~~]

2430 [~~(b) "Taxable"~~] (1) As used in this section, "taxable year" means a year or other time
2431 period that would be a taxable year of a pass-through entity if the pass-through entity were
2432 subject to taxation under this chapter.

2433 (2) A pass-through entity having any income derived from or connected with Utah
2434 sources shall make a return for the taxable year in accordance with Section 59-10-514.

2435 Section 25. Section 59-10-514 is amended to read:

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

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

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

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

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

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

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

(b) Interest accrues from the day on which a return is due under this Subsection (1).

(2) A person required to make and file a return under this chapter shall, without assessment, notice, or demand, pay any tax due:

(a) to the commission; and

(b) before the due date for filing the return, without regard to any extension of time for filing the return.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing what constitutes filing a return with the commission.

Section 26. Section **59-10-516** is amended to read:

59-10-516. Filing extension -- Payment of tax -- Penalty -- Foreign residency.

(1) (a) The commission shall allow a taxpayer an extension of time for filing a return.

(b) Except as provided in Subsection (1)(c):

(i) ~~[For]~~ for a return filed by a taxpayer except for a partnership, the extension ~~[under]~~ described in Subsection (1)(a) may ~~[not exceed]~~ be up to six months[-]; and

(ii) ~~[For]~~ for a return filed by a partnership, the extension ~~[under]~~ described in Subsection (1)(a) may ~~[not exceed]~~ be up to five months.

~~[(2)(a) Except as provided in Subsection (2)(b), the commission may not impose on a taxpayer during the extension period prescribed under Subsection (1) a penalty under Section 59-1-401 if the taxpayer pays, on or before the 15th day of the fourth month following the close of the taxpayer's taxable year, the lesser of:]~~

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

(2) The commission may not impose a penalty under Section 59-1-401 during the extension period described in Subsection (1) on:

(a) a pass-through entity, if the pass-through entity, on or before the return due date described in Section 59-10-514, pays or withholds the tax on behalf of a pass-through entity taxpayer; or

(b) a taxpayer other than a taxpayer described in Subsection (2)(a), if the taxpayer pays, on or before the return due date described in Section 59-10-514, an amount equal to the lesser of:

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

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

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

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

Section 27. Section 59-10-522 is amended to read:

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

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

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

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

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

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

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

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

Section 28. Section **59-10-1007** is amended to read:

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

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

2520 nonrefundable tax credits:

2521 (a) a tax credit ~~[of 5% of]~~ equal to the product of the percentage listed in Subsection
2522 59-10-104(2) and the purchase price paid for machinery and equipment used directly in:

2523 (i) commercial composting; or

2524 (ii) manufacturing facilities or plant units that:

2525 (A) manufacture, process, compound, or produce recycled items of tangible personal
2526 property for sale; or

2527 (B) reduce or reuse postconsumer waste material; and

2528 (b) a tax credit equal to the lesser of:

2529 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test
2530 inventory, and utilities made by the claimant, estate, or trust for establishing and operating
2531 recycling or composting technology in the state; and

2532 (ii) \$2,000.

2533 (2) (a) To claim a tax credit described in Subsection (1), the claimant, estate, or trust
2534 shall receive from the Department of Environmental Quality a written certification, on a form
2535 approved by the commission, that includes:

2536 (i) a statement that the claimant, estate, or trust is operating within the boundaries of a
2537 recycling market development zone;

2538 (ii) for a claim of the tax credit described in Subsection (1)(a):

2539 (A) the type of the machinery and equipment that the claimant, estate, or trust
2540 purchased;

2541 (B) the date that the claimant, estate, or trust purchased the machinery and equipment;

2542 (C) the purchase price for the machinery and equipment;

2543 (D) the total purchase price for all machinery and equipment for which the claimant,
2544 estate, or trust is claiming a tax credit;

2545 (E) the amount of the claimant's, estate's, or trust's tax credit; and

2546 (F) a statement that the machinery and equipment are integral to the composting or
2547 recycling process; and

- 2548 (iii) for a claim of the tax credit described in Subsection (1)(b):
- 2549 (A) the type of net expenditure that the claimant, estate, or trust made to a third party;
- 2550 (B) the date that the claimant, estate, or trust made the payment to a third party;
- 2551 (C) the amount that the claimant, estate, or trust paid to each third party;
- 2552 (D) the total amount that the claimant, estate, or trust paid to all third parties;
- 2553 (E) a statement that the net expenditures support the establishment and operation of
- 2554 recycling or composting technology in the state; and
- 2555 (F) the amount of the claimant's, estate's, or trust's tax credit.
- 2556 (b) (i) The Department of Environmental Quality shall provide a claimant, estate, or
- 2557 trust seeking to claim a tax credit under Subsection (1) with a copy of the written certification.
- 2558 (ii) The claimant, estate, or trust shall retain a copy of the written certification for the
- 2559 same period of time that a person is required to keep books and records under Section
- 2560 [59-1-1406](#).
- 2561 (c) The Department of Environmental Quality shall submit to the commission an
- 2562 electronic list that includes:
- 2563 (i) the name and identifying information of each claimant, estate, or trust to which the
- 2564 Department of Environmental Quality issues a written certification; and
- 2565 (ii) for each claimant, estate, or trust, the amount of each tax credit listed on the written
- 2566 certification.
- 2567 (3) A claimant, estate, or trust may not claim a tax credit under Subsection (1)(a),
- 2568 Subsection (1)(b), or both that exceeds 40% of the claimant's, estate's, or trust's state income
- 2569 tax liability as the tax liability is calculated:
- 2570 (a) for the taxable year in which the claimant, estate, or trust made the purchases or
- 2571 payments;
- 2572 (b) before any other tax credits the claimant, estate, or trust may claim for the taxable
- 2573 year; and
- 2574 (c) before the claimant, estate, or trust claims a tax credit authorized by this section.
- 2575 (4) The commission shall make rules governing what information a claimant, estate, or

trust shall file with the commission to verify the entitlement to and amount of a tax credit.

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

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

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

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

Section 29. Section 59-10-1017 is amended to read:

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

(1) As used in this section:

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

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

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

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

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

(A) listed in Subsection 53B-8a-106(1)(e)(ii); and

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

(ii) subject to Subsection (1)(d)(iii), for claimants who are husband and wife account owners who file a single return jointly, the maximum amount of a qualified investment:

(A) listed in Subsection 53B-8a-106(1)(e)(iii); and

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

(iii) for a grantor trust:

(A) if the owner of the grantor trust has a single filing status or head of household filing status as defined in Section 59-10-1018, the amount described in Subsection (1)(d)(i); or

(B) if the owner of the grantor trust has a joint filing status as defined in Section 59-10-1018, the amount described in Subsection (1)(d)(ii).

(e) "Owner of the grantor trust" means the same as that term is defined in Section 53B-8a-102.5.

(f) "Qualified investment" means the same as that term is defined in Section 53B-8a-102.5.

(2) Except as provided in Section 59-10-1002.2 and subject to the other provisions of this section, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax credit equal to the product of:

(a) the amount of a qualified investment made:

(i) during the taxable year; and

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

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

(b) the percentage listed in Subsection 59-10-104(2).

(3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may make a qualified investment described in Subsection (2).

(4) A claimant, estate, or trust that is an account owner may not claim a tax credit under this section with respect to any portion of a qualified investment described in Subsection (2) that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal income tax return.

2632 (5) A tax credit under this section may not exceed the maximum amount of a qualified
2633 investment for the taxable year.

2634 (6) A claimant, estate, or trust that is an account owner may not carry forward or carry
2635 back the tax credit under this section.

2636 (7) A claimant, estate, or trust may claim a tax credit under this section in addition to
2637 the tax credit described in Section 59-10-1017.1.

2638 Section 30. Section 59-10-1017.1 is amended to read:

2639 **59-10-1017.1. Student Prosperity Savings Program tax credit.**

2640 (1) As used in this section, "qualified donation" means an amount donated, in
2641 accordance with Section 53B-8a-203, to the Student Prosperity Savings Program created in
2642 Section 53B-8a-202.

2643 (2) A claimant, estate, or trust may claim a nonrefundable tax credit for a qualified
2644 donation.

2645 (3) The tax credit equals the product of:

2646 (a) the qualified donation; and

2647 [~~(b) 5%.~~]

2648 (b) the percentage listed in Subsection 59-10-104(2).

2649 (4) A claimant, estate, or trust may not claim a tax credit under this section with
2650 respect to any portion of a qualified donation that a claimant, estate, or trust deducts on a
2651 federal income tax return.

2652 (5) A claimant, estate, or trust may not carry forward or carry back the portion of the
2653 tax credit allowed by this section that exceeds the claimant's, estate's, or trust's tax liability for
2654 the taxable year in which the claimant, estate, or trust claims the tax credit.

2655 (6) A claimant, estate, or trust may claim a tax credit under this section in addition to
2656 the tax credit described in Section 59-10-1017.

2657 Section 31. Section 59-10-1022 is amended to read:

2658 **59-10-1022. Nonrefundable tax credit for capital gain transactions.**

2659 (1) As used in this section:

- 2660 (a) (i) "Capital gain transaction" means a transaction that results in a:
2661 (A) short-term capital gain; or
2662 (B) long-term capital gain.
- 2663 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2664 commission may by rule define the term "transaction."
- 2665 (b) "Commercial domicile" means the principal place from which the trade or business
2666 of a Utah small business corporation is directed or managed.
- 2667 (c) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.
- 2668 (d) "Qualifying stock" means stock that is:
- 2669 (i) (A) common; or
2670 (B) preferred;
- 2671 (ii) as defined by the commission by rule made in accordance with Title 63G, Chapter
2672 3, Utah Administrative Rulemaking Act, originally issued to:
- 2673 (A) a claimant, estate, or trust; or
2674 (B) a partnership if the claimant, estate, or trust that claims a tax credit under this
2675 section:
- 2676 (I) was a partner on the day on which the stock was issued; and
2677 (II) remains a partner until the last day of the taxable year for which the claimant,
2678 estate, or trust claims a tax credit under this section; and
- 2679 (iii) issued:
- 2680 (A) by a Utah small business corporation;
2681 (B) on or after January 1, 2008; and
2682 (C) for:
- 2683 (I) money; or
2684 (II) other property, except for stock or securities.
- 2685 (e) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.
- 2686 (f) (i) "Utah small business corporation" means a corporation that:
2687 (A) except as provided in Subsection (1)(f)(ii), is a small business corporation as

2688 defined in Section 1244(c)(3), Internal Revenue Code;

2689 (B) except as provided in Subsection (1)(f)(iii), meets the requirements of Section
2690 1244(c)(1)(C), Internal Revenue Code; and

2691 (C) has its commercial domicile in this state.

2692 (ii) The dollar amount listed in Section 1244(c)(3)(A) is considered to be \$2,500,000.

2693 (iii) The phrase "the date the loss on such stock was sustained" in Sections
2694 1244(c)(1)(C) and 1244(c)(2), Internal Revenue Code, is considered to be "the last day of the
2695 taxable year for which the claimant, estate, or trust claims a tax credit under this section."

2696 (2) For taxable years beginning on or after January 1, 2008, a claimant, estate, or trust
2697 that meets the requirements of Subsection (3) may claim a nonrefundable tax credit equal to the
2698 product of:

2699 (a) the total amount of the claimant's, estate's, or trust's short-term capital gain or
2700 long-term capital gain on a capital gain transaction that occurs on or after January 1, 2008; and

2701 [~~(b) 5%.~~]

2702 (b) the percentage listed in Subsection 59-10-104(2).

2703 (3) For purposes of Subsection (2), a claimant, estate, or trust may claim the
2704 nonrefundable tax credit allowed by Subsection (2) if:

2705 (a) 70% or more of the gross proceeds of the capital gain transaction are expended:

2706 (i) to purchase qualifying stock in a Utah small business corporation; and

2707 (ii) within a 12-month period after the day on which the capital gain transaction occurs;
2708 and

2709 (b) prior to the purchase of the qualifying stock described in Subsection (3)(a)(i), the
2710 claimant, estate, or trust did not have an ownership interest in the Utah small business
2711 corporation that issued the qualifying stock.

2712 (4) A claimant, estate, or trust may not carry forward or carry back a tax credit under
2713 this section.

2714 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2715 commission may make rules:

2716 (a) defining the term "gross proceeds"; and

2717 (b) prescribing the circumstances under which a claimant, estate, or trust has an
2718 ownership interest in a Utah small business corporation.

2719 Section 32. Section **59-10-1023** is amended to read:

2720 **59-10-1023. Nonrefundable tax credit for amounts paid under a health benefit**
2721 **plan.**

2722 (1) As used in this section:

2723 (a) "Claimant with dependents" means a claimant:

2724 (i) regardless of the claimant's filing status for purposes of filing a federal individual
2725 income tax return for the taxable year; and

2726 (ii) who claims one or more dependents under Section 151, Internal Revenue Code, as
2727 allowed on the claimant's federal individual income tax return for the taxable year.

2728 (b) "Eligible insured individual" means:

2729 (i) the claimant who is insured under a health benefit plan;

2730 (ii) the spouse of the claimant described in Subsection (1)(b)(i) if:

2731 (A) the claimant files a single return jointly under this chapter with the claimant's
2732 spouse for the taxable year; and

2733 (B) the spouse is insured under the health benefit plan described in Subsection
2734 (1)(b)(i); or

2735 (iii) a dependent of the claimant described in Subsection (1)(b)(i) if:

2736 (A) the claimant claims the dependent under Section 151, Internal Revenue Code, as
2737 allowed on the claimant's federal individual income tax return for the taxable year; and

2738 (B) the dependent is insured under the health benefit plan described in Subsection
2739 (1)(b)(i).

2740 (c) "Excluded expenses" means an amount a claimant pays for insurance offered under
2741 a health benefit plan for a taxable year if:

2742 (i) the claimant claims a tax credit for that amount under Section 35, Internal Revenue
2743 Code:

2744 (A) on the claimant's federal individual income tax return for the taxable year; and
2745 (B) with respect to an eligible insured individual;
2746 (ii) the claimant deducts that amount under Section 162 or 213, Internal Revenue
2747 Code:
2748 (A) on the claimant's federal individual income tax return for the taxable year; and
2749 (B) with respect to an eligible insured individual; or
2750 (iii) the claimant excludes that amount from gross income under Section 106 or 125,
2751 Internal Revenue Code, with respect to an eligible insured individual.
2752 (d) (i) "Health benefit plan" is as defined in Section 31A-1-301.
2753 (ii) "Health benefit plan" does not include equivalent self-insurance as defined by the
2754 Insurance Department by rule made in accordance with Title 63G, Chapter 3, Utah
2755 Administrative Rulemaking Act.
2756 (e) "Joint claimant with no dependents" means a husband and wife who:
2757 (i) file a single return jointly under this chapter for the taxable year; and
2758 (ii) do not claim a dependent under Section 151, Internal Revenue Code, on the
2759 husband's and wife's federal individual income tax return for the taxable year.
2760 (f) "Single claimant with no dependents" means:
2761 (i) a single individual who:
2762 (A) files a single federal individual income tax return for the taxable year; and
2763 (B) does not claim a dependent under Section 151, Internal Revenue Code, on the
2764 single individual's federal individual income tax return for the taxable year;
2765 (ii) a head of household:
2766 (A) as defined in Section 2(b), Internal Revenue Code, who files a single federal
2767 individual income tax return for the taxable year; and
2768 (B) who does not claim a dependent under Section 151, Internal Revenue Code, on the
2769 head of household's federal individual income tax return for the taxable year; or
2770 (iii) a married individual who:
2771 (A) does not file a single federal individual income tax return jointly with that married

2772 individual's spouse for the taxable year; and

2773 (B) does not claim a dependent under Section 151, Internal Revenue Code, on that
2774 married individual's federal individual income tax return for the taxable year.

2775 (2) Subject to Subsection (3), and except as provided in Subsection (4), for taxable
2776 years beginning on or after January 1, 2009, a claimant may claim a nonrefundable tax credit
2777 equal to the product of:

2778 (a) the difference between:

2779 (i) the total amount the claimant pays during the taxable year for:

2780 (A) insurance offered under a health benefit plan; and

2781 (B) an eligible insured individual; and

2782 (ii) excluded expenses; and

2783 ~~[(b) 5%.]~~

2784 (b) the percentage listed in Subsection 59-10-104(2).

2785 (3) The maximum amount of a tax credit described in Subsection (2) a claimant may
2786 claim on a return for a taxable year is:

2787 (a) for a single claimant with no dependents, \$300;

2788 (b) for a joint claimant with no dependents, \$600; or

2789 (c) for a claimant with dependents, \$900.

2790 (4) A claimant may not claim a tax credit under this section if the claimant is eligible to
2791 participate in insurance offered under a health benefit plan maintained and funded in whole or
2792 in part by:

2793 (a) the claimant's employer; or

2794 (b) another person's employer.

2795 (5) A claimant may not carry forward or carry back a tax credit under this section.

2796 Section 33. Section 59-10-1028 is amended to read:

2797 **59-10-1028. Nonrefundable tax credit for capital gain transactions on the**
2798 **exchange of one form of legal tender for another form of legal tender.**

2799 (1) As used in this section:

2800 (a) "Capital gain transaction" means a transaction that results in a:
2801 (i) short-term capital gain; or
2802 (ii) long-term capital gain.
2803 (b) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.
2804 (c) "Long-term capital loss" is as defined in Section 1222, Internal Revenue Code.
2805 (d) "Net capital gain" means the amount by which the sum of long-term capital gains
2806 and short-term capital gains on a claimant's, estate's, or trust's transactions from exchanges
2807 made for a taxable year of one form of legal tender for another form of legal tender exceeds the
2808 sum of long-term capital losses and short-term capital losses on those transactions for that
2809 taxable year.
2810 (e) "Short-term capital loss" is as defined in Section 1222, Internal Revenue Code.
2811 (f) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.
2812 (2) Except as provided in Section [59-10-1002.2](#), for taxable years beginning on or after
2813 January 1, 2012, a claimant, estate, or trust may claim a nonrefundable tax credit equal to the
2814 product of:
2815 (a) to the extent a net capital gain is included in taxable income, the amount of the
2816 claimant's, estate's, or trust's net capital gain on capital gain transactions from exchanges made
2817 on or after January 1, 2012, for a taxable year, of one form of legal tender for another form of
2818 legal tender; and
2819 ~~[(b) 5%.]~~
2820 (b) the percentage listed in Subsection [59-10-104\(2\)](#).
2821 (3) A claimant, estate, or trust may not carry forward or carry back a tax credit under
2822 this section.
2823 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2824 commission may make rules to implement this section.
2825 Section 34. Section **59-10-1035** is amended to read:
2826 **59-10-1035. Nonrefundable tax credit for contribution to state Achieving a Better**
2827 **Life Experience Program account.**

- 2828 (1) As used in this section:
- 2829 (a) "Account" means an account in a qualified ABLE program where the designated
- 2830 beneficiary of the account is a resident of this state.
- 2831 (b) "Contributor" means a claimant, estate, or trust that:
- 2832 (i) makes a contribution to an account; and
- 2833 (ii) receives a statement from the qualified ABLE program itemizing the contribution.
- 2834 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.
- 2835 529A.
- 2836 (d) "Qualified ABLE program" means the same as that term is defined in Section
- 2837 [35A-12-102](#).
- 2838 (2) A contributor to an account may claim a nonrefundable tax credit as provided in
- 2839 this section.
- 2840 (3) Subject to the other provisions of this section, the tax credit is equal to the product
- 2841 of:
- 2842 ~~[(a) 5%; and]~~
- 2843 (a) the percentage listed in Subsection [59-10-104\(2\)](#); and
- 2844 (b) the total amount of contributions:
- 2845 (i) the contributor makes for the taxable year; and
- 2846 (ii) for which the contributor receives a statement from the qualified ABLE program
- 2847 itemizing the contributions.
- 2848 (4) A contributor may not claim a tax credit under this section:
- 2849 (a) for an amount of excess contribution to an account that is returned to the
- 2850 contributor; or
- 2851 (b) with respect to an amount the contributor deducts on a federal income tax return.
- 2852 (5) A tax credit under this section may not be carried forward or carried back.
- 2853 Section 35. Section **59-10-1036** is amended to read:
- 2854 **59-10-1036. Nonrefundable tax credit for military survivor benefits.**
- 2855 (1) As used in this section:

2856 (a) "Dependent child" means the same as that term is defined in 10 U.S.C. Sec. 1447.

2857 (b) "Reserve components" means the same as that term is described in 10 U.S.C. Sec.
2858 10101.

2859 (c) "Surviving spouse" means the same as that term is defined in 10 U.S.C. Sec. 1447.

2860 (d) "Survivor benefits" means the amount paid by the federal government in
2861 accordance with 10 U.S.C. Secs. 1447 through 1455.

2862 (2) A surviving spouse or dependent child may claim a nonrefundable tax credit for
2863 survivor benefits if the benefits are paid due to:

2864 (a) the death of a member of the armed forces or reserve components while on active
2865 duty; or

2866 (b) the death of a member of the reserve components that results from a
2867 service-connected cause while performing inactive duty training.

2868 (3) The tax credit described in Subsection (2) is equal to the product of:

2869 (a) the amount of survivor benefits that the surviving spouse or dependent child
2870 received during the taxable year; and

2871 ~~[(b) 5%]~~

2872 (b) the percentage listed in Subsection 59-10-104(2).

2873 (4) The tax credit described in Subsection (2):

2874 (a) may not be carried forward or carried back; and

2875 (b) applies to a taxable year beginning on or after January 1, 2017.

2876 Section 36. Section **59-10-1403** is amended to read:

2877 **59-10-1403. Income tax treatment of a pass-through entity -- Returns --**

2878 **Classification same as under Internal Revenue Code.**

2879 (1) Subject to Subsection (3), a pass-through entity is not subject to a tax imposed by
2880 this chapter.

2881 (2) Except as provided in Section 59-10-1403.3, the income, gain, loss, deduction, or
2882 credit of a pass-through entity shall be passed through to one or more pass-through entity
2883 taxpayers as provided in this part.

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

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

Section 37. Section 59-10-1403.3 is amended to read:

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

(1) As used in this section:

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

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

(i) is paid or withheld:

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

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

(ii) is equal to the difference between:

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

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

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

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

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

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

(4) A pass-through entity shall claim a refund of qualifying excess withholding under this section within 30 days after the earlier of the day on which:

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

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

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

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

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

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

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

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

(iv) an estimation of:

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

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

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

Section 38. Section **59-12-102** is amended to read:

59-12-102. Definitions.

- 2940 As used in this chapter:
- 2941 (1) "800 service" means a telecommunications service that:
- 2942 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and
- 2943 (b) is typically marketed:
- 2944 (i) under the name 800 toll-free calling;
- 2945 (ii) under the name 855 toll-free calling;
- 2946 (iii) under the name 866 toll-free calling;
- 2947 (iv) under the name 877 toll-free calling;
- 2948 (v) under the name 888 toll-free calling; or
- 2949 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
- 2950 Federal Communications Commission.
- 2951 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 2952 (i) a subscriber purchases;
- 2953 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 2954 the subscriber's:
- 2955 (A) prerecorded announcement; or
- 2956 (B) live service; and
- 2957 (iii) is typically marketed:
- 2958 (A) under the name 900 service; or
- 2959 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 2960 Communications Commission.
- 2961 (b) "900 service" does not include a charge for:
- 2962 (i) a collection service a seller of a telecommunications service provides to a
- 2963 subscriber; or
- 2964 (ii) the following a subscriber sells to the subscriber's customer:
- 2965 (A) a product; or
- 2966 (B) a service.
- 2967 (3) (a) "Admission or user fees" includes season passes.

- 2968 (b) "Admission or user fees" does not include:
2969 (i) annual membership dues to private organizations; or
2970 (ii) a lesson, including a lesson that involves as part of the lesson equipment or a
2971 facility listed in Subsection 59-12-103(1)(f).
2972 (4) "Affiliate" or "affiliated person" means a person that, with respect to another
2973 person:
2974 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
2975 person; or
2976 (b) is related to the other person because a third person, or a group of third persons who
2977 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,
2978 whether direct or indirect, in the related persons.
2979 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
2980 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
2981 Agreement after November 12, 2002.
2982 (6) "Agreement combined tax rate" means the sum of the tax rates:
2983 (a) listed under Subsection (7); and
2984 (b) that are imposed within a local taxing jurisdiction.
2985 (7) "Agreement sales and use tax" means a tax imposed under:
2986 (a) Subsection 59-12-103(2)(a)(i)(A);
2987 (b) Subsection 59-12-103(2)(b)(i);
2988 (c) Subsection 59-12-103(2)(c)(i);
2989 (d) Subsection 59-12-103(2)(d);
2990 ~~[(d)]~~ (e) Subsection 59-12-103(2)~~[(d)]~~(e)(i)(A)(I);
2991 ~~[(e)]~~ (f) Section 59-12-204;
2992 ~~[(f)]~~ (g) Section 59-12-401;
2993 ~~[(g)]~~ (h) Section 59-12-402;
2994 ~~[(h)]~~ (i) Section 59-12-402.1;
2995 ~~[(i)]~~ (j) Section 59-12-703;

2996 ~~[(j)]~~ (k) Section 59-12-802;
2997 ~~[(k)]~~ (l) Section 59-12-804;
2998 ~~[(t)]~~ (m) Section 59-12-1102;
2999 ~~[(m)]~~ (n) Section 59-12-1302;
3000 ~~[(n)]~~ (o) Section 59-12-1402;
3001 ~~[(o)]~~ (p) Section 59-12-1802;
3002 ~~[(p)]~~ (q) Section 59-12-2003;
3003 ~~[(q)]~~ (r) Section 59-12-2103;
3004 ~~[(r)]~~ (s) Section 59-12-2213;
3005 ~~[(s)]~~ (t) Section 59-12-2214;
3006 ~~[(t)]~~ (u) Section 59-12-2215;
3007 ~~[(u)]~~ (v) Section 59-12-2216;
3008 ~~[(v)]~~ (w) Section 59-12-2217;
3009 ~~[(w)]~~ (x) Section 59-12-2218;
3010 ~~[(x)]~~ (y) Section 59-12-2219; or
3011 ~~[(y)]~~ (z) Section 59-12-2220.
3012 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
3013 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
3014 (a) except for:
3015 (i) an airline as defined in Section 59-2-102; or
3016 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
3017 includes a corporation that is qualified to do business but is not otherwise doing business in the
3018 state, of an airline; and
3019 (b) that has the workers, expertise, and facilities to perform the following, regardless of
3020 whether the business entity performs the following in this state:
3021 (i) check, diagnose, overhaul, and repair:
3022 (A) an onboard system of a fixed wing turbine powered aircraft; and
3023 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

- 3024 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
3025 engine;
- 3026 (iii) perform at least the following maintenance on a fixed wing turbine powered
3027 aircraft:
- 3028 (A) an inspection;
- 3029 (B) a repair, including a structural repair or modification;
- 3030 (C) changing landing gear; and
- 3031 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 3032 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
3033 completely apply new paint to the fixed wing turbine powered aircraft; and
- 3034 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
3035 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
3036 authority that certifies the fixed wing turbine powered aircraft.
- 3037 (10) "Alcoholic beverage" means a beverage that:
- 3038 (a) is suitable for human consumption; and
- 3039 (b) contains .5% or more alcohol by volume.
- 3040 (11) "Alternative energy" means:
- 3041 (a) biomass energy;
- 3042 (b) geothermal energy;
- 3043 (c) hydroelectric energy;
- 3044 (d) solar energy;
- 3045 (e) wind energy; or
- 3046 (f) energy that is derived from:
- 3047 (i) coal-to-liquids;
- 3048 (ii) nuclear fuel;
- 3049 (iii) oil-impregnated diatomaceous earth;
- 3050 (iv) oil sands;
- 3051 (v) oil shale;

3052 (vi) petroleum coke; or
3053 (vii) waste heat from:
3054 (A) an industrial facility; or
3055 (B) a power station in which an electric generator is driven through a process in which
3056 water is heated, turns into steam, and spins a steam turbine.

3057 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production
3058 facility" means a facility that:

3059 (i) uses alternative energy to produce electricity; and
3060 (ii) has a production capacity of two megawatts or greater.

3061 (b) A facility is an alternative energy electricity production facility regardless of
3062 whether the facility is:

3063 (i) connected to an electric grid; or
3064 (ii) located on the premises of an electricity consumer.

3065 (13) (a) "Ancillary service" means a service associated with, or incidental to, the
3066 provision of telecommunications service.

3067 (b) "Ancillary service" includes:

3068 (i) a conference bridging service;
3069 (ii) a detailed communications billing service;
3070 (iii) directory assistance;
3071 (iv) a vertical service; or
3072 (v) a voice mail service.

3073 (14) "Area agency on aging" means the same as that term is defined in Section
3074 62A-3-101.

3075 (15) "Assisted amusement device" means an amusement device, skill device, or ride
3076 device that is started and stopped by an individual:

3077 (a) who is not the purchaser or renter of the right to use or operate the amusement
3078 device, skill device, or ride device; and

3079 (b) at the direction of the seller of the right to use the amusement device, skill device,

3080 or ride device.

3081 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or
3082 washing of tangible personal property if the cleaning or washing labor is primarily performed
3083 by an individual:

3084 (a) who is not the purchaser of the cleaning or washing of the tangible personal
3085 property; and

3086 (b) at the direction of the seller of the cleaning or washing of the tangible personal
3087 property.

3088 (17) "Authorized carrier" means:

3089 (a) in the case of vehicles operated over public highways, the holder of credentials
3090 indicating that the vehicle is or will be operated pursuant to both the International Registration
3091 Plan and the International Fuel Tax Agreement;

3092 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
3093 certificate or air carrier's operating certificate; or

3094 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
3095 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
3096 stock in more than one state.

3097 (18) (a) Except as provided in Subsection (18)(b), "biomass energy" means any of the
3098 following that is used as the primary source of energy to produce fuel or electricity:

3099 (i) material from a plant or tree; or

3100 (ii) other organic matter that is available on a renewable basis, including:

3101 (A) slash and brush from forests and woodlands;

3102 (B) animal waste;

3103 (C) waste vegetable oil;

3104 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
3105 wastewater residuals, or through the conversion of a waste material through a nonincineration,
3106 thermal conversion process;

3107 (E) aquatic plants; and

- 3108 (F) agricultural products.
- 3109 (b) "Biomass energy" does not include:
- 3110 (i) black liquor; or
- 3111 (ii) treated woods.
- 3112 (19) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 3113 property, products, or services if the tangible personal property, products, or services are:
- 3114 (i) distinct and identifiable; and
- 3115 (ii) sold for one nonitemized price.
- 3116 (b) "Bundled transaction" does not include:
- 3117 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 3118 the basis of the selection by the purchaser of the items of tangible personal property included in
- 3119 the transaction;
- 3120 (ii) the sale of real property;
- 3121 (iii) the sale of services to real property;
- 3122 (iv) the retail sale of tangible personal property and a service if:
- 3123 (A) the tangible personal property:
- 3124 (I) is essential to the use of the service; and
- 3125 (II) is provided exclusively in connection with the service; and
- 3126 (B) the service is the true object of the transaction;
- 3127 (v) the retail sale of two services if:
- 3128 (A) one service is provided that is essential to the use or receipt of a second service;
- 3129 (B) the first service is provided exclusively in connection with the second service; and
- 3130 (C) the second service is the true object of the transaction;
- 3131 (vi) a transaction that includes tangible personal property or a product subject to
- 3132 taxation under this chapter and tangible personal property or a product that is not subject to
- 3133 taxation under this chapter if the:
- 3134 (A) seller's purchase price of the tangible personal property or product subject to
- 3135 taxation under this chapter is de minimis; or

3136 (B) seller's sales price of the tangible personal property or product subject to taxation
3137 under this chapter is de minimis; and

3138 (vii) the retail sale of tangible personal property that is not subject to taxation under
3139 this chapter and tangible personal property that is subject to taxation under this chapter if:

3140 (A) that retail sale includes:

3141 (I) food and food ingredients;

3142 (II) a drug;

3143 (III) durable medical equipment;

3144 (IV) mobility enhancing equipment;

3145 (V) an over-the-counter drug;

3146 (VI) a prosthetic device; or

3147 (VII) a medical supply; and

3148 (B) subject to Subsection (19)(f):

3149 (I) the seller's purchase price of the tangible personal property subject to taxation under
3150 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

3151 (II) the seller's sales price of the tangible personal property subject to taxation under
3152 this chapter is 50% or less of the seller's total sales price of that retail sale.

3153 (c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a
3154 service that is distinct and identifiable does not include:

3155 (A) packaging that:

3156 (I) accompanies the sale of the tangible personal property, product, or service; and

3157 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
3158 service;

3159 (B) tangible personal property, a product, or a service provided free of charge with the
3160 purchase of another item of tangible personal property, a product, or a service; or

3161 (C) an item of tangible personal property, a product, or a service included in the
3162 definition of "purchase price."

3163 (ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a

3164 product, or a service is provided free of charge with the purchase of another item of tangible
3165 personal property, a product, or a service if the sales price of the purchased item of tangible
3166 personal property, product, or service does not vary depending on the inclusion of the tangible
3167 personal property, product, or service provided free of charge.

3168 (d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price
3169 does not include a price that is separately identified by tangible personal property, product, or
3170 service on the following, regardless of whether the following is in paper format or electronic
3171 format:

3172 (A) a binding sales document; or

3173 (B) another supporting sales-related document that is available to a purchaser.

3174 (ii) For purposes of Subsection (19)(d)(i), a binding sales document or another
3175 supporting sales-related document that is available to a purchaser includes:

3176 (A) a bill of sale;

3177 (B) a contract;

3178 (C) an invoice;

3179 (D) a lease agreement;

3180 (E) a periodic notice of rates and services;

3181 (F) a price list;

3182 (G) a rate card;

3183 (H) a receipt; or

3184 (I) a service agreement.

3185 (e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal
3186 property or a product subject to taxation under this chapter is de minimis if:

3187 (A) the seller's purchase price of the tangible personal property or product is 10% or
3188 less of the seller's total purchase price of the bundled transaction; or

3189 (B) the seller's sales price of the tangible personal property or product is 10% or less of
3190 the seller's total sales price of the bundled transaction.

3191 (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 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.

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

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

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

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

(i) on a transaction; and

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

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

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

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

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

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

(22) (a) Subject to Subsection (22)(b), "clothing" means all human wearing apparel

3220 suitable for general use.

3221 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3222 commission shall make rules:

3223 (i) listing the items that constitute "clothing"; and

3224 (ii) that are consistent with the list of items that constitute "clothing" under the
3225 agreement.

3226 (23) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

3227 (24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
3228 fuels that does not constitute industrial use under Subsection (57) or residential use under
3229 Subsection (112).

3230 (25) (a) "Common carrier" means a person engaged in or transacting the business of
3231 transporting passengers, freight, merchandise, or other property for hire within this state.

3232 (b) (i) "Common carrier" does not include a person that, at the time the person is
3233 traveling to or from that person's place of employment, transports a passenger to or from the
3234 passenger's place of employment.

3235 (ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3,
3236 Utah Administrative Rulemaking Act, the commission may make rules defining what
3237 constitutes a person's place of employment.

3238 (c) "Common carrier" does not include a person that provides transportation network
3239 services, as defined in Section [13-51-102](#).

3240 (26) "Component part" includes:

3241 (a) poultry, dairy, and other livestock feed, and their components;

3242 (b) baling ties and twine used in the baling of hay and straw;

3243 (c) fuel used for providing temperature control of orchards and commercial
3244 greenhouses doing a majority of their business in wholesale sales, and for providing power for
3245 off-highway type farm machinery; and

3246 (d) feed, seeds, and seedlings.

3247 (27) "Computer" means an electronic device that accepts information:

- 3248 (a) (i) in digital form; or
3249 (ii) in a form similar to digital form; and
3250 (b) manipulates that information for a result based on a sequence of instructions.
- 3251 (28) "Computer software" means a set of coded instructions designed to cause:
3252 (a) a computer to perform a task; or
3253 (b) automatic data processing equipment to perform a task.
- 3254 (29) "Computer software maintenance contract" means a contract that obligates a seller
3255 of computer software to provide a customer with:
3256 (a) future updates or upgrades to computer software;
3257 (b) support services with respect to computer software; or
3258 (c) a combination of Subsections (29)(a) and (b).
- 3259 (30) (a) "Conference bridging service" means an ancillary service that links two or
3260 more participants of an audio conference call or video conference call.
3261 (b) "Conference bridging service" may include providing a telephone number as part of
3262 the ancillary service described in Subsection (30)(a).
3263 (c) "Conference bridging service" does not include a telecommunications service used
3264 to reach the ancillary service described in Subsection (30)(a).
- 3265 (31) "Construction materials" means any tangible personal property that will be
3266 converted into real property.
- 3267 (32) "Delivered electronically" means delivered to a purchaser by means other than
3268 tangible storage media.
- 3269 (33) (a) "Delivery charge" means a charge:
3270 (i) by a seller of:
3271 (A) tangible personal property;
3272 (B) a product transferred electronically; or
3273 (C) a service; and
3274 (ii) for preparation and delivery of the tangible personal property, product transferred
3275 electronically, or services described in Subsection (33)(a)(i) to a location designated by the

- 3276 purchaser.
- 3277 (b) "Delivery charge" includes a charge for the following:
- 3278 (i) transportation;
- 3279 (ii) shipping;
- 3280 (iii) postage;
- 3281 (iv) handling;
- 3282 (v) crating; or
- 3283 (vi) packing.
- 3284 (34) "Detailed telecommunications billing service" means an ancillary service of
- 3285 separately stating information pertaining to individual calls on a customer's billing statement.
- 3286 (35) "Dietary supplement" means a product, other than tobacco, that:
- 3287 (a) is intended to supplement the diet;
- 3288 (b) contains one or more of the following dietary ingredients:
- 3289 (i) a vitamin;
- 3290 (ii) a mineral;
- 3291 (iii) an herb or other botanical;
- 3292 (iv) an amino acid;
- 3293 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 3294 dietary intake; or
- 3295 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 3296 described in Subsections (35)(b)(i) through (v);
- 3297 (c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:
- 3298 (A) tablet form;
- 3299 (B) capsule form;
- 3300 (C) powder form;
- 3301 (D) softgel form;
- 3302 (E) gelcap form; or
- 3303 (F) liquid form; or

3304 (ii) if the product is not intended for ingestion in a form described in Subsections
3305 (35)(c)(i)(A) through (F), is not represented:
3306 (A) as conventional food; and
3307 (B) for use as a sole item of:
3308 (I) a meal; or
3309 (II) the diet; and
3310 (d) is required to be labeled as a dietary supplement:
3311 (i) identifiable by the "Supplemental Facts" box found on the label; and
3312 (ii) as required by 21 C.F.R. Sec. 101.36.
3313 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
3314 musical, spoken, or other sounds.
3315 (b) "Digital audio work" includes a ringtone.
3316 (37) "Digital audio-visual work" means a series of related images which, when shown
3317 in succession, imparts an impression of motion, together with accompanying sounds, if any.
3318 (38) "Digital book" means a work that is generally recognized in the ordinary and usual
3319 sense as a book.
3320 (39) (a) "Direct mail" means printed material delivered or distributed by United States
3321 mail or other delivery service:
3322 (i) to:
3323 (A) a mass audience; or
3324 (B) addressees on a mailing list provided:
3325 (I) by a purchaser of the mailing list; or
3326 (II) at the discretion of the purchaser of the mailing list; and
3327 (ii) if the cost of the printed material is not billed directly to the recipients.
3328 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
3329 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
3330 (c) "Direct mail" does not include multiple items of printed material delivered to a
3331 single address.

- 3332 (40) "Directory assistance" means an ancillary service of providing:
3333 (a) address information; or
3334 (b) telephone number information.
- 3335 (41) (a) "Disposable home medical equipment or supplies" means medical equipment
3336 or supplies that:
3337 (i) cannot withstand repeated use; and
3338 (ii) are purchased by, for, or on behalf of a person other than:
3339 (A) a health care facility as defined in Section 26-21-2;
3340 (B) a health care provider as defined in Section 78B-3-403;
3341 (C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or
3342 (D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).
- 3343 (b) "Disposable home medical equipment or supplies" does not include:
3344 (i) a drug;
3345 (ii) durable medical equipment;
3346 (iii) a hearing aid;
3347 (iv) a hearing aid accessory;
3348 (v) mobility enhancing equipment; or
3349 (vi) tangible personal property used to correct impaired vision, including:
3350 (A) eyeglasses; or
3351 (B) contact lenses.
- 3352 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3353 commission may by rule define what constitutes medical equipment or supplies.
- 3354 (42) "Drilling equipment manufacturer" means a facility:
3355 (a) located in the state;
3356 (b) with respect to which 51% or more of the manufacturing activities of the facility
3357 consist of manufacturing component parts of drilling equipment;
3358 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
3359 manufacturing process; and

3360 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
3361 manufacturing process.

3362 (43) (a) "Drug" means a compound, substance, or preparation, or a component of a
3363 compound, substance, or preparation that is:

3364 (i) recognized in:

3365 (A) the official United States Pharmacopoeia;

3366 (B) the official Homeopathic Pharmacopoeia of the United States;

3367 (C) the official National Formulary; or

3368 (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);

3369 (ii) intended for use in the:

3370 (A) diagnosis of disease;

3371 (B) cure of disease;

3372 (C) mitigation of disease;

3373 (D) treatment of disease; or

3374 (E) prevention of disease; or

3375 (iii) intended to affect:

3376 (A) the structure of the body; or

3377 (B) any function of the body.

3378 (b) "Drug" does not include:

3379 (i) food and food ingredients;

3380 (ii) a dietary supplement;

3381 (iii) an alcoholic beverage; or

3382 (iv) a prosthetic device.

3383 (44) (a) Except as provided in Subsection (44)(c), "durable medical equipment" means
3384 equipment that:

3385 (i) can withstand repeated use;

3386 (ii) is primarily and customarily used to serve a medical purpose;

3387 (iii) generally is not useful to a person in the absence of illness or injury; and

- 3388 (iv) is not worn in or on the body.
- 3389 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
3390 equipment described in Subsection (44)(a).
- 3391 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 3392 (45) "Electronic" means:
- 3393 (a) relating to technology; and
- 3394 (b) having:
- 3395 (i) electrical capabilities;
- 3396 (ii) digital capabilities;
- 3397 (iii) magnetic capabilities;
- 3398 (iv) wireless capabilities;
- 3399 (v) optical capabilities;
- 3400 (vi) electromagnetic capabilities; or
- 3401 (vii) capabilities similar to Subsections (45)(b)(i) through (vi).
- 3402 (46) "Electronic financial payment service" means an establishment:
- 3403 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
3404 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
3405 federal Executive Office of the President, Office of Management and Budget; and
- 3406 (b) that performs electronic financial payment services.
- 3407 (47) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 3408 (48) "Fixed guideway" means a public transit facility that uses and occupies:
- 3409 (a) rail for the use of public transit; or
- 3410 (b) a separate right-of-way for the use of public transit.
- 3411 (49) "Fixed wing turbine powered aircraft" means an aircraft that:
- 3412 (a) is powered by turbine engines;
- 3413 (b) operates on jet fuel; and
- 3414 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 3415 (50) "Fixed wireless service" means a telecommunications service that provides radio

3416 communication between fixed points.

3417 (51) (a) "Food and food ingredients" means substances:

3418 (i) regardless of whether the substances are in:

3419 (A) liquid form;

3420 (B) concentrated form;

3421 (C) solid form;

3422 (D) frozen form;

3423 (E) dried form; or

3424 (F) dehydrated form; and

3425 (ii) that are:

3426 (A) sold for:

3427 (I) ingestion by humans; or

3428 (II) chewing by humans; and

3429 (B) consumed for the substance's:

3430 (I) taste; or

3431 (II) nutritional value.

3432 (b) "Food and food ingredients" includes an item described in Subsection (96)(b)(iii).

3433 (c) "Food and food ingredients" does not include:

3434 (i) an alcoholic beverage;

3435 (ii) tobacco; or

3436 (iii) prepared food.

3437 (52) (a) "Fundraising sales" means sales:

3438 (i) (A) made by a school; or

3439 (B) made by a school student;

3440 (ii) that are for the purpose of raising funds for the school to purchase equipment,

3441 materials, or provide transportation; and

3442 (iii) that are part of an officially sanctioned school activity.

3443 (b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity"

3444 means a school activity:

3445 (i) that is conducted in accordance with a formal policy adopted by the school or school
3446 district governing the authorization and supervision of fundraising activities;

3447 (ii) that does not directly or indirectly compensate an individual teacher or other
3448 educational personnel by direct payment, commissions, or payment in kind; and

3449 (iii) the net or gross revenues from which are deposited in a dedicated account
3450 controlled by the school or school district.

3451 (53) "Geothermal energy" means energy contained in heat that continuously flows
3452 outward from the earth that is used as the sole source of energy to produce electricity.

3453 (54) "Governing board of the agreement" means the governing board of the agreement
3454 that is:

3455 (a) authorized to administer the agreement; and

3456 (b) established in accordance with the agreement.

3457 (55) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

3458 (i) the executive branch of the state, including all departments, institutions, boards,
3459 divisions, bureaus, offices, commissions, and committees;

3460 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
3461 Administrative Office of the Courts, and similar administrative units in the judicial branch;

3462 (iii) the legislative branch of the state, including the House of Representatives, the
3463 Senate, the Legislative Printing Office, the Office of Legislative Research and General
3464 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
3465 Analyst;

3466 (iv) the National Guard;

3467 (v) an independent entity as defined in Section 63E-1-102; or

3468 (vi) a political subdivision as defined in Section 17B-1-102.

3469 (b) "Governmental entity" does not include the state systems of public and higher
3470 education, including:

3471 (i) a school;

- 3472 (ii) the State Board of Education;
- 3473 (iii) the Utah Board of Higher Education; or
- 3474 (iv) an institution of higher education described in Section 53B-1-102.
- 3475 (56) "Hydroelectric energy" means water used as the sole source of energy to produce
- 3476 electricity.
- 3477 (57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 3478 other fuels:
- 3479 (a) in mining or extraction of minerals;
- 3480 (b) in agricultural operations to produce an agricultural product up to the time of
- 3481 harvest or placing the agricultural product into a storage facility, including:
- 3482 (i) commercial greenhouses;
- 3483 (ii) irrigation pumps;
- 3484 (iii) farm machinery;
- 3485 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
- 3486 under Title 41, Chapter 1a, Part 2, Registration; and
- 3487 (v) other farming activities;
- 3488 (c) in manufacturing tangible personal property at an establishment described in:
- 3489 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
- 3490 the federal Executive Office of the President, Office of Management and Budget; or
- 3491 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
- 3492 American Industry Classification System of the federal Executive Office of the President,
- 3493 Office of Management and Budget;
- 3494 (d) by a scrap recycler if:
- 3495 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 3496 one or more of the following items into prepared grades of processed materials for use in new
- 3497 products:
- 3498 (A) iron;
- 3499 (B) steel;

3500 (C) nonferrous metal;

3501 (D) paper;

3502 (E) glass;

3503 (F) plastic;

3504 (G) textile; or

3505 (H) rubber; and

3506 (ii) the new products under Subsection (57)(d)(i) would otherwise be made with
3507 nonrecycled materials; or

3508 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
3509 cogeneration facility as defined in Section 54-2-1.

3510 (58) (a) Except as provided in Subsection (58)(b), "installation charge" means a charge
3511 for installing:

3512 (i) tangible personal property; or

3513 (ii) a product transferred electronically.

3514 (b) "Installation charge" does not include a charge for:

3515 (i) repairs or renovations of:

3516 (A) tangible personal property; or

3517 (B) a product transferred electronically; or

3518 (ii) attaching tangible personal property or a product transferred electronically:

3519 (A) to other tangible personal property; and

3520 (B) as part of a manufacturing or fabrication process.

3521 (59) "Institution of higher education" means an institution of higher education listed in
3522 Section 53B-2-101.

3523 (60) (a) "Lease" or "rental" means a transfer of possession or control of tangible
3524 personal property or a product transferred electronically for:

3525 (i) (A) a fixed term; or

3526 (B) an indeterminate term; and

3527 (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 transfer of title:

(A) upon completion of required payments; and

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

(I) \$100; or

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

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

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

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

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

(62) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System

3556 of the federal Executive Office of the President, Office of Management and Budget:

3557 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

3558 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

3559 Manufacturing; or

3560 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

3561 (63) "Life science research and development facility" means a facility owned, leased,

3562 or rented by a life science establishment if research and development is performed in 51% or

3563 more of the total area of the facility.

3564 (64) "Load and leave" means delivery to a purchaser by use of a tangible storage media

3565 if the tangible storage media is not physically transferred to the purchaser.

3566 (65) "Local taxing jurisdiction" means a:

3567 (a) county that is authorized to impose an agreement sales and use tax;

3568 (b) city that is authorized to impose an agreement sales and use tax; or

3569 (c) town that is authorized to impose an agreement sales and use tax.

3570 (66) "Manufactured home" means the same as that term is defined in Section

3571 [15A-1-302](#).

3572 (67) "Manufacturing facility" means:

3573 (a) an establishment described in:

3574 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of

3575 the federal Executive Office of the President, Office of Management and Budget; or

3576 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North

3577 American Industry Classification System of the federal Executive Office of the President,

3578 Office of Management and Budget;

3579 (b) a scrap recycler if:

3580 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process

3581 one or more of the following items into prepared grades of processed materials for use in new

3582 products:

3583 (A) iron;

- 3584 (B) steel;
- 3585 (C) nonferrous metal;
- 3586 (D) paper;
- 3587 (E) glass;
- 3588 (F) plastic;
- 3589 (G) textile; or
- 3590 (H) rubber; and
- 3591 (ii) the new products under Subsection (67)(b)(i) would otherwise be made with
- 3592 nonrecycled materials; or
- 3593 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
- 3594 placed in service on or after May 1, 2006.
- 3595 (68) (a) "Marketplace" means a physical or electronic place, platform, or forum where
- 3596 tangible personal property, a product transferred electronically, or a service is offered for sale.
- 3597 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a
- 3598 dedicated sales software application.
- 3599 (69) (a) "Marketplace facilitator" means a person, including an affiliate of the person,
- 3600 that enters into a contract, an agreement, or otherwise with sellers, for consideration, to
- 3601 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or
- 3602 controls and that directly or indirectly:
- 3603 (i) does any of the following:
- 3604 (A) lists, makes available, or advertises tangible personal property, a product
- 3605 transferred electronically, or a service for sale by a marketplace seller on a marketplace that the
- 3606 person owns, operates, or controls;
- 3607 (B) facilitates the sale of a marketplace seller's tangible personal property, product
- 3608 transferred electronically, or service by transmitting or otherwise communicating an offer or
- 3609 acceptance of a retail sale between the marketplace seller and a purchaser using the
- 3610 marketplace;
- 3611 (C) owns, rents, licenses, makes available, or operates any electronic or physical

3612 infrastructure or any property, process, method, copyright, trademark, or patent that connects a
3613 marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal
3614 property, a product transferred electronically, or a service;

3615 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible
3616 personal property, a product transferred electronically, or a service, regardless of ownership or
3617 control of the tangible personal property, the product transferred electronically, or the service
3618 that is the subject of the retail sale;

3619 (E) provides software development or research and development activities related to
3620 any activity described in this Subsection (69)(a)(i), if the software development or research and
3621 development activity is directly related to the person's marketplace;

3622 (F) provides or offers fulfillment or storage services for a marketplace seller;

3623 (G) sets prices for the sale of tangible personal property, a product transferred
3624 electronically, or a service by a marketplace seller;

3625 (H) provides or offers customer service to a marketplace seller or a marketplace seller's
3626 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal
3627 property, a product transferred electronically, or a service sold by a marketplace seller on the
3628 person's marketplace; or

3629 (I) brands or otherwise identifies sales as those of the person; and

3630 (ii) does any of the following:

3631 (A) collects the sales price or purchase price of a retail sale of tangible personal
3632 property, a product transferred electronically, or a service;

3633 (B) provides payment processing services for a retail sale of tangible personal property,
3634 a product transferred electronically, or a service;

3635 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing
3636 fee, a fee for inserting or making available tangible personal property, a product transferred
3637 electronically, or a service on the person's marketplace, or other consideration for the
3638 facilitation of a retail sale of tangible personal property, a product transferred electronically, or
3639 a service, regardless of ownership or control of the tangible personal property, the product

3640 transferred electronically, or the service that is the subject of the retail sale;

3641 (D) through terms and conditions, an agreement, or another arrangement with a third
3642 person, collects payment from a purchase for a retail sale of tangible personal property, a
3643 product transferred electronically, or a service and transmits that payment to the marketplace
3644 seller, regardless of whether the third person receives compensation or other consideration in
3645 exchange for the service; or

3646 (E) provides a virtual currency for a purchaser to use to purchase tangible personal
3647 property, a product transferred electronically, or service offered for sale.

3648 (b) "Marketplace facilitator" does not include:

3649 (i) a person that only provides payment processing services; or

3650 (ii) a person described in Subsection (69)(a) to the extent the person is facilitating a
3651 sale for a seller that is a restaurant as defined in Section 59-12-602.

3652 (70) "Marketplace seller" means a seller that makes one or more retail sales through a
3653 marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the
3654 seller is required to be registered to collect and remit the tax under this part.

3655 (71) "Member of the immediate family of the producer" means a person who is related
3656 to a producer described in Subsection 59-12-104(20)(a) as a:

3657 (a) child or stepchild, regardless of whether the child or stepchild is:

3658 (i) an adopted child or adopted stepchild; or

3659 (ii) a foster child or foster stepchild;

3660 (b) grandchild or stepgrandchild;

3661 (c) grandparent or stepgrandparent;

3662 (d) nephew or stepnephew;

3663 (e) niece or stepniece;

3664 (f) parent or stepparent;

3665 (g) sibling or stepsibling;

3666 (h) spouse;

3667 (i) person who is the spouse of a person described in Subsections (71)(a) through (g);

3668 or

3669 (j) person similar to a person described in Subsections (71)(a) through (i) as
3670 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
3671 Administrative Rulemaking Act.

3672 (72) "Mobile home" means the same as that term is defined in Section 15A-1-302.

3673 (73) "Mobile telecommunications service" means the same as that term is defined in
3674 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

3675 (74) (a) "Mobile wireless service" means a telecommunications service, regardless of
3676 the technology used, if:

3677 (i) the origination point of the conveyance, routing, or transmission is not fixed;

3678 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

3679 (iii) the origination point described in Subsection (74)(a)(i) and the termination point
3680 described in Subsection (74)(a)(ii) are not fixed.

3681 (b) "Mobile wireless service" includes a telecommunications service that is provided
3682 by a commercial mobile radio service provider.

3683 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3684 commission may by rule define "commercial mobile radio service provider."

3685 (75) (a) Except as provided in Subsection (75)(c), "mobility enhancing equipment"
3686 means equipment that is:

3687 (i) primarily and customarily used to provide or increase the ability to move from one
3688 place to another;

3689 (ii) appropriate for use in a:

3690 (A) home; or

3691 (B) motor vehicle; and

3692 (iii) not generally used by persons with normal mobility.

3693 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
3694 the equipment described in Subsection (75)(a).

3695 (c) "Mobility enhancing equipment" does not include:

- 3696 (i) a motor vehicle;
- 3697 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
- 3698 vehicle manufacturer;
- 3699 (iii) durable medical equipment; or
- 3700 (iv) a prosthetic device.

3701 (76) "Model 1 seller" means a seller registered under the agreement that has selected a

3702 certified service provider as the seller's agent to perform the seller's sales and use tax functions

3703 for agreement sales and use taxes, as outlined in the contract between the governing board of

3704 the agreement and the certified service provider, other than the seller's obligation under Section

3705 [59-12-124](#) to remit a tax on the seller's own purchases.

3706 (77) "Model 2 seller" means a seller registered under the agreement that:

3707 (a) except as provided in Subsection (77)(b), has selected a certified automated system

3708 to perform the seller's sales tax functions for agreement sales and use taxes; and

3709 (b) retains responsibility for remitting all of the sales tax:

- 3710 (i) collected by the seller; and
- 3711 (ii) to the appropriate local taxing jurisdiction.

3712 (78) (a) Subject to Subsection (78)(b), "model 3 seller" means a seller registered under

3713 the agreement that has:

- 3714 (i) sales in at least five states that are members of the agreement;
- 3715 (ii) total annual sales revenues of at least \$500,000,000;
- 3716 (iii) a proprietary system that calculates the amount of tax:
- 3717 (A) for an agreement sales and use tax; and
- 3718 (B) due to each local taxing jurisdiction; and
- 3719 (iv) entered into a performance agreement with the governing board of the agreement.

3720 (b) For purposes of Subsection (78)(a), "model 3 seller" includes an affiliated group of

3721 sellers using the same proprietary system.

3722 (79) "Model 4 seller" means a seller that is registered under the agreement and is not a

3723 model 1 seller, model 2 seller, or model 3 seller.

- 3724 (80) "Modular home" means a modular unit as defined in Section 15A-1-302.
- 3725 (81) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.
- 3726 (82) "Oil sands" means impregnated bituminous sands that:
- 3727 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
- 3728 other hydrocarbons, or otherwise treated;
- 3729 (b) yield mixtures of liquid hydrocarbon; and
- 3730 (c) require further processing other than mechanical blending before becoming finished
- 3731 petroleum products.
- 3732 (83) "Oil shale" means a group of fine black to dark brown shales containing kerogen
- 3733 material that yields petroleum upon heating and distillation.
- 3734 (84) "Optional computer software maintenance contract" means a computer software
- 3735 maintenance contract that a customer is not obligated to purchase as a condition to the retail
- 3736 sale of computer software.
- 3737 (85) (a) "Other fuels" means products that burn independently to produce heat or
- 3738 energy.
- 3739 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
- 3740 personal property.
- 3741 (86) (a) "Paging service" means a telecommunications service that provides
- 3742 transmission of a coded radio signal for the purpose of activating a specific pager.
- 3743 (b) For purposes of Subsection (86)(a), the transmission of a coded radio signal
- 3744 includes a transmission by message or sound.
- 3745 (87) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.
- 3746 (88) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.
- 3747 (89) (a) "Permanently attached to real property" means that for tangible personal
- 3748 property attached to real property:
- 3749 (i) the attachment of the tangible personal property to the real property:
- 3750 (A) is essential to the use of the tangible personal property; and
- 3751 (B) suggests that the tangible personal property will remain attached to the real

3752 property in the same place over the useful life of the tangible personal property; or
3753 (ii) if the tangible personal property is detached from the real property, the detachment
3754 would:
3755 (A) cause substantial damage to the tangible personal property; or
3756 (B) require substantial alteration or repair of the real property to which the tangible
3757 personal property is attached.
3758 (b) "Permanently attached to real property" includes:
3759 (i) the attachment of an accessory to the tangible personal property if the accessory is:
3760 (A) essential to the operation of the tangible personal property; and
3761 (B) attached only to facilitate the operation of the tangible personal property;
3762 (ii) a temporary detachment of tangible personal property from real property for a
3763 repair or renovation if the repair or renovation is performed where the tangible personal
3764 property and real property are located; or
3765 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
3766 Subsection (89)(c)(iii) or (iv).
3767 (c) "Permanently attached to real property" does not include:
3768 (i) the attachment of portable or movable tangible personal property to real property if
3769 that portable or movable tangible personal property is attached to real property only for:
3770 (A) convenience;
3771 (B) stability; or
3772 (C) for an obvious temporary purpose;
3773 (ii) the detachment of tangible personal property from real property except for the
3774 detachment described in Subsection (89)(b)(ii);
3775 (iii) an attachment of the following tangible personal property to real property if the
3776 attachment to real property is only through a line that supplies water, electricity, gas,
3777 telecommunications, cable, or supplies a similar item as determined by the commission by rule
3778 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
3779 (A) a computer;

3780 (B) a telephone;
3781 (C) a television; or
3782 (D) tangible personal property similar to Subsections (89)(c)(iii)(A) through (C) as
3783 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
3784 Administrative Rulemaking Act; or
3785 (iv) an item listed in Subsection (130)(c).
3786 (90) "Person" includes any individual, firm, partnership, joint venture, association,
3787 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
3788 municipality, district, or other local governmental entity of the state, or any group or
3789 combination acting as a unit.
3790 (91) "Place of primary use":
3791 (a) for telecommunications service other than mobile telecommunications service,
3792 means the street address representative of where the customer's use of the telecommunications
3793 service primarily occurs, which shall be:
3794 (i) the residential street address of the customer; or
3795 (ii) the primary business street address of the customer; or
3796 (b) for mobile telecommunications service, means the same as that term is defined in
3797 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
3798 (92) (a) "Postpaid calling service" means a telecommunications service a person
3799 obtains by making a payment on a call-by-call basis:
3800 (i) through the use of a:
3801 (A) bank card;
3802 (B) credit card;
3803 (C) debit card; or
3804 (D) travel card; or
3805 (ii) by a charge made to a telephone number that is not associated with the origination
3806 or termination of the telecommunications service.
3807 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling

3808 service, that would be a prepaid wireless calling service if the service were exclusively a
3809 telecommunications service.

3810 (93) "Postproduction" means an activity related to the finishing or duplication of a
3811 medium described in Subsection 59-12-104(54)(a).

3812 (94) "Prepaid calling service" means a telecommunications service:

3813 (a) that allows a purchaser access to telecommunications service that is exclusively
3814 telecommunications service;

3815 (b) that:

3816 (i) is paid for in advance; and

3817 (ii) enables the origination of a call using an:

3818 (A) access number; or

3819 (B) authorization code;

3820 (c) that is dialed:

3821 (i) manually; or

3822 (ii) electronically; and

3823 (d) sold in predetermined units or dollars that decline:

3824 (i) by a known amount; and

3825 (ii) with use.

3826 (95) "Prepaid wireless calling service" means a telecommunications service:

3827 (a) that provides the right to utilize:

3828 (i) mobile wireless service; and

3829 (ii) other service that is not a telecommunications service, including:

3830 (A) the download of a product transferred electronically;

3831 (B) a content service; or

3832 (C) an ancillary service;

3833 (b) that:

3834 (i) is paid for in advance; and

3835 (ii) enables the origination of a call using an:

- 3836 (A) access number; or
3837 (B) authorization code;
3838 (c) that is dialed:
3839 (i) manually; or
3840 (ii) electronically; and
3841 (d) sold in predetermined units or dollars that decline:
3842 (i) by a known amount; and
3843 (ii) with use.
3844 (96) (a) "Prepared food" means:
3845 (i) food:
3846 (A) sold in a heated state; or
3847 (B) heated by a seller;
3848 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
3849 item; or
3850 (iii) except as provided in Subsection (96)(c), food sold with an eating utensil provided
3851 by the seller, including a:
3852 (A) plate;
3853 (B) knife;
3854 (C) fork;
3855 (D) spoon;
3856 (E) glass;
3857 (F) cup;
3858 (G) napkin; or
3859 (H) straw.
3860 (b) "Prepared food" does not include:
3861 (i) food that a seller only:
3862 (A) cuts;
3863 (B) repackages; or

3864 (C) pasteurizes; or
3865 (ii) (A) the following:
3866 (I) raw egg;
3867 (II) raw fish;
3868 (III) raw meat;
3869 (IV) raw poultry; or
3870 (V) a food containing an item described in Subsections (96)(b)(ii)(A)(I) through (IV);
3871 and
3872 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
3873 Food and Drug Administration's Food Code that a consumer cook the items described in
3874 Subsection (96)(b)(ii)(A) to prevent food borne illness; or
3875 (iii) the following if sold without eating utensils provided by the seller:
3876 (A) food and food ingredients sold by a seller if the seller's proper primary
3877 classification under the 2002 North American Industry Classification System of the federal
3878 Executive Office of the President, Office of Management and Budget, is manufacturing in
3879 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
3880 Manufacturing;
3881 (B) food and food ingredients sold in an unheated state:
3882 (I) by weight or volume; and
3883 (II) as a single item; or
3884 (C) a bakery item, including:
3885 (I) a bagel;
3886 (II) a bar;
3887 (III) a biscuit;
3888 (IV) bread;
3889 (V) a bun;
3890 (VI) a cake;
3891 (VII) a cookie;

3892 (VIII) a croissant;

3893 (IX) a danish;

3894 (X) a donut;

3895 (XI) a muffin;

3896 (XII) a pastry;

3897 (XIII) a pie;

3898 (XIV) a roll;

3899 (XV) a tart;

3900 (XVI) a torte; or

3901 (XVII) a tortilla.

3902 (c) An eating utensil provided by the seller does not include the following used to
3903 transport the food:

3904 (i) a container; or

3905 (ii) packaging.

3906 (97) "Prescription" means an order, formula, or recipe that is issued:

3907 (a) (i) orally;

3908 (ii) in writing;

3909 (iii) electronically; or

3910 (iv) by any other manner of transmission; and

3911 (b) by a licensed practitioner authorized by the laws of a state.

3912 (98) (a) Except as provided in Subsection (98)(b)(ii) or (iii), "prewritten computer
3913 software" means computer software that is not designed and developed:

3914 (i) by the author or other creator of the computer software; and

3915 (ii) to the specifications of a specific purchaser.

3916 (b) "Prewritten computer software" includes:

3917 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
3918 software is not designed and developed:

3919 (A) by the author or other creator of the computer software; and

3920 (B) to the specifications of a specific purchaser;
3921 (ii) computer software designed and developed by the author or other creator of the
3922 computer software to the specifications of a specific purchaser if the computer software is sold
3923 to a person other than the purchaser; or
3924 (iii) except as provided in Subsection (98)(c), prewritten computer software or a
3925 prewritten portion of prewritten computer software:
3926 (A) that is modified or enhanced to any degree; and
3927 (B) if the modification or enhancement described in Subsection (98)(b)(iii)(A) is
3928 designed and developed to the specifications of a specific purchaser.
3929 (c) "Prewritten computer software" does not include a modification or enhancement
3930 described in Subsection (98)(b)(iii) if the charges for the modification or enhancement are:
3931 (i) reasonable; and
3932 (ii) subject to Subsections 59-12-103(2)[~~(e)~~](f)(ii) and (2)[~~(f)~~](g)(i), separately stated
3933 on the invoice or other statement of price provided to the purchaser at the time of sale or later,
3934 as demonstrated by:
3935 (A) the books and records the seller keeps at the time of the transaction in the regular
3936 course of business, including books and records the seller keeps at the time of the transaction in
3937 the regular course of business for nontax purposes;
3938 (B) a preponderance of the facts and circumstances at the time of the transaction; and
3939 (C) the understanding of all of the parties to the transaction.
3940 (99) (a) "Private communications service" means a telecommunications service:
3941 (i) that entitles a customer to exclusive or priority use of one or more communications
3942 channels between or among termination points; and
3943 (ii) regardless of the manner in which the one or more communications channels are
3944 connected.
3945 (b) "Private communications service" includes the following provided in connection
3946 with the use of one or more communications channels:
3947 (i) an extension line;

- 3948 (ii) a station;
- 3949 (iii) switching capacity; or
- 3950 (iv) another associated service that is provided in connection with the use of one or
- 3951 more communications channels as defined in Section 59-12-215.
- 3952 (100) (a) Except as provided in Subsection (100)(b), "product transferred
- 3953 electronically" means a product transferred electronically that would be subject to a tax under
- 3954 this chapter if that product was transferred in a manner other than electronically.
- 3955 (b) "Product transferred electronically" does not include:
- 3956 (i) an ancillary service;
- 3957 (ii) computer software; or
- 3958 (iii) a telecommunications service.
- 3959 (101) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 3960 (i) artificially replace a missing portion of the body;
- 3961 (ii) prevent or correct a physical deformity or physical malfunction; or
- 3962 (iii) support a weak or deformed portion of the body.
- 3963 (b) "Prosthetic device" includes:
- 3964 (i) parts used in the repairs or renovation of a prosthetic device;
- 3965 (ii) replacement parts for a prosthetic device;
- 3966 (iii) a dental prosthesis; or
- 3967 (iv) a hearing aid.
- 3968 (c) "Prosthetic device" does not include:
- 3969 (i) corrective eyeglasses; or
- 3970 (ii) contact lenses.
- 3971 (102) (a) "Protective equipment" means an item:
- 3972 (i) for human wear; and
- 3973 (ii) that is:
- 3974 (A) designed as protection:
- 3975 (I) to the wearer against injury or disease; or

3976 (II) against damage or injury of other persons or property; and
3977 (B) not suitable for general use.

3978 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3979 commission shall make rules:

3980 (i) listing the items that constitute "protective equipment"; and
3981 (ii) that are consistent with the list of items that constitute "protective equipment"
3982 under the agreement.

3983 (103) (a) For purposes of Subsection 59-12-104(41), "publication" means any written
3984 or printed matter, other than a photocopy:

3985 (i) regardless of:
3986 (A) characteristics;
3987 (B) copyright;
3988 (C) form;
3989 (D) format;
3990 (E) method of reproduction; or
3991 (F) source; and
3992 (ii) made available in printed or electronic format.

3993 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3994 commission may by rule define the term "photocopy."

3995 (104) (a) "Purchase price" and "sales price" mean the total amount of consideration:
3996 (i) valued in money; and
3997 (ii) for which tangible personal property, a product transferred electronically, or
3998 services are:

3999 (A) sold;
4000 (B) leased; or
4001 (C) rented.

4002 (b) "Purchase price" and "sales price" include:
4003 (i) the seller's cost of the tangible personal property, a product transferred

4004 electronically, or services sold;
4005 (ii) expenses of the seller, including:
4006 (A) the cost of materials used;
4007 (B) a labor cost;
4008 (C) a service cost;
4009 (D) interest;
4010 (E) a loss;
4011 (F) the cost of transportation to the seller; or
4012 (G) a tax imposed on the seller;
4013 (iii) a charge by the seller for any service necessary to complete the sale; or
4014 (iv) consideration a seller receives from a person other than the purchaser if:
4015 (A) (I) the seller actually receives consideration from a person other than the purchaser;
4016 and
4017 (II) the consideration described in Subsection (104)(b)(iv)(A)(I) is directly related to a
4018 price reduction or discount on the sale;
4019 (B) the seller has an obligation to pass the price reduction or discount through to the
4020 purchaser;
4021 (C) the amount of the consideration attributable to the sale is fixed and determinable by
4022 the seller at the time of the sale to the purchaser; and
4023 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
4024 seller to claim a price reduction or discount; and
4025 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
4026 coupon, or other documentation with the understanding that the person other than the seller
4027 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
4028 (II) the purchaser identifies that purchaser to the seller as a member of a group or
4029 organization allowed a price reduction or discount, except that a preferred customer card that is
4030 available to any patron of a seller does not constitute membership in a group or organization
4031 allowed a price reduction or discount; or

4032 (III) the price reduction or discount is identified as a third party price reduction or
4033 discount on the:

4034 (Aa) invoice the purchaser receives; or
4035 (Bb) certificate, coupon, or other documentation the purchaser presents.

4036 (c) "Purchase price" and "sales price" do not include:

4037 (i) a discount:

4038 (A) in a form including:

4039 (I) cash;

4040 (II) term; or

4041 (III) coupon;

4042 (B) that is allowed by a seller;

4043 (C) taken by a purchaser on a sale; and

4044 (D) that is not reimbursed by a third party; or

4045 (ii) subject to Subsections 59-12-103(2)(~~te~~)(f)(ii) and (2)(~~tf~~)(g)(i), the following if
4046 separately stated on an invoice, bill of sale, or similar document provided to the purchaser at
4047 the time of sale or later, as demonstrated by the books and records the seller keeps at the time
4048 of the transaction in the regular course of business, including books and records the seller
4049 keeps at the time of the transaction in the regular course of business for nontax purposes, by a
4050 preponderance of the facts and circumstances at the time of the transaction, and by the
4051 understanding of all of the parties to the transaction:

4052 (A) the following from credit extended on the sale of tangible personal property or
4053 services:

4054 (I) a carrying charge;

4055 (II) a financing charge; or

4056 (III) an interest charge;

4057 (B) a delivery charge;

4058 (C) an installation charge;

4059 (D) a manufacturer rebate on a motor vehicle; or

- 4060 (E) a tax or fee legally imposed directly on the consumer.
- 4061 (105) "Purchaser" means a person to whom:
- 4062 (a) a sale of tangible personal property is made;
- 4063 (b) a product is transferred electronically; or
- 4064 (c) a service is furnished.
- 4065 (106) "Qualifying data center" means a data center facility that:
- 4066 (a) houses a group of networked server computers in one physical location in order to
- 4067 disseminate, manage, and store data and information;
- 4068 (b) is located in the state;
- 4069 (c) is a new operation constructed on or after July 1, 2016;
- 4070 (d) consists of one or more buildings that total 150,000 or more square feet;
- 4071 (e) is owned or leased by:
- 4072 (i) the operator of the data center facility; or
- 4073 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
- 4074 of the data center facility; and
- 4075 (f) is located on one or more parcels of land that are owned or leased by:
- 4076 (i) the operator of the data center facility; or
- 4077 (ii) a person under common ownership, as defined in Section 59-7-101, of the operator
- 4078 of the data center facility.
- 4079 (107) "Regularly rented" means:
- 4080 (a) rented to a guest for value three or more times during a calendar year; or
- 4081 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 4082 value.
- 4083 (108) "Rental" means the same as that term is defined in Subsection (60).
- 4084 (109) (a) Except as provided in Subsection (109)(b), "repairs or renovations of tangible
- 4085 personal property" means:
- 4086 (i) a repair or renovation of tangible personal property that is not permanently attached
- 4087 to real property; or

4088 (ii) attaching tangible personal property or a product transferred electronically to other
4089 tangible personal property or detaching tangible personal property or a product transferred
4090 electronically from other tangible personal property if:

4091 (A) the other tangible personal property to which the tangible personal property or
4092 product transferred electronically is attached or from which the tangible personal property or
4093 product transferred electronically is detached is not permanently attached to real property; and

4094 (B) the attachment of tangible personal property or a product transferred electronically
4095 to other tangible personal property or detachment of tangible personal property or a product
4096 transferred electronically from other tangible personal property is made in conjunction with a
4097 repair or replacement of tangible personal property or a product transferred electronically.

4098 (b) "Repairs or renovations of tangible personal property" does not include:

4099 (i) attaching prewritten computer software to other tangible personal property if the
4100 other tangible personal property to which the prewritten computer software is attached is not
4101 permanently attached to real property; or

4102 (ii) detaching prewritten computer software from other tangible personal property if the
4103 other tangible personal property from which the prewritten computer software is detached is
4104 not permanently attached to real property.

4105 (110) "Research and development" means the process of inquiry or experimentation
4106 aimed at the discovery of facts, devices, technologies, or applications and the process of
4107 preparing those devices, technologies, or applications for marketing.

4108 (111) (a) "Residential telecommunications services" means a telecommunications
4109 service or an ancillary service that is provided to an individual for personal use:

4110 (i) at a residential address; or

4111 (ii) at an institution, including a nursing home or a school, if the telecommunications
4112 service or ancillary service is provided to and paid for by the individual residing at the
4113 institution rather than the institution.

4114 (b) For purposes of Subsection (111)(a)(i), a residential address includes an:

4115 (i) apartment; or

4116 (ii) other individual dwelling unit.

4117 (112) "Residential use" means the use in or around a home, apartment building,
4118 sleeping quarters, and similar facilities or accommodations.

4119 (113) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
4120 than:

4121 (a) resale;

4122 (b) sublease; or

4123 (c) subrent.

4124 (114) (a) "Retailer" means any person, unless prohibited by the Constitution of the
4125 United States or federal law, that is engaged in a regularly organized business in tangible
4126 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is
4127 selling to the user or consumer and not for resale.

4128 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
4129 engaged in the business of selling to users or consumers within the state.

4130 (115) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
4131 otherwise, in any manner, of tangible personal property or any other taxable transaction under
4132 Subsection 59-12-103(1), for consideration.

4133 (b) "Sale" includes:

4134 (i) installment and credit sales;

4135 (ii) any closed transaction constituting a sale;

4136 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
4137 chapter;

4138 (iv) any transaction if the possession of property is transferred but the seller retains the
4139 title as security for the payment of the price; and

4140 (v) any transaction under which right to possession, operation, or use of any article of
4141 tangible personal property is granted under a lease or contract and the transfer of possession
4142 would be taxable if an outright sale were made.

4143 (116) "Sale at retail" means the same as that term is defined in Subsection (113).

4144 (117) "Sale-leaseback transaction" means a transaction by which title to tangible
4145 personal property or a product transferred electronically that is subject to a tax under this
4146 chapter is transferred:

4147 (a) by a purchaser-lessee;

4148 (b) to a lessor;

4149 (c) for consideration; and

4150 (d) if:

4151 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
4152 of the tangible personal property or product transferred electronically;

4153 (ii) the sale of the tangible personal property or product transferred electronically to the
4154 lessor is intended as a form of financing:

4155 (A) for the tangible personal property or product transferred electronically; and

4156 (B) to the purchaser-lessee; and

4157 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
4158 is required to:

4159 (A) capitalize the tangible personal property or product transferred electronically for
4160 financial reporting purposes; and

4161 (B) account for the lease payments as payments made under a financing arrangement.

4162 (118) "Sales price" means the same as that term is defined in Subsection (104).

4163 (119) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
4164 amounts charged by a school:

4165 (i) sales that are directly related to the school's educational functions or activities
4166 including:

4167 (A) the sale of:

4168 (I) textbooks;

4169 (II) textbook fees;

4170 (III) laboratory fees;

4171 (IV) laboratory supplies; or

4172 (V) safety equipment;
4173 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
4174 that:
4175 (I) a student is specifically required to wear as a condition of participation in a
4176 school-related event or school-related activity; and
4177 (II) is not readily adaptable to general or continued usage to the extent that it takes the
4178 place of ordinary clothing;
4179 (C) sales of the following if the net or gross revenues generated by the sales are
4180 deposited into a school district fund or school fund dedicated to school meals:
4181 (I) food and food ingredients; or
4182 (II) prepared food; or
4183 (D) transportation charges for official school activities; or
4184 (ii) amounts paid to or amounts charged by a school for admission to a school-related
4185 event or school-related activity.
4186 (b) "Sales relating to schools" does not include:
4187 (i) bookstore sales of items that are not educational materials or supplies;
4188 (ii) except as provided in Subsection (119)(a)(i)(B):
4189 (A) clothing;
4190 (B) clothing accessories or equipment;
4191 (C) protective equipment; or
4192 (D) sports or recreational equipment; or
4193 (iii) amounts paid to or amounts charged by a school for admission to a school-related
4194 event or school-related activity if the amounts paid or charged are passed through to a person:
4195 (A) other than a:
4196 (I) school;
4197 (II) nonprofit organization authorized by a school board or a governing body of a
4198 private school to organize and direct a competitive secondary school activity; or
4199 (III) nonprofit association authorized by a school board or a governing body of a

- 4200 private school to organize and direct a competitive secondary school activity; and
- 4201 (B) that is required to collect sales and use taxes under this chapter.
- 4202 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 4203 commission may make rules defining the term "passed through."
- 4204 (120) For purposes of this section and Section 59-12-104, "school" means:
- 4205 (a) an elementary school or a secondary school that:
- 4206 (i) is a:
- 4207 (A) public school; or
- 4208 (B) private school; and
- 4209 (ii) provides instruction for one or more grades kindergarten through 12; or
- 4210 (b) a public school district.
- 4211 (121) (a) "Seller" means a person that makes a sale, lease, or rental of:
- 4212 (i) tangible personal property;
- 4213 (ii) a product transferred electronically; or
- 4214 (iii) a service.
- 4215 (b) "Seller" includes a marketplace facilitator.
- 4216 (122) (a) "Semiconductor fabricating, processing, research, or development materials"
- 4217 means tangible personal property or a product transferred electronically if the tangible personal
- 4218 property or product transferred electronically is:
- 4219 (i) used primarily in the process of:
- 4220 (A) (I) manufacturing a semiconductor;
- 4221 (II) fabricating a semiconductor; or
- 4222 (III) research or development of a:
- 4223 (Aa) semiconductor; or
- 4224 (Bb) semiconductor manufacturing process; or
- 4225 (B) maintaining an environment suitable for a semiconductor; or
- 4226 (ii) consumed primarily in the process of:
- 4227 (A) (I) manufacturing a semiconductor;

- 4228 (II) fabricating a semiconductor; or
- 4229 (III) research or development of a:
- 4230 (Aa) semiconductor; or
- 4231 (Bb) semiconductor manufacturing process; or
- 4232 (B) maintaining an environment suitable for a semiconductor.
- 4233 (b) "Semiconductor fabricating, processing, research, or development materials"
- 4234 includes:
- 4235 (i) parts used in the repairs or renovations of tangible personal property or a product
- 4236 transferred electronically described in Subsection (122)(a); or
- 4237 (ii) a chemical, catalyst, or other material used to:
- 4238 (A) produce or induce in a semiconductor a:
- 4239 (I) chemical change; or
- 4240 (II) physical change;
- 4241 (B) remove impurities from a semiconductor; or
- 4242 (C) improve the marketable condition of a semiconductor.
- 4243 (123) "Senior citizen center" means a facility having the primary purpose of providing
- 4244 services to the aged as defined in Section [62A-3-101](#).
- 4245 (124) (a) Subject to Subsections (124)(b) and (c), "short-term lodging consumable"
- 4246 means tangible personal property that:
- 4247 (i) a business that provides accommodations and services described in Subsection
- 4248 [59-12-103](#)(1)(i) purchases as part of a transaction to provide the accommodations and services
- 4249 to a purchaser;
- 4250 (ii) is intended to be consumed by the purchaser; and
- 4251 (iii) is:
- 4252 (A) included in the purchase price of the accommodations and services; and
- 4253 (B) not separately stated on an invoice, bill of sale, or other similar document provided
- 4254 to the purchaser.
- 4255 (b) "Short-term lodging consumable" includes:

4256 (i) a beverage;
4257 (ii) a brush or comb;
4258 (iii) a cosmetic;
4259 (iv) a hair care product;
4260 (v) lotion;
4261 (vi) a magazine;
4262 (vii) makeup;
4263 (viii) a meal;
4264 (ix) mouthwash;
4265 (x) nail polish remover;
4266 (xi) a newspaper;
4267 (xii) a notepad;
4268 (xiii) a pen;
4269 (xiv) a pencil;
4270 (xv) a razor;
4271 (xvi) saline solution;
4272 (xvii) a sewing kit;
4273 (xviii) shaving cream;
4274 (xix) a shoe shine kit;
4275 (xx) a shower cap;
4276 (xxi) a snack item;
4277 (xxii) soap;
4278 (xxiii) toilet paper;
4279 (xxiv) a toothbrush;
4280 (xxv) toothpaste; or
4281 (xxvi) an item similar to Subsections (124)(b)(i) through (xxv) as the commission may
4282 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
4283 Rulemaking Act.

- 4284 (c) "Short-term lodging consumable" does not include:
- 4285 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 4286 property to be reused; or
- 4287 (ii) a product transferred electronically.
- 4288 (125) "Simplified electronic return" means the electronic return:
- 4289 (a) described in Section 318(C) of the agreement; and
- 4290 (b) approved by the governing board of the agreement.
- 4291 (126) "Solar energy" means the sun used as the sole source of energy for producing
- 4292 electricity.
- 4293 (127) (a) "Sports or recreational equipment" means an item:
- 4294 (i) designed for human use; and
- 4295 (ii) that is:
- 4296 (A) worn in conjunction with:
- 4297 (I) an athletic activity; or
- 4298 (II) a recreational activity; and
- 4299 (B) not suitable for general use.
- 4300 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 4301 commission shall make rules:
- 4302 (i) listing the items that constitute "sports or recreational equipment"; and
- 4303 (ii) that are consistent with the list of items that constitute "sports or recreational
- 4304 equipment" under the agreement.
- 4305 (128) "State" means the state of Utah, its departments, and agencies.
- 4306 (129) "Storage" means any keeping or retention of tangible personal property or any
- 4307 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
- 4308 sale in the regular course of business.
- 4309 (130) (a) Except as provided in Subsection (130)(d) or (e), "tangible personal property"
- 4310 means personal property that:
- 4311 (i) may be:

- 4312 (A) seen;
4313 (B) weighed;
4314 (C) measured;
4315 (D) felt; or
4316 (E) touched; or
4317 (ii) is in any manner perceptible to the senses.
4318 (b) "Tangible personal property" includes:
4319 (i) electricity;
4320 (ii) water;
4321 (iii) gas;
4322 (iv) steam; or
4323 (v) prewritten computer software, regardless of the manner in which the prewritten
4324 computer software is transferred.
4325 (c) "Tangible personal property" includes the following regardless of whether the item
4326 is attached to real property:
4327 (i) a dishwasher;
4328 (ii) a dryer;
4329 (iii) a freezer;
4330 (iv) a microwave;
4331 (v) a refrigerator;
4332 (vi) a stove;
4333 (vii) a washer; or
4334 (viii) an item similar to Subsections (130)(c)(i) through (vii) as determined by the
4335 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
4336 Rulemaking Act.
4337 (d) "Tangible personal property" does not include a product that is transferred
4338 electronically.
4339 (e) "Tangible personal property" does not include the following if attached to real

4340 property, regardless of whether the attachment to real property is only through a line that
4341 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
4342 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
4343 Rulemaking Act:

- 4344 (i) a hot water heater;
- 4345 (ii) a water filtration system; or
- 4346 (iii) a water softener system.

4347 (131) (a) "Telecommunications enabling or facilitating equipment, machinery, or
4348 software" means an item listed in Subsection (131)(b) if that item is purchased or leased
4349 primarily to enable or facilitate one or more of the following to function:

- 4350 (i) telecommunications switching or routing equipment, machinery, or software; or
- 4351 (ii) telecommunications transmission equipment, machinery, or software.

4352 (b) The following apply to Subsection (131)(a):

- 4353 (i) a pole;
- 4354 (ii) software;
- 4355 (iii) a supplementary power supply;
- 4356 (iv) temperature or environmental equipment or machinery;
- 4357 (v) test equipment;
- 4358 (vi) a tower; or
- 4359 (vii) equipment, machinery, or software that functions similarly to an item listed in
4360 Subsections (131)(b)(i) through (vi) as determined by the commission by rule made in
4361 accordance with Subsection (131)(c).

4362 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4363 commission may by rule define what constitutes equipment, machinery, or software that
4364 functions similarly to an item listed in Subsections (131)(b)(i) through (vi).

4365 (132) "Telecommunications equipment, machinery, or software required for 911
4366 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
4367 Sec. 20.18.

4368 (133) "Telecommunications maintenance or repair equipment, machinery, or software"
4369 means equipment, machinery, or software purchased or leased primarily to maintain or repair
4370 one or more of the following, regardless of whether the equipment, machinery, or software is
4371 purchased or leased as a spare part or as an upgrade or modification to one or more of the
4372 following:

- 4373 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 4374 (b) telecommunications switching or routing equipment, machinery, or software; or
- 4375 (c) telecommunications transmission equipment, machinery, or software.

4376 (134) (a) "Telecommunications service" means the electronic conveyance, routing, or
4377 transmission of audio, data, video, voice, or any other information or signal to a point, or
4378 among or between points.

4379 (b) "Telecommunications service" includes:

4380 (i) an electronic conveyance, routing, or transmission with respect to which a computer
4381 processing application is used to act:

- 4382 (A) on the code, form, or protocol of the content;
- 4383 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 4384 (C) regardless of whether the service:
 - 4385 (I) is referred to as voice over Internet protocol service; or
 - 4386 (II) is classified by the Federal Communications Commission as enhanced or value
4387 added;

- 4388 (ii) an 800 service;
- 4389 (iii) a 900 service;
- 4390 (iv) a fixed wireless service;
- 4391 (v) a mobile wireless service;
- 4392 (vi) a postpaid calling service;
- 4393 (vii) a prepaid calling service;
- 4394 (viii) a prepaid wireless calling service; or
- 4395 (ix) a private communications service.

- 4396 (c) "Telecommunications service" does not include:
- 4397 (i) advertising, including directory advertising;
- 4398 (ii) an ancillary service;
- 4399 (iii) a billing and collection service provided to a third party;
- 4400 (iv) a data processing and information service if:
- 4401 (A) the data processing and information service allows data to be:
- 4402 (I) (Aa) acquired;
- 4403 (Bb) generated;
- 4404 (Cc) processed;
- 4405 (Dd) retrieved; or
- 4406 (Ee) stored; and
- 4407 (II) delivered by an electronic transmission to a purchaser; and
- 4408 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 4409 or information;
- 4410 (v) installation or maintenance of the following on a customer's premises:
- 4411 (A) equipment; or
- 4412 (B) wiring;
- 4413 (vi) Internet access service;
- 4414 (vii) a paging service;
- 4415 (viii) a product transferred electronically, including:
- 4416 (A) music;
- 4417 (B) reading material;
- 4418 (C) a ring tone;
- 4419 (D) software; or
- 4420 (E) video;
- 4421 (ix) a radio and television audio and video programming service:
- 4422 (A) regardless of the medium; and
- 4423 (B) including:

- 4424 (I) furnishing conveyance, routing, or transmission of a television audio and video
4425 programming service by a programming service provider;
- 4426 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 4427 (III) audio and video programming services delivered by a commercial mobile radio
4428 service provider as defined in 47 C.F.R. Sec. 20.3;
- 4429 (x) a value-added nonvoice data service; or
- 4430 (xi) tangible personal property.
- 4431 (135) (a) "Telecommunications service provider" means a person that:
- 4432 (i) owns, controls, operates, or manages a telecommunications service; and
- 4433 (ii) engages in an activity described in Subsection (135)(a)(i) for the shared use with or
4434 resale to any person of the telecommunications service.
- 4435 (b) A person described in Subsection (135)(a) is a telecommunications service provider
4436 whether or not the Public Service Commission of Utah regulates:
- 4437 (i) that person; or
- 4438 (ii) the telecommunications service that the person owns, controls, operates, or
4439 manages.
- 4440 (136) (a) "Telecommunications switching or routing equipment, machinery, or
4441 software" means an item listed in Subsection (136)(b) if that item is purchased or leased
4442 primarily for switching or routing:
- 4443 (i) an ancillary service;
- 4444 (ii) data communications;
- 4445 (iii) voice communications; or
- 4446 (iv) telecommunications service.
- 4447 (b) The following apply to Subsection (136)(a):
- 4448 (i) a bridge;
- 4449 (ii) a computer;
- 4450 (iii) a cross connect;
- 4451 (iv) a modem;

4452 (v) a multiplexer;
4453 (vi) plug in circuitry;
4454 (vii) a router;
4455 (viii) software;
4456 (ix) a switch; or
4457 (x) equipment, machinery, or software that functions similarly to an item listed in
4458 Subsections (136)(b)(i) through (ix) as determined by the commission by rule made in
4459 accordance with Subsection (136)(c).

4460 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4461 commission may by rule define what constitutes equipment, machinery, or software that
4462 functions similarly to an item listed in Subsections (136)(b)(i) through (ix).

4463 (137) (a) "Telecommunications transmission equipment, machinery, or software"
4464 means an item listed in Subsection (137)(b) if that item is purchased or leased primarily for
4465 sending, receiving, or transporting:

4466 (i) an ancillary service;
4467 (ii) data communications;
4468 (iii) voice communications; or
4469 (iv) telecommunications service.

4470 (b) The following apply to Subsection (137)(a):

4471 (i) an amplifier;
4472 (ii) a cable;
4473 (iii) a closure;
4474 (iv) a conduit;
4475 (v) a controller;
4476 (vi) a duplexer;
4477 (vii) a filter;
4478 (viii) an input device;
4479 (ix) an input/output device;

- 4480 (x) an insulator;
- 4481 (xi) microwave machinery or equipment;
- 4482 (xii) an oscillator;
- 4483 (xiii) an output device;
- 4484 (xiv) a pedestal;
- 4485 (xv) a power converter;
- 4486 (xvi) a power supply;
- 4487 (xvii) a radio channel;
- 4488 (xviii) a radio receiver;
- 4489 (xix) a radio transmitter;
- 4490 (xx) a repeater;
- 4491 (xxi) software;
- 4492 (xxii) a terminal;
- 4493 (xxiii) a timing unit;
- 4494 (xxiv) a transformer;
- 4495 (xxv) a wire; or
- 4496 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 4497 Subsections (137)(b)(i) through (xxv) as determined by the commission by rule made in
- 4498 accordance with Subsection (137)(c).
- 4499 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 4500 commission may by rule define what constitutes equipment, machinery, or software that
- 4501 functions similarly to an item listed in Subsections (137)(b)(i) through (xxv).
- 4502 (138) (a) "Textbook for a higher education course" means a textbook or other printed
- 4503 material that is required for a course:
- 4504 (i) offered by an institution of higher education; and
- 4505 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 4506 (b) "Textbook for a higher education course" includes a textbook in electronic format.
- 4507 (139) "Tobacco" means:

- 4508 (a) a cigarette;
4509 (b) a cigar;
4510 (c) chewing tobacco;
4511 (d) pipe tobacco; or
4512 (e) any other item that contains tobacco.

4513 (140) "Unassisted amusement device" means an amusement device, skill device, or
4514 ride device that is started and stopped by the purchaser or renter of the right to use or operate
4515 the amusement device, skill device, or ride device.

4516 (141) (a) "Use" means the exercise of any right or power over tangible personal
4517 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
4518 incident to the ownership or the leasing of that tangible personal property, product transferred
4519 electronically, or service.

4520 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
4521 property, a product transferred electronically, or a service in the regular course of business and
4522 held for resale.

4523 (142) "Value-added nonvoice data service" means a service:

4524 (a) that otherwise meets the definition of a telecommunications service except that a
4525 computer processing application is used to act primarily for a purpose other than conveyance,
4526 routing, or transmission; and

4527 (b) with respect to which a computer processing application is used to act on data or
4528 information:

- 4529 (i) code;
4530 (ii) content;
4531 (iii) form; or
4532 (iv) protocol.

4533 (143) (a) Subject to Subsection (143)(b), "vehicle" means the following that are
4534 required to be titled, registered, or titled and registered:

- 4535 (i) an aircraft as defined in Section 72-10-102;

- 4536 (ii) a vehicle as defined in Section 41-1a-102;
- 4537 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 4538 (iv) a vessel as defined in Section 41-1a-102.
- 4539 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 4540 (i) a vehicle described in Subsection (143)(a); or
- 4541 (ii) (A) a locomotive;
- 4542 (B) a freight car;
- 4543 (C) railroad work equipment; or
- 4544 (D) other railroad rolling stock.
- 4545 (144) "Vehicle dealer" means a person engaged in the business of buying, selling, or
- 4546 exchanging a vehicle as defined in Subsection (143).
- 4547 (145) (a) "Vertical service" means an ancillary service that:
- 4548 (i) is offered in connection with one or more telecommunications services; and
- 4549 (ii) offers an advanced calling feature that allows a customer to:
- 4550 (A) identify a caller; and
- 4551 (B) manage multiple calls and call connections.
- 4552 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 4553 conference bridging service.
- 4554 (146) (a) "Voice mail service" means an ancillary service that enables a customer to
- 4555 receive, send, or store a recorded message.
- 4556 (b) "Voice mail service" does not include a vertical service that a customer is required
- 4557 to have in order to utilize a voice mail service.
- 4558 (147) (a) Except as provided in Subsection (147)(b), "waste energy facility" means a
- 4559 facility that generates electricity:
- 4560 (i) using as the primary source of energy waste materials that would be placed in a
- 4561 landfill or refuse pit if it were not used to generate electricity, including:
- 4562 (A) tires;
- 4563 (B) waste coal;

- 4564 (C) oil shale; or
4565 (D) municipal solid waste; and
4566 (ii) in amounts greater than actually required for the operation of the facility.
4567 (b) "Waste energy facility" does not include a facility that incinerates:
4568 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
4569 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
4570 (148) "Watercraft" means a vessel as defined in Section 73-18-2.
4571 (149) "Wind energy" means wind used as the sole source of energy to produce
4572 electricity.
4573 (150) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
4574 location by the United States Postal Service.
4575 Section 39. Section **59-12-103** is amended to read:
4576 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
4577 **tax revenues.**
4578 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
4579 sales price for amounts paid or charged for the following transactions:
4580 (a) retail sales of tangible personal property made within the state;
4581 (b) amounts paid for:
4582 (i) telecommunications service, other than mobile telecommunications service, that
4583 originates and terminates within the boundaries of this state;
4584 (ii) mobile telecommunications service that originates and terminates within the
4585 boundaries of one state only to the extent permitted by the Mobile Telecommunications
4586 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
4587 (iii) an ancillary service associated with a:
4588 (A) telecommunications service described in Subsection (1)(b)(i); or
4589 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
4590 (c) sales of the following for commercial use:
4591 (i) gas;

- 4592 (ii) electricity;
- 4593 (iii) heat;
- 4594 (iv) coal;
- 4595 (v) fuel oil; or
- 4596 (vi) other fuels;
- 4597 (d) sales of the following for residential use:
- 4598 (i) gas;
- 4599 (ii) electricity;
- 4600 (iii) heat;
- 4601 (iv) coal;
- 4602 (v) fuel oil; or
- 4603 (vi) other fuels;
- 4604 (e) sales of prepared food;
- 4605 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 4606 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 4607 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 4608 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 4609 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 4610 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 4611 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 4612 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 4613 exhibition, cultural, or athletic activity;
- 4614 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 4615 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 4616 (i) the tangible personal property; and
- 4617 (ii) parts used in the repairs or renovations of the tangible personal property described
- 4618 in Subsection (1)(g)(i), regardless of whether:
- 4619 (A) any parts are actually used in the repairs or renovations of that tangible personal

4620 property; or

4621 (B) the particular parts used in the repairs or renovations of that tangible personal
4622 property are exempt from a tax under this chapter;

4623 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
4624 assisted cleaning or washing of tangible personal property;

4625 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
4626 accommodations and services that are regularly rented for less than 30 consecutive days;

4627 (j) amounts paid or charged for laundry or dry cleaning services;

4628 (k) amounts paid or charged for leases or rentals of tangible personal property if within
4629 this state the tangible personal property is:

4630 (i) stored;

4631 (ii) used; or

4632 (iii) otherwise consumed;

4633 (l) amounts paid or charged for tangible personal property if within this state the
4634 tangible personal property is:

4635 (i) stored;

4636 (ii) used; or

4637 (iii) consumed; and

4638 (m) amounts paid or charged for a sale:

4639 (i) (A) of a product transferred electronically; or

4640 (B) of a repair or renovation of a product transferred electronically; and

4641 (ii) regardless of whether the sale provides:

4642 (A) a right of permanent use of the product; or

4643 (B) a right to use the product that is less than a permanent use, including a right:

4644 (I) for a definite or specified length of time; and

4645 (II) that terminates upon the occurrence of a condition.

4646 (2) (a) Except as provided in Subsections (2)(b) through ~~(f)~~ (f), a state tax and a local
4647 tax are imposed on a transaction described in Subsection (1) equal to the sum of:

4648 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
4649 [~~(A) (I) through March 31, 2019, 4.70%; and~~
4650 [~~(H)~~] (A) [~~beginning on April 1, 2019,~~] 4.70% plus the rate specified in Subsection
4651 [~~(13)~~] (12)(a); and

4652 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
4653 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
4654 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
4655 State Sales and Use Tax Act; and

4656 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
4657 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
4658 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
4659 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

4660 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
4661 transaction under this chapter other than this part.

4662 (b) Except as provided in Subsection [~~(2)(d) or (e)~~] (2)(e) or (f) and subject to
4663 Subsection (2)[~~(j)~~](k), a state tax and a local tax are imposed on a transaction described in
4664 Subsection (1)(d) equal to the sum of:

4665 (i) a state tax imposed on the transaction at a tax rate of 2%; and

4666 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
4667 transaction under this chapter other than this part.

4668 (c) Except as provided in Subsection [~~(2)(d) or (e)~~] (2)(e) or (f), a state tax and a local
4669 tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

4670 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
4671 a tax rate of 1.75%; and

4672 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
4673 amounts paid or charged for food and food ingredients under this chapter other than this part.

4674 (d) Except as provided in Subsection (2)(e) or (f), a state tax is imposed on amounts
4675 paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at

4676 a rate of 4.85%.

4677 ~~[(d)]~~ (e) (i) For a bundled transaction that is attributable to food and food ingredients
4678 and tangible personal property other than food and food ingredients, a state tax and a local tax
4679 is imposed on the entire bundled transaction equal to the sum of:

4680 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

4681 (I) the tax rate described in Subsection (2)(a)(i)(A); and

4682 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
4683 Sales and Use Tax Act, if the location of the transaction as determined under Sections
4684 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
4685 Additional State Sales and Use Tax Act; and

4686 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
4687 Sales and Use Tax Act, if the location of the transaction as determined under Sections
4688 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
4689 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

4690 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
4691 described in Subsection (2)(a)(ii).

4692 (ii) If an optional computer software maintenance contract is a bundled transaction that
4693 consists of taxable and nontaxable products that are not separately itemized on an invoice or
4694 similar billing document, the purchase of the optional computer software maintenance contract
4695 is 40% taxable under this chapter and 60% nontaxable under this chapter.

4696 (iii) Subject to Subsection (2)~~[(d)]~~(e)(iv), for a bundled transaction other than a
4697 bundled transaction described in Subsection (2)~~[(d)]~~(e)(i) or (ii):

4698 (A) if the sales price of the bundled transaction is attributable to tangible personal
4699 property, a product, or a service that is subject to taxation under this chapter and tangible
4700 personal property, a product, or service that is not subject to taxation under this chapter, the
4701 entire bundled transaction is subject to taxation under this chapter unless:

4702 (I) the seller is able to identify by reasonable and verifiable standards the tangible
4703 personal property, product, or service that is not subject to taxation under this chapter from the

4704 books and records the seller keeps in the seller's regular course of business; or

4705 (II) state or federal law provides otherwise; or

4706 (B) if the sales price of a bundled transaction is attributable to two or more items of
4707 tangible personal property, products, or services that are subject to taxation under this chapter
4708 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
4709 higher tax rate unless:

4710 (I) the seller is able to identify by reasonable and verifiable standards the tangible
4711 personal property, product, or service that is subject to taxation under this chapter at the lower
4712 tax rate from the books and records the seller keeps in the seller's regular course of business; or

4713 (II) state or federal law provides otherwise.

4714 (iv) For purposes of Subsection (2)~~(f)~~(e)(iii), books and records that a seller keeps in
4715 the seller's regular course of business includes books and records the seller keeps in the regular
4716 course of business for nontax purposes.

4717 ~~(e)~~ (f) (i) Except as otherwise provided in this chapter and subject to Subsections
4718 (2)~~(e)~~(f)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal
4719 property, a product, or a service that is subject to taxation under this chapter, and the sale,
4720 lease, or rental of tangible personal property, other property, a product, or a service that is not
4721 subject to taxation under this chapter, the entire transaction is subject to taxation under this
4722 chapter unless the seller, at the time of the transaction:

4723 (A) separately states the portion of the transaction that is not subject to taxation under
4724 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

4725 (B) is able to identify by reasonable and verifiable standards, from the books and
4726 records the seller keeps in the seller's regular course of business, the portion of the transaction
4727 that is not subject to taxation under this chapter.

4728 (ii) A purchaser and a seller may correct the taxability of a transaction if:

4729 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
4730 the transaction that is not subject to taxation under this chapter was not separately stated on an
4731 invoice, bill of sale, or similar document provided to the purchaser because of an error or

4732 ignorance of the law; and

4733 (B) the seller is able to identify by reasonable and verifiable standards, from the books
4734 and records the seller keeps in the seller's regular course of business, the portion of the
4735 transaction that is not subject to taxation under this chapter.

4736 (iii) For purposes of Subsections (2)~~(f)~~(f)(i) and (ii), books and records that a seller
4737 keeps in the seller's regular course of business includes books and records the seller keeps in
4738 the regular course of business for nontax purposes.

4739 ~~(f)~~ (g) (i) If the sales price of a transaction is attributable to two or more items of
4740 tangible personal property, products, or services that are subject to taxation under this chapter
4741 at different rates, the entire purchase is subject to taxation under this chapter at the higher tax
4742 rate unless the seller, at the time of the transaction:

4743 (A) separately states the items subject to taxation under this chapter at each of the
4744 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

4745 (B) is able to identify by reasonable and verifiable standards the tangible personal
4746 property, product, or service that is subject to taxation under this chapter at the lower tax rate
4747 from the books and records the seller keeps in the seller's regular course of business.

4748 (ii) For purposes of Subsection (2)~~(f)~~(g)(i), books and records that a seller keeps in
4749 the seller's regular course of business includes books and records the seller keeps in the regular
4750 course of business for nontax purposes.

4751 ~~(g)~~ (h) Subject to Subsections ~~(2)(h) and (i)~~ (2)(i) and (j), a tax rate repeal or tax
4752 rate change for a tax rate imposed under the following shall take effect on the first day of a
4753 calendar quarter:

4754 (i) Subsection (2)(a)(i)(A);

4755 (ii) Subsection (2)(b)(i);

4756 (iii) Subsection (2)(c)(i); or

4757 (iv) Subsection (2)~~(d)~~(e)(i)(A)(I).

4758 ~~(h)~~ (i) (i) A tax rate increase takes effect on the first day of the first billing period that
4759 begins on or after the effective date of the tax rate increase if the billing period for the

4760 transaction begins before the effective date of a tax rate increase imposed under:

4761 (A) Subsection (2)(a)(i)(A);

4762 (B) Subsection (2)(b)(i);

4763 (C) Subsection (2)(c)(i); or

4764 (D) Subsection (2)~~(f)~~(e)(i)(A)(I).

4765 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
4766 statement for the billing period is rendered on or after the effective date of the repeal of the tax
4767 or the tax rate decrease imposed under:

4768 (A) Subsection (2)(a)(i)(A);

4769 (B) Subsection (2)(b)(i);

4770 (C) Subsection (2)(c)(i); or

4771 (D) Subsection (2)~~(f)~~(e)(i)(A)(I).

4772 ~~(f)~~ (j) (i) For a tax rate described in Subsection (2)~~(f)~~(j)(ii), if a tax due on a
4773 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a
4774 tax rate repeal or change in a tax rate takes effect:

4775 (A) on the first day of a calendar quarter; and

4776 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

4777 (ii) Subsection (2)~~(f)~~(j)(i) applies to the tax rates described in the following:

4778 (A) Subsection (2)(a)(i)(A);

4779 (B) Subsection (2)(b)(i);

4780 (C) Subsection (2)(c)(i); or

4781 (D) Subsection (2)~~(f)~~(e)(i)(A)(I).

4782 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
4783 the commission may by rule define the term "catalogue sale."

4784 ~~(f)~~ (k) (i) For a location described in Subsection (2)~~(f)~~(k)(ii), the commission shall
4785 determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based
4786 on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

4787 (ii) Subsection (2)~~(f)~~(k)(i) applies to a location where gas, electricity, heat, coal, fuel

4788 oil, or other fuel is furnished through a single meter for two or more of the following uses:

4789 (A) a commercial use;

4790 (B) an industrial use; or

4791 (C) a residential use.

4792 (3) (a) The following state taxes shall be deposited into the General Fund:

4793 (i) the tax imposed by Subsection (2)(a)(i)(A);

4794 (ii) the tax imposed by Subsection (2)(b)(i);

4795 (iii) the tax imposed by Subsection (2)(c)(i); ~~[or]~~ and

4796 (iv) the tax imposed by Subsection (2)~~(d)~~(e)(i)(A)(I).

4797 (b) The following local taxes shall be distributed to a county, city, or town as provided

4798 in this chapter:

4799 (i) the tax imposed by Subsection (2)(a)(ii);

4800 (ii) the tax imposed by Subsection (2)(b)(ii);

4801 (iii) the tax imposed by Subsection (2)(c)(ii); and

4802 (iv) the tax imposed by Subsection (2)~~(d)~~(e)(i)(B).

4803 (c) The state tax imposed by Subsection (2)(d) shall be deposited into the General

4804 Fund.

4805 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,

4806 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)

4807 through (g):

4808 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

4809 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

4810 (B) for the fiscal year; or

4811 (ii) \$17,500,000.

4812 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount

4813 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the

4814 Department of Natural Resources to:

4815 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to

4816 protect sensitive plant and animal species; or

4817 (B) award grants, up to the amount authorized by the Legislature in an appropriations
4818 act, to political subdivisions of the state to implement the measures described in Subsections
4819 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

4820 (ii) Money transferred to the Department of Natural Resources under Subsection
4821 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
4822 person to list or attempt to have listed a species as threatened or endangered under the
4823 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

4824 (iii) At the end of each fiscal year:

4825 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
4826 Conservation and Development Fund created in Section 73-10-24;

4827 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
4828 Program Subaccount created in Section 73-10c-5; and

4829 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
4830 Program Subaccount created in Section 73-10c-5.

4831 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
4832 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
4833 created in Section 4-18-106.

4834 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
4835 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
4836 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
4837 water rights.

4838 (ii) At the end of each fiscal year:

4839 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
4840 Conservation and Development Fund created in Section 73-10-24;

4841 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
4842 Program Subaccount created in Section 73-10c-5; and

4843 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

4844 Program Subaccount created in Section 73-10c-5.

4845 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
4846 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
4847 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

4848 (ii) In addition to the uses allowed of the Water Resources Conservation and
4849 Development Fund under Section 73-10-24, the Water Resources Conservation and
4850 Development Fund may also be used to:

4851 (A) conduct hydrologic and geotechnical investigations by the Division of Water
4852 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
4853 quantifying surface and ground water resources and describing the hydrologic systems of an
4854 area in sufficient detail so as to enable local and state resource managers to plan for and
4855 accommodate growth in water use without jeopardizing the resource;

4856 (B) fund state required dam safety improvements; and

4857 (C) protect the state's interest in interstate water compact allocations, including the
4858 hiring of technical and legal staff.

4859 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
4860 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
4861 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

4862 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
4863 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
4864 created in Section 73-10c-5 for use by the Division of Drinking Water to:

4865 (i) provide for the installation and repair of collection, treatment, storage, and
4866 distribution facilities for any public water system, as defined in Section 19-4-102;

4867 (ii) develop underground sources of water, including springs and wells; and

4868 (iii) develop surface water sources.

4869 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
4870 2006, the difference between the following amounts shall be expended as provided in this
4871 Subsection (5), if that difference is greater than \$1:

4872 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
4873 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

4874 (ii) \$17,500,000.

4875 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

4876 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
4877 credits; and

4878 (B) expended by the Department of Natural Resources for watershed rehabilitation or
4879 restoration.

4880 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
4881 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
4882 created in Section 73-10-24.

4883 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
4884 remaining difference described in Subsection (5)(a) shall be:

4885 (A) transferred each fiscal year to the Division of Water Resources as dedicated
4886 credits; and

4887 (B) expended by the Division of Water Resources for cloud-seeding projects
4888 authorized by Title 73, Chapter 15, Modification of Weather.

4889 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
4890 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
4891 created in Section 73-10-24.

4892 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
4893 remaining difference described in Subsection (5)(a) shall be deposited into the Water
4894 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
4895 Division of Water Resources for:

4896 (i) preconstruction costs:

4897 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
4898 26, Bear River Development Act; and

4899 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project

4900 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

4901 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,

4902 Chapter 26, Bear River Development Act;

4903 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project

4904 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

4905 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and

4906 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

4907 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to

4908 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be

4909 transferred each year as dedicated credits to the Division of Water Rights to cover the costs

4910 incurred for employing additional technical staff for the administration of water rights.

4911 (f) At the end of each fiscal year, any unexpended dedicated credits described in

4912 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development

4913 Fund created in Section 73-10-24.

4914 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the

4915 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection

4916 (1) for the fiscal year shall be deposited as follows:

4917 ~~[(a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)~~

4918 ~~shall be deposited into the Transportation Investment Fund of 2005 created by Section~~

4919 ~~72-2-124;]~~

4920 ~~[(b) for fiscal year 2017-18 only:]~~

4921 ~~[(i) 80% of the revenue described in this Subsection (6) shall be deposited into the~~

4922 ~~Transportation Investment Fund of 2005 created by Section 72-2-124; and]~~

4923 ~~[(ii) 20% of the revenue described in this Subsection (6) shall be deposited into the~~

4924 ~~Water Infrastructure Restricted Account created by Section 73-10g-103;]~~

4925 ~~[(c) for fiscal year 2018-19 only:]~~

4926 ~~[(i) 60% of the revenue described in this Subsection (6) shall be deposited into the~~

4927 ~~Transportation Investment Fund of 2005 created by Section 72-2-124; and]~~

4928 ~~[(ii) 40% of the revenue described in this Subsection (6) shall be deposited into the~~
4929 ~~Water Infrastructure Restricted Account created by Section 73-10g-103;]~~

4930 ~~[(d) for fiscal year 2019-20 only:]~~

4931 ~~[(i) 40% of the revenue described in this Subsection (6) shall be deposited into the~~
4932 ~~Transportation Investment Fund of 2005 created by Section 72-2-124; and]~~

4933 ~~[(ii) 60% of the revenue described in this Subsection (6) shall be deposited into the~~
4934 ~~Water Infrastructure Restricted Account created by Section 73-10g-103;]~~

4935 ~~[(e)]~~ (a) for fiscal year 2020-21 only:

4936 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
4937 Transportation Investment Fund of 2005 created by Section 72-2-124; and

4938 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
4939 Water Infrastructure Restricted Account created by Section 73-10g-103; and

4940 ~~[(f)]~~ (b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue
4941 described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted
4942 Account created by Section 73-10g-103.

4943 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
4944 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
4945 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
4946 created by Section 72-2-124:

4947 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
4948 the revenues collected from the following taxes, which represents a portion of the
4949 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
4950 on vehicles and vehicle-related products:

4951 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

4952 (B) the tax imposed by Subsection (2)(b)(i);

4953 (C) the tax imposed by Subsection (2)(c)(i); and

4954 (D) the tax imposed by Subsection (2)~~[(d)]~~(e)(i)(A)(I); plus

4955 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the

current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

(iii) In all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

~~[(8)(a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.]~~

~~[(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under~~

4984 Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit
4985 \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the
4986 Transportation Investment Fund of 2005 created by Section 72-2-124.]

4987 ~~[(c)(i)]~~ (8)(a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited
4988 under Subsections (6) and (7), and subject to Subsection ~~[(8)(c)(ii)]~~ (8)(b), for a fiscal year
4989 beginning on or after July 1, 2018, the commission shall annually deposit into the
4990 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes
4991 listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the
4992 following taxes:

4993 ~~[(A)]~~ (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

4994 ~~[(B)]~~ (ii) the tax imposed by Subsection (2)(b)(i);

4995 ~~[(C)]~~ (iii) the tax imposed by Subsection (2)(c)(i); and

4996 ~~[(D)]~~ (iv) the tax imposed by Subsection (2)~~[(d)]~~(e)(i)(A)(I).

4997 ~~[(ii)]~~ (b) For a fiscal year beginning on or after July 1, 2019, the commission shall
4998 annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection
4999 ~~[(8)(c)(i)]~~ (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the
5000 current fiscal year by the portion of the tax imposed on motor and special fuel that is sold,
5001 used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

5002 ~~[(iii)]~~ (c) The commission shall annually deposit the amount described in Subsection
5003 ~~[(8)(c)(ii)]~~ (8)(b) into the Transit ~~[and]~~ Transportation Investment Fund created in Section
5004 72-2-124.

5005 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
5006 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
5007 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

5008 ~~[(10)(a)]~~ Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),
5009 in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17
5010 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund
5011 of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on

5012 ~~the transactions described in Subsection (1);]~~

5013 ~~[(b)]~~ (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection
5014 ~~(10)[(c)](b)~~, and in addition to any amounts deposited under Subsections (6), (7), and (8), the
5015 Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by
5016 Section 72-2-124 the amount of revenue described as follows:

5017 ~~[(i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%~~
5018 ~~tax rate on the transactions described in Subsection (1);]~~

5019 ~~[(ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a~~
5020 ~~.05% tax rate on the transactions described in Subsection (1);]~~

5021 ~~[(iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%~~
5022 ~~tax rate on the transactions described in Subsection (1);]~~

5023 ~~[(iv)]~~ (i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
5024 .05% tax rate on the transactions described in Subsection (1); and

5025 ~~[(v)]~~ (ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a
5026 .05% tax rate on the transactions described in Subsection (1).

5027 ~~[(c)]~~ (b) For purposes of ~~[Subsections (10)(a) and (b)]~~ Subsection (10)(a), the Division
5028 of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue
5029 generated by amounts paid or charged for food and food ingredients, except for tax revenue
5030 generated by a bundled transaction attributable to food and food ingredients and tangible
5031 personal property other than food and food ingredients described in Subsection (2)~~[(d)]~~(e).

5032 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
5033 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
5034 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
5035 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue
5036 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,
5037 created in Section 63N-2-512.

5038 ~~[(12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the~~
5039 ~~Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed~~

under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.]

~~[(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.]~~

~~[(13)]~~ (12) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the Division of Finance shall~~[(i) on or before September 30, 2019, transfer the amount of revenue collected from the rate described in Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208, and (ii)]~~, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection ~~[(13)]~~ (12)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208.

~~[(14)]~~ (13) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 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)]~~ (14) (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 40. Section 59-12-104 is amended to read:

59-12-104. Exemptions.

5068 Exemptions from the taxes imposed by this chapter are as follows:

5069 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
5070 under Chapter 13, Motor and Special Fuel Tax Act;

5071 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
5072 subdivisions; however, this exemption does not apply to sales of:

5073 (a) construction materials except:

5074 (i) construction materials purchased by or on behalf of institutions of the public
5075 education system as defined in Utah Constitution, Article X, Section 2, provided the
5076 construction materials are clearly identified and segregated and installed or converted to real
5077 property which is owned by institutions of the public education system; and

5078 (ii) construction materials purchased by the state, its institutions, or its political
5079 subdivisions which are installed or converted to real property by employees of the state, its
5080 institutions, or its political subdivisions; or

5081 (b) tangible personal property in connection with the construction, operation,
5082 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
5083 providing additional project capacity, as defined in Section 11-13-103;

5084 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

5085 (i) the proceeds of each sale do not exceed \$1; and

5086 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
5087 the cost of the item described in Subsection (3)(b) as goods consumed; and

5088 (b) Subsection (3)(a) applies to:

5089 (i) food and food ingredients; or

5090 (ii) prepared food;

5091 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

5092 (i) alcoholic beverages;

5093 (ii) food and food ingredients; or

5094 (iii) prepared food;

5095 (b) sales of tangible personal property or a product transferred electronically:

5096 (i) to a passenger;
5097 (ii) by a commercial airline carrier; and
5098 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
5099 (c) services related to Subsection (4)(a) or (b);
5100 ~~[(5)(a)(i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts~~
5101 ~~and equipment;]~~
5102 ~~[(A)(I) by an establishment described in NAICS Code 336411 or 336412 of the 2002~~
5103 ~~North American Industry Classification System of the federal Executive Office of the~~
5104 ~~President, Office of Management and Budget; and]~~
5105 ~~[(H) for:]~~
5106 ~~[(Aa) installation in an aircraft, including services relating to the installation of parts or~~
5107 ~~equipment in the aircraft;]~~
5108 ~~[(Bb) renovation of an aircraft; or]~~
5109 ~~[(Cc) repair of an aircraft; or]~~
5110 ~~[(B) for installation in an aircraft operated by a common carrier in interstate or foreign~~
5111 ~~commerce; or]~~
5112 ~~[(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an~~
5113 ~~aircraft operated by a common carrier in interstate or foreign commerce; and]~~
5114 ~~[(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~
5115 ~~a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a~~
5116 ~~refund;]~~
5117 ~~[(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;]~~
5118 ~~[(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;]~~
5119 ~~[(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for~~
5120 ~~the sale prior to filing for the refund;]~~
5121 ~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~
5122 ~~[(v) in accordance with Section 59-1-1410; and]~~
5123 ~~[(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410;~~

5124 ~~if the person files for the refund on or before September 30, 2011;]~~

5125 (5) sales of parts and equipment for installation in an aircraft operated by a common
5126 carrier in interstate or foreign commerce;

5127 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
5128 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
5129 exhibitor, distributor, or commercial television or radio broadcaster;

5130 (7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of
5131 cleaning or washing of tangible personal property if the cleaning or washing of the tangible
5132 personal property is not assisted cleaning or washing of tangible personal property;

5133 (b) if a seller that sells at the same business location assisted cleaning or washing of
5134 tangible personal property and cleaning or washing of tangible personal property that is not
5135 assisted cleaning or washing of tangible personal property, the exemption described in
5136 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
5137 or washing of the tangible personal property; and

5138 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
5139 Utah Administrative Rulemaking Act, the commission may make rules:

5140 (i) governing the circumstances under which sales are at the same business location;
5141 and

5142 (ii) establishing the procedures and requirements for a seller to separately account for
5143 sales of assisted cleaning or washing of tangible personal property;

5144 (8) sales made to or by religious or charitable institutions in the conduct of their regular
5145 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
5146 fulfilled;

5147 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
5148 this state if the vehicle is:

5149 (a) not registered in this state; and

5150 (b) (i) not used in this state; or

5151 (ii) used in this state:

5152 (A) if the vehicle is not used to conduct business, for a time period that does not
5153 exceed the longer of:
5154 (I) 30 days in any calendar year; or
5155 (II) the time period necessary to transport the vehicle to the borders of this state; or
5156 (B) if the vehicle is used to conduct business, for the time period necessary to transport
5157 the vehicle to the borders of this state;
5158 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
5159 (i) the item is intended for human use; and
5160 (ii) (A) a prescription was issued for the item; or
5161 (B) the item was purchased by a hospital or other medical facility; and
5162 (b) (i) Subsection (10)(a) applies to:
5163 (A) a drug;
5164 (B) a syringe; or
5165 (C) a stoma supply; and
5166 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5167 commission may by rule define the terms:
5168 (A) "syringe"; or
5169 (B) "stoma supply";
5170 (11) purchases or leases exempt under Section 19-12-201;
5171 (12) (a) sales of an item described in Subsection (12)(c) served by:
5172 (i) the following if the item described in Subsection (12)(c) is not available to the
5173 general public:
5174 (A) a church; or
5175 (B) a charitable institution; or
5176 (ii) an institution of higher education if:
5177 (A) the item described in Subsection (12)(c) is not available to the general public; or
5178 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
5179 offered by the institution of higher education; or

5180 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
5181 (i) a medical facility; or
5182 (ii) a nursing facility; and
5183 (c) Subsections (12)(a) and (b) apply to:
5184 (i) food and food ingredients;
5185 (ii) prepared food; or
5186 (iii) alcoholic beverages;
5187 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
5188 or a product transferred electronically by a person:
5189 (i) regardless of the number of transactions involving the sale of that tangible personal
5190 property or product transferred electronically by that person; and
5191 (ii) not regularly engaged in the business of selling that type of tangible personal
5192 property or product transferred electronically;
5193 (b) this Subsection (13) does not apply if:
5194 (i) the sale is one of a series of sales of a character to indicate that the person is
5195 regularly engaged in the business of selling that type of tangible personal property or product
5196 transferred electronically;
5197 (ii) the person holds that person out as regularly engaged in the business of selling that
5198 type of tangible personal property or product transferred electronically;
5199 (iii) the person sells an item of tangible personal property or product transferred
5200 electronically that the person purchased as a sale that is exempt under Subsection (25); or
5201 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
5202 this state in which case the tax is based upon:
5203 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
5204 sold; or
5205 (B) in the absence of a bill of sale or other written evidence of value, the fair market
5206 value of the vehicle or vessel being sold at the time of the sale as determined by the
5207 commission; and

5208 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5209 commission shall make rules establishing the circumstances under which:

5210 (i) a person is regularly engaged in the business of selling a type of tangible personal
5211 property or product transferred electronically;

5212 (ii) a sale of tangible personal property or a product transferred electronically is one of
5213 a series of sales of a character to indicate that a person is regularly engaged in the business of
5214 selling that type of tangible personal property or product transferred electronically; or

5215 (iii) a person holds that person out as regularly engaged in the business of selling a type
5216 of tangible personal property or product transferred electronically;

5217 (14) amounts paid or charged for a purchase or lease of machinery, equipment, normal
5218 operating repair or replacement parts, or materials, except for office equipment or office
5219 supplies, by:

5220 (a) a manufacturing facility that:

5221 (i) is located in the state; and

5222 (ii) uses or consumes the machinery, equipment, normal operating repair or
5223 replacement parts, or materials:

5224 (A) in the manufacturing process to manufacture an item sold as tangible personal
5225 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
5226 Utah Administrative Rulemaking Act; or

5227 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
5228 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
5229 Administrative Rulemaking Act;

5230 (b) an establishment, as the commission defines that term in accordance with Title
5231 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

5232 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
5233 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
5234 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
5235 2002 North American Industry Classification System of the federal Executive Office of the

5236 President, Office of Management and Budget;
5237 (ii) is located in the state; and
5238 (iii) uses or consumes the machinery, equipment, normal operating repair or
5239 replacement parts, or materials in:
5240 (A) the production process to produce an item sold as tangible personal property, as the
5241 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
5242 Administrative Rulemaking Act;
5243 (B) research and development, as the commission may define that phrase in accordance
5244 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
5245 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
5246 produced from mining;
5247 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
5248 mining; or
5249 (E) preventing, controlling, or reducing dust or other pollutants from mining; or
5250 (c) an establishment, as the commission defines that term in accordance with Title 63G,
5251 Chapter 3, Utah Administrative Rulemaking Act, that:
5252 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
5253 American Industry Classification System of the federal Executive Office of the President,
5254 Office of Management and Budget;
5255 (ii) is located in the state; and
5256 (iii) uses or consumes the machinery, equipment, normal operating repair or
5257 replacement parts, or materials in the operation of the web search portal;
5258 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
5259 (i) tooling;
5260 (ii) special tooling;
5261 (iii) support equipment;
5262 (iv) special test equipment; or
5263 (v) parts used in the repairs or renovations of tooling or equipment described in

5264 Subsections (15)(a)(i) through (iv); and
5265 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
5266 (i) the tooling, equipment, or parts are used or consumed exclusively in the
5267 performance of any aerospace or electronics industry contract with the United States
5268 government or any subcontract under that contract; and
5269 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
5270 title to the tooling, equipment, or parts is vested in the United States government as evidenced
5271 by:
5272 (A) a government identification tag placed on the tooling, equipment, or parts; or
5273 (B) listing on a government-approved property record if placing a government
5274 identification tag on the tooling, equipment, or parts is impractical;
5275 (16) sales of newspapers or newspaper subscriptions;
5276 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
5277 product transferred electronically traded in as full or part payment of the purchase price, except
5278 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
5279 trade-ins are limited to other vehicles only, and the tax is based upon:
5280 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
5281 vehicle being traded in; or
5282 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
5283 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
5284 commission; and
5285 (b) Subsection (17)(a) does not apply to the following items of tangible personal
5286 property or products transferred electronically traded in as full or part payment of the purchase
5287 price:
5288 (i) money;
5289 (ii) electricity;
5290 (iii) water;
5291 (iv) gas; or

5292 (v) steam;

5293 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property

5294 or a product transferred electronically used or consumed primarily and directly in farming

5295 operations, regardless of whether the tangible personal property or product transferred

5296 electronically:

5297 (A) becomes part of real estate; or

5298 (B) is installed by a[:] farmer, contractor, or subcontractor; or

5299 ~~[(I) farmer;]~~

5300 ~~[(H) contractor; or]~~

5301 ~~[(HH) subcontractor; or]~~

5302 (ii) sales of parts used in the repairs or renovations of tangible personal property or a

5303 product transferred electronically if the tangible personal property or product transferred

5304 electronically is exempt under Subsection (18)(a)(i); and

5305 (b) amounts paid or charged for the following are subject to the taxes imposed by this

5306 chapter:

5307 (i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or

5308 supplies if used in a manner that is incidental to farming; and

5309 (B) tangible personal property that is considered to be used in a manner that is

5310 incidental to farming includes:

5311 (I) hand tools; or

5312 (II) maintenance and janitorial equipment and supplies;

5313 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product

5314 transferred electronically if the tangible personal property or product transferred electronically

5315 is used in an activity other than farming; and

5316 (B) tangible personal property or a product transferred electronically that is considered

5317 to be used in an activity other than farming includes:

5318 (I) office equipment and supplies; or

5319 (II) equipment and supplies used in:

- 5320 (Aa) the sale or distribution of farm products;
5321 (Bb) research; or
5322 (Cc) transportation; or
5323 (iii) a vehicle required to be registered by the laws of this state during the period
5324 ending two years after the date of the vehicle's purchase;
5325 (19) sales of hay;
5326 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
5327 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
5328 garden, farm, or other agricultural produce is sold by:
5329 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
5330 agricultural produce;
5331 (b) an employee of the producer described in Subsection (20)(a); or
5332 (c) a member of the immediate family of the producer described in Subsection (20)(a);
5333 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
5334 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
5335 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
5336 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
5337 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
5338 manufacturer, processor, wholesaler, or retailer;
5339 (23) a product stored in the state for resale;
5340 (24) (a) purchases of a product if:
5341 (i) the product is:
5342 (A) purchased outside of this state;
5343 (B) brought into this state:
5344 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
5345 (II) by a nonresident person who is not living or working in this state at the time of the
5346 purchase;
5347 (C) used for the personal use or enjoyment of the nonresident person described in

5348 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
5349 (D) not used in conducting business in this state; and
5350 (ii) for:
5351 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
5352 the product for a purpose for which the product is designed occurs outside of this state;
5353 (B) a boat, the boat is registered outside of this state; or
5354 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
5355 outside of this state;
5356 (b) the exemption provided for in Subsection (24)(a) does not apply to:
5357 (i) a lease or rental of a product; or
5358 (ii) a sale of a vehicle exempt under Subsection (33); and
5359 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
5360 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
5361 following:
5362 (i) conducting business in this state if that phrase has the same meaning in this
5363 Subsection (24) as in Subsection (63);
5364 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
5365 as in Subsection (63); or
5366 (iii) a purpose for which a product is designed if that phrase has the same meaning in
5367 this Subsection (24) as in Subsection (63);
5368 (25) a product purchased for resale in the regular course of business, either in its
5369 original form or as an ingredient or component part of a manufactured or compounded product;
5370 (26) a product upon which a sales or use tax was paid to some other state, or one of its
5371 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
5372 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
5373 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
5374 Act;
5375 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a

5376 person for use in compounding a service taxable under the subsections;

5377 (28) purchases made in accordance with the special supplemental nutrition program for

5378 women, infants, and children established in 42 U.S.C. Sec. 1786;

5379 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other

5380 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code

5381 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of

5382 the President, Office of Management and Budget;

5383 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State

5384 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

5385 (a) not registered in this state; and

5386 (b) (i) not used in this state; or

5387 (ii) used in this state:

5388 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a

5389 time period that does not exceed the longer of:

5390 (I) 30 days in any calendar year; or

5391 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to

5392 the borders of this state; or

5393 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time

5394 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this

5395 state;

5396 (31) sales of aircraft manufactured in Utah;

5397 (32) amounts paid for the purchase of telecommunications service for purposes of

5398 providing telecommunications service;

5399 (33) sales, leases, or uses of the following:

5400 (a) a vehicle by an authorized carrier; or

5401 (b) tangible personal property that is installed on a vehicle:

5402 (i) sold or leased to or used by an authorized carrier; and

5403 (ii) before the vehicle is placed in service for the first time;

5404 (34) (a) 45% of the sales price of any new manufactured home; and
5405 (b) 100% of the sales price of any used manufactured home;
5406 (35) sales relating to schools and fundraising sales;
5407 (36) sales or rentals of durable medical equipment if:
5408 (a) a person presents a prescription for the durable medical equipment; and
5409 (b) the durable medical equipment is used for home use only;
5410 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
5411 Section 72-11-102; and
5412 (b) the commission shall by rule determine the method for calculating sales exempt
5413 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
5414 (38) sales to a ski resort of:
5415 (a) snowmaking equipment;
5416 (b) ski slope grooming equipment;
5417 (c) passenger ropeways as defined in Section 72-11-102; or
5418 (d) parts used in the repairs or renovations of equipment or passenger ropeways
5419 described in Subsections (38)(a) through (c);
5420 (39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal,
5421 fuel oil, or other fuels for industrial use;
5422 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
5423 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
5424 59-12-102;
5425 (b) if a seller that sells or rents at the same business location the right to use or operate
5426 for amusement, entertainment, or recreation one or more unassisted amusement devices and
5427 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
5428 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
5429 amusement, entertainment, or recreation for the assisted amusement devices; and
5430 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
5431 Utah Administrative Rulemaking Act, the commission may make rules:

5432 (i) governing the circumstances under which sales are at the same business location;
5433 and
5434 (ii) establishing the procedures and requirements for a seller to separately account for
5435 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
5436 assisted amusement devices;

5437 (41) (a) sales of photocopies by:
5438 (i) a governmental entity; or
5439 (ii) an entity within the state system of public education, including:
5440 (A) a school; or
5441 (B) the State Board of Education; or
5442 (b) sales of publications by a governmental entity;

5443 (42) amounts paid for admission to an athletic event at an institution of higher
5444 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
5445 20 U.S.C. Sec. 1681 et seq.;

5446 (43) (a) sales made to or by:
5447 (i) an area agency on aging; or
5448 (ii) a senior citizen center owned by a county, city, or town; or
5449 (b) sales made by a senior citizen center that contracts with an area agency on aging;

5450 (44) sales or leases of semiconductor fabricating, processing, research, or development
5451 materials regardless of whether the semiconductor fabricating, processing, research, or
5452 development materials:
5453 (a) actually come into contact with a semiconductor; or
5454 (b) ultimately become incorporated into real property;

5455 (45) an amount paid by or charged to a purchaser for accommodations and services
5456 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
5457 59-12-104.2;

5458 (46) [~~beginning on September 1, 2001,~~] the lease or use of a vehicle issued a temporary
5459 sports event registration certificate in accordance with Section 41-3-306 for the event period

5460 specified on the temporary sports event registration certificate;

5461 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
5462 adopted by the Public Service Commission only for purchase of electricity produced from a
5463 new alternative energy source built after January 1, 2016, as designated in the tariff by the
5464 Public Service Commission; and

5465 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
5466 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
5467 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
5468 customer would have paid absent the tariff;

5469 (48) sales or rentals of mobility enhancing equipment if a person presents a
5470 prescription for the mobility enhancing equipment;

5471 (49) sales of water in a:

5472 (a) pipe;

5473 (b) conduit;

5474 (c) ditch; or

5475 (d) reservoir;

5476 (50) sales of currency or coins that constitute legal tender of a state, the United States,
5477 or a foreign nation;

5478 (51) (a) sales of an item described in Subsection (51)(b) if the item:

5479 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and

5480 (ii) has a gold, silver, or platinum content of 50% or more; and

5481 (b) Subsection (51)(a) applies to a gold, silver, or platinum:

5482 (i) ingot;

5483 (ii) bar;

5484 (iii) medallion; or

5485 (iv) decorative coin;

5486 (52) amounts paid on a sale-leaseback transaction;

5487 (53) sales of a prosthetic device:

5488 (a) for use on or in a human; and
5489 (b) (i) for which a prescription is required; or
5490 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
5491 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
5492 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
5493 or equipment is primarily used in the production or postproduction of the following media for
5494 commercial distribution:
5495 (i) a motion picture;
5496 (ii) a television program;
5497 (iii) a movie made for television;
5498 (iv) a music video;
5499 (v) a commercial;
5500 (vi) a documentary; or
5501 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
5502 commission by administrative rule made in accordance with Subsection (54)(d); or
5503 (b) purchases, leases, or rentals of machinery or equipment by an establishment
5504 described in Subsection (54)(c) that is used for the production or postproduction of the
5505 following are subject to the taxes imposed by this chapter:
5506 (i) a live musical performance;
5507 (ii) a live news program; or
5508 (iii) a live sporting event;
5509 (c) the following establishments listed in the 1997 North American Industry
5510 Classification System of the federal Executive Office of the President, Office of Management
5511 and Budget, apply to Subsections (54)(a) and (b):
5512 (i) NAICS Code 512110; or
5513 (ii) NAICS Code 51219; and
5514 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5515 commission may by rule:

5516 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
5517 or
5518 (ii) define:
5519 (A) "commercial distribution";
5520 (B) "live musical performance";
5521 (C) "live news program"; or
5522 (D) "live sporting event";
5523 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
5524 on or before June 30, 2027, of tangible personal property that:
5525 (i) is leased or purchased for or by a facility that:
5526 (A) is an alternative energy electricity production facility;
5527 (B) is located in the state; and
5528 (C) (I) becomes operational on or after July 1, 2004; or
5529 (II) has its generation capacity increased by one or more megawatts on or after July 1,
5530 2004, as a result of the use of the tangible personal property;
5531 (ii) has an economic life of five or more years; and
5532 (iii) is used to make the facility or the increase in capacity of the facility described in
5533 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
5534 transmission grid including:
5535 (A) a wind turbine;
5536 (B) generating equipment;
5537 (C) a control and monitoring system;
5538 (D) a power line;
5539 (E) substation equipment;
5540 (F) lighting;
5541 (G) fencing;
5542 (H) pipes; or
5543 (I) other equipment used for locating a power line or pole; and

5544 (b) this Subsection (55) does not apply to:
5545 (i) tangible personal property used in construction of:
5546 (A) a new alternative energy electricity production facility; or
5547 (B) the increase in the capacity of an alternative energy electricity production facility;
5548 (ii) contracted services required for construction and routine maintenance activities;
5549 and
5550 (iii) unless the tangible personal property is used or acquired for an increase in capacity
5551 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
5552 acquired after:
5553 (A) the alternative energy electricity production facility described in Subsection
5554 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
5555 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
5556 in Subsection (55)(a)(iii);
5557 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
5558 on or before June 30, 2027, of tangible personal property that:
5559 (i) is leased or purchased for or by a facility that:
5560 (A) is a waste energy production facility;
5561 (B) is located in the state; and
5562 (C) (I) becomes operational on or after July 1, 2004; or
5563 (II) has its generation capacity increased by one or more megawatts on or after July 1,
5564 2004, as a result of the use of the tangible personal property;
5565 (ii) has an economic life of five or more years; and
5566 (iii) is used to make the facility or the increase in capacity of the facility described in
5567 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
5568 transmission grid including:
5569 (A) generating equipment;
5570 (B) a control and monitoring system;
5571 (C) a power line;

5572 (D) substation equipment;
5573 (E) lighting;
5574 (F) fencing;
5575 (G) pipes; or
5576 (H) other equipment used for locating a power line or pole; and
5577 (b) this Subsection (56) does not apply to:
5578 (i) tangible personal property used in construction of:
5579 (A) a new waste energy facility; or
5580 (B) the increase in the capacity of a waste energy facility;
5581 (ii) contracted services required for construction and routine maintenance activities;
5582 and
5583 (iii) unless the tangible personal property is used or acquired for an increase in capacity
5584 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
5585 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
5586 described in Subsection (56)(a)(iii); or
5587 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
5588 in Subsection (56)(a)(iii);
5589 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
5590 or before June 30, 2027, of tangible personal property that:
5591 (i) is leased or purchased for or by a facility that:
5592 (A) is located in the state;
5593 (B) produces fuel from alternative energy, including:
5594 (I) methanol; or
5595 (II) ethanol; and
5596 (C) (I) becomes operational on or after July 1, 2004; or
5597 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
5598 a result of the installation of the tangible personal property;
5599 (ii) has an economic life of five or more years; and

5600 (iii) is installed on the facility described in Subsection (57)(a)(i);
5601 (b) this Subsection (57) does not apply to:
5602 (i) tangible personal property used in construction of:
5603 (A) a new facility described in Subsection (57)(a)(i); or
5604 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
5605 (ii) contracted services required for construction and routine maintenance activities;
5606 and
5607 (iii) unless the tangible personal property is used or acquired for an increase in capacity
5608 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
5609 (A) the facility described in Subsection (57)(a)(i) is operational; or
5610 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
5611 (58) (a) subject to Subsection (58)(b) ~~[or (c)]~~, sales of tangible personal property or a
5612 product transferred electronically to a person within this state if that tangible personal property
5613 or product transferred electronically is subsequently shipped outside the state and incorporated
5614 pursuant to contract into and becomes a part of real property located outside of this state; and
5615 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
5616 state or political entity to which the tangible personal property is shipped imposes a sales, use,
5617 gross receipts, or other similar transaction excise tax on the transaction against which the other
5618 state or political entity allows a credit for sales and use taxes imposed by this chapter; ~~[and]~~
5619 ~~[(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~
5620 ~~a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a~~
5621 ~~refund;]~~
5622 ~~[(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;]~~
5623 ~~[(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on~~
5624 ~~which the sale is made;]~~
5625 ~~[(iii) if the person did not claim the exemption allowed by this Subsection (58) for the~~
5626 ~~sale prior to filing for the refund;]~~
5627 ~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~

5628 ~~[(v) in accordance with Section 59-1-1410; and]~~
5629 ~~[(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410;~~
5630 ~~if the person files for the refund on or before June 30, 2011;]~~
5631 (59) purchases:
5632 (a) of one or more of the following items in printed or electronic format:
5633 (i) a list containing information that includes one or more:
5634 (A) names; or
5635 (B) addresses; or
5636 (ii) a database containing information that includes one or more:
5637 (A) names; or
5638 (B) addresses; and
5639 (b) used to send direct mail;
5640 (60) redemptions or repurchases of a product by a person if that product was:
5641 (a) delivered to a pawnbroker as part of a pawn transaction; and
5642 (b) redeemed or repurchased within the time period established in a written agreement
5643 between the person and the pawnbroker for redeeming or repurchasing the product;
5644 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
5645 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
5646 and
5647 (ii) has a useful economic life of one or more years; and
5648 (b) the following apply to Subsection (61)(a):
5649 (i) telecommunications enabling or facilitating equipment, machinery, or software;
5650 (ii) telecommunications equipment, machinery, or software required for 911 service;
5651 (iii) telecommunications maintenance or repair equipment, machinery, or software;
5652 (iv) telecommunications switching or routing equipment, machinery, or software; or
5653 (v) telecommunications transmission equipment, machinery, or software;
5654 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
5655 personal property or a product transferred electronically that are used in the research and

5656 development of alternative energy technology; and

5657 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5658 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
5659 purchases of tangible personal property or a product transferred electronically that are used in
5660 the research and development of alternative energy technology;

5661 (63) (a) purchases of tangible personal property or a product transferred electronically
5662 if:

5663 (i) the tangible personal property or product transferred electronically is:

5664 (A) purchased outside of this state;

5665 (B) brought into this state at any time after the purchase described in Subsection

5666 (63)(a)(i)(A); and

5667 (C) used in conducting business in this state; and

5668 (ii) for:

5669 (A) tangible personal property or a product transferred electronically other than the
5670 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
5671 for a purpose for which the property is designed occurs outside of this state; or

5672 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
5673 outside of this state and not required to be registered in this state under Section 41-1a-202 or
5674 73-18-9 based on residency;

5675 (b) the exemption provided for in Subsection (63)(a) does not apply to:

5676 (i) a lease or rental of tangible personal property or a product transferred electronically;

5677 or

5678 (ii) a sale of a vehicle exempt under Subsection (33); and

5679 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
5680 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
5681 following:

5682 (i) conducting business in this state if that phrase has the same meaning in this
5683 Subsection (63) as in Subsection (24);

5684 (ii) the first use of tangible personal property or a product transferred electronically if
5685 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
5686 (iii) a purpose for which tangible personal property or a product transferred
5687 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
5688 Subsection (24);
5689 (64) sales of disposable home medical equipment or supplies if:
5690 (a) a person presents a prescription for the disposable home medical equipment or
5691 supplies;
5692 (b) the disposable home medical equipment or supplies are used exclusively by the
5693 person to whom the prescription described in Subsection (64)(a) is issued; and
5694 (c) the disposable home medical equipment and supplies are listed as eligible for
5695 payment under:
5696 (i) Title XVIII, federal Social Security Act; or
5697 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
5698 (65) sales:
5699 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
5700 District Act; or
5701 (b) of tangible personal property to a subcontractor of a public transit district, if the
5702 tangible personal property is:
5703 (i) clearly identified; and
5704 (ii) installed or converted to real property owned by the public transit district;
5705 (66) sales of construction materials:
5706 (a) purchased on or after July 1, 2010;
5707 (b) purchased by, on behalf of, or for the benefit of an international airport:
5708 (i) located within a county of the first class; and
5709 (ii) that has a United States customs office on its premises; and
5710 (c) if the construction materials are:
5711 (i) clearly identified;

5712 (ii) segregated; and
5713 (iii) installed or converted to real property:
5714 (A) owned or operated by the international airport described in Subsection (66)(b); and
5715 (B) located at the international airport described in Subsection (66)(b);
5716 (67) sales of construction materials:
5717 (a) purchased on or after July 1, 2008;
5718 (b) purchased by, on behalf of, or for the benefit of a new airport:
5719 (i) located within a county of the second class; and
5720 (ii) that is owned or operated by a city in which an airline as defined in Section
5721 59-2-102 is headquartered; and
5722 (c) if the construction materials are:
5723 (i) clearly identified;
5724 (ii) segregated; and
5725 (iii) installed or converted to real property:
5726 (A) owned or operated by the new airport described in Subsection (67)(b);
5727 (B) located at the new airport described in Subsection (67)(b); and
5728 (C) as part of the construction of the new airport described in Subsection (67)(b);
5729 (68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a
5730 common carrier that is a railroad for use in a locomotive engine;
5731 (69) purchases and sales described in Section 63H-4-111;
5732 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
5733 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
5734 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
5735 lists a state or country other than this state as the location of registry of the fixed wing turbine
5736 powered aircraft; or
5737 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
5738 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
5739 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration

5740 lists a state or country other than this state as the location of registry of the fixed wing turbine
5741 powered aircraft;

5742 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

5743 (a) to a person admitted to an institution of higher education; and

5744 (b) by a seller, other than a bookstore owned by an institution of higher education, if
5745 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
5746 textbook for a higher education course;

5747 (72) a license fee or tax a municipality imposes in accordance with Subsection
5748 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
5749 level of municipal services;

5750 (73) amounts paid or charged for construction materials used in the construction of a
5751 new or expanding life science research and development facility in the state, if the construction
5752 materials are:

5753 (a) clearly identified;

5754 (b) segregated; and

5755 (c) installed or converted to real property;

5756 (74) amounts paid or charged for:

5757 (a) a purchase or lease of machinery and equipment that:

5758 (i) are used in performing qualified research:

5759 (A) as defined in Section 41(d), Internal Revenue Code; and

5760 (B) in the state; and

5761 (ii) have an economic life of three or more years; and

5762 (b) normal operating repair or replacement parts:

5763 (i) for the machinery and equipment described in Subsection (74)(a); and

5764 (ii) that have an economic life of three or more years;

5765 (75) a sale or lease of tangible personal property used in the preparation of prepared
5766 food if:

5767 (a) for a sale:

- 5768 (i) the ownership of the seller and the ownership of the purchaser are identical; and
5769 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
5770 tangible personal property prior to making the sale; or
5771 (b) for a lease:
5772 (i) the ownership of the lessor and the ownership of the lessee are identical; and
5773 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
5774 personal property prior to making the lease;
5775 (76) (a) purchases of machinery or equipment if:
5776 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
5777 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
5778 System of the federal Executive Office of the President, Office of Management and Budget;
5779 (ii) the machinery or equipment:
5780 (A) has an economic life of three or more years; and
5781 (B) is used by one or more persons who pay admission or user fees described in
5782 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
5783 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
5784 (A) amounts paid or charged as admission or user fees described in Subsection
5785 59-12-103(1)(f); and
5786 (B) subject to taxation under this chapter; and
5787 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5788 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
5789 previous calendar quarter is:
5790 (i) amounts paid or charged as admission or user fees described in Subsection
5791 59-12-103(1)(f); and
5792 (ii) subject to taxation under this chapter;
5793 (77) purchases of a short-term lodging consumable by a business that provides
5794 accommodations and services described in Subsection 59-12-103(1)(i);
5795 (78) amounts paid or charged to access a database:

5796 (a) if the primary purpose for accessing the database is to view or retrieve information
5797 from the database; and

5798 (b) not including amounts paid or charged for a:

5799 (i) digital audio work;

5800 (ii) digital audio-visual work; or

5801 (iii) digital book;

5802 (79) amounts paid or charged for a purchase or lease made by an electronic financial
5803 payment service, of:

5804 (a) machinery and equipment that:

5805 (i) are used in the operation of the electronic financial payment service; and

5806 (ii) have an economic life of three or more years; and

5807 (b) normal operating repair or replacement parts that:

5808 (i) are used in the operation of the electronic financial payment service; and

5809 (ii) have an economic life of three or more years;

5810 (80) ~~[beginning on April 1, 2013,]~~ sales of a fuel cell as defined in Section 54-15-102;

5811 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
5812 product transferred electronically if the tangible personal property or product transferred
5813 electronically:

5814 (a) is stored, used, or consumed in the state; and

5815 (b) is temporarily brought into the state from another state:

5816 (i) during a disaster period as defined in Section 53-2a-1202;

5817 (ii) by an out-of-state business as defined in Section 53-2a-1202;

5818 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

5819 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

5820 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
5821 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
5822 Recreation Program;

5823 (83) amounts paid or charged for a purchase or lease of molten magnesium;

5824 (84) amounts paid or charged for a purchase or lease made by a qualifying data center
5825 or an occupant of a qualifying data center of machinery, equipment, or normal operating repair
5826 or replacement parts, if the machinery, equipment, or normal operating repair or replacement
5827 parts:

5828 (a) are used in:

5829 (i) the operation of the qualifying data center; or

5830 (ii) the occupant's operations in the qualifying data center; and

5831 (b) have an economic life of one or more years;

5832 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
5833 vehicle that includes cleaning or washing of the interior of the vehicle;

5834 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal
5835 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used
5836 or consumed:

5837 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
5838 in Section 63M-4-701 located in the state;

5839 (b) if the machinery, equipment, normal operating repair or replacement parts,
5840 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

5841 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
5842 added to gasoline or diesel fuel;

5843 (ii) research and development;

5844 (iii) transporting, storing, or managing raw materials, work in process, finished
5845 products, and waste materials produced from refining gasoline or diesel fuel, or adding
5846 blendstock to gasoline or diesel fuel;

5847 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
5848 refining; or

5849 (v) preventing, controlling, or reducing pollutants from refining; and

5850 (c) ~~beginning on July 1, 2021,~~ if the person holds a valid refiner tax exemption
5851 certification as defined in Section 63M-4-701;

(87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205;

(88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) is located in this state; and

(c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment; and

(89) amounts paid or charged for an item exempt under Section 59-12-104.10.

Section 41. Section 59-12-209 is amended to read:

59-12-209. Participation of qualifying jurisdictions in administration and enforcement of certain local sales and use taxes -- Petition for reconsideration relating to the redistribution of certain sales and use tax revenues.

(1) As used in this section, "qualifying jurisdiction" means the same as that term is defined in Section 59-1-403.

~~[(1)]~~ (2) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, a ~~[county, city, or town]~~ qualifying jurisdiction does not have the right to any of the following, except as specifically allowed by Subsection ~~[(2)]~~ (3) and Section 59-12-210:

(a) to inspect, review, or have access to any taxpayer sales and use tax records; or

(b) to be informed of, participate in, intervene in, or appeal from any adjudicative proceeding commenced pursuant to Section 63G-4-201 to determine the liability of any taxpayer for sales and use taxes imposed pursuant to this chapter.

~~[(2)]~~ (3) (a) ~~[Counties, cities, and towns]~~ A qualifying jurisdiction shall have access to

records and information on file with the commission, and shall have the right to notice of, and rights to intervene in or to appeal from, a proposed final agency action of the commission as provided in this Subsection ~~[(2)]~~ (3).

(b) If the commission, following a formal adjudicative proceeding commenced pursuant to Title 63G, Chapter 4, Administrative Procedures Act, proposes to take final agency action that would reduce the amount of sales and use tax liability alleged in the notice of deficiency, the commission shall provide notice of a proposed agency action to each ~~[qualified county, city, and town]~~ qualifying jurisdiction if the proposed final agency action reduces a tax under this chapter distributable to that ~~[county, city, or town]~~ qualifying jurisdiction by more than \$10,000 below the amount of the tax that would have been distributable to that ~~[county, city, or town]~~ qualifying jurisdiction had a notice of deficiency, as described in Section ~~59-1-1405~~, not been reduced.

~~[(d)]~~ (c) A ~~[qualified county, city, or town]~~ qualifying jurisdiction that receives notice described in Subsection (3)(b) may designate a representative who shall have the right to review the record of the formal hearing and any other commission records relating to a proposed final agency action subject to the confidentiality provisions of Section ~~59-1-403~~.

~~[(e)]~~ (d) No later than 10 days after receiving the notice of the commission's proposed final agency action, a ~~[qualified county, city, or town]~~ qualifying jurisdiction may file a notice of intervention with the commission.

~~[(f)]~~ (e) No later than 20 days after filing a notice of intervention, if a ~~[qualified county, city, or town]~~ qualifying jurisdiction objects to the proposed final agency action, that ~~[qualified county, city, or town]~~ qualifying jurisdiction may file a petition for reconsideration with the commission and shall serve copies of the petition on the taxpayer and the appropriate division in the commission.

~~[(g)]~~ (f) The taxpayer and appropriate division in the commission may each file a response to the petition for reconsideration within 20 days of receipt of the petition for reconsideration.

[~~(h)~~] (g) (i) After consideration of the petition for reconsideration and any response, and any additional proceeding the commission considers appropriate, the commission may affirm, modify, or amend its proposed final agency action.

(ii) A taxpayer and any [~~qualified county, city, or town~~] qualifying jurisdiction that has filed a petition for reconsideration may appeal the final agency action.

[~~(i)~~] (h) (i) Notwithstanding Subsections [~~(2)~~] (3)(a) through [~~(h)~~] (g) and subject to Subsection [~~(2)~~](3)(h)(ii), the following may file a petition for reconsideration with the commission:

(A) an original recipient political subdivision as defined in Section 59-12-210.1 that receives a notice from the commission in accordance with Subsection 59-12-210.1(2); or

(B) a secondary recipient political subdivision as defined in Section 59-12-210.1 that receives a notice from the commission in accordance with Subsection 59-12-210.1(2).

(ii) An original recipient political subdivision or secondary recipient political subdivision that files a petition for reconsideration with the commission under Subsection [~~(2)~~](3)(h)(i) shall file the petition no later than 20 days after the later of:

(A) the date the original recipient political subdivision or secondary recipient political subdivision receives the notice described in Subsection [~~(2)~~](3)(h)(i) from the commission; or

(B) the date the commission makes the redistribution as defined in Section 59-12-210.1 that is the subject of the notice described in Subsection [~~(2)~~](3)(h)(i).

Section 42. Section 59-12-210 is amended to read:

59-12-210. Commission to provide data to counties.

(1) As used in this section, "qualifying jurisdiction" means the same as that term is defined in Section 59-1-403.

[~~(1)~~] (2) (a) The commission shall provide to each [~~county~~] qualifying jurisdiction the sales and use tax collection data necessary to verify that sales and use tax revenues collected by the commission are distributed to each [~~county, city, and town~~] qualifying jurisdiction in accordance with Sections 59-12-211 through 59-12-215.

(b) The data described in Subsection ~~[(1)]~~ (2)(a) shall include the commission's reports of seller sales, sales and use tax distribution reports, and a breakdown of local revenues.

~~[(2)]~~ (3) (a) In addition to the access to information provided in Subsection (1) and Section 59-12-109, the commission shall provide a ~~[county, city, or town]~~ qualifying jurisdiction with copies of returns and other information required by this chapter relating to a tax under this chapter.

(b) The information described in Subsection ~~[(2)]~~ (3)(a) is available only in official matters and must be requested in writing by the chief executive officer or the chief executive officer's designee.

(c) The request described in Subsection ~~[(2)]~~ (3)(b) shall specifically indicate the information being sought and how the information will be used.

(d) Information received pursuant to the request described in Subsection ~~[(2)]~~ (3)(b) shall be:

(i) classified as private or protected under Section 63G-2-302 or 63G-2-305; and

(ii) subject to the confidentiality provisions of Section 59-1-403.

Section 43. Section 59-14-212 is amended to read:

59-14-212. Reporting of imported cigarettes -- Penalty.

(1) Except as provided under Subsection (2), any manufacturer, distributor, wholesaler, or retail dealer who under Section 59-14-205 affixes a stamp to an individual package or container of cigarettes imported to the United States shall provide to the commission the following as they pertain to the imported cigarettes:

(a) a copy of the importer's federal import permit;

(b) the customs form showing the tax information required by federal law;

(c) a statement signed under penalty of perjury by the manufacturer or importer that the manufacturer or importer has complied with:

(i) 15 U.S.C. 1333 of the Federal Cigarette Labeling and Advertising Act, regarding warning labels and other package information; and

(ii) 15 U.S.C. 1335a of the Federal Cigarette Labeling and Advertising Act, regarding

5964 reporting of added ingredients;

5965 (d) the name of the person from whom the person affixing the stamp received the
5966 cigarettes;

5967 (e) the name of the person to whom the person affixing the stamp delivered the
5968 cigarettes, unless the person receiving the cigarettes was the ultimate consumer;

5969 (f) the quantity of cigarettes in the package or container; and

5970 (g) the brand and brand style of the cigarettes.

5971 (2) Subsection (1) does not apply to cigarettes sold or intended to be sold as duty-free
5972 merchandise by a duty-free sales enterprise in accordance with the provisions of 19 U.S.C.
5973 1555(b) and any implementing regulations unless the cigarettes are brought back into the
5974 customs territory for resale within the customs territory.

5975 (3) The information under Subsection (1) shall be provided on a quarterly basis on
5976 forms specified by the agency.

5977 (4) A person who fails to comply with the reporting requirement or provides false or
5978 misleading information under Subsection (1):

5979 (a) is guilty of a class B misdemeanor; and

5980 (b) may be subject to:

5981 (i) revocation or suspension of a license issued under Section 59-14-202; and

5982 (ii) a civil penalty imposed by the commission in an amount not to exceed the greater
5983 of:

5984 (A) 500% of the retail value of the cigarettes for which a report was not properly made;

5985 or

5986 (B) \$5,000.

5987 (5) The information under Subsection (1) may be disclosed by the commission as
5988 provided under Subsection 59-1-403[(f)](4)(g).

5989 Section 44. Section 62A-11-328 is amended to read:

5990 **62A-11-328. Information received from State Tax Commission provided to other**
5991 **states' child support collection agencies.**

5992 The office shall, upon request, provide to any other state's child support collection
5993 agency the information which it receives from the State Tax Commission under Subsection
5994 ~~59-1-403~~(3)(4)(l), with regard to a support debt which that agency is involved in enforcing.

5995 Section 45. Section **63G-2-302** is amended to read:

5996 **63G-2-302. Private records.**

5997 (1) The following records are private:

5998 (a) records concerning an individual's eligibility for unemployment insurance benefits,
5999 social services, welfare benefits, or the determination of benefit levels;

6000 (b) records containing data on individuals describing medical history, diagnosis,
6001 condition, treatment, evaluation, or similar medical data;

6002 (c) records of publicly funded libraries that when examined alone or with other records
6003 identify a patron;

6004 (d) records received by or generated by or for:

6005 (i) the Independent Legislative Ethics Commission, except for:

6006 (A) the commission's summary data report that is required under legislative rule; and

6007 (B) any other document that is classified as public under legislative rule; or

6008 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,
6009 unless the record is classified as public under legislative rule;

6010 (e) records received by, or generated by or for, the Independent Executive Branch
6011 Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review
6012 of Executive Branch Ethics Complaints;

6013 (f) records received or generated for a Senate confirmation committee concerning
6014 character, professional competence, or physical or mental health of an individual:

6015 (i) if, prior to the meeting, the chair of the committee determines release of the records:

6016 (A) reasonably could be expected to interfere with the investigation undertaken by the
6017 committee; or

6018 (B) would create a danger of depriving a person of a right to a fair proceeding or
6019 impartial hearing; and

- 6020 (ii) after the meeting, if the meeting was closed to the public;
- 6021 (g) employment records concerning a current or former employee of, or applicant for
- 6022 employment with, a governmental entity that would disclose that individual's home address,
- 6023 home telephone number, social security number, insurance coverage, marital status, or payroll
- 6024 deductions;
- 6025 (h) records or parts of records under Section 63G-2-303 that a current or former
- 6026 employee identifies as private according to the requirements of that section;
- 6027 (i) that part of a record indicating a person's social security number or federal employer
- 6028 identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202,
- 6029 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;
- 6030 (j) that part of a voter registration record identifying a voter's:
- 6031 (i) driver license or identification card number;
- 6032 (ii) social security number, or last four digits of the social security number;
- 6033 (iii) email address; or
- 6034 (iv) date of birth;
- 6035 (k) a voter registration record that is classified as a private record by the lieutenant
- 6036 governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or
- 6037 20A-2-204(4)(b);
- 6038 (l) a voter registration record that is withheld under Subsection 20A-2-104(7);
- 6039 (m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any
- 6040 verification submitted in support of the form;
- 6041 (n) a record that:
- 6042 (i) contains information about an individual;
- 6043 (ii) is voluntarily provided by the individual; and
- 6044 (iii) goes into an electronic database that:
- 6045 (A) is designated by and administered under the authority of the Chief Information
- 6046 Officer; and
- 6047 (B) acts as a repository of information about the individual that can be electronically

6048 retrieved and used to facilitate the individual's online interaction with a state agency;
6049 (o) information provided to the Commissioner of Insurance under:
6050 (i) Subsection 31A-23a-115(3)(a);
6051 (ii) Subsection 31A-23a-302(4); or
6052 (iii) Subsection 31A-26-210(4);
6053 (p) information obtained through a criminal background check under Title 11, Chapter
6054 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
6055 (q) information provided by an offender that is:
6056 (i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap
6057 Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and
6058 (ii) not required to be made available to the public under Subsection 77-41-110(4) or
6059 77-43-108(4);
6060 (r) a statement and any supporting documentation filed with the attorney general in
6061 accordance with Section 34-45-107, if the federal law or action supporting the filing involves
6062 homeland security;
6063 (s) electronic toll collection customer account information received or collected under
6064 Section 72-6-118 and customer information described in Section 17B-2a-815 received or
6065 collected by a public transit district, including contact and payment information and customer
6066 travel data;
6067 (t) an email address provided by a military or overseas voter under Section
6068 20A-16-501;
6069 (u) a completed military-overseas ballot that is electronically transmitted under Title
6070 20A, Chapter 16, Uniform Military and Overseas Voters Act;
6071 (v) records received by or generated by or for the Political Subdivisions Ethics Review
6072 Commission established in Section 63A-15-201, except for:
6073 (i) the commission's summary data report that is required in Section 63A-15-202; and
6074 (ii) any other document that is classified as public in accordance with Title 63A,
6075 Chapter 15, Political Subdivisions Ethics Review Commission;

6076 (w) a record described in Section 53G-9-604 that verifies that a parent was notified of
6077 an incident or threat;

6078 (x) a criminal background check or credit history report conducted in accordance with
6079 Section 63A-3-201;

6080 (y) a record described in Subsection 53-5a-104(7);

6081 (z) the following portions of a record maintained by a county for the purpose of
6082 administering property taxes, an individual's:

6083 (i) email address;

6084 (ii) phone number; or

6085 (iii) personal financial information related to a person's payment method; ~~and~~

6086 (aa) a record concerning an individual's eligibility for an exemption, deferral,
6087 abatement, or relief under:

6088 (i) Title 59, Chapter 2, Part 11, Exemptions, Deferrals, and Abatements;

6089 (ii) Title 59, Chapter 2, Part 12, Property Tax Relief;

6090 (iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or

6091 (iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions[-]; and

6092 (bb) a record provided by the State Tax Commission in response to a request under
6093 Subsection 59-1-403(3)(y)(iii).

6094 (2) The following records are private if properly classified by a governmental entity:

6095 (a) records concerning a current or former employee of, or applicant for employment
6096 with a governmental entity, including performance evaluations and personal status information
6097 such as race, religion, or disabilities, but not including records that are public under Subsection
6098 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

6099 (b) records describing an individual's finances, except that the following are public:

6100 (i) records described in Subsection 63G-2-301(2);

6101 (ii) information provided to the governmental entity for the purpose of complying with
6102 a financial assurance requirement; or

6103 (iii) records that must be disclosed in accordance with another statute;

6104 (c) records of independent state agencies if the disclosure of those records would
6105 conflict with the fiduciary obligations of the agency;

6106 (d) other records containing data on individuals the disclosure of which constitutes a
6107 clearly unwarranted invasion of personal privacy;

6108 (e) records provided by the United States or by a government entity outside the state
6109 that are given with the requirement that the records be managed as private records, if the
6110 providing entity states in writing that the record would not be subject to public disclosure if
6111 retained by it;

6112 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
6113 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a
6114 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

6115 (g) audio and video recordings created by a body-worn camera, as defined in Section
6116 77-7a-103, that record sound or images inside a home or residence except for recordings that:

6117 (i) depict the commission of an alleged crime;

6118 (ii) record any encounter between a law enforcement officer and a person that results in
6119 death or bodily injury, or includes an instance when an officer fires a weapon;

6120 (iii) record any encounter that is the subject of a complaint or a legal proceeding
6121 against a law enforcement officer or law enforcement agency;

6122 (iv) contain an officer involved critical incident as defined in Subsection
6123 76-2-408(1)(f); or

6124 (v) have been requested for reclassification as a public record by a subject or
6125 authorized agent of a subject featured in the recording.

6126 (3) (a) As used in this Subsection (3), "medical records" means medical reports,
6127 records, statements, history, diagnosis, condition, treatment, and evaluation.

6128 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
6129 doctors, or affiliated entities are not private records or controlled records under Section
6130 63G-2-304 when the records are sought:

6131 (i) in connection with any legal or administrative proceeding in which the patient's

physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

Section 46. Repealer.

This bill repeals:

Section **59-7-118.1, Modification of installment due date for deferred foreign income tax.**

Section **59-7-504.1, Modification of estimated payment due date.**

Section **59-7-505.1, Modification of return due date and extension period.**

Section **59-7-507.1, Modification of time for payment of tax.**

Section **59-10-103.2, Additional chapter definitions.**

Section **59-10-114.1, Additional subtraction from income.**

Section **59-10-514.2, Modification of return due date.**

Section **59-10-516.1, Modification of extension dates and requirements.**

Section **59-10-522.1, Limitation on commission authority to extend the time for payment of tax.**

Section **59-10-1403.4, Modification of return filing requirements for pass-through entity.**

Section **59-12-103.3, Sales and use tax base -- Rate for locomotive fuel.**

Section 47. Retrospective operation.

The following sections have retrospective operation for a taxable year beginning on or after January 1, 2021:

(1) Section **59-7-610;**

(2) Section **59-7-620;**

(3) Section **59-10-1007;**

- 6160 (4) Section 59-10-1017;
6161 (5) Section 59-10-1017.1;
6162 (6) Section 59-10-1022;
6163 (7) Section 59-10-1023;
6164 (8) Section 59-10-1028;
6165 (9) Section 59-10-1035;
6166 (10) Section 59-10-1036; and
6167 (11) Section 59-10-1403.3.

6168 Section 48. **Coordinating H.B. 30 with S.B. 58 -- Omitting substantive changes.**

6169 If this H.B. 30 and S.B. 58, Metro Township Amendments, both pass and become law,
6170 it is the intent of the Legislature that the Office of Legislative Research and General Counsel,
6171 in preparing the Utah Code database for publication, delete Subsection 10-3c-204(2) enacted
6172 by S.B. 58 and renumber the remaining subsections accordingly.

6173 Section 49. **Coordinating H.B. 30 with S.B. 233 -- Superseding technical and**
6174 **substantive amendments -- Omitting substantive changes.**

6175 If this H.B. 30 and S.B. 233 Military Installation Development Authority Amendments,
6176 both pass and become law, it is the intent of the Legislature that when the Office of Legislative
6177 Research and General Counsel prepares the Utah Code database for publication:

6178 (1) the amendments to Sections 59-12-209 and 59-12-210 in this bill supersede the
6179 amendments to Sections 59-12-209 and 59-12-210 in S.B. 233; and

6180 (2) the Office of Legislative Research and General Counsel not make the changes in
6181 S.B. 233 to Sections 10-1-304 and 59-12-102.