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TAX MODIFICATIONS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Joel K. Briscoe

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses tax provisions.

Highlighted Provisions:

This bill:

- ▶ addresses Department of Environmental Quality certifying emissions by certain taxpayers;
- ▶ addresses collection of an administration charge by the State Tax Commission;
- ▶ creates an individual income and corporate franchise tax credit for mining and manufacturing;
- ▶ enacts a refundable state earned income tax credit related to intergenerational poverty and provides for apportionment of that tax credit;
- ▶ modifies definitions;
- ▶ eliminates the state sales and use tax on food;
- ▶ eliminates the state sales and use tax on residential and commercial fuels;
- ▶ repeals the economic life provision of the sales and use tax exemption for the purchase or lease of machinery, equipment, or normal operating repair or replacement parts by a manufacturing facility, certain mining establishments, or a web search portal for use in certain business activities;
- ▶ creates a sales and use tax exemption for the purchase or lease by a manufacturing facility, certain mining establishments, or a web search portal of materials used or



- 28 consumed in certain business activities;
- 29 ▶ repeals obsolete sales and use tax provisions;
- 30 ▶ imposes a carbon emissions tax, including:
- 31 • defining terms;
- 32 • requiring records;
- 33 • addressing motor fuel, special fuel, aviation fuel, natural gas, and large emitters;
- 34 • granting rulemaking authority; and
- 35 • creating the Carbon Emissions Tax Expendable Revenue Fund; and
- 36 ▶ makes technical and conforming changes.

37 **Money Appropriated in this Bill:**

38 None

39 **Other Special Clauses:**

40 This bill provides a special effective date.

41 **Utah Code Sections Affected:**

42 AMENDS:

- 43 **10-1-405**, as last amended by Laws of Utah 2012, Chapter 424
- 44 **11-41-102**, as last amended by Laws of Utah 2016, Chapter 176
- 45 **59-1-306**, as last amended by Laws of Utah 2017, Chapter 430
- 46 **59-1-401**, as last amended by Laws of Utah 2017, Chapter 430
- 47 **59-10-529.1**, as enacted by Laws of Utah 2015, Chapter 369
- 48 **59-12-102**, as last amended by Laws of Utah 2017, Chapters 181, 382, and 422
- 49 **59-12-103**, as last amended by Laws of Utah 2017, Chapters 234, 421, and 422
- 50 **59-12-104**, as last amended by Laws of Utah 2017, Chapters 264, 268, and 429
- 51 **59-12-104.2**, as last amended by Laws of Utah 2016, Chapter 135
- 52 **59-12-108**, as last amended by Laws of Utah 2017, Chapter 430
- 53 **63N-2-502**, as last amended by Laws of Utah 2016, Chapter 350
- 54 **63N-7-301**, as last amended by Laws of Utah 2015, Chapter 301 and renumbered and
- 55 amended by Laws of Utah 2015, Chapter 283
- 56 **76-8-1101**, as last amended by Laws of Utah 2014, Chapter 52

57 ENACTS:

- 58 **19-1-207**, Utah Code Annotated 1953

- 59 **35A-9-202**, Utah Code Annotated 1953
- 60 **59-7-623**, Utah Code Annotated 1953
- 61 **59-10-138**, Utah Code Annotated 1953
- 62 **59-10-1102.1**, Utah Code Annotated 1953
- 63 **59-10-1112**, Utah Code Annotated 1953
- 64 **59-12-104.8**, Utah Code Annotated 1953
- 65 **59-29-101**, Utah Code Annotated 1953
- 66 **59-29-102**, Utah Code Annotated 1953
- 67 **59-29-103**, Utah Code Annotated 1953
- 68 **59-29-201**, Utah Code Annotated 1953
- 69 **59-29-202**, Utah Code Annotated 1953
- 70 **59-29-203**, Utah Code Annotated 1953
- 71 **59-29-204**, Utah Code Annotated 1953
- 72 **59-29-205**, Utah Code Annotated 1953
- 73 **59-29-206**, Utah Code Annotated 1953
- 74 **59-29-301**, Utah Code Annotated 1953



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

77 Section 1. Section **10-1-405** is amended to read:

78 **10-1-405. Collection of taxes by commission -- Uniform interlocal agreement --**
 79 **Administrative charge -- Rulemaking authority.**

80 (1) Subject to the other provisions of this section, the commission shall collect,
 81 enforce, and administer any municipal telecommunications license tax imposed under this part
 82 pursuant to:

83 (a) the same procedures used in the administration, collection, and enforcement of the
 84 state sales and use tax under:

85 (i) Title 59, Chapter 1, General Taxation Policies; and

86 (ii) Title 59, Chapter 12, Part 1, Tax Collection:

87 (A) except for:

88 (I) Subsection **59-12-103(2)(†)(j)**;

89 (II) Section **59-12-104**;

90 (III) Section 59-12-104.1;

91 (IV) Section 59-12-104.2;

92 (V) Section 59-12-104.3;

93 (VI) Section 59-12-107.1; and

94 (VII) Section 59-12-123; and

95 (B) except that for purposes of Section 59-1-1410, the term "person" may include a
96 customer from whom a municipal telecommunications license tax is recovered in accordance
97 with Subsection 10-1-403(2); and

98 (b) a uniform interlocal agreement between the municipality that imposes the
99 municipal telecommunications license tax and the commission:

100 (i) that is executed under Title 11, Chapter 13, Interlocal Cooperation Act;

101 (ii) that complies with Subsection (2)(a); and

102 (iii) that is developed by rule in accordance with Subsection (2)(b).

103 (2) (a) The uniform interlocal agreement described in Subsection (1) shall provide that
104 the commission shall:

105 (i) transmit money collected under this part monthly by electronic funds transfer by the
106 commission to the municipality;

107 (ii) conduct audits of the municipal telecommunications license tax;

108 (iii) retain and deposit an administrative charge in accordance with Section 59-1-306
109 from revenues the commission collects from a tax under this part; and

110 (iv) collect, enforce, and administer the municipal telecommunications license tax
111 authorized under this part pursuant to the same procedures used in the administration,
112 collection, and enforcement of the state sales and use tax as provided in Subsection (1)(a).

113 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
114 commission shall develop a uniform interlocal agreement that meets the requirements of this
115 section.

116 (3) If a telecommunications provider pays a municipal telecommunications license tax
117 to the commission, the telecommunications provider shall pay the municipal
118 telecommunications license tax to the commission:

119 (a) monthly on or before the last day of the month immediately following the last day
120 of the previous month if:

121 (i) the telecommunications provider is required to file a sales and use tax return with
122 the commission monthly under Section 59-12-108; or

123 (ii) the telecommunications provider is not required to file a sales and use tax return
124 under Title 59, Chapter 12, Sales and Use Tax Act; or

125 (b) quarterly on or before the last day of the month immediately following the last day
126 of the previous quarter if the telecommunications provider is required to file a sales and use tax
127 return with the commission quarterly under Section 59-12-108.

128 (4) If, on July 1, 2007, a municipality has in effect an ordinance that levies a municipal
129 telecommunications license tax under this part at a rate that exceeds 3.5%:

130 (a) except as provided in Subsection (4)(b), beginning on July 1, 2007, the commission
131 shall collect the municipal telecommunications license tax:

132 (i) within the municipality;

133 (ii) at a rate of 3.5%; and

134 (iii) from a telecommunications provider required to pay the municipal
135 telecommunications license tax on or after July 1, 2007; and

136 (b) the commission shall collect a municipal telecommunications license tax within the
137 municipality at the rate imposed by the municipality if:

138 (i) after July 1, 2007, the municipality has in effect an ordinance that levies a municipal
139 telecommunications license tax under this part at a rate of up to 3.5%;

140 (ii) the municipality meets the requirements of Subsection 10-1-403(3)(b) in changing
141 the rate of the municipal telecommunications license tax; and

142 (iii) a telecommunications provider is required to pay the municipal
143 telecommunications license tax on or after the day on which the ordinance described in
144 Subsection (4)(b)(ii) takes effect.

145 Section 2. Section 11-41-102 is amended to read:

146 **11-41-102. Definitions.**

147 As used in this chapter:

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

149 (a) (i) county; or

150 (ii) municipality; and

151 (b) person.

- 152 (2) "Municipality" means a:
- 153 (a) city;
- 154 (b) town; or
- 155 (c) metro township.
- 156 (3) "Payment" includes:
- 157 (a) a payment;
- 158 (b) a rebate;
- 159 (c) a refund; or
- 160 (d) an amount similar to Subsections (3)(a) through (c).
- 161 (4) "Regional retail business" means a:
- 162 (a) retail business that occupies a floor area of more than 80,000 square feet;
- 163 (b) dealer as defined in Section 41-1a-102;
- 164 (c) retail shopping facility that has at least two anchor tenants if the total number of
- 165 anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square
- 166 feet; or
- 167 (d) grocery store that occupies a floor area of more than 30,000 square feet.
- 168 (5) (a) "Sales and use tax" means a tax:
- 169 (i) imposed on transactions within a:
- 170 (A) county; or
- 171 (B) municipality; and
- 172 (ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12,
- 173 Sales and Use Tax Act.
- 174 (b) ~~[Notwithstanding Subsection (5)(a)(ii), "sales]~~ "Sales and use tax" does not include
- 175 a tax authorized under:
- 176 (i) Subsection 59-12-103(2)(a)(i);
- 177 (ii) Subsection 59-12-103(2)(b)(i);
- 178 (iii) Subsection 59-12-103(2)(c)(i);
- 179 (iv) Subsection 59-12-103(2)(d)(i);
- 180 ~~[(iv)]~~ (v) Subsection 59-12-103(2)~~[(d)]~~(e)(i)(A);
- 181 ~~[(v)]~~ (vi) Section 59-12-301;
- 182 ~~[(vi)]~~ (vii) Section 59-12-352;

183 [~~(vii)~~] (viii) Section [59-12-353](#);
 184 [~~(viii)~~] (ix) Section [59-12-603](#); or
 185 [~~(ix)~~] (x) Section [59-12-1201](#).

186 (6) (a) "Sales and use tax incentive payment" means a payment of revenues:
 187 (i) to a person;
 188 (ii) by a:
 189 (A) county; or
 190 (B) municipality;
 191 (iii) to induce the person to locate or relocate a regional retail business within the:
 192 (A) county; or
 193 (B) municipality; and
 194 (iv) that are derived from a sales and use tax.
 195 (b) "Sales and use tax incentive payment" does not include funding for public
 196 infrastructure.

197 Section 3. Section **19-1-207** is enacted to read:

198 **19-1-207. Certification of large emitters for tax purposes.**

199 (1) As used in this section:

200 (a) "Large emitter" means the same as that term is defined in Section [59-29-102](#).

201 (b) "Operator" means the same as that term is defined in Section [59-2-102](#).

202 (2) (a) An operator of a large emitter shall annually obtain from the department a
 203 certification of the amount of carbon dioxide emitted by a large emitter in a calendar year on a
 204 form provided by the State Tax Commission.

205 (b) In providing the certification described in this Subsection (2), the department may
 206 consider measurements of carbon dioxide emissions of large emitters from the United States
 207 Energy Information Administration or the United States Environmental Protection Agency.

208 (3) On or before September 30, the department shall provide the State Tax
 209 Commission with an electronic report listing the name and address of each person who
 210 obtained a certificate under Subsection (2) for the previous calendar year.

211 Section 4. Section **35A-9-202** is enacted to read:

212 **35A-9-202. Tax credit notification -- Intergenerational poverty report to tax**
 213 **commission.**

- 214 (1) As used in this section, "commission" means the State Tax Commission.
- 215 (2) (a) On or before January 31, the department shall provide notice of the tax credit
216 available under Section 59-10-1112 to an individual who the department identifies as
217 experiencing intergenerational poverty due to:
- 218 (i) the individual's receipt of public assistance during the previous calendar year;
219 (ii) the individual's receipt of public assistance for not less than 12 months since the
220 individual reached age 18; and
- 221 (iii) the individual's or the individual's family's receipt of public assistance for not less
222 than 12 months during the individual's childhood.
- 223 (b) The notice described in Subsection (2)(a) shall explain the eligibility requirements
224 and the method for claiming a tax credit under Section 59-10-1112.
- 225 (3) (a) On or before March 1, the department shall provide the commission with an
226 electronic report stating, for each individual to whom the department sent the notice described
227 in Subsection (2):
- 228 (i) the name of the individual; and
229 (ii) the social security number of the individual.
- 230 (b) The department and the commission shall provide for the security and
231 confidentiality of the information contained in the electronic report.
- 232 Section 5. Section 59-1-306 is amended to read:
- 233 **59-1-306. Definition -- State Tax Commission Administrative Charge Account --**
234 **Amount of administrative charge -- Deposit of revenues into the restricted account --**
235 **Interest deposited into General Fund -- Expenditure of money deposited into the**
236 **restricted account.**
- 237 (1) As used in this section, "qualifying tax, fee, or charge" means a tax, fee, or charge
238 the commission administers under:
- 239 (a) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
240 (b) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
241 (c) Section 19-6-714;
242 (d) Section 19-6-805;
243 (e) Chapter 12, Sales and Use Tax Act, other than a tax under Chapter 12, Part 1, Tax
244 Collection, or Chapter 12, Part 18, Additional State Sales and Use Tax Act;

245 (f) Section ~~59-27-105~~; ~~[or]~~

246 (g) Chapter 29, Carbon Emissions Tax Act, when deposited into the Carbon Emissions
247 Tax Expendable Revenue Fund; or

248 ~~[(g)]~~ (h) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges.

249 (2) There is created a restricted account within the General Fund known as the "State
250 Tax Commission Administrative Charge Account."

251 (3) Subject to the other provisions of this section, the restricted account shall consist of
252 administrative charges the commission retains and deposits in accordance with this section.

253 (4) For purposes of this section, the administrative charge is a percentage of ~~[revenues]~~
254 revenue the commission collects from each qualifying tax, fee, or charge of not to exceed the
255 lesser of:

256 (a) 1.5%; or

257 (b) an equal percentage of ~~[revenues]~~ revenue the commission collects from each
258 qualifying tax, fee, or charge sufficient to cover the cost to the commission of administering the
259 qualifying taxes, fees, or charges.

260 (5) The commission shall deposit an administrative charge into the restricted account.

261 (6) Interest earned on the restricted account shall be deposited into the General Fund.

262 (7) The commission shall expend money appropriated by the Legislature to the
263 commission from the restricted account to administer qualifying taxes, fees, or charges.

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

265 **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**
266 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**
267 **interest.**

268 (1) As used in this section:

269 ~~[(a) "Activated tax, fee, or charge" means a tax, fee, or charge with respect to which the~~
270 ~~commission:]~~

271 ~~[(i) has implemented the commission's GenTax system; and]~~

272 ~~[(ii) at least 30 days before implementing the commission's GenTax system as~~
273 ~~described in Subsection (1)(a)(i), has provided notice in a conspicuous place on the~~
274 ~~commission's website stating:]~~

275 ~~[(A) the date the commission will implement the GenTax system with respect to the~~

276 ~~tax, fee, or charge; and]~~

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

279 ~~[(F) a person that files a return after the due date as described in Subsection (2)(a) is~~
 280 ~~subject to the penalty described in Subsection (2)(c)(ii); and]~~

281 ~~[(H) a person that fails to pay the tax, fee, or charge as described in Subsection (3)(a) is~~
 282 ~~subject to the penalty described in Subsection (3)(b)(ii).]~~

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

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

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

289 ~~[(c)(i) (a) Except as provided in Subsection [(1)(c)(ii)] (1)(b), "tax, fee, or charge"~~
 290 ~~means:~~

291 ~~[(A)] (i) a tax, fee, or charge the commission administers under:~~

292 ~~[(B)] (A) this title;~~

293 ~~[(C)] (B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;~~

294 ~~[(D)] (C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;~~

295 ~~[(E)] (D) Section 19-6-410.5;~~

296 ~~[(F)] (E) Section 19-6-714;~~

297 ~~[(G)] (F) Section 19-6-805;~~

298 ~~[(H)] (G) Section 32B-2-304;~~

299 ~~[(I)] (H) Section 34A-2-202;~~

300 ~~[(J)] (I) Section 40-6-14; or~~

301 ~~[(K)] (J) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or~~

302 ~~[(L)] (ii) another amount that by statute is subject to a penalty imposed under this~~
 303 ~~section.~~

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

305 ~~[(A)] (i) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;~~

306 ~~[(B)] (ii) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;~~

307 ~~[(C)]~~ (iii) Chapter 2, Property Tax Act, except for Section [59-2-1309](#);

308 ~~[(D)]~~ (iv) Chapter 3, Tax Equivalent Property Act; or

309 ~~[(E)]~~ (v) Chapter 4, Privilege Tax.

310 ~~[(d)] "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an~~

311 ~~activated tax, fee, or charge.]~~

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

313 (i) if the person filing the return is not allowed by law an extension of time for filing

314 the return, the day on which the return is due as provided by law; or

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

316 return, the earlier of:

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

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

319 (b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a

320 return after the due date described in Subsection (2)(a).

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

322 ~~[(i) if the return described in Subsection (2)(b) is filed with respect to an unactivated~~

323 ~~tax, fee, or charge:]~~

324 ~~[(A) \$20; or]~~

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

326 ~~[(ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax,~~

327 ~~fee, or charge, beginning on the activation date for the tax, fee, or charge:]~~

328 ~~[(A)]~~ (i) \$20; or

329 ~~[(B)]~~ (ii) (A) 2% of the unpaid ~~[activated]~~ tax, fee, or charge due on the return if the

330 return is filed no later than five days after the due date described in Subsection (2)(a);

331 ~~[(B)]~~ (B) 5% of the unpaid ~~[activated]~~ tax, fee, or charge due on the return if the return

332 is filed more than five days after the due date but no later than 15 days after the due date

333 described in Subsection (2)(a); or

334 ~~[(C)]~~ (C) 10% of the unpaid ~~[activated]~~ tax, fee, or charge due on the return if the

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

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

337 (i) an amended return; or

- 338 (ii) a return with no tax due.
- 339 (3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:
- 340 (i) the person files a return on or before the due date for filing a return described in
- 341 Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due
- 342 date;
- 343 (ii) the person:
- 344 (A) is subject to a penalty under Subsection (2)(b); and
- 345 (B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the
- 346 due date for filing a return described in Subsection (2)(a);
- 347 (iii) (A) the person is subject to a penalty under Subsection (2)(b); and
- 348 (B) the commission estimates an amount of tax due for that person in accordance with
- 349 Subsection [59-1-1406\(2\)](#);
- 350 (iv) the person:
- 351 (A) is mailed a notice of deficiency; and
- 352 (B) within a 30-day period after the day on which the notice of deficiency described in
- 353 Subsection (3)(a)(iv)(A) is mailed:
- 354 (I) does not file a petition for redetermination or a request for agency action; and
- 355 (II) fails to pay the tax, fee, or charge due on a return;
- 356 (v) (A) the commission:
- 357 (I) issues an order constituting final agency action resulting from a timely filed petition
- 358 for redetermination or a timely filed request for agency action; or
- 359 (II) is considered to have denied a request for reconsideration under Subsection
- 360 [63G-4-302\(3\)\(b\)](#) resulting from a timely filed petition for redetermination or a timely filed
- 361 request for agency action; and
- 362 (B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period
- 363 after the [date] day on which the commission:
- 364 (I) issues the order constituting final agency action described in Subsection
- 365 (3)(a)(v)(A)(I); or
- 366 (II) is considered to have denied the request for reconsideration described in
- 367 Subsection (3)(a)(v)(A)(II); or
- 368 (vi) the person fails to pay the tax, fee, or charge within ~~[a 30-day period]~~ 30 days after

369 the ~~[date of]~~ day on which a court issues a final judicial decision resulting from a timely filed
 370 petition for judicial review.

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

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

374 ~~[(A) \$20; or]~~

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

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

378 ~~[(A)]~~ (i) \$20; or

379 ~~[(B)-(F)]~~ (ii) (A) 2% of the unpaid ~~[activated]~~ tax, fee, or charge due on the return if the
 380 ~~[activated]~~ tax, fee, or charge due on the return is paid no later than five days after the due date
 381 for filing a return described in Subsection (2)(a);

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

385 ~~[(H)]~~ (C) 10% of the unpaid ~~[activated]~~ tax, fee, or charge due on the return if the
 386 ~~[activated]~~ tax, fee, or charge due on the return is paid more than 15 days after the due date for
 387 filing a return described in Subsection (2)(a).

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

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

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

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

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

400 paid.

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

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

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

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

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

417 (6) If a person does not file a return within an extension of time allowed by Section
418 59-7-505 or 59-10-516, the person:

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

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

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

422 (A) \$20; or

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

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

426 (A) \$20; or

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

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

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

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

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

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

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

444 (i) The notice of proposed penalty shall:

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

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

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

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

450 or

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

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

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

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

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

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

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

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

466 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
467 or is a seller required to pay or collect and remit sales and use taxes under Subsection
468 59-12-107(2)(b); and

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

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

472 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
473 or is a seller required to pay or collect and remit sales and use taxes under Subsection
474 59-12-107(2)(b); and

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

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

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

481 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
482 or is a seller required to pay or collect and remit sales and use taxes under Subsection
483 59-12-107(2)(b); and

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

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

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

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

492 (ii) the seller's intentional disregard of law or rule is warranted by existing law or by a

493 nonfrivolous argument for the extension, modification, or reversal of existing law or the
494 establishment of new law.

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

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

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

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

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

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

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

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

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

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

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

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

523 (A) a return;

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

532 (b) The following acts apply to Subsection (11)(a)(i):
533 (i) preparing any portion of a document described in Subsection (11)(a)(i);
534 (ii) presenting any portion of a document described in Subsection (11)(a)(i);
535 (iii) procuring any portion of a document described in Subsection (11)(a)(i);
536 (iv) advising in the preparation or presentation of any portion of a document described
537 in Subsection (11)(a)(i);
538 (v) aiding in the preparation or presentation of any portion of a document described in
539 Subsection (11)(a)(i);
540 (vi) assisting in the preparation or presentation of any portion of a document described
541 in Subsection (11)(a)(i); or
542 (vii) counseling in the preparation or presentation of any portion of a document
543 described in Subsection (11)(a)(i).

544 (c) For purposes of Subsection (11)(a), the penalty:
545 (i) shall be imposed by the commission;
546 (ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which
547 the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and
548 (iii) is in addition to any other penalty provided by law.

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

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

554 (12) (a) As provided in Section [76-8-1101](#), criminal offenses and penalties are as

555 provided in Subsections (12)(b) through (e).

556 (b) (i) A person [~~who~~] is guilty of a class B misdemeanor if the person:

557 (A) is required by this title or any laws the commission administers or regulates to
558 register with or obtain a license or permit from the commission[~~, who~~]; and

559 (B) operates without having registered or secured a license or permit[~~, or who~~] or
560 operates when the registration, license, or permit is expired or not current[~~, is guilty of a class~~
561 B misdemeanor].

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

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

565 (B) exceed \$1,000.

566 (c) (i) With respect to a tax, fee, or charge, a person [~~who~~] is guilty of a third degree
567 felony if a person:

568 (A) knowingly and intentionally, and without a reasonable good faith basis, fails to
569 make, render, sign, or verify a return within the time required by law or to supply information
570 within the time required by law[~~, or who~~];

571 (B) makes, renders, signs, or verifies a false or fraudulent return or statement[~~, or who~~];
572 or

573 (C) supplies false or fraudulent information[~~, is guilty of a third degree felony].~~

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

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

577 (B) exceed \$5,000.

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

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

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

584 (B) exceed \$25,000.

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

586 (A) described in Subsection (12)(e)(ii) with respect to one or more of the following
587 documents:
588 (I) a return;
589 (II) an affidavit;
590 (III) a claim; or
591 (IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and
592 (B) subject to Subsection (12)(e)(iii), with knowledge that the document described in
593 Subsection (12)(e)(i)(A):
594 (I) is false or fraudulent as to any material matter; and
595 (II) could be used in connection with any material matter administered by the
596 commission.
597 (ii) The following acts apply to Subsection (12)(e)(i):
598 (A) preparing any portion of a document described in Subsection (12)(e)(i)(A);
599 (B) presenting any portion of a document described in Subsection (12)(e)(i)(A);
600 (C) procuring any portion of a document described in Subsection (12)(e)(i)(A);
601 (D) advising in the preparation or presentation of any portion of a document described
602 in Subsection (12)(e)(i)(A);
603 (E) aiding in the preparation or presentation of any portion of a document described in
604 Subsection (12)(e)(i)(A);
605 (F) assisting in the preparation or presentation of any portion of a document described
606 in Subsection (12)(e)(i)(A); or
607 (G) counseling in the preparation or presentation of any portion of a document
608 described in Subsection (12)(e)(i)(A).
609 (iii) This Subsection (12)(e) applies:
610 (A) regardless of whether the person for which the document described in Subsection
611 (12)(e)(i)(A) is prepared or presented:
612 (I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or
613 (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and
614 (B) in addition to any other penalty provided by law.
615 (iv) Notwithstanding Section [76-3-301](#), for purposes of this Subsection (12)(e), the
616 penalty may not:

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

618 (B) exceed \$25,000.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

647 (B) fails to file the form.

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

651 Section 7. Section **59-7-623** is enacted to read:

652 **59-7-623. Tax credit for mining and manufacturing.**

653 (1) As used in this section:

654 (a) "Eligible corporation" means a corporation generating taxable income primarily
655 from economic activities classified in one or more of the following NAICS codes of the 2017
656 North American Industry Classification System of the federal Executive Office of the
657 President, Office of Management and Budget:

658 (i) NAICS Sector 21, Mining; or

659 (ii) NAICS Sector 31-33, Manufacturing.

660 (b) "Remaining tax liability" means a corporation's tax liability as provided in this
661 chapter after all other credits and adjustments have been taken into account.

662 (2) For a taxable year beginning on or after January 1, 2020, an eligible corporation
663 may claim a nonrefundable tax credit in an amount equal to the corporation's remaining tax
664 liability.

665 (3) A corporation may not carry forward or carry back a tax credit under this section.

666 Section 8. Section **59-10-138** is enacted to read:

667 **59-10-138. Tax credit for mining and manufacturing.**

668 (1) As used in this section:

669 (a) "Eligible pass-through entity taxpayer" means a pass-through entity taxpayer
670 generating taxable income primarily from establishments classified in one or more of the
671 following NAICS codes of the 2017 North American Industry Classification System of the
672 federal Executive Office of the President, Office of Management and Budget:

673 (i) NAICS Sector 21, Mining; or

674 (ii) NAICS Sector 31-33, Manufacturing.

675 (b) "Pass-through entity taxpayer" means the same as that term is defined in Section
676 59-10-1402.

677 (c) "Remaining tax liability" means a pass-through entity taxpayer's tax liability as
678 provided in this chapter after all other credits and adjustments have been taken into account.

679 (2) For a taxable year beginning on or after January 1, 2020, an eligible pass-through
680 entity taxpayer may claim a nonrefundable tax credit in an amount equal to the eligible
681 pass-through entity taxpayer's remaining tax liability.

682 (3) An eligible pass-through entity taxpayer may not carry forward or carry back a tax
683 credit under this section.

684 Section 9. Section **59-10-529.1** is amended to read:

685 **59-10-529.1. Time period for commission to issue a refund.**

686 (1) Except as provided in Subsection (2), the commission may not issue a refund
687 before March 1.

688 (2) The commission may issue a refund before March 1 if, before March 1, the
689 commission determines that:

690 (a) (i) an employer has filed the one or more forms in accordance with Subsection
691 59-10-406(8) the employer is required to file with respect to an individual; and

692 (ii) for a refund of a tax credit described in Section 59-10-1112, the Department of
693 Workforce Services has submitted the electronic report required by Section 35A-9-202; and

694 (b) the individual has filed a return in accordance with this chapter.

695 Section 10. Section **59-10-1102.1** is enacted to read:

696 **59-10-1102.1. Apportionment of tax credit.**

697 A nonresident individual or a part-year resident individual who claims the tax credit
698 described in Section 59-10-1112 may only claim an apportioned amount of the tax credit equal
699 to the product of:

700 (1) the state income tax percentage for a nonresident individual or the state income tax
701 percentage for a part-year resident individual; and

702 (2) the amount of the tax credit that the nonresident individual or the part-year resident
703 individual would have been allowed to claim but for the apportionment requirement of this
704 section.

705 Section 11. Section **59-10-1112** is enacted to read:

706 **59-10-1112. Refundable state earned income tax credit -- Definition -- Tax credit**
707 **calculation -- Transfers from General Fund.**

708 (1) As used in this section:

709 (a) "Department" means the Department of Workforce Services created in Section

710 [35A-1-103.](#)

711 (b) "Federal earned income tax credit" means the federal earned income tax credit
712 described in Section 32, Internal Revenue Code.

713 (c) "Intergenerational poverty" means the same as that term is defined in Section
714 35A-9-102.

715 (d) "Qualifying claimant" means a resident or nonresident individual who:

716 (i) is identified by the department as experiencing intergenerational poverty; and

717 (ii) claimed the federal earned income tax credit for the previous taxable year.

718 (2) Except as provided in Section 59-10-1102.1, a qualifying claimant may claim a
719 nonrefundable earned income tax credit equal to 75% of the amount of the federal earned
720 income tax credit that the qualifying claimant was entitled to claim on a federal income tax
721 return in the previous taxable year.

722 (3) (a) The commission shall use the electronic report described in Section 35A-9-202
723 to verify that a qualifying claimant is identified as experiencing intergenerational poverty.

724 (b) The commission may not use the electronic report described in Section 35A-9-202
725 for any other purpose.

726 (4) (a) The Division of Finance shall transfer at least annually from the Carbon
727 Emissions Tax Expendable Revenue Fund into the Education Fund an amount equal to the
728 amount of tax credit claimed under this section.

729 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
730 commission may make rules for making the transfer described in Subsection (4)(a).

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

732 **59-12-102. Definitions.**

733 As used in this chapter:

734 (1) "800 service" means a telecommunications service that:

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

736 (b) is typically marketed:

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

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

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

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

- 741 (v) under the name 888 toll-free calling; or
- 742 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
743 Federal Communications Commission.
- 744 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 745 (i) a subscriber purchases;
- 746 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
747 the subscriber's:
- 748 (A) prerecorded announcement; or
- 749 (B) live service; and
- 750 (iii) is typically marketed:
- 751 (A) under the name 900 service; or
- 752 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
753 Communications Commission.
- 754 (b) "900 service" does not include a charge for:
- 755 (i) a collection service a seller of a telecommunications service provides to a
756 subscriber; or
- 757 (ii) the following a subscriber sells to the subscriber's customer:
- 758 (A) a product; or
- 759 (B) a service.
- 760 (3) (a) "Admission or user fees" includes season passes.
- 761 (b) "Admission or user fees" does not include annual membership dues to private
762 organizations.
- 763 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
764 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
765 Agreement after November 12, 2002.
- 766 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 767 (a) listed under Subsection (6); and
- 768 (b) that are imposed within a local taxing jurisdiction.
- 769 (6) "Agreement sales and use tax" means a tax imposed under:
- 770 (a) Subsection 59-12-103(2)(a)(i)(A);
- 771 (b) Subsection 59-12-103(2)(b)(i);

- 772 (c) Subsection [59-12-103\(2\)\(c\)\(i\)](#);
- 773 (d) Subsection [59-12-103\(2\)\(d\)\(i\)](#)~~[(A)(f)]~~;
- 774 (e) Subsection [59-12-103\(2\)\(e\)\(i\)\(A\)\(I\)](#);
- 775 ~~[(e)]~~ (f) Section [59-12-204](#);
- 776 ~~[(f)]~~ (g) Section [59-12-401](#);
- 777 ~~[(g)]~~ (h) Section [59-12-402](#);
- 778 ~~[(h)]~~ (i) Section [59-12-402.1](#);
- 779 ~~[(i)]~~ (j) Section [59-12-703](#);
- 780 ~~[(j)]~~ (k) Section [59-12-802](#);
- 781 ~~[(k)]~~ (l) Section [59-12-804](#);
- 782 ~~[(l)]~~ (m) Section [59-12-1102](#);
- 783 ~~[(m)]~~ (n) Section [59-12-1302](#);
- 784 ~~[(n)]~~ (o) Section [59-12-1402](#);
- 785 ~~[(o)]~~ (p) Section [59-12-1802](#);
- 786 ~~[(p)]~~ (q) Section [59-12-2003](#);
- 787 ~~[(q)]~~ (r) Section [59-12-2103](#);
- 788 ~~[(r)]~~ (s) Section [59-12-2213](#);
- 789 ~~[(s)]~~ (t) Section [59-12-2214](#);
- 790 ~~[(t)]~~ (u) Section [59-12-2215](#);
- 791 ~~[(u)]~~ (v) Section [59-12-2216](#);
- 792 ~~[(v)]~~ (w) Section [59-12-2217](#);
- 793 ~~[(w)]~~ (x) Section [59-12-2218](#); or
- 794 ~~[(x)]~~ (y) Section [59-12-2219](#).
- 795 (7) "Aircraft" means the same as that term is defined in Section [72-10-102](#).
- 796 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 797 (a) except for:
- 798 (i) an airline as defined in Section [59-2-102](#); or
- 799 (ii) an affiliated group, as defined in Section [59-7-101](#), except that "affiliated group"
- 800 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 801 state, of an airline; and
- 802 (b) that has the workers, expertise, and facilities to perform the following, regardless of

803 whether the business entity performs the following in this state:

804 (i) check, diagnose, overhaul, and repair:

805 (A) an onboard system of a fixed wing turbine powered aircraft; and

806 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

807 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft

808 engine;

809 (iii) perform at least the following maintenance on a fixed wing turbine powered

810 aircraft:

811 (A) an inspection;

812 (B) a repair, including a structural repair or modification;

813 (C) changing landing gear; and

814 (D) addressing issues related to an aging fixed wing turbine powered aircraft;

815 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and

816 completely apply new paint to the fixed wing turbine powered aircraft; and

817 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that

818 results in a change in the fixed wing turbine powered aircraft's certification requirements by the

819 authority that certifies the fixed wing turbine powered aircraft.

820 (9) "Alcoholic beverage" means a beverage that:

821 (a) is suitable for human consumption; and

822 (b) contains .5% or more alcohol by volume.

823 (10) "Alternative energy" means:

824 (a) biomass energy;

825 (b) geothermal energy;

826 (c) hydroelectric energy;

827 (d) solar energy;

828 (e) wind energy; or

829 (f) energy that is derived from:

830 (i) coal-to-liquids;

831 (ii) nuclear fuel;

832 (iii) oil-impregnated diatomaceous earth;

833 (iv) oil sands;

- 834 (v) oil shale;
- 835 (vi) petroleum coke; or
- 836 (vii) waste heat from:
 - 837 (A) an industrial facility; or
 - 838 (B) a power station in which an electric generator is driven through a process in which
 - 839 water is heated, turns into steam, and spins a steam turbine.
- 840 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 841 facility" means a facility that:
 - 842 (i) uses alternative energy to produce electricity; and
 - 843 (ii) has a production capacity of two megawatts or greater.
- 844 (b) A facility is an alternative energy electricity production facility regardless of
- 845 whether the facility is:
 - 846 (i) connected to an electric grid; or
 - 847 (ii) located on the premises of an electricity consumer.
- 848 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
- 849 provision of telecommunications service.
 - 850 (b) "Ancillary service" includes:
 - 851 (i) a conference bridging service;
 - 852 (ii) a detailed communications billing service;
 - 853 (iii) directory assistance;
 - 854 (iv) a vertical service; or
 - 855 (v) a voice mail service.
- 856 (13) "Area agency on aging" means the same as that term is defined in Section
- 857 [62A-3-101](#).
- 858 (14) "Assisted amusement device" means an amusement device, skill device, or ride
- 859 device that is started and stopped by an individual:
 - 860 (a) who is not the purchaser or renter of the right to use or operate the amusement
 - 861 device, skill device, or ride device; and
 - 862 (b) at the direction of the seller of the right to use the amusement device, skill device,
 - 863 or ride device.
- 864 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or

865 washing of tangible personal property if the cleaning or washing labor is primarily performed
866 by an individual:

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

869 (b) at the direction of the seller of the cleaning or washing of the tangible personal
870 property.

871 (16) "Authorized carrier" means:

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

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

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

880 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the
881 following that is used as the primary source of energy to produce fuel or electricity:

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

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

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

885 (B) animal waste;

886 (C) waste vegetable oil;

887 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
888 wastewater residuals, or through the conversion of a waste material through a nonincineration,
889 thermal conversion process;

890 (E) aquatic plants; and

891 (F) agricultural products.

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

893 (i) black liquor; or

894 (ii) treated woods.

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

896 property, products, or services if the tangible personal property, products, or services are:
897 (i) distinct and identifiable; and
898 (ii) sold for one nonitemized price.
899 (b) "Bundled transaction" does not include:
900 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
901 the basis of the selection by the purchaser of the items of tangible personal property included in
902 the transaction;
903 (ii) the sale of real property;
904 (iii) the sale of services to real property;
905 (iv) the retail sale of tangible personal property and a service if:
906 (A) the tangible personal property:
907 (I) is essential to the use of the service; and
908 (II) is provided exclusively in connection with the service; and
909 (B) the service is the true object of the transaction;
910 (v) the retail sale of two services if:
911 (A) one service is provided that is essential to the use or receipt of a second service;
912 (B) the first service is provided exclusively in connection with the second service; and
913 (C) the second service is the true object of the transaction;
914 (vi) a transaction that includes tangible personal property or a product subject to
915 taxation under this chapter and tangible personal property or a product that is not subject to
916 taxation under this chapter if the:
917 (A) seller's purchase price of the tangible personal property or product subject to
918 taxation under this chapter is de minimis; or
919 (B) seller's sales price of the tangible personal property or product subject to taxation
920 under this chapter is de minimis; and
921 (vii) the retail sale of tangible personal property that is not subject to taxation under
922 this chapter and tangible personal property that is subject to taxation under this chapter if:
923 (A) that retail sale includes:
924 (I) food and food ingredients;
925 (II) a drug;
926 (III) durable medical equipment;

- 927 (IV) mobility enhancing equipment;
- 928 (V) an over-the-counter drug;
- 929 (VI) a prosthetic device; or
- 930 (VII) a medical supply; and
- 931 (B) subject to Subsection (18)(f):
- 932 (I) the seller's purchase price of the tangible personal property subject to taxation under
933 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 934 (II) the seller's sales price of the tangible personal property subject to taxation under
935 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 936 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
937 service that is distinct and identifiable does not include:
- 938 (A) packaging that:
- 939 (I) accompanies the sale of the tangible personal property, product, or service; and
- 940 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
941 service;
- 942 (B) tangible personal property, a product, or a service provided free of charge with the
943 purchase of another item of tangible personal property, a product, or a service; or
- 944 (C) an item of tangible personal property, a product, or a service included in the
945 definition of "purchase price."
- 946 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
947 product, or a service is provided free of charge with the purchase of another item of tangible
948 personal property, a product, or a service if the sales price of the purchased item of tangible
949 personal property, product, or service does not vary depending on the inclusion of the tangible
950 personal property, product, or service provided free of charge.
- 951 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
952 does not include a price that is separately identified by tangible personal property, product, or
953 service on the following, regardless of whether the following is in paper format or electronic
954 format:
- 955 (A) a binding sales document; or
- 956 (B) another supporting sales-related document that is available to a purchaser.
- 957 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another

958 supporting sales-related document that is available to a purchaser includes:

- 959 (A) a bill of sale;
- 960 (B) a contract;
- 961 (C) an invoice;
- 962 (D) a lease agreement;
- 963 (E) a periodic notice of rates and services;
- 964 (F) a price list;
- 965 (G) a rate card;
- 966 (H) a receipt; or
- 967 (I) a service agreement.

968 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
969 property or a product subject to taxation under this chapter is de minimis if:

970 (A) the seller's purchase price of the tangible personal property or product is 10% or
971 less of the seller's total purchase price of the bundled transaction; or

972 (B) the seller's sales price of the tangible personal property or product is 10% or less of
973 the seller's total sales price of the bundled transaction.

974 (ii) For purposes of Subsection (18)(b)(vi), a seller:

975 (A) shall use the seller's purchase price or the seller's sales price to determine if the
976 purchase price or sales price of the tangible personal property or product subject to taxation
977 under this chapter is de minimis; and

978 (B) may not use a combination of the seller's purchase price and the seller's sales price
979 to determine if the purchase price or sales price of the tangible personal property or product
980 subject to taxation under this chapter is de minimis.

981 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
982 contract to determine if the sales price of tangible personal property or a product is de minimis.

983 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
984 the seller's purchase price and the seller's sales price to determine if tangible personal property
985 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
986 price of that retail sale.

987 (19) "Certified automated system" means software certified by the governing board of
988 the agreement that:

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

991 (i) on a transaction; and

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

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

995 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

996 (20) "Certified service provider" means an agent certified:

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

998 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
999 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
1000 own purchases.

1001 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel
1002 suitable for general use.

1003 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1004 commission shall make rules:

1005 (i) listing the items that constitute "clothing"; and

1006 (ii) that are consistent with the list of items that constitute "clothing" under the
1007 agreement.

1008 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

1009 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
1010 fuels that does not constitute industrial use under Subsection (56) or residential use under
1011 Subsection [~~(106)~~] (107).

1012 (24) (a) "Common carrier" means a person engaged in or transacting the business of
1013 transporting passengers, freight, merchandise, or other property for hire within this state.

1014 (b) (i) "Common carrier" does not include a person who, at the time the person is
1015 traveling to or from that person's place of employment, transports a passenger to or from the
1016 passenger's place of employment.

1017 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
1018 Utah Administrative Rulemaking Act, the commission may make rules defining what
1019 constitutes a person's place of employment.

1020 (c) "Common carrier" does not include a person that provides transportation network
1021 services, as defined in Section 13-51-102.

1022 (25) "Component part" includes:

1023 (a) poultry, dairy, and other livestock feed, and their components;

1024 (b) baling ties and twine used in the baling of hay and straw;

1025 (c) fuel used for providing temperature control of orchards and commercial
1026 greenhouses doing a majority of their business in wholesale sales, and for providing power for
1027 off-highway type farm machinery; and

1028 (d) feed, seeds, and seedlings.

1029 (26) "Computer" means an electronic device that accepts information:

1030 (a) (i) in digital form; or

1031 (ii) in a form similar to digital form; and

1032 (b) manipulates that information for a result based on a sequence of instructions.

1033 (27) "Computer software" means a set of coded instructions designed to cause:

1034 (a) a computer to perform a task; or

1035 (b) automatic data processing equipment to perform a task.

1036 (28) "Computer software maintenance contract" means a contract that obligates a seller
1037 of computer software to provide a customer with:

1038 (a) future updates or upgrades to computer software;

1039 (b) support services with respect to computer software; or

1040 (c) a combination of Subsections (28)(a) and (b).

1041 (29) (a) "Conference bridging service" means an ancillary service that links two or
1042 more participants of an audio conference call or video conference call.

1043 (b) "Conference bridging service" may include providing a telephone number as part of
1044 the ancillary service described in Subsection (29)(a).

1045 (c) "Conference bridging service" does not include a telecommunications service used
1046 to reach the ancillary service described in Subsection (29)(a).

1047 (30) "Construction materials" means any tangible personal property that will be
1048 converted into real property.

1049 (31) "Delivered electronically" means delivered to a purchaser by means other than
1050 tangible storage media.

- 1051 (32) (a) "Delivery charge" means a charge:
1052 (i) by a seller of:
1053 (A) tangible personal property;
1054 (B) a product transferred electronically; or
1055 (C) services; and
1056 (ii) for preparation and delivery of the tangible personal property, product transferred
1057 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
1058 purchaser.
- 1059 (b) "Delivery charge" includes a charge for the following:
1060 (i) transportation;
1061 (ii) shipping;
1062 (iii) postage;
1063 (iv) handling;
1064 (v) crating; or
1065 (vi) packing.
- 1066 (33) "Detailed telecommunications billing service" means an ancillary service of
1067 separately stating information pertaining to individual calls on a customer's billing statement.
- 1068 (34) "Dietary supplement" means a product, other than tobacco, that:
1069 (a) is intended to supplement the diet;
1070 (b) contains one or more of the following dietary ingredients:
1071 (i) a vitamin;
1072 (ii) a mineral;
1073 (iii) an herb or other botanical;
1074 (iv) an amino acid;
1075 (v) a dietary substance for use by humans to supplement the diet by increasing the total
1076 dietary intake; or
1077 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
1078 described in Subsections (34)(b)(i) through (v);
1079 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
1080 (A) tablet form;
1081 (B) capsule form;

- 1082 (C) powder form;
- 1083 (D) softgel form;
- 1084 (E) gelcap form; or
- 1085 (F) liquid form; or
- 1086 (ii) if the product is not intended for ingestion in a form described in Subsections
- 1087 (34)(c)(i)(A) through (F), is not represented:
- 1088 (A) as conventional food; and
- 1089 (B) for use as a sole item of:
- 1090 (I) a meal; or
- 1091 (II) the diet; and
- 1092 (d) is required to be labeled as a dietary supplement:
- 1093 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 1094 (ii) as required by 21 C.F.R. Sec. 101.36.
- 1095 (35) "Digital audio-visual work" means a series of related images which, when shown
- 1096 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 1097 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 1098 musical, spoken, or other sounds.
- 1099 (b) "Digital audio work" includes a ringtone.
- 1100 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
- 1101 sense as a book.
- 1102 (38) (a) "Direct mail" means printed material delivered or distributed by United States
- 1103 mail or other delivery service:
- 1104 (i) to:
- 1105 (A) a mass audience; or
- 1106 (B) addressees on a mailing list provided:
- 1107 (I) by a purchaser of the mailing list; or
- 1108 (II) at the discretion of the purchaser of the mailing list; and
- 1109 (ii) if the cost of the printed material is not billed directly to the recipients.
- 1110 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 1111 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 1112 (c) "Direct mail" does not include multiple items of printed material delivered to a

- 1113 single address.
- 1114 (39) "Directory assistance" means an ancillary service of providing:
- 1115 (a) address information; or
- 1116 (b) telephone number information.
- 1117 (40) (a) "Disposable home medical equipment or supplies" means medical equipment
- 1118 or supplies that:
- 1119 (i) cannot withstand repeated use; and
- 1120 (ii) are purchased by, for, or on behalf of a person other than:
- 1121 (A) a health care facility as defined in Section [26-21-2](#);
- 1122 (B) a health care provider as defined in Section [78B-3-403](#);
- 1123 (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or
- 1124 (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).
- 1125 (b) "Disposable home medical equipment or supplies" does not include:
- 1126 (i) a drug;
- 1127 (ii) durable medical equipment;
- 1128 (iii) a hearing aid;
- 1129 (iv) a hearing aid accessory;
- 1130 (v) mobility enhancing equipment; or
- 1131 (vi) tangible personal property used to correct impaired vision, including:
- 1132 (A) eyeglasses; or
- 1133 (B) contact lenses.
- 1134 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1135 commission may by rule define what constitutes medical equipment or supplies.
- 1136 (41) "Drilling equipment manufacturer" means a facility:
- 1137 (a) located in the state;
- 1138 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 1139 consist of manufacturing component parts of drilling equipment;
- 1140 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 1141 manufacturing process; and
- 1142 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 1143 manufacturing process.

1144 (42) (a) "Drug" means a compound, substance, or preparation, or a component of a
1145 compound, substance, or preparation that is:

1146 (i) recognized in:

1147 (A) the official United States Pharmacopoeia;

1148 (B) the official Homeopathic Pharmacopoeia of the United States;

1149 (C) the official National Formulary; or

1150 (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);

1151 (ii) intended for use in the:

1152 (A) diagnosis of disease;

1153 (B) cure of disease;

1154 (C) mitigation of disease;

1155 (D) treatment of disease; or

1156 (E) prevention of disease; or

1157 (iii) intended to affect:

1158 (A) the structure of the body; or

1159 (B) any function of the body.

1160 (b) "Drug" does not include:

1161 (i) food and food ingredients;

1162 (ii) a dietary supplement;

1163 (iii) an alcoholic beverage; or

1164 (iv) a prosthetic device.

1165 (43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means
1166 equipment that:

1167 (i) can withstand repeated use;

1168 (ii) is primarily and customarily used to serve a medical purpose;

1169 (iii) generally is not useful to a person in the absence of illness or injury; and

1170 (iv) is not worn in or on the body.

1171 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
1172 equipment described in Subsection (43)(a).

1173 (c) "Durable medical equipment" does not include mobility enhancing equipment.

1174 (44) "Electronic" means:

- 1175 (a) relating to technology; and
- 1176 (b) having:
 - 1177 (i) electrical capabilities;
 - 1178 (ii) digital capabilities;
 - 1179 (iii) magnetic capabilities;
 - 1180 (iv) wireless capabilities;
 - 1181 (v) optical capabilities;
 - 1182 (vi) electromagnetic capabilities; or
 - 1183 (vii) capabilities similar to Subsections (44)(b)(i) through (vi).
- 1184 (45) "Electronic financial payment service" means an establishment:
 - 1185 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
 - 1186 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
 - 1187 federal Executive Office of the President, Office of Management and Budget; and
 - 1188 (b) that performs electronic financial payment services.
- 1189 (46) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 1190 (47) "Fixed guideway" means a public transit facility that uses and occupies:
 - 1191 (a) rail for the use of public transit; or
 - 1192 (b) a separate right-of-way for the use of public transit.
- 1193 (48) "Fixed wing turbine powered aircraft" means an aircraft that:
 - 1194 (a) is powered by turbine engines;
 - 1195 (b) operates on jet fuel; and
 - 1196 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 1197 (49) "Fixed wireless service" means a telecommunications service that provides radio
- 1198 communication between fixed points.
- 1199 (50) (a) "Food and food ingredients" means substances:
 - 1200 (i) regardless of whether the substances are in:
 - 1201 (A) liquid form;
 - 1202 (B) concentrated form;
 - 1203 (C) solid form;
 - 1204 (D) frozen form;
 - 1205 (E) dried form; or

1206 (F) dehydrated form; and
1207 (ii) that are:
1208 (A) sold for:
1209 (I) ingestion by humans; or
1210 (II) chewing by humans; and
1211 (B) consumed for the substance's:
1212 (I) taste; or
1213 (II) nutritional value.
1214 (b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).
1215 (c) "Food and food ingredients" does not include:
1216 (i) an alcoholic beverage;
1217 (ii) tobacco; or
1218 (iii) prepared food.
1219 (51) (a) "Fundraising sales" means sales:
1220 (i) (A) made by a school; or
1221 (B) made by a school student;
1222 (ii) that are for the purpose of raising funds for the school to purchase equipment,
1223 materials, or provide transportation; and
1224 (iii) that are part of an officially sanctioned school activity.
1225 (b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity"
1226 means a school activity:
1227 (i) that is conducted in accordance with a formal policy adopted by the school or school
1228 district governing the authorization and supervision of fundraising activities;
1229 (ii) that does not directly or indirectly compensate an individual teacher or other
1230 educational personnel by direct payment, commissions, or payment in kind; and
1231 (iii) the net or gross revenues from which are deposited in a dedicated account
1232 controlled by the school or school district.
1233 (52) "Geothermal energy" means energy contained in heat that continuously flows
1234 outward from the earth that is used as the sole source of energy to produce electricity.
1235 (53) "Governing board of the agreement" means the governing board of the agreement
1236 that is:

- 1237 (a) authorized to administer the agreement; and
1238 (b) established in accordance with the agreement.
- 1239 (54) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
1240 (i) the executive branch of the state, including all departments, institutions, boards,
1241 divisions, bureaus, offices, commissions, and committees;
1242 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
1243 Office of the Court Administrator, and similar administrative units in the judicial branch;
1244 (iii) the legislative branch of the state, including the House of Representatives, the
1245 Senate, the Legislative Printing Office, the Office of Legislative Research and General
1246 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
1247 Analyst;
- 1248 (iv) the National Guard;
1249 (v) an independent entity as defined in Section 63E-1-102; or
1250 (vi) a political subdivision as defined in Section 17B-1-102.
- 1251 (b) "Governmental entity" does not include the state systems of public and higher
1252 education, including:
1253 (i) a school;
1254 (ii) the State Board of Education;
1255 (iii) the State Board of Regents; or
1256 (iv) an institution of higher education described in Section 53B-1-102.
- 1257 (55) "Hydroelectric energy" means water used as the sole source of energy to produce
1258 electricity.
- 1259 (56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
1260 other fuels:
1261 (a) in mining or extraction of minerals;
1262 (b) in agricultural operations to produce an agricultural product up to the time of
1263 harvest or placing the agricultural product into a storage facility, including:
1264 (i) commercial greenhouses;
1265 (ii) irrigation pumps;
1266 (iii) farm machinery;
1267 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered

1268 under Title 41, Chapter 1a, Part 2, Registration; and
1269 (v) other farming activities;
1270 (c) in manufacturing tangible personal property at an establishment described in:
1271 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
1272 the federal Executive Office of the President, Office of Management and Budget; or
1273 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
1274 American Industry Classification System of the federal Executive Office of the President,
1275 Office of Management and Budget;
1276 (d) by a scrap recycler if:
1277 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
1278 one or more of the following items into prepared grades of processed materials for use in new
1279 products:
1280 (A) iron;
1281 (B) steel;
1282 (C) nonferrous metal;
1283 (D) paper;
1284 (E) glass;
1285 (F) plastic;
1286 (G) textile; or
1287 (H) rubber; and
1288 (ii) the new products under Subsection (56)(d)(i) would otherwise be made with
1289 nonrecycled materials; or
1290 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
1291 cogeneration facility as defined in Section 54-2-1.
1292 (57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge
1293 for installing:
1294 (i) tangible personal property; or
1295 (ii) a product transferred electronically.
1296 (b) "Installation charge" does not include a charge for:
1297 (i) repairs or renovations of:
1298 (A) tangible personal property; or

- 1299 (B) a product transferred electronically; or
- 1300 (ii) attaching tangible personal property or a product transferred electronically:
- 1301 (A) to other tangible personal property; and
- 1302 (B) as part of a manufacturing or fabrication process.
- 1303 (58) "Institution of higher education" means an institution of higher education listed in
- 1304 Section [53B-2-101](#).
- 1305 (59) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 1306 personal property or a product transferred electronically for:
- 1307 (i) (A) a fixed term; or
- 1308 (B) an indeterminate term; and
- 1309 (ii) consideration.
- 1310 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
- 1311 amount of consideration may be increased or decreased by reference to the amount realized
- 1312 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
- 1313 Code.
- 1314 (c) "Lease" or "rental" does not include:
- 1315 (i) a transfer of possession or control of property under a security agreement or
- 1316 deferred payment plan that requires the transfer of title upon completion of the required
- 1317 payments;
- 1318 (ii) a transfer of possession or control of property under an agreement that requires the
- 1319 transfer of title:
- 1320 (A) upon completion of required payments; and
- 1321 (B) if the payment of an option price does not exceed the greater of:
- 1322 (I) \$100; or
- 1323 (II) 1% of the total required payments; or
- 1324 (iii) providing tangible personal property along with an operator for a fixed period of
- 1325 time or an indeterminate period of time if the operator is necessary for equipment to perform as
- 1326 designed.
- 1327 (d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to
- 1328 perform as designed if the operator's duties exceed the:
- 1329 (i) set-up of tangible personal property;

1330 (ii) maintenance of tangible personal property; or

1331 (iii) inspection of tangible personal property.

1332 (60) "Life science establishment" means an establishment in this state that is classified

1333 under the following NAICS codes of the 2007 North American Industry Classification System

1334 of the federal Executive Office of the President, Office of Management and Budget:

1335 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

1336 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

1337 Manufacturing; or

1338 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

1339 (61) "Life science research and development facility" means a facility owned, leased,

1340 or rented by a life science establishment if research and development is performed in 51% or

1341 more of the total area of the facility.

1342 (62) "Load and leave" means delivery to a purchaser by use of a tangible storage media
1343 if the tangible storage media is not physically transferred to the purchaser.

1344 (63) "Local taxing jurisdiction" means a:

1345 (a) county that is authorized to impose an agreement sales and use tax;

1346 (b) city that is authorized to impose an agreement sales and use tax; or

1347 (c) town that is authorized to impose an agreement sales and use tax.

1348 (64) "Manufactured home" means the same as that term is defined in Section

1349 [15A-1-302](#).

1350 (65) "Manufacturing facility" means:

1351 (a) an establishment described in:

1352 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
1353 the federal Executive Office of the President, Office of Management and Budget; or

1354 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
1355 American Industry Classification System of the federal Executive Office of the President,
1356 Office of Management and Budget;

1357 (b) a scrap recycler if:

1358 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
1359 one or more of the following items into prepared grades of processed materials for use in new
1360 products:

- 1361 (A) iron;
- 1362 (B) steel;
- 1363 (C) nonferrous metal;
- 1364 (D) paper;
- 1365 (E) glass;
- 1366 (F) plastic;
- 1367 (G) textile; or
- 1368 (H) rubber; and
- 1369 (ii) the new products under Subsection (65)(b)(i) would otherwise be made with
- 1370 nonrecycled materials; or
- 1371 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
- 1372 placed in service on or after May 1, 2006.
- 1373 (66) "Member of the immediate family of the producer" means a person who is related
- 1374 to a producer described in Subsection 59-12-104(20)(a) as a:
- 1375 (a) child or stepchild, regardless of whether the child or stepchild is:
- 1376 (i) an adopted child or adopted stepchild; or
- 1377 (ii) a foster child or foster stepchild;
- 1378 (b) grandchild or stepgrandchild;
- 1379 (c) grandparent or stepgrandparent;
- 1380 (d) nephew or stepnephew;
- 1381 (e) niece or stepniece;
- 1382 (f) parent or stepparent;
- 1383 (g) sibling or stepsibling;
- 1384 (h) spouse;
- 1385 (i) person who is the spouse of a person described in Subsections (66)(a) through (g);
- 1386 or
- 1387 (j) person similar to a person described in Subsections (66)(a) through (i) as
- 1388 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 1389 Administrative Rulemaking Act.
- 1390 (67) "Mobile home" means the same as that term is defined in Section 15A-1-302.
- 1391 (68) "Mobile telecommunications service" is as defined in the Mobile

1392 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1393 (69) (a) "Mobile wireless service" means a telecommunications service, regardless of
1394 the technology used, if:

- 1395 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 1396 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 1397 (iii) the origination point described in Subsection (69)(a)(i) and the termination point
1398 described in Subsection (69)(a)(ii) are not fixed.

1399 (b) "Mobile wireless service" includes a telecommunications service that is provided
1400 by a commercial mobile radio service provider.

1401 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1402 commission may by rule define "commercial mobile radio service provider."

1403 (70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment"
1404 means equipment that is:

- 1405 (i) primarily and customarily used to provide or increase the ability to move from one
1406 place to another;
- 1407 (ii) appropriate for use in a:
 - 1408 (A) home; or
 - 1409 (B) motor vehicle; and
- 1410 (iii) not generally used by persons with normal mobility.

1411 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
1412 the equipment described in Subsection (70)(a).

1413 (c) "Mobility enhancing equipment" does not include:

- 1414 (i) a motor vehicle;
- 1415 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
1416 vehicle manufacturer;
- 1417 (iii) durable medical equipment; or
- 1418 (iv) a prosthetic device.

1419 (71) "Model 1 seller" means a seller registered under the agreement that has selected a
1420 certified service provider as the seller's agent to perform all of the seller's sales and use tax
1421 functions for agreement sales and use taxes other than the seller's obligation under Section
1422 [59-12-124](#) to remit a tax on the seller's own purchases.

- 1423 (72) "Model 2 seller" means a seller registered under the agreement that:
- 1424 (a) except as provided in Subsection (72)(b), has selected a certified automated system
- 1425 to perform the seller's sales tax functions for agreement sales and use taxes; and
- 1426 (b) retains responsibility for remitting all of the sales tax:
- 1427 (i) collected by the seller; and
- 1428 (ii) to the appropriate local taxing jurisdiction.
- 1429 (73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under
- 1430 the agreement that has:
- 1431 (i) sales in at least five states that are members of the agreement;
- 1432 (ii) total annual sales revenues of at least \$500,000,000;
- 1433 (iii) a proprietary system that calculates the amount of tax:
- 1434 (A) for an agreement sales and use tax; and
- 1435 (B) due to each local taxing jurisdiction; and
- 1436 (iv) entered into a performance agreement with the governing board of the agreement.
- 1437 (b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of
- 1438 sellers using the same proprietary system.
- 1439 (74) "Model 4 seller" means a seller that is registered under the agreement and is not a
- 1440 model 1 seller, model 2 seller, or model 3 seller.
- 1441 (75) "Modular home" means a modular unit as defined in Section [15A-1-302](#).
- 1442 (76) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).
- 1443 (77) "Oil sands" means impregnated bituminous sands that:
- 1444 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
- 1445 other hydrocarbons, or otherwise treated;
- 1446 (b) yield mixtures of liquid hydrocarbon; and
- 1447 (c) require further processing other than mechanical blending before becoming finished
- 1448 petroleum products.
- 1449 (78) "Oil shale" means a group of fine black to dark brown shales containing kerogen
- 1450 material that yields petroleum upon heating and distillation.
- 1451 (79) "Optional computer software maintenance contract" means a computer software
- 1452 maintenance contract that a customer is not obligated to purchase as a condition to the retail
- 1453 sale of computer software.

1454 (80) (a) "Other fuels" means products that burn independently to produce heat or
1455 energy.

1456 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
1457 personal property.

1458 (81) (a) "Paging service" means a telecommunications service that provides
1459 transmission of a coded radio signal for the purpose of activating a specific pager.

1460 (b) For purposes of Subsection (81)(a), the transmission of a coded radio signal
1461 includes a transmission by message or sound.

1462 (82) "Pawnbroker" means the same as that term is defined in Section [13-32a-102](#).

1463 (83) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).

1464 (84) (a) "Permanently attached to real property" means that for tangible personal
1465 property attached to real property:

1466 (i) the attachment of the tangible personal property to the real property:

1467 (A) is essential to the use of the tangible personal property; and

1468 (B) suggests that the tangible personal property will remain attached to the real
1469 property in the same place over the useful life of the tangible personal property; or

1470 (ii) if the tangible personal property is detached from the real property, the detachment
1471 would:

1472 (A) cause substantial damage to the tangible personal property; or

1473 (B) require substantial alteration or repair of the real property to which the tangible
1474 personal property is attached.

1475 (b) "Permanently attached to real property" includes:

1476 (i) the attachment of an accessory to the tangible personal property if the accessory is:

1477 (A) essential to the operation of the tangible personal property; and

1478 (B) attached only to facilitate the operation of the tangible personal property;

1479 (ii) a temporary detachment of tangible personal property from real property for a
1480 repair or renovation if the repair or renovation is performed where the tangible personal
1481 property and real property are located; or

1482 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
1483 Subsection (84)(c)(iii) or (iv).

1484 (c) "Permanently attached to real property" does not include:

1485 (i) the attachment of portable or movable tangible personal property to real property if
1486 that portable or movable tangible personal property is attached to real property only for:

1487 (A) convenience;

1488 (B) stability; or

1489 (C) for an obvious temporary purpose;

1490 (ii) the detachment of tangible personal property from real property except for the
1491 detachment described in Subsection (84)(b)(ii);

1492 (iii) an attachment of the following tangible personal property to real property if the
1493 attachment to real property is only through a line that supplies water, electricity, gas,
1494 telecommunications, cable, or supplies a similar item as determined by the commission by rule
1495 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

1496 (A) a computer;

1497 (B) a telephone;

1498 (C) a television; or

1499 (D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as
1500 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
1501 Administrative Rulemaking Act; or

1502 (iv) an item listed in Subsection (125)(c).

1503 (85) "Person" includes any individual, firm, partnership, joint venture, association,
1504 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
1505 municipality, district, or other local governmental entity of the state, or any group or
1506 combination acting as a unit.

1507 (86) "Place of primary use":

1508 (a) for telecommunications service other than mobile telecommunications service,
1509 means the street address representative of where the customer's use of the telecommunications
1510 service primarily occurs, which shall be:

1511 (i) the residential street address of the customer; or

1512 (ii) the primary business street address of the customer; or

1513 (b) for mobile telecommunications service, is as defined in the Mobile
1514 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1515 (87) (a) "Postpaid calling service" means a telecommunications service a person

1516 obtains by making a payment on a call-by-call basis:

1517 (i) through the use of a:

1518 (A) bank card;

1519 (B) credit card;

1520 (C) debit card; or

1521 (D) travel card; or

1522 (ii) by a charge made to a telephone number that is not associated with the origination
1523 or termination of the telecommunications service.

1524 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
1525 service, that would be a prepaid wireless calling service if the service were exclusively a
1526 telecommunications service.

1527 (88) "Postproduction" means an activity related to the finishing or duplication of a
1528 medium described in Subsection [59-12-104\(54\)\(a\)](#).

1529 (89) "Prepaid calling service" means a telecommunications service:

1530 (a) that allows a purchaser access to telecommunications service that is exclusively
1531 telecommunications service;

1532 (b) that:

1533 (i) is paid for in advance; and

1534 (ii) enables the origination of a call using an:

1535 (A) access number; or

1536 (B) authorization code;

1537 (c) that is dialed:

1538 (i) manually; or

1539 (ii) electronically; and

1540 (d) sold in predetermined units or dollars that decline:

1541 (i) by a known amount; and

1542 (ii) with use.

1543 (90) "Prepaid wireless calling service" means a telecommunications service:

1544 (a) that provides the right to utilize:

1545 (i) mobile wireless service; and

1546 (ii) other service that is not a telecommunications service, including:

- 1547 (A) the download of a product transferred electronically;
- 1548 (B) a content service; or
- 1549 (C) an ancillary service;
- 1550 (b) that:
- 1551 (i) is paid for in advance; and
- 1552 (ii) enables the origination of a call using an:
 - 1553 (A) access number; or
 - 1554 (B) authorization code;
 - 1555 (c) that is dialed:
 - 1556 (i) manually; or
 - 1557 (ii) electronically; and
 - 1558 (d) sold in predetermined units or dollars that decline:
 - 1559 (i) by a known amount; and
 - 1560 (ii) with use.
- 1561 (91) (a) "Prepared food" means:
 - 1562 (i) food:
 - 1563 (A) sold in a heated state; or
 - 1564 (B) heated by a seller;
 - 1565 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
 - 1566 item; or
 - 1567 (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided
 - 1568 by the seller, including a:
 - 1569 (A) plate;
 - 1570 (B) knife;
 - 1571 (C) fork;
 - 1572 (D) spoon;
 - 1573 (E) glass;
 - 1574 (F) cup;
 - 1575 (G) napkin; or
 - 1576 (H) straw.
 - 1577 (b) "Prepared food" does not include:

- 1578 (i) food that a seller only:
- 1579 (A) cuts;
- 1580 (B) repackages; or
- 1581 (C) pasteurizes; or
- 1582 (ii) (A) the following:
- 1583 (I) raw egg;
- 1584 (II) raw fish;
- 1585 (III) raw meat;
- 1586 (IV) raw poultry; or
- 1587 (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);
- 1588 and
- 1589 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 1590 Food and Drug Administration's Food Code that a consumer cook the items described in
- 1591 Subsection (91)(b)(ii)(A) to prevent food borne illness; or
- 1592 (iii) the following if sold without eating utensils provided by the seller:
- 1593 (A) food and food ingredients sold by a seller if the seller's proper primary
- 1594 classification under the 2002 North American Industry Classification System of the federal
- 1595 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 1596 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 1597 Manufacturing;
- 1598 (B) food and food ingredients sold in an unheated state:
- 1599 (I) by weight or volume; and
- 1600 (II) as a single item; or
- 1601 (C) a bakery item, including:
- 1602 (I) a bagel;
- 1603 (II) a bar;
- 1604 (III) a biscuit;
- 1605 (IV) bread;
- 1606 (V) a bun;
- 1607 (VI) a cake;
- 1608 (VII) a cookie;

- 1609 (VIII) a croissant;
- 1610 (IX) a danish;
- 1611 (X) a donut;
- 1612 (XI) a muffin;
- 1613 (XII) a pastry;
- 1614 (XIII) a pie;
- 1615 (XIV) a roll;
- 1616 (XV) a tart;
- 1617 (XVI) a torte; or
- 1618 (XVII) a tortilla.
- 1619 (c) An eating utensil provided by the seller does not include the following used to
- 1620 transport the food:
 - 1621 (i) a container; or
 - 1622 (ii) packaging.
- 1623 (92) "Prescription" means an order, formula, or recipe that is issued:
 - 1624 (a) (i) orally;
 - 1625 (ii) in writing;
 - 1626 (iii) electronically; or
 - 1627 (iv) by any other manner of transmission; and
 - 1628 (b) by a licensed practitioner authorized by the laws of a state.
- 1629 (93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer
- 1630 software" means computer software that is not designed and developed:
 - 1631 (i) by the author or other creator of the computer software; and
 - 1632 (ii) to the specifications of a specific purchaser.
- 1633 (b) "Prewritten computer software" includes:
 - 1634 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
 - 1635 software is not designed and developed:
 - 1636 (A) by the author or other creator of the computer software; and
 - 1637 (B) to the specifications of a specific purchaser;
 - 1638 (ii) computer software designed and developed by the author or other creator of the
 - 1639 computer software to the specifications of a specific purchaser if the computer software is sold

1640 to a person other than the purchaser; or

1641 (iii) except as provided in Subsection (93)(c), prewritten computer software or a
1642 prewritten portion of prewritten computer software:

1643 (A) that is modified or enhanced to any degree; and

1644 (B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is
1645 designed and developed to the specifications of a specific purchaser.

1646 (c) "Prewritten computer software" does not include a modification or enhancement
1647 described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:

1648 (i) reasonable; and

1649 (ii) subject to Subsections 59-12-103(2)~~(e)~~(f)(ii) and (2)~~(f)~~(g)(i), separately stated
1650 on the invoice or other statement of price provided to the purchaser at the time of sale or later,
1651 as demonstrated by:

1652 (A) the books and records the seller keeps at the time of the transaction in the regular
1653 course of business, including books and records the seller keeps at the time of the transaction in
1654 the regular course of business for nontax purposes;

1655 (B) a preponderance of the facts and circumstances at the time of the transaction; and

1656 (C) the understanding of all of the parties to the transaction.

1657 (94) (a) "Private communications service" means a telecommunications service:

1658 (i) that entitles a customer to exclusive or priority use of one or more communications
1659 channels between or among termination points; and

1660 (ii) regardless of the manner in which the one or more communications channels are
1661 connected.

1662 (b) "Private communications service" includes the following provided in connection
1663 with the use of one or more communications channels:

1664 (i) an extension line;

1665 (ii) a station;

1666 (iii) switching capacity; or

1667 (iv) another associated service that is provided in connection with the use of one or
1668 more communications channels as defined in Section 59-12-215.

1669 (95) (a) Except as provided in Subsection (95)(b), "product transferred electronically"
1670 means a product transferred electronically that would be subject to a tax under this chapter if

1671 that product was transferred in a manner other than electronically.

1672 (b) "Product transferred electronically" does not include:

1673 (i) an ancillary service;

1674 (ii) computer software; or

1675 (iii) a telecommunications service.

1676 (96) (a) "Prosthetic device" means a device that is worn on or in the body to:

1677 (i) artificially replace a missing portion of the body;

1678 (ii) prevent or correct a physical deformity or physical malfunction; or

1679 (iii) support a weak or deformed portion of the body.

1680 (b) "Prosthetic device" includes:

1681 (i) parts used in the repairs or renovation of a prosthetic device;

1682 (ii) replacement parts for a prosthetic device;

1683 (iii) a dental prosthesis; or

1684 (iv) a hearing aid.

1685 (c) "Prosthetic device" does not include:

1686 (i) corrective eyeglasses; or

1687 (ii) contact lenses.

1688 (97) (a) "Protective equipment" means an item:

1689 (i) for human wear; and

1690 (ii) that is:

1691 (A) designed as protection:

1692 (I) to the wearer against injury or disease; or

1693 (II) against damage or injury of other persons or property; and

1694 (B) not suitable for general use.

1695 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1696 commission shall make rules:

1697 (i) listing the items that constitute "protective equipment"; and

1698 (ii) that are consistent with the list of items that constitute "protective equipment"

1699 under the agreement.

1700 (98) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
1701 printed matter, other than a photocopy:

- 1702 (i) regardless of:
- 1703 (A) characteristics;
- 1704 (B) copyright;
- 1705 (C) form;
- 1706 (D) format;
- 1707 (E) method of reproduction; or
- 1708 (F) source; and
- 1709 (ii) made available in printed or electronic format.
- 1710 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1711 commission may by rule define the term "photocopy."
- 1712 (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 1713 (i) valued in money; and
- 1714 (ii) for which tangible personal property, a product transferred electronically, or
- 1715 services are:
- 1716 (A) sold;
- 1717 (B) leased; or
- 1718 (C) rented.
- 1719 (b) "Purchase price" and "sales price" include:
- 1720 (i) the seller's cost of the tangible personal property, a product transferred
- 1721 electronically, or services sold;
- 1722 (ii) expenses of the seller, including:
- 1723 (A) the cost of materials used;
- 1724 (B) a labor cost;
- 1725 (C) a service cost;
- 1726 (D) interest;
- 1727 (E) a loss;
- 1728 (F) the cost of transportation to the seller; or
- 1729 (G) a tax imposed on the seller;
- 1730 (iii) a charge by the seller for any service necessary to complete the sale; or
- 1731 (iv) consideration a seller receives from a person other than the purchaser if:
- 1732 (A) (I) the seller actually receives consideration from a person other than the purchaser;

1733 and

1734 (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a
1735 price reduction or discount on the sale;

1736 (B) the seller has an obligation to pass the price reduction or discount through to the
1737 purchaser;

1738 (C) the amount of the consideration attributable to the sale is fixed and determinable by
1739 the seller at the time of the sale to the purchaser; and

1740 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
1741 seller to claim a price reduction or discount; and

1742 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
1743 coupon, or other documentation with the understanding that the person other than the seller
1744 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1745 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1746 organization allowed a price reduction or discount, except that a preferred customer card that is
1747 available to any patron of a seller does not constitute membership in a group or organization
1748 allowed a price reduction or discount; or

1749 (III) the price reduction or discount is identified as a third party price reduction or
1750 discount on the:

1751 (Aa) invoice the purchaser receives; or

1752 (Bb) certificate, coupon, or other documentation the purchaser presents.

1753 (c) "Purchase price" and "sales price" do not include:

1754 (i) a discount:

1755 (A) in a form including:

1756 (I) cash;

1757 (II) term; or

1758 (III) coupon;

1759 (B) that is allowed by a seller;

1760 (C) taken by a purchaser on a sale; and

1761 (D) that is not reimbursed by a third party; or

1762 (ii) subject to Subsections 59-12-103(2)~~(f)~~(f)(ii) and (2)~~(f)~~(g)(i), the following if
1763 separately stated on an invoice, bill of sale, or similar document provided to the purchaser at

1764 the time of sale or later, as demonstrated by the books and records the seller keeps at the time
1765 of the transaction in the regular course of business, including books and records the seller
1766 keeps at the time of the transaction in the regular course of business for nontax purposes, by a
1767 preponderance of the facts and circumstances at the time of the transaction, and by the
1768 understanding of all of the parties to the transaction:

1769 (A) the following from credit extended on the sale of tangible personal property or
1770 services:

1771 (I) a carrying charge;

1772 (II) a financing charge; or

1773 (III) an interest charge;

1774 (B) a delivery charge;

1775 (C) an installation charge;

1776 (D) a manufacturer rebate on a motor vehicle; or

1777 (E) a tax or fee legally imposed directly on the consumer.

1778 (100) "Purchaser" means a person to whom:

1779 (a) a sale of tangible personal property is made;

1780 (b) a product is transferred electronically; or

1781 (c) a service is furnished.

1782 (101) "Qualifying enterprise data center" means an establishment that will:

1783 (a) own and operate a data center facility that will house a group of networked server
1784 computers in one physical location in order to centralize the dissemination, management, and
1785 storage of data and information;

1786 (b) be located in the state;

1787 (c) be a new operation constructed on or after July 1, 2016;

1788 (d) consist of one or more buildings that total 150,000 or more square feet;

1789 (e) be owned or leased by:

1790 (i) the establishment; or

1791 (ii) a person under common ownership, as defined in Section 59-7-101, of the
1792 establishment; and

1793 (f) be located on one or more parcels of land that are owned or leased by:

1794 (i) the establishment; or

1795 (ii) a person under common ownership, as defined in Section 59-7-101, of the
1796 establishment.

1797 (102) "Regularly rented" means:

1798 (a) rented to a guest for value three or more times during a calendar year; or

1799 (b) advertised or held out to the public as a place that is regularly rented to guests for
1800 value.

1801 (103) "Rental" means the same as that term is defined in Subsection (59).

1802 (104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible
1803 personal property" means:

1804 (i) a repair or renovation of tangible personal property that is not permanently attached
1805 to real property; or

1806 (ii) attaching tangible personal property or a product transferred electronically to other
1807 tangible personal property or detaching tangible personal property or a product transferred
1808 electronically from other tangible personal property if:

1809 (A) the other tangible personal property to which the tangible personal property or
1810 product transferred electronically is attached or from which the tangible personal property or
1811 product transferred electronically is detached is not permanently attached to real property; and

1812 (B) the attachment of tangible personal property or a product transferred electronically
1813 to other tangible personal property or detachment of tangible personal property or a product
1814 transferred electronically from other tangible personal property is made in conjunction with a
1815 repair or replacement of tangible personal property or a product transferred electronically.

1816 (b) "Repairs or renovations of tangible personal property" does not include:

1817 (i) attaching prewritten computer software to other tangible personal property if the
1818 other tangible personal property to which the prewritten computer software is attached is not
1819 permanently attached to real property; or

1820 (ii) detaching prewritten computer software from other tangible personal property if the
1821 other tangible personal property from which the prewritten computer software is detached is
1822 not permanently attached to real property.

1823 (105) "Research and development" means the process of inquiry or experimentation
1824 aimed at the discovery of facts, devices, technologies, or applications and the process of
1825 preparing those devices, technologies, or applications for marketing.

1826 (106) (a) "Residential telecommunications services" means a telecommunications
1827 service or an ancillary service that is provided to an individual for personal use:

1828 (i) at a residential address; or

1829 (ii) at an institution, including a nursing home or a school, if the telecommunications
1830 service or ancillary service is provided to and paid for by the individual residing at the
1831 institution rather than the institution.

1832 (b) For purposes of Subsection (106)(a)(i), a residential address includes an:

1833 (i) apartment; or

1834 (ii) other individual dwelling unit.

1835 (107) "Residential use" means the use in or around a home, apartment building,
1836 sleeping quarters, and similar facilities or accommodations.

1837 (108) (a) "Retailer" means any person engaged in a regularly organized business in
1838 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
1839 who is selling to the user or consumer and not for resale.

1840 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1841 engaged in the business of selling to users or consumers within the state.

1842 (109) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
1843 than:

1844 (a) resale;

1845 (b) sublease; or

1846 (c) subrent.

1847 (110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1848 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1849 Subsection 59-12-103(1), for consideration.

1850 (b) "Sale" includes:

1851 (i) installment and credit sales;

1852 (ii) any closed transaction constituting a sale;

1853 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1854 chapter;

1855 (iv) any transaction if the possession of property is transferred but the seller retains the
1856 title as security for the payment of the price; and

1857 (v) any transaction under which right to possession, operation, or use of any article of
1858 tangible personal property is granted under a lease or contract and the transfer of possession
1859 would be taxable if an outright sale were made.

1860 (111) "Sale at retail" means the same as that term is defined in Subsection (109).

1861 (112) "Sale-leaseback transaction" means a transaction by which title to tangible
1862 personal property or a product transferred electronically that is subject to a tax under this
1863 chapter is transferred:

1864 (a) by a purchaser-lessee;

1865 (b) to a lessor;

1866 (c) for consideration; and

1867 (d) if:

1868 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1869 of the tangible personal property or product transferred electronically;

1870 (ii) the sale of the tangible personal property or product transferred electronically to the
1871 lessor is intended as a form of financing:

1872 (A) for the tangible personal property or product transferred electronically; and

1873 (B) to the purchaser-lessee; and

1874 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1875 is required to:

1876 (A) capitalize the tangible personal property or product transferred electronically for
1877 financial reporting purposes; and

1878 (B) account for the lease payments as payments made under a financing arrangement.

1879 (113) "Sales price" means the same as that term is defined in Subsection (99).

1880 (114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
1881 amounts charged by a school:

1882 (i) sales that are directly related to the school's educational functions or activities
1883 including:

1884 (A) the sale of:

1885 (I) textbooks;

1886 (II) textbook fees;

1887 (III) laboratory fees;

- 1888 (IV) laboratory supplies; or
- 1889 (V) safety equipment;
- 1890 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 1891 that:
- 1892 (I) a student is specifically required to wear as a condition of participation in a
- 1893 school-related event or school-related activity; and
- 1894 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 1895 place of ordinary clothing;
- 1896 (C) sales of the following if the net or gross revenues generated by the sales are
- 1897 deposited into a school district fund or school fund dedicated to school meals:
- 1898 (I) food and food ingredients; or
- 1899 (II) prepared food; or
- 1900 (D) transportation charges for official school activities; or
- 1901 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 1902 event or school-related activity.
- 1903 (b) "Sales relating to schools" does not include:
- 1904 (i) bookstore sales of items that are not educational materials or supplies;
- 1905 (ii) except as provided in Subsection (114)(a)(i)(B):
- 1906 (A) clothing;
- 1907 (B) clothing accessories or equipment;
- 1908 (C) protective equipment; or
- 1909 (D) sports or recreational equipment; or
- 1910 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1911 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1912 (A) other than a:
- 1913 (I) school;
- 1914 (II) nonprofit organization authorized by a school board or a governing body of a
- 1915 private school to organize and direct a competitive secondary school activity; or
- 1916 (III) nonprofit association authorized by a school board or a governing body of a
- 1917 private school to organize and direct a competitive secondary school activity; and
- 1918 (B) that is required to collect sales and use taxes under this chapter.

1919 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1920 commission may make rules defining the term "passed through."

1921 (115) For purposes of this section and Section 59-12-104, "school":

1922 (a) means:

1923 (i) an elementary school or a secondary school that:

1924 (A) is a:

1925 (I) public school; or

1926 (II) private school; and

1927 (B) provides instruction for one or more grades kindergarten through 12; or

1928 (ii) a public school district; and

1929 (b) includes the Electronic High School as defined in Section 53A-15-1002.

1930 (116) "Seller" means a person that makes a sale, lease, or rental of:

1931 (a) tangible personal property;

1932 (b) a product transferred electronically; or

1933 (c) a service.

1934 (117) (a) "Semiconductor fabricating, processing, research, or development materials"
1935 means tangible personal property or a product transferred electronically if the tangible personal
1936 property or product transferred electronically is:

1937 (i) used primarily in the process of:

1938 (A) (I) manufacturing a semiconductor;

1939 (II) fabricating a semiconductor; or

1940 (III) research or development of a:

1941 (Aa) semiconductor; or

1942 (Bb) semiconductor manufacturing process; or

1943 (B) maintaining an environment suitable for a semiconductor; or

1944 (ii) consumed primarily in the process of:

1945 (A) (I) manufacturing a semiconductor;

1946 (II) fabricating a semiconductor; or

1947 (III) research or development of a:

1948 (Aa) semiconductor; or

1949 (Bb) semiconductor manufacturing process; or

- 1950 (B) maintaining an environment suitable for a semiconductor.
- 1951 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1952 includes:
- 1953 (i) parts used in the repairs or renovations of tangible personal property or a product
- 1954 transferred electronically described in Subsection (117)(a); or
- 1955 (ii) a chemical, catalyst, or other material used to:
- 1956 (A) produce or induce in a semiconductor a:
- 1957 (I) chemical change; or
- 1958 (II) physical change;
- 1959 (B) remove impurities from a semiconductor; or
- 1960 (C) improve the marketable condition of a semiconductor.
- 1961 (118) "Senior citizen center" means a facility having the primary purpose of providing
- 1962 services to the aged as defined in Section [62A-3-101](#).
- 1963 (119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable"
- 1964 means tangible personal property that:
- 1965 (i) a business that provides accommodations and services described in Subsection
- 1966 [59-12-103](#)(1)(i) purchases as part of a transaction to provide the accommodations and services
- 1967 to a purchaser;
- 1968 (ii) is intended to be consumed by the purchaser; and
- 1969 (iii) is:
- 1970 (A) included in the purchase price of the accommodations and services; and
- 1971 (B) not separately stated on an invoice, bill of sale, or other similar document provided
- 1972 to the purchaser.
- 1973 (b) "Short-term lodging consumable" includes:
- 1974 (i) a beverage;
- 1975 (ii) a brush or comb;
- 1976 (iii) a cosmetic;
- 1977 (iv) a hair care product;
- 1978 (v) lotion;
- 1979 (vi) a magazine;
- 1980 (vii) makeup;

- 1981 (viii) a meal;
- 1982 (ix) mouthwash;
- 1983 (x) nail polish remover;
- 1984 (xi) a newspaper;
- 1985 (xii) a notepad;
- 1986 (xiii) a pen;
- 1987 (xiv) a pencil;
- 1988 (xv) a razor;
- 1989 (xvi) saline solution;
- 1990 (xvii) a sewing kit;
- 1991 (xviii) shaving cream;
- 1992 (xix) a shoe shine kit;
- 1993 (xx) a shower cap;
- 1994 (xxi) a snack item;
- 1995 (xxii) soap;
- 1996 (xxiii) toilet paper;
- 1997 (xxiv) a toothbrush;
- 1998 (xxv) toothpaste; or
- 1999 (xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may
- 2000 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 2001 Rulemaking Act.
- 2002 (c) "Short-term lodging consumable" does not include:
- 2003 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 2004 property to be reused; or
- 2005 (ii) a product transferred electronically.
- 2006 (120) "Simplified electronic return" means the electronic return:
- 2007 (a) described in Section 318(C) of the agreement; and
- 2008 (b) approved by the governing board of the agreement.
- 2009 (121) "Solar energy" means the sun used as the sole source of energy for producing
- 2010 electricity.
- 2011 (122) (a) "Sports or recreational equipment" means an item:

2012 (i) designed for human use; and
2013 (ii) that is:
2014 (A) worn in conjunction with:
2015 (I) an athletic activity; or
2016 (II) a recreational activity; and
2017 (B) not suitable for general use.
2018 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2019 commission shall make rules:
2020 (i) listing the items that constitute "sports or recreational equipment"; and
2021 (ii) that are consistent with the list of items that constitute "sports or recreational
2022 equipment" under the agreement.
2023 (123) "State" means the state of Utah, its departments, and agencies.
2024 (124) "Storage" means any keeping or retention of tangible personal property or any
2025 other taxable transaction under Subsection [59-12-103\(1\)](#), in this state for any purpose except
2026 sale in the regular course of business.
2027 (125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property"
2028 means personal property that:
2029 (i) may be:
2030 (A) seen;
2031 (B) weighed;
2032 (C) measured;
2033 (D) felt; or
2034 (E) touched; or
2035 (ii) is in any manner perceptible to the senses.
2036 (b) "Tangible personal property" includes:
2037 (i) electricity;
2038 (ii) water;
2039 (iii) gas;
2040 (iv) steam; or
2041 (v) prewritten computer software, regardless of the manner in which the prewritten
2042 computer software is transferred.

2043 (c) "Tangible personal property" includes the following regardless of whether the item
2044 is attached to real property:

2045 (i) a dishwasher;

2046 (ii) a dryer;

2047 (iii) a freezer;

2048 (iv) a microwave;

2049 (v) a refrigerator;

2050 (vi) a stove;

2051 (vii) a washer; or

2052 (viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the
2053 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2054 Rulemaking Act.

2055 (d) "Tangible personal property" does not include a product that is transferred
2056 electronically.

2057 (e) "Tangible personal property" does not include the following if attached to real
2058 property, regardless of whether the attachment to real property is only through a line that
2059 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
2060 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2061 Rulemaking Act:

2062 (i) a hot water heater;

2063 (ii) a water filtration system; or

2064 (iii) a water softener system.

2065 (126) (a) "Telecommunications enabling or facilitating equipment, machinery, or
2066 software" means an item listed in Subsection (126)(b) if that item is purchased or leased
2067 primarily to enable or facilitate one or more of the following to function:

2068 (i) telecommunications switching or routing equipment, machinery, or software; or

2069 (ii) telecommunications transmission equipment, machinery, or software.

2070 (b) The following apply to Subsection (126)(a):

2071 (i) a pole;

2072 (ii) software;

2073 (iii) a supplementary power supply;

2074 (iv) temperature or environmental equipment or machinery;
2075 (v) test equipment;
2076 (vi) a tower; or
2077 (vii) equipment, machinery, or software that functions similarly to an item listed in
2078 Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in
2079 accordance with Subsection (126)(c).

2080 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2081 commission may by rule define what constitutes equipment, machinery, or software that
2082 functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

2083 (127) "Telecommunications equipment, machinery, or software required for 911
2084 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
2085 Sec. 20.18.

2086 (128) "Telecommunications maintenance or repair equipment, machinery, or software"
2087 means equipment, machinery, or software purchased or leased primarily to maintain or repair
2088 one or more of the following, regardless of whether the equipment, machinery, or software is
2089 purchased or leased as a spare part or as an upgrade or modification to one or more of the
2090 following:

- 2091 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 2092 (b) telecommunications switching or routing equipment, machinery, or software; or
- 2093 (c) telecommunications transmission equipment, machinery, or software.

2094 (129) (a) "Telecommunications service" means the electronic conveyance, routing, or
2095 transmission of audio, data, video, voice, or any other information or signal to a point, or
2096 among or between points.

2097 (b) "Telecommunications service" includes:

2098 (i) an electronic conveyance, routing, or transmission with respect to which a computer
2099 processing application is used to act:

- 2100 (A) on the code, form, or protocol of the content;
- 2101 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 2102 (C) regardless of whether the service:
 - 2103 (I) is referred to as voice over Internet protocol service; or
 - 2104 (II) is classified by the Federal Communications Commission as enhanced or value

- 2105 added;
- 2106 (ii) an 800 service;
- 2107 (iii) a 900 service;
- 2108 (iv) a fixed wireless service;
- 2109 (v) a mobile wireless service;
- 2110 (vi) a postpaid calling service;
- 2111 (vii) a prepaid calling service;
- 2112 (viii) a prepaid wireless calling service; or
- 2113 (ix) a private communications service.
- 2114 (c) "Telecommunications service" does not include:
- 2115 (i) advertising, including directory advertising;
- 2116 (ii) an ancillary service;
- 2117 (iii) a billing and collection service provided to a third party;
- 2118 (iv) a data processing and information service if:
- 2119 (A) the data processing and information service allows data to be:
- 2120 (I) (Aa) acquired;
- 2121 (Bb) generated;
- 2122 (Cc) processed;
- 2123 (Dd) retrieved; or
- 2124 (Ee) stored; and
- 2125 (II) delivered by an electronic transmission to a purchaser; and
- 2126 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 2127 or information;
- 2128 (v) installation or maintenance of the following on a customer's premises:
- 2129 (A) equipment; or
- 2130 (B) wiring;
- 2131 (vi) Internet access service;
- 2132 (vii) a paging service;
- 2133 (viii) a product transferred electronically, including:
- 2134 (A) music;
- 2135 (B) reading material;

- 2136 (C) a ring tone;
- 2137 (D) software; or
- 2138 (E) video;
- 2139 (ix) a radio and television audio and video programming service:
- 2140 (A) regardless of the medium; and
- 2141 (B) including:
 - 2142 (I) furnishing conveyance, routing, or transmission of a television audio and video
 - 2143 programming service by a programming service provider;
 - 2144 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
 - 2145 (III) audio and video programming services delivered by a commercial mobile radio
 - 2146 service provider as defined in 47 C.F.R. Sec. 20.3;
 - 2147 (x) a value-added nonvoice data service; or
 - 2148 (xi) tangible personal property.
- 2149 (130) (a) "Telecommunications service provider" means a person that:
 - 2150 (i) owns, controls, operates, or manages a telecommunications service; and
 - 2151 (ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or
 - 2152 resale to any person of the telecommunications service.
- 2153 (b) A person described in Subsection (130)(a) is a telecommunications service provider
- 2154 whether or not the Public Service Commission of Utah regulates:
 - 2155 (i) that person; or
 - 2156 (ii) the telecommunications service that the person owns, controls, operates, or
 - 2157 manages.
- 2158 (131) (a) "Telecommunications switching or routing equipment, machinery, or
- 2159 software" means an item listed in Subsection (131)(b) if that item is purchased or leased
- 2160 primarily for switching or routing:
 - 2161 (i) an ancillary service;
 - 2162 (ii) data communications;
 - 2163 (iii) voice communications; or
 - 2164 (iv) telecommunications service.
- 2165 (b) The following apply to Subsection (131)(a):
 - 2166 (i) a bridge;

- 2167 (ii) a computer;
- 2168 (iii) a cross connect;
- 2169 (iv) a modem;
- 2170 (v) a multiplexer;
- 2171 (vi) plug in circuitry;
- 2172 (vii) a router;
- 2173 (viii) software;
- 2174 (ix) a switch; or
- 2175 (x) equipment, machinery, or software that functions similarly to an item listed in
- 2176 Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in
- 2177 accordance with Subsection (131)(c).

2178 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2179 commission may by rule define what constitutes equipment, machinery, or software that

2180 functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

2181 (132) (a) "Telecommunications transmission equipment, machinery, or software"

2182 means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for

2183 sending, receiving, or transporting:

- 2184 (i) an ancillary service;
 - 2185 (ii) data communications;
 - 2186 (iii) voice communications; or
 - 2187 (iv) telecommunications service.
- 2188 (b) The following apply to Subsection (132)(a):
- 2189 (i) an amplifier;
 - 2190 (ii) a cable;
 - 2191 (iii) a closure;
 - 2192 (iv) a conduit;
 - 2193 (v) a controller;
 - 2194 (vi) a duplexer;
 - 2195 (vii) a filter;
 - 2196 (viii) an input device;
 - 2197 (ix) an input/output device;

- 2198 (x) an insulator;
- 2199 (xi) microwave machinery or equipment;
- 2200 (xii) an oscillator;
- 2201 (xiii) an output device;
- 2202 (xiv) a pedestal;
- 2203 (xv) a power converter;
- 2204 (xvi) a power supply;
- 2205 (xvii) a radio channel;
- 2206 (xviii) a radio receiver;
- 2207 (xix) a radio transmitter;
- 2208 (xx) a repeater;
- 2209 (xxi) software;
- 2210 (xxii) a terminal;
- 2211 (xxiii) a timing unit;
- 2212 (xxiv) a transformer;
- 2213 (xxv) a wire; or
- 2214 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 2215 Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in
- 2216 accordance with Subsection (132)(c).
- 2217 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2218 commission may by rule define what constitutes equipment, machinery, or software that
- 2219 functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).
- 2220 (133) (a) "Textbook for a higher education course" means a textbook or other printed
- 2221 material that is required for a course:
- 2222 (i) offered by an institution of higher education; and
- 2223 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 2224 (b) "Textbook for a higher education course" includes a textbook in electronic format.
- 2225 (134) "Tobacco" means:
- 2226 (a) a cigarette;
- 2227 (b) a cigar;
- 2228 (c) chewing tobacco;

2229 (d) pipe tobacco; or

2230 (e) any other item that contains tobacco.

2231 (135) "Unassisted amusement device" means an amusement device, skill device, or
2232 ride device that is started and stopped by the purchaser or renter of the right to use or operate
2233 the amusement device, skill device, or ride device.

2234 (136) (a) "Use" means the exercise of any right or power over tangible personal
2235 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
2236 incident to the ownership or the leasing of that tangible personal property, product transferred
2237 electronically, or service.

2238 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
2239 property, a product transferred electronically, or a service in the regular course of business and
2240 held for resale.

2241 (137) "Value-added nonvoice data service" means a service:

2242 (a) that otherwise meets the definition of a telecommunications service except that a
2243 computer processing application is used to act primarily for a purpose other than conveyance,
2244 routing, or transmission; and

2245 (b) with respect to which a computer processing application is used to act on data or
2246 information:

2247 (i) code;

2248 (ii) content;

2249 (iii) form; or

2250 (iv) protocol.

2251 (138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are
2252 required to be titled, registered, or titled and registered:

2253 (i) an aircraft as defined in Section 72-10-102;

2254 (ii) a vehicle as defined in Section 41-1a-102;

2255 (iii) an off-highway vehicle as defined in Section 41-22-2; or

2256 (iv) a vessel as defined in Section 41-1a-102.

2257 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

2258 (i) a vehicle described in Subsection (138)(a); or

2259 (ii) (A) a locomotive;

- 2260 (B) a freight car;
- 2261 (C) railroad work equipment; or
- 2262 (D) other railroad rolling stock.
- 2263 (139) "Vehicle dealer" means a person engaged in the business of buying, selling, or
- 2264 exchanging a vehicle as defined in Subsection (138).
- 2265 (140) (a) "Vertical service" means an ancillary service that:
- 2266 (i) is offered in connection with one or more telecommunications services; and
- 2267 (ii) offers an advanced calling feature that allows a customer to:
- 2268 (A) identify a caller; and
- 2269 (B) manage multiple calls and call connections.
- 2270 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 2271 conference bridging service.
- 2272 (141) (a) "Voice mail service" means an ancillary service that enables a customer to
- 2273 receive, send, or store a recorded message.
- 2274 (b) "Voice mail service" does not include a vertical service that a customer is required
- 2275 to have in order to utilize a voice mail service.
- 2276 (142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a
- 2277 facility that generates electricity:
- 2278 (i) using as the primary source of energy waste materials that would be placed in a
- 2279 landfill or refuse pit if it were not used to generate electricity, including:
- 2280 (A) tires;
- 2281 (B) waste coal;
- 2282 (C) oil shale; or
- 2283 (D) municipal solid waste; and
- 2284 (ii) in amounts greater than actually required for the operation of the facility.
- 2285 (b) "Waste energy facility" does not include a facility that incinerates:
- 2286 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 2287 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 2288 (143) "Watercraft" means a vessel as defined in Section [73-18-2](#).
- 2289 (144) "Wind energy" means wind used as the sole source of energy to produce
- 2290 electricity.

2291 (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
2292 location by the United States Postal Service.

2293 Section 13. Section **59-12-103** is amended to read:

2294 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
2295 **tax revenues.**

2296 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
2297 sales price for amounts paid or charged for the following transactions:

2298 (a) retail sales of tangible personal property made within the state;

2299 (b) amounts paid for:

2300 (i) telecommunications service, other than mobile telecommunications service, that
2301 originates and terminates within the boundaries of this state;

2302 (ii) mobile telecommunications service that originates and terminates within the
2303 boundaries of one state only to the extent permitted by the Mobile Telecommunications
2304 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

2305 (iii) an ancillary service associated with a:

2306 (A) telecommunications service described in Subsection (1)(b)(i); or

2307 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

2308 (c) sales of the following for commercial use:

2309 (i) gas;

2310 (ii) electricity;

2311 (iii) heat;

2312 (iv) coal;

2313 (v) fuel oil; or

2314 (vi) other fuels;

2315 (d) sales of the following for residential use:

2316 (i) gas;

2317 (ii) electricity;

2318 (iii) heat;

2319 (iv) coal;

2320 (v) fuel oil; or

2321 (vi) other fuels;

- 2322 (e) sales of prepared food;
- 2323 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 2324 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 2325 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 2326 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 2327 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 2328 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 2329 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 2330 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 2331 exhibition, cultural, or athletic activity;
- 2332 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 2333 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 2334 (i) the tangible personal property; and
- 2335 (ii) parts used in the repairs or renovations of the tangible personal property described
- 2336 in Subsection (1)(g)(i), regardless of whether:
- 2337 (A) any parts are actually used in the repairs or renovations of that tangible personal
- 2338 property; or
- 2339 (B) the particular parts used in the repairs or renovations of that tangible personal
- 2340 property are exempt from a tax under this chapter;
- 2341 (h) except as provided in ~~[Subsection]~~ Subsections 59-12-104(7) and (88), amounts
- 2342 paid or charged for assisted cleaning or washing of tangible personal property;
- 2343 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 2344 accommodations and services that are regularly rented for less than 30 consecutive days;
- 2345 (j) amounts paid or charged for laundry or dry cleaning services;
- 2346 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 2347 this state the tangible personal property is:
- 2348 (i) stored;
- 2349 (ii) used; or
- 2350 (iii) otherwise consumed;
- 2351 (l) amounts paid or charged for tangible personal property if within this state the
- 2352 tangible personal property is:

- 2353 (i) stored;
- 2354 (ii) used; or
- 2355 (iii) consumed; and
- 2356 (m) amounts paid or charged for a sale:
- 2357 (i) (A) of a product transferred electronically; or
- 2358 (B) of a repair or renovation of a product transferred electronically; and
- 2359 (ii) regardless of whether the sale provides:
- 2360 (A) a right of permanent use of the product; or
- 2361 (B) a right to use the product that is less than a permanent use, including a right:
- 2362 (I) for a definite or specified length of time; and
- 2363 (II) that terminates upon the occurrence of a condition.
- 2364 (2) (a) Except as provided in Subsections (2)(b) through ~~(e)~~ (f), a state tax and a local
- 2365 tax is imposed on a transaction described in Subsection (1) equal to the sum of:
- 2366 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
- 2367 (A) 4.70%; and
- 2368 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
- 2369 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
- 2370 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
- 2371 State Sales and Use Tax Act; and
- 2372 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
- 2373 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
- 2374 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
- 2375 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
- 2376 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
- 2377 transaction under this chapter other than this part.
- 2378 (b) Except as provided in Subsection (2)~~(d) or~~(e) or (f), a state tax and a local tax is
- 2379 imposed on a transaction described in Subsection (1)(d) equal to the sum of:
- 2380 (i) a state tax imposed on the transaction at a tax rate of ~~2%~~ 0%; and
- 2381 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
- 2382 transaction under this chapter other than this part.
- 2383 (c) Except as provided in Subsection (2)~~(d) or~~(e) or (f), a state tax and a local tax is

2384 imposed on amounts paid or charged for food and food ingredients equal to the sum of:

2385 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
2386 a tax rate of [~~1.75%~~] 0%; and

2387 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2388 amounts paid or charged for food and food ingredients under this chapter other than this part.

2389 (d) Except as provided in Subsection (2)(e) or (f), a state tax and a local tax are
2390 imposed on a transaction described in Subsection (1)(c) equal to the sum of:

2391 (i) a state tax imposed on the transaction at a tax rate of 0%; and

2392 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2393 transaction under this chapter other than this part.

2394 [~~(d)~~] (e) (i) For a bundled transaction that is attributable to food and food ingredients
2395 and tangible personal property other than food and food ingredients, a state tax and a local tax
2396 is imposed on the entire bundled transaction equal to the sum of:

2397 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

2398 (I) the tax rate described in Subsection (2)(a)(i)(A); and

2399 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
2400 Sales and Use Tax Act, if the location of the transaction as determined under Sections
2401 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
2402 Additional State Sales and Use Tax Act; and

2403 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
2404 Sales and Use Tax Act, if the location of the transaction as determined under Sections
2405 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
2406 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2407 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
2408 described in Subsection (2)(a)(ii).

2409 (ii) If an optional computer software maintenance contract is a bundled transaction that
2410 consists of taxable and nontaxable products that are not separately itemized on an invoice or
2411 similar billing document, the purchase of the optional computer software maintenance contract
2412 is 40% taxable under this chapter and 60% nontaxable under this chapter.

2413 (iii) Subject to Subsection (2)[~~(d)~~](e)(iv), for a bundled transaction other than a
2414 bundled transaction described in Subsection (2)[~~(d)~~](e)(i) or (ii):

2415 (A) if the sales price of the bundled transaction is attributable to tangible personal
2416 property, a product, or a service that is subject to taxation under this chapter and tangible
2417 personal property, a product, or service that is not subject to taxation under this chapter, the
2418 entire bundled transaction is subject to taxation under this chapter unless:

2419 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2420 personal property, product, or service that is not subject to taxation under this chapter from the
2421 books and records the seller keeps in the seller's regular course of business; or

2422 (II) state or federal law provides otherwise; or

2423 (B) if the sales price of a bundled transaction is attributable to two or more items of
2424 tangible personal property, products, or services that are subject to taxation under this chapter
2425 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
2426 higher tax rate unless:

2427 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2428 personal property, product, or service that is subject to taxation under this chapter at the lower
2429 tax rate from the books and records the seller keeps in the seller's regular course of business; or

2430 (II) state or federal law provides otherwise.

2431 (iv) For purposes of Subsection (2)~~(d)~~(e)(iii), books and records that a seller keeps in
2432 the seller's regular course of business includes books and records the seller keeps in the regular
2433 course of business for nontax purposes.

2434 ~~(e)~~ (f) (i) Except as otherwise provided in this chapter and subject to Subsections
2435 (2)~~(e)~~(f)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal
2436 property, a product, or a service that is subject to taxation under this chapter, and the sale,
2437 lease, or rental of tangible personal property, other property, a product, or a service that is not
2438 subject to taxation under this chapter, the entire transaction is subject to taxation under this
2439 chapter unless the seller, at the time of the transaction:

2440 (A) separately states the portion of the transaction that is not subject to taxation under
2441 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

2442 (B) is able to identify by reasonable and verifiable standards, from the books and
2443 records the seller keeps in the seller's regular course of business, the portion of the transaction
2444 that is not subject to taxation under this chapter.

2445 (ii) A purchaser and a seller may correct the taxability of a transaction if:

2446 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
2447 the transaction that is not subject to taxation under this chapter was not separately stated on an
2448 invoice, bill of sale, or similar document provided to the purchaser because of an error or
2449 ignorance of the law; and

2450 (B) the seller is able to identify by reasonable and verifiable standards, from the books
2451 and records the seller keeps in the seller's regular course of business, the portion of the
2452 transaction that is not subject to taxation under this chapter.

2453 (iii) For purposes of Subsections (2)~~(f)~~(f)(i) and (ii), books and records that a seller
2454 keeps in the seller's regular course of business includes books and records the seller keeps in
2455 the regular course of business for nontax purposes.

2456 ~~(f)~~ (g) (i) If the sales price of a transaction is attributable to two or more items of
2457 tangible personal property, products, or services that are subject to taxation under this chapter
2458 at different rates, the entire purchase is subject to taxation under this chapter at the higher tax
2459 rate unless the seller, at the time of the transaction:

2460 (A) separately states the items subject to taxation under this chapter at each of the
2461 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

2462 (B) is able to identify by reasonable and verifiable standards the tangible personal
2463 property, product, or service that is subject to taxation under this chapter at the lower tax rate
2464 from the books and records the seller keeps in the seller's regular course of business.

2465 (ii) For purposes of Subsection (2)~~(f)~~(g)(i), books and records that a seller keeps in
2466 the seller's regular course of business includes books and records the seller keeps in the regular
2467 course of business for nontax purposes.

2468 ~~(g)~~ (h) Subject to Subsections (2)~~(h)~~ and (i) and (j), a tax rate repeal or tax rate
2469 change for a tax rate imposed under the following shall take effect on the first day of a calendar
2470 quarter:

2471 (i) Subsection (2)(a)(i)(A);

2472 (ii) Subsection (2)(b)(i);

2473 (iii) Subsection (2)(c)(i); or

2474 (iv) Subsection (2)~~(f)~~(e)(i)(A)(I).

2475 ~~(h)~~ (i) (i) A tax rate increase takes effect on the first day of the first billing period that
2476 begins on or after the effective date of the tax rate increase if the billing period for the

- 2477 transaction begins before the effective date of a tax rate increase imposed under:
- 2478 (A) Subsection (2)(a)(i)(A);
- 2479 (B) Subsection (2)(b)(i);
- 2480 (C) Subsection (2)(c)(i); or
- 2481 (D) Subsection (2)[~~(d)~~](e)(i)(A)(I).
- 2482 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
- 2483 statement for the billing period is rendered on or after the effective date of the repeal of the tax
- 2484 or the tax rate decrease imposed under:
- 2485 (A) Subsection (2)(a)(i)(A);
- 2486 (B) Subsection (2)(b)(i);
- 2487 (C) Subsection (2)(c)(i); or
- 2488 (D) Subsection (2)[~~(d)~~](e)(i)(A)(I).
- 2489 [~~(f)~~] (j) (i) For a tax rate described in Subsection (2)[~~(f)~~](j)(ii), if a tax due on a
- 2490 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a
- 2491 tax rate repeal or change in a tax rate takes effect:
- 2492 (A) on the first day of a calendar quarter; and
- 2493 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 2494 (ii) Subsection (2)[~~(f)~~](j)(i) applies to the tax rates described in the following:
- 2495 (A) Subsection (2)(a)(i)(A);
- 2496 (B) Subsection (2)(b)(i);
- 2497 (C) Subsection (2)(c)(i); or
- 2498 (D) Subsection (2)[~~(d)~~](e)(i)(A)(I).
- 2499 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 2500 the commission may by rule define the term "catalogue sale."
- 2501 (3) (a) The following state taxes shall be deposited into the General Fund:
- 2502 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 2503 (ii) the tax imposed by Subsection (2)(b)(i);
- 2504 (iii) the tax imposed by Subsection (2)(c)(i); or
- 2505 (iv) the tax imposed by Subsection (2)[~~(d)~~](e)(i)(A)(I).
- 2506 (b) The following local taxes shall be distributed to a county, city, or town as provided
- 2507 in this chapter:

- 2508 (i) the tax imposed by Subsection (2)(a)(ii);
- 2509 (ii) the tax imposed by Subsection (2)(b)(ii);
- 2510 (iii) the tax imposed by Subsection (2)(c)(ii); and
- 2511 (iv) the tax imposed by Subsection (2)~~(d)~~(e)(i)(B).
- 2512 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
- 2513 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
- 2514 through (g):
 - 2515 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
 - 2516 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
 - 2517 (B) for the fiscal year; or
 - 2518 (ii) \$17,500,000.
 - 2519 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
 - 2520 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
 - 2521 Department of Natural Resources to:
 - 2522 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
 - 2523 protect sensitive plant and animal species; or
 - 2524 (B) award grants, up to the amount authorized by the Legislature in an appropriations
 - 2525 act, to political subdivisions of the state to implement the measures described in Subsections
 - 2526 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.
 - 2527 (ii) Money transferred to the Department of Natural Resources under Subsection
 - 2528 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
 - 2529 person to list or attempt to have listed a species as threatened or endangered under the
 - 2530 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.
 - 2531 (iii) At the end of each fiscal year:
 - 2532 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
 - 2533 Conservation and Development Fund created in Section 73-10-24;
 - 2534 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
 - 2535 Program Subaccount created in Section 73-10c-5; and
 - 2536 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
 - 2537 Program Subaccount created in Section 73-10c-5.
 - 2538 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in

2539 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
2540 created in Section 4-18-106.

2541 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
2542 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
2543 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
2544 water rights.

2545 (ii) At the end of each fiscal year:

2546 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2547 Conservation and Development Fund created in Section 73-10-24;

2548 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
2549 Program Subaccount created in Section 73-10c-5; and

2550 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
2551 Program Subaccount created in Section 73-10c-5.

2552 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
2553 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
2554 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

2555 (ii) In addition to the uses allowed of the Water Resources Conservation and
2556 Development Fund under Section 73-10-24, the Water Resources Conservation and
2557 Development Fund may also be used to:

2558 (A) conduct hydrologic and geotechnical investigations by the Division of Water
2559 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
2560 quantifying surface and ground water resources and describing the hydrologic systems of an
2561 area in sufficient detail so as to enable local and state resource managers to plan for and
2562 accommodate growth in water use without jeopardizing the resource;

2563 (B) fund state required dam safety improvements; and

2564 (C) protect the state's interest in interstate water compact allocations, including the
2565 hiring of technical and legal staff.

2566 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2567 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
2568 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

2569 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described

2570 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
2571 created in Section 73-10c-5 for use by the Division of Drinking Water to:

2572 (i) provide for the installation and repair of collection, treatment, storage, and
2573 distribution facilities for any public water system, as defined in Section 19-4-102;

2574 (ii) develop underground sources of water, including springs and wells; and

2575 (iii) develop surface water sources.

2576 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2577 2006, the difference between the following amounts shall be expended as provided in this
2578 Subsection (5), if that difference is greater than \$1:

2579 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
2580 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

2581 (ii) \$17,500,000.

2582 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

2583 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
2584 credits; and

2585 (B) expended by the Department of Natural Resources for watershed rehabilitation or
2586 restoration.

2587 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
2588 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
2589 created in Section 73-10-24.

2590 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
2591 remaining difference described in Subsection (5)(a) shall be:

2592 (A) transferred each fiscal year to the Division of Water Resources as dedicated
2593 credits; and

2594 (B) expended by the Division of Water Resources for cloud-seeding projects
2595 authorized by Title 73, Chapter 15, Modification of Weather.

2596 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
2597 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
2598 created in Section 73-10-24.

2599 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
2600 remaining difference described in Subsection (5)(a) shall be deposited into the Water

2601 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
2602 Division of Water Resources for:

2603 (i) preconstruction costs:

2604 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
2605 26, Bear River Development Act; and

2606 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
2607 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

2608 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
2609 Chapter 26, Bear River Development Act;

2610 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
2611 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

2612 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
2613 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

2614 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
2615 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be
2616 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
2617 incurred for employing additional technical staff for the administration of water rights.

2618 (f) At the end of each fiscal year, any unexpended dedicated credits described in
2619 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
2620 Fund created in Section 73-10-24.

2621 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
2622 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
2623 (1) for the fiscal year shall be deposited as follows:

2624 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)
2625 shall be deposited into the Transportation Investment Fund of 2005 created by Section
2626 72-2-124;

2627 (b) for fiscal year 2017-18 only:

2628 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the
2629 Transportation Investment Fund of 2005 created by Section 72-2-124; and

2630 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the
2631 Water Infrastructure Restricted Account created by Section 73-10g-103;

- 2632 (c) for fiscal year 2018-19 only:
- 2633 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the
- 2634 Transportation Investment Fund of 2005 created by Section 72-2-124; and
- 2635 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the
- 2636 Water Infrastructure Restricted Account created by Section 73-10g-103;
- 2637 (d) for fiscal year 2019-20 only:
- 2638 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the
- 2639 Transportation Investment Fund of 2005 created by Section 72-2-124; and
- 2640 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the
- 2641 Water Infrastructure Restricted Account created by Section 73-10g-103;
- 2642 (e) for fiscal year 2020-21 only:
- 2643 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
- 2644 Transportation Investment Fund of 2005 created by Section 72-2-124; and
- 2645 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
- 2646 Water Infrastructure Restricted Account created by Section 73-10g-103; and
- 2647 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
- 2648 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
- 2649 created by Section 73-10g-103.
- 2650 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
- 2651 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
- 2652 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
- 2653 created by Section 72-2-124:
- 2654 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
- 2655 the revenues collected from the following taxes, which represents a portion of the
- 2656 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
- 2657 on vehicles and vehicle-related products:
- 2658 (A) the tax imposed by Subsection (2)(a)(i)(A);
- 2659 (B) the tax imposed by Subsection (2)(b)(i);
- 2660 (C) the tax imposed by Subsection (2)(c)(i); and
- 2661 (D) the tax imposed by Subsection (2)(~~d~~)(e)(i)(A)(I); plus
- 2662 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the

2663 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
2664 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
2665 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

2666 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
2667 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total
2668 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
2669 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
2670 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
2671 (7)(a) equal to the product of:

2672 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
2673 previous fiscal year; and

2674 (B) the total sales and use tax revenue generated by the taxes described in Subsections
2675 (7)(a)(i)(A) through (D) in the current fiscal year.

2676 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
2677 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes
2678 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of
2679 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
2680 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

2681 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
2682 from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited
2683 under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues
2684 collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the
2685 current fiscal year under Subsection (7)(a).

2686 (8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited
2687 under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall
2688 deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into
2689 the Transportation Investment Fund of 2005 created by Section [72-2-124](#).

2690 (b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
2691 Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit
2692 \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the
2693 Transportation Investment Fund of 2005 created by Section [72-2-124](#).

2694 (c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under
2695 Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning on or
2696 after July 1, 2018, the commission shall annually deposit into the Transportation Investment
2697 Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a)
2698 in an amount equal to 3.68% of the revenues collected from the following taxes:

- 2699 (A) the tax imposed by Subsection (2)(a)(i)(A);
- 2700 (B) the tax imposed by Subsection (2)(b)(i);
- 2701 (C) the tax imposed by Subsection (2)(c)(i); and
- 2702 (D) the tax imposed by Subsection (2)~~(d)~~(e)(i)(A)(I).

2703 (ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually
2704 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i)
2705 by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year
2706 by the portion of the tax imposed on motor and special fuel that is sold, used, or received for
2707 sale or use in this state that exceeds 29.4 cents per gallon.

2708 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
2709 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
2710 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

2711 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),
2712 in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17
2713 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund
2714 of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on
2715 the transactions described in Subsection (1).

2716 (b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in
2717 addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance
2718 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
2719 amount of revenue described as follows:

2720 (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%
2721 tax rate on the transactions described in Subsection (1);

2722 (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05%
2723 tax rate on the transactions described in Subsection (1);

2724 (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%

2725 tax rate on the transactions described in Subsection (1);

2726 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
2727 .05% tax rate on the transactions described in Subsection (1); and

2728 (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%
2729 tax rate on the transactions described in Subsection (1).

2730 (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not
2731 deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts
2732 paid or charged for food and food ingredients, except for tax revenue generated by a bundled
2733 transaction attributable to food and food ingredients and tangible personal property other than
2734 food and food ingredients described in Subsection (2)(d).

2735 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
2736 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
2737 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
2738 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue
2739 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,
2740 created in Section 63N-2-512.

2741 (12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the
2742 Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed
2743 under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

2744 (b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of
2745 Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under
2746 Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

2747 (13) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July
2748 1, 2020, the Division of Finance shall annually deposit into the Carbon Emissions Tax
2749 Expendable Revenue Fund, created in Section 59-29-301, a portion of the taxes listed under
2750 Subsection (3)(a) in an amount equal to the lesser of:

2751 (i) the total amount deposited into the Transportation Investment Fund of 2005, created
2752 in Section 72-2-124, required under Subsections (6), (7), (8), and (10); and

2753 (ii) the revenue deposited into the Transportation Investment Fund of 2005, created in
2754 Section 72-2-124, under Sections 59-29-201, 59-29-202, and 59-29-203.

2755 (b) The Division of Finance shall reduce the deposits made to the Transportation

2756 Investment Fund of 2005, created in Section 72-2-124, required under Subsections (6), (7), (8),
2757 and (10) in an amount equal to the deposit described in Subsection (13)(a).

2758 ~~[(13)]~~ (14) Notwithstanding Subsections (4) through ~~[(12)]~~ (13), an amount required to
2759 be expended or deposited in accordance with Subsections (4) through ~~[(12)]~~ (13) may not
2760 include an amount the Division of Finance deposits in accordance with Section 59-12-103.2.

2761 Section 14. Section 59-12-104 is amended to read:

2762 **59-12-104. Exemptions.**

2763 Exemptions from the taxes imposed by this chapter are as follows:

2764 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
2765 under Chapter 13, Motor and Special Fuel Tax Act;

2766 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
2767 subdivisions; however, this exemption does not apply to sales of:

2768 (a) construction materials except:

2769 (i) construction materials purchased by or on behalf of institutions of the public
2770 education system as defined in Utah Constitution, Article X, Section 2, provided the
2771 construction materials are clearly identified and segregated and installed or converted to real
2772 property which is owned by institutions of the public education system; and

2773 (ii) construction materials purchased by the state, its institutions, or its political
2774 subdivisions which are installed or converted to real property by employees of the state, its
2775 institutions, or its political subdivisions; or

2776 (b) tangible personal property in connection with the construction, operation,
2777 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
2778 providing additional project capacity, as defined in Section 11-13-103;

2779 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

2780 (i) the proceeds of each sale do not exceed \$1; and

2781 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
2782 the cost of the item described in Subsection (3)(b) as goods consumed; and

2783 (b) Subsection (3)(a) applies to:

2784 (i) food and food ingredients; or

2785 (ii) prepared food;

2786 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

- 2787 (i) alcoholic beverages;
- 2788 (ii) food and food ingredients; or
- 2789 (iii) prepared food;
- 2790 (b) sales of tangible personal property or a product transferred electronically:
- 2791 (i) to a passenger;
- 2792 (ii) by a commercial airline carrier; and
- 2793 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 2794 (c) services related to Subsection (4)(a) or (b);
- 2795 ~~[(5)(a)(i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts~~
- 2796 ~~and equipment:]~~
- 2797 ~~[(A)(I) by an establishment described in NAICS Code 336411 or 336412 of the 2002~~
- 2798 ~~North American Industry Classification System of the federal Executive Office of the~~
- 2799 ~~President, Office of Management and Budget; and]~~
- 2800 ~~[(H) for:]~~
- 2801 ~~[(Aa) installation in an aircraft, including services relating to the installation of parts or~~
- 2802 ~~equipment in the aircraft;]~~
- 2803 ~~[(Bb) renovation of an aircraft; or]~~
- 2804 ~~[(Cc) repair of an aircraft; or]~~
- 2805 ~~[(B) for installation in an aircraft operated by a common carrier in interstate or foreign~~
- 2806 ~~commerce; or]~~
- 2807 ~~[(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an~~
- 2808 ~~aircraft operated by a common carrier in interstate or foreign commerce; and]~~
- 2809 ~~[(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~
- 2810 ~~a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a~~
- 2811 ~~refund:]~~
- 2812 ~~[(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;]~~
- 2813 ~~[(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;]~~
- 2814 ~~[(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for~~
- 2815 ~~the sale prior to filing for the refund;]~~
- 2816 ~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~
- 2817 ~~[(v) in accordance with Section 59-1-1410; and]~~

2818 ~~[(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,~~
2819 ~~if the person files for the refund on or before September 30, 2011;]~~

2820 (5) sales of parts and equipment for installation in an aircraft operated by a common
2821 carrier in interstate or foreign commerce;

2822 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
2823 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
2824 exhibitor, distributor, or commercial television or radio broadcaster;

2825 (7) (a) except as provided in Subsection (88) and subject to Subsection (7)(b), sales of
2826 cleaning or washing of tangible personal property if the cleaning or washing of the tangible
2827 personal property is not assisted cleaning or washing of tangible personal property;

2828 (b) if a seller that sells at the same business location assisted cleaning or washing of
2829 tangible personal property and cleaning or washing of tangible personal property that is not
2830 assisted cleaning or washing of tangible personal property, the exemption described in
2831 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
2832 or washing of the tangible personal property; and

2833 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
2834 Utah Administrative Rulemaking Act, the commission may make rules:

2835 (i) governing the circumstances under which sales are at the same business location;
2836 and

2837 (ii) establishing the procedures and requirements for a seller to separately account for
2838 sales of assisted cleaning or washing of tangible personal property;

2839 (8) sales made to or by religious or charitable institutions in the conduct of their regular
2840 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
2841 fulfilled;

2842 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
2843 this state if the vehicle is:

2844 (a) not registered in this state; and

2845 (b) (i) not used in this state; or

2846 (ii) used in this state:

2847 (A) if the vehicle is not used to conduct business, for a time period that does not
2848 exceed the longer of:

- 2849 (I) 30 days in any calendar year; or
- 2850 (II) the time period necessary to transport the vehicle to the borders of this state; or
- 2851 (B) if the vehicle is used to conduct business, for the time period necessary to transport
- 2852 the vehicle to the borders of this state;
- 2853 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
- 2854 (i) the item is intended for human use; and
- 2855 (ii) (A) a prescription was issued for the item; or
- 2856 (B) the item was purchased by a hospital or other medical facility; and
- 2857 (b) (i) Subsection (10)(a) applies to:
- 2858 (A) a drug;
- 2859 (B) a syringe; or
- 2860 (C) a stoma supply; and
- 2861 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2862 commission may by rule define the terms:
- 2863 (A) "syringe"; or
- 2864 (B) "stoma supply";
- 2865 (11) purchases or leases exempt under Section [19-12-201](#);
- 2866 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 2867 (i) the following if the item described in Subsection (12)(c) is not available to the
- 2868 general public:
- 2869 (A) a church; or
- 2870 (B) a charitable institution;
- 2871 (ii) an institution of higher education if:
- 2872 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 2873 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 2874 offered by the institution of higher education; or
- 2875 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 2876 (i) a medical facility; or
- 2877 (ii) a nursing facility; and
- 2878 (c) Subsections (12)(a) and (b) apply to:
- 2879 (i) food and food ingredients;

2880 (ii) prepared food; or
2881 (iii) alcoholic beverages;
2882 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
2883 or a product transferred electronically by a person:
2884 (i) regardless of the number of transactions involving the sale of that tangible personal
2885 property or product transferred electronically by that person; and
2886 (ii) not regularly engaged in the business of selling that type of tangible personal
2887 property or product transferred electronically;
2888 (b) this Subsection (13) does not apply if:
2889 (i) the sale is one of a series of sales of a character to indicate that the person is
2890 regularly engaged in the business of selling that type of tangible personal property or product
2891 transferred electronically;
2892 (ii) the person holds that person out as regularly engaged in the business of selling that
2893 type of tangible personal property or product transferred electronically;
2894 (iii) the person sells an item of tangible personal property or product transferred
2895 electronically that the person purchased as a sale that is exempt under Subsection (25); or
2896 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
2897 this state in which case the tax is based upon:
2898 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
2899 sold; or
2900 (B) in the absence of a bill of sale or other written evidence of value, the fair market
2901 value of the vehicle or vessel being sold at the time of the sale as determined by the
2902 commission; and
2903 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2904 commission shall make rules establishing the circumstances under which:
2905 (i) a person is regularly engaged in the business of selling a type of tangible personal
2906 property or product transferred electronically;
2907 (ii) a sale of tangible personal property or a product transferred electronically is one of
2908 a series of sales of a character to indicate that a person is regularly engaged in the business of
2909 selling that type of tangible personal property or product transferred electronically; or
2910 (iii) a person holds that person out as regularly engaged in the business of selling a type

2911 of tangible personal property or product transferred electronically;

2912 (14) except as provided in Subsections (84), (86), (87), and (89) and subject to Section
2913 59-12-104.8, amounts paid or charged for a purchase or lease of machinery, equipment, [or]
2914 normal operating repair or replacement parts [~~with an economic life of three or more years~~], or
2915 materials, except for office equipment or office supplies, by:

2916 (a) a manufacturing facility[~~, except as provided in Subsection (86);~~] that:

2917 (i) is located in the state; and

2918 (ii) uses or consumes the machinery, equipment, [or] normal operating repair or
2919 replacement parts, or materials:

2920 (A) in the manufacturing process to manufacture an item sold as tangible personal
2921 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
2922 Utah Administrative Rulemaking Act; or

2923 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
2924 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
2925 Administrative Rulemaking Act;

2926 (b) an establishment, as the commission defines that term in accordance with Title 63G,
2927 Chapter 3, Utah Administrative Rulemaking Act, that:

2928 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
2929 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
2930 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
2931 2002 North American Industry Classification System of the federal Executive Office of the
2932 President, Office of Management and Budget;

2933 (ii) is located in the state; and

2934 (iii) uses or consumes the machinery, equipment, [or] normal operating repair or
2935 replacement parts, or materials in:

2936 (A) the production process to produce an item sold as tangible personal property, as the
2937 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
2938 Administrative Rulemaking Act;

2939 (B) research and development, as the commission may define that phrase in accordance
2940 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2941 (C) transporting, storing, or managing tailings, overburden, or similar waste materials

2942 produced from mining;

2943 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
2944 mining; or

2945 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

2946 (c) an establishment, as the commission defines that term in accordance with Title 63G,
2947 Chapter 3, Utah Administrative Rulemaking Act, that:

2948 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
2949 American Industry Classification System of the federal Executive Office of the President,
2950 Office of Management and Budget;

2951 (ii) is located in the state; and

2952 (iii) uses or consumes the machinery, equipment, [~~or~~] normal operating repair or
2953 replacement parts, or materials in the operation of the web search portal;

2954 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

2955 (i) tooling;

2956 (ii) special tooling;

2957 (iii) support equipment;

2958 (iv) special test equipment; or

2959 (v) parts used in the repairs or renovations of tooling or equipment described in
2960 Subsections (15)(a)(i) through (iv); and

2961 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

2962 (i) the tooling, equipment, or parts are used or consumed exclusively in the
2963 performance of any aerospace or electronics industry contract with the United States
2964 government or any subcontract under that contract; and

2965 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
2966 title to the tooling, equipment, or parts is vested in the United States government as evidenced
2967 by:

2968 (A) a government identification tag placed on the tooling, equipment, or parts; or

2969 (B) listing on a government-approved property record if placing a government
2970 identification tag on the tooling, equipment, or parts is impractical;

2971 (16) sales of newspapers or newspaper subscriptions;

2972 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a

2973 product transferred electronically traded in as full or part payment of the purchase price, except
 2974 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
 2975 trade-ins are limited to other vehicles only, and the tax is based upon:

2976 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
 2977 vehicle being traded in; or

2978 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
 2979 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
 2980 commission; and

2981 (b) Subsection (17)(a) does not apply to the following items of tangible personal
 2982 property or products transferred electronically traded in as full or part payment of the purchase
 2983 price:

2984 (i) money;

2985 (ii) electricity;

2986 (iii) water;

2987 (iv) gas; or

2988 (v) steam;

2989 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
 2990 or a product transferred electronically used or consumed primarily and directly in farming
 2991 operations, regardless of whether the tangible personal property or product transferred
 2992 electronically:

2993 (A) becomes part of real estate; or

2994 (B) is installed by a~~[-(F)]~~ farmer~~[-(H)]~~,₂ contractor~~[-(I)]~~,₂ or ~~[(H)]~~ subcontractor; or

2995 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
 2996 product transferred electronically if the tangible personal property or product transferred
 2997 electronically is exempt under Subsection (18)(a)(i); and

2998 (b) amounts paid or charged for the following are subject to the taxes imposed by this
 2999 chapter:

3000 (i) (A) subject to Subsection (18)(b)(i)(B), ~~[the following]~~ machinery, equipment,
 3001 materials, or supplies if used in a manner that is incidental to farming~~[-(I)]~~; and

3002 ~~[(F) machinery;]~~

3003 ~~[(H) equipment;]~~

3004 [~~(III) materials; or~~]
3005 [~~(IV) supplies; and~~]
3006 (B) tangible personal property that is considered to be used in a manner that is
3007 incidental to farming includes:
3008 (I) hand tools; or
3009 (II) maintenance and janitorial equipment and supplies;
3010 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
3011 transferred electronically if the tangible personal property or product transferred electronically
3012 is used in an activity other than farming; and
3013 (B) tangible personal property or a product transferred electronically that is considered
3014 to be used in an activity other than farming includes:
3015 (I) office equipment and supplies; or
3016 (II) equipment and supplies used in:
3017 (Aa) the sale or distribution of farm products;
3018 (Bb) research; or
3019 (Cc) transportation; or
3020 (iii) a vehicle required to be registered by the laws of this state during the period
3021 ending two years after the date of the vehicle's purchase;
3022 (19) sales of hay;
3023 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
3024 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
3025 garden, farm, or other agricultural produce is sold by:
3026 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
3027 agricultural produce;
3028 (b) an employee of the producer described in Subsection (20)(a); or
3029 (c) a member of the immediate family of the producer described in Subsection (20)(a);
3030 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
3031 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;;
3032 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
3033 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
3034 wholesaler, or retailer for use in packaging tangible personal property to be sold by that

3035 manufacturer, processor, wholesaler, or retailer;

3036 (23) a product stored in the state for resale;

3037 (24) (a) purchases of a product if:

3038 (i) the product is:

3039 (A) purchased outside of this state;

3040 (B) brought into this state:

3041 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

3042 (II) by a nonresident person who is not living or working in this state at the time of the

3043 purchase;

3044 (C) used for the personal use or enjoyment of the nonresident person described in

3045 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

3046 (D) not used in conducting business in this state; and

3047 (ii) for:

3048 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of

3049 the product for a purpose for which the product is designed occurs outside of this state;

3050 (B) a boat, the boat is registered outside of this state; or

3051 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

3052 outside of this state;

3053 (b) the exemption provided for in Subsection (24)(a) does not apply to:

3054 (i) a lease or rental of a product; or

3055 (ii) a sale of a vehicle exempt under Subsection (33); and

3056 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

3057 purposes of Subsection (24)(a), the commission may by rule define what constitutes the

3058 following:

3059 (i) conducting business in this state if that phrase has the same meaning in this

3060 Subsection (24) as in Subsection (63);

3061 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)

3062 as in Subsection (63); or

3063 (iii) a purpose for which a product is designed if that phrase has the same meaning in

3064 this Subsection (24) as in Subsection (63);

3065 (25) a product purchased for resale in this state, in the regular course of business, either

3066 in its original form or as an ingredient or component part of a manufactured or compounded
3067 product;

3068 (26) a product upon which a sales or use tax was paid to some other state, or one of its
3069 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
3070 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
3071 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
3072 Act;

3073 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
3074 person for use in compounding a service taxable under the subsections;

3075 (28) purchases made in accordance with the special supplemental nutrition program for
3076 women, infants, and children established in 42 U.S.C. Sec. 1786;

3077 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
3078 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
3079 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
3080 the President, Office of Management and Budget;

3081 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
3082 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

3083 (a) not registered in this state; and

3084 (b) (i) not used in this state; or

3085 (ii) used in this state:

3086 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
3087 time period that does not exceed the longer of:

3088 (I) 30 days in any calendar year; or

3089 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
3090 the borders of this state; or

3091 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
3092 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
3093 state;

3094 (31) sales of aircraft manufactured in Utah;

3095 (32) amounts paid for the purchase of telecommunications service for purposes of
3096 providing telecommunications service;

- 3097 (33) sales, leases, or uses of the following:
- 3098 (a) a vehicle by an authorized carrier; or
- 3099 (b) tangible personal property that is installed on a vehicle:
- 3100 (i) sold or leased to or used by an authorized carrier; and
- 3101 (ii) before the vehicle is placed in service for the first time;
- 3102 (34) (a) 45% of the sales price of any new manufactured home; and
- 3103 (b) 100% of the sales price of any used manufactured home;
- 3104 (35) sales relating to schools and fundraising sales;
- 3105 (36) sales or rentals of durable medical equipment if:
- 3106 (a) a person presents a prescription for the durable medical equipment; and
- 3107 (b) the durable medical equipment is used for home use only;
- 3108 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 3109 Section [72-11-102](#); and
- 3110 (b) the commission shall by rule determine the method for calculating sales exempt
- 3111 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 3112 (38) sales to a ski resort of:
- 3113 (a) snowmaking equipment;
- 3114 (b) ski slope grooming equipment;
- 3115 (c) passenger ropeways as defined in Section [72-11-102](#); or
- 3116 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 3117 described in Subsections (38)(a) through (c);
- 3118 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 3119 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 3120 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 3121 [59-12-102](#);
- 3122 (b) if a seller that sells or rents at the same business location the right to use or operate
- 3123 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 3124 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 3125 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 3126 amusement, entertainment, or recreation for the assisted amusement devices; and
- 3127 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,

3128 Utah Administrative Rulemaking Act, the commission may make rules:

3129 (i) governing the circumstances under which sales are at the same business location;

3130 and

3131 (ii) establishing the procedures and requirements for a seller to separately account for
3132 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
3133 assisted amusement devices;

3134 (41) (a) sales of photocopies by:

3135 (i) a governmental entity; or

3136 (ii) an entity within the state system of public education, including:

3137 (A) a school; or

3138 (B) the State Board of Education; or

3139 (b) sales of publications by a governmental entity;

3140 (42) amounts paid for admission to an athletic event at an institution of higher
3141 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
3142 20 U.S.C. Sec. 1681 et seq.;

3143 (43) (a) sales made to or by:

3144 (i) an area agency on aging; or

3145 (ii) a senior citizen center owned by a county, city, or town; or

3146 (b) sales made by a senior citizen center that contracts with an area agency on aging;

3147 (44) sales or leases of semiconductor fabricating, processing, research, or development
3148 materials regardless of whether the semiconductor fabricating, processing, research, or
3149 development materials:

3150 (a) actually come into contact with a semiconductor; or

3151 (b) ultimately become incorporated into real property;

3152 (45) an amount paid by or charged to a purchaser for accommodations and services
3153 described in Subsection [59-12-103\(1\)\(i\)](#) to the extent the amount is exempt under Section
3154 [59-12-104.2](#);

3155 (46) [~~beginning on September 1, 2001,~~] the lease or use of a vehicle issued a temporary
3156 sports event registration certificate in accordance with Section [41-3-306](#) for the event period
3157 specified on the temporary sports event registration certificate;

3158 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff

3159 adopted by the Public Service Commission only for purchase of electricity produced from a
3160 new alternative energy source built after January 1, 2016, as designated in the tariff by the
3161 Public Service Commission;

3162 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
3163 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
3164 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
3165 customer would have paid absent the tariff;

3166 (48) sales or rentals of mobility enhancing equipment if a person presents a
3167 prescription for the mobility enhancing equipment;

3168 (49) sales of water in a:

3169 (a) pipe;

3170 (b) conduit;

3171 (c) ditch; or

3172 (d) reservoir;

3173 (50) sales of currency or coins that constitute legal tender of a state, the United States,
3174 or a foreign nation;

3175 (51) (a) sales of an item described in Subsection (51)(b) if the item:

3176 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and

3177 (ii) has a gold, silver, or platinum content of 50% or more; and

3178 (b) Subsection (51)(a) applies to a gold, silver, or platinum:

3179 (i) ingot;

3180 (ii) bar;

3181 (iii) medallion; or

3182 (iv) decorative coin;

3183 (52) amounts paid on a sale-leaseback transaction;

3184 (53) sales of a prosthetic device:

3185 (a) for use on or in a human; and

3186 (b) (i) for which a prescription is required; or

3187 (ii) if the prosthetic device is purchased by a hospital or other medical facility;

3188 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of

3189 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery

3190 or equipment is primarily used in the production or postproduction of the following media for
3191 commercial distribution:

- 3192 (i) a motion picture;
- 3193 (ii) a television program;
- 3194 (iii) a movie made for television;
- 3195 (iv) a music video;
- 3196 (v) a commercial;
- 3197 (vi) a documentary; or
- 3198 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
3199 commission by administrative rule made in accordance with Subsection (54)(d); or

3200 (b) purchases, leases, or rentals of machinery or equipment by an establishment
3201 described in Subsection (54)(c) that is used for the production or postproduction of the
3202 following are subject to the taxes imposed by this chapter:

- 3203 (i) a live musical performance;
- 3204 (ii) a live news program; or
- 3205 (iii) a live sporting event;
- 3206 (c) the following establishments listed in the 1997 North American Industry
3207 Classification System of the federal Executive Office of the President, Office of Management
3208 and Budget, apply to Subsections (54)(a) and (b):
 - 3209 (i) NAICS Code 512110; or
 - 3210 (ii) NAICS Code 51219; and
- 3211 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3212 commission may by rule:

3213 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);

3214 or

- 3215 (ii) define:
 - 3216 (A) "commercial distribution";
 - 3217 (B) "live musical performance";
 - 3218 (C) "live news program"; or
 - 3219 (D) "live sporting event";

3220 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but

3221 on or before June 30, 2027, of tangible personal property that:

3222 (i) is leased or purchased for or by a facility that:

3223 (A) is an alternative energy electricity production facility;

3224 (B) is located in the state; and

3225 (C) (I) becomes operational on or after July 1, 2004; or

3226 (II) has its generation capacity increased by one or more megawatts on or after July 1,

3227 2004, as a result of the use of the tangible personal property;

3228 (ii) has an economic life of five or more years; and

3229 (iii) is used to make the facility or the increase in capacity of the facility described in

3230 Subsection (55)(a)(i) operational up to the point of interconnection with an existing

3231 transmission grid including:

3232 (A) a wind turbine;

3233 (B) generating equipment;

3234 (C) a control and monitoring system;

3235 (D) a power line;

3236 (E) substation equipment;

3237 (F) lighting;

3238 (G) fencing;

3239 (H) pipes; or

3240 (I) other equipment used for locating a power line or pole; and

3241 (b) this Subsection (55) does not apply to:

3242 (i) tangible personal property used in construction of:

3243 (A) a new alternative energy electricity production facility; or

3244 (B) the increase in the capacity of an alternative energy electricity production facility;

3245 (ii) contracted services required for construction and routine maintenance activities;

3246 and

3247 (iii) unless the tangible personal property is used or acquired for an increase in capacity

3248 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or

3249 acquired after:

3250 (A) the alternative energy electricity production facility described in Subsection

3251 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

3252 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
3253 in Subsection (55)(a)(iii);

3254 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
3255 on or before June 30, 2027, of tangible personal property that:

3256 (i) is leased or purchased for or by a facility that:

3257 (A) is a waste energy production facility;

3258 (B) is located in the state; and

3259 (C) (I) becomes operational on or after July 1, 2004; or

3260 (II) has its generation capacity increased by one or more megawatts on or after July 1,
3261 2004, as a result of the use of the tangible personal property;

3262 (ii) has an economic life of five or more years; and

3263 (iii) is used to make the facility or the increase in capacity of the facility described in
3264 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
3265 transmission grid including:

3266 (A) generating equipment;

3267 (B) a control and monitoring system;

3268 (C) a power line;

3269 (D) substation equipment;

3270 (E) lighting;

3271 (F) fencing;

3272 (G) pipes; or

3273 (H) other equipment used for locating a power line or pole; and

3274 (b) this Subsection (56) does not apply to:

3275 (i) tangible personal property used in construction of:

3276 (A) a new waste energy facility; or

3277 (B) the increase in the capacity of a waste energy facility;

3278 (ii) contracted services required for construction and routine maintenance activities;

3279 and

3280 (iii) unless the tangible personal property is used or acquired for an increase in capacity
3281 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

3282 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as

3283 described in Subsection (56)(a)(iii); or

3284 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described

3285 in Subsection (56)(a)(iii);

3286 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on

3287 or before June 30, 2027, of tangible personal property that:

3288 (i) is leased or purchased for or by a facility that:

3289 (A) is located in the state;

3290 (B) produces fuel from alternative energy, including[~~(F)~~] methanol[~~;~~] or [~~(H)~~] ethanol;

3291 and

3292 (C) (I) becomes operational on or after July 1, 2004; or

3293 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as

3294 a result of the installation of the tangible personal property;

3295 (ii) has an economic life of five or more years; and

3296 (iii) is installed on the facility described in Subsection (57)(a)(i);

3297 (b) this Subsection (57) does not apply to:

3298 (i) tangible personal property used in construction of:

3299 (A) a new facility described in Subsection (57)(a)(i); or

3300 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

3301 (ii) contracted services required for construction and routine maintenance activities;

3302 and

3303 (iii) unless the tangible personal property is used or acquired for an increase in capacity

3304 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

3305 (A) the facility described in Subsection (57)(a)(i) is operational; or

3306 (B) the increased capacity described in Subsection (57)(a)(i) is operational;

3307 (58) (a) subject to Subsection (58)(b) [~~or (c)~~], sales of tangible personal property or a

3308 product transferred electronically to a person within this state if that tangible personal property

3309 or product transferred electronically is subsequently shipped outside the state and incorporated

3310 pursuant to contract into and becomes a part of real property located outside of this state; and

3311 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other

3312 state or political entity to which the tangible personal property is shipped imposes a sales, use,

3313 gross receipts, or other similar transaction excise tax on the transaction against which the other

3314 state or political entity allows a credit for sales and use taxes imposed by this chapter; ~~[and]~~
3315 ~~[(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~
3316 ~~a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a~~
3317 ~~refund;]~~

3318 ~~[(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;]~~
3319 ~~[(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on~~
3320 ~~which the sale is made;]~~

3321 ~~[(iii) if the person did not claim the exemption allowed by this Subsection (58) for the~~
3322 ~~sale prior to filing for the refund;]~~

3323 ~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~
3324 ~~[(v) in accordance with Section 59-1-1410; and]~~
3325 ~~[(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,~~
3326 ~~if the person files for the refund on or before June 30, 2011;]~~

3327 (59) purchases:

3328 (a) of one or more of the following items in printed or electronic format:

3329 (i) a list containing information that includes one or more~~[-(A)]~~ names~~[:;]~~ or ~~[(B)]~~
3330 addresses; or

3331 (ii) a database containing information that includes one or more~~[-(A)]~~ names~~[:;]~~ or
3332 ~~[(B)]~~ addresses; and

3333 (b) used to send direct mail;

3334 (60) redemptions or repurchases of a product by a person if that product was:

3335 (a) delivered to a pawnbroker as part of a pawn transaction; and
3336 (b) redeemed or repurchased within the time period established in a written agreement
3337 between the person and the pawnbroker for redeeming or repurchasing the product;

3338 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

3339 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
3340 and

3341 (ii) has a useful economic life of one or more years; and

3342 (b) the following apply to Subsection (61)(a):

3343 (i) telecommunications enabling or facilitating equipment, machinery, or software;
3344 (ii) telecommunications equipment, machinery, or software required for 911 service;

- 3345 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 3346 (iv) telecommunications switching or routing equipment, machinery, or software; or
- 3347 (v) telecommunications transmission equipment, machinery, or software;
- 3348 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
- 3349 personal property or a product transferred electronically that are used in the research and
- 3350 development of alternative energy technology; and
- 3351 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3352 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
- 3353 purchases of tangible personal property or a product transferred electronically that are used in
- 3354 the research and development of alternative energy technology;
- 3355 (63) (a) purchases of tangible personal property or a product transferred electronically
- 3356 if:
- 3357 (i) the tangible personal property or product transferred electronically is:
- 3358 (A) purchased outside of this state;
- 3359 (B) brought into this state at any time after the purchase described in Subsection
- 3360 (63)(a)(i)(A); and
- 3361 (C) used in conducting business in this state; and
- 3362 (ii) for:
- 3363 (A) tangible personal property or a product transferred electronically other than the
- 3364 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
- 3365 for a purpose for which the property is designed occurs outside of this state; or
- 3366 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
- 3367 outside of this state;
- 3368 (b) the exemption provided for in Subsection (63)(a) does not apply to:
- 3369 (i) a lease or rental of tangible personal property or a product transferred electronically;
- 3370 or
- 3371 (ii) a sale of a vehicle exempt under Subsection (33); and
- 3372 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
- 3373 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
- 3374 following:
- 3375 (i) conducting business in this state if that phrase has the same meaning in this

3376 Subsection (63) as in Subsection (24);
3377 (ii) the first use of tangible personal property or a product transferred electronically if
3378 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
3379 (iii) a purpose for which tangible personal property or a product transferred
3380 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
3381 Subsection (24);
3382 (64) sales of disposable home medical equipment or supplies if:
3383 (a) a person presents a prescription for the disposable home medical equipment or
3384 supplies;
3385 (b) the disposable home medical equipment or supplies are used exclusively by the
3386 person to whom the prescription described in Subsection (64)(a) is issued; and
3387 (c) the disposable home medical equipment and supplies are listed as eligible for
3388 payment under:
3389 (i) Title XVIII, federal Social Security Act; or
3390 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
3391 (65) sales:
3392 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
3393 District Act; or
3394 (b) of tangible personal property to a subcontractor of a public transit district, if the
3395 tangible personal property is:
3396 (i) clearly identified; and
3397 (ii) installed or converted to real property owned by the public transit district;
3398 (66) sales of construction materials:
3399 (a) purchased on or after July 1, 2010;
3400 (b) purchased by, on behalf of, or for the benefit of an international airport:
3401 (i) located within a county of the first class; and
3402 (ii) that has a United States customs office on its premises; and
3403 (c) if the construction materials are:
3404 (i) clearly identified;
3405 (ii) segregated; and
3406 (iii) installed or converted to real property:

- 3407 (A) owned or operated by the international airport described in Subsection (66)(b); and
3408 (B) located at the international airport described in Subsection (66)(b);
3409 (67) sales of construction materials:
3410 (a) purchased on or after July 1, 2008;
3411 (b) purchased by, on behalf of, or for the benefit of a new airport:
3412 (i) located within a county of the second class; and
3413 (ii) that is owned or operated by a city in which an airline as defined in Section
3414 [59-2-102](#) is headquartered; and
3415 (c) if the construction materials are:
3416 (i) clearly identified;
3417 (ii) segregated; and
3418 (iii) installed or converted to real property:
3419 (A) owned or operated by the new airport described in Subsection (67)(b);
3420 (B) located at the new airport described in Subsection (67)(b); and
3421 (C) as part of the construction of the new airport described in Subsection (67)(b);
3422 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
3423 (69) purchases and sales described in Section [63H-4-111](#);
3424 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
3425 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
3426 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
3427 lists a state or country other than this state as the location of registry of the fixed wing turbine
3428 powered aircraft; or
3429 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
3430 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
3431 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
3432 lists a state or country other than this state as the location of registry of the fixed wing turbine
3433 powered aircraft;
3434 (71) subject to Section [59-12-104.4](#), sales of a textbook for a higher education course:
3435 (a) to a person admitted to an institution of higher education; and
3436 (b) by a seller, other than a bookstore owned by an institution of higher education, if
3437 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a

3438 textbook for a higher education course;

3439 (72) a license fee or tax a municipality imposes in accordance with Subsection

3440 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced

3441 level of municipal services;

3442 (73) amounts paid or charged for construction materials used in the construction of a

3443 new or expanding life science research and development facility in the state, if the construction

3444 materials are:

3445 (a) clearly identified;

3446 (b) segregated; and

3447 (c) installed or converted to real property;

3448 (74) amounts paid or charged for:

3449 (a) a purchase or lease of machinery and equipment that:

3450 (i) are used in performing qualified research:

3451 (A) as defined in Section 41(d), Internal Revenue Code; and

3452 (B) in the state; and

3453 (ii) have an economic life of three or more years; and

3454 (b) normal operating repair or replacement parts:

3455 (i) for the machinery and equipment described in Subsection (74)(a); and

3456 (ii) that have an economic life of three or more years;

3457 (75) a sale or lease of tangible personal property used in the preparation of prepared

3458 food if:

3459 (a) for a sale:

3460 (i) the ownership of the seller and the ownership of the purchaser are identical; and

3461 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that

3462 tangible personal property prior to making the sale; or

3463 (b) for a lease:

3464 (i) the ownership of the lessor and the ownership of the lessee are identical; and

3465 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible

3466 personal property prior to making the lease;

3467 (76) (a) purchases of machinery or equipment if:

3468 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,

3469 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
3470 System of the federal Executive Office of the President, Office of Management and Budget;
3471 (ii) the machinery or equipment:
3472 (A) has an economic life of three or more years; and
3473 (B) is used by one or more persons who pay admission or user fees described in
3474 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
3475 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
3476 (A) amounts paid or charged as admission or user fees described in Subsection
3477 59-12-103(1)(f); and
3478 (B) subject to taxation under this chapter; and
3479 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3480 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
3481 previous calendar quarter is:
3482 (i) amounts paid or charged as admission or user fees described in Subsection
3483 59-12-103(1)(f); and
3484 (ii) subject to taxation under this chapter;
3485 (77) purchases of a short-term lodging consumable by a business that provides
3486 accommodations and services described in Subsection 59-12-103(1)(i);
3487 (78) amounts paid or charged to access a database:
3488 (a) if the primary purpose for accessing the database is to view or retrieve information
3489 from the database; and
3490 (b) not including amounts paid or charged for a:
3491 (i) digital audiowork;
3492 (ii) digital audio-visual work; or
3493 (iii) digital book;
3494 (79) amounts paid or charged for a purchase or lease made by an electronic financial
3495 payment service, of:
3496 (a) machinery and equipment that:
3497 (i) are used in the operation of the electronic financial payment service; and
3498 (ii) have an economic life of three or more years; and
3499 (b) normal operating repair or replacement parts that:

- 3500 (i) are used in the operation of the electronic financial payment service; and
 3501 (ii) have an economic life of three or more years;
 3502 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
 3503 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
 3504 product transferred electronically if the tangible personal property or product transferred
 3505 electronically:
 3506 (a) is stored, used, or consumed in the state; and
 3507 (b) is temporarily brought into the state from another state:
 3508 (i) during a disaster period as defined in Section 53-2a-1202;
 3509 (ii) by an out-of-state business as defined in Section 53-2a-1202;
 3510 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
 3511 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
 3512 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
 3513 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
 3514 Recreation Program;
 3515 (83) amounts paid or charged for a purchase or lease of molten magnesium;
 3516 (84) ~~[(a) except as provided in Subsection (84)(b),]~~ amounts paid or charged for a
 3517 purchase or lease made by a drilling equipment manufacturer of machinery, equipment,
 3518 ~~[materials, or] normal operating repair or replacement parts[-(i)], or materials, except for office~~
 3519 ~~equipment or office supplies,~~ that are used or consumed exclusively in the drilling equipment
 3520 manufacturer's manufacturing process; ~~[and]~~
 3521 ~~[(ii) except for office:]~~
 3522 ~~[(A) equipment; or]~~
 3523 ~~[(B) supplies; and]~~
 3524 ~~[(b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an~~
 3525 ~~exemption described in Subsection (84)(a) only by filing for a refund:]~~
 3526 ~~[(i) of 50% of the tax paid on the amounts paid or charged; and]~~
 3527 ~~[(ii) in accordance with Section 59-1-1410;]~~
 3528 (85) amounts paid or charged for a purchase or lease made by a qualifying enterprise
 3529 data center of machinery, equipment, or normal operating repair or replacement parts, if the
 3530 machinery, equipment, or normal operating repair or replacement parts:

- 3531 (a) are used in the operation of the establishment; and
- 3532 (b) have an economic life of one or more years; [~~and~~]
- 3533 (86) amounts paid or charged for a purchase or lease of machinery, equipment, or
- 3534 normal operating repair or replacement parts by a manufacturing facility that:
 - 3535 (a) is an establishment, as the commission defines that term in accordance with Title
 - 3536 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - 3537 (b) is described in NAICS Code 336111, Automobile Manufacturing, of the 2002
 - 3538 North American Industry Classification System of the federal Executive Office of the
 - 3539 President, Office of Management and Budget;
 - 3540 (c) is located in the state; and
 - 3541 (d) uses the machinery, equipment, or normal operating repair or replacement parts in
 - 3542 the manufacturing process to manufacture an item sold as tangible personal property, as the
 - 3543 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
 - 3544 Administrative Rulemaking Act;
- 3545 (87) amounts paid or charged for a purchase or lease of equipment or normal operating
- 3546 repair or replacement parts with an economic life of less than three years by a manufacturing
- 3547 facility that:
 - 3548 (a) is an establishment, as the commission defines that term in accordance with Title
 - 3549 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - 3550 (b) is described in NAICS Code 325120, Industrial Gas Manufacturing, of the 2002
 - 3551 North American Industry Classification System of the federal Executive Office of the
 - 3552 President, Office of Management and Budget;
 - 3553 (c) is located in the state; and
 - 3554 (d) uses the equipment or normal operating repair or replacement parts to manufacture
 - 3555 hydrogen;
- 3556 (88) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
- 3557 vehicle that includes cleaning or washing of the interior of the vehicle; and
- 3558 (89) amounts paid or charged for a purchase or lease of machinery, equipment, normal
- 3559 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used
- 3560 or consumed:
 - 3561 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined

3562 in Section 63M-4-701 located in the state;

3563 (b) if the machinery, equipment, normal operating repair or replacement parts,
3564 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

3565 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
3566 added to gasoline or diesel fuel;

3567 (ii) research and development;

3568 (iii) transporting, storing, or managing raw materials, work in process, finished
3569 products, and waste materials produced from refining gasoline or diesel fuel, or adding
3570 blendstock to gasoline or diesel fuel;

3571 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
3572 refining; or

3573 (v) preventing, controlling, or reducing pollutants from refining; and

3574 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office
3575 of Energy Development under Subsection 63M-4-702(2).

3576 Section 15. Section 59-12-104.2 is amended to read:

3577 **59-12-104.2. Exemption for accommodations and services taxed by the Navajo**
3578 **Nation.**

3579 (1) As used in this section "tribal taxing area" means the geographical area that:

3580 (a) is subject to the taxing authority of the Navajo Nation; and

3581 (b) consists of:

3582 (i) notwithstanding the issuance of a patent, all land:

3583 (A) within the limits of an Indian reservation under the jurisdiction of the federal
3584 government; and

3585 (B) including any rights-of-way running through the reservation; and

3586 (ii) all Indian allotments the Indian titles to which have not been extinguished,
3587 including any rights-of-way running through an Indian allotment.

3588 (2) (a) Beginning July 1, 2001, amounts paid by or charged to a purchaser for
3589 accommodations and services described in Subsection 59-12-103(1)(i) are exempt from the tax
3590 imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)[~~(d)~~](e)(i)(A)(I) to the extent permitted
3591 under Subsection (2)(b) if:

3592 (i) the accommodations and services described in Subsection 59-12-103(1)(i) are

3593 provided within:

3594 (A) the state; and

3595 (B) a tribal taxing area;

3596 (ii) the Navajo Nation imposes and collects a tax on the amounts paid by or charged to
3597 the purchaser for the accommodations and services described in Subsection 59-12-103(1)(i);

3598 (iii) the Navajo Nation imposes the tax described in Subsection (2)(a)(ii) without
3599 regard to whether or not the purchaser that pays or is charged for the accommodations and
3600 services is an enrolled member of the Navajo Nation; and

3601 (iv) the requirements of Subsection (4) are met.

3602 (b) If but for Subsection (2)(a) the amounts paid by or charged to a purchaser for
3603 accommodations and services described in Subsection (2)(a) are subject to a tax imposed by
3604 Subsection 59-12-103(2)(a)(i)(A) or (2)~~(c)~~(e)(i)(A)(I):

3605 (i) the seller shall collect and pay to the state the difference described in Subsection (3)
3606 if that difference is greater than \$0; and

3607 (ii) a person may not require the state to provide a refund, a credit, or similar tax relief
3608 if the difference described in Subsection (3) is equal to or less than \$0.

3609 (3) The difference described in Subsection (2)(b) is equal to the difference between:

3610 (a) the amount of tax imposed by Subsection 59-12-103(2)(a)(i)(A) or
3611 (2)~~(c)~~(e)(i)(A)(I) on the amounts paid by or charged to a purchaser for accommodations and
3612 services described in Subsection 59-12-103(1)(i); less

3613 (b) the tax imposed and collected by the Navajo Nation on the amounts paid by or
3614 charged to a purchaser for the accommodations and services described in Subsection
3615 59-12-103(1)(i).

3616 (4) (a) If, on or after July 1, 2001, the Navajo Nation changes the tax rate of a tax
3617 imposed on amounts paid by or charged to a purchaser for accommodations and services
3618 described in Subsection 59-12-103(1)(i), any change in the amount of the exemption under
3619 Subsection (2) as a result of the change in the tax rate is not effective until the first day of the
3620 calendar quarter after a 90-day period beginning on the date the commission receives notice
3621 meeting the requirements of Subsection (4)(b) from the Navajo Nation.

3622 (b) The notice described in Subsection (4)(a) shall state:

3623 (i) that the Navajo Nation has changed or will change the tax rate of a tax imposed on

3624 amounts paid by or charged to a purchaser for accommodations and services described in
3625 Subsection [59-12-103](#)(1)(i);

3626 (ii) the effective date of the rate change on the tax described in Subsection (4)(b)(i);
3627 and

3628 (iii) the new rate of the tax described in Subsection (4)(b)(i).

3629 Section 16. Section **59-12-104.8** is enacted to read:

3630 **59-12-104.8. Exemption for machinery, equipment, normal operating repair or**
3631 **replacement parts, and materials.**

3632 (1) As used in this section, "state sales and use tax" means the tax imposed on a
3633 transaction at the tax rate described in Subsection [59-12-103](#)(2)(a)(i).

3634 (2) A person may claim the sales and use tax exemption described in Subsection
3635 [59-12-104](#)(14) at the point of sale for an amount paid or charged for a purchase or lease of
3636 machinery, equipment, or normal operating repair or replacement parts that have an economic
3637 life of three years or more.

3638 (3) (a) Subject to Subsection (3)(b), a person may file for a refund from the
3639 commission to claim the sales and use tax exemption described in Subsection [59-12-104](#)(14)
3640 for an amount paid or charged for a purchase or lease of:

3641 (i) machinery, equipment, or normal operating repair or replacement parts that have an
3642 economic life of less than three years; or

3643 (ii) materials, except for office equipment or supplies.

3644 (b) The amount of the refund described in Subsection (3)(a) is equal to the amount of
3645 state sales and use tax paid or charged for the purchase or lease.

3646 (c) A person shall file for a refund under this Subsection (3):

3647 (i) in an electronic format prescribed by the commission; and

3648 (ii) no more frequently than once per month.

3649 Section 17. Section **59-12-108** is amended to read:

3650 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**
3651 **Certain amounts allocated to local taxing jurisdictions.**

3652 (1) (a) Notwithstanding Section [59-12-107](#), a seller that has a tax liability under this
3653 chapter of \$50,000 or more for the previous calendar year shall:

3654 (i) file a return with the commission:

3655 (A) monthly on or before the last day of the month immediately following the month
3656 for which the seller collects a tax under this chapter; and

3657 (B) for the month for which the seller collects a tax under this chapter; and

3658 (ii) except as provided in Subsection (1)(b), remit with the return required by
3659 Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax,
3660 fee, or charge described in Subsection (1)(c):

3661 (A) if that seller's tax liability under this chapter for the previous calendar year is less
3662 than \$96,000, by any method permitted by the commission; or

3663 (B) if that seller's tax liability under this chapter for the previous calendar year is
3664 \$96,000 or more, by electronic funds transfer.

3665 (b) A seller shall remit electronically with the return required by Subsection (1)(a)(i)
3666 the amount the seller is required to remit to the commission for each tax, fee, or charge
3667 described in Subsection (1)(c) if that seller:

3668 (i) is required by Section 59-12-107 to file the return electronically; or

3669 (ii) (A) is required to collect and remit a tax under Section 59-12-107; and

3670 (B) files a simplified electronic return.

3671 (c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:

3672 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

3673 (ii) a fee under Section 19-6-714;

3674 (iii) a fee under Section 19-6-805;

3675 (iv) a charge under Title 69, Chapter 2, Part 4, 911 Emergency Service Charges; or

3676 (v) a tax under this chapter.

3677 (d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3,
3678 Utah Administrative Rulemaking Act, the commission shall make rules providing for a method
3679 for making same-day payments other than by electronic funds transfer if making payments by
3680 electronic funds transfer fails.

3681 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3682 commission shall establish by rule procedures and requirements for determining the amount a
3683 seller is required to remit to the commission under this Subsection (1).

3684 (2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a
3685 seller described in Subsection (4) may retain each month the amount allowed by this

3686 Subsection (2).

3687 (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
3688 each month 1.31% of any amounts the seller is required to remit to the commission:

3689 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax
3690 and a local tax imposed in accordance with the following, for the month for which the seller is
3691 filing a return in accordance with Subsection (1):

3692 (A) Subsection 59-12-103(2)(a);

3693 (B) Subsection 59-12-103(2)(b); [~~and~~]

3694 (C) Subsection 59-12-103(2)(d); and

3695 (D) Subsection 59-12-103(2)(e); and

3696 (ii) for an agreement sales and use tax.

3697 (c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may
3698 retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described
3699 in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in
3700 accordance with Subsection 59-12-103(2)(c).

3701 (ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount
3702 equal to the sum of:

3703 (A) 1.31% of any amounts the seller is required to remit to the commission for:

3704 (I) the state tax and the local tax imposed in accordance with Subsection
3705 59-12-103(2)(c);

3706 (II) the month for which the seller is filing a return in accordance with Subsection (1);
3707 and

3708 (III) an agreement sales and use tax; and

3709 (B) 1.31% of the difference between:

3710 (I) the amounts the seller would have been required to remit to the commission:

3711 (Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject
3712 to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(a);

3713 (Bb) for the month for which the seller is filing a return in accordance with Subsection
3714 (1); and

3715 (Cc) for an agreement sales and use tax; and

3716 (II) the amounts the seller is required to remit to the commission for:

- 3717 (Aa) the state tax and the local tax imposed in accordance with Subsection
3718 59-12-103(2)(c);
- 3719 (Bb) the month for which the seller is filing a return in accordance with Subsection (1);
3720 and
- 3721 (Cc) an agreement sales and use tax.
- 3722 (d) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
3723 each month 1% of any amounts the seller is required to remit to the commission:
- 3724 (i) for the month for which the seller is filing a return in accordance with Subsection
3725 (1); and
- 3726 (ii) under:
- 3727 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 3728 (B) Subsection 59-12-603(1)(a)(i)(A); or
- 3729 (C) Subsection 59-12-603(1)(a)(i)(B).
- 3730 (3) A state government entity that is required to remit taxes monthly in accordance
3731 with Subsection (1) may not retain any amount under Subsection (2).
- 3732 (4) A seller that has a tax liability under this chapter for the previous calendar year of
3733 less than \$50,000 may:
- 3734 (a) voluntarily meet the requirements of Subsection (1); and
- 3735 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the
3736 amounts allowed by Subsection (2).
- 3737 (5) (a) Subject to Subsections (5)(b) through (d), a seller that voluntarily collects and
3738 remits a tax in accordance with Subsection 59-12-107(2)(c)(i) may retain an amount equal to
3739 18% of any amounts the seller would otherwise remit to the commission:
- 3740 (i) if the seller obtains a license under Section 59-12-106 for the first time on or after
3741 January 1, 2014; and
- 3742 (ii) for:
- 3743 (A) an agreement sales and use tax; and
- 3744 (B) the time period for which the seller files a return in accordance with this section.
- 3745 (b) If a seller retains an amount under this Subsection (5), the seller may not retain any
3746 other amount under this section.
- 3747 (c) If a seller retains an amount under this Subsection (5), the commission may require

3748 the seller to file a return by:

3749 (i) electronic means; or

3750 (ii) a means other than electronic means.

3751 (d) A seller may not retain an amount under this Subsection (5) if the seller is required

3752 to collect or remit a tax under this section in accordance with Section [59-12-103.1](#).

3753 (6) Penalties for late payment shall be as provided in Section [59-1-401](#).

3754 (7) (a) Except as provided in Subsection (7)(c), for any amounts required to be remitted

3755 to the commission under this part, the commission shall each month calculate an amount equal

3756 to the difference between:

3757 (i) the total amount retained for that month by all sellers had the percentages listed

3758 under Subsections (2)(b) and (2)(c)(ii) been 1.5%; and

3759 (ii) the total amount retained for that month by all sellers at the percentages listed

3760 under Subsections (2)(b) and (2)(c)(ii).

3761 (b) The commission shall each month allocate the amount calculated under Subsection

3762 (7)(a) to each county, city, and town on the basis of the proportion of agreement sales and use

3763 tax that the commission distributes to each county, city, and town for that month compared to

3764 the total agreement sales and use tax that the commission distributes for that month to all

3765 counties, cities, and towns.

3766 (c) The amount the commission calculates under Subsection (7)(a) may not include an

3767 amount collected from a tax that:

3768 (i) the state imposes within a county, city, or town, including the unincorporated area

3769 of a county; and

3770 (ii) is not imposed within the entire state.

3771 Section 18. Section **59-29-101** is enacted to read:

3772 **CHAPTER 29. CARBON EMISSIONS TAX ACT**

3773 **Part 1. General Provisions**

3774 **59-29-101. Title.**

3775 This chapter is known as "Carbon Emissions Tax Act."

3776 Section 19. Section **59-29-102** is enacted to read:

3777 **59-29-102. Definitions.**

3778 As used in this chapter:

- 3779 (1) "Aviation fuel" means the same as that term is defined in Section 59-13-102.
- 3780 (2) "Carbon emissions tax" is a tax imposed under this chapter.
- 3781 (3) "Consumer Price Index" means the Consumer Price Index for All Urban
- 3782 Consumers as published by the Bureau of Labor Statistics of the United States Department of
- 3783 Labor.
- 3784 (4) "Distributor" means the same as that term is defined in Section 59-13-102.
- 3785 (5) "Dyed diesel fuel" means the same as that term is defined in Section 59-13-102.
- 3786 (6) "Fossil fuel" means a petroleum product, motor fuel, special fuel, aviation fuel,
- 3787 natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from these
- 3788 products, including still gas, propane, and petroleum residuals.
- 3789 (7) "Fund" means the Carbon Emissions Tax Expendable Revenue Fund created in
- 3790 Section 59-29-301.
- 3791 (8) "Large emitter" means a facility that emits over 25,000 metric tons of carbon
- 3792 dioxide in a calendar year and is required to provide facility level information regarding
- 3793 emissions in accordance with 40 C.F.R. Sec. 98.2.
- 3794 (9) "Metric ton" means 2,205 pounds.
- 3795 (10) "Motor fuel" means the same as that term is defined in Section 59-13-102.
- 3796 (11) "Natural gas" means the same as that term is defined in Section 59-5-101.
- 3797 (12) "Operator" means a person engaged in the operation of a large emitter.
- 3798 (13) "Removal" means the same as that term is defined in Section 59-13-102.
- 3799 (14) (a) "School bus" means a motor vehicle that:
- 3800 (i) complies with the color and identification requirements of the most recent edition of
- 3801 Minimum Standards for School Buses; and
- 3802 (ii) is used to transport school children to or from school or school activities.
- 3803 (b) "School bus" does not include a vehicle operated by a common carrier in
- 3804 transportation of school children to or from school or school activities.
- 3805 (15) (a) Except as provided in Subsection (15)(b), "special fuel" means the same as that
- 3806 term is defined in Section 59-13-102.
- 3807 (b) "Special fuel" does not include natural gas.
- 3808 (16) "Supplier" means the same as that term is defined in Section 59-13-102.
- 3809 (17) "Terminal" means the same as that term is defined in Section 59-13-102.

3810 (18) "Undyed diesel fuel" means the same as that term is defined in Section 59-13-102.

3811 Section 20. Section **59-29-103** is enacted to read:

3812 **59-29-103. Records.**

3813 (1) A taxpayer under this chapter shall maintain records, statements, books, or accounts
3814 necessary to determine the amount of carbon emissions tax for which the taxpayer is liable to
3815 pay under this chapter.

3816 (2) The commission may require a taxpayer, by notice served upon the taxpayer, to
3817 make or keep the records, statements, books, or accounts described in Subsection (2) in a
3818 manner in which the commission considers sufficient to show the amount of carbon emissions
3819 tax for which the taxpayer is liable to pay under this chapter.

3820 (3) After notice by the commission, the taxpayer shall open the records, statements,
3821 books, or accounts specified in this section for examination by the commission or an
3822 authorized agent of the commission.

3823 Section 21. Section **59-29-201** is enacted to read:

3824 **Part 2. Imposition of Carbon Emissions Tax**

3825 **59-29-201. Imposition of a carbon emissions tax on motor fuel.**

3826 (1) (a) Subject to the other provisions of this section, a carbon emissions tax is
3827 imposed on all motor fuel that is sold, used, or received for sale or use in this state as follows:

3828 (i) beginning on January 1, 2020, and through December 31, 2020, at a rate of 8.89
3829 cents per gallon; and

3830 (ii) beginning on January 1, 2021, and thereafter, at a rate determined by increasing the
3831 rate effective January 1 of each year:

3832 (A) by 3.5% plus a percentage equal to the greater of the actual percent change during
3833 the previous fiscal year in the Consumer Price Index and 0; and

3834 (B) up to the nearest one cent increment.

3835 (b) The tax rate under this Subsection (1) may not exceed 88.9 cents when converted
3836 into 2020 dollars by adjusting for inflation using the Consumer Price Index.

3837 (c) Any increase in the tax rate applies to motor fuel that is imported into the state or
3838 sold at refineries in the state on or after the effective date of the rate change.

3839 (2) A carbon emissions tax is not imposed on:

3840 (a) motor fuel that is brought into and sold in this state in original packages as purely

3841 interstate commerce sales;

3842 (b) motor fuel that is exported from this state if proof of actual exportation on forms
3843 prescribed by the commission is made within 180 days after exportation;

3844 (c) motor fuel or a component of motor fuel that is sold and used in this state and
3845 distilled from coal, oil shale, rock asphalt, bituminous sand, or solid hydrocarbons located in
3846 this state; or

3847 (d) motor fuel that is sold to the United States government, this state, or the political
3848 subdivisions of this state.

3849 (3) (a) A distributor of motor fuel shall pay the carbon emissions tax imposed in
3850 Subsection (1).

3851 (b) A distributor in this state shall monthly:

3852 (i) on electronic forms prescribed by the commission, report to the commission the
3853 amount and type of motor fuel sold, used, or received for sale or use in this state; and

3854 (ii) pay the carbon emissions tax imposed in Subsection (1).

3855 (4) The commission may either collect no carbon emissions tax on motor fuel exported
3856 from the state or, upon application, refund the carbon emissions tax paid.

3857 (5) (a) Revenue received by the commission under this section shall be deposited daily
3858 with the state treasurer and credited to the Transportation Investment Fund of 2005 created in
3859 Section [72-2-124](#).

3860 (b) An appropriation from the Transportation Investment Fund of 2005 created in
3861 Section [72-2-124](#) shall be made to the commission to cover expenses incurred in the
3862 administration and enforcement of this section and the collection of the carbon emissions tax
3863 on motor fuel.

3864 (6) The refund, credit, administrative, and penalty provisions of Chapter 13, Part 2,
3865 Motor Fuel, apply to a carbon emissions tax imposed on motor fuel under this section.

3866 (7) The commission shall apply cooperative agreements under Chapter 13, Part 5,
3867 Interstate Agreements, to the carbon emissions tax imposed under this section.

3868 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3869 commission may make rules governing the procedures for administering and collecting the
3870 carbon emissions tax imposed in this section.

3871 Section 22. Section **59-29-202** is enacted to read:

3872 **59-29-202. Imposition of carbon emissions tax on special fuel.**

3873 (1) (a) Subject to the other provisions of this section, a carbon emissions tax is
3874 imposed at the rates set forth in Subsection (1)(b) on the:

3875 (i) removal of undyed diesel fuel from a refinery;

3876 (ii) removal of undyed diesel fuel from a terminal;

3877 (iii) entry into the state of undyed diesel fuel for consumption, use, sale, or
3878 warehousing;

3879 (iv) sale of undyed diesel fuel to any person that is not registered as a supplier under
3880 Chapter 13, Part 3, Special Fuel, unless the tax had been collected under this section;

3881 (v) untaxed special fuel blended with undyed diesel fuel; or

3882 (vi) use of untaxed special fuel other than propane or electricity.

3883 (b) The rate of the tax imposed in Subsection (1)(a) is as follows:

3884 (i) beginning on January 1, 2020, and through December 31, 2020, at a rate of 10.16
3885 cents per gallon; and

3886 (ii) beginning on January 1, 2021, and thereafter, at a rate determined by increasing the
3887 rate effective January 1 of each year:

3888 (A) by 3.5% plus a percentage equal to the greater of the actual percent change during
3889 the previous fiscal year in the Consumer Price Index and 0; and

3890 (B) up to the nearest one cent increment.

3891 (c) The tax rate under this Subsection (1) may not exceed \$1.02 per gallon when
3892 converted into 2020 dollars by adjusting for inflation using the Consumer Price Index.

3893 (d) The tax imposed under this section shall only be imposed once upon a special fuel.

3894 (2) (a) A carbon emissions tax may not be imposed or collected upon dyed diesel fuel
3895 that:

3896 (i) is sold or used for any purpose other than to operate or propel a motor vehicle upon
3897 the public highways of this state, but this exemption applies only in those cases when the
3898 purchaser or the use of special fuel establish to the satisfaction of the commission that the
3899 special fuel was used for purposes other than to operate a motor vehicle upon the public
3900 highways of the state; or

3901 (ii) is sold to this state or any of the state's political subdivisions.

3902 (b) A carbon emissions tax may not be imposed on undyed diesel fuel or clean fuel that

3903 is:

3904 (i) sold to the United States government or any of the United States government's
3905 instrumentalities or to this state or any of this state's political subdivisions;

3906 (ii) exported from this state if proof of actual exportation on forms prescribed by the
3907 commission is made within 180 days after exportation;

3908 (iii) used in a vehicle off highway;

3909 (iv) used to operate a power take-off unit of a vehicle;

3910 (v) used for off-highway agricultural uses;

3911 (vi) used in a separately fueled engine on a vehicle that does not propel the vehicle
3912 upon the highways of the state;

3913 (vii) used in machinery and equipment not registered and not required to be registered
3914 for highway use; or

3915 (viii) used for school buses.

3916 (c) A carbon emissions tax may not be imposed or collected on special fuel if the
3917 special fuel is:

3918 (i) (A) purchased for business use in machinery and equipment not registered and not
3919 required to be registered for highway use; and

3920 (B) used pursuant to the conditions of a state implementation plan approved under
3921 Title 19, Chapter 2, Air Conservation Act; or

3922 (ii) propane or electricity.

3923 (3) (a) A supplier of special fuel shall pay the carbon emissions tax imposed under this
3924 section.

3925 (b) A supplier shall monthly:

3926 (i) on electronic forms prescribed by the commission, report to the commission the
3927 amount and type of special fuel:

3928 (A) removed from a refinery;

3929 (B) removed from a terminal;

3930 (C) that enters into the state for consumption, use, sale, or warehousing;

3931 (D) sold to any person that is not registered as a supplier under Chapter 13, Part 3,
3932 Special Fuel, unless the carbon emissions tax has been collected under this chapter;

3933 (E) blended with undyed diesel fuel and previously untaxed as special fuel; or

3934 (F) used in this state, other than propane or electricity; and

3935 (ii) pay the carbon emissions tax imposed under this section.

3936 (4) (a) The revenue deposited under this section shall be deposited with the state

3937 treasurer and credited to the Transportation Investment Fund of 2005 created in Section

3938 72-2-124.

3939 (b) An appropriation from the Transportation Investment Fund of 2005 created in

3940 Section 72-2-124 shall be made to the commission to cover the expenses incurred in the

3941 administration and enforcement of this section and the collection of the carbon emissions tax

3942 under this section.

3943 (5) The commission may either collect no carbon emissions tax on special fuel

3944 exported from the state or, upon application, refund the carbon emissions tax paid.

3945 (6) The refund, credit, administrative, and penalty provisions of Chapter 13, Part 3,

3946 Special Fuel, apply to a carbon emissions tax imposed on special fuel under this section.

3947 (7) The commission shall apply cooperative agreements under Chapter 13, Part 5,

3948 Interstate Agreements, to the carbon emissions tax imposed under this section.

3949 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3950 commission may make rules governing the procedures for administering and collecting the

3951 carbon emissions tax imposed in this section.

3952 Section 23. Section **59-29-203** is enacted to read:

3953 **59-29-203. Imposition of carbon emissions tax on aviation fuel.**

3954 (1) (a) Subject to the other provisions of this section, a carbon emissions tax is

3955 imposed on aviation fuel that is sold, used, or received for sale or use in this state as follows:

3956 (i) beginning on January 1, 2020, and through December 31, 2020, at a rate of 8.35

3957 cents per gallon or if it is jet fuel, 9.57 cents per gallon; and

3958 (ii) beginning on January 1, 2021, and thereafter, at a rate determined by increasing the

3959 rate effective January 1 of each year:

3960 (A) by 3.5% plus a percentage equal to the greater of the actual percent change during

3961 the previous fiscal year in the Consumer Price Index and 0; and

3962 (B) up to the nearest one cent increment.

3963 (b) The tax rate under this Subsection (1) may not exceed 83.5 cents per gallon or 95.7

3964 cents per gallon for jet fuel, when converted into 2020 dollars by adjusting for inflation using

3965 the Consumer Price Index.

3966 (2) (a) A person required to pay an aviation fuel tax under Chapter 13, Part 4, Aviation
3967 Fuel, shall pay the carbon emissions tax imposed in this section on aviation fuel purchases in
3968 this state.

3969 (b) The person described in Subsection (2)(a), shall monthly:

3970 (i) on electronic forms prescribed by the commission, report to the commission the
3971 amount of aviation fuel that was purchased:

3972 (A) other than at an international airport, located within a county of the first class, and
3973 that has a United States customs office on the airport's premises; or

3974 (B) at an international airport located within a county of the first class and that has a
3975 United States customs office on the airport's premises; and

3976 (ii) pay the carbon emissions tax imposed under this section.

3977 (3) (a) Revenue received by the commission under this section shall be deposited daily
3978 with the state treasurer who shall credit all of the revenue collected to the Transportation Fund.

3979 (b) An appropriation from the Transportation Fund shall be made to the commission to
3980 cover expenses incurred in the administration and enforcement of this part and the collection of
3981 the aviation fuel tax.

3982 (c) A refund to which a taxpayer is entitled under this part shall be paid from the
3983 Transportation Fund.

3984 (4) The state treasurer shall place an amount equal to the total amount received from
3985 the carbon emissions tax on the sale or use of aviation fuel in the Aeronautics Restricted
3986 Account created by Section [72-2-126](#).

3987 (5) (a) The tax imposed under Subsection (1) shall be allocated as provided in Section
3988 [59-13-402](#).

3989 (b) Upon appropriation by the Legislature, the allocation to aeronautical operations of
3990 the Department of Transportation shall be used as provided in the Aeronautics Restricted
3991 Account created by Section [72-2-126](#).

3992 (6) (a) The commission shall require reports and returns from distributors, retail
3993 dealers, and users in order to enable the commission and the Department of Transportation to
3994 allocate the revenue in accordance with Section [59-13-402](#) to be credited to:

3995 (i) the Aeronautics Restricted Account created by Section [72-2-126](#); and

3996 (ii) the separate accounts of individual airports.

3997 (b) (i) Except as provided by Subsection (6)(b)(ii), any unexpended amount remaining
3998 in the account of any publicly used airport on the first day of January, April, July, and October
3999 shall be paid to the authority operating the airport.

4000 (ii) Carbon emissions tax allocated to an airport owned and operated by a city of the
4001 first class shall be paid to the city treasurer on the first day of each month.

4002 (c) The state treasurer shall deposit carbon emissions tax collected on fuel sold at
4003 places other than publicly used airports in the Aeronautics Restricted Account created by
4004 Section [72-2-126](#).

4005 (7) The refund, credit, administrative, and penalty provisions of Chapter 13, Part 4,
4006 Aviation Fuel, apply to a carbon emissions tax imposed under this section.

4007 Section 24. Section **59-29-204** is enacted to read:

4008 **59-29-204. Imposition of carbon emissions tax on natural gas.**

4009 (1) As used in this section:

4010 (a) "Commercial use" means the use of natural gas that does not constitute industrial
4011 use under Subsection [59-12-102\(56\)](#) or residential use.

4012 (b) "Provider" means a person who:

4013 (i) imports or acquires immediately upon importation into this state, natural gas from
4014 within or without a state, territory, or possession of the United States or the District of
4015 Columbia; or

4016 (ii) otherwise acquires for distribution or sale in this state, natural gas with respect to
4017 which there has been no previous taxable sale or use.

4018 (c) "Residential use" means the use of natural gas in or around a home, apartment
4019 building, sleeping quarters, and similar facilities or accommodations.

4020 (2) (a) Subject to the other provisions of this section, a carbon emissions tax is
4021 imposed on all natural gas sold, used, or received for sale or use in the state for residential or
4022 commercial use as follows:

4023 (i) beginning on January 1, 2020, and through December 31, 2020, at a rate of 53.12
4024 cents per 1,000 cubic feet; and

4025 (ii) beginning on January 1, 2021, and thereafter, at a rate determined by increasing the
4026 rate effective January 1 of each year:

4027 (A) by 3.5% plus a percentage equal to the greater of the actual percent change during
4028 the previous fiscal year in the Consumer Price Index and 0; and

4029 (B) up to the nearest one cent increment.

4030 (b) The tax rate under this Subsection (2) may not exceed \$5.31 per 1,000 cubic feet
4031 when converted to 2020 dollars by adjusting for inflation using the Consumer Price Index.

4032 (c) Any increase in the tax rate applies to natural gas that is provided to a customer for
4033 residential or commercial use in the state on or after the effective date of the rate change.

4034 (3) (a) A provider of natural gas shall pay the carbon emissions tax imposed in
4035 Subsection (2).

4036 (b) A provider in this state shall monthly:

4037 (i) on electronic forms prescribed by the commission, report to the commission the
4038 amount of natural gas sold, used, or received for sale or use in this state; and

4039 (ii) pay the carbon emissions tax imposed in Subsection (2).

4040 (4) The commission may either collect no carbon emissions tax on natural gas exported
4041 from the state, or upon application, refund the carbon emissions tax paid.

4042 (5) Revenue received by the commission under this section shall be deposited into the
4043 fund.

4044 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4045 commission may make rules governing the procedures for administering and collecting the
4046 carbon emissions tax imposed under this section.

4047 (7) The commission shall retain and deposit an administrative charge in accordance
4048 with Section [59-1-306](#) from revenues the commission collects from a tax under this section.

4049 (8) A provider that fails to comply with this chapter is subject to:

4050 (a) penalties described in Section [59-1-401](#); and

4051 (b) interest described in Section [59-1-402](#).

4052 Section 25. Section **59-29-205** is enacted to read:

4053 **59-29-205. Imposition of carbon emissions tax on large emitters.**

4054 (1) Except as otherwise provided in this chapter, a carbon emissions tax is imposed on
4055 each metric ton of carbon dioxide emitted by a large emitter in a calendar year from stationary
4056 combustion, petroleum refining, petroleum and natural gas systems, lime production, or cement
4057 production.

4058 (2) (a) Subject to the other provisions of this section, the tax rate of the carbon
4059 emissions tax is \$10 per metric ton of carbon dioxide beginning on or after January 1, 2020,
4060 with automatic increases each calendar year:

4061 (i) of 3.5% plus a percentage equal to the greater of the actual percent change during
4062 the previous fiscal year in the Consumer Price Index and 0; and

4063 (ii) up to the nearest \$1 increment.

4064 (b) The tax rate under this Subsection (2) may not exceed \$100 per metric ton of
4065 carbon dioxide when converted into 2020 dollars by adjusting for inflation using the Consumer
4066 Price Index.

4067 (3) The operator of a large emitter in this state shall:

4068 (a) obtain a certification issued by the Department of Environmental Quality under
4069 Section [19-1-207](#) of the emissions of carbon dioxide emitted in this state during the previous
4070 calendar year; and

4071 (b) on or before January 31:

4072 (i) on electronic forms prescribed by the commission, report to the commission the
4073 amount certified under Subsection (3)(a); and

4074 (ii) pay the carbon emissions tax imposed by Subsection (1).

4075 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4076 commission may make rules governing the procedures for administering and collecting the
4077 carbon emissions tax imposed under this section.

4078 (5) The commission shall deposit the carbon emissions tax collected under this section
4079 into the fund.

4080 (6) The commission shall retain and deposit an administrative charge in accordance
4081 with Section [59-1-306](#) from revenues the commission collects from a tax under this section.

4082 (7) A large emitter that fails to comply with this chapter is subject to:

4083 (a) penalties described in Section [59-1-401](#); and

4084 (b) interest described in Section [59-1-402](#).

4085 (8) If a person having an ownership interest in a large emitter pays a carbon emissions
4086 tax under this section, the person is exempt from paying the carbon emissions tax under
4087 Section [59-29-204](#).

4088 Section 26. Section **59-29-206** is enacted to read:

4089 **59-29-206. Exemptions.**4090 (1) A carbon emissions tax imposed under this chapter does not apply to:4091 (a) fossil fuel brought into the state by means of the fuel supply tank of a motor
4092 vehicle, vessel, locomotive, or aircraft;4093 (b) fossil fuel that the state is prohibited from taxing under the Utah Constitution or the
4094 constitution or laws of the United States; or4095 (c) fossil fuel intended for export outside the state.4096 (2) A taxpayer who pays a tax similar to a carbon emissions tax in another state on the
4097 same fossil fuel or carbon emissions may claim a nonrefundable credit against the carbon
4098 emissions tax owed under this chapter in an amount equal to the tax paid in the other state.4099 This Subsection (2) includes payments made to other states for cap-and-trade permits related to
4100 electricity exported to another state.4101 (3) A carbon emissions tax due under this chapter is in addition to all other taxes
4102 provided by law.4103 Section 27. Section **59-29-301** is enacted to read:4104 **Part 3. Carbon Emissions Tax Expendable Revenue Fund**4105 **59-29-301. Carbon Emissions Tax Expendable Revenue Fund.**4106 (1) There is created an expendable special revenue fund known as the "Carbon
4107 Emissions Tax Expendable Revenue Fund."4108 (2) The fund shall consist of:4109 (a) the revenue generated from taxes imposed under Sections [59-29-204](#) and
4110 [59-29-205](#);4111 (b) the revenue deposited into the account required under Section [59-12-103](#);4112 (c) any interest and penalties levied in relation to the administration of this chapter; and4113 (d) any other funds received as donations for the fund and appropriations from other
4114 sources.4115 (3) Except as provided in this section, money in the fund shall be used to fund
4116 activities under Title 19, Chapter 2, Part 2, Clean Air Retrofit, Replacement, and Off-road
4117 Technology Program.4118 (4) (a) The Division of Finance shall transfer at least annually from the fund into the
4119 General Fund an amount equal to \$250,000,000 increased annually by a percentage equal to the

4120 greater of the actual percent change during the previous fiscal year in the Consumer Price Index
4121 and 0, up to the nearest \$1 increment.

4122 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4123 Division of Finance may make rules for making the transfer described in Subsection (5)(a).

4124 (5) If the balance in the fund exceeds \$50,000,000 at the close of any fiscal year, the
4125 excess shall be transferred to the General Fund.

4126 Section 28. Section **63N-2-502** is amended to read:

4127 **63N-2-502. Definitions.**

4128 As used in this part:

4129 (1) "Agreement" means an agreement described in Section **63N-2-503**.

4130 (2) "Base taxable value" means the value of hotel property before the construction on a
4131 qualified hotel begins, as that value is established by the county in which the hotel property is
4132 located, using a reasonable valuation method that may include the value of the hotel property
4133 on the county assessment rolls the year before the year during which construction on the
4134 qualified hotel begins.

4135 (3) "Certified claim" means a claim that the office has approved and certified as
4136 provided in Section **63N-2-505**.

4137 (4) "Claim" means a written document submitted by a qualified hotel owner or host
4138 local government to request a convention incentive.

4139 (5) "Claimant" means the qualified hotel owner or host local government that submits a
4140 claim under Subsection **63N-2-505(1)(a)** for a convention incentive.

4141 (6) "Commission" means the Utah State Tax Commission.

4142 (7) "Community reinvestment agency" means the same as that term is defined in
4143 Section **17C-1-102**.

4144 (8) "Construction revenue" means revenue generated from state taxes and local taxes
4145 imposed on transactions occurring during the eligibility period as a result of the construction of
4146 the hotel property, including purchases made by a qualified hotel owner and its subcontractors.

4147 (9) "Convention incentive" means an incentive for the development of a qualified
4148 hotel, in the form of payment from the incentive fund as provided in this part, as authorized in
4149 an agreement.

4150 (10) "Eligibility period" means:

- 4151 (a) the period that:
- 4152 (i) begins the date construction of a qualified hotel begins; and
- 4153 (ii) ends:
- 4154 (A) for purposes of the state portion, 20 years after the date of initial occupancy of that
- 4155 qualified hotel; or
- 4156 (B) for purposes of the local portion and incremental property tax revenue, 25 years
- 4157 after the date of initial occupancy of that hotel; or
- 4158 (b) as provided in an agreement between the office and a qualified hotel owner or host
- 4159 local government, a period that:
- 4160 (i) begins no earlier than the date construction of a qualified hotel begins; and
- 4161 (ii) is shorter than the period described in Subsection (10)(a).
- 4162 (11) "Endorsement letter" means a letter:
- 4163 (a) from the county in which a qualified hotel is located or is proposed to be located;
- 4164 (b) signed by the county executive; and
- 4165 (c) expressing the county's endorsement of a developer of a qualified hotel as meeting
- 4166 all the county's criteria for receiving the county's endorsement.
- 4167 (12) "Host agency" means the community reinvestment agency of the host local
- 4168 government.
- 4169 (13) "Host local government" means:
- 4170 (a) a county that enters into an agreement with the office for the construction of a
- 4171 qualified hotel within the unincorporated area of the county; or
- 4172 (b) a city or town that enters into an agreement with the office for the construction of a
- 4173 qualified hotel within the boundary of the city or town.
- 4174 (14) "Hotel property" means a qualified hotel and any property that is included in the
- 4175 same development as the qualified hotel, including convention, exhibit, and meeting space,
- 4176 retail shops, restaurants, parking, and other ancillary facilities and amenities.
- 4177 (15) "Incentive fund" means the Convention Incentive Fund created in Section
- 4178 [63N-2-503.5](#).
- 4179 (16) "Incremental property tax revenue" means the amount of property tax revenue
- 4180 generated from hotel property that equals the difference between:
- 4181 (a) the amount of property tax revenue generated in any tax year by all taxing entities

4182 from hotel property, using the current assessed value of the hotel property; and

4183 (b) the amount of property tax revenue that would be generated that tax year by all
4184 taxing entities from hotel property, using the hotel property's base taxable value.

4185 (17) "Local portion" means the portion of new tax revenue that is generated by local
4186 taxes.

4187 (18) "Local taxes" means a tax imposed under:

4188 (a) Section 59-12-204;

4189 (b) Section 59-12-301;

4190 (c) Sections 59-12-352 and 59-12-353;

4191 (d) Subsection 59-12-603(1)(a)(i)(A);

4192 (e) Subsection 59-12-603(1)(a)(i)(B);

4193 (f) Subsection 59-12-603(1)(a)(ii);

4194 (g) Subsection 59-12-603(1)(a)(iii); or

4195 (h) Section 59-12-1102.

4196 (19) "New tax revenue" means construction revenue, offsite revenue, and onsite
4197 revenue.

4198 (20) "Offsite revenue" means revenue generated from state taxes and local taxes
4199 imposed on transactions by a third-party seller occurring other than on hotel property during the
4200 eligibility period, if:

4201 (a) the transaction is subject to a tax under Title 59, Chapter 12, Sales and Use Tax
4202 Act; and

4203 (b) the third-party seller voluntarily consents to the disclosure of information to the
4204 office, as provided in Subsection 63N-2-505(2)(b)(i)(E).

4205 (21) "Onsite revenue" means revenue generated from state taxes and local taxes
4206 imposed on transactions occurring on hotel property during the eligibility period.

4207 (22) "Public infrastructure" means:

4208 (a) water, sewer, storm drainage, electrical, telecommunications, and other similar
4209 systems and lines;

4210 (b) streets, roads, curbs, gutters, sidewalks, walkways, parking facilities, and public
4211 transportation facilities; and

4212 (c) other buildings, facilities, infrastructure, and improvements that benefit the public.

4213 (23) "Qualified hotel" means a full-service hotel development constructed in the state
4214 on or after July 1, 2014 that:

4215 (a) requires a significant capital investment;

4216 (b) includes at least 85 square feet of convention, exhibit, and meeting space per guest
4217 room; and

4218 (c) is located within 1,000 feet of a convention center that contains at least 500,000
4219 square feet of convention, exhibit, and meeting space.

4220 (24) "Qualified hotel owner" means a person who owns a qualified hotel.

4221 (25) "Review committee" means the independent review committee established under
4222 Section [63N-2-504](#).

4223 (26) "Significant capital investment" means an amount of at least \$200,000,000.

4224 (27) "State portion" means the portion of new tax revenue that is generated by state
4225 taxes.

4226 (28) "State taxes" means a tax imposed under Subsection [59-12-103](#)(2)(a)(i), (2)(b)(i),
4227 (2)(c)(i), ~~(2)(d)(i)~~, or (2)(e)(i)(A).

4228 (29) "Third-party seller" means a person who is a seller in a transaction:

4229 (a) occurring other than on hotel property;

4230 (b) that is:

4231 (i) the sale, rental, or lease of a room or of convention or exhibit space or other
4232 facilities on hotel property; or

4233 (ii) the sale of tangible personal property or a service that is part of a bundled
4234 transaction, as defined in Section [59-12-102](#), with a sale, rental, or lease described in
4235 Subsection (29)(b)(i); and

4236 (c) that is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act.

4237 Section 29. Section [63N-7-301](#) is amended to read:

4238 **63N-7-301. Tourism Marketing Performance Account.**

4239 (1) There is created within the General Fund a restricted account known as the Tourism
4240 Marketing Performance Account.

4241 (2) The account shall be administered by GOED for the purposes listed in Subsection
4242 (5).

4243 (3) (a) The account shall earn interest.

4244 (b) All interest earned on account money shall be deposited into the account.

4245 (4) The account shall be funded by appropriations made to the account by the
4246 Legislature in accordance with this section.

4247 (5) The director shall use account money appropriated to GOED to pay for the
4248 statewide advertising, marketing, and branding campaign for promotion of the state as
4249 conducted by GOED.

4250 (6) (a) For each fiscal year beginning on or after July 1, 2007, GOED shall annually
4251 allocate 10% of the account money appropriated to GOED to a sports organization for
4252 advertising, marketing, branding, and promoting Utah in attracting sporting events into the
4253 state.

4254 (b) The sports organization shall:

4255 (i) provide an annual written report to GOED that gives an accounting of the use of
4256 money the sports organization receives under this Subsection (6); and

4257 (ii) partner with GOED to promote the state and to encourage economic growth in the
4258 state.

4259 (c) For purposes of this Subsection (6), "sports organization" means an organization
4260 that is:

4261 (i) exempt from federal income taxation in accordance with Section 501(c)(3), Internal
4262 Revenue Code; and

4263 (ii) created to foster national and international sports competitions in the state,
4264 including competitions related to Olympic sports, and to promote and encourage sports tourism
4265 throughout the state, including advertising, marketing, branding, and promoting Utah for the
4266 purpose of attracting, expanding, and retaining sporting events in the state.

4267 (7) Money deposited into the account shall include a legislative appropriation from the
4268 cumulative sales and use tax revenue increases described in Subsection (8), plus any additional
4269 appropriation made by the Legislature.

4270 (8) (a) In fiscal years 2006 through 2019, a portion of the state sales and use tax
4271 revenues determined under this Subsection (8) shall be certified by the State Tax Commission
4272 as a set-aside for the account, and the State Tax Commission shall report the amount of the
4273 set-aside to the office, the Office of Legislative Fiscal Analyst, and the Division of Finance,
4274 which shall set aside the certified amount for appropriation to the account.

4275 (b) For fiscal years 2016 through 2019, the State Tax Commission shall calculate the
4276 set-aside under this Subsection (8) in each fiscal year by applying one of the following
4277 formulas: if the annual percentage change in the Consumer Price Index for All Urban
4278 Consumers, as published by the Bureau of Labor Statistics of the United States Department of
4279 Labor, for the fiscal year two years before the fiscal year in which the set-aside is to be made is:

4280 (i) greater than 3%, and if the annual percentage change in the state sales and use tax
4281 revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal
4282 year three years before the fiscal year in which the set-aside is to be made to the fiscal year two
4283 years before the fiscal year in which the set-aside is to be made is greater than the annual
4284 percentage change in the Consumer Price Index for the fiscal year two years before the fiscal
4285 year in which the set-aside is to be made, then the difference between the annual percentage
4286 change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented
4287 goods and services and the annual percentage change in the Consumer Price Index shall be
4288 multiplied by an amount equal to the state sales and use tax revenues attributable to the retail
4289 sales of tourist-oriented goods and services from the fiscal year three years before the fiscal
4290 year in which the set-aside is to be made; or

4291 (ii) 3% or less, and if the annual percentage change in the state sales and use tax
4292 revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal
4293 year three years before the fiscal year in which the set-aside is to be made to the fiscal year two
4294 years before the fiscal year in which the set-aside is to be made is greater than 3%, then the
4295 difference between the annual percentage change in the state sales and use tax revenues
4296 attributable to the retail sales of tourist-oriented goods and services and 3% shall be multiplied
4297 by an amount equal to the state sales and use tax revenues attributable to the retail sales of
4298 tourist-oriented goods and services from the fiscal year three years before the fiscal year in
4299 which the set-aside is to be made.

4300 (c) The total money appropriated to the account in a fiscal year under Subsections
4301 (8)(a) and (b) may not exceed the amount appropriated to the account in the preceding fiscal
4302 year by more than \$3,000,000.

4303 (d) As used in this Subsection (8), "state sales and use tax revenues" are revenues
4304 collected under Subsections [59-12-103\(2\)\(a\)\(i\)\(A\)](#) [~~and~~], [59-12-103\(2\)\(c\)\(i\)](#), and
4305 [59-12-103\(2\)\(d\)](#).

4306 (e) As used in this Subsection (8), "retail sales of tourist-oriented goods and services"
4307 are calculated by adding the following percentages of sales from each business registered with
4308 the State Tax Commission under one of the following codes of the 2012 North American
4309 Industry Classification System of the federal Executive Office of the President, Office of
4310 Management and Budget:

4311 (i) 80% of the sales from each business under NAICS Codes:

4312 (A) 532111 Passenger Car Rental;

4313 (B) 53212 Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing;

4314 (C) 5615 Travel Arrangement and Reservation Services;

4315 (D) 7211 Traveler Accommodation; and

4316 (E) 7212 RV (Recreational Vehicle) Parks and Recreational Camps;

4317 (ii) 25% of the sales from each business under NAICS Codes:

4318 (A) 51213 Motion Picture and Video Exhibition;

4319 (B) 532292 Recreational Goods Rental;

4320 (C) 711 Performing Arts, Spectator Sports, and Related Industries;

4321 (D) 712 Museums, Historical Sites, and Similar Institutions; and

4322 (E) 713 Amusement, Gambling, and Recreation Industries;

4323 (iii) 20% of the sales from each business under NAICS Code 722 Food Services and
4324 Drinking Places;

4325 (iv) 18% of the sales from each business under NAICS Codes:

4326 (A) 447 Gasoline Stations; and

4327 (B) 81293 Parking Lots and Garages;

4328 (v) 14% of the sales from each business under NAICS Code 8111 Automotive Repair
4329 and Maintenance; and

4330 (vi) 5% of the sales from each business under NAICS Codes:

4331 (A) 445 Food and Beverage Stores;

4332 (B) 446 Health and Personal Care Stores;

4333 (C) 448 Clothing and Clothing Accessories Stores;

4334 (D) 451 Sporting Goods, Hobby, Musical Instrument, and Book Stores;

4335 (E) 452 General Merchandise Stores; and

4336 (F) 453 Miscellaneous Store Retailers.

4337 Section 30. Section 76-8-1101 is amended to read:

4338 **76-8-1101. Criminal offenses and penalties relating to revenue and taxation --**
 4339 **Rulemaking authority -- Statute of limitations.**

4340 (1) (a) As provided in Section 59-1-401, criminal offenses and penalties are as
 4341 provided in Subsections (1)(b) through (e).

4342 ~~[(b) (i) Any person who]~~

4343 (b) (i) A person is guilty of a class B misdemeanor if the person:

4344 (A) is required by Title 59, Revenue and Taxation, or any laws the State Tax
 4345 Commission administers or regulates to register with or obtain a license or permit from the
 4346 State Tax Commission~~[-, who]; and~~

4347 (B) operates without having registered or secured a license or permit~~[-, or who] or~~
 4348 operates when the registration, license, or permit is expired or not current~~[-, is guilty of a class~~
 4349 B misdemeanor].

4350 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (1)(b)(i), the
 4351 penalty may not:

4352 (A) be less than \$500; or

4353 (B) exceed \$1,000.

4354 (c) (i) With respect to a tax, fee, or charge as defined in Section 59-1-401, ~~[any] a~~
 4355 person ~~[who] is guilty of a third degree felony if the person:~~

4356 (A) knowingly and intentionally, and without a reasonable good faith basis, fails to
 4357 make, render, sign, or verify any return within the time required by law or to supply any
 4358 information within the time required by law~~[-, or who];~~

4359 (B) makes, renders, signs, or verifies any false or fraudulent return or statement~~[-, or~~
 4360 who]; or

4361 (C) supplies any false or fraudulent information~~[-, is guilty of a third degree felony].~~

4362 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (1)(c)(i), the penalty
 4363 may not:

4364 (A) be less than \$1,000; or

4365 (B) exceed \$5,000.

4366 (d) (i) Any person who intentionally or willfully attempts to evade or defeat any tax,
 4367 fee, or charge as defined in Section 59-1-401 or the payment of a tax, fee, or charge as defined

4368 in Section 59-1-401 is, in addition to other penalties provided by law, guilty of a second degree
4369 felony.

4370 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (1)(d)(i), the penalty
4371 may not:

4372 (A) be less than \$1,500; or

4373 (B) exceed \$25,000.

4374 (e) (i) A person is guilty of a second degree felony if that person commits an act:

4375 (A) described in Subsection (1)(e)(ii) with respect to one or more of the following
4376 documents:

4377 (I) a return;

4378 (II) an affidavit;

4379 (III) a claim; or

4380 (IV) a document similar to Subsections (1)(e)(i)(A)(I) through (III); and

4381 (B) subject to Subsection (1)(e)(iii), with knowledge that the document described in
4382 Subsection (1)(e)(i)(A):

4383 (I) is false or fraudulent as to any material matter; and

4384 (II) could be used in connection with any material matter administered by the State Tax
4385 Commission.

4386 (ii) The following acts apply to Subsection (1)(e)(i):

4387 (A) preparing any portion of a document described in Subsection (1)(e)(i)(A);

4388 (B) presenting any portion of a document described in Subsection (1)(e)(i)(A);

4389 (C) procuring any portion of a document described in Subsection (1)(e)(i)(A);

4390 (D) advising in the preparation or presentation of any portion of a document described
4391 in Subsection (1)(e)(i)(A);

4392 (E) aiding in the preparation or presentation of any portion of a document described in
4393 Subsection (1)(e)(i)(A);

4394 (F) assisting in the preparation or presentation of any portion of a document described
4395 in Subsection (1)(e)(i)(A); or

4396 (G) counseling in the preparation or presentation of any portion of a document
4397 described in Subsection (1)(e)(i)(A).

4398 (iii) This Subsection (1)(e) applies:

4399 (A) regardless of whether the person for which the document described in Subsection
4400 (1)(e)(i)(A) is prepared or presented:

4401 (I) knew of the falsity of the document described in Subsection (1)(e)(i)(A); or
4402 (II) consented to the falsity of the document described in Subsection (1)(e)(i)(A); and

4403 (B) in addition to any other penalty provided by law.

4404 (iv) Notwithstanding Section [76-3-301](#), for purposes of this Subsection (1)(e), the
4405 penalty may not:

4406 (A) be less than \$1,500; or

4407 (B) exceed \$25,000.

4408 (v) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4409 State Tax Commission may make rules prescribing the documents that are similar to
4410 Subsections (1)(e)(i)(A)(I) through (III).

4411 (2) The statute of limitations for prosecution for a violation of this section is the later
4412 of six years:

4413 (a) from the date the tax should have been remitted; or

4414 (b) after the day on which the person commits the criminal offense.

4415 Section 31. **Effective date.**

4416 (1) Except as provided in Subsection (2), this bill takes effect on January 1, 2020.

4417 (2) The actions in this bill to the following take effect for a taxable year beginning on
4418 or after January 1, 2020:

4419 (a) Section [59-7-623](#);

4420 (b) Section [59-10-138](#);

4421 (c) Section [59-10-529.1](#);

4422 (d) Section [59-10-1102.1](#); and

4423 (e) Section [59-10-1112](#).