

ENERGY AND INNOVATION RESEARCH GRANT PROGRAM

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jeremy A. Peterson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill establishes an energy and innovation research grant program.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ provides that certain sales and use tax revenue shall be deposited into the Energy and Innovation Research Program Fund;
- ▶ creates the Energy and Innovation Research Board;
- ▶ specifies the membership and duties of the Energy and Innovation Research Board;
- ▶ creates the Energy and Innovation Research Program Fund;
- ▶ provides that funds in the Energy and Innovation Research Program Fund shall be used for a competitive grant program for certain advanced energy technology;
- ▶ requires the Office of Energy Development to administer grants awarded from the Energy and Innovation Research Program Fund; and
- ▶ provides that funds in the Energy and Innovation Research Program Fund are nonlapsing.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.



Utah Code Sections Affected:

AMENDS:

35A-8-309, as enacted by Laws of Utah 2016, Chapter 184

59-12-103, as last amended by Laws of Utah 2016, Chapters 184, 291, 348 and last amended by Coordination Clause, Laws of Utah 2016, Chapter 291

63J-1-602.4, as last amended by Laws of Utah 2016, Chapters 193 and 240

ENACTS:

63M-4-701, Utah Code Annotated 1953

63M-4-702, Utah Code Annotated 1953

63M-4-703, Utah Code Annotated 1953

63M-4-704, Utah Code Annotated 1953

63M-4-705, Utah Code Annotated 1953

63M-4-706, Utah Code Annotated 1953

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

Section 1. Section **35A-8-309** is amended to read:

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

(1) The impact board shall:

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

(b) use money transferred to the Throughput Infrastructure Fund in accordance with ~~[Subsection 59-12-103(14)]~~ Section **59-12-103** to provide a loan or grant to finance the cost of acquisition or construction of a throughput infrastructure project to one or more local political subdivisions, including a Utah interlocal entity created under ~~[the Interlocal Cooperation Act,]~~ Title 11, Chapter 13, Interlocal Cooperation Act;

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

(d) determine provisions for repayment of loans;

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

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

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

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

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

(5) (a) The impact board shall:

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

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

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

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

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

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

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

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

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

(a) the number and type of loans and grants made under this section; and

(b) a list of local political subdivisions or interlocal entities that received assistance under this section.

Section 2. Section **59-12-103** is amended to read:

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

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

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

(b) amounts paid for:

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

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

(iii) an ancillary service associated with a:

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

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

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section [59-12-104](#), amounts paid or charged as admission or

121 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
122 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
123 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
124 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
125 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
126 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
127 horseback rides, sports activities, or any other amusement, entertainment, recreation,
128 exhibition, cultural, or athletic activity;

129 (g) amounts paid or charged for services for repairs or renovations of tangible personal
130 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

131 (i) the tangible personal property; and

132 (ii) parts used in the repairs or renovations of the tangible personal property described
133 in Subsection (1)(g)(i), regardless of whether:

134 (A) any parts are actually used in the repairs or renovations of that tangible personal
135 property; or

136 (B) the particular parts used in the repairs or renovations of that tangible personal
137 property are exempt from a tax under this chapter;

138 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
139 assisted cleaning or washing of tangible personal property;

140 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
141 accommodations and services that are regularly rented for less than 30 consecutive days;

142 (j) amounts paid or charged for laundry or dry cleaning services;

143 (k) amounts paid or charged for leases or rentals of tangible personal property if within
144 this state the tangible personal property is:

145 (i) stored;

146 (ii) used; or

147 (iii) otherwise consumed;

148 (l) amounts paid or charged for tangible personal property if within this state the
149 tangible personal property is:

150 (i) stored;

151 (ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70%; and

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

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

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

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

(i) a state tax imposed on the transaction at a tax rate of 2%; and

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

(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at

183 a tax rate of 1.75%; and

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

186 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
187 tangible personal property other than food and food ingredients, a state tax and a local tax is
188 imposed on the entire bundled transaction equal to the sum of:

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

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

191 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
192 Sales and Use Tax Act, if the location of the transaction as determined under Sections
193 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
194 Additional State Sales and Use Tax Act; and

195 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
196 Sales and Use Tax Act, if the location of the transaction as determined under Sections
197 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
198 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

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

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

205 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
206 transaction described in Subsection (2)(d)(i) or (ii):

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

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

(II) state or federal law provides otherwise; or

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

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

(II) state or federal law provides otherwise.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iv) Subsection (2)(d)(i)(A)(I).

(h) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

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

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

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

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

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

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); or

(iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection (2)(d)(i)(B).

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) \$17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

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

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

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

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

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

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources

Conservation and Development Fund created in Section 73-10-24;

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

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

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

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

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

(B) fund state required dam safety improvements; and

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

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

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

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

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

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this

Subsection (5), if that difference is greater than \$1:

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

(ii) \$17,500,000.

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

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

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

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

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

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

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

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

(d) After making the transfers required by Subsections (5)(b) and (c), 94% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

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

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

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,

Chapter 26, Bear River Development Act;

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

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

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

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

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

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

(b) for fiscal year 2017-18 only:

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

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

(c) for fiscal year 2018-19 only:

(i) 60% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 40% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(d) for fiscal year 2019-20 only:

(i) 40% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

431 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the
432 Water Infrastructure Restricted Account created by Section 73-10g-103;
433 (e) for fiscal year 2020-21 only:
434 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
435 Transportation Investment Fund of 2005 created by Section 72-2-124; and
436 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
437 Water Infrastructure Restricted Account created by Section 73-10g-103; and
438 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
439 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
440 created by Section 73-10g-103.

441 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
442 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
443 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
444 created by Section 72-2-124:

445 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
446 the revenues collected from the following taxes, which represents a portion of the
447 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
448 on vehicles and vehicle-related products:

449 (A) the tax imposed by Subsection (2)(a)(i)(A);
450 (B) the tax imposed by Subsection (2)(b)(i);
451 (C) the tax imposed by Subsection (2)(c)(i); and
452 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus
453 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
454 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
455 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
456 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

457 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
458 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total
459 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
460 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
461 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection

(7)(a) equal to the product of:

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

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

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

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

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

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

(c) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for a fiscal year beginning on or after July 1, 2018, the Division of Finance shall annually deposit into the Transportation Investment Fund of 2005 created by Section [72-2-124](#) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

493 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

494 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
495 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
496 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

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

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

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

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

510 (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%
511 tax rate on the transactions described in Subsection (1);

512 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
513 .05% tax rate on the transactions described in Subsection (1); and

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

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

521 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
522 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
523 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of

Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section [63N-2-512](#).

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

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

(13) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2017, the Division of Finance shall annually deposit \$1,000,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Energy and Innovation Research Program Fund created in Section [63M-4-705](#).

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

Section 3. Section **63J-1-602.4** is amended to read:

63J-1-602.4. List of nonlapsing funds and accounts -- Title 61 through Title 63N.

(1) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section [61-2c-202](#).

(2) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section [61-2f-204](#).

(3) Certain funds donated to the Department of Human Services, as provided in Section [62A-1-111](#).

(4) Appropriations from the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section [62A-1-202](#).

(5) Certain funds donated to the Division of Child and Family Services, as provided in Section [62A-4a-110](#).

(6) Appropriations from the Choose Life Adoption Support Restricted Account created in Section [62A-4a-608](#).

(7) Appropriations to the Division of Services for People with Disabilities, as provided in Section [62A-5-102](#).

(8) Appropriations to the Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section [63A-9-401](#).

(9) A portion of the funds appropriated to the Utah Seismic Safety Commission, as provided in Section [63C-6-104](#).

(10) Funds appropriated or collected for publishing the Office of Administrative Rules' publications, as provided in Section [63G-3-402](#).

(11) The Immigration Act Restricted Account created in Section [63G-12-103](#).

(12) Money received by the military installation development authority, as provided in Section [63H-1-504](#).

(13) Appropriations to the Utah Science Technology and Research Initiative created in Section [63M-2-301](#).

(14) Appropriations to the Energy and Innovation Research Program Fund created in Section [63M-4-705](#).

~~[(14)]~~ (15) Appropriations to fund the Governor's Office of Economic Development's Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

~~[(15)]~~ (16) The Motion Picture Incentive Account created in Section [63N-8-103](#).

~~[(16)]~~ (17) Certain money payable for commission expenses of the Pete Suazo Utah Athletic Commission, as provided under Section [63N-10-301](#).

Section 4. Section **63M-4-701** is enacted to read:

Part 7. Energy Innovation and Research Program Act

63M-4-701. Title.

This part is known as the "Energy Innovation and Research Program Act."

Section 5. Section **63M-4-702** is enacted to read:

63M-4-702. Definitions.

As used in this part:

(1) (a) "Advanced energy technology" means a technology that enhances an important component of the energy economy, including energy production, integration, delivery, or efficiency.

(b) "Advanced energy technology" includes:

- (i) energy storage;
- (ii) advanced combustion;
- (iii) emission reduction; and
- (iv) integration technology.

(2) "Agreement" means a contract entered into between the office and the grantee stating the terms and conditions for use of funds approved by the board.

(3) "Board" means the Energy and Innovation Research Board created in Section [63M-4-703](#).

(4) "Grantee" means a person, company, research organization, or other qualifying entity that has been approved to receive state funding provided under this part.

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

Section 6. Section **63M-4-703** is enacted to read:

63M-4-703. Energy and Innovation Research Board.

(1) (a) There is created the Energy and Innovation Research Board composed of seven members.

(b) The governor shall appoint board members as follows:

(i) the energy advisor or the executive director of the Office of Energy Development, who shall serve as chair of the board;

(ii) one member representing the energy development and economic interests of rural Utah;

(iii) one member representing one of Utah's research universities; and

(iv) four members:

(A) representing diverse backgrounds and with expertise for advancing energy technology that enhances Utah's energy economy with a focus on energy technologies that support the state's air quality goals; and

(B) with relevant industry, technology, research, finance, or economic development experience.

(2) (a) Except as provided in Subsection (2)(b), a board member shall serve a four-year term.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of

board members are staggered so that approximately half of the board is appointed every two years.

(3) (a) A board member shall hold office until the board member's successor is appointed and qualified.

(b) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement in the same manner under this section as the appointment of the member whose vacancy is being filled for the unexpired term.

(c) The governor may remove a member of the board for cause.

(4) (a) Four members of the board constitute a quorum for approving grant awards and conducting board business.

(b) A majority vote of the quorum present is required for an action to be taken by the board.

(c) The board shall meet:

(i) no less frequently than once each quarter on a day determined by the board; and

(ii) as necessary to conduct board business, as called by the chair.

(d) A board member may not receive compensation or benefits for the board member's service, but may receive per diem and travel expenses as allowed in:

(i) Section [63A-3-106](#);

(ii) Section [63A-3-107](#); and

(iii) rules made by the Division of Finance according to Sections [63A-3-106](#) and [63A-3-107](#).

Section 7. Section **63M-4-704** is enacted to read:

63M-4-704. Board duties.

(1) The board shall establish a competitive grant program that:

(a) is designed to:

(i) advance the development and deployment of advanced energy technologies that are considered to have a significant potential to accelerate the state's energy and mineral economy, including supporting the transition of strategic technologies from research and demonstration to deployment and industry adoption;

(ii) encourage collaboration on research and development activities in targeted areas;

(iii) facilitate the transition of advanced energy technologies into the marketplace

where the technologies can be used to enhance economic growth; and

(iv) support the rapid deployment of advanced energy technologies developed by the private and public sector to enhance energy production and job creation in Utah's energy sector; and

(b) offers one or more grants, on a competitive basis, to a person, company, research organization, or other qualifying entity that:

(i) meets the qualifying criteria described in this section; and

(ii) submits a grant proposal to the board in accordance with the rules made under Subsection (2).

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules for the grant program that describe:

(a) the purpose;

(b) eligibility criteria to receive a grant;

(c) how the board determines which proposals receive grants; and

(d) other information the office determines is necessary and appropriate.

(3) The board shall determine funding award grants based on the following considerations:

(a) the technical merit of the advanced energy technology and commercialization plan;

(b) the degree to which the advanced energy technology meets a specific and significant challenge to advancing Utah's energy economy;

(c) the level of matching funds from private and federal sources; and

(d) the potential for job creation and economic development.

Section 8. Section **63M-4-705** is enacted to read:

63M-4-705. Energy and Innovation Research Program Fund.

(1) (a) There is created an expendable special revenue fund known as the "Energy and Innovation Research Program Fund."

(b) The fund consists of:

(i) appropriations to the fund;

(ii) other public and private contributions made under Subsection (1)(c);

(iii) fees established by the department, as described in Subsection (3)(a), and deposited into the fund; and

679 (iv) interest earnings on cash balances.

680 (c) The office may accept contributions from other public and private sources for
681 deposit into the fund.

682 (d) Any funds not used in a given fiscal year shall be considered nonlapsing funds that
683 shall be available for granting in subsequent years.

684 (2) The office may award grants, with money available in the fund, to qualifying
685 entities at the discretion of the board based on the rules and procedures described in Section
686 63M-4-704.

687 (3) The office may:

688 (a) establish an application fee for a grant from the fund by following the procedures
689 and requirements of Section 63J-1-504; and

690 (b) reimburse itself for the costs incurred in administering the fund from:

691 (i) the fund; or

692 (ii) application fees established under Subsection (3)(a).

693 Section 9. Section **63M-4-706** is enacted to read:

694 **63M-4-706. Grant administration.**

695 (1) The office shall administer the grants issued under this part.

696 (2) (a) Based on the board's approval of a funding grant to the grantee, the office shall
697 enter into an agreement with the grantee for disbursement of funds, including the terms,
698 conditions, and responsibilities that the grantee will be subject to in receiving and spending
699 grant funds.

700 (b) Subject to the agreement, a grantee may be required to return funds if any terms,
701 conditions, and responsibilities of the agreement are not complied with or the grantee
702 substantially changes the plans to develop and deploy the technology after being approved for
703 funding by the board.

704 (3) Funding allocations approved by the board shall be administered by the office.

705 (4) The office shall review the activities and progress of grant recipients on a regular
706 basis and grantees shall provide a biannual report on achievement of goals and timelines
707 included in the application and agreement.

708 (5) The office shall provide the Legislature an annual report on the allocation of Energy
709 and Innovation Research Program Fund grants approved and dispersed under this part.

710 Section 10. **Effective date.**
711 This bill takes effect on July 1, 2017.

Legislative Review Note
Office of Legislative Research and General Counsel