

TAX RESTRUCTURING REVISIONS

2019 SECOND SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Francis D. Gibson

LONG TITLE**Committee Note:**

The Tax Restructuring and Equalization Task Force recommended this bill.

Membership: 10 legislators 4 non-legislators

Legislative Vote: 6 voting for 3 voting against 1 absent

General Description:

This bill amends and enacts provisions related to state and local taxes and revenue.

Highlighted Provisions:

This bill:

- decreases the corporate franchise and income tax rate and the individual income tax rate;

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

- repeals certain transfers from the General Fund into the Education Fund;

- modifies the calculation of the Utah personal exemption for purposes of the taxpayer tax credit;

- enacts a nonrefundable tax credit for social security benefits that are included in the claimant's federal adjusted gross income;

- provides that an individual who claims the tax credit for social security benefits may not also claim the retirement tax credit on the same return;

- enacts a refundable state earned income tax credit for certain individuals who are



28 experiencing intergenerational poverty;

29 ▶ enacts a refundable grocery tax credit;

30 ▶ provides for apportionment of the state earned income tax credit and the grocery tax

31 credit;

32 ▶ increases the state sales and use tax rate on food and food ingredients;

33 ▶ imposes state and local sales and use tax on amounts paid or charged for certain

34 services;

35 ▶ modifies the sales and use tax dedications for the Transportation Investment Fund

36 of 2005;

37 ▶ directs a portion of growth in the amount of revenue collected from the sales and

38 use tax on the sale of food and food ingredients be deposited into the Transit and

39 Transportation Investment Fund;

40 ▶ repeals certain sales and use tax exemptions;

41 ▶ provides a sales and use tax exemption for certain transactions paid for through a

42 machine that only accepts cash;

43 ▶ enacts a sales and use tax exemption for tangible personal property consumed in the

44 performance of certain taxable services;

45 ▶ establishes a repeal date for the sales and use tax exemption for construction

46 materials used in the construction of a new or expanding life science research and

47 development facility;

48 ▶ creates a sales and use tax exemption for menstrual products;

49 ▶ enacts a sales tax on motor fuel and special fuel other than diesel and an additional

50 excise tax on diesel fuel;

51 ▶ increases the state motor vehicle rental tax;

52 ▶ provides a repeal date for the program that allows certain clean fuel vehicles to

53 travel in a high occupancy vehicle lane regardless of the number of occupants;

54 ▶ directs the Utah Department of Transportation to implement one or more strategies

55 to manage congestion on state highways and to generate highway user fees;

56 ▶ requires the Utah Department of Transportation to submit an annual report to a

57 legislative committee regarding the road usage charge program;

58 ▶ addresses the requirements for using a high occupancy toll lane;

- 59 ▶ modifies the permissible uses for funds in the Tollway Special Revenue Fund; and
- 60 ▶ makes technical and conforming changes.

61 **Money Appropriated in this Bill:**

62 This bill appropriates in fiscal year 2020:

- 63 ▶ To the General Fund, as a one-time appropriation:
- 64 • From the Education Fund Restricted -- Underage Drinking Prevention Program
- 65 Restricted Account, One-time, \$1,750,000.

66 This bill appropriates in fiscal year 2021:

- 67 ▶ To State Board of Education -- Child Nutrition, as a one-time appropriation:
- 68 • From Education Fund, \$55,500,000.
- 69 • From Dedicated Credits -- Liquor Tax, (\$55,500,000).
- 70 ▶ To State Board of Education -- State Administrative Office, as an ongoing
- 71 appropriation:
- 72 • From Education Fund, \$2,850,000.
- 73 • From Education Fund Restricted -- Underage Drinking Prevention Program
- 74 Restricted Account, (\$2,850,000).
- 75 ▶ To University of Utah -- Education and General, as an ongoing appropriation:
- 76 • From General Fund, \$101,608,900.
- 77 • From Education Fund, (\$101,608,900).
- 78 ▶ To University of Utah -- School of Medicine, as an ongoing appropriation:
- 79 • From General Fund, \$35,899,500.
- 80 • From Education Fund, (\$35,899,500).
- 81 ▶ To University of Utah -- University Hospital, as an ongoing appropriation:
- 82 • From General Fund, \$1,413,500.
- 83 • From Education Fund, (\$1,413,500).
- 84 ▶ To University of Utah -- School of Dentistry, as an ongoing appropriation:
- 85 • From General Fund, \$2,324,700.
- 86 • From Education Fund, (\$2,324,700).
- 87 ▶ To Utah State University -- Education and General, as an ongoing appropriation:
- 88 • From General Fund, \$73,237,800.
- 89 • From Education Fund, (\$73,237,800).

- 90 ▶ To Utah State University -- USU-Eastern Education and General, as an ongoing
91 appropriation:
- 92 • From General Fund, \$12,503,400.
- 93 • From Education Fund, (\$12,503,400).
- 94 ▶ To Weber State University -- Education and General, as an ongoing appropriation:
- 95 • From General Fund, \$91,115,900.
- 96 • From Education Fund, (\$91,115,900).
- 97 ▶ To Southern Utah University -- Education and General, as an ongoing
98 appropriation:
- 99 • From General Fund, \$48,726,900.
- 100 • From Education Fund, (\$48,726,900).
- 101 ▶ To Utah Valley University -- Education and General, as an ongoing appropriation:
- 102 • From General Fund, \$117,745,200.
- 103 • From Education Fund, (\$117,745,200).
- 104 ▶ To Snow College -- Education and General, as an ongoing appropriation:
- 105 • From General Fund, \$24,831,900.
- 106 • From Education Fund, (\$24,831,900).
- 107 ▶ To Dixie State University -- Education and General, as an ongoing appropriation:
- 108 • From General Fund, \$14,810,400.
- 109 • From Education Fund, (\$14,810,400).
- 110 ▶ To Utah Department of Transportation -- Joint Highway Committee, as an ongoing
111 appropriation:
- 112 • From Transportation Fund, \$5,000,000.

Other Special Clauses:

114 This bill provides a special effective date.

115 This bill provides contingent retrospective operation.

Utah Code Sections Affected:**AMENDS:**

118 **15A-1-204**, as last amended by Laws of Utah 2017, Chapter 18

119 **26-36b-208**, as last amended by Laws of Utah 2019, Chapters 1 and 393

120 **32B-2-301**, as last amended by Laws of Utah 2018, Chapter 329

121 **32B-2-304**, as last amended by Laws of Utah 2019, Chapter 403
122 **32B-2-305**, as last amended by Laws of Utah 2013, Chapter 400
123 **35A-8-308**, as last amended by Laws of Utah 2017, Chapters 181 and 421
124 **35A-8-309**, as last amended by Laws of Utah 2019, Chapter 493
125 **41-6a-409**, as last amended by Laws of Utah 2017, Chapter 142
126 **41-6a-505**, as last amended by Laws of Utah 2019, Chapter 136
127 **41-6a-1406**, as last amended by Laws of Utah 2019, Chapter 373
128 **41-12a-806**, as last amended by Laws of Utah 2019, Chapter 55
129 **53G-10-406**, as last amended by Laws of Utah 2019, Chapter 293
130 **59-1-1503**, as last amended by Laws of Utah 2012, Chapter 399
131 **59-7-104**, as last amended by Laws of Utah 2019, Chapter 418
132 **59-7-201**, as last amended by Laws of Utah 2018, Chapter 456
133 **59-7-610**, as last amended by Laws of Utah 2019, Chapter 247
134 **59-7-614.1**, as last amended by Laws of Utah 2016, Chapter 375
135 **59-7-618**, as last amended by Laws of Utah 2017, Chapter 265
136 **59-7-620**, as last amended by Laws of Utah 2017, Chapter 222
137 **59-10-104**, as last amended by Laws of Utah 2018, Chapter 456
138 **59-10-529.1**, as enacted by Laws of Utah 2015, Chapter 369
139 **59-10-1005**, as last amended by Laws of Utah 2017, Chapter 148
140 **59-10-1007**, as last amended by Laws of Utah 2019, Chapter 247
141 **59-10-1017**, as last amended by Laws of Utah 2017, Chapter 389
142 **59-10-1017.1**, as enacted by Laws of Utah 2017, Chapter 389
143 **59-10-1018**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 3
144 **59-10-1019**, as renumbered and amended by Laws of Utah 2008, Chapter 389
145 **59-10-1022**, as enacted by Laws of Utah 2008, Chapter 389
146 **59-10-1023**, as enacted by Laws of Utah 2008, Chapter 389
147 **59-10-1028**, as last amended by Laws of Utah 2012, Chapter 399
148 **59-10-1033**, as last amended by Laws of Utah 2017, Chapter 265
149 **59-10-1035**, as last amended by Laws of Utah 2017, Chapter 222
150 **59-10-1105**, as last amended by Laws of Utah 2016, Chapter 375
151 **59-10-1403.3**, as enacted by Laws of Utah 2017, Chapter 270

152 **59-12-102**, as last amended by Laws of Utah 2019, Chapters 325, 481, and 486
153 **59-12-103**, as last amended by Laws of Utah 2019, Chapters 1, 136, and 479
154 **59-12-104**, as last amended by Laws of Utah 2019, Chapters 136 and 486
155 **59-12-104.5**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
156 **59-12-1201**, as last amended by Laws of Utah 2016, Chapters 184 and 291
157 **59-13-202**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
158 **63I-2-259**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
159 **63I-2-272**, as last amended by Laws of Utah 2019, Chapters 136 and 246
160 **63M-4-702**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
161 **72-1-201**, as last amended by Laws of Utah 2019, Chapter 431
162 **72-1-213.1**, as enacted by Laws of Utah 2019, Chapter 479
163 **72-2-120**, as last amended by Laws of Utah 2018, Chapter 269
164 **72-2-124**, as last amended by Laws of Utah 2019, Chapters 327 and 479
165 **72-6-118**, as last amended by Laws of Utah 2018, Chapter 269
166 **72-9-603**, as last amended by Laws of Utah 2019, Chapter 373

167 ENACTS:

168 **35A-9-214**, Utah Code Annotated 1953
169 **59-10-1041**, Utah Code Annotated 1953
170 **59-10-1102.1**, Utah Code Annotated 1953
171 **59-10-1113**, Utah Code Annotated 1953
172 **59-10-1114**, Utah Code Annotated 1953
173 **59-12-130**, Utah Code Annotated 1953
174 **59-13-323**, Utah Code Annotated 1953
175 **63I-2-241**, Utah Code Annotated 1953

176 REPEALS:

177 **53F-9-304**, as last amended by Laws of Utah 2019, Chapter 186
178 **59-12-104.4**, as enacted by Laws of Utah 2011, Chapter 314

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

181 Section 1. Section **15A-1-204** is amended to read:

182 **15A-1-204. Adoption of State Construction Code -- Amendments by commission**

-- Approved codes -- Exemptions.

(1) (a) The State Construction Code is the construction codes adopted with any modifications in accordance with this section that the state and each political subdivision of the state shall follow.

(b) A person shall comply with the applicable provisions of the State Construction Code when:

(i) new construction is involved; and

(ii) the owner of an existing building, or the owner's agent, is voluntarily engaged in:

(A) the repair, renovation, remodeling, alteration, enlargement, rehabilitation, conservation, or reconstruction of the building; or

(B) changing the character or use of the building in a manner that increases the occupancy loads, other demands, or safety risks of the building.

(c) On and after July 1, 2010, the State Construction Code is the State Construction Code in effect on July 1, 2010, until in accordance with this section:

(i) a new State Construction Code is adopted; or

(ii) one or more provisions of the State Construction Code are amended or repealed in accordance with this section.

(d) A provision of the State Construction Code may be applicable:

(i) to the entire state; or

(ii) within a county, city, or town.

(2) (a) The Legislature shall adopt a State Construction Code by enacting legislation that adopts a nationally recognized construction code with any modifications.

(b) Legislation described in Subsection (2)(a) shall state that the legislation takes effect on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the legislation.

(c) Subject to Subsection (6), a State Construction Code adopted by the Legislature is the State Construction Code until, in accordance with this section, the Legislature adopts a new State Construction Code by:

(i) adopting a new State Construction Code in its entirety; or

(ii) amending or repealing one or more provisions of the State Construction Code.

(3) (a) Except as provided in Subsection (3)(b), for each update of a nationally

recognized construction code, the commission shall prepare a report described in Subsection (4).

(b) For the provisions of a nationally recognized construction code that apply only to detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with separate means of egress and their accessory structures, the commission shall:

(i) prepare a report described in Subsection (4) in 2021 and, thereafter, for every second update of the nationally recognized construction code; and

(ii) not prepare a report described in Subsection (4) in 2018.

(4) (a) In accordance with Subsection (3), on or before September 1 of the same year as the year designated in the title of a nationally recognized construction code, the commission shall prepare and submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee that:

(i) states whether the commission recommends the Legislature adopt the update with any modifications; and

(ii) describes the costs and benefits of each recommended change in the update or in any modification.

(b) After the Business and Labor Interim Committee receives the report described in Subsection (4)(a), the Business and Labor Interim Committee shall:

(i) study the recommendations; and

(ii) if the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, prepare legislation for consideration by the Legislature in the next general session.

(5) (a) (i) The commission shall, by no later than September 1 of each year in which the commission is not required to submit a report described in Subsection (4), submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee recommending whether the Legislature should amend or repeal one or more provisions of the State Construction Code.

(ii) As part of a recommendation described in Subsection (5)(a)(i), the commission shall describe the costs and benefits of each proposed amendment or repeal.

(b) The commission may recommend legislative action related to the State

Construction Code:

- (i) on its own initiative;
- (ii) upon the recommendation of the division; or
- (iii) upon the receipt of a request by one of the following that the commission

recommend legislative action related to the State Construction Code:

- (A) a local regulator;
- (B) a state regulator;
- (C) a state agency involved with the construction and design of a building;
- (D) the Construction Services Commission;
- (E) the Electrician Licensing Board;
- (F) the Plumbers Licensing Board; or
- (G) a recognized construction-related association.

(c) If the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, the Business and Labor Interim Committee shall prepare legislation for consideration by the Legislature in the next general session.

(6) (a) Notwithstanding the provisions of this section, the commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend the State Construction Code if the commission determines that waiting for legislative action in the next general legislative session would:

- (i) cause an imminent peril to the public health, safety, or welfare; or
- (ii) place a person in violation of federal or other state law.

(b) If the commission amends the State Construction Code in accordance with this Subsection (6), the commission shall file with the division:

- (i) the text of the amendment to the State Construction Code; and
- (ii) an analysis that includes the specific reasons and justifications for the commission's findings.

(c) If the State Construction Code is amended under this Subsection (6), the division shall:

- (i) publish the amendment to the State Construction Code in accordance with Section 15A-1-205; and
- (ii) prepare and submit, in accordance with Section 68-3-14, a written notice to the

Business and Labor Interim Committee containing the amendment to the State Construction Code, including a copy of the commission's analysis described in Subsection (6)(b)(ii).

(d) If not formally adopted by the Legislature at the next annual general session, an amendment to the State Construction Code under this Subsection (6) is repealed on the July 1 immediately following the next annual general session that follows the adoption of the amendment.

(7) (a) The division, in consultation with the commission, may approve, without adopting, one or more approved codes, including a specific edition of a construction code, for use by a compliance agency.

(b) If the code adopted by a compliance agency is an approved code described in Subsection (7)(a), the compliance agency may:

(i) adopt an ordinance requiring removal, demolition, or repair of a building;

(ii) adopt, by ordinance or rule, a dangerous building code; or

(iii) adopt, by ordinance or rule, a building rehabilitation code.

(8) Except as provided in Subsections (6), (7), (9), and (10), or as expressly provided in state law, a state executive branch entity or political subdivision of the state may not, after December 1, 2016, adopt or enforce a rule, ordinance, or requirement that applies to a subject specifically addressed by, and that is more restrictive than, the State Construction Code.

(9) A state executive branch entity or political subdivision of the state may:

(a) enforce a federal law or regulation;

(b) adopt or enforce a rule, ordinance, or requirement if the rule, ordinance, or requirement applies only to a facility or construction owned or used by a state entity or a political subdivision of the state; or

(c) enforce a rule, ordinance, or requirement:

(i) that the state executive branch entity or political subdivision adopted or made effective before July 1, 2015; and

(ii) for which the state executive branch entity or political subdivision can demonstrate, with substantial evidence, that the rule, ordinance, or requirement is necessary to protect an individual from a condition likely to cause imminent injury or death.

(10) The Department of Health or the Department of Environmental Quality may enforce a rule or requirement adopted before January 1, 2015.

(11) (a) Except as provided in Subsection (11)(b), a structure used solely in conjunction with agriculture use, and not for human occupancy, or a structure that is no more than 1,500 square feet and used solely for the type of sales described in Subsection 59-12-104[(20)](17), is exempt from the permit requirements of the State Construction Code.

(b) (i) Unless exempted by a provision other than Subsection (11)(a), a plumbing, electrical, and mechanical permit may be required when that work is included in a structure described in Subsection (11)(a).

(ii) Unless located in whole or in part in an agricultural protection area created under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas, a structure described in Subsection (11)(a) is not exempt from a permit requirement if the structure is located on land that is:

(A) within the boundaries of a city or town, and less than five contiguous acres; or

(B) within a subdivision for which the county has approved a subdivision plat under Title 17, Chapter 27a, Part 6, Subdivisions, and less than two contiguous acres.

Section 2. Section **26-36b-208** is amended to read:

26-36b-208. Medicaid Expansion Fund.

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

(2) The fund consists of:

(a) assessments collected under this chapter;

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

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

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

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

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

(g) [revenues] revenue collected from the sales tax described in Subsection

59-12-103[(13)](12);

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

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

(j) additional amounts as appropriated by the Legislature.

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

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

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

(i) the health coverage improvement program;

(ii) the enhancement waiver program;

(iii) a Medicaid waiver expansion; and

(iv) the outpatient upper payment limit supplemental payments under Section 26-36b-210.

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

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

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

Section 3. Section 32B-2-301 is amended to read:

32B-2-301. State property -- Liquor Control Fund -- Money to be retained by department -- Department building process.

(1) The following are property of the state:

(a) the money received in the administration of this title, except as otherwise provided; and

(b) property acquired, administered, possessed, or received by the department.

(2) (a) There is created an enterprise fund known as the "Liquor Control Fund."

(b) ~~[Except as provided in Section 32B-2-304, the]~~ The department shall deposit the following into the Liquor Control Fund:

(i) money received in the administration of this title; and

(ii) money received from the markup described in Section 32B-2-304.

(c) The department may draw from the Liquor Control Fund only to the extent appropriated by the Legislature or provided by statute.

(d) The net position of the Liquor Control Fund may not fall below zero.

(3) (a) Notwithstanding Subsection (2)(c), the department may draw by warrant from the Liquor Control Fund without an appropriation for an expenditure that is directly incurred by the department:

(i) to purchase an alcoholic product;

(ii) to transport an alcoholic product from the supplier to a warehouse of the department; or

(iii) for variances related to an alcoholic product, including breakage or theft.

(b) If the balance of the Liquor Control Fund is not adequate to cover a warrant that the department draws against the Liquor Control Fund, to the extent necessary to cover the warrant, the cash resources of the General Fund may be used.

(4) (a) As used in this Subsection (4), "base budget" means the same as that term is defined in legislative rule.

(b) The department's base budget shall include as an appropriation from the Liquor Control Fund:

(i) credit card related fees paid by the department;

(ii) package agency compensation; and

(iii) the department's costs of shipping and warehousing alcoholic products.

(5) (a) The Division of Finance shall transfer annually from the Liquor Control Fund to the General Fund a sum equal to the amount of net profit earned from the sale of liquor since the preceding transfer of money under this Subsection (5).

(b) After each fiscal year, the Division of Finance shall calculate the amount for the transfer on or before September 1 and the Division of Finance shall make the transfer on or before September 30.

(c) The Division of Finance may make year-end closing entries in the Liquor Control Fund to comply with Subsection 51-5-6(2).

(6) (a) By the end of each day, the department shall:

(i) make a deposit to a qualified depository, as defined in Section 51-7-3; and

(ii) report the deposit to the state treasurer.

(b) A commissioner or department employee is not personally liable for a loss caused by the default or failure of a qualified depository.

(c) Money deposited in a qualified depository is entitled to the same priority of payment as other public funds of the state.

(7) Before the Division of Finance makes the transfer described in Subsection (5), the department may retain each fiscal year from the Liquor Control Fund \$1,000,000 that the department may use for:

- (a) capital equipment purchases;
- (b) salary increases for department employees;
- (c) performance awards for department employees; or
- (d) information technology enhancements because of changes or trends in technology.

Section 4. Section **32B-2-304** is amended to read:

32B-2-304. Liquor price -- School lunch program -- Remittance of markup.

(1) For purposes of this section:

(a) (i) "Landed case cost" means:

- (A) the cost of the product; and
- (B) inbound shipping costs incurred by the department.

(ii) "Landed case cost" does not include the outbound shipping cost from a warehouse of the department to a state store.

(b) "Proof gallon" means the same as that term is defined in 26 U.S.C. Sec. 5002.

(c) Notwithstanding Section [32B-1-102](#), "small brewer" means a brewer who manufactures in a calendar year less than 40,000 barrels of beer, heavy beer, and flavored malt beverage.

(2) Except as provided in Subsection (3):

(a) spirituous liquor sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department;

(b) wine sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department;

(c) heavy beer sold by the department within the state shall be marked up in an amount not less than 66.5% above the landed case cost to the department; and

(d) a flavored malt beverage sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department.

(3) (a) Liquor sold by the department to a military installation in Utah shall be marked

up in an amount not less than 17% above the landed case cost to the department.

(b) Except for spirituous liquor sold by the department to a military installation in Utah, spirituous liquor that is sold by the department within the state shall be marked up 49% above the landed case cost to the department if:

(i) the spirituous liquor is manufactured by a manufacturer producing less than 30,000 proof gallons of spirituous liquor in a calendar year; and

(ii) the manufacturer applies to the department for a reduced markup.

(c) Except for wine sold by the department to a military installation in Utah, wine that is sold by the department within the state shall be marked up 49% above the landed case cost to the department if:

(i) (A) except as provided in Subsection (3)(c)(i)(B), the wine is manufactured by a manufacturer producing less than 20,000 gallons of wine in a calendar year; or

(B) for hard cider, the hard cider is manufactured by a manufacturer producing less than 620,000 gallons of hard cider in a calendar year; and

(ii) the manufacturer applies to the department for a reduced markup.

(d) Except for heavy beer sold by the department to a military installation in Utah, heavy beer that is sold by the department within the state shall be marked up 32% above the landed case cost to the department if:

(i) a small brewer manufactures the heavy beer; and

(ii) the small brewer applies to the department for a reduced markup.

(e) The department shall verify an amount described in Subsection (3)(b), (c), or (d) pursuant to a federal or other verifiable production report.

(f) For purposes of determining whether an alcoholic product qualifies for a markup under this Subsection (3), the department shall evaluate whether the manufacturer satisfies the applicable production requirement without considering the manufacturer's production of any other type of alcoholic product.

~~[(4) The department shall deposit 10% of the total gross revenue from sales of liquor with the state treasurer to be credited to the Uniform School Fund and used to support the school lunch program administered by the State Board of Education under Section 53E-3-510.]~~

~~[(5)]~~ (4) This section does not prohibit the department from selling discontinued items at a discount.

Section 5. Section **32B-2-305** is amended to read:

32B-2-305. Alcoholic Beverage Control Act Enforcement Fund.

(1) As used in this section:

(a) "Alcohol-related law enforcement officer" is as defined in Section **32B-1-201**.

(b) "Enforcement ratio" is as defined in Section **32B-1-201**.

(c) "Fund" means the Alcoholic Beverage Control Act Enforcement Fund created in this section.

(2) There is created an expendable special revenue fund known as the "Alcoholic Beverage Control Act Enforcement Fund."

(3) (a) The fund consists of:

(i) deposits made under Subsection (4); and

(ii) interest earned on the fund.

(b) The fund shall earn interest. Interest on the fund shall be deposited into the fund.

(4) ~~[After the deposit made under Section **32B-2-304** for the school lunch program,~~
the] The department shall deposit 1% of the total gross revenue from the sale of liquor with the state treasurer to be credited to the fund to be used by the Department of Public Safety as provided in Subsection (5).

(5) (a) The Department of Public Safety shall expend money from the fund to supplement appropriations by the Legislature so that the Department of Public Safety maintains a sufficient number of alcohol-related law enforcement officers such that beginning on July 1, 2012, each year the enforcement ratio as of July 1 is equal to or less than the number specified in Section **32B-1-201**.

(b) Beginning July 1, 2012, four alcohol-related law enforcement officers shall have as a primary focus the enforcement of this title in relationship to restaurants.

Section 6. Section **35A-8-308** is amended to read:

35A-8-308. Throughput Infrastructure Fund.

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

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

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

(b) any voluntary contributions received;

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

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

(3) The state treasurer shall:

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

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

Section 7. Section 35A-8-309 is amended to read:

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

(1) The impact board shall:

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

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

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

(d) determine provisions for repayment of loans;

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

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

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

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

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

(5) (a) The impact board shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) fund the interlocal agency's application if the application meets all criteria

established by the impact board.

Section 8. Section **35A-9-214** is enacted to read:

35A-9-214. Intergenerational poverty report to State Tax Commission.

(1) As used in this section, "commission" means the State Tax Commission.

(2) On or before January 31 of each year, the department shall provide a notice to each individual the department identifies as experiencing intergenerational poverty that:

(a) informs the individual of the tax credit available under Section [59-10-1114](#); and

(b) explains the eligibility requirements and process for claiming a tax credit under Section [59-10-1114](#).

(3) For purposes of Subsection (2), an individual is experiencing intergenerational poverty if:

(a) the individual received public assistance during the previous calendar year;

(b) the individual received public assistance for 12 months or more since the individual reached 18 years of age; and

(c) the individual or the individual's family received public assistance for 12 months or more before the individual reached 18 years of age.

(4) (a) On or before March 1 of each year, the department shall provide the commission an electronic report that states, for each individual to whom the department provided notice in accordance with this section during the preceding year:

(i) the individual's name; and

(ii) the individual's social security number.

(b) The department and the commission shall ensure that the information contained in each electronic report is secure and confidential.

Section 9. Section **41-6a-409** is amended to read:

41-6a-409. Prohibition of flat response fee for motor vehicle accident.

(1) As used in this section, "government entity" means the Department of Transportation, the Utah Highway Patrol Division, or a local government entity or agency.

(2) A government entity:

(a) may not impose a flat fee, or collect a flat fee, from an individual involved in a motor vehicle accident; and

(b) may only charge the individual for the actual cost or a reasonable estimate of the

cost of services provided in responding to the motor vehicle accident, limited to:

(i) medical costs for transporting an individual from the scene of a motor vehicle accident or treating a person injured in a motor vehicle accident;

(ii) the cost for repair to damaged public property, if the individual is legally liable for the damage;

(iii) the cost of materials used in cleaning up the motor vehicle accident, if the individual is legally liable for the motor vehicle accident; ~~and~~

(iv) towing costs~~[-];~~ and

(v) applicable sales and use taxes.

(3) If a government entity imposes a charge on more than one individual for the actual cost or a reasonable estimate of the cost of responding to a motor vehicle accident, the government entity shall apportion the charges so that the government entity does not receive more for responding to the motor vehicle accident than the actual response cost or a reasonable estimate of the cost.

(4) Nothing in this section prohibits a government entity from contracting with an independent contractor to recover costs related to damage to public property.

(5) If a government entity enters into a contract with an independent contractor to recover costs related to damage to public property, the government entity may only pay the independent contractor out of any recovery received from the person who caused the damage or the responsible party.

Section 10. Section **41-6a-505** is amended to read:

41-6a-505. Sentencing requirements for driving under the influence of alcohol, drugs, or a combination of both violations.

(1) As part of any sentence for a first conviction of Section **41-6a-502**:

(a) the court shall:

(i) (A) impose a jail sentence of not less than 48 consecutive hours; or

(B) require the individual to work in a compensatory-service work program for not less than 48 hours;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (1)(a)(ii);

617 (iv) order the individual to participate in an educational series if the court does not
618 order substance abuse treatment as described under Subsection (1)(b);

619 (v) impose a fine of not less than \$700;

620 (vi) order probation for the individual in accordance with Section 41-6a-507, if there is
621 admissible evidence that the individual had a blood alcohol level of .16 or higher;

622 (vii) (A) order the individual to pay the administrative impound fee described in
623 Section 41-6a-1406; or

624 (B) if the administrative impound fee was paid by a party described in Subsection
625 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
626 reimburse the party; or

627 (viii) (A) order the individual to pay the towing and storage fees described in Section
628 72-9-603 and the applicable sales and use tax; or

629 (B) if the ~~[towing and storage fees]~~ amounts described in Subsection (1)(a)(viii)(A)
630 were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual
631 sentenced, order the individual sentenced to reimburse the party; and

632 (b) the court may:

633 (i) order the individual to obtain substance abuse treatment if the substance abuse
634 treatment program determines that substance abuse treatment is appropriate;

635 (ii) order probation for the individual in accordance with Section 41-6a-507;

636 (iii) order the individual to participate in a 24-7 sobriety program as defined in Section
637 41-6a-515.5 if the individual is 21 years of age or older; or

638 (iv) order a combination of Subsections (1)(b)(i) through (iii).

639 (2) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is
640 within 10 years of the current conviction under Section 41-6a-502 or the commission of the
641 offense upon which the current conviction is based:

642 (a) the court shall:

643 (i) (A) impose a jail sentence of not less than 240 hours; or

644 (B) impose a jail sentence of not less than 120 hours in addition to home confinement
645 of not fewer than 720 consecutive hours through the use of electronic monitoring that includes
646 a substance abuse testing instrument in accordance with Section 41-6a-506;

647 (ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (2)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (2)(b);

(v) impose a fine of not less than \$800;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(viii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the ~~[towing and storage fees]~~ amounts described in Subsection (2)(a)(viii)(A) were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years of age or older; or

(iii) order a combination of Subsections (2)(b)(i) and (ii).

(3) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison sentence and places the defendant on probation, the court shall impose:

(a) a fine of not less than \$1,500;

(b) a jail sentence of not less than 1,500 hours; and

(c) supervised probation.

(4) For Subsection (3) or Subsection 41-6a-503(2)(b), the court:

(a) shall impose an order requiring the individual to obtain a screening and assessment for alcohol and substance abuse, and treatment as appropriate; and

(b) may impose an order requiring the individual to participate in a 24-7 sobriety

program as defined in Section 41-6a-515.5 if the individual is 21 years of age or older.

(5) The requirements of Subsections (1)(a), (2)(a), (3), and (4) may not be suspended.

(6) If an individual is convicted of a violation of Section 41-6a-502 and there is admissible evidence that the individual had a blood alcohol level of .16 or higher, the court shall order the following, or describe on record why the order or orders are not appropriate:

(a) treatment as described under Subsection (1)(b), (2)(b), or (4); and

(b) one or more of the following:

(i) the installation of an ignition interlock system as a condition of probation for the individual in accordance with Section 41-6a-518;

(ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device as a condition of probation for the individual; or

(iii) the imposition of home confinement through the use of electronic monitoring in accordance with Section 41-6a-506.

Section 11. Section 41-6a-1406 is amended to read:

41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.

(1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace officer or by an order of a person acting on behalf of a law enforcement agency or highway authority, the removal or impoundment of the vehicle, vessel, or outboard motor shall be at the expense of the owner.

(2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or impounded to a state impound yard.

(3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be removed by a tow truck motor carrier that meets standards established:

(a) under Title 72, Chapter 9, Motor Carrier Safety Act; and

(b) by the department under Subsection (10).

(4) (a) Immediately after the removal of the vehicle, vessel, or outboard motor, a report of the removal shall be sent to the Motor Vehicle Division by:

(i) the peace officer or agency by whom the peace officer is employed; and

(ii) the tow truck operator or the tow truck motor carrier by whom the tow truck

710 operator is employed.

711 (b) The report shall be in a form specified by the Motor Vehicle Division and shall
712 include:

713 (i) the operator's name, if known;

714 (ii) a description of the vehicle, vessel, or outboard motor;

715 (iii) the vehicle identification number or vessel or outboard motor identification
716 number;

717 (iv) the license number, temporary permit number, or other identification number
718 issued by a state agency;

719 (v) the date, time, and place of impoundment;

720 (vi) the reason for removal or impoundment;

721 (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or
722 outboard motor; and

723 (viii) the place where the vehicle, vessel, or outboard motor is stored.

724 (c) Until the tow truck operator or tow truck motor carrier reports the removal as
725 required under this Subsection (4), a tow truck motor carrier or impound yard may not:

726 (i) collect any fee associated with the removal; and

727 (ii) begin charging storage fees.

728 (5) (a) Except as provided in Subsection (5)(e) and upon receipt of the report, the
729 Motor Vehicle Division shall give notice, in the manner described in Section [41-1a-114](#), to the
730 following parties with an interest in the vehicle, vessel, or outboard motor, as applicable:

731 (i) the registered owner;

732 (ii) any lien holder; or

733 (iii) a dealer, as defined in Section [41-1a-102](#), if the vehicle, vessel, or outboard motor
734 is currently operating under a temporary permit issued by the dealer, as described in Section
735 [41-3-302](#).

736 (b) The notice shall:

737 (i) state the date, time, and place of removal, the name, if applicable, of the person
738 operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal,
739 and the place where the vehicle, vessel, or outboard motor is stored;

740 (ii) state that the registered owner is responsible for payment of;

741 (A) towing, impound, and storage fees charged against the vehicle, vessel, or outboard
742 motor; and

743 (B) the applicable sales and use tax;

744 (iii) state the conditions that must be satisfied before the vehicle, vessel, or outboard
745 motor is released; and

746 (iv) inform the parties described in Subsection (5)(a) of the division's intent to sell the
747 vehicle, vessel, or outboard motor, if, within 30 days after the day of the removal or
748 impoundment under this section, one of the parties fails to make a claim for release of the
749 vehicle, vessel, or outboard motor.

750 (c) Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard
751 motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort
752 to notify the parties described in Subsection (5)(a) of the removal and the place where the
753 vehicle, vessel, or outboard motor is stored.

754 (d) The Motor Vehicle Division shall forward a copy of the notice to the place where
755 the vehicle, vessel, or outboard motor is stored.

756 (e) The Motor Vehicle Division is not required to give notice under this Subsection (5)
757 if a report was received by a tow truck operator or tow truck motor carrier reporting a tow truck
758 service in accordance with Subsection 72-9-603(1)(a)(i).

759 (6) (a) The vehicle, vessel, or outboard motor shall be released after a party described
760 in Subsection (5)(a):

761 (i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of
762 the State Tax Commission;

763 (ii) presents identification sufficient to prove ownership of the impounded vehicle,
764 vessel, or outboard motor;

765 (iii) completes the registration, if needed, and pays the appropriate fees;

766 (iv) if the impoundment was made under Section 41-6a-527, pays an administrative
767 impound fee of \$400; and

768 (v) pays all towing and storage fees and applicable sales and use tax to the place where
769 the vehicle, vessel, or outboard motor is stored.

770 (b) (i) Twenty-nine dollars of the administrative impound fee assessed under
771 Subsection (6)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;

(ii) \$147 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited in the Department of Public Safety Restricted Account created in Section 53-3-106;

(iii) \$20 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited in the Spinal Cord and Brain Injury Rehabilitation Fund; and

(iv) the remainder of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited in the General Fund.

(c) The administrative impound fee assessed under Subsection (6)(a)(iv) shall be waived or refunded by the State Tax Commission if the registered owner, lien holder, or owner's agent presents written evidence to the State Tax Commission that:

(i) the Driver License Division determined that the arrested person's driver license should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter or other report from the Driver License Division presented within 180 days after the day on which the Driver License Division mailed the final notification; or

(ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the stolen vehicle report presented within 180 days after the day of the impoundment.

(d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a removal or impoundment under Subsection (1) or any service rendered, performed, or supplied in connection with a removal or impoundment under Subsection (1).

(e) The owner of an impounded vehicle may not be charged a fee for the storage of the impounded vehicle, vessel, or outboard motor if:

(i) the vehicle, vessel, or outboard motor is being held as evidence; and

(ii) the vehicle, vessel, or outboard motor is not being released to a party described in Subsection [5] (5)(a), even if the party satisfies the requirements to release the vehicle, vessel, or outboard motor under this Subsection (6).

(7) (a) An impounded vehicle, vessel, or outboard motor not claimed by a party described in Subsection (5)(a) within the time prescribed by Section 41-1a-1103 shall be sold in accordance with that section and the proceeds, if any, shall be disposed of as provided under Section 41-1a-1104.

(b) The date of impoundment is considered the date of seizure for computing the time

period provided under Section 41-1a-1103.

(8) A party described in Subsection (5)(a) that pays all fees ~~[and]~~, charges, and taxes incurred in the impoundment of the owner's vehicle, vessel, or outboard motor has a cause of action for all the fees and charges, together with damages, court costs, and attorney fees, against the operator of the vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

(9) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel, or outboard motor.

(10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules setting the performance standards for towing companies to be used by the department.

(11) (a) The Motor Vehicle Division may specify that a report required under Subsection (4) be submitted in electronic form utilizing a database for submission, storage, and retrieval of the information.

(b) (i) Unless otherwise provided by statute, the Motor Vehicle Division or the administrator of the database may adopt a schedule of fees assessed for utilizing the database.

(ii) The fees under this Subsection (11)(b) shall:

(A) be reasonable and fair; and

(B) reflect the cost of administering the database.

Section 12. Section 41-12a-806 is amended to read:

41-12a-806. Restricted account -- Creation -- Funding -- Interest -- Purposes.

(1) There is created within the Transportation Fund a restricted account known as the "Uninsured Motorist Identification Restricted Account."

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

(a) money received by the state under Section 41-1a-1218, the uninsured motorist identification fee;

(b) money received by the state under Section 41-1a-1220, the registration reinstatement fee; and

(c) appropriations made to the account by the Legislature.

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

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

(4) The Legislature shall appropriate money from the account to:

(a) the department to fund the contract with the designated agent;

(b) the department to offset the costs to state and local law enforcement agencies of using the information for the purposes authorized under this part;

(c) the Tax Commission to offset the costs to the Motor Vehicle Division for revoking and reinstating vehicle registrations under Subsection 41-1a-110(2)(a)(ii); and

(d) the department to reimburse a person for the costs, including any applicable sales and use tax, of towing and storing the person's vehicle if:

(i) the person's vehicle was impounded in accordance with Subsection 41-1a-1101(2);

(ii) the impounded vehicle had owner's or operator's security in effect for the vehicle at the time of the impoundment;

(iii) the database indicated that owner's or operator's security was not in effect for the impounded vehicle; and

(iv) the department determines that the person's vehicle was wrongfully impounded.

(5) The Legislature may appropriate not more than \$1,000,000 annually from the account to the Peace Officer Standards and Training Division, created under Section 53-6-103, for use in law enforcement training, including training on the use of the Uninsured Motorist Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program.

(6) (a) By following the procedures in Title 63G, Chapter 4, Administrative Procedures Act, the department shall hold a hearing to determine whether a person's vehicle was wrongfully impounded under Subsection 41-1a-1101(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing procedures for a person to apply for a reimbursement under Subsection (4)(d).

(c) A person is not eligible for a reimbursement under Subsection (4)(d) unless the person applies for the reimbursement within six months from the date that the motor vehicle was impounded.

Section 13. Section 53G-10-406 is amended to read:

53G-10-406. Underage Drinking Prevention Program -- State board rules.

(1) As used in this section:

(a) "Advisory council" means the Underage Drinking Prevention Program Advisory Council created in this section.

(b) "Program" means the Underage Drinking Prevention Program created in this section.

(c) "School-based prevention program" means an evidence-based program intended for students aged 13 and older that:

(i) is aimed at preventing underage consumption of alcohol;

(ii) is delivered by methods that engage students in storytelling and visualization;

(iii) addresses the behavioral risk factors associated with underage drinking; and

(iv) provides practical tools to address the dangers of underage drinking.

(2) There is created the Underage Drinking Prevention Program that consists of:

(a) a school-based prevention program for students in grade 7 or 8; and

(b) a school-based prevention program for students in grade 9 or 10 that increases awareness of the dangers of driving under the influence of alcohol.

(3) (a) Beginning with the 2018-19 school year, an LEA shall offer the program each school year to each student in grade 7 or 8 and grade 9 or 10.

(b) An LEA shall select from the providers qualified by the state board under Subsection (6) to offer the program.

(4) The state board shall administer the program with input from the advisory council.

(5) There is created the Underage Drinking Prevention Program Advisory Council comprised of the following members:

(a) the executive director of the Department of Alcoholic Beverage Control or the executive director's designee;

(b) the executive director of the Department of Health or the executive director's designee;

(c) the director of the Division of Substance Abuse and Mental Health or the director's designee;

(d) the director of the Division of Child and Family Services or the director's designee;

(e) the director of the Division of Juvenile Justice Services or the director's designee;

(f) the state superintendent or the state superintendent's designee; and

(g) two members of the state board, appointed by the chair of the state board.

(6) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall qualify one or more providers to provide the program to an LEA.

(b) In selecting a provider described in Subsection (6)(a), the state board shall consider:

(i) whether the provider's program complies with the requirements described in this section;

(ii) the extent to which the provider's underage drinking prevention program aligns with core standards for Utah public schools; and

(iii) the provider's experience in providing a program that is effective at reducing underage drinking.

~~[(7) (a) The state board shall use money from the Underage Drinking Prevention Program Restricted Account described in Section 53F-9-304 for the program.]~~

~~[(b) The state board may use money from the Underage Drinking Prevention Program Restricted Account to fund up to .5 of a full-time equivalent position to administer the program.]~~

~~[(8)]~~ (7) The state board shall make rules that:

(a) beginning with the 2018-19 school year, require an LEA to offer the Underage Drinking Prevention Program each school year to each student in grade 7 or 8 and grade 9 or 10; and

(b) establish criteria for the state board to use in selecting a provider described in Subsection (6).

Section 14. Section **59-1-1503** is amended to read:

59-1-1503. Nonrefundable credit -- Sales and use tax exemption -- Sales and use tax remittance.

(1) A nonrefundable individual income tax credit is allowed as provided in Section **59-10-1028** related to a capital gain on a transaction involving the exchange of one form of legal tender for another form of legal tender.

(2) Sales of currency or coin are exempt from sales and use taxes as provided in Subsection **59-12-104**~~[(50)]~~**(43)**.

(3) The remittance of a sales and use tax on a transaction involving specie legal tender is as provided in Section **59-12-107**.

Section 15. Section **59-7-104** is amended to read:

59-7-104. Tax -- Minimum tax.

(1) Each domestic and foreign corporation, except a corporation that is exempt under Section [59-7-102](#), shall pay an annual tax to the state based on the corporation's Utah taxable income for the taxable year for the privilege of exercising the corporation's corporate franchise, as defined in Section [59-7-101](#), or for the privilege of doing business, as defined in Section [59-7-101](#), in the state.

(2) The tax shall be [~~4.95%~~] 4.66% of a corporation's Utah taxable income.

(3) The minimum tax a corporation shall pay under this chapter is \$100.

Section 16. Section **59-7-201** is amended to read:

59-7-201. Tax -- Minimum tax.

(1) There is imposed upon each corporation, except a corporation that is exempt under Section [59-7-102](#), a tax upon the corporation's Utah taxable income for the taxable year that is derived from sources within this state other than income for any period that the corporation is required to include in the corporation's tax base under Section [59-7-104](#).

(2) The tax imposed by Subsection (1) shall be [~~4.95%~~] 4.66% of a corporation's Utah taxable income.

(3) In no case shall the tax be less than \$100.

Section 17. Section **59-7-610** is amended to read:

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

(1) Subject to other provisions of this section, a taxpayer that is a business operating in a recycling market development zone as defined in Section [63N-2-402](#) may claim the following nonrefundable tax credits:

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

(i) commercial composting; or

(ii) manufacturing facilities or plant units that:

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

(B) reduce or reuse postconsumer waste material; and

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

(i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test

inventory, and utilities made by the taxpayer for establishing and operating recycling or composting technology in Utah; and

(ii) \$2,000.

(2) (a) To claim a tax credit described in Subsection (1), the taxpayer shall receive from the Governor's Office of Economic Development a written certification, on a form approved by the commission, that includes:

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

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

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

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

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

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

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

(F) the amount of the taxpayer's tax credit; and

(iii) for claims of the tax credit described in Subsection (1)(b):

(A) the type of net expenditure that the taxpayer made to a third party;

(B) the date that the taxpayer made the payment to a third party;

(C) the amount that the taxpayer paid to each third party;

(D) the total amount that the taxpayer paid to all third parties;

(E) a statement that the net expenditures support the establishment and operation of recycling or composting technology in Utah; and

(F) the amount of the taxpayer's tax credit.

(b) (i) The Governor's Office of Economic Development shall provide a taxpayer seeking to claim a tax credit under Subsection (1) with a copy of the written certification.

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

(c) The Governor's Office of Economic Development shall submit to the commission an electronic list that includes:

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

(ii) for each taxpayer, the amount of each tax credit listed on the written certification.

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

(a) for the taxable year in which the taxpayer made the purchases or payments;

(b) before any other tax credits the taxpayer may claim for the taxable year; and

(c) before the taxpayer claiming a tax credit authorized by this section.

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

(5) Except as provided in Subsections (6) through (8), a taxpayer may carry forward, to the next three taxable years, the amount of the tax credit that exceeds the taxpayer's income tax liability for the taxable year.

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

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

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

Section 18. Section 59-7-614.1 is amended to read:

59-7-614.1. Refundable tax credit for hand tools used in farming operations -- Procedures for refund -- Transfers from General Fund to Education Fund -- Rulemaking authority.

(1) ~~[For a taxable year beginning on or after January 1, 2004, a]~~ A taxpayer may claim a refundable tax credit:

(a) as provided in this section;

(b) against taxes otherwise due under this chapter; and

1020 (c) in an amount equal to the amount of tax the taxpayer pays:
1021 (i) on a purchase of a hand tool:
1022 (A) if the purchase is made on or after July 1, 2004;
1023 (B) if the hand tool is used or consumed primarily and directly in a farming operation
1024 in the state; and
1025 (C) if the unit purchase price of the hand tool is more than \$250; and
1026 (ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection
1027 (1)(c)(i).
1028 (2) A taxpayer:
1029 (a) shall retain the following to establish the amount of tax the resident or nonresident
1030 individual paid under Chapter 12, Sales and Use Tax Act, on the purchase described in
1031 Subsection (1)(c)(i):
1032 (i) a receipt;
1033 (ii) an invoice; or
1034 (iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and
1035 (b) may not carry forward or carry back a tax credit under this section.
1036 (3) (a) In accordance with any rules prescribed by the commission under Subsection
1037 (3)(b)~~[(i)]~~ the commission shall make a refund to a taxpayer that claims a tax credit under this
1038 section if the amount of the tax credit exceeds the taxpayer's tax liability under this chapter~~;~~
1039 ~~and~~].
1040 ~~[(ii) the Division of Finance shall transfer at least annually from the General Fund into~~
1041 ~~the Education Fund an amount equal to the amount of tax credit claimed under this section.]~~
1042 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1043 commission may make rules providing procedures for making~~[(i)]~~ a refund to a taxpayer as
1044 required by Subsection (3)(a)~~[(i); or]~~.
1045 ~~[(ii) transfers from the General Fund into the Education Fund as required by~~
1046 ~~Subsection (3)(a)(ii).]~~
1047 Section 19. Section **59-7-618** is amended to read:
1048 **59-7-618. Tax credit related to alternative fuel heavy duty vehicles.**
1049 (1) As used in this section:
1050 (a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air

1051 Conservation Act.

1052 (b) "Director" means the director of the Division of Air Quality appointed under
1053 Section 19-2-107.

1054 (c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to
1055 vehicle classifications established by the Federal Highway Administration.

1056 (d) "Natural gas" includes compressed natural gas and liquified natural gas.

1057 (e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

1058 (i) has never been titled or registered and has been driven less than 7,500 miles; and

1059 (ii) is fueled by natural gas, has a 100% electric drivetrain, or has a hydrogen-electric
1060 drivetrain.

1061 (f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

1062 (g) "Qualified taxpayer" means a taxpayer that:

1063 (i) purchases a qualified heavy duty vehicle; and

1064 (ii) receives a tax credit certificate from the director.

1065 (h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and
1066 owned by a single taxpayer.

1067 (i) "Tax credit certificate" means a certificate issued by the director certifying that a
1068 taxpayer is entitled to a tax credit as provided in this section and stating the amount of the tax
1069 credit.

1070 (2) A qualified taxpayer may claim a nonrefundable tax credit against tax otherwise
1071 due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required
1072 to Pay Corporate Franchise or Income Tax Act:

1073 (a) in an amount equal to:

1074 (i) \$25,000, if the qualified purchase of a natural gas heavy duty vehicle occurs during
1075 calendar year 2015 or calendar year 2016;

1076 (ii) \$25,000, if the qualified purchase occurs during calendar year 2017;

1077 (iii) \$20,000, if the qualified purchase occurs during calendar year 2018;

1078 (iv) \$18,000, if the qualified purchase occurs during calendar year 2019; and

1079 (v) \$15,000, if the qualified purchase occurs during calendar year 2020; and

1080 (b) if the qualified taxpayer certifies under oath that over 50% of the miles that the
1081 heavy duty vehicle that is the subject of the qualified purchase will travel annually will be

1082 within the state.

1083 (3) (a) Except as provided in Subsection (3)(b), a taxpayer may not submit an
1084 application for, and the director may not issue to the taxpayer, a tax credit certificate under this
1085 section in any taxable year for a qualified purchase if the director has already issued tax credit
1086 certificates to the taxpayer for 10 qualified purchases in the same taxable year.

1087 (b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of
1088 tax credits under Subsection (5) has not been claimed, a taxpayer may submit an application
1089 for, and the director may issue to the taxpayer, one or more tax credit certificates for up to eight
1090 additional qualified purchases, even if the director has already issued to that taxpayer tax credit
1091 certificates for the maximum number of qualified purchases allowed under Subsection (3)(a).

1092 (4) (a) Subject to Subsection (4)(b), the director shall reserve 25% of all tax credits
1093 available under this section for qualified taxpayers with a small fleet.

1094 (b) Subsection (4)(a) does not prevent a taxpayer from submitting an application for, or
1095 the director from issuing, a tax credit certificate if, before October 1, qualified taxpayers with a
1096 small fleet have not reserved under Subsection (5)(b) tax credits for the full amount reserved
1097 under Subsection (4)(a).

1098 (5) (a) The aggregate annual total amount of tax credits represented by tax credit
1099 certificates that the director issues under this section and Section 59-10-1033 may not exceed
1100 \$500,000.

1101 (b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative
1102 Rulemaking Act, make rules to establish a process under which a taxpayer may reserve a
1103 potential tax credit under this section for a limited time to allow the taxpayer to make a
1104 qualified purchase with the assurance that the aggregate limit under Subsection (5)(a) will not
1105 be met before the taxpayer is able to submit an application for a tax credit certificate.

1106 (6) (a) (i) A taxpayer wishing to claim a tax credit under this section shall, using forms
1107 the board requires by rule:

1108 (A) submit to the director an application for a tax credit;

1109 (B) provide the director proof of a qualified purchase; and

1110 (C) submit to the director the certification under oath required under Subsection (2)(b).

1111 (ii) Upon receiving the application, proof, and certification required under Subsection
1112 (6)(a)(i), the director shall provide the taxpayer a written statement from the director

1113 acknowledging receipt of the proof.

1114 (b) If the director determines that a taxpayer qualifies for a tax credit under this section,
1115 the director shall:

1116 (i) determine the amount of tax credit the taxpayer is allowed under this section; and

1117 (ii) provide the taxpayer with a written tax credit certificate:

1118 (A) stating that the taxpayer has qualified for a tax credit; and

1119 (B) showing the amount of tax credit for which the taxpayer has qualified under this
1120 section.

1121 (c) A qualified taxpayer shall retain the tax credit certificate.

1122 (d) The director shall at least annually submit to the commission a list of all qualified
1123 taxpayers to which the director has issued a tax credit certificate and the amount of each tax
1124 credit represented by the tax credit certificates.

1125 (7) The tax credit under this section is allowed only:

1126 (a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain
1127 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year
1128 by the qualified taxpayer;

1129 (b) for the taxable year in which the qualified purchase occurs; and

1130 (c) once per vehicle.

1131 (8) A qualified taxpayer may not assign a tax credit or a tax credit certificate under this
1132 section to another person.

1133 (9) If the qualified taxpayer receives a tax credit certificate under this section that
1134 allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this
1135 chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay
1136 Corporate Franchise or Income Tax Act, for a taxable year, the qualified taxpayer may carry
1137 forward the amount of the tax credit that exceeds the tax liability for a period that does not
1138 exceed the next five taxable years.

1139 ~~[(10) (a) In accordance with any rules prescribed by the commission under Subsection~~
1140 ~~(10)(b), the Division of Finance shall transfer at least annually from the General Fund into the~~
1141 ~~Education Fund the aggregate amount of all tax credits claimed under this section.]~~

1142 ~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
1143 ~~the commission may make rules for making a transfer from the General Fund into the~~

1144 ~~Education Fund as required by Subsection (10)(a).]~~

1145 Section 20. Section **59-7-620** is amended to read:

1146 **59-7-620. Nonrefundable tax credit for contribution to state Achieving a Better**
1147 **Life Experience Program account.**

1148 (1) As used in this section:

1149 (a) "Account" means an account in a qualified ABLE program where the designated
1150 beneficiary of the account is a resident of this state.

1151 (b) "Contributor" means a corporation that:

1152 (i) makes a contribution to an account; and

1153 (ii) receives a statement from the qualified ABLE program itemizing the contribution.

1154 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.
1155 529A.

1156 (d) "Qualified ABLE program" means the same as that term is defined in Section
1157 [35A-12-102](#).

1158 (2) A contributor to an account may claim a nonrefundable tax credit as provided in
1159 this section.

1160 (3) Subject to the other provisions of this section, the tax credit is equal to the product
1161 of:

1162 (a) ~~[5%]~~ the percentage listed in Subsection [59-7-104\(2\)](#); and

1163 (b) the total amount of contributions:

1164 (i) the contributor makes for the taxable year; and

1165 (ii) for which the contributor receives a statement from the qualified ABLE program
1166 itemizing the contributions.

1167 (4) A contributor may not claim a tax credit under this section:

1168 (a) for an amount of excess contribution to an account that is returned to the
1169 contributor; or

1170 (b) with respect to an amount the contributor deducts on a federal income tax return.

1171 (5) A tax credit under this section may not be carried forward or carried back.

1172 Section 21. Section **59-10-104** is amended to read:

1173 **59-10-104. Tax basis -- Tax rate -- Exemption.**

1174 (1) A tax is imposed on the state taxable income of a resident individual as provided in

1175 this section.

1176 (2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the
1177 product of:

1178 (a) the resident individual's state taxable income for that taxable year; and

1179 (b) ~~[4.95%]~~ 4.66%.

1180 (3) This section does not apply to a resident individual exempt from taxation under
1181 Section 59-10-104.1.

1182 Section 22. Section **59-10-529.1** is amended to read:

1183 **59-10-529.1. Time period for commission to issue a refund.**

1184 (1) Except as provided in Subsection (2), the commission may not issue a refund
1185 before March 1.

1186 (2) The commission may issue a refund before March 1 if, before March 1, the
1187 commission determines that:

1188 (a) (i) an employer has filed the one or more forms in accordance with Subsection

1189 59-10-406(8) the employer is required to file with respect to an individual; and

1190 (ii) for a refund of a tax credit described in Section 59-10-1114, the Department of
1191 Workforce Services has submitted the electronic report required by Section 35A-9-214; and

1192 (b) the individual has filed a return in accordance with this chapter.

1193 Section 23. Section **59-10-1005** is amended to read:

1194 **59-10-1005. Tax credit for at-home parent.**

1195 (1) As used in this section:

1196 (a) "At-home parent" means a parent:

1197 (i) who provides full-time care at the parent's residence for one or more of the parent's
1198 own qualifying children;

1199 (ii) who claims ~~[the qualifying child as a dependent on the parent's individual income~~
1200 ~~tax return for the taxable year for which the parent claims the credit]~~ a tax credit with respect to
1201 the qualifying child under Section 24, Internal Revenue Code, on the parent's federal individual
1202 income tax return for the taxable year; and

1203 (iii) if the sum of the following amounts are \$3,000 or less for the taxable year for
1204 which the parent claims the credit:

1205 (A) the total wages, tips, and other compensation listed on all of the parent's federal

1206 Forms W-2; and

1207 (B) the gross income listed on the parent's federal Form 1040 Schedule C, Profit or
1208 Loss From Business.

1209 (b) "Parent" means an individual who:

1210 (i) is the biological mother or father of a qualifying child;

1211 (ii) is the stepfather or stepmother of a qualifying child;

1212 (iii) (A) legally adopts a qualifying child; or

1213 (B) has a qualifying child placed in the individual's home:

1214 (I) by a child-placing agency, as defined in Section 62A-2-101; and

1215 (II) for the purpose of legally adopting the child;

1216 (iv) is a foster parent of a qualifying child; or

1217 (v) is a legal guardian of a qualifying child.

1218 (c) "Qualifying child" means a child who is no more than 12 months of age on the last
1219 day of the taxable year for which the tax credit is claimed.

1220 (2) ~~[For a taxable year beginning on or after January 1, 2000, a]~~ A claimant may claim
1221 on the claimant's individual income tax return a nonrefundable tax credit of \$100 for each
1222 qualifying child if:

1223 (a) the claimant or another claimant filing a joint individual income tax return with the
1224 claimant is an at-home parent; and

1225 (b) the adjusted gross income of all of the claimants filing the individual income tax
1226 return is less than or equal to \$50,000.

1227 (3) A claimant may not carry forward or carry back a tax credit authorized by this
1228 section.

1229 ~~[(4) (a) In accordance with any rules prescribed by the commission under Subsection~~
1230 ~~(4)(b), the Division of Finance shall transfer at least annually from the General Fund into the~~
1231 ~~Education Fund the aggregate amount of all tax credits claimed under this section.]~~

1232 ~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
1233 ~~the commission may make rules for making a transfer from the General Fund into the~~
1234 ~~Education Fund as required by Subsection (4)(a).]~~

1235 Section 24. Section 59-10-1007 is amended to read:

1236 **59-10-1007. Recycling market development zones tax credits.**

(1) Subject to other provisions of this section, a claimant, estate, or trust in a recycling market development zone as defined in Section 63N-2-402 may claim the following nonrefundable tax credits:

(a) a tax credit ~~[of 5% of]~~ equal to the product of the percentage listed in Subsection 59-10-104(2) and the purchase price paid for machinery and equipment used directly in:

(i) commercial composting; or

(ii) manufacturing facilities or plant units that:

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

(B) reduce or reuse postconsumer waste material; and

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

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

(ii) \$2,000.

(2) (a) To claim a tax credit described in Subsection (1), the claimant, estate, or trust shall receive from the Governor's Office of Economic Development a written certification, on a form approved by the commission, that includes:

(i) a statement that the claimant, estate, or trust is operating within the boundaries of a recycling market development zone;

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

(A) the type of the machinery and equipment that the claimant, estate, or trust purchased;

(B) the date that the claimant, estate, or trust purchased the machinery and equipment;

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

(D) the total purchase price for all machinery and equipment for which the claimant, estate, or trust is claiming a tax credit;

(E) the amount of the claimant's, estate's, or trust's tax credit; and

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

(iii) for claims of the tax credit described in Subsection (1)(b):

1268 (A) the type of net expenditure that the claimant, estate, or trust made to a third party;
1269 (B) the date that the claimant, estate, or trust made the payment to a third party;
1270 (C) the amount that the claimant, estate, or trust paid to each third party;
1271 (D) the total amount that the claimant, estate, or trust paid to all third parties;
1272 (E) a statement that the net expenditures support the establishment and operation of
1273 recycling or composting technology in Utah; and
1274 (F) the amount of the claimant's, estate's, or trust's tax credit.

1275 (b) (i) The Governor's Office of Economic Development shall provide a claimant,
1276 estate, or trust seeking to claim a tax credit under Subsection (1) with a copy of the written
1277 certification.

1278 (ii) The claimant, estate, or trust shall retain a copy of the written certification for the
1279 same period of time that a person is required to keep books and records under Section
1280 [59-1-1406](#).

1281 (c) The Governor's Office of Economic Development shall submit to the commission
1282 an electronic list that includes:

1283 (i) the name and identifying information of each claimant, estate, or trust to which the
1284 office issues a written certification; and

1285 (ii) for each claimant, estate, or trust, the amount of each tax credit listed on the written
1286 certification.

1287 (3) A claimant, estate, or trust may not claim a tax credit under Subsection (1)(a),
1288 Subsection (1)(b), or both that exceeds 40% of the claimant's, estate's, or trust's state income
1289 tax liability as the tax liability is calculated:

1290 (a) for the taxable year in which the claimant, estate, or trust made the purchases or
1291 payments;

1292 (b) before any other tax credits the claimant, estate, or trust may claim for the taxable
1293 year; and

1294 (c) before the claimant, estate, or trust claiming a tax credit authorized by this section.

1295 (4) The commission shall make rules governing what information a claimant, estate, or
1296 trust shall file with the commission to verify the entitlement to and amount of a tax credit.

1297 (5) Except as provided in Subsections (6) through (8), a claimant, estate, or trust may
1298 carry forward, to the next three taxable years, the amount of the tax credit that exceeds the

taxpayer's income tax liability for the taxable year.

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

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

(8) A claimant, estate, or trust may not claim or carry forward a tax credit available under this section for a taxable year during which the claimant, estate, or trust claims the targeted business income tax credit under Section 59-10-1112.

Section 25. Section 59-10-1017 is amended to read:

59-10-1017. Utah Educational Savings Plan tax credit.

(1) As used in this section:

(a) "Account owner" means the same as that term is defined in Section 53B-8a-102.

(b) "Grantor trust" means the same as that term is defined in Section 53B-8a-102.5.

(c) "Higher education costs" means the same as that term is defined in Section 53B-8a-102.5.

(d) "Joint filing status" means:

(i) spouses who file a single return jointly under this chapter for a taxable year; or

(ii) a surviving spouse, as defined in Section (2)(a), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.

~~[(d)]~~ (e) "Maximum amount of a qualified investment for the taxable year" means, for a taxable year, the product of ~~[5%]~~ the percentage listed in Subsection 59-10-104(2) and:

(i) subject to Subsection (1)~~[(d)]~~(e)(iii), for a claimant, estate, or trust that is an account owner, if that claimant, estate, or trust is other than ~~[husband and wife]~~ spouse account owners who file a single return jointly, the maximum amount of a qualified investment:

(A) listed in Subsection 53B-8a-106(1)(e)(ii); and

(B) increased or kept for that taxable year in accordance with Subsections 53B-8a-106(1)(f) and (g);

(ii) subject to Subsection (1)~~[(d)]~~(e)(iii), for claimants who are ~~[husband and wife]~~ spouse account owners who file a single return jointly, the maximum amount of a qualified

1330 investment:

1331 (A) listed in Subsection [53B-8a-106](#)(1)(e)(iii); and

1332 (B) increased or kept for that taxable year in accordance with Subsections

1333 [53B-8a-106](#)(1)(f) and (g); or

1334 (iii) for a grantor trust:

1335 (A) if the owner of the grantor trust has a single filing status or head of household

1336 filing status as defined in Section [59-10-1018](#), the amount described in Subsection

1337 (1)~~(f)~~(e)(i); or

1338 (B) if the owner of the grantor trust has a joint filing status as defined in Section

1339 [59-10-1018](#), the amount described in Subsection (1)~~(f)~~(e)(ii).

1340 ~~(e)~~ (f) "Owner of the grantor trust" means the same as that term is defined in Section

1341 [53B-8a-102.5](#).

1342 ~~(f)~~ (g) "Qualified investment" means the same as that term is defined in Section

1343 [53B-8a-102.5](#).

1344 (2) Except as provided in Section [59-10-1002.2](#) and subject to the other provisions of

1345 this section, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax

1346 credit equal to the product of:

1347 (a) the amount of a qualified investment made:

1348 (i) during the taxable year; and

1349 (ii) into an account owned by the claimant, estate, or trust; and

1350 (b) ~~[5%]~~ the percentage listed in Subsection [59-10-104](#)(2).

1351 (3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may

1352 make a qualified investment described in Subsection (2).

1353 (4) A claimant, estate, or trust that is an account owner may not claim a tax credit

1354 under this section with respect to any portion of a qualified investment described in Subsection

1355 (2) that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal

1356 income tax return.

1357 (5) A tax credit under this section may not exceed the maximum amount of a qualified

1358 investment for the taxable year.

1359 (6) A claimant, estate, or trust that is an account owner may not carry forward or carry

1360 back the tax credit under this section.

(7) A claimant, estate, or trust may claim a tax credit under this section in addition to the tax credit described in Section 59-10-1017.1.

Section 26. Section 59-10-1017.1 is amended to read:

59-10-1017.1. Student Prosperity Savings Program tax credit.

(1) As used in this section, "qualified donation" means an amount donated, in accordance with Section 53B-8a-203, to the Student Prosperity Savings Program created in Section 53B-8a-202.

(2) A claimant, estate, or trust may claim a nonrefundable tax credit for a qualified donation.

(3) The tax credit equals the product of:

(a) the qualified donation; and

(b) [5%] the percentage listed in Subsection 59-10-104(2).

(4) A claimant, estate, or trust may not claim a tax credit under this section with respect to any portion of a qualified donation that a claimant, estate, or trust deducts on a federal income tax return.

(5) A claimant, estate, or trust may not carry forward or carry back the portion of the tax credit allowed by this section that exceeds the claimant's, estate's, or trust's tax liability for the taxable year in which the claimant, estate, or trust claims the tax credit.

(6) A claimant, estate, or trust may claim a tax credit under this section in addition to the tax credit described in Section 59-10-1017.

Section 27. Section 59-10-1018 is amended to read:

59-10-1018. Definitions -- Nonrefundable taxpayer tax credits.

(1) As used in this section:

(a) "Head of household filing status" means a head of household, as defined in Section 2(b), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.

(b) "Joint filing status" means[:(i)] spouses who file a single return jointly under this chapter for a taxable year[; or].

~~[(ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.]~~

(c) "Qualifying dependent" means an individual with respect to whom the claimant is

allowed to claim a tax credit under Section 24, Internal Revenue Code, on the claimant's federal individual income tax return for the taxable year.

(d) "Qualifying widower filing status" means a surviving spouse, as defined in Section (2)(a), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.

~~[(d)]~~ (e) "Single filing status" means:

(i) a single individual who files a single federal individual income tax return for the taxable year; or

(ii) a married individual who:

(A) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(B) files a single federal individual income tax return for the taxable year.

~~[(e)]~~ (f) "State or local income tax" means the lesser of:

(i) the amount of state or local income tax that the claimant:

(A) pays for the taxable year; and

(B) reports on the claimant's federal individual income tax return for the taxable year, regardless of whether the claimant is allowed an itemized deduction on the claimant's federal individual income tax return for the taxable year for the full amount of state or local income tax paid; and

(ii) \$10,000.

~~[(f)]~~ (g) (i) "Utah itemized deduction" means the amount the claimant deducts as allowed as an itemized deduction on the claimant's federal individual income tax return for that taxable year minus any amount of state or local income tax for the taxable year.

(ii) "Utah itemized deduction" does not include any amount of qualified business income that the claimant subtracts as allowed by Section 199A, Internal Revenue Code, on the claimant's federal income tax return for that taxable year.

~~[(g)]~~ (h) "Utah personal exemption" means, subject to Subsection (6), ~~[\$565]~~ \$2,500 multiplied by ~~[the number of the claimant's qualifying dependents.]:~~

(i) for a claimant who has a joint filing status and no qualifying dependents, one; or

(ii) for a claimant who has qualifying dependents, the number of the claimant's qualifying dependents.

(2) Except as provided in Section 59-10-1002.2, and subject to Subsections (3) through (5), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the sum of:

(a) (i) for a claimant that deducts the standard deduction on the claimant's federal individual income tax return for the taxable year, 6% of the amount the claimant deducts as allowed as the standard deduction on the claimant's federal individual income tax return for that taxable year; or

(ii) for a claimant that itemizes deductions on the claimant's federal individual income tax return for the taxable year, 6% of the amount of the claimant's Utah itemized deduction; and

(b) 6% of the claimant's Utah personal exemption.

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

(4) The tax credit allowed by Subsection (2) shall be reduced by \$.013 for each dollar by which a claimant's state taxable income exceeds:

(a) for a claimant who has a single filing status, [~~\$12,000~~] \$14,879;

(b) for a claimant who has a head of household filing status, [~~\$18,000~~] \$22,318; or

(c) for a claimant who has a joint filing status[, ~~\$24,000~~] or a qualifying widower filing status, \$29,758.

(5) (a) For a taxable year beginning on or after January 1, [~~2009~~] 2021, the commission shall increase or decrease annually the following dollar amounts by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year [~~2007~~] 2019:

(i) the dollar amount listed in Subsection (4)(a); and

(ii) the dollar amount listed in Subsection (4)(b).

(b) After the commission increases or decreases the dollar amounts listed in Subsection (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the nearest whole dollar.

(c) After the commission rounds the dollar amounts as required by Subsection (5)(b), the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that the dollar amount listed in Subsection (4)(c) is equal to the product of:

(i) the dollar amount listed in Subsection (4)(a); and

(ii) two.

(d) For purposes of Subsection (5)(a), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(6) (a) For a taxable year beginning on or after January 1, ~~[2019]~~ 2021, the commission shall increase annually the Utah personal exemption amount listed in Subsection (1)~~(g)~~(h) by a percentage equal to the percentage by which the consumer price index for the preceding calendar year exceeds the consumer price index for calendar year ~~[2017]~~ 2019.

(b) After the commission increases the Utah personal exemption amount as described in Subsection (6)(a), the commission shall round the Utah personal exemption amount to the nearest whole dollar.

(c) For purposes of Subsection (6)(a), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

Section 28. Section **59-10-1019** is amended to read:

59-10-1019. Definitions -- Nonrefundable retirement tax credit.

(1) As used in this section:

(a) "Eligible over age 65 ~~[or older]~~ retiree" means a claimant, regardless of whether that claimant is retired, who ~~[(i) is 65 years of age or older; and (ii)]~~ was born on or before December 31, 1952.

~~[(b) (i) "Eligible retirement income" means income received by an eligible under age 65 retiree as a pension or annuity if that pension or annuity is:]~~

~~[(A) paid to the eligible under age 65 retiree or the surviving spouse of an eligible under age 65 retiree; and]~~

~~[(B) (I) paid from an annuity contract purchased by an employer under a plan that meets the requirements of Section 404(a)(2), Internal Revenue Code;]~~

~~[(H) purchased by an employee under a plan that meets the requirements of Section 408, Internal Revenue Code; or]~~

~~[(HH) paid by:]~~

~~[(Aa) the United States;]~~

~~[(Bb) a state or a political subdivision of a state; or]~~

~~[(Cc) the District of Columbia.]~~

~~[(ii) "Eligible retirement income" does not include amounts received by the spouse of a~~

1485 living eligible under age 65 retiree because of the eligible under age 65 retiree's having been
1486 employed in a community property state.]

1487 ~~[(c) "Eligible under age 65 retiree" means a claimant, regardless of whether that~~
1488 ~~claimant is retired, who:]~~

1489 ~~[(i) is younger than 65 years of age;]~~

1490 ~~[(ii) was born on or before December 31, 1952; and]~~

1491 ~~[(iii) has eligible retirement income for the taxable year for which a tax credit is~~
1492 ~~claimed under this section.]~~

1493 ~~[(d)]~~ (b) "Head of household filing status" ~~[is as]~~ means the same as that term is
1494 defined in Section 59-10-1018.

1495 ~~[(e) "Joint filing status" is as defined in Section 59-10-1018.]~~

1496 (c) "Joint filing status" means:

1497 (i) spouses who file a single return jointly under this chapter for a taxable year; or

1498 (ii) a surviving spouse, as defined in Section (2)(a), Internal Revenue Code, who files a
1499 single federal individual income tax return for the taxable year.

1500 ~~[(f)]~~ (d) "Married filing separately status" means a married individual who:

1501 (i) does not file a single federal individual income tax return jointly with that married
1502 individual's spouse for the taxable year; and

1503 (ii) files a single federal individual income tax return for the taxable year.

1504 ~~[(g)]~~ (e) "Modified adjusted gross income" means the sum of an eligible over age 65
1505 ~~[or older retiree's or eligible under age 65 retiree's]~~ retiree's:

1506 (i) adjusted gross income for the taxable year for which a tax credit is claimed under
1507 this section;

1508 (ii) any interest income that is not included in adjusted gross income for the taxable
1509 year described in Subsection (1)~~[(g)]~~(e)(i); and

1510 (iii) any addition to adjusted gross income required by Section 59-10-114 for the
1511 taxable year described in Subsection (1)~~[(g)]~~(e)(i).

1512 ~~[(h)]~~ (f) "Single filing status" means a single individual who files a single federal
1513 individual income tax return for the taxable year.

1514 (2) Except as provided in Section 59-10-1002.2 ~~[and subject to Subsections (3) through~~
1515 ~~(5): (a)]~~ and Subsections (3) and (4), each eligible over age 65 [or older] retiree may claim a

1516 nonrefundable tax credit of \$450 against taxes otherwise due under this part[; or].
1517 ~~[(b) each eligible under age 65 retiree may claim a nonrefundable tax credit against~~
1518 ~~taxes otherwise due under this part in an amount equal to the lesser of:]~~
1519 ~~[(i) \$288; or]~~
1520 ~~[(ii) the product of:]~~
1521 ~~[(A) the eligible under age 65 retiree's eligible retirement income for the taxable year~~
1522 ~~for which the eligible under age 65 retiree claims a tax credit under this section; and]~~
1523 ~~[(B) 6%.]~~
1524 ~~[(3) A tax credit under this section may not be carried forward or carried back.]~~
1525 (3) An eligible over age 65 retiree may not:
1526 (a) carry forward or carry back a tax credit under this section; or
1527 (b) claim a tax credit under this section if a tax credit is claimed under Section
1528 [59-10-1041](#) on the same return.
1529 (4) The ~~[sum of the tax credits]~~ tax credit allowed by Subsection (2) claimed on ~~[one]~~ a
1530 return filed under this part shall be reduced by \$.025 for each dollar by which modified
1531 adjusted gross income for purposes of the return exceeds:
1532 (a) for a federal individual income tax return that is allowed a married filing separately
1533 status, \$16,000;
1534 (b) for a federal individual income tax return that is allowed a single filing status,
1535 \$25,000;
1536 (c) for a federal individual income tax return that is allowed a head of household filing
1537 status, \$32,000; or
1538 (d) for a return under this chapter that is allowed a joint filing status, \$32,000.
1539 ~~[(5) For purposes of determining the ownership of items of retirement income under~~
1540 ~~this section, common law doctrine shall be applied in all cases even though some items of~~
1541 ~~retirement income may have originated from service or investments in a community property~~
1542 ~~state.]~~
1543 Section 29. Section **59-10-1022** is amended to read:
1544 **59-10-1022. Nonrefundable tax credit for capital gain transactions.**
1545 (1) As used in this section:
1546 (a) (i) "Capital gain transaction" means a transaction that results in a:

- 1547 (A) short-term capital gain; or
1548 (B) long-term capital gain.
- 1549 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1550 commission may by rule define the term "transaction."
- 1551 (b) "Commercial domicile" means the principal place from which the trade or business
1552 of a Utah small business corporation is directed or managed.
- 1553 (c) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.
- 1554 (d) "Qualifying stock" means stock that is:
- 1555 (i) (A) common; or
1556 (B) preferred;
1557 (ii) as defined by the commission by rule made in accordance with Title 63G, Chapter
1558 3, Utah Administrative Rulemaking Act, originally issued to:
- 1559 (A) a claimant, estate, or trust; or
1560 (B) a partnership if the claimant, estate, or trust that claims a tax credit under this
1561 section:
- 1562 (I) was a partner on the day on which the stock was issued; and
1563 (II) remains a partner until the last day of the taxable year for which the claimant,
1564 estate, or trust claims a tax credit under this section; and
- 1565 (iii) issued:
- 1566 (A) by a Utah small business corporation;
1567 (B) on or after January 1, 2008; and
1568 (C) for:
- 1569 (I) money; or
1570 (II) other property, except for stock or securities.
- 1571 (e) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.
- 1572 (f) (i) "Utah small business corporation" means a corporation that:
- 1573 (A) except as provided in Subsection (1)(f)(ii), is a small business corporation as
1574 defined in Section 1244(c)(3), Internal Revenue Code;
1575 (B) except as provided in Subsection (1)(f)(iii), meets the requirements of Section
1576 1244(c)(1)(C), Internal Revenue Code; and
1577 (C) has its commercial domicile in this state.

1578 (ii) The dollar amount listed in Section 1244(c)(3)(A) is considered to be \$2,500,000.

1579 (iii) The phrase "the date the loss on such stock was sustained" in Sections
1580 1244(c)(1)(C) and 1244(c)(2), Internal Revenue Code, is considered to be "the last day of the
1581 taxable year for which the claimant, estate, or trust claims a tax credit under this section."

1582 (2) For taxable years beginning on or after January 1, 2008, a claimant, estate, or trust
1583 that meets the requirements of Subsection (3) may claim a nonrefundable tax credit equal to the
1584 product of:

1585 (a) the total amount of the claimant's, estate's, or trust's short-term capital gain or
1586 long-term capital gain on a capital gain transaction that occurs on or after January 1, 2008; and

1587 (b) ~~[5%]~~ the percentage listed in Subsection 59-10-104(2).

1588 (3) For purposes of Subsection (2), a claimant, estate, or trust may claim the
1589 nonrefundable tax credit allowed by Subsection (2) if:

1590 (a) 70% or more of the gross proceeds of the capital gain transaction are expended:

1591 (i) to purchase qualifying stock in a Utah small business corporation; and

1592 (ii) within a 12-month period after the day on which the capital gain transaction occurs;
1593 and

1594 (b) prior to the purchase of the qualifying stock described in Subsection (3)(a)(i), the
1595 claimant, estate, or trust did not have an ownership interest in the Utah small business
1596 corporation that issued the qualifying stock.

1597 (4) A claimant, estate, or trust may not carry forward or carry back a tax credit under
1598 this section.

1599 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1600 commission may make rules:

1601 (a) defining the term "gross proceeds"; and

1602 (b) prescribing the circumstances under which a claimant, estate, or trust has an
1603 ownership interest in a Utah small business corporation.

1604 Section 30. Section **59-10-1023** is amended to read:

1605 **59-10-1023. Nonrefundable tax credit for amounts paid under a health benefit**
1606 **plan.**

1607 (1) As used in this section:

1608 (a) "Claimant with dependents" means a claimant:

- 1609 (i) regardless of the claimant's filing status for purposes of filing a federal individual
1610 income tax return for the taxable year; and
- 1611 (ii) who claims ~~[one or more dependents under Section 151]~~ a tax credit under Section
1612 24, Internal Revenue Code, ~~[as allowed]~~ on the claimant's federal individual income tax return
1613 for the taxable year.
- 1614 (b) "Eligible insured individual" means:
- 1615 (i) the claimant who is insured under a health benefit plan;
- 1616 (ii) the spouse of the claimant described in Subsection (1)(b)(i) if:
- 1617 (A) the claimant files a single return jointly under this chapter with the claimant's
1618 spouse for the taxable year; and
- 1619 (B) the spouse is insured under the health benefit plan described in Subsection
1620 (1)(b)(i); or
- 1621 (iii) a dependent of the claimant described in Subsection (1)(b)(i) if:
- 1622 (A) the claimant claims the dependent under Section 151, Internal Revenue Code, as
1623 allowed on the claimant's federal individual income tax return for the taxable year; and
- 1624 (B) the dependent is insured under the health benefit plan described in Subsection
1625 (1)(b)(i).
- 1626 (c) "Excluded expenses" means an amount a claimant pays for insurance offered under
1627 a health benefit plan for a taxable year if:
- 1628 (i) the claimant claims a tax credit for that amount under Section 35, Internal Revenue
1629 Code:
- 1630 (A) on the claimant's federal individual income tax return for the taxable year; and
- 1631 (B) with respect to an eligible insured individual;
- 1632 (ii) the claimant deducts that amount under Section 162 or 213, Internal Revenue
1633 Code:
- 1634 (A) on the claimant's federal individual income tax return for the taxable year; and
- 1635 (B) with respect to an eligible insured individual; or
- 1636 (iii) the claimant excludes that amount from gross income under Section 106 or 125,
1637 Internal Revenue Code, with respect to an eligible insured individual.
- 1638 (d) (i) "Health benefit plan" is as defined in Section 31A-1-301.
- 1639 (ii) "Health benefit plan" does not include equivalent self-insurance as defined by the

1640 Insurance Department by rule made in accordance with Title 63G, Chapter 3, Utah
1641 Administrative Rulemaking Act.

1642 (e) "Joint claimant with no dependents" means ~~[a husband and wife]~~ spouses who:
1643 (i) file a single return jointly under this chapter for the taxable year; and
1644 (ii) do not claim a dependent under Section 151, Internal Revenue Code, on the
1645 ~~[husband's and wife's]~~ spouses' federal individual income tax return for the taxable year.

1646 (f) "Single claimant with no dependents" means:
1647 (i) a single individual who:
1648 (A) files a single federal individual income tax return for the taxable year; and
1649 (B) does not claim a dependent under Section 151, Internal Revenue Code, on the
1650 single individual's federal individual income tax return for the taxable year;
1651 (ii) a head of household:
1652 (A) as defined in Section 2(b), Internal Revenue Code, who files a single federal
1653 individual income tax return for the taxable year; and
1654 (B) who does not claim a dependent under Section 151, Internal Revenue Code, on the
1655 head of household's federal individual income tax return for the taxable year; or
1656 (iii) a married individual who:
1657 (A) does not file a single federal individual income tax return jointly with that married
1658 individual's spouse for the taxable year; and
1659 (B) does not claim a dependent under Section 151, Internal Revenue Code, on that
1660 married individual's federal individual income tax return for the taxable year.

1661 (2) Subject to Subsection (3), and except as provided in Subsection (4), ~~[for taxable~~
1662 ~~years beginning on or after January 1, 2009,]~~ a claimant may claim a nonrefundable tax credit
1663 equal to the product of:
1664 (a) the difference between:
1665 (i) the total amount the claimant pays during the taxable year for:
1666 (A) insurance offered under a health benefit plan; and
1667 (B) an eligible insured individual; and
1668 (ii) excluded expenses; and
1669 (b) ~~[5%]~~ the percentage listed in Subsection [59-10-104\(2\)](#).
1670 (3) The maximum amount of a tax credit described in Subsection (2) a claimant may

1671 claim on a return for a taxable year is:

1672 (a) for a single claimant with no dependents, \$300;

1673 (b) for a joint claimant with no dependents, \$600; or

1674 (c) for a claimant with dependents, \$900.

1675 (4) A claimant may not claim a tax credit under this section if the claimant is eligible to
1676 participate in insurance offered under a health benefit plan maintained and funded in whole or
1677 in part by:

1678 (a) the claimant's employer; or

1679 (b) another person's employer.

1680 (5) A claimant may not carry forward or carry back a tax credit under this section.

1681 Section 31. Section **59-10-1028** is amended to read:

1682 **59-10-1028. Nonrefundable tax credit for capital gain transactions on the**
1683 **exchange of one form of legal tender for another form of legal tender.**

1684 (1) As used in this section:

1685 (a) "Capital gain transaction" means a transaction that results in a:

1686 (i) short-term capital gain; or

1687 (ii) long-term capital gain.

1688 (b) "Long-term capital gain" ~~[is as defined]~~ means the same as that term is defined in
1689 Section 1222, Internal Revenue Code.

1690 (c) "Long-term capital loss" ~~[is as defined]~~ means the same as that term is defined in
1691 Section 1222, Internal Revenue Code.

1692 (d) "Net capital gain" means the amount by which the sum of long-term capital gains
1693 and short-term capital gains on a claimant's, estate's, or trust's transactions from exchanges
1694 made for a taxable year of one form of legal tender for another form of legal tender exceeds the
1695 sum of long-term capital losses and short-term capital losses on those transactions for that
1696 taxable year.

1697 (e) "Short-term capital loss" ~~[is as defined]~~ means the same as that term is defined in
1698 Section 1222, Internal Revenue Code.

1699 (f) "Short-term capital gain" ~~[is as defined]~~ means the same as that term is defined in
1700 Section 1222, Internal Revenue Code.

1701 (2) Except as provided in Section **59-10-1002.2**, ~~[for taxable years beginning on or~~

after January 1, 2012,] a claimant, estate, or trust may claim a nonrefundable tax credit equal to the product of:

(a) to the extent a net capital gain is included in taxable income, the amount of the claimant's, estate's, or trust's net capital gain on capital gain transactions from exchanges made on or after January 1, 2012, for a taxable year, of one form of legal tender for another form of legal tender; and

(b) [5%] the percentage listed in Subsection 59-10-104(2).

(3) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to implement this section.

Section 32. Section **59-10-1033** is amended to read:

59-10-1033. Tax credit related to alternative fuel heavy duty vehicles.

(1) As used in this section:

(a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(b) "Director" means the director of the Division of Air Quality appointed under Section 19-2-107.

(c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to vehicle classifications established by the Federal Highway Administration.

(d) "Natural gas" includes compressed natural gas and liquified natural gas.

(e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

(i) has never been titled or registered and has been driven less than 7,500 miles; and
(ii) is fueled by natural gas, has a 100% electric drivetrain, or has a hydrogen-electric drivetrain.

(f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

(g) "Qualified taxpayer" means a claimant, estate, or trust that:

(i) purchases a qualified heavy duty vehicle; and
(ii) receives a tax credit certificate from the director.

(h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and owned by a single claimant, estate, or trust.

(i) "Tax credit certificate" means a certificate issued by the director certifying that a claimant, estate, or trust is entitled to a tax credit as provided in this section and stating the amount of the tax credit.

(2) A qualified taxpayer may claim a nonrefundable tax credit against tax otherwise due under this chapter:

(a) in an amount equal to:

(i) \$25,000, if the qualified purchase of a natural gas heavy duty vehicle occurs during calendar year 2015 or calendar year 2016;

(ii) \$25,000, if the qualified purchase occurs during calendar year 2017;

(iii) \$20,000, if the qualified purchase occurs during calendar year 2018;

(iv) \$18,000, if the qualified purchase occurs during calendar year 2019; and

(v) \$15,000, if the qualified purchase occurs during calendar year 2020; and

(b) if the qualified taxpayer certifies under oath that over 50% of the miles that the heavy duty vehicle that is the subject of the qualified purchase will travel annually will be within the state.

(3) (a) Except as provided in Subsection (3)(b), a claimant, estate, or trust may not submit an application for, and the director may not issue to the claimant, estate, or trust, a tax credit certificate under this section in any taxable year for a qualified purchase if the director has already issued tax credit certificates to the claimant, estate, or trust for 10 qualified purchases in the same taxable year.

(b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of tax credits under Subsection (5) has not been claimed, a claimant, estate, or trust may submit an application for, and the director may issue to the claimant, estate, or trust, one or more tax credit certificates for up to eight additional qualified purchases, even if the director has already issued to that claimant, estate, or trust tax credit certificates for the maximum number of qualified purchases allowed under Subsection (3)(a).

(4) (a) Subject to Subsection (4)(b), the director shall reserve 25% of all tax credits available under this section for qualified taxpayers with a small fleet.

(b) Subsection (4)(a) does not prevent a claimant, estate, or trust from submitting an application for, or the director from issuing, a tax credit certificate if, before October 1, qualified taxpayers with a small fleet have not reserved under Subsection (5)(b) tax credits for

1764 the full amount reserved under Subsection (4)(a).

1765 (5) (a) The aggregate annual total amount of tax credits represented by tax credit
1766 certificates that the director issues under this section and Section 59-7-618 may not exceed
1767 \$500,000.

1768 (b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative
1769 Rulemaking Act, make rules to establish a process under which a claimant, estate, or trust may
1770 reserve a potential tax credit under this section for a limited time to allow the claimant, estate,
1771 or trust to make a qualified purchase with the assurance that the aggregate limit under
1772 Subsection (5)(a) will not be met before the claimant, estate, or trust is able to submit an
1773 application for a tax credit certificate.

1774 (6) (a) (i) A claimant, estate, or trust wishing to claim a tax credit under this section
1775 shall, using forms the board requires by rule:

1776 (A) submit to the director an application for a tax credit;

1777 (B) provide the director proof of a qualified purchase; and

1778 (C) submit to the director the certification under oath required under Subsection (2)(b).

1779 (ii) Upon receiving the application, proof, and certification required under Subsection
1780 (6)(a)(i), the director shall provide the claimant, estate, or trust a written statement from the
1781 director acknowledging receipt of the proof.

1782 (b) If the director determines that a claimant, estate, or trust qualifies for a tax credit
1783 under this section, the director shall:

1784 (i) determine the amount of tax credit the claimant, estate, or trust is allowed under this
1785 section; and

1786 (ii) provide the claimant, estate, or trust with a written tax credit certificate:

1787 (A) stating that the claimant, estate, or trust has qualified for a tax credit; and

1788 (B) showing the amount of tax credit for which the claimant, estate, or trust has
1789 qualified under this section.

1790 (c) A qualified taxpayer shall retain the tax credit certificate.

1791 (d) The director shall at least annually submit to the commission a list of all qualified
1792 taxpayers to which the director has issued a tax credit certificate and the amount of each tax
1793 credit represented by the tax credit certificates.

1794 (7) The tax credit under this section is allowed only:

- 1795 (a) against a tax owed under this chapter in the taxable year by the qualified taxpayer;
1796 (b) for the taxable year in which the qualified purchase occurs; and
1797 (c) once per vehicle.

1798 (8) A qualified taxpayer may not assign a tax credit or a tax credit certificate under this
1799 section to another person.

1800 (9) If the qualified taxpayer receives a tax credit certificate under this section that
1801 allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this
1802 chapter for a taxable year, the qualified taxpayer may carry forward the amount of the tax credit
1803 that exceeds the tax liability for a period that does not exceed the next five taxable years.

1804 ~~[(10)(a) In accordance with any rules prescribed by the commission under Subsection~~
1805 ~~(10)(b), the Division of Finance shall transfer at least annually from the General Fund into the~~
1806 ~~Education Fund the aggregate amount of all tax credits claimed under this section.]~~

1807 ~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
1808 ~~the commission may make rules for making a transfer from the General Fund into the~~
1809 ~~Education Fund as required by Subsection (10)(a).]~~

1810 Section 33. Section **59-10-1035** is amended to read:

1811 **59-10-1035. Nonrefundable tax credit for contribution to state Achieving a Better**
1812 **Life Experience Program account.**

1813 (1) As used in this section:

1814 (a) "Account" means an account in a qualified ABLE program where the designated
1815 beneficiary of the account is a resident of this state.

1816 (b) "Contributor" means a claimant, estate, or trust that:

1817 (i) makes a contribution to an account; and

1818 (ii) receives a statement from the qualified ABLE program itemizing the contribution.

1819 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.
1820 529A.

1821 (d) "Qualified ABLE program" means the same as that term is defined in Section
1822 [35A-12-102](#).

1823 (2) A contributor to an account may claim a nonrefundable tax credit as provided in
1824 this section.

1825 (3) Subject to the other provisions of this section, the tax credit is equal to the product

1826 of:

1827 (a) ~~[5%]~~ the percentage listed in Subsection [59-10-104\(2\)](#); and

1828 (b) the total amount of contributions:

1829 (i) the contributor makes for the taxable year; and

1830 (ii) for which the contributor receives a statement from the qualified ABLE program
1831 itemizing the contributions.

1832 (4) A contributor may not claim a tax credit under this section:

1833 (a) for an amount of excess contribution to an account that is returned to the
1834 contributor; or

1835 (b) with respect to an amount the contributor deducts on a federal income tax return.

1836 (5) A tax credit under this section may not be carried forward or carried back.

1837 Section 34. Section **59-10-1041** is enacted to read:

1838 **59-10-1041. Nonrefundable tax credit for social security benefits.**

1839 (1) As used in this section:

1840 (a) "Head of household filing status" means the same as that term is defined in Section
1841 [59-10-1018](#).

1842 (b) "Joint filing status" means:

1843 (i) spouses who file a single return jointly under this chapter for a taxable year; or

1844 (ii) a surviving spouse, as defined in Section (2)(a), Internal Revenue Code, who files a
1845 single federal individual income tax return for the taxable year.

1846 (c) "Married filing separately status" means a married individual who:

1847 (i) does not file a single federal individual income tax return jointly with that married
1848 individual's spouse for the taxable year; and

1849 (ii) files a single federal individual income tax return for the taxable year.

1850 (d) "Modified adjusted gross income" means the sum of a claimant's:

1851 (i) adjusted gross income for the taxable year for which a tax credit is claimed under
1852 this section;

1853 (ii) any interest income that is not included in adjusted gross income for the taxable
1854 year described in Subsection (1)(d)(i); and

1855 (iii) any addition to adjusted gross income required by Section [59-10-114](#) for the
1856 taxable year described in Subsection (1)(d)(i).

(e) "Single filing status" means a single individual who files a single federal individual income tax return for the taxable year.

(f) "Social security benefit" means an amount received by a claimant as a monthly benefit in accordance with the Social Security Act, 42 U.S.C. Sec. 401 et seq.

(2) Except as provided in Section 59-10-1002.2 and Subsections (3) and (4), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the product of:

(a) the percentage listed in Subsection 59-10-104(2); and

(b) the claimant's social security benefit that is included in adjusted gross income on the claimant's federal income tax return for the taxable year.

(3) A claimant may not:

(a) carry forward or carry back a tax credit under this section; or

(b) claim a tax credit under this section if a tax credit is claimed under Section 59-10-1019 on the same return.

(4) The tax credit allowed by Subsection (2) claimed on a return filed under this part shall be reduced by \$.025 for each dollar by which modified adjusted gross income for purposes of the return exceeds:

(a) for a return that has a married filing separately status, \$24,000;

(b) for a return that has a single filing status, \$30,000;

(c) for a return that has a head of household filing status, \$48,000; or

(d) for a return that has a joint filing status, \$48,000.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules governing the calculation and method for claiming a tax credit described in this section.

Section 35. Section **59-10-1102.1** is enacted to read:

59-10-1102.1. Apportionment of tax credit.

(1) A part-year resident individual who claims the tax credit described in Section 59-10-1113 may only claim an apportioned amount of the tax credit equal to the product of:

(a) the state income tax percentage for the part-year resident individual; and

(b) the amount of the tax credit that the part-year resident individual would have been allowed to claim but for the apportionment requirement of this section.

(2) A nonresident individual or a part-year resident individual who claims the tax credit described in Section 59-10-1114 may only claim an apportioned amount of the tax credit equal to the product of:

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

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

Section 36. Section **59-10-1105** is amended to read:

59-10-1105. Tax credit for hand tools used in farming operations -- Procedures for refund -- Transfers from General Fund to Education Fund -- Rulemaking authority.

(1) ~~[For a taxable year beginning on or after January 1, 2004, a]~~ A claimant, estate, or trust may claim a refundable tax credit:

(a) as provided in this section;

(b) against taxes otherwise due under this chapter; and

(c) in an amount equal to the amount of tax the claimant, estate, or trust pays:

(i) on a purchase of a hand tool:

(A) if the purchase is made on or after July 1, 2004;

(B) if the hand tool is used or consumed primarily and directly in a farming operation in the state; and

(C) if the unit purchase price of the hand tool is more than \$250; and

(ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i).

(2) A claimant, estate, or trust:

(a) shall retain the following to establish the amount of tax the claimant, estate, or trust paid under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection

(1)(c)(i):

(i) a receipt;

(ii) an invoice; or

(iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and

(b) may not carry forward or carry back a tax credit under this section.

(3) (a) In accordance with any rules prescribed by the commission under Subsection (3)(b)~~[(i)]~~, the commission shall make a refund to a claimant, estate, or trust that claims a tax credit under this section if the amount of the tax credit exceeds the claimant's, estate's, or trust's tax liability under this chapter~~;~~ and~~].~~

~~[(ii) the Division of Finance shall transfer at least annually from the General Fund into the Education Fund an amount equal to the aggregate amount of all tax credits claimed under this section.]~~

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making~~[(i)]~~ a refund to a claimant, estate, or trust as required by Subsection (3)(a)~~[(i); or]~~.

~~[(ii) transfers from the General Fund into the Education Fund as required by Subsection (3)(a)(ii).]~~

Section 37. Section **59-10-1113** is enacted to read:

59-10-1113. Refundable grocery tax credit.

(1) As used in this section:

(a) "Federal poverty level" means the poverty guidelines established by the Secretary of the United States Department of Health and Human Services under 42 U.S.C. Sec. 9909(2).

(b) "Modified adjusted gross income" means the sum of a claimant's:

(i) adjusted gross income for the taxable year for which a tax credit is claimed under this section;

(ii) any interest income that is not included in adjusted gross income for the taxable year described in Subsection (1)(b)(i); and

(iii) any addition to adjusted gross income required by Section [59-10-114](#) for the taxable year described in Subsection (1)(b)(i).

(c) "Phaseout amount" means an amount equal to 0.0035% of the amount calculated under Subsection (2).

(d) "Qualifying dependent" means the same as that term is defined in Section [59-10-1018](#).

(e) "Qualifying household member" means:

(i) the qualifying individual;

(ii) the qualifying individual's spouse, if the qualifying individual:

(A) files a single return jointly under this chapter with the qualifying individual's spouse for a taxable year; or

(B) is a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a single federal individual income tax return for a taxable year; and

(iii) a qualifying dependent.

(f) "Qualifying individual" means a resident individual who is not a qualifying dependent.

(2) Subject to Section [59-10-1102.1](#) and the provisions of this section, a qualifying individual may claim a refundable grocery tax credit equal to the sum of:

(a) \$125 multiplied by the number of qualifying household members, up to four; and

(b) \$50 multiplied by the number of qualifying household members that exceeds four.

(3) (a) If a qualifying household member was incarcerated for any part of the taxable year for which the qualifying individual claims the grocery tax credit, the qualifying individual's credit for the qualifying household member is reduced by an amount proportionate to the time the qualifying household member was incarcerated during the taxable year.

(b) For purposes of calculating the proportionate amount under Subsection (3)(a), the qualifying household member who was incarcerated is considered:

(i) one of the qualifying household members described in Subsection (2)(a); or

(ii) if four other qualifying household members were incarcerated for part of the taxable year and each considered one of the four qualifying household members described in Subsection (2)(a), one of the qualifying household members described in Subsection (2)(b).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for calculating the proportionate amount described in this subsection.

(4) The tax credit described in this section is reduced by the phaseout amount for each dollar by which the claimant's modified adjusted gross income exceeds the lesser of:

(a) 175% of the federal poverty level for the claimant's household size; or

(b) 175% of the federal poverty level for a household with five individuals.

(5) (a) Except as provided in Subsection (5)(b), to claim the tax credit described in this section, a qualifying individual shall file a return under this chapter.

(b) A qualifying individual who is not required to file a return under this chapter for the

taxable year in which the qualifying individual claims a credit under this section, may claim the tax credit described in this section by filing a form prescribed by the commission.

Section 38. Section **59-10-1114** is enacted to read:

59-10-1114. Refundable state earned income tax credit.

(1) As used in this section:

(a) "Department" means the Department of Workforce Services created in Section [35A-1-103](#).

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

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

(i) is identified by the department as experiencing intergenerational poverty in accordance with Section [35A-9-214](#); and

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

(2) Except as provided in Section [59-10-1102.1](#), a qualifying claimant may claim a refundable earned income tax credit equal to 10% of the amount of the federal earned income tax credit that the qualifying claimant was entitled to claim on a federal income tax return in the previous taxable year.

(3) (a) The commission shall use the electronic report described in Section [35A-9-214](#) to verify that a qualifying claimant is identified as experiencing intergenerational poverty.

(b) The commission may not use the electronic report described in Section [35A-9-214](#) for any other purpose.

Section 39. Section **59-10-1403.3** is amended to read:

59-10-1403.3. Refund of amounts paid or withheld for a pass-through entity.

(1) As used in this section:

(a) "Committee" means the Revenue and Taxation Interim Committee.

(b) "Qualifying excess withholding" means an amount that:

(i) is paid or withheld:

(A) by a pass-through entity that has a different taxable year than the pass-through entity that requests a refund under this section; and

(B) on behalf of the pass-through entity that requests the refund, if the pass-through entity that requests the refund also is a pass-through entity taxpayer; and

2012 (ii) is equal to the difference between:

2013 (A) the amount paid or withheld for the taxable year on behalf of the pass-through
2014 entity that requests the refund; and

2015 (B) the product of [5%] the percentage listed in Subsection 59-10-104(2) and the
2016 income, described in Subsection 59-10-1403.2(1)(a)(i), of the pass-through entity that requests
2017 the refund.

2018 (2) ~~[For a taxable year ending on or after July 1, 2017, a]~~ A pass-through entity may
2019 claim a refund of qualifying excess withholding, if the amount of the qualifying excess
2020 withholding is equal to or greater than \$250,000.

2021 (3) A pass-through entity that requests a refund of qualifying excess withholding under
2022 this section shall:

2023 (a) apply to the commission for a refund on or, subject to Subsection (4), after the day
2024 on which the pass-through entity files the pass-through entity's income tax return; and

2025 (b) provide any information that the commission may require to determine that the
2026 pass-through entity is eligible to receive the refund.

2027 (4) A pass-through entity shall claim a refund of qualifying excess withholding under
2028 this section within 30 days after the earlier of the day on which:

2029 (a) the pass-through entity files an income tax return; or

2030 (b) the pass-through entity's income tax return is due, including any extension of due
2031 date authorized in statute.

2032 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2033 commission may make rules establishing the information that a pass-through entity shall
2034 provide to the commission to obtain a refund of qualifying excess withholding under this
2035 section.

2036 ~~[(6)(a) On or before November 30, 2018, the committee shall review the \$250,000~~
2037 ~~threshold described in Subsection (2) for the purpose of assessing whether the threshold~~
2038 ~~amount should be maintained, increased, or decreased.]~~

2039 ~~[(b) To assist the committee in conducting the review described in Subsection (6)(a),~~
2040 ~~the commission shall provide the committee with:]~~

2041 ~~[(i) the total number of refund requests made under this section;]~~

2042 ~~[(ii) the total costs of any refunds issued under this section;]~~

2043 ~~[(iii) the costs of any audits conducted on refund requests made under this section; and]~~
2044 ~~[(iv) an estimation of:]~~
2045 ~~[(A) the number of refund requests the commission expects to receive if the Legislature~~
2046 ~~increases the threshold;]~~
2047 ~~[(B) the number of refund requests the commission expects to receive if the Legislature~~
2048 ~~decreases the threshold; and]~~
2049 ~~[(C) the costs of any audits the commission would conduct if the Legislature increases~~
2050 ~~or decreases the threshold.]~~

2051 Section 40. Section **59-12-102** is amended to read:

2052 **59-12-102. Definitions.**

2053 As used in this chapter:

2054 (1) "800 service" means a telecommunications service that:

2055 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

2056 (b) is typically marketed:

2057 (i) under the name 800 toll-free calling;

2058 (ii) under the name 855 toll-free calling;

2059 (iii) under the name 866 toll-free calling;

2060 (iv) under the name 877 toll-free calling;

2061 (v) under the name 888 toll-free calling; or

2062 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the

2063 Federal Communications Commission.

2064 (2) (a) "900 service" means an inbound toll telecommunications service that:

2065 (i) a subscriber purchases;

2066 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
2067 the subscriber's:

2068 (A) prerecorded announcement; or

2069 (B) live service; and

2070 (iii) is typically marketed:

2071 (A) under the name 900 service; or

2072 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal

2073 Communications Commission.

- 2074 (b) "900 service" does not include a charge for:
- 2075 (i) a collection service a seller of a telecommunications service provides to a
- 2076 subscriber; or
- 2077 (ii) the following a subscriber sells to the subscriber's customer:
- 2078 (A) a product; or
- 2079 (B) a service.
- 2080 (3) (a) "Admission or user fees" includes season passes.
- 2081 (b) "Admission or user fees" does not include annual membership dues to private
- 2082 organizations.
- 2083 (4) "Affiliate" or "affiliated person" means a person that, with respect to another
- 2084 person:
- 2085 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
- 2086 person; or
- 2087 (b) is related to the other person because a third person, or a group of third persons who
- 2088 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,
- 2089 whether direct or indirect, in the related persons.
- 2090 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 2091 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 2092 Agreement after November 12, 2002.
- 2093 (6) "Agreement combined tax rate" means the sum of the tax rates:
- 2094 (a) listed under Subsection (7); and
- 2095 (b) that are imposed within a local taxing jurisdiction.
- 2096 (7) "Agreement sales and use tax" means a tax imposed under:
- 2097 (a) Subsection 59-12-103(2)(a)(i)(A);
- 2098 (b) Subsection 59-12-103(2)(b)(i);
- 2099 (c) Subsection 59-12-103(2)(c)(i);
- 2100 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 2101 (e) Section 59-12-204;
- 2102 (f) Section 59-12-401;
- 2103 (g) Section 59-12-402;
- 2104 (h) Section 59-12-402.1;

- 2105 (i) Section 59-12-703;
2106 (j) Section 59-12-802;
2107 (k) Section 59-12-804;
2108 (l) Section 59-12-1102;
2109 (m) Section 59-12-1302;
2110 (n) Section 59-12-1402;
2111 (o) Section 59-12-1802;
2112 (p) Section 59-12-2003;
2113 (q) Section 59-12-2103;
2114 (r) Section 59-12-2213;
2115 (s) Section 59-12-2214;
2116 (t) Section 59-12-2215;
2117 (u) Section 59-12-2216;
2118 (v) Section 59-12-2217;
2119 (w) Section 59-12-2218;
2120 (x) Section 59-12-2219; or
2121 (y) Section 59-12-2220.
2122 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
2123 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
2124 (a) except for:
2125 (i) an airline as defined in Section 59-2-102; or
2126 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
2127 includes a corporation that is qualified to do business but is not otherwise doing business in the
2128 state, of an airline; and
2129 (b) that has the workers, expertise, and facilities to perform the following, regardless of
2130 whether the business entity performs the following in this state:
2131 (i) check, diagnose, overhaul, and repair:
2132 (A) an onboard system of a fixed wing turbine powered aircraft; and
2133 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
2134 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
2135 engine;

- 2136 (iii) perform at least the following maintenance on a fixed wing turbine powered
2137 aircraft:
- 2138 (A) an inspection;
2139 (B) a repair, including a structural repair or modification;
2140 (C) changing landing gear; and
2141 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 2142 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
2143 completely apply new paint to the fixed wing turbine powered aircraft; and
- 2144 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
2145 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
2146 authority that certifies the fixed wing turbine powered aircraft.
- 2147 (10) "Alcoholic beverage" means a beverage that:
- 2148 (a) is suitable for human consumption; and
2149 (b) contains .5% or more alcohol by volume.
- 2150 (11) "Alternative energy" means:
- 2151 (a) biomass energy;
2152 (b) geothermal energy;
2153 (c) hydroelectric energy;
2154 (d) solar energy;
2155 (e) wind energy; or
2156 (f) energy that is derived from:
- 2157 (i) coal-to-liquids;
2158 (ii) nuclear fuel;
2159 (iii) oil-impregnated diatomaceous earth;
2160 (iv) oil sands;
2161 (v) oil shale;
2162 (vi) petroleum coke; or
2163 (vii) waste heat from:
- 2164 (A) an industrial facility; or
2165 (B) a power station in which an electric generator is driven through a process in which
2166 water is heated, turns into steam, and spins a steam turbine.

2167 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production
2168 facility" means a facility that:

- 2169 (i) uses alternative energy to produce electricity; and
2170 (ii) has a production capacity of two megawatts or greater.

2171 (b) A facility is an alternative energy electricity production facility regardless of
2172 whether the facility is:

- 2173 (i) connected to an electric grid; or
2174 (ii) located on the premises of an electricity consumer.

2175 (13) (a) "Ancillary service" means a service associated with, or incidental to, the
2176 provision of telecommunications service.

2177 (b) "Ancillary service" includes:

- 2178 (i) a conference bridging service;
2179 (ii) a detailed communications billing service;
2180 (iii) directory assistance;
2181 (iv) a vertical service; or
2182 (v) a voice mail service.

2183 (14) "Area agency on aging" means the same as that term is defined in Section
2184 62A-3-101.

2185 ~~[(15) "Assisted amusement device" means an amusement device, skill device, or ride~~
2186 ~~device that is started and stopped by an individual:]~~

2187 ~~[(a) who is not the purchaser or renter of the right to use or operate the amusement~~
2188 ~~device, skill device, or ride device; and]~~

2189 ~~[(b) at the direction of the seller of the right to use the amusement device, skill device,~~
2190 ~~or ride device:]~~

2191 ~~[(16)]~~ (15) "Assisted cleaning or washing of tangible personal property" means
2192 cleaning or washing of tangible personal property if the cleaning or washing labor is primarily
2193 performed by an individual:

2194 (a) who is not the purchaser of the cleaning or washing of the tangible personal
2195 property; and

2196 (b) at the direction of the seller of the cleaning or washing of the tangible personal
2197 property.

2198 ~~[(17)]~~ (16) "Authorized carrier" means:

2199 (a) in the case of vehicles operated over public highways, the holder of credentials
2200 indicating that the vehicle is or will be operated pursuant to both the International Registration
2201 Plan and the International Fuel Tax Agreement;

2202 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
2203 certificate or air carrier's operating certificate; or

2204 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
2205 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
2206 stock in more than one state.

2207 ~~[(18)]~~ (17) (a) Except as provided in Subsection ~~[(18)]~~ (17)(b), "biomass energy"
2208 means any of the following that is used as the primary source of energy to produce fuel or
2209 electricity:

2210 (i) material from a plant or tree; or

2211 (ii) other organic matter that is available on a renewable basis, including:

2212 (A) slash and brush from forests and woodlands;

2213 (B) animal waste;

2214 (C) waste vegetable oil;

2215 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
2216 wastewater residuals, or through the conversion of a waste material through a nonincineration,
2217 thermal conversion process;

2218 (E) aquatic plants; and

2219 (F) agricultural products.

2220 (b) "Biomass energy" does not include:

2221 (i) black liquor; or

2222 (ii) treated woods.

2223 ~~[(19)]~~ (18) (a) "Bundled transaction" means the sale of two or more items of tangible
2224 personal property, products, or services if the tangible personal property, products, or services
2225 are:

2226 (i) distinct and identifiable; and

2227 (ii) sold for one nonitemized price.

2228 (b) "Bundled transaction" does not include:

- 2229 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
2230 the basis of the selection by the purchaser of the items of tangible personal property included in
2231 the transaction;
- 2232 (ii) the sale of real property;
- 2233 (iii) the sale of services to real property;
- 2234 (iv) the retail sale of tangible personal property and a service if:
- 2235 (A) the tangible personal property:
- 2236 (I) is essential to the use of the service; and
- 2237 (II) is provided exclusively in connection with the service; and
- 2238 (B) the service is the true object of the transaction;
- 2239 (v) the retail sale of two services if:
- 2240 (A) one service is provided that is essential to the use or receipt of a second service;
- 2241 (B) the first service is provided exclusively in connection with the second service; and
- 2242 (C) the second service is the true object of the transaction;
- 2243 (vi) a transaction that includes tangible personal property or a product subject to
2244 taxation under this chapter and tangible personal property or a product that is not subject to
2245 taxation under this chapter if the:
- 2246 (A) seller's purchase price of the tangible personal property or product subject to
2247 taxation under this chapter is de minimis; or
- 2248 (B) seller's sales price of the tangible personal property or product subject to taxation
2249 under this chapter is de minimis; and
- 2250 (vii) the retail sale of tangible personal property that is not subject to taxation under
2251 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 2252 (A) that retail sale includes:
- 2253 (I) food and food ingredients;
- 2254 (II) a drug;
- 2255 (III) durable medical equipment;
- 2256 (IV) mobility enhancing equipment;
- 2257 (V) an over-the-counter drug;
- 2258 (VI) a prosthetic device; or
- 2259 (VII) a medical supply; and

- 2260 (B) subject to Subsection [~~(19)~~] (18)(f):
- 2261 (I) the seller's purchase price of the tangible personal property subject to taxation under
- 2262 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 2263 (II) the seller's sales price of the tangible personal property subject to taxation under
- 2264 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 2265 (c) (i) For purposes of Subsection [~~(19)~~] (18)(a)(i), tangible personal property, a
- 2266 product, or a service that is distinct and identifiable does not include:
- 2267 (A) packaging that:
- 2268 (I) accompanies the sale of the tangible personal property, product, or service; and
- 2269 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
- 2270 service;
- 2271 (B) tangible personal property, a product, or a service provided free of charge with the
- 2272 purchase of another item of tangible personal property, a product, or a service; or
- 2273 (C) an item of tangible personal property, a product, or a service included in the
- 2274 definition of "purchase price."
- 2275 (ii) For purposes of Subsection [~~(19)~~] (18)(c)(i)(B), an item of tangible personal
- 2276 property, a product, or a service is provided free of charge with the purchase of another item of
- 2277 tangible personal property, a product, or a service if the sales price of the purchased item of
- 2278 tangible personal property, product, or service does not vary depending on the inclusion of the
- 2279 tangible personal property, product, or service provided free of charge.
- 2280 (d) (i) For purposes of Subsection [~~(19)~~] (18)(a)(ii), property sold for one nonitemized
- 2281 price does not include a price that is separately identified by tangible personal property,
- 2282 product, or service on the following, regardless of whether the following is in paper format or
- 2283 electronic format:
- 2284 (A) a binding sales document; or
- 2285 (B) another supporting sales-related document that is available to a purchaser.
- 2286 (ii) For purposes of Subsection [~~(19)~~] (18)(d)(i), a binding sales document or another
- 2287 supporting sales-related document that is available to a purchaser includes:
- 2288 (A) a bill of sale;
- 2289 (B) a contract;
- 2290 (C) an invoice;

- 2291 (D) a lease agreement;
- 2292 (E) a periodic notice of rates and services;
- 2293 (F) a price list;
- 2294 (G) a rate card;
- 2295 (H) a receipt; or
- 2296 (I) a service agreement.
- 2297 (e) (i) For purposes of Subsection [~~(19)~~] (18)(b)(vi), the sales price of tangible personal
- 2298 property or a product subject to taxation under this chapter is de minimis if:
- 2299 (A) the seller's purchase price of the tangible personal property or product is 10% or
- 2300 less of the seller's total purchase price of the bundled transaction; or
- 2301 (B) the seller's sales price of the tangible personal property or product is 10% or less of
- 2302 the seller's total sales price of the bundled transaction.
- 2303 (ii) For purposes of Subsection [~~(19)~~] (18)(b)(vi), a seller:
- 2304 (A) shall use the seller's purchase price or the seller's sales price to determine if the
- 2305 purchase price or sales price of the tangible personal property or product subject to taxation
- 2306 under this chapter is de minimis; and
- 2307 (B) may not use a combination of the seller's purchase price and the seller's sales price
- 2308 to determine if the purchase price or sales price of the tangible personal property or product
- 2309 subject to taxation under this chapter is de minimis.
- 2310 (iii) For purposes of Subsection [~~(19)~~] (18)(b)(vi), a seller shall use the full term of a
- 2311 service contract to determine if the sales price of tangible personal property or a product is de
- 2312 minimis.
- 2313 (f) For purposes of Subsection [~~(19)~~] (18)(b)(vii)(B), a seller may not use a
- 2314 combination of the seller's purchase price and the seller's sales price to determine if tangible
- 2315 personal property subject to taxation under this chapter is 50% or less of the seller's total
- 2316 purchase price or sales price of that retail sale.
- 2317 [~~(20)~~] (19) "Certified automated system" means software certified by the governing
- 2318 board of the agreement that:
- 2319 (a) calculates the agreement sales and use tax imposed within a local taxing
- 2320 jurisdiction:
- 2321 (i) on a transaction; and

2322 (ii) in the states that are members of the agreement;
2323 (b) determines the amount of agreement sales and use tax to remit to a state that is a
2324 member of the agreement; and
2325 (c) maintains a record of the transaction described in Subsection ~~[(20)]~~ (19)(a)(i).
2326 ~~[(21)]~~ (20) "Certified service provider" means an agent certified:
2327 (a) by the governing board of the agreement; and
2328 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax,
2329 as outlined in the contract between the governing board of the agreement and the certified
2330 service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the
2331 seller's own purchases.
2332 ~~[(22)]~~ (21) (a) Subject to Subsection ~~[(22)]~~ (21)(b), "clothing" means all human
2333 wearing apparel suitable for general use.
2334 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2335 commission shall make rules:
2336 (i) listing the items that constitute "clothing"; and
2337 (ii) that are consistent with the list of items that constitute "clothing" under the
2338 agreement.
2339 ~~[(23)]~~ (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic
2340 fuel.
2341 ~~[(24)]~~ (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or
2342 other fuels that does not constitute industrial use under Subsection (57) or residential use under
2343 Subsection ~~[(111)]~~ (115).
2344 ~~[(25)]~~ (24) (a) "Common carrier" means a person engaged in or transacting the
2345 business of transporting passengers, freight, merchandise, or other property for hire within this
2346 state.
2347 (b) (i) "Common carrier" does not include a person that, at the time the person is
2348 traveling to or from that person's place of employment, transports a passenger to or from the
2349 passenger's place of employment.
2350 (ii) For purposes of Subsection ~~[(25)]~~ (24)(b)(i), in accordance with Title 63G, Chapter
2351 3, Utah Administrative Rulemaking Act, the commission may make rules defining what
2352 constitutes a person's place of employment.

2353 (c) "Common carrier" does not include a person that provides transportation network
2354 services, as defined in Section 13-51-102.

2355 ~~[(26)]~~ (25) "Component part" includes:

2356 (a) poultry, dairy, and other livestock feed, and their components;

2357 (b) baling ties and twine used in the baling of hay and straw;

2358 (c) fuel used for providing temperature control of orchards and commercial
2359 greenhouses doing a majority of their business in wholesale sales, and for providing power for
2360 off-highway type farm machinery; and

2361 (d) feed, seeds, and seedlings.

2362 ~~[(27)]~~ (26) "Computer" means an electronic device that accepts information:

2363 (a) (i) in digital form; or

2364 (ii) in a form similar to digital form; and

2365 (b) manipulates that information for a result based on a sequence of instructions.

2366 ~~[(28)]~~ (27) "Computer software" means a set of coded instructions designed to cause:

2367 (a) a computer to perform a task; or

2368 (b) automatic data processing equipment to perform a task.

2369 ~~[(29)]~~ (28) "Computer software maintenance contract" means a contract that obligates a
2370 seller of computer software to provide a customer with:

2371 (a) future updates or upgrades to computer software;

2372 (b) support services with respect to computer software; or

2373 (c) a combination of Subsections ~~[(29)]~~ (28)(a) and (b).

2374 ~~[(30)]~~ (29) (a) "Conference bridging service" means an ancillary service that links two
2375 or more participants of an audio conference call or video conference call.

2376 (b) "Conference bridging service" may include providing a telephone number as part of
2377 the ancillary service described in Subsection ~~[(30)]~~ (29)(a).

2378 (c) "Conference bridging service" does not include a telecommunications service used
2379 to reach the ancillary service described in Subsection ~~[(30)]~~ (29)(a).

2380 ~~[(31)]~~ (30) "Construction materials" means any tangible personal property that will be
2381 converted into real property.

2382 ~~[(32)]~~ (31) "Delivered electronically" means delivered to a purchaser by means other
2383 than tangible storage media.

2384 (32) "Dating referral services" means services that are primarily intended to introduce
2385 or match adults for social or romantic activities, including computer dating or video dating
2386 services.

2387 (33) (a) "Delivery charge" means a charge:

2388 (i) by a seller of:

2389 (A) tangible personal property;

2390 (B) a product transferred electronically; or

2391 (C) a service; and

2392 (ii) for preparation and delivery of the tangible personal property, product transferred
2393 electronically, or services described in Subsection (33)(a)(i) to a location designated by the
2394 purchaser.

2395 (b) "Delivery charge" includes a charge for the following:

2396 (i) transportation;

2397 (ii) shipping;

2398 (iii) postage;

2399 (iv) handling;

2400 (v) crating; or

2401 (vi) packing.

2402 (34) "Detailed telecommunications billing service" means an ancillary service of
2403 separately stating information pertaining to individual calls on a customer's billing statement.

2404 (35) "Dietary supplement" means a product, other than tobacco, that:

2405 (a) is intended to supplement the diet;

2406 (b) contains one or more of the following dietary ingredients:

2407 (i) a vitamin;

2408 (ii) a mineral;

2409 (iii) an herb or other botanical;

2410 (iv) an amino acid;

2411 (v) a dietary substance for use by humans to supplement the diet by increasing the total
2412 dietary intake; or

2413 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
2414 described in Subsections (35)(b)(i) through (v);

- 2415 (c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:
- 2416 (A) tablet form;
- 2417 (B) capsule form;
- 2418 (C) powder form;
- 2419 (D) softgel form;
- 2420 (E) gelcap form; or
- 2421 (F) liquid form; or
- 2422 (ii) if the product is not intended for ingestion in a form described in Subsections
- 2423 (35)(c)(i)(A) through (F), is not represented:
- 2424 (A) as conventional food; and
- 2425 (B) for use as a sole item of:
- 2426 (I) a meal; or
- 2427 (II) the diet; and
- 2428 (d) is required to be labeled as a dietary supplement:
- 2429 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 2430 (ii) as required by 21 C.F.R. Sec. 101.36.
- 2431 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 2432 musical, spoken, or other sounds.
- 2433 (b) "Digital audio work" includes a ringtone.
- 2434 (37) "Digital audio-visual work" means a series of related images which, when shown
- 2435 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 2436 (38) "Digital book" means a work that is generally recognized in the ordinary and usual
- 2437 sense as a book.
- 2438 (39) (a) "Direct mail" means printed material delivered or distributed by United States
- 2439 mail or other delivery service:
- 2440 (i) to:
- 2441 (A) a mass audience; or
- 2442 (B) addressees on a mailing list provided:
- 2443 (I) by a purchaser of the mailing list; or
- 2444 (II) at the discretion of the purchaser of the mailing list; and
- 2445 (ii) if the cost of the printed material is not billed directly to the recipients.

2446 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
2447 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

2448 (c) "Direct mail" does not include multiple items of printed material delivered to a
2449 single address.

2450 (40) "Directory assistance" means an ancillary service of providing:

2451 (a) address information; or

2452 (b) telephone number information.

2453 (41) (a) "Disposable home medical equipment or supplies" means medical equipment
2454 or supplies that:

2455 (i) cannot withstand repeated use; and

2456 (ii) are purchased by, for, or on behalf of a person other than:

2457 (A) a health care facility as defined in Section 26-21-2;

2458 (B) a health care provider as defined in Section 78B-3-403;

2459 (C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or

2460 (D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).

2461 (b) "Disposable home medical equipment or supplies" does not include:

2462 (i) a drug;

2463 (ii) durable medical equipment;

2464 (iii) a hearing aid;

2465 (iv) a hearing aid accessory;

2466 (v) mobility enhancing equipment; or

2467 (vi) tangible personal property used to correct impaired vision, including:

2468 (A) eyeglasses; or

2469 (B) contact lenses.

2470 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2471 commission may by rule define what constitutes medical equipment or supplies.

2472 (42) "Drilling equipment manufacturer" means a facility:

2473 (a) located in the state;

2474 (b) with respect to which 51% or more of the manufacturing activities of the facility
2475 consist of manufacturing component parts of drilling equipment;

2476 (c) that uses pressure of 800,000 or more pounds per square inch as part of the

2477 manufacturing process; and

2478 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
2479 manufacturing process.

2480 (43) (a) "Drug" means a compound, substance, or preparation, or a component of a
2481 compound, substance, or preparation that is:

2482 (i) recognized in:

2483 (A) the official United States Pharmacopoeia;

2484 (B) the official Homeopathic Pharmacopoeia of the United States;

2485 (C) the official National Formulary; or

2486 (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);

2487 (ii) intended for use in the:

2488 (A) diagnosis of disease;

2489 (B) cure of disease;

2490 (C) mitigation of disease;

2491 (D) treatment of disease; or

2492 (E) prevention of disease; or

2493 (iii) intended to affect:

2494 (A) the structure of the body; or

2495 (B) any function of the body.

2496 (b) "Drug" does not include:

2497 (i) food and food ingredients;

2498 (ii) a dietary supplement;

2499 (iii) an alcoholic beverage; or

2500 (iv) a prosthetic device.

2501 (44) (a) Except as provided in Subsection (44)(c), "durable medical equipment" means
2502 equipment that:

2503 (i) can withstand repeated use;

2504 (ii) is primarily and customarily used to serve a medical purpose;

2505 (iii) generally is not useful to a person in the absence of illness or injury; and

2506 (iv) is not worn in or on the body.

2507 (b) "Durable medical equipment" includes parts used in the repair or replacement of the

- 2508 equipment described in Subsection (44)(a).
- 2509 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 2510 (45) "Electronic" means:
- 2511 (a) relating to technology; and
- 2512 (b) having:
- 2513 (i) electrical capabilities;
- 2514 (ii) digital capabilities;
- 2515 (iii) magnetic capabilities;
- 2516 (iv) wireless capabilities;
- 2517 (v) optical capabilities;
- 2518 (vi) electromagnetic capabilities; or
- 2519 (vii) capabilities similar to Subsections (45)(b)(i) through (vi).
- 2520 (46) "Electronic financial payment service" means an establishment:
- 2521 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 2522 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 2523 federal Executive Office of the President, Office of Management and Budget; and
- 2524 (b) that performs electronic financial payment services.
- 2525 (47) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 2526 (48) "Fixed guideway" means a public transit facility that uses and occupies:
- 2527 (a) rail for the use of public transit; or
- 2528 (b) a separate right-of-way for the use of public transit.
- 2529 (49) "Fixed wing turbine powered aircraft" means an aircraft that:
- 2530 (a) is powered by turbine engines;
- 2531 (b) operates on jet fuel; and
- 2532 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 2533 (50) "Fixed wireless service" means a telecommunications service that provides radio
- 2534 communication between fixed points.
- 2535 (51) (a) "Food and food ingredients" means substances:
- 2536 (i) regardless of whether the substances are in:
- 2537 (A) liquid form;
- 2538 (B) concentrated form;

2539 (C) solid form;
2540 (D) frozen form;
2541 (E) dried form; or
2542 (F) dehydrated form; and
2543 (ii) that are:
2544 (A) sold for:
2545 (I) ingestion by humans; or
2546 (II) chewing by humans; and
2547 (B) consumed for the substance's:
2548 (I) taste; or
2549 (II) nutritional value.
2550 (b) "Food and food ingredients" includes an item described in Subsection [~~(95)~~]
2551 (99)(b)(iii).
2552 (c) "Food and food ingredients" does not include:
2553 (i) an alcoholic beverage;
2554 (ii) tobacco; or
2555 (iii) prepared food.
2556 (52) (a) "Fundraising sales" means sales:
2557 (i) (A) made by a school; or
2558 (B) made by a school student;
2559 (ii) that are for the purpose of raising funds for the school to purchase equipment,
2560 materials, or provide transportation; and
2561 (iii) that are part of an officially sanctioned school activity.
2562 (b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity"
2563 means a school activity:
2564 (i) that is conducted in accordance with a formal policy adopted by the school or school
2565 district governing the authorization and supervision of fundraising activities;
2566 (ii) that does not directly or indirectly compensate an individual teacher or other
2567 educational personnel by direct payment, commissions, or payment in kind; and
2568 (iii) the net or gross revenues from which are deposited in a dedicated account
2569 controlled by the school or school district.

2570 (53) "Geothermal energy" means energy contained in heat that continuously flows
2571 outward from the earth that is used as the sole source of energy to produce electricity.

2572 (54) "Governing board of the agreement" means the governing board of the agreement
2573 that is:

2574 (a) authorized to administer the agreement; and

2575 (b) established in accordance with the agreement.

2576 (55) (a) ~~[For purposes of Subsection 59-12-104(41), "governmental"]~~ "Governmental
2577 entity" means:

2578 (i) the executive branch of the state, including all departments, institutions, boards,
2579 divisions, bureaus, offices, commissions, and committees;

2580 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
2581 Administrative Office of the Courts, and similar administrative units in the judicial branch;

2582 (iii) the legislative branch of the state, including the House of Representatives, the
2583 Senate, the Legislative Printing Office, the Office of Legislative Research and General
2584 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
2585 Analyst;

2586 (iv) the National Guard;

2587 (v) an independent entity as defined in Section 63E-1-102; or

2588 (vi) a political subdivision as defined in Section 17B-1-102.

2589 (b) "Governmental entity" does not include the state systems of public and higher
2590 education, including:

2591 (i) a school;

2592 (ii) the State Board of Education;

2593 (iii) the State Board of Regents; or

2594 (iv) an institution of higher education described in Section 53B-1-102.

2595 (56) "Hydroelectric energy" means water used as the sole source of energy to produce
2596 electricity.

2597 (57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
2598 other fuels:

2599 (a) in mining or extraction of minerals;

2600 (b) in agricultural operations to produce an agricultural product up to the time of

2601 harvest or placing the agricultural product into a storage facility, including:
2602 (i) commercial greenhouses;
2603 (ii) irrigation pumps;
2604 (iii) farm machinery;
2605 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
2606 under Title 41, Chapter 1a, Part 2, Registration; and
2607 (v) other farming activities;
2608 (c) in manufacturing tangible personal property at an establishment described in:
2609 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
2610 the federal Executive Office of the President, Office of Management and Budget; or
2611 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
2612 American Industry Classification System of the federal Executive Office of the President,
2613 Office of Management and Budget;
2614 (d) by a scrap recycler if:
2615 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
2616 one or more of the following items into prepared grades of processed materials for use in new
2617 products:
2618 (A) iron;
2619 (B) steel;
2620 (C) nonferrous metal;
2621 (D) paper;
2622 (E) glass;
2623 (F) plastic;
2624 (G) textile; or
2625 (H) rubber; and
2626 (ii) the new products under Subsection (57)(d)(i) would otherwise be made with
2627 nonrecycled materials; or
2628 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
2629 cogeneration facility as defined in Section 54-2-1.
2630 ~~[(58)(a) Except as provided in Subsection (58)(b), "installation charge" means a~~
2631 ~~charge for installing.]~~

2632 ~~[(i) tangible personal property; or]~~
2633 ~~[(ii) a product transferred electronically.]~~
2634 ~~[(b) "Installation charge" does not include a charge for:]~~
2635 ~~[(i) repairs or renovations of:]~~
2636 ~~[(A) tangible personal property; or]~~
2637 ~~[(B) a product transferred electronically; or]~~
2638 ~~[(ii) attaching tangible personal property or a product transferred electronically:]~~
2639 ~~[(A) to other tangible personal property; and]~~
2640 ~~[(B) as part of a manufacturing or fabrication process.]~~
2641 (58) (a) "Installation charge" means a charge:
2642 (i) by a seller of:
2643 (A) tangible personal property; or
2644 (B) a product transferred electronically; and
2645 (ii) for installing the tangible personal property or the product transferred electronically
2646 described in Subsection (58)(a)(i).
2647 (b) "Installation charge" does not include a charge for:
2648 (i) permanently attaching tangible personal property to real property; or
2649 (ii) converting tangible personal property to real property.
2650 (59) "Institution of higher education" means an institution of higher education listed in
2651 Section [53B-2-101](#).
2652 (60) (a) "Lease" or "rental" means a transfer of possession or control of tangible
2653 personal property or a product transferred electronically for:
2654 (i) (A) a fixed term; or
2655 (B) an indeterminate term; and
2656 (ii) consideration.
2657 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
2658 amount of consideration may be increased or decreased by reference to the amount realized
2659 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
2660 Code.
2661 (c) "Lease" or "rental" does not include:
2662 (i) a transfer of possession or control of property under a security agreement or

2663 deferred payment plan that requires the transfer of title upon completion of the required
2664 payments;

2665 (ii) a transfer of possession or control of property under an agreement that requires the
2666 transfer of title:

2667 (A) upon completion of required payments; and
2668 (B) if the payment of an option price does not exceed the greater of:

2669 (I) \$100; or
2670 (II) 1% of the total required payments; or

2671 (iii) providing tangible personal property along with an operator for a fixed period of
2672 time or an indeterminate period of time if the operator is necessary for equipment to perform as
2673 designed.

2674 (d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to
2675 perform as designed if the operator's duties exceed the:

2676 (i) set-up of tangible personal property;
2677 (ii) maintenance of tangible personal property; or
2678 (iii) inspection of tangible personal property.

2679 (61) "Life science establishment" means an establishment in this state that is classified
2680 under the following NAICS codes of the 2007 North American Industry Classification System
2681 of the federal Executive Office of the President, Office of Management and Budget:

2682 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
2683 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
2684 Manufacturing; or
2685 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

2686 (62) "Life science research and development facility" means a facility owned, leased,
2687 or rented by a life science establishment if research and development is performed in 51% or
2688 more of the total area of the facility.

2689 (63) "Load and leave" means delivery to a purchaser by use of a tangible storage media
2690 if the tangible storage media is not physically transferred to the purchaser.

2691 (64) "Local taxing jurisdiction" means a:

2692 (a) county that is authorized to impose an agreement sales and use tax;
2693 (b) city that is authorized to impose an agreement sales and use tax; or

- 2694 (c) town that is authorized to impose an agreement sales and use tax.
- 2695 (65) "Manufactured home" means the same as that term is defined in Section
- 2696 15A-1-302.
- 2697 (66) "Manufacturing facility" means:
- 2698 (a) an establishment described in:
- 2699 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
- 2700 the federal Executive Office of the President, Office of Management and Budget; or
- 2701 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
- 2702 American Industry Classification System of the federal Executive Office of the President,
- 2703 Office of Management and Budget;
- 2704 (b) a scrap recycler if:
- 2705 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 2706 one or more of the following items into prepared grades of processed materials for use in new
- 2707 products:
- 2708 (A) iron;
- 2709 (B) steel;
- 2710 (C) nonferrous metal;
- 2711 (D) paper;
- 2712 (E) glass;
- 2713 (F) plastic;
- 2714 (G) textile; or
- 2715 (H) rubber; and
- 2716 (ii) the new products under Subsection (66)(b)(i) would otherwise be made with
- 2717 nonrecycled materials; or
- 2718 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
- 2719 placed in service on or after May 1, 2006.
- 2720 (67) (a) "Marketplace" means a physical or electronic place, platform, or forum where
- 2721 tangible personal property, a product transferred electronically, or a service is offered for sale.
- 2722 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a
- 2723 dedicated sales software application.
- 2724 (68) (a) "Marketplace facilitator" means a person, including an affiliate of the person,

2725 that enters into a contract, an agreement, or otherwise with sellers, for consideration, to
2726 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or
2727 controls and that directly or indirectly:

2728 (i) does any of the following:

2729 (A) lists, makes available, or advertises tangible personal property, a product
2730 transferred electronically, or a service for sale by a marketplace seller on a marketplace that the
2731 person owns, operates, or controls;

2732 (B) facilitates the sale of a marketplace seller's tangible personal property, product
2733 transferred electronically, or service by transmitting or otherwise communicating an offer or
2734 acceptance of a retail sale between the marketplace seller and a purchaser using the
2735 marketplace;

2736 (C) owns, rents, licenses, makes available, or operates any electronic or physical
2737 infrastructure or any property, process, method, copyright, trademark, or patent that connects a
2738 marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal
2739 property, a product transferred electronically, or a service;

2740 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible
2741 personal property, a product transferred electronically, or a service, regardless of ownership or
2742 control of the tangible personal property, the product transferred electronically, or the service
2743 that is the subject of the retail sale;

2744 (E) provides software development or research and development activities related to
2745 any activity described in this Subsection (68)(a)(i), if the software development or research and
2746 development activity is directly related to the person's marketplace;

2747 (F) provides or offers fulfillment or storage services for a marketplace seller;

2748 (G) sets prices for the sale of tangible personal property, a product transferred
2749 electronically, or a service by a marketplace seller;

2750 (H) provides or offers customer service to a marketplace seller or a marketplace seller's
2751 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal
2752 property, a product transferred electronically, or a service sold by a marketplace seller on the
2753 person's marketplace; or

2754 (I) brands or otherwise identifies sales as those of the person; and

2755 (ii) does any of the following:

2756 (A) collects the sales price or purchase price of a retail sale of tangible personal
2757 property, a product transferred electronically, or a service;

2758 (B) provides payment processing services for a retail sale of tangible personal property,
2759 a product transferred electronically, or a service;

2760 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing
2761 fee, a fee for inserting or making available tangible personal property, a product transferred
2762 electronically, or a service on the person's marketplace, or other consideration for the
2763 facilitation of a retail sale of tangible personal property, a product transferred electronically, or
2764 a service, regardless of ownership or control of the tangible personal property, the product
2765 transferred electronically, or the service that is the subject of the retail sale;

2766 (D) through terms and conditions, an agreement, or another arrangement with a third
2767 person, collects payment from a purchase for a retail sale of tangible personal property, a
2768 product transferred electronically, or a service and transmits that payment to the marketplace
2769 seller, regardless of whether the third person receives compensation or other consideration in
2770 exchange for the service; or

2771 (E) provides a virtual currency for a purchaser to use to purchase tangible personal
2772 property, a product transferred electronically, or service offered for sale.

2773 (b) "Marketplace facilitator" does not include a person that only provides payment
2774 processing services.

2775 (69) "Marketplace seller" means a seller that makes one or more retail sales through a
2776 marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the
2777 seller is required to be registered to collect and remit the tax under this part.

2778 (70) "Member of the immediate family of the producer" means a person who is related
2779 to a producer described in Subsection [59-12-104](#)~~(20)~~[\(17\)](#)(a) as a:

2780 (a) child or stepchild, regardless of whether the child or stepchild is:

2781 (i) an adopted child or adopted stepchild; or

2782 (ii) a foster child or foster stepchild;

2783 (b) grandchild or stepgrandchild;

2784 (c) grandparent or stepgrandparent;

2785 (d) nephew or stepnephew;

2786 (e) niece or stepniece;

2787 (f) parent or stepparent;
2788 (g) sibling or stepsibling;
2789 (h) spouse;
2790 (i) person who is the spouse of a person described in Subsections (70)(a) through (g);

2791 or

2792 (j) person similar to a person described in Subsections (70)(a) through (i) as
2793 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
2794 Administrative Rulemaking Act.

2795 (71) (a) "Menstrual products" means:

2796 (i) tampons;

2797 (ii) panty liners;

2798 (iii) menstrual cups;

2799 (iv) sanitary napkins; or

2800 (v) other similar tangible personal property designed for hygiene in connection with the
2801 human menstrual cycle.

2802 (b) "Menstrual products" does not include:

2803 (i) soaps or cleaning solutions;

2804 (ii) shampoo;

2805 (iii) toothpaste;

2806 (iv) mouthwash;

2807 (v) antiperspirants; or

2808 (vi) suntan lotions or screens.

2809 ~~[(71)]~~ (72) "Mobile home" means the same as that term is defined in Section
2810 15A-1-302.

2811 ~~[(72)]~~ (73) "Mobile telecommunications service" means the same as that term is
2812 defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2813 ~~[(73)]~~ (74) (a) "Mobile wireless service" means a telecommunications service,
2814 regardless of the technology used, if:

2815 (i) the origination point of the conveyance, routing, or transmission is not fixed;

2816 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

2817 (iii) the origination point described in Subsection ~~[(73)]~~ (74)(a)(i) and the termination

2818 point described in Subsection ~~[(73)]~~ (74)(a)(ii) are not fixed.

2819 (b) "Mobile wireless service" includes a telecommunications service that is provided
2820 by a commercial mobile radio service provider.

2821 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2822 commission may by rule define "commercial mobile radio service provider."

2823 ~~[(74)]~~ (75) (a) ~~[Except as provided in Subsection (74)(c), "mobility"]~~ "Mobility
2824 enhancing equipment" means equipment that is:

2825 (i) primarily and customarily used to provide or increase the ability to move from one
2826 place to another;

2827 (ii) appropriate for use in a:

2828 (A) home; or

2829 (B) motor vehicle; and

2830 (iii) not generally used by persons with normal mobility.

2831 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
2832 the equipment described in Subsection ~~[(74)]~~ (75)(a).

2833 (c) "Mobility enhancing equipment" does not include:

2834 (i) a motor vehicle;

2835 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
2836 vehicle manufacturer;

2837 (iii) durable medical equipment; or

2838 (iv) a prosthetic device.

2839 ~~[(75)]~~ (76) "Model 1 seller" means a seller registered under the agreement that has
2840 selected a certified service provider as the seller's agent to perform the seller's sales and use tax
2841 functions for agreement sales and use taxes, as outlined in the contract between the governing
2842 board of the agreement and the certified service provider, other than the seller's obligation
2843 under Section 59-12-124 to remit a tax on the seller's own purchases.

2844 ~~[(76)]~~ (77) "Model 2 seller" means a seller registered under the agreement that:

2845 (a) except as provided in Subsection ~~[(76)]~~ (77)(b), has selected a certified automated
2846 system to perform the seller's sales tax functions for agreement sales and use taxes; and

2847 (b) retains responsibility for remitting all of the sales tax:

2848 (i) collected by the seller; and

2849 (ii) to the appropriate local taxing jurisdiction.

2850 ~~[(77)]~~ (78) (a) Subject to Subsection ~~[(77)]~~ (78)(b), "model 3 seller" means a seller

2851 registered under the agreement that has:

2852 (i) sales in at least five states that are members of the agreement;

2853 (ii) total annual sales ~~[revenues]~~ revenue of at least \$500,000,000;

2854 (iii) a proprietary system that calculates the amount of tax:

2855 (A) for an agreement sales and use tax; and

2856 (B) due to each local taxing jurisdiction; and

2857 (iv) entered into a performance agreement with the governing board of the agreement.

2858 (b) ~~[For purposes of Subsection (77)(a), "model]~~ "Model 3 seller" includes an affiliated

2859 group of sellers using the same proprietary system.

2860 ~~[(78)]~~ (79) "Model 4 seller" means a seller that is registered under the agreement and is

2861 not a model 1 seller, model 2 seller, or model 3 seller.

2862 ~~[(79)]~~ (80) "Modular home" means a modular unit as defined in Section 15A-1-302.

2863 ~~[(80)]~~ (81) "Motor vehicle" means the same as that term is defined in Section

2864 41-1a-102.

2865 ~~[(81)]~~ (82) "Oil sands" means impregnated bituminous sands that:

2866 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with

2867 other hydrocarbons, or otherwise treated;

2868 (b) yield mixtures of liquid hydrocarbon; and

2869 (c) require further processing other than mechanical blending before becoming finished

2870 petroleum products.

2871 ~~[(82)]~~ (83) "Oil shale" means a group of fine black to dark brown shales containing

2872 kerogen material that yields petroleum upon heating and distillation.

2873 ~~[(83)]~~ (84) "Optional computer software maintenance contract" means a computer

2874 software maintenance contract that a customer is not obligated to purchase as a condition to the

2875 retail sale of computer software.

2876 ~~[(84)]~~ (85) (a) "Other fuels" means products that burn independently to produce heat or

2877 energy.

2878 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible

2879 personal property.

2880 ~~[(85)]~~ (86) (a) "Paging service" means a telecommunications service that provides
2881 transmission of a coded radio signal for the purpose of activating a specific pager.

2882 (b) For purposes of Subsection ~~[(85)]~~ (86)(a), the transmission of a coded radio signal
2883 includes a transmission by message or sound.

2884 (87) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).

2885 ~~[(86)]~~ (88) "Pawnbroker" means the same as that term is defined in Section
2886 [13-32a-102](#).

2887 ~~[(87)] "Pawn transaction" means the same as that term is defined in Section~~
2888 ~~[13-32a-102](#).~~

2889 ~~[(88)]~~ (89) (a) "Permanently attached to real property" means that for tangible personal
2890 property attached to real property:

2891 (i) the attachment of the tangible personal property to the real property:

2892 (A) is essential to the use of the tangible personal property; and

2893 (B) suggests that the tangible personal property will remain attached to the real
2894 property in the same place over the useful life of the tangible personal property; or

2895 (ii) if the tangible personal property is detached from the real property, the detachment
2896 would:

2897 (A) cause substantial damage to the tangible personal property; or

2898 (B) require substantial alteration or repair of the real property to which the tangible
2899 personal property is attached.

2900 (b) "Permanently attached to real property" includes:

2901 (i) the attachment of an accessory to the tangible personal property if the accessory is:

2902 (A) essential to the operation of the tangible personal property; and

2903 (B) attached only to facilitate the operation of the tangible personal property;

2904 (ii) a temporary detachment of tangible personal property from real property for a
2905 repair or renovation if the repair or renovation is performed where the tangible personal
2906 property and real property are located; or

2907 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
2908 Subsection ~~[(88)]~~ (89)(c)(iii) or (iv).

2909 (c) "Permanently attached to real property" does not include:

2910 (i) the attachment of portable or movable tangible personal property to real property if

2911 that portable or movable tangible personal property is attached to real property only for:
2912 (A) convenience;
2913 (B) stability; or
2914 (C) for an obvious temporary purpose;
2915 (ii) the detachment of tangible personal property from real property except for the
2916 detachment described in Subsection ~~[(88)]~~ (89)(b)(ii);
2917 (iii) an attachment of the following tangible personal property to real property if the
2918 attachment to real property is only through a line that supplies water, electricity, gas,
2919 telecommunications, cable, or supplies a similar item as determined by the commission by rule
2920 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
2921 (A) a computer;
2922 (B) a telephone;
2923 (C) a television; or
2924 (D) tangible personal property similar to Subsections ~~[(88)]~~ (89)(c)(iii)(A) through (C)
2925 as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
2926 Administrative Rulemaking Act; or
2927 (iv) an item listed in Subsection ~~[(129)]~~ (135)(c).
2928 ~~[(89)]~~ (90) "Person" includes any individual, firm, partnership, joint venture,
2929 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
2930 city, municipality, district, or other local governmental entity of the state, or any group or
2931 combination acting as a unit.
2932 (91) (a) "Personal transportation service" means the transportation of one or more
2933 individuals by motor vehicle.
2934 (b) "Personal transportation" includes taxicab service, limousine service, driver service,
2935 shuttle service, scenic or sightseeing transportation, and a prearranged ride as defined in
2936 Section [13-51-102](#).
2937 (c) "Personal transportation service" does not include:
2938 (i) services provided by or through a governmental entity;
2939 (ii) transportation by ambulance as defined in Section [26-8a-102](#);
2940 (iii) transportation provided in connection with a funeral; or
2941 (iv) transportation by a low-speed vehicle, as defined in Section [41-6a-102](#), within a

2942 county of the first class, as classified in Section [17-50-501](#).

2943 (92) (a) "Pet boarding or care" means the furnishing of:

2944 (i) boarding for a pet; or

2945 (ii) daytime care for a pet at a location other than the pet owner's residence where the
2946 pet is dropped off and picked up.

2947 (b) "Pet boarding or care" does not include a service described in Subsection (92)(a):

2948 (i) by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, in
2949 conjunction with a veterinary medical service; or

2950 (ii) for a working animal, livestock, or a laboratory animal.

2951 (93) (a) "Pet grooming" means:

2952 (i) cleaning, maintaining, or enhancing the physical appearance of a pet; or

2953 (ii) furnishing other hygienic care for a pet.

2954 (b) "Pet grooming" does not include a service described in Subsection (93)(a):

2955 (i) by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, in
2956 conjunction with a veterinary medical service; or

2957 (ii) for a working animal, livestock, or a laboratory animal.

2958 ~~[(90)]~~ (94) "Place of primary use":

2959 (a) for telecommunications service other than mobile telecommunications service,

2960 means the street address representative of where the customer's use of the telecommunications
2961 service primarily occurs, which shall be:

2962 (i) the residential street address of the customer; or

2963 (ii) the primary business street address of the customer; or

2964 (b) for mobile telecommunications service, means the same as that term is defined in
2965 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2966 ~~[(91)]~~ (95) (a) "Postpaid calling service" means a telecommunications service a person
2967 obtains by making a payment on a call-by-call basis:

2968 (i) through the use of a:

2969 (A) bank card;

2970 (B) credit card;

2971 (C) debit card; or

2972 (D) travel card; or

2973 (ii) by a charge made to a telephone number that is not associated with the origination
2974 or termination of the telecommunications service.

2975 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
2976 service, that would be a prepaid wireless calling service if the service were exclusively a
2977 telecommunications service.

2978 ~~[(92)]~~ (96) "Postproduction" means an activity related to the finishing or duplication of
2979 a medium described in Subsection ~~59-12-104~~~~[(54)]~~(47)(a).

2980 ~~[(93)]~~ (97) "Prepaid calling service" means a telecommunications service:

2981 (a) that allows a purchaser access to telecommunications service that is exclusively
2982 telecommunications service;

2983 (b) that:

2984 (i) is paid for in advance; and

2985 (ii) enables the origination of a call using an:

2986 (A) access number; or

2987 (B) authorization code;

2988 (c) that is dialed:

2989 (i) manually; or

2990 (ii) electronically; and

2991 (d) sold in predetermined units or dollars that decline:

2992 (i) by a known amount; and

2993 (ii) with use.

2994 ~~[(94)]~~ (98) "Prepaid wireless calling service" means a telecommunications service:

2995 (a) that provides the right to utilize:

2996 (i) mobile wireless service; and

2997 (ii) other service that is not a telecommunications service, including:

2998 (A) the download of a product transferred electronically;

2999 (B) a content service; or

3000 (C) an ancillary service;

3001 (b) that:

3002 (i) is paid for in advance; and

3003 (ii) enables the origination of a call using an:

- 3004 (A) access number; or
3005 (B) authorization code;
3006 (c) that is dialed:
3007 (i) manually; or
3008 (ii) electronically; and
3009 (d) sold in predetermined units or dollars that decline:
3010 (i) by a known amount; and
3011 (ii) with use.
3012 ~~[(95)]~~ (99) (a) "Prepared food" means:
3013 (i) food:
3014 (A) sold in a heated state; or
3015 (B) heated by a seller;
3016 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
3017 item; or
3018 (iii) except as provided in Subsection ~~[(95)]~~ (99)(c), food sold with an eating utensil
3019 provided by the seller, including a:
3020 (A) plate;
3021 (B) knife;
3022 (C) fork;
3023 (D) spoon;
3024 (E) glass;
3025 (F) cup;
3026 (G) napkin; or
3027 (H) straw.
3028 (b) "Prepared food" does not include:
3029 (i) food that a seller only:
3030 (A) cuts;
3031 (B) repackages; or
3032 (C) pasteurizes; or
3033 (ii) (A) the following:
3034 (I) raw egg;

3035 (II) raw fish;
3036 (III) raw meat;
3037 (IV) raw poultry; or
3038 (V) a food containing an item described in Subsections [~~(95)~~] (99)(b)(ii)(A)(I) through
3039 (IV); and
3040 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
3041 Food and Drug Administration's Food Code that a consumer cook the items described in
3042 Subsection [~~(95)~~] (99)(b)(ii)(A) to prevent food borne illness; or
3043 (iii) the following if sold without eating utensils provided by the seller:
3044 (A) food and food ingredients sold by a seller if the seller's proper primary
3045 classification under the 2002 North American Industry Classification System of the federal
3046 Executive Office of the President, Office of Management and Budget, is manufacturing in
3047 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
3048 Manufacturing;
3049 (B) food and food ingredients sold in an unheated state:
3050 (I) by weight or volume; and
3051 (II) as a single item; or
3052 (C) a bakery item, including:
3053 (I) a bagel;
3054 (II) a bar;
3055 (III) a biscuit;
3056 (IV) bread;
3057 (V) a bun;
3058 (VI) a cake;
3059 (VII) a cookie;
3060 (VIII) a croissant;
3061 (IX) a danish;
3062 (X) a donut;
3063 (XI) a muffin;
3064 (XII) a pastry;
3065 (XIII) a pie;

3066 (XIV) a roll;
3067 (XV) a tart;
3068 (XVI) a torte; or
3069 (XVII) a tortilla.
3070 (c) An eating utensil provided by the seller does not include the following used to
3071 transport the food:
3072 (i) a container; or
3073 (ii) packaging.
3074 [(96)] (100) "Prescription" means an order, formula, or recipe that is issued:
3075 (a) (i) orally;
3076 (ii) in writing;
3077 (iii) electronically; or
3078 (iv) by any other manner of transmission; and
3079 (b) by a licensed practitioner authorized by the laws of a state.
3080 [(97)] (101) (a) [Except as provided in Subsection (97)(b)(ii) or (iii), "prewritten"]
3081 "Prewritten computer software" means computer software that is not designed and developed:
3082 (i) by the author or other creator of the computer software; and
3083 (ii) to the specifications of a specific purchaser.
3084 (b) "Prewritten computer software" includes:
3085 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
3086 software is not designed and developed:
3087 (A) by the author or other creator of the computer software; and
3088 (B) to the specifications of a specific purchaser;
3089 (ii) computer software designed and developed by the author or other creator of the
3090 computer software to the specifications of a specific purchaser if the computer software is sold
3091 to a person other than the purchaser; or
3092 (iii) except as provided in Subsection [(97)] (101)(c), prewritten computer software or
3093 a prewritten portion of prewritten computer software:
3094 (A) that is modified or enhanced to any degree; and
3095 (B) if the modification or enhancement described in Subsection [(97)] (101)(b)(iii)(A)
3096 is designed and developed to the specifications of a specific purchaser.

3097 (c) "Prewritten computer software" does not include a modification or enhancement
3098 described in Subsection ~~[(97)]~~ (101)(b)(iii) if the charges for the modification or enhancement
3099 are:

3100 (i) reasonable; and

3101 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
3102 invoice or other statement of price provided to the purchaser at the time of sale or later, as
3103 demonstrated by:

3104 (A) the books and records the seller keeps at the time of the transaction in the regular
3105 course of business, including books and records the seller keeps at the time of the transaction in
3106 the regular course of business for nontax purposes;

3107 (B) a preponderance of the facts and circumstances at the time of the transaction; and

3108 (C) the understanding of all of the parties to the transaction.

3109 ~~[(98)]~~ (102) (a) "Private communications service" means a telecommunications
3110 service:

3111 (i) that entitles a customer to exclusive or priority use of one or more communications
3112 channels between or among termination points; and

3113 (ii) regardless of the manner in which the one or more communications channels are
3114 connected.

3115 (b) "Private communications service" includes the following provided in connection
3116 with the use of one or more communications channels:

3117 (i) an extension line;

3118 (ii) a station;

3119 (iii) switching capacity; or

3120 (iv) another associated service that is provided in connection with the use of one or
3121 more communications channels as defined in Section 59-12-215.

3122 ~~[(99)]~~ (103) (a) ~~[Except as provided in Subsection (99)(b), "product"]~~ "Product
3123 transferred electronically" means a product transferred electronically that would be subject to a
3124 tax under this chapter if that product was transferred in a manner other than electronically.

3125 (b) "Product transferred electronically" does not include:

3126 (i) an ancillary service;

3127 (ii) computer software; or

3128 (iii) a telecommunications service.

3129 ~~[(100)]~~ (104) (a) "Prosthetic device" means a device that is worn on or in the body to:

3130 (i) artificially replace a missing portion of the body;

3131 (ii) prevent or correct a physical deformity or physical malfunction; or

3132 (iii) support a weak or deformed portion of the body.

3133 (b) "Prosthetic device" includes:

3134 (i) parts used in the repairs or renovation of a prosthetic device;

3135 (ii) replacement parts for a prosthetic device;

3136 (iii) a dental prosthesis; or

3137 (iv) a hearing aid.

3138 (c) "Prosthetic device" does not include:

3139 (i) corrective eyeglasses; or

3140 (ii) contact lenses.

3141 ~~[(101)]~~ (105) (a) "Protective equipment" means an item:

3142 (i) for human wear; and

3143 (ii) that is:

3144 (A) designed as protection:

3145 (I) to the wearer against injury or disease; or

3146 (II) against damage or injury of other persons or property; and

3147 (B) not suitable for general use.

3148 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3149 commission shall make rules:

3150 (i) listing the items that constitute "protective equipment"; and

3151 (ii) that are consistent with the list of items that constitute "protective equipment"

3152 under the agreement.

3153 ~~[(102)]~~ (106) (a) For purposes of Subsection ~~59-12-104~~~~[(41)]~~(36), "publication" means

3154 any written or printed matter, other than a photocopy:

3155 (i) regardless of:

3156 (A) characteristics;

3157 (B) copyright;

3158 (C) form;

3159 (D) format;
3160 (E) method of reproduction; or
3161 (F) source; and
3162 (ii) made available in printed or electronic format.
3163 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3164 commission may by rule define the term "photocopy."
3165 ~~[(103)]~~ (107) (a) "Purchase price" and "sales price" mean the total amount of
3166 consideration:
3167 (i) valued in money; and
3168 (ii) for which tangible personal property, a product transferred electronically, or
3169 services are:
3170 (A) sold;
3171 (B) leased; or
3172 (C) rented.
3173 (b) "Purchase price" and "sales price" include:
3174 (i) the seller's cost of the tangible personal property, a product transferred
3175 electronically, or services sold;
3176 (ii) expenses of the seller, including:
3177 (A) the cost of materials used;
3178 (B) a labor cost;
3179 (C) a service cost;
3180 (D) interest;
3181 (E) a loss;
3182 (F) the cost of transportation to the seller; or
3183 (G) a tax imposed on the seller;
3184 (iii) a delivery charge; or
3185 (iv) an installation charge;
3186 ~~[(iii)]~~ (v) a charge by the seller for any service necessary to complete the sale; or
3187 ~~[(iv)]~~ (vi) consideration a seller receives from a person other than the purchaser if:
3188 (A) (I) the seller actually receives consideration from a person other than the purchaser;
3189 and

3190 (II) the consideration described in Subsection [~~(103)~~] (107)(b)[~~(iv)~~](vi)(A)(I) is directly
3191 related to a price reduction or discount on the sale;

3192 (B) the seller has an obligation to pass the price reduction or discount through to the
3193 purchaser;

3194 (C) the amount of the consideration attributable to the sale is fixed and determinable by
3195 the seller at the time of the sale to the purchaser; and

3196 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
3197 seller to claim a price reduction or discount; and

3198 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
3199 coupon, or other documentation with the understanding that the person other than the seller
3200 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

3201 (II) the purchaser identifies that purchaser to the seller as a member of a group or
3202 organization allowed a price reduction or discount, except that a preferred customer card that is
3203 available to any patron of a seller does not constitute membership in a group or organization
3204 allowed a price reduction or discount; or

3205 (III) the price reduction or discount is identified as a third party price reduction or
3206 discount on the:

3207 (Aa) invoice the purchaser receives; or

3208 (Bb) certificate, coupon, or other documentation the purchaser presents.

3209 (c) "Purchase price" and "sales price" do not include:

3210 (i) a discount:

3211 (A) in a form including:

3212 (I) cash;

3213 (II) term; or

3214 (III) coupon;

3215 (B) that is allowed by a seller;

3216 (C) taken by a purchaser on a sale; and

3217 (D) that is not reimbursed by a third party; or

3218 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
3219 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
3220 sale or later, as demonstrated by the books and records the seller keeps at the time of the

3221 transaction in the regular course of business, including books and records the seller keeps at the
3222 time of the transaction in the regular course of business for nontax purposes, by a
3223 preponderance of the facts and circumstances at the time of the transaction, and by the
3224 understanding of all of the parties to the transaction:

3225 (A) the following from credit extended on the sale of tangible personal property or
3226 services:

3227 (I) a carrying charge;

3228 (II) a financing charge; or

3229 (III) an interest charge;

3230 ~~[(B) a delivery charge;]~~

3231 ~~[(C) an installation charge;]~~

3232 ~~[(D)]~~ (B) a manufacturer rebate on a motor vehicle; or

3233 ~~[(E)]~~ (C) a tax or fee legally imposed directly on the consumer.

3234 ~~[(104)]~~ (108) "Purchaser" means a person to whom:

3235 (a) a sale of tangible personal property is made;

3236 (b) a product is transferred electronically; or

3237 (c) a service is furnished.

3238 ~~[(105)]~~ (109) "Qualifying ~~[enterprise]~~ data center" means ~~[an establishment that will:~~

3239 ~~(a) own and operate]~~ a data center facility that ~~[will house]~~:

3240 (a) houses a group of networked server computers in one physical location in order to

3241 ~~[centralize the dissemination, management, and storage of]~~ disseminate, manage, and store data
3242 and information;

3243 (b) ~~[be]~~ is located in the state;

3244 (c) ~~[be]~~ is a new operation constructed on or after July 1, 2016;

3245 (d) ~~[consist]~~ consists of one or more buildings that total 150,000 or more square feet;

3246 (e) ~~[be]~~ is owned or leased by:

3247 (i) the ~~[establishment]~~ operator of the data center facility; or

3248 (ii) a person under common ownership, as defined in Section 59-7-101, of the

3249 ~~[establishment]~~ operator of the data center facility; and

3250 (f) ~~[be]~~ is located on one or more parcels of land that are owned or leased by:

3251 (i) the ~~[establishment]~~ operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the
[establishment] operator of the data center facility.

~~[(106)]~~ (110) "Regularly rented" means:

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

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

~~[(107)]~~ (111) "Rental" means the same as that term is defined in Subsection (60).

~~[(108)]~~ (112) (a) ~~[Except as provided in Subsection (108)(b), "repairs"]~~ "Repairs or
renovations of tangible personal property" means:

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

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

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

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

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

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

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

~~[(109)]~~ (113) "Research and development" means the process of inquiry or
experimentation aimed at the discovery of facts, devices, technologies, or applications and the
process of preparing those devices, technologies, or applications for marketing.

3283 ~~[(110)]~~ (114) (a) "Residential telecommunications services" means a
3284 telecommunications service or an ancillary service that is provided to an individual for personal
3285 use:

3286 (i) at a residential address; or

3287 (ii) at an institution, including a nursing home or a school, if the telecommunications
3288 service or ancillary service is provided to and paid for by the individual residing at the
3289 institution rather than the institution.

3290 (b) For purposes of Subsection ~~[(110)]~~ (114)(a)(i), a residential address includes an:

3291 (i) apartment; or

3292 (ii) other individual dwelling unit.

3293 ~~[(111)]~~ (115) "Residential use" means the use in or around a home, apartment building,
3294 sleeping quarters, and similar facilities or accommodations.

3295 ~~[(112)]~~ (116) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
3296 other than:

3297 (a) resale;

3298 (b) sublease; or

3299 (c) subrent.

3300 ~~[(113)]~~ (117) (a) "Retailer" means any person, unless prohibited by the Constitution of
3301 the United States or federal law, that is engaged in a regularly organized business in tangible
3302 personal property or any other taxable transaction under Subsection [59-12-103](#)(1), and who is
3303 selling to the user or consumer and not for resale.

3304 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
3305 engaged in the business of selling to users or consumers within the state.

3306 ~~[(114)]~~ (118) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
3307 otherwise, in any manner, of tangible personal property or any other taxable transaction under
3308 Subsection [59-12-103](#)(1), for consideration.

3309 (b) "Sale" includes:

3310 (i) installment and credit sales;

3311 (ii) any closed transaction constituting a sale;

3312 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
3313 chapter;

3314 (iv) any transaction if the possession of property is transferred but the seller retains the
3315 title as security for the payment of the price; and

3316 (v) any transaction under which right to possession, operation, or use of any article of
3317 tangible personal property is granted under a lease or contract and the transfer of possession
3318 would be taxable if an outright sale were made.

3319 [~~(H5)~~] (119) "Sale at retail" means the same as that term is defined in Subsection
3320 [~~(H2)~~] (116).

3321 [~~(H6)~~] (120) "Sale-leaseback transaction" means a transaction by which title to
3322 tangible personal property or a product transferred electronically that is subject to a tax under
3323 this chapter is transferred:

3324 (a) by a purchaser-lessee;

3325 (b) to a lessor;

3326 (c) for consideration; and

3327 (d) if:

3328 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
3329 of the tangible personal property or product transferred electronically;

3330 (ii) the sale of the tangible personal property or product transferred electronically to the
3331 lessor is intended as a form of financing:

3332 (A) for the tangible personal property or product transferred electronically; and

3333 (B) to the purchaser-lessee; and

3334 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
3335 is required to:

3336 (A) capitalize the tangible personal property or product transferred electronically for
3337 financial reporting purposes; and

3338 (B) account for the lease payments as payments made under a financing arrangement.

3339 [~~(H7)~~] (121) "Sales price" means the same as that term is defined in Subsection
3340 [~~(H3)~~] (107).

3341 [~~(H8)~~] (122) (a) "Sales relating to schools" means the following sales by, amounts
3342 paid to, or amounts charged by a school:

3343 (i) sales that are directly related to the school's educational functions or activities
3344 including:

- 3345 (A) the sale of:
3346 (I) textbooks;
3347 (II) textbook fees;
3348 (III) laboratory fees;
3349 (IV) laboratory supplies; or
3350 (V) safety equipment;
3351 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
3352 that:
- 3353 (I) a student is specifically required to wear as a condition of participation in a
3354 school-related event or school-related activity; and
3355 (II) is not readily adaptable to general or continued usage to the extent that it takes the
3356 place of ordinary clothing;
- 3357 (C) sales of the following if the net or gross revenues generated by the sales are
3358 deposited into a school district fund or school fund dedicated to school meals:
- 3359 (I) food and food ingredients; or
3360 (II) prepared food; or
3361 (D) transportation charges for official school activities; or
3362 (ii) amounts paid to or amounts charged by a school for admission to a school-related
3363 event or school-related activity.
- 3364 (b) "Sales relating to schools" does not include:
3365 (i) bookstore sales of items that are not educational materials or supplies;
3366 (ii) except as provided in Subsection [~~(118)~~] (122)(a)(i)(B):
3367 (A) clothing;
3368 (B) clothing accessories or equipment;
3369 (C) protective equipment; or
3370 (D) sports or recreational equipment; or
3371 (iii) amounts paid to or amounts charged by a school for admission to a school-related
3372 event or school-related activity if the amounts paid or charged are passed through to a person:
- 3373 (A) other than a:
3374 (I) school;
3375 (II) nonprofit organization authorized by a school board or a governing body of a

3376 private school to organize and direct a competitive secondary school activity; or
3377 (III) nonprofit association authorized by a school board or a governing body of a
3378 private school to organize and direct a competitive secondary school activity; and
3379 (B) that is required to collect sales and use taxes under this chapter.
3380 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3381 commission may make rules defining the term "passed through."
3382 ~~[(119)]~~ (123) For purposes of this section and Section 59-12-104, "school" means:
3383 (a) an elementary school or a secondary school that:
3384 (i) is a:
3385 (A) public school; or
3386 (B) private school; and
3387 (ii) provides instruction for one or more grades kindergarten through 12; or
3388 (b) a public school district.
3389 (124) "Security system monitoring" means the service of monitoring signals from an
3390 alarm system, as defined in Section 58-55-102, regardless of whether the monitoring is
3391 performed electronically or by an individual.
3392 ~~[(120)]~~ (125) (a) "Seller" means a person that makes a sale, lease, or rental of:
3393 (i) tangible personal property;
3394 (ii) a product transferred electronically; or
3395 (iii) a service.
3396 (b) "Seller" includes a marketplace facilitator.
3397 (126) "Seller-hosted prewritten computer software" means prewritten computer
3398 software that is accessed through the Internet or a seller-hosted server, regardless of whether:
3399 (a) the access is permanent; or
3400 (b) any downloading occurs.
3401 ~~[(121)]~~ (127) (a) "Semiconductor fabricating, processing, research, or development
3402 materials" means tangible personal property or a product transferred electronically if the
3403 tangible personal property or product transferred electronically is:
3404 (i) used primarily in the process of:
3405 (A) (I) manufacturing a semiconductor;
3406 (II) fabricating a semiconductor; or

- 3407 (III) research or development of a:
- 3408 (Aa) semiconductor; or
- 3409 (Bb) semiconductor manufacturing process; or
- 3410 (B) maintaining an environment suitable for a semiconductor; or
- 3411 (ii) consumed primarily in the process of:
- 3412 (A) (I) manufacturing a semiconductor;
- 3413 (II) fabricating a semiconductor; or
- 3414 (III) research or development of a:
- 3415 (Aa) semiconductor; or
- 3416 (Bb) semiconductor manufacturing process; or
- 3417 (B) maintaining an environment suitable for a semiconductor.
- 3418 (b) "Semiconductor fabricating, processing, research, or development materials"
- 3419 includes:
- 3420 (i) parts used in the repairs or renovations of tangible personal property or a product
- 3421 transferred electronically described in Subsection ~~[(121)]~~ (127)(a); or
- 3422 (ii) a chemical, catalyst, or other material used to:
- 3423 (A) produce or induce in a semiconductor a:
- 3424 (I) chemical change; or
- 3425 (II) physical change;
- 3426 (B) remove impurities from a semiconductor; or
- 3427 (C) improve the marketable condition of a semiconductor.
- 3428 ~~[(122)]~~ (128) "Senior citizen center" means a facility having the primary purpose of
- 3429 providing services to the aged as defined in Section 62A-3-101.
- 3430 ~~[(123)]~~ (129) (a) ~~[Subject to Subsections (123)(b) and (c), "short-term"]~~ "Short-term
- 3431 lodging consumable" means tangible personal property that:
- 3432 (i) a business that provides accommodations and services described in Subsection
- 3433 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
- 3434 to a purchaser;
- 3435 (ii) is intended to be consumed by the purchaser; and
- 3436 (iii) is:
- 3437 (A) included in the purchase price of the accommodations and services; and

3438 (B) not separately stated on an invoice, bill of sale, or other similar document provided
3439 to the purchaser.

3440 (b) "Short-term lodging consumable" includes:

3441 (i) a beverage;

3442 (ii) a brush or comb;

3443 (iii) a cosmetic;

3444 (iv) a hair care product;

3445 (v) lotion;

3446 (vi) a magazine;

3447 (vii) makeup;

3448 (viii) a meal;

3449 (ix) mouthwash;

3450 (x) nail polish remover;

3451 (xi) a newspaper;

3452 (xii) a notepad;

3453 (xiii) a pen;

3454 (xiv) a pencil;

3455 (xv) a razor;

3456 (xvi) saline solution;

3457 (xvii) a sewing kit;

3458 (xviii) shaving cream;

3459 (xix) a shoe shine kit;

3460 (xx) a shower cap;

3461 (xxi) a snack item;

3462 (xxii) soap;

3463 (xxiii) toilet paper;

3464 (xxiv) a toothbrush;

3465 (xxv) toothpaste; or

3466 (xxvi) an item similar to Subsections [~~(123)] (129)(b)(i) through (xxv) as the
3467 commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah
3468 Administrative Rulemaking Act.~~

- 3469 (c) "Short-term lodging consumable" does not include:
- 3470 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 3471 property to be reused; or
- 3472 (ii) a product transferred electronically.
- 3473 ~~[(124)]~~ (130) "Simplified electronic return" means the electronic return:
- 3474 (a) described in Section 318(C) of the agreement; and
- 3475 (b) approved by the governing board of the agreement.
- 3476 ~~[(125)]~~ (131) "Solar energy" means the sun used as the sole source of energy for
- 3477 producing electricity.
- 3478 ~~[(126)]~~ (132) (a) "Sports or recreational equipment" means an item:
- 3479 (i) designed for human use; and
- 3480 (ii) that is:
- 3481 (A) worn in conjunction with:
- 3482 (I) an athletic activity; or
- 3483 (II) a recreational activity; and
- 3484 (B) not suitable for general use.
- 3485 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3486 commission shall make rules:
- 3487 (i) listing the items that constitute "sports or recreational equipment"; and
- 3488 (ii) that are consistent with the list of items that constitute "sports or recreational
- 3489 equipment" under the agreement.
- 3490 ~~[(127)]~~ (133) "State" means the state of Utah, its departments, and agencies.
- 3491 ~~[(128)]~~ (134) "Storage" means any keeping or retention of tangible personal property or
- 3492 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
- 3493 except sale in the regular course of business.
- 3494 ~~[(129)]~~ (135) (a) ~~[Except as provided in Subsection (129)(d) or (e), "tangible]~~
- 3495 "Tangible personal property" means personal property that:
- 3496 (i) may be:
- 3497 (A) seen;
- 3498 (B) weighed;
- 3499 (C) measured;

3500 (D) felt; or
3501 (E) touched; or
3502 (ii) is in any manner perceptible to the senses.
3503 (b) "Tangible personal property" includes:
3504 (i) electricity;
3505 (ii) water;
3506 (iii) gas;
3507 (iv) steam; or
3508 (v) prewritten computer software, regardless of the manner in which the prewritten
3509 computer software is transferred.
3510 (c) "Tangible personal property" includes the following regardless of whether the item
3511 is attached to real property:
3512 (i) a dishwasher;
3513 (ii) a dryer;
3514 (iii) a freezer;
3515 (iv) a microwave;
3516 (v) a refrigerator;
3517 (vi) a stove;
3518 (vii) a washer; or
3519 (viii) an item similar to Subsections [~~(129)~~] (135)(c)(i) through (vii) as determined by
3520 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3521 Rulemaking Act.
3522 (d) "Tangible personal property" does not include a product that is transferred
3523 electronically.
3524 (e) "Tangible personal property" does not include the following if attached to real
3525 property, regardless of whether the attachment to real property is only through a line that
3526 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
3527 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3528 Rulemaking Act:
3529 (i) a hot water heater;
3530 (ii) a water filtration system; or

3531 (iii) a water softener system.

3532 [~~(130)~~] (136) (a) "Telecommunications enabling or facilitating equipment, machinery,
3533 or software" means an item listed in Subsection [~~(130)~~] (136)(b) if that item is purchased or
3534 leased primarily to enable or facilitate one or more of the following to function:

3535 (i) telecommunications switching or routing equipment, machinery, or software; or

3536 (ii) telecommunications transmission equipment, machinery, or software.

3537 (b) The following apply to Subsection [~~(130)~~] (136)(a):

3538 (i) a pole;

3539 (ii) software;

3540 (iii) a supplementary power supply;

3541 (iv) temperature or environmental equipment or machinery;

3542 (v) test equipment;

3543 (vi) a tower; or

3544 (vii) equipment, machinery, or software that functions similarly to an item listed in
3545 Subsections [~~(130)~~] (136)(b)(i) through (vi) as determined by the commission by rule made in
3546 accordance with Subsection [~~(130)~~] (136)(c).

3547 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3548 commission may by rule define what constitutes equipment, machinery, or software that
3549 functions similarly to an item listed in Subsections [~~(130)~~] (136)(b)(i) through (vi).

3550 [~~(131)~~] (137) "Telecommunications equipment, machinery, or software required for
3551 911 service" means equipment, machinery, or software that is required to comply with 47
3552 C.F.R. Sec. 20.18.

3553 [~~(132)~~] (138) "Telecommunications maintenance or repair equipment, machinery, or
3554 software" means equipment, machinery, or software purchased or leased primarily to maintain
3555 or repair one or more of the following, regardless of whether the equipment, machinery, or
3556 software is purchased or leased as a spare part or as an upgrade or modification to one or more
3557 of the following:

3558 (a) telecommunications enabling or facilitating equipment, machinery, or software;

3559 (b) telecommunications switching or routing equipment, machinery, or software; or

3560 (c) telecommunications transmission equipment, machinery, or software.

3561 [~~(133)~~] (139) (a) "Telecommunications service" means the electronic conveyance,

3562 routing, or transmission of audio, data, video, voice, or any other information or signal to a
3563 point, or among or between points.

3564 (b) "Telecommunications service" includes:

3565 (i) an electronic conveyance, routing, or transmission with respect to which a computer
3566 processing application is used to act:

3567 (A) on the code, form, or protocol of the content;

3568 (B) for the purpose of electronic conveyance, routing, or transmission; and

3569 (C) regardless of whether the service:

3570 (I) is referred to as voice over Internet protocol service; or

3571 (II) is classified by the Federal Communications Commission as enhanced or value
3572 added;

3573 (ii) an 800 service;

3574 (iii) a 900 service;

3575 (iv) a fixed wireless service;

3576 (v) a mobile wireless service;

3577 (vi) a postpaid calling service;

3578 (vii) a prepaid calling service;

3579 (viii) a prepaid wireless calling service; or

3580 (ix) a private communications service.

3581 (c) "Telecommunications service" does not include:

3582 (i) advertising, including directory advertising;

3583 (ii) an ancillary service;

3584 (iii) a billing and collection service provided to a third party;

3585 (iv) a data processing and information service if:

3586 (A) the data processing and information service allows data to be:

3587 (I) (Aa) acquired;

3588 (Bb) generated;

3589 (Cc) processed;

3590 (Dd) retrieved; or

3591 (Ee) stored; and

3592 (II) delivered by an electronic transmission to a purchaser; and

3593 (B) the purchaser's primary purpose for the underlying transaction is the processed data
3594 or information;

3595 (v) installation or maintenance of the following on a customer's premises:

3596 (A) equipment; or

3597 (B) wiring;

3598 (vi) Internet access service;

3599 (vii) a paging service;

3600 (viii) a product transferred electronically, including:

3601 (A) music;

3602 (B) reading material;

3603 (C) a ring tone;

3604 (D) software; or

3605 (E) video;

3606 (ix) a radio and television audio and video programming service:

3607 (A) regardless of the medium; and

3608 (B) including:

3609 (I) furnishing conveyance, routing, or transmission of a television audio and video
3610 programming service by a programming service provider;

3611 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or

3612 (III) audio and video programming services delivered by a commercial mobile radio
3613 service provider as defined in 47 C.F.R. Sec. 20.3;

3614 (x) a value-added nonvoice data service; or

3615 (xi) tangible personal property.

3616 [~~(134)~~] (140) (a) "Telecommunications service provider" means a person that:

3617 (i) owns, controls, operates, or manages a telecommunications service; and

3618 (ii) engages in an activity described in Subsection [~~(134)~~] (140)(a)(i) for the shared use
3619 with or resale to any person of the telecommunications service.

3620 (b) A person described in Subsection [~~(134)~~] (140)(a) is a telecommunications service
3621 provider whether or not the Public Service Commission of Utah regulates:

3622 (i) that person; or

3623 (ii) the telecommunications service that the person owns, controls, operates, or

3624 manages.

3625 ~~[(135)]~~ (141) (a) "Telecommunications switching or routing equipment, machinery, or
3626 software" means an item listed in Subsection ~~[(135)]~~ (141)(b) if that item is purchased or
3627 leased primarily for switching or routing:

3628 (i) an ancillary service;

3629 (ii) data communications;

3630 (iii) voice communications; or

3631 (iv) telecommunications service.

3632 (b) The following apply to Subsection ~~[(135)]~~ (141)(a):

3633 (i) a bridge;

3634 (ii) a computer;

3635 (iii) a cross connect;

3636 (iv) a modem;

3637 (v) a multiplexer;

3638 (vi) plug in circuitry;

3639 (vii) a router;

3640 (viii) software;

3641 (ix) a switch; or

3642 (x) equipment, machinery, or software that functions similarly to an item listed in

3643 Subsections ~~[(135)]~~ (141)(b)(i) through (ix) as determined by the commission by rule made in

3644 accordance with Subsection ~~[(135)]~~ (141)(c).

3645 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3646 commission may by rule define what constitutes equipment, machinery, or software that
3647 functions similarly to an item listed in Subsections ~~[(135)]~~ (141)(b)(i) through (ix).

3648 ~~[(136)]~~ (142) (a) "Telecommunications transmission equipment, machinery, or
3649 software" means an item listed in Subsection ~~[(136)]~~ (142)(b) if that item is purchased or
3650 leased primarily for sending, receiving, or transporting:

3651 (i) an ancillary service;

3652 (ii) data communications;

3653 (iii) voice communications; or

3654 (iv) telecommunications service.

3655 (b) The following apply to Subsection [~~(136)~~] (142)(a):

3656 (i) an amplifier;

3657 (ii) a cable;

3658 (iii) a closure;

3659 (iv) a conduit;

3660 (v) a controller;

3661 (vi) a duplexer;

3662 (vii) a filter;

3663 (viii) an input device;

3664 (ix) an input/output device;

3665 (x) an insulator;

3666 (xi) microwave machinery or equipment;

3667 (xii) an oscillator;

3668 (xiii) an output device;

3669 (xiv) a pedestal;

3670 (xv) a power converter;

3671 (xvi) a power supply;

3672 (xvii) a radio channel;

3673 (xviii) a radio receiver;

3674 (xix) a radio transmitter;

3675 (xx) a repeater;

3676 (xxi) software;

3677 (xxii) a terminal;

3678 (xxiii) a timing unit;

3679 (xxiv) a transformer;

3680 (xxv) a wire; or

3681 (xxvi) equipment, machinery, or software that functions similarly to an item listed in

3682 Subsections [~~(136)~~] (142)(b)(i) through (xxv) as determined by the commission by rule made in

3683 accordance with Subsection [~~(136)~~] (142)(c).

3684 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3685 commission may by rule define what constitutes equipment, machinery, or software that

3686 functions similarly to an item listed in Subsections ~~[(136)]~~ (142)(b)(i) through (xxv).

3687 ~~[(137) (a) "Textbook for a higher education course" means a textbook or other printed~~
3688 ~~material that is required for a course:]~~

3689 ~~[(i) offered by an institution of higher education; and]~~

3690 ~~[(ii) that the purchaser of the textbook or other printed material attends or will attend.]~~

3691 ~~[(b) "Textbook for a higher education course" includes a textbook in electronic~~
3692 ~~format.]~~

3693 ~~[(138)]~~ (143) "Tobacco" means:

3694 (a) a cigarette;

3695 (b) a cigar;

3696 (c) chewing tobacco;

3697 (d) pipe tobacco; or

3698 (e) any other item that contains tobacco.

3699 ~~[(139)]~~ (144) "Unassisted amusement device" means an amusement device, skill

3700 device, or ride device that is started ~~[and]~~ or stopped by the purchaser or renter of the right to
3701 use or operate the amusement device, skill device, or ride device.

3702 ~~[(140)]~~ (145) (a) "Use" means the exercise of any right or power over tangible personal
3703 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
3704 incident to the ownership or the leasing of that tangible personal property, product transferred
3705 electronically, or service.

3706 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
3707 property, a product transferred electronically, or a service in the regular course of business and
3708 held for resale.

3709 ~~[(141)]~~ (146) "Value-added nonvoice data service" means a service:

3710 (a) that otherwise meets the definition of a telecommunications service except that a
3711 computer processing application is used to act primarily for a purpose other than conveyance,
3712 routing, or transmission; and

3713 (b) with respect to which a computer processing application is used to act on data or
3714 information:

3715 (i) code;

3716 (ii) content;

3717 (iii) form; or
3718 (iv) protocol.
3719 ~~[(142)]~~ (147) (a) Subject to Subsection ~~[(142)]~~ (147)(b), "vehicle" means the following
3720 that are required to be titled, registered, or titled and registered:
3721 (i) an aircraft as defined in Section 72-10-102;
3722 (ii) a vehicle as defined in Section 41-1a-102;
3723 (iii) an off-highway vehicle as defined in Section 41-22-2; or
3724 (iv) a vessel as defined in Section 41-1a-102.
3725 (b) For purposes of Subsection 59-12-104~~[(33)]~~(30) only, "vehicle" includes:
3726 (i) a vehicle described in Subsection ~~[(142)]~~ (147)(a); or
3727 (ii) (A) a locomotive;
3728 (B) a freight car;
3729 (C) railroad work equipment; or
3730 (D) other railroad rolling stock.
3731 ~~[(143)]~~ (148) "Vehicle dealer" means a person engaged in the business of buying,
3732 selling, or exchanging a vehicle ~~[as defined in Subsection (142)]~~.
3733 ~~[(144)]~~ (149) (a) "Vertical service" means an ancillary service that:
3734 (i) is offered in connection with one or more telecommunications services; and
3735 (ii) offers an advanced calling feature that allows a customer to:
3736 (A) identify a caller; and
3737 (B) manage multiple calls and call connections.
3738 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
3739 conference bridging service.
3740 ~~[(145)]~~ (150) (a) "Voice mail service" means an ancillary service that enables a
3741 customer to receive, send, or store a recorded message.
3742 (b) "Voice mail service" does not include a vertical service that a customer is required
3743 to have in order to utilize a voice mail service.
3744 ~~[(146)]~~ (151) (a) ~~[Except as provided in Subsection (146)(b), "waste"]~~ "Waste energy
3745 facility" means a facility that generates electricity:
3746 (i) using as the primary source of energy waste materials that would be placed in a
3747 landfill or refuse pit if it were not used to generate electricity, including:

3748 (A) tires;
3749 (B) waste coal;
3750 (C) oil shale; or
3751 (D) municipal solid waste; and
3752 (ii) in amounts greater than actually required for the operation of the facility.
3753 (b) "Waste energy facility" does not include a facility that incinerates:
3754 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
3755 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
3756 [~~(147)~~] (152) "Watercraft" means a vessel as defined in Section 73-18-2.
3757 [~~(148)~~] (153) "Wind energy" means wind used as the sole source of energy to produce
3758 electricity.
3759 [~~(149)~~] (154) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
3760 geographic location by the United States Postal Service.
3761 Section 41. Section **59-12-103** is amended to read:
3762 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
3763 **tax revenue.**
3764 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
3765 sales price for amounts paid or charged for the following transactions:
3766 (a) retail sales of tangible personal property made within the state;
3767 (b) amounts paid for:
3768 (i) telecommunications service, other than mobile telecommunications service or a 900
3769 service, that originates and terminates within the boundaries of this state;
3770 (ii) mobile telecommunications service that originates and terminates within the
3771 boundaries of one state only to the extent permitted by the Mobile Telecommunications
3772 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; [~~or~~]
3773 (iii) a 900 service; or
3774 [~~(iii)~~] (iv) an ancillary service associated with a:
3775 (A) telecommunications service described in Subsection (1)(b)(i); [~~or~~]
3776 (B) mobile telecommunications service described in Subsection (1)(b)(ii); or
3777 (C) 900 service;
3778 (c) sales of the following for commercial use:

- 3779 (i) gas;
3780 (ii) electricity;
3781 (iii) heat;
3782 (iv) coal;
3783 (v) fuel oil; or
3784 (vi) other fuels;
3785 (d) sales of the following for residential use:
3786 (i) gas;
3787 (ii) electricity;
3788 (iii) heat;
3789 (iv) coal;
3790 (v) fuel oil; or
3791 (vi) other fuels;
3792 (e) sales of prepared food;
3793 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
3794 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
3795 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
3796 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
3797 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
3798 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
3799 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
3800 horseback rides, sports activities, or any other amusement, entertainment, recreation,
3801 exhibition, cultural, or athletic activity;
3802 (g) amounts paid or charged for services for repairs or renovations of tangible personal
3803 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
3804 (i) the tangible personal property; and
3805 (ii) parts used in the repairs or renovations of the tangible personal property described
3806 in Subsection (1)(g)(i), regardless of whether:
3807 (A) any parts are actually used in the repairs or renovations of that tangible personal
3808 property; or
3809 (B) the particular parts used in the repairs or renovations of that tangible personal

3810 property are exempt from a tax under this chapter;

3811 (h) ~~[except as provided in Subsection 59-12-104(7),]~~ amounts paid or charged for

3812 ~~[assisted]~~ cleaning or washing of tangible personal property;

3813 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court

3814 accommodations and services that are regularly rented for less than 30 consecutive days;

3815 (j) amounts paid or charged for laundry or dry cleaning services;

3816 (k) amounts paid or charged for leases or rentals of tangible personal property if within

3817 this state the tangible personal property is:

3818 (i) stored;

3819 (ii) used; or

3820 (iii) otherwise consumed;

3821 (l) amounts paid or charged for tangible personal property if within this state the

3822 tangible personal property is:

3823 (i) stored;

3824 (ii) used; or

3825 (iii) consumed; ~~and~~

3826 (m) amounts paid or charged for a sale:

3827 (i) (A) of a product transferred electronically; or

3828 (B) of a repair or renovation of a product transferred electronically; and

3829 (ii) regardless of whether the sale provides:

3830 (A) a right of permanent use of the product; or

3831 (B) a right to use the product that is less than a permanent use, including a right:

3832 (I) for a definite or specified length of time; and

3833 (II) that terminates upon the occurrence of a condition[-];

3834 (n) amounts paid or charged for access to digital audio-visual works, digital audio

3835 works, digital books, or gaming services, including the streaming of or subscription for access

3836 to digital audio-visual works, digital audio works, digital books, or gaming services regardless

3837 of:

3838 (i) the delivery method; or

3839 (ii) whether the amount paid or charged for access provides a right to:

3840 (A) single-use access to the digital audio-visual works, digital audio works, digital

3841 books, or gaming services; or
3842 (B) access the digital audio-visual works, digital audio works, digital books, or gaming
3843 services through a subscription, including a right that terminates upon the occurrence of a
3844 condition;
3845 (o) amounts paid or charged for the storage, use, or other consumption of:
3846 (i) prewritten computer software delivered electronically or by load and leave; or
3847 (ii) seller-hosted prewritten computer software; and
3848 (p) amounts paid or charged for the following services:
3849 (i) security system monitoring;
3850 (ii) personal transportation that originates in the state and terminates in the state;
3851 (iii) parking or garaging a motor vehicle if charged by a person who is engaged in the
3852 business of providing parking or garaging of one or more motor vehicles at a location that:
3853 (A) is primarily used for parking or garaging one or more motor vehicles; and
3854 (B) is not residential property;
3855 (iv) tow truck service as defined in Section [72-9-102](#), including any related fees;
3856 (v) pet boarding or care;
3857 (vi) pet grooming;
3858 (vii) dating referral services; and
3859 (viii) identity theft protection.
3860 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
3861 are imposed on a transaction described in Subsection (1) equal to the sum of:
3862 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
3863 [~~(A) (I) through March 31, 2019, 4.70%; and~~
3864 [~~(H)~~] (A) [~~beginning on April 1, 2019,~~] 4.70% plus the rate specified in Subsection
3865 (13)(a); and
3866 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
3867 and Use Tax Act, if the location of the transaction as determined under Sections [59-12-211](#)
3868 through [59-12-215](#) is in a county in which the state imposes the tax under Part 18, Additional
3869 State Sales and Use Tax Act; and
3870 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
3871 and Use Tax Act, if the location of the transaction as determined under Sections [59-12-211](#)

3872 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
3873 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3874 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3875 transaction under this chapter other than this part.

3876 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax are
3877 imposed on a transaction described in Subsection (1)(d) equal to the sum of:

3878 (i) a state tax imposed on the transaction at a tax rate of 2%; and

3879 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3880 transaction under this chapter other than this part.

3881 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax are
3882 imposed on amounts paid or charged for food and food ingredients equal to the sum of:

3883 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
3884 a tax rate of [~~1.75%~~] 4.85%; and

3885 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3886 amounts paid or charged for food and food ingredients under this chapter other than this part.

3887 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
3888 tangible personal property other than food and food ingredients, a state tax and a local tax is
3889 imposed on the entire bundled transaction equal to the sum of:

3890 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

3891 (I) the tax rate described in Subsection (2)(a)(i)(A); and

3892 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
3893 Sales and Use Tax Act, if the location of the transaction as determined under Sections

3894 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
3895 Additional State Sales and Use Tax Act; and

3896 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
3897 Sales and Use Tax Act, if the location of the transaction as determined under Sections

3898 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
3899 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3900 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
3901 described in Subsection (2)(a)(ii).

3902 (ii) If an optional computer software maintenance contract is a bundled transaction that

3903 consists of taxable and nontaxable products that are not separately itemized on an invoice or
3904 similar billing document, the purchase of the optional computer software maintenance contract
3905 is 40% taxable under this chapter and 60% nontaxable under this chapter.

3906 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
3907 transaction described in Subsection (2)(d)(i) or (ii):

3908 (A) if the sales price of the bundled transaction is attributable to tangible personal
3909 property, a product, or a service that is subject to taxation under this chapter and tangible
3910 personal property, a product, or service that is not subject to taxation under this chapter, the
3911 entire bundled transaction is subject to taxation under this chapter unless:

3912 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3913 personal property, product, or service that is not subject to taxation under this chapter from the
3914 books and records the seller keeps in the seller's regular course of business; or

3915 (II) state or federal law provides otherwise; or

3916 (B) if the sales price of a bundled transaction is attributable to two or more items of
3917 tangible personal property, products, or services that are subject to taxation under this chapter
3918 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
3919 higher tax rate unless:

3920 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3921 personal property, product, or service that is subject to taxation under this chapter at the lower
3922 tax rate from the books and records the seller keeps in the seller's regular course of business; or

3923 (II) state or federal law provides otherwise.

3924 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
3925 seller's regular course of business includes books and records the seller keeps in the regular
3926 course of business for nontax purposes.

3927 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
3928 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
3929 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
3930 of tangible personal property, other property, a product, or a service that is not subject to
3931 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
3932 the seller, at the time of the transaction:

3933 (A) separately states the portion of the transaction that is not subject to taxation under

3934 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

3935 (B) is able to identify by reasonable and verifiable standards, from the books and
3936 records the seller keeps in the seller's regular course of business, the portion of the transaction
3937 that is not subject to taxation under this chapter.

3938 (ii) A purchaser and a seller may correct the taxability of a transaction if:

3939 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
3940 the transaction that is not subject to taxation under this chapter was not separately stated on an
3941 invoice, bill of sale, or similar document provided to the purchaser because of an error or
3942 ignorance of the law; and

3943 (B) the seller is able to identify by reasonable and verifiable standards, from the books
3944 and records the seller keeps in the seller's regular course of business, the portion of the
3945 transaction that is not subject to taxation under this chapter.

3946 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
3947 in the seller's regular course of business includes books and records the seller keeps in the
3948 regular course of business for nontax purposes.

3949 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
3950 personal property, products, or services that are subject to taxation under this chapter at
3951 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
3952 unless the seller, at the time of the transaction:

3953 (A) separately states the items subject to taxation under this chapter at each of the
3954 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

3955 (B) is able to identify by reasonable and verifiable standards the tangible personal
3956 property, product, or service that is subject to taxation under this chapter at the lower tax rate
3957 from the books and records the seller keeps in the seller's regular course of business.

3958 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
3959 seller's regular course of business includes books and records the seller keeps in the regular
3960 course of business for nontax purposes.

3961 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
3962 rate imposed under the following shall take effect on the first day of a calendar quarter:

3963 (i) Subsection (2)(a)(i)(A);

3964 (ii) Subsection (2)(b)(i);

3965 (iii) Subsection (2)(c)(i); or
3966 (iv) Subsection (2)(d)(i)(A)(I).
3967 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
3968 begins on or after the effective date of the tax rate increase if the billing period for the
3969 transaction begins before the effective date of a tax rate increase imposed under:
3970 (A) Subsection (2)(a)(i)(A);
3971 (B) Subsection (2)(b)(i);
3972 (C) Subsection (2)(c)(i); or
3973 (D) Subsection (2)(d)(i)(A)(I).
3974 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
3975 statement for the billing period is rendered on or after the effective date of the repeal of the tax
3976 or the tax rate decrease imposed under:
3977 (A) Subsection (2)(a)(i)(A);
3978 (B) Subsection (2)(b)(i);
3979 (C) Subsection (2)(c)(i); or
3980 (D) Subsection (2)(d)(i)(A)(I).
3981 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
3982 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
3983 change in a tax rate takes effect:
3984 (A) on the first day of a calendar quarter; and
3985 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
3986 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:
3987 (A) Subsection (2)(a)(i)(A);
3988 (B) Subsection (2)(b)(i);
3989 (C) Subsection (2)(c)(i); or
3990 (D) Subsection (2)(d)(i)(A)(I).
3991 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
3992 the commission may by rule define the term "catalogue sale."
3993 (3) (a) The following state taxes shall be deposited into the General Fund:
3994 (i) the tax imposed by Subsection (2)(a)(i)(A);
3995 (ii) the tax imposed by Subsection (2)(b)(i);

3996 (iii) the tax imposed by Subsection (2)(c)(i); or
3997 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
3998 (b) The following local taxes shall be distributed to a county, city, or town as provided
3999 in this chapter:
4000 (i) the tax imposed by Subsection (2)(a)(ii);
4001 (ii) the tax imposed by Subsection (2)(b)(ii);
4002 (iii) the tax imposed by Subsection (2)(c)(ii); and
4003 (iv) the tax imposed by Subsection (2)(d)(i)(B).
4004 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
4005 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
4006 through (g):
4007 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
4008 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
4009 (B) for the fiscal year; or
4010 (ii) \$17,500,000.
4011 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
4012 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
4013 Department of Natural Resources to:
4014 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
4015 protect sensitive plant and animal species; or
4016 (B) award grants, up to the amount authorized by the Legislature in an appropriations
4017 act, to political subdivisions of the state to implement the measures described in Subsections
4018 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.
4019 (ii) Money transferred to the Department of Natural Resources under Subsection
4020 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
4021 person to list or attempt to have listed a species as threatened or endangered under the
4022 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.
4023 (iii) At the end of each fiscal year:
4024 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
4025 Conservation and Development Fund created in Section 73-10-24;
4026 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

4027 Program Subaccount created in Section 73-10c-5; and

4028 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

4029 Program Subaccount created in Section 73-10c-5.

4030 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in

4031 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund

4032 created in Section 4-18-106.

4033 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described

4034 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water

4035 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of

4036 water rights.

4037 (ii) At the end of each fiscal year:

4038 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources

4039 Conservation and Development Fund created in Section 73-10-24;

4040 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

4041 Program Subaccount created in Section 73-10c-5; and

4042 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

4043 Program Subaccount created in Section 73-10c-5.

4044 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described

4045 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and

4046 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

4047 (ii) In addition to the uses allowed of the Water Resources Conservation and

4048 Development Fund under Section 73-10-24, the Water Resources Conservation and

4049 Development Fund may also be used to:

4050 (A) conduct hydrologic and geotechnical investigations by the Division of Water

4051 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of

4052 quantifying surface and ground water resources and describing the hydrologic systems of an

4053 area in sufficient detail so as to enable local and state resource managers to plan for and

4054 accommodate growth in water use without jeopardizing the resource;

4055 (B) fund state required dam safety improvements; and

4056 (C) protect the state's interest in interstate water compact allocations, including the

4057 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

4089 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
4090 created in Section 73-10-24.

4091 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
4092 remaining difference described in Subsection (5)(a) shall be deposited into the Water
4093 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
4094 Division of Water Resources for:

4095 (i) preconstruction costs:

4096 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
4097 26, Bear River Development Act; and

4098 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
4099 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

4100 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
4101 Chapter 26, Bear River Development Act;

4102 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
4103 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

4104 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
4105 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

4106 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
4107 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be
4108 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
4109 incurred for employing additional technical staff for the administration of water rights.

4110 (f) At the end of each fiscal year, any unexpended dedicated credits described in
4111 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
4112 Fund created in Section 73-10-24.

4113 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
4114 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
4115 (1) for the fiscal year shall be deposited as follows:

4116 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)
4117 shall be deposited into the Transportation Investment Fund of 2005 created by Section
4118 72-2-124;

4119 (b) for fiscal year 2017-18 only:

4120 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the
4121 Transportation Investment Fund of 2005 created by Section 72-2-124; and
4122 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the
4123 Water Infrastructure Restricted Account created by Section 73-10g-103;
4124 (c) for fiscal year 2018-19 only:
4125 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the
4126 Transportation Investment Fund of 2005 created by Section 72-2-124; and
4127 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the
4128 Water Infrastructure Restricted Account created by Section 73-10g-103;
4129 (d) for fiscal year 2019-20 only:
4130 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the
4131 Transportation Investment Fund of 2005 created by Section 72-2-124; and
4132 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the
4133 Water Infrastructure Restricted Account created by Section 73-10g-103;
4134 (e) for fiscal year 2020-21 only:
4135 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
4136 Transportation Investment Fund of 2005 created by Section 72-2-124; and
4137 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
4138 Water Infrastructure Restricted Account created by Section 73-10g-103; and
4139 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
4140 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
4141 created by Section 73-10g-103.
4142 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
4143 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
4144 [2012] 2020, the Division of Finance shall deposit into the Transportation Investment Fund of
4145 2005 created by Section 72-2-124:
4146 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
4147 the [revenues] revenue collected from the following taxes, which represents a portion of the
4148 approximately 17% of sales and use tax [revenues] revenue generated annually by the sales and
4149 use tax on vehicles and vehicle-related products:
4150 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

4151 (B) the tax imposed by Subsection (2)(b)(i);
4152 (C) the tax imposed by Subsection (2)(c)(i); and
4153 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus
4154 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
4155 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
4156 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
4157 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

4158 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
4159 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total
4160 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
4161 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
4162 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
4163 (7)(a) equal to the product of:

4164 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
4165 previous fiscal year; and

4166 (B) the total sales and use tax revenue generated by the taxes described in Subsections
4167 (7)(a)(i)(A) through (D) in the current fiscal year.

4168 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
4169 Subsection (7)(a) would exceed ~~[17%]~~ 15.9% of the ~~[revenues]~~ revenue collected from the
4170 sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year,
4171 the Division of Finance shall deposit ~~[17%]~~ 15.9% of the ~~[revenues]~~ revenue collected from the
4172 sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year
4173 under Subsection (7)(a).

4174 (iii) In all subsequent fiscal years after a year in which ~~[17%]~~ 15.9% of the ~~[revenues]~~
4175 revenue collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through
4176 (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit
4177 ~~[17%]~~ 15.9% of the ~~[revenues]~~ revenue collected from the sales and use taxes described in
4178 Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

4179 ~~[(8)(a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited~~
4180 ~~under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall~~
4181 ~~deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into~~

the Transportation Investment Fund of 2005 created by Section ~~72-2-124~~.]

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

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

~~[(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;]~~

~~[(B) the tax imposed by Subsection (2)(b)(i);]~~

~~[(C) the tax imposed by Subsection (2)(c)(i); and]~~

~~[(D) the tax imposed by Subsection (2)(d)(i)(A)(I).]~~

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

~~[(iii)] (8) The commission shall deposit annually ~~[deposit the amount described in Subsection (8)(c)(ii)]~~ an amount equal to 50% of the growth in the amount of revenue collected in the current fiscal year from the tax imposed under Subsection (2)(c)(i) that exceeds the amount collected from the tax imposed under Subsection (2)(c)(i) in the 2020-2021 fiscal year into the Transit and Transportation Investment Fund created in Section ~~72-2-124~~.~~

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

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

4213 the transactions described in Subsection (1).

4214 (b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in
4215 addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance
4216 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
4217 amount of revenue described as follows:

4218 (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%
4219 tax rate on the transactions described in Subsection (1);

4220 (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05%
4221 tax rate on the transactions described in Subsection (1);

4222 (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%
4223 tax rate on the transactions described in Subsection (1);

4224 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
4225 .05% tax rate on the transactions described in Subsection (1); and

4226 (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%
4227 tax rate on the transactions described in Subsection (1).

4228 (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not
4229 deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts
4230 paid or charged for food and food ingredients, except for tax revenue generated by a bundled
4231 transaction attributable to food and food ingredients and tangible personal property other than
4232 food and food ingredients described in Subsection (2)(d).

4233 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
4234 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
4235 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
4236 Finance shall, for two consecutive fiscal years, [~~annually~~] deposit annually \$1,900,000 of the
4237 revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation
4238 Fund, created in Section 63N-2-512.

4239 [~~(12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the~~
4240 ~~Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed~~
4241 ~~under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section~~
4242 ~~35A-8-308.~~]

4243 [~~(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division~~

of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section ~~35A-8-308~~.]

~~[(13)]~~ (12) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the Division of Finance shall ~~[(i) on or before September 30, 2019, transfer the amount of revenue collected from the rate described in Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208; and (ii)]~~ for a fiscal year beginning on or after July 1, 2019, ~~[annually]~~ transfer annually the amount of revenue collected from the rate described in Subsection ~~[(13)]~~ (12)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208.

Section 42. Section **59-12-104** is amended to read:

59-12-104. Exemptions.

Exemptions from the taxes imposed by this chapter, other than a tax imposed under Section 59-12-130, are as follows:

(1) (a) sales of aviation fuel ~~[, motor fuel, and special]~~ or diesel fuel subject to a ~~[Utah]~~ state excise tax under Chapter 13, Motor and Special Fuel Tax Act; or

(b) sales of motor fuel or special fuel that are subject to Section 59-12-130;

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

(a) construction materials except:

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

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

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

4275 providing additional project capacity, as defined in Section 11-13-103;
4276 ~~[(3)(a) sales of an item described in Subsection (3)(b) from a vending machine if:]~~
4277 ~~[(i) the proceeds of each sale do not exceed \$1; and]~~
4278 ~~[(ii) the seller or operator of the vending machine reports an amount equal to 150% of~~
4279 ~~the cost of the item described in Subsection (3)(b) as goods consumed; and]~~
4280 ~~[(b) Subsection (3)(a) applies to:]~~
4281 ~~[(i) food and food ingredients; or]~~
4282 ~~[(ii) prepared food;]~~
4283 ~~[(4)]~~ (3) (a) sales of the following to a commercial airline carrier for in-flight
4284 consumption:
4285 (i) alcoholic beverages;
4286 (ii) food and food ingredients; or
4287 (iii) prepared food;
4288 (b) sales of tangible personal property or a product transferred electronically:
4289 (i) to a passenger;
4290 (ii) by a commercial airline carrier; and
4291 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
4292 (c) services related to Subsection ~~[(4)]~~ (3)(a) or (b);
4293 ~~[(5)(a)(i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts~~
4294 ~~and equipment:]~~
4295 ~~[(A)(I) by an establishment described in NAICS Code 336411 or 336412 of the 2002~~
4296 ~~North American Industry Classification System of the federal Executive Office of the~~
4297 ~~President, Office of Management and Budget; and]~~
4298 ~~[(H) for:]~~
4299 ~~[(Aa) installation in an aircraft, including services relating to the installation of parts or~~
4300 ~~equipment in the aircraft;]~~
4301 ~~[(Bb) renovation of an aircraft; or]~~
4302 ~~[(Cc) repair of an aircraft; or]~~
4303 ~~[(B) for installation in an aircraft operated by a common carrier in interstate or foreign~~
4304 ~~commerce; or]~~
4305 ~~[(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an~~

4306 aircraft operated by a common carrier in interstate or foreign commerce; and]

4307 ~~[(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~

4308 ~~a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a~~

4309 ~~refund;]~~

4310 ~~[(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;]~~

4311 ~~[(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;]~~

4312 ~~[(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for~~

4313 ~~the sale prior to filing for the refund;]~~

4314 ~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~

4315 ~~[(v) in accordance with Section 59-1-1410; and]~~

4316 ~~[(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,~~

4317 ~~if the person files for the refund on or before September 30, 2011;]~~

4318 (4) sales of parts and equipment for installation in an aircraft operated by a common

4319 carrier in interstate or foreign commerce;

4320 ~~[(6)] (5) sales of commercials, motion picture films, prerecorded audio program tapes~~

4321 ~~or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture~~

4322 ~~exhibitor, distributor, or commercial television or radio broadcaster;~~

4323 ~~[(7)(a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of~~

4324 ~~cleaning or washing of tangible personal property if the cleaning or washing of the tangible~~

4325 ~~personal property is not assisted cleaning or washing of tangible personal property;]~~

4326 ~~[(b) if a seller that sells at the same business location assisted cleaning or washing of~~

4327 ~~tangible personal property and cleaning or washing of tangible personal property that is not~~

4328 ~~assisted cleaning or washing of tangible personal property, the exemption described in~~

4329 ~~Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning~~

4330 ~~or washing of the tangible personal property; and]~~

4331 ~~[(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,~~

4332 ~~Utah Administrative Rulemaking Act, the commission may make rules:]~~

4333 ~~[(i) governing the circumstances under which sales are at the same business location;~~

4334 ~~and]~~

4335 ~~[(ii) establishing the procedures and requirements for a seller to separately account for~~

4336 ~~sales of assisted cleaning or washing of tangible personal property;]~~

4337 [(8)] (6) sales made to or by religious or charitable institutions in the conduct of their
 4338 regular religious or charitable functions and activities, if the requirements of Section
 4339 [59-12-104.1](#) are fulfilled;

4340 [(9)] (7) sales of a vehicle of a type required to be registered under the motor vehicle
 4341 laws of this state if the vehicle is:

4342 (a) not registered in this state; and

4343 (b) (i) not used in this state; or

4344 (ii) used in this state:

4345 (A) if the vehicle is not used to conduct business, for a time period that does not
 4346 exceed the longer of:

4347 (I) 30 days in any calendar year; or

4348 (II) the time period necessary to transport the vehicle to the borders of this state; or

4349 (B) if the vehicle is used to conduct business, for the time period necessary to transport
 4350 the vehicle to the borders of this state;

4351 ~~[(10)(a)]~~ (8) amounts paid for ~~[an item described in Subsection (10)(b) if]:~~

4352 (a) menstrual products; or

4353 (b) a drug, syringe, or stoma supply if:

4354 (i) the item is intended for human use; and

4355 (ii) (A) a prescription was issued for the item; or

4356 (B) the item was purchased by a hospital or other medical facility; ~~[and]~~

4357 ~~[(b) (i) Subsection (10)(a) applies to:]~~

4358 ~~[(A) a drug;]~~

4359 ~~[(B) a syringe; or]~~

4360 ~~[(C) a stoma supply; and]~~

4361 ~~[(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
 4362 ~~the commission may by rule define the terms:]~~

4363 ~~[(A) "syringe"; or]~~

4364 ~~[(B) "stoma supply";]~~

4365 ~~[(11)]~~ (9) purchases or leases exempt under Section [19-12-201](#);

4366 ~~[(12)]~~ (10) (a) sales of an item described in Subsection ~~[(12)]~~ (10)(c) served by:

4367 (i) the following if the item described in Subsection ~~[(12)]~~ (10)(c) is not available to

4368 the general public:

4369 (A) a church; or

4370 (B) a charitable institution; or

4371 (ii) an institution of higher education if:

4372 (A) the item described in Subsection [~~(12)~~] (10)(c) is not available to the general
4373 public; or

4374 (B) the item described in Subsection [~~(12)~~] (10)(c) is prepaid as part of a student meal
4375 plan offered by the institution of higher education; or

4376 (b) sales of an item described in Subsection [~~(12)~~] (10)(c) provided for a patient by:

4377 (i) a medical facility; or

4378 (ii) a nursing facility; and

4379 (c) Subsections [~~(12)~~] (10)(a) and (b) apply to:

4380 (i) food and food ingredients;

4381 (ii) prepared food; or

4382 (iii) alcoholic beverages;

4383 [~~(13)~~] (11) (a) except as provided in Subsection [~~(13)~~] (11)(b), the sale of tangible
4384 personal property or a product transferred electronically by a person:

4385 (i) regardless of the number of transactions involving the sale of that tangible personal
4386 property or product transferred electronically by that person; and

4387 (ii) not regularly engaged in the business of selling that type of tangible personal
4388 property or product transferred electronically;

4389 (b) this Subsection [~~(13)~~] (11) does not apply if:

4390 (i) the sale is one of a series of sales of a character to indicate that the person is
4391 regularly engaged in the business of selling that type of tangible personal property or product
4392 transferred electronically;

4393 (ii) the person holds that person out as regularly engaged in the business of selling that
4394 type of tangible personal property or product transferred electronically;

4395 (iii) the person sells an item of tangible personal property or product transferred
4396 electronically that the person purchased as a sale that is exempt under Subsection [~~(25)~~] (22);
4397 or

4398 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of

4399 this state in which case the tax is based upon:

4400 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
4401 sold; or

4402 (B) in the absence of a bill of sale or other written evidence of value, the fair market
4403 value of the vehicle or vessel being sold at the time of the sale as determined by the
4404 commission; and

4405 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4406 commission shall make rules establishing the circumstances under which:

4407 (i) a person is regularly engaged in the business of selling a type of tangible personal
4408 property or product transferred electronically;

4409 (ii) a sale of tangible personal property or a product transferred electronically is one of
4410 a series of sales of a character to indicate that a person is regularly engaged in the business of
4411 selling that type of tangible personal property or product transferred electronically; or

4412 (iii) a person holds that person out as regularly engaged in the business of selling a type
4413 of tangible personal property or product transferred electronically;

4414 ~~[(14)]~~ (12) amounts paid or charged for a purchase or lease of machinery, equipment,
4415 normal operating repair or replacement parts, or materials, except for office equipment or
4416 office supplies, by:

4417 (a) a manufacturing facility that:

4418 (i) is located in the state; and

4419 (ii) uses or consumes the machinery, equipment, normal operating repair or
4420 replacement parts, or materials:

4421 (A) in the manufacturing process to manufacture an item sold as tangible personal
4422 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
4423 Utah Administrative Rulemaking Act; or

4424 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
4425 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
4426 Administrative Rulemaking Act;

4427 (b) an establishment, as the commission defines that term in accordance with Title
4428 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

4429 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS

4430 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
4431 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
4432 2002 North American Industry Classification System of the federal Executive Office of the
4433 President, Office of Management and Budget;
4434 (ii) is located in the state; and
4435 (iii) uses or consumes the machinery, equipment, normal operating repair or
4436 replacement parts, or materials in:
4437 (A) the production process to produce an item sold as tangible personal property, as the
4438 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
4439 Administrative Rulemaking Act;
4440 (B) research and development, as the commission may define that phrase in accordance
4441 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
4442 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
4443 produced from mining;
4444 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
4445 mining; or
4446 (E) preventing, controlling, or reducing dust or other pollutants from mining; or
4447 (c) an establishment, as the commission defines that term in accordance with Title 63G,
4448 Chapter 3, Utah Administrative Rulemaking Act, that:
4449 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
4450 American Industry Classification System of the federal Executive Office of the President,
4451 Office of Management and Budget;
4452 (ii) is located in the state; and
4453 (iii) uses or consumes the machinery, equipment, normal operating repair or
4454 replacement parts, or materials in the operation of the web search portal;
4455 [~~(15)~~] (13) (a) sales of the following if the requirements of Subsection [~~(15)~~] (13)(b)
4456 are met:
4457 (i) tooling;
4458 (ii) special tooling;
4459 (iii) support equipment;
4460 (iv) special test equipment; or

4461 (v) parts used in the repairs or renovations of tooling or equipment described in
4462 Subsections ~~[(15)]~~ (13)(a)(i) through (iv); and
4463 (b) sales of tooling, equipment, or parts described in Subsection ~~[(15)]~~ (13)(a) are
4464 exempt if:
4465 (i) the tooling, equipment, or parts are used or consumed exclusively in the
4466 performance of any aerospace or electronics industry contract with the United States
4467 government or any subcontract under that contract; and
4468 (ii) under the terms of the contract or subcontract described in Subsection ~~[(15)]~~
4469 (13)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as
4470 evidenced by:
4471 (A) a government identification tag placed on the tooling, equipment, or parts; or
4472 (B) listing on a government-approved property record if placing a government
4473 identification tag on the tooling, equipment, or parts is impractical;
4474 ~~[(16) sales of newspapers or newspaper subscriptions;]~~
4475 ~~[(17)]~~ (14) (a) except as provided in Subsection ~~[(17)]~~ (14)(b), tangible personal
4476 property or a product transferred electronically traded in as full or part payment of the purchase
4477 price, except that for purposes of calculating sales or use tax upon vehicles not sold by a
4478 vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:
4479 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
4480 vehicle being traded in; or
4481 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
4482 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
4483 commission; and
4484 (b) Subsection ~~[(17)]~~ (14)(a) does not apply to the following items of tangible personal
4485 property or products transferred electronically traded in as full or part payment of the purchase
4486 price:
4487 (i) money;
4488 (ii) electricity;
4489 (iii) water;
4490 (iv) gas; or
4491 (v) steam;

4492 ~~[(18)]~~ (15) (a) (i) except as provided in Subsection ~~[(18)]~~ (15)(b), sales of tangible
4493 personal property or a product transferred electronically used or consumed primarily and
4494 directly in farming operations, regardless of whether the tangible personal property or product
4495 transferred electronically:

4496 (A) becomes part of real estate; or

4497 (B) is installed by a~~+~~ farmer, contractor, or subcontractor; or

4498 ~~[(1) farmer;]~~

4499 ~~[(11) contractor; or]~~

4500 ~~[(111) subcontractor; or]~~

4501 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
4502 product transferred electronically if the tangible personal property or product transferred
4503 electronically is exempt under Subsection ~~[(18)]~~ (15)(a)(i); and

4504 (b) amounts paid or charged for the following are subject to the taxes imposed by this
4505 chapter:

4506 (i) (A) subject to Subsection ~~[(18)]~~ (15)(b)(i)(B), machinery, equipment, materials, or
4507 supplies if used in a manner that is incidental to farming; and

4508 (B) tangible personal property that is considered to be used in a manner that is
4509 incidental to farming includes:

4510 (I) hand tools; or

4511 (II) maintenance and janitorial equipment and supplies;

4512 (ii) (A) subject to Subsection ~~[(18)]~~ (15)(b)(ii)(B), tangible personal property or a
4513 product transferred electronically if the tangible personal property or product transferred
4514 electronically is used in an activity other than farming; and

4515 (B) tangible personal property or a product transferred electronically that is considered
4516 to be used in an activity other than farming includes:

4517 (I) office equipment and supplies; or

4518 (II) equipment and supplies used in:

4519 (Aa) the sale or distribution of farm products;

4520 (Bb) research; or

4521 (Cc) transportation; or

4522 (iii) a vehicle required to be registered by the laws of this state during the period

4523 ending two years after the date of the vehicle's purchase;
4524 ~~[(19)]~~ (16) sales of hay;
4525 ~~[(20)]~~ (17) exclusive sale during the harvest season of seasonal crops, seedling plants,
4526 or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
4527 garden, farm, or other agricultural produce is sold by:
4528 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
4529 agricultural produce;
4530 (b) an employee of the producer described in Subsection ~~[(20)]~~ (17)(a); or
4531 (c) a member of the immediate family of the producer described in Subsection ~~[(20)]~~
4532 (17)(a);
4533 ~~[(21)]~~ (18) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is
4534 issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
4535 ~~[(22)]~~ (19) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
4536 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
4537 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
4538 manufacturer, processor, wholesaler, or retailer;
4539 ~~[(23)]~~ (20) a product stored in the state for resale;
4540 ~~[(24)]~~ (21) (a) purchases of a product if:
4541 (i) the product is:
4542 (A) purchased outside of this state;
4543 (B) brought into this state:
4544 (I) at any time after the purchase described in Subsection ~~[(24)]~~ (21)(a)(i)(A); and
4545 (II) by a nonresident person who is not living or working in this state at the time of the
4546 purchase;
4547 (C) used for the personal use or enjoyment of the nonresident person described in
4548 Subsection ~~[(24)]~~ (21)(a)(i)(B)(II) while that nonresident person is within the state; and
4549 (D) not used in conducting business in this state; and
4550 (ii) for:
4551 (A) a product other than a boat described in Subsection ~~[(24)]~~ (21)(a)(ii)(B), the first
4552 use of the product for a purpose for which the product is designed occurs outside of this state;
4553 (B) a boat, the boat is registered outside of this state; or

4554 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
4555 outside of this state;

4556 (b) the exemption provided for in Subsection [~~(24)~~] (21)(a) does not apply to:

4557 (i) a lease or rental of a product; or

4558 (ii) a sale of a vehicle exempt under Subsection [~~(33)~~] (30); and

4559 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
4560 purposes of Subsection [~~(24)~~] (21)(a), the commission may by rule define what constitutes the
4561 following:

4562 (i) conducting business in this state if that phrase has the same meaning in this
4563 Subsection [~~(24)~~] (21) as in Subsection [~~(63)~~] (55);

4564 (ii) the first use of a product if that phrase has the same meaning in this Subsection
4565 [~~(24)~~] (21) as in Subsection [~~(63)~~] (55); or

4566 (iii) a purpose for which a product is designed if that phrase has the same meaning in
4567 this Subsection [~~(24)~~] (21) as in Subsection [~~(63)~~] (55);

4568 [~~(25)~~] (22) a product purchased for resale in the regular course of business, either in its
4569 original form or as an ingredient or component part of a manufactured or compounded product;

4570 [~~(26)~~] (23) a product upon which a sales or use tax was paid to some other state, or one
4571 of its subdivisions, except that the state shall be paid any difference between the tax paid and
4572 the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is
4573 allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and
4574 Use Tax Act;

4575 [~~(27)~~] (24) any sale of a service described in Subsections [59-12-103](#)(1)(b), (c), and (d)
4576 to a person for use in compounding a service taxable under the subsections;

4577 [~~(28)~~] (25) purchases made in accordance with the special supplemental nutrition
4578 program for women, infants, and children established in 42 U.S.C. Sec. 1786;

4579 [~~(29)~~] (26) sales or leases of rolls, rollers, refractory brick, electric motors, or other
4580 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
4581 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
4582 the President, Office of Management and Budget;

4583 [~~(30)~~] (27) sales of a boat of a type required to be registered under Title 73, Chapter 18,
4584 State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard

4585 motor is:

4586 (a) not registered in this state; and

4587 (b) (i) not used in this state; or

4588 (ii) used in this state:

4589 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a

4590 time period that does not exceed the longer of:

4591 (I) 30 days in any calendar year; or

4592 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to

4593 the borders of this state; or

4594 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time

4595 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this

4596 state;

4597 ~~[(31)]~~ (28) sales of aircraft manufactured in Utah;

4598 ~~[(32)]~~ (29) amounts paid for the purchase of telecommunications service for purposes

4599 of providing telecommunications service;

4600 ~~[(33)]~~ (30) sales, leases, or uses of the following:

4601 (a) a vehicle by an authorized carrier; or

4602 (b) tangible personal property that is installed on a vehicle:

4603 (i) sold or leased to or used by an authorized carrier; and

4604 (ii) before the vehicle is placed in service for the first time;

4605 ~~[(34)]~~ (31) (a) 45% of the sales price of any new manufactured home; and

4606 (b) 100% of the sales price of any used manufactured home;

4607 ~~[(35)]~~ (32) sales relating to schools and fundraising sales;

4608 ~~[(36)]~~ (33) sales or rentals of durable medical equipment if:

4609 (a) a person presents a prescription for the durable medical equipment; and

4610 (b) the durable medical equipment is used for home use only;

4611 ~~[(37)] (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in~~

4612 ~~Section 72-11-102; and]~~

4613 ~~[(b) the commission shall by rule determine the method for calculating sales exempt~~

4614 ~~under Subsection (37)(a) that are not separately metered and accounted for in utility billings;]~~

4615 ~~[(38)]~~ (34) sales to a ski resort of:

4616 (a) snowmaking equipment;
4617 (b) ski slope grooming equipment;
4618 (c) passenger ropeways as defined in Section 72-11-102; or
4619 (d) parts used in the repairs or renovations of equipment or passenger ropeways
4620 described in Subsections ~~[(38)]~~ (34)(a) through (c);
4621 ~~[(39)]~~ (35) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for
4622 industrial use;
4623 ~~[(40)(a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for~~
4624 ~~amusement, entertainment, or recreation an unassisted amusement device as defined in Section~~
4625 ~~59-12-102;]~~
4626 ~~[(b) if a seller that sells or rents at the same business location the right to use or operate~~
4627 ~~for amusement, entertainment, or recreation one or more unassisted amusement devices and~~
4628 ~~one or more assisted amusement devices, the exemption described in Subsection (40)(a)~~
4629 ~~applies if the seller separately accounts for the sales or rentals of the right to use or operate for~~
4630 ~~amusement, entertainment, or recreation for the assisted amusement devices; and]~~
4631 ~~[(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,~~
4632 ~~Utah Administrative Rulemaking Act, the commission may make rules:]~~
4633 ~~[(i) governing the circumstances under which sales are at the same business location;~~
4634 ~~and]~~
4635 ~~[(ii) establishing the procedures and requirements for a seller to separately account for~~
4636 ~~the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for~~
4637 ~~assisted amusement devices;]~~
4638 ~~[(41)]~~ (36) (a) sales of photocopies by:
4639 (i) a governmental entity; or
4640 (ii) an entity within the state system of public education, including:
4641 (A) a school; or
4642 (B) the State Board of Education; or
4643 (b) sales of publications by a governmental entity;
4644 ~~[(42) amounts paid for admission to an athletic event at an institution of higher~~
4645 ~~education that is subject to the provisions of Title IX of the Education Amendments of 1972,~~
4646 ~~20 U.S.C. Sec. 1681 et seq.;]~~

4647 ~~[(43)]~~ (37) (a) sales made to or by:

4648 (i) an area agency on aging; or

4649 (ii) a senior citizen center owned by a county, city, or town; or

4650 (b) sales made by a senior citizen center that contracts with an area agency on aging;

4651 ~~[(44)]~~ (38) sales or leases of semiconductor fabricating, processing, research, or

4652 development materials regardless of whether the semiconductor fabricating, processing,

4653 research, or development materials:

4654 (a) actually come into contact with a semiconductor; or

4655 (b) ultimately become incorporated into real property;

4656 ~~[(45)]~~ (39) an amount paid by or charged to a purchaser for accommodations and

4657 services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under

4658 Section 59-12-104.2;

4659 ~~[(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary~~

4660 ~~sports event registration certificate in accordance with Section 41-3-306 for the event period~~

4661 ~~specified on the temporary sports event registration certificate;]~~

4662 ~~[(47)]~~ (40) (a) sales or uses of electricity, if the sales or uses are made under a retail

4663 tariff adopted by the Public Service Commission only for purchase of electricity produced from

4664 a new alternative energy source built after January 1, 2016, as designated in the tariff by the

4665 Public Service Commission; and

4666 (b) for a residential use customer only, the exemption under Subsection ~~[(47)]~~ (40)(a)

4667 applies only to the portion of the tariff rate a customer pays under the tariff described in

4668 Subsection ~~[(47)]~~ (40)(a) that exceeds the tariff rate under the tariff described in Subsection

4669 ~~[(47)]~~ (40)(a) that the customer would have paid absent the tariff;

4670 ~~[(48)]~~ (41) sales or rentals of mobility enhancing equipment if a person presents a

4671 prescription for the mobility enhancing equipment;

4672 ~~[(49)]~~ (42) sales of water in a:

4673 (a) pipe;

4674 (b) conduit;

4675 (c) ditch; or

4676 (d) reservoir;

4677 ~~[(50)]~~ (43) sales of currency or coins that constitute legal tender of a state, the United

4678 States, or a foreign nation;

4679 ~~[(51)]~~ (44) (a) sales of an item described in Subsection ~~[(51)]~~ (44)(b) if the item:

4680 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and

4681 (ii) has a gold, silver, or platinum content of 50% or more; and

4682 (b) Subsection ~~[(51)]~~ (44)(a) applies to a gold, silver, or platinum:

4683 (i) ingot;

4684 (ii) bar;

4685 (iii) medallion; or

4686 (iv) decorative coin;

4687 ~~[(52)]~~ (45) amounts paid on a sale-leaseback transaction;

4688 ~~[(53)]~~ (46) sales of a prosthetic device:

4689 (a) for use on or in a human; and

4690 (b) (i) for which a prescription is required; or

4691 (ii) if the prosthetic device is purchased by a hospital or other medical facility;

4692 ~~[(54)]~~ (47) (a) except as provided in Subsection ~~[(54)]~~ (47)(b), purchases, leases, or

4693 rentals of machinery or equipment by an establishment described in Subsection ~~[(54)]~~ (47)(c) if

4694 the machinery or equipment is primarily used in the production or postproduction of the

4695 following media for commercial distribution:

4696 (i) a motion picture;

4697 (ii) a television program;

4698 (iii) a movie made for television;

4699 (iv) a music video;

4700 (v) a commercial;

4701 (vi) a documentary; or

4702 (vii) a medium similar to Subsections ~~[(54)]~~ (47)(a)(i) through (vi) as determined by

4703 the commission by administrative rule made in accordance with Subsection ~~[(54)]~~ (47)(d); or

4704 (b) purchases, leases, or rentals of machinery or equipment by an establishment

4705 described in Subsection ~~[(54)]~~ (47)(c) that is used for the production or postproduction of the

4706 following are subject to the taxes imposed by this chapter:

4707 (i) a live musical performance;

4708 (ii) a live news program; or

4709 (iii) a live sporting event;

4710 (c) the following establishments listed in the 1997 North American Industry

4711 Classification System of the federal Executive Office of the President, Office of Management

4712 and Budget, apply to Subsections [~~(54)~~] (47)(a) and (b):

4713 (i) NAICS Code 512110; or

4714 (ii) NAICS Code 51219; and

4715 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

4716 commission may by rule:

4717 (i) prescribe what constitutes a medium similar to Subsections [~~(54)~~] (47)(a)(i) through

4718 (vi); or

4719 (ii) define:

4720 (A) "commercial distribution";

4721 (B) "live musical performance";

4722 (C) "live news program"; or

4723 (D) "live sporting event";

4724 [~~(55)~~] (48) (a) leases of seven or more years or purchases made on or after July 1,

4725 2004, but on or before June 30, 2027, of tangible personal property that:

4726 (i) is leased or purchased for or by a facility that:

4727 (A) is an alternative energy electricity production facility;

4728 (B) is located in the state; and

4729 (C) (I) becomes operational on or after July 1, 2004; or

4730 (II) has its generation capacity increased by one or more megawatts on or after July 1,

4731 2004, as a result of the use of the tangible personal property;

4732 (ii) has an economic life of five or more years; and

4733 (iii) is used to make the facility or the increase in capacity of the facility described in

4734 Subsection [~~(55)~~] (48)(a)(i) operational up to the point of interconnection with an existing

4735 transmission grid including:

4736 (A) a wind turbine;

4737 (B) generating equipment;

4738 (C) a control and monitoring system;

4739 (D) a power line;

4740 (E) substation equipment;
4741 (F) lighting;
4742 (G) fencing;
4743 (H) pipes; or
4744 (I) other equipment used for locating a power line or pole; and
4745 (b) this Subsection [~~(55)~~] (48) does not apply to:
4746 (i) tangible personal property used in construction of:
4747 (A) a new alternative energy electricity production facility; or
4748 (B) the increase in the capacity of an alternative energy electricity production facility;
4749 (ii) contracted services required for construction and routine maintenance activities;
4750 and
4751 (iii) unless the tangible personal property is used or acquired for an increase in capacity
4752 of the facility described in Subsection [~~(55)~~] (48)(a)(i)(C)(II), tangible personal property used
4753 or acquired after:
4754 (A) the alternative energy electricity production facility described in Subsection [~~(55)~~]
4755 (48)(a)(i) is operational as described in Subsection [~~(55)~~] (48)(a)(iii); or
4756 (B) the increased capacity described in Subsection [~~(55)~~] (48)(a)(i) is operational as
4757 described in Subsection [~~(55)~~] (48)(a)(iii);
4758 [~~(56)~~] (49) (a) leases of seven or more years or purchases made on or after July 1,
4759 2004, but on or before June 30, 2027, of tangible personal property that:
4760 (i) is leased or purchased for or by a facility that:
4761 (A) is a waste energy production facility;
4762 (B) is located in the state; and
4763 (C) (I) becomes operational on or after July 1, 2004; or
4764 (II) has its generation capacity increased by one or more megawatts on or after July 1,
4765 2004, as a result of the use of the tangible personal property;
4766 (ii) has an economic life of five or more years; and
4767 (iii) is used to make the facility or the increase in capacity of the facility described in
4768 Subsection [~~(56)~~] (49)(a)(i) operational up to the point of interconnection with an existing
4769 transmission grid including:
4770 (A) generating equipment;

- 4771 (B) a control and monitoring system;
- 4772 (C) a power line;
- 4773 (D) substation equipment;
- 4774 (E) lighting;
- 4775 (F) fencing;
- 4776 (G) pipes; or
- 4777 (H) other equipment used for locating a power line or pole; and
- 4778 (b) this Subsection [~~(56)~~] (49) does not apply to:
- 4779 (i) tangible personal property used in construction of:
- 4780 (A) a new waste energy facility; or
- 4781 (B) the increase in the capacity of a waste energy facility;
- 4782 (ii) contracted services required for construction and routine maintenance activities;
- 4783 and
- 4784 (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 4785 described in Subsection [~~(56)~~] (49)(a)(i)(C)(II), tangible personal property used or acquired
- 4786 after:
- 4787 (A) the waste energy facility described in Subsection [~~(56)~~] (49)(a)(i) is operational as
- 4788 described in Subsection [~~(56)~~] (49)(a)(iii); or
- 4789 (B) the increased capacity described in Subsection [~~(56)~~] (49)(a)(i) is operational as
- 4790 described in Subsection [~~(56)~~] (49)(a)(iii);
- 4791 [~~(57)~~] (50) (a) leases of five or more years or purchases made on or after July 1, 2004,
- 4792 but on or before June 30, 2027, of tangible personal property that:
- 4793 (i) is leased or purchased for or by a facility that:
- 4794 (A) is located in the state;
- 4795 (B) produces fuel from alternative energy, including:
- 4796 (I) methanol; or
- 4797 (II) ethanol; and
- 4798 (C) (I) becomes operational on or after July 1, 2004; or
- 4799 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
- 4800 a result of the installation of the tangible personal property;
- 4801 (ii) has an economic life of five or more years; and

4802 (iii) is installed on the facility described in Subsection ~~[(57)]~~ (50)(a)(i);
4803 (b) this Subsection ~~[(57)]~~ (50) does not apply to:
4804 (i) tangible personal property used in construction of:
4805 (A) a new facility described in Subsection ~~[(57)]~~ (50)(a)(i); or
4806 (B) the increase in capacity of the facility described in Subsection ~~[(57)]~~ (50)(a)(i); or
4807 (ii) contracted services required for construction and routine maintenance activities;
4808 and
4809 (iii) unless the tangible personal property is used or acquired for an increase in capacity
4810 described in Subsection ~~[(57)]~~ (50)(a)(i)(C)(II), tangible personal property used or acquired
4811 after:
4812 (A) the facility described in Subsection ~~[(57)]~~ (50)(a)(i) is operational; or
4813 (B) the increased capacity described in Subsection ~~[(57)]~~ (50)(a)(i) is operational;
4814 ~~[(58)]~~ (51) (a) subject to Subsection ~~[(58)(b) or (c)]~~ (51)(b), sales of tangible personal
4815 property or a product transferred electronically to a person within this state if that tangible
4816 personal property or product transferred electronically is subsequently shipped outside the state
4817 and incorporated pursuant to contract into and becomes a part of real property located outside
4818 of this state; and
4819 (b) the exemption under Subsection ~~[(58)]~~ (51)(a) is not allowed to the extent that the
4820 other state or political entity to which the tangible personal property is shipped imposes a sales,
4821 use, gross receipts, or other similar transaction excise tax on the transaction against which the
4822 other state or political entity allows a credit for sales and use taxes imposed by this chapter;
4823 [and]
4824 ~~[(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~
4825 ~~a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a~~
4826 ~~refund:]~~
4827 ~~[(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;]~~
4828 ~~[(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on~~
4829 ~~which the sale is made;]~~
4830 ~~[(iii) if the person did not claim the exemption allowed by this Subsection (58) for the~~
4831 ~~sale prior to filing for the refund;]~~
4832 ~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~

4833 ~~[(v) in accordance with Section 59-1-1410; and]~~
4834 ~~[(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410;~~
4835 ~~if the person files for the refund on or before June 30, 2011;]~~
4836 ~~[(59) purchases;]~~
4837 ~~[(a) of one or more of the following items in printed or electronic format:]~~
4838 ~~[(i) a list containing information that includes one or more:]~~
4839 ~~[(A) names; or]~~
4840 ~~[(B) addresses; or]~~
4841 ~~[(ii) a database containing information that includes one or more:]~~
4842 ~~[(A) names; or]~~
4843 ~~[(B) addresses; and]~~
4844 ~~[(b) used to send direct mail;]~~
4845 ~~[(60)]~~ (52) redemptions or repurchases of a product by a person if that product was:
4846 (a) delivered to a pawnbroker as part of a pawn transaction; and
4847 (b) redeemed or repurchased within the time period established in a written agreement
4848 between the person and the pawnbroker for redeeming or repurchasing the product;
4849 ~~[(61)]~~ (53) (a) purchases or leases of an item described in Subsection ~~[(61)]~~ (53)(b) if
4850 the item:
4851 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
4852 and
4853 (ii) has a useful economic life of one or more years; and
4854 (b) the following apply to Subsection ~~[(61)]~~ (53)(a):
4855 (i) telecommunications enabling or facilitating equipment, machinery, or software;
4856 (ii) telecommunications equipment, machinery, or software required for 911 service;
4857 (iii) telecommunications maintenance or repair equipment, machinery, or software;
4858 (iv) telecommunications switching or routing equipment, machinery, or software; or
4859 (v) telecommunications transmission equipment, machinery, or software;
4860 ~~[(62)]~~ (54) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of
4861 tangible personal property or a product transferred electronically that are used in the research
4862 and development of alternative energy technology; and
4863 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

4864 commission may, for purposes of Subsection [~~(62)~~] (54)(a), make rules defining what
4865 constitutes purchases of tangible personal property or a product transferred electronically that
4866 are used in the research and development of alternative energy technology;
4867 [~~(63)~~] (55) (a) purchases of tangible personal property or a product transferred
4868 electronically if:
4869 (i) the tangible personal property or product transferred electronically is:
4870 (A) purchased outside of this state;
4871 (B) brought into this state at any time after the purchase described in Subsection [~~(63)~~]
4872 (55)(a)(i)(A); and
4873 (C) used in conducting business in this state; and
4874 (ii) for:
4875 (A) tangible personal property or a product transferred electronically other than the
4876 tangible personal property described in Subsection [~~(63)~~] (55)(a)(ii)(B), the first use of the
4877 property for a purpose for which the property is designed occurs outside of this state; or
4878 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
4879 outside of this state;
4880 (b) the exemption provided for in Subsection [~~(63)~~] (55)(a) does not apply to:
4881 (i) a lease or rental of tangible personal property or a product transferred electronically;
4882 or
4883 (ii) a sale of a vehicle exempt under Subsection [~~(33)~~] (30); and
4884 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
4885 purposes of Subsection [~~(63)~~] (55)(a), the commission may by rule define what constitutes the
4886 following:
4887 (i) conducting business in this state if that phrase has the same meaning in this
4888 Subsection [~~(63)~~] (55) as in Subsection [~~(24)~~] (21);
4889 (ii) the first use of tangible personal property or a product transferred electronically if
4890 that phrase has the same meaning in this Subsection [~~(63)~~] (55) as in Subsection [~~(24)~~] (21); or
4891 (iii) a purpose for which tangible personal property or a product transferred
4892 electronically is designed if that phrase has the same meaning in this Subsection [~~(63)~~] (55) as
4893 in Subsection [~~(24)~~] (21);
4894 [~~(64)~~] (56) sales of disposable home medical equipment or supplies if:

- 4895 (a) a person presents a prescription for the disposable home medical equipment or
4896 supplies;
- 4897 (b) the disposable home medical equipment or supplies are used exclusively by the
4898 person to whom the prescription described in Subsection ~~[(64)]~~ (56)(a) is issued; and
- 4899 (c) the disposable home medical equipment and supplies are listed as eligible for
4900 payment under:
- 4901 (i) Title XVIII, federal Social Security Act; or
- 4902 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
4903 ~~[(65) sales:]~~
- 4904 ~~[(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit~~
4905 ~~District Act; or]~~
- 4906 ~~[(b) of tangible personal property to a subcontractor of a public transit district, if the~~
4907 ~~tangible personal property is:]~~
- 4908 ~~[(i) clearly identified; and]~~
- 4909 ~~[(ii) installed or converted to real property owned by the public transit district;]~~
- 4910 ~~[(66)]~~ (57) sales of construction materials:
- 4911 (a) purchased on or after July 1, 2010;
- 4912 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 4913 (i) located within a county of the first class; and
- 4914 (ii) that has a United States customs office on its premises; and
- 4915 (c) if the construction materials are:
- 4916 (i) clearly identified;
- 4917 (ii) segregated; and
- 4918 (iii) installed or converted to real property:
- 4919 (A) owned or operated by the international airport described in Subsection ~~[(66)]~~
4920 (57)(b); and
- 4921 (B) located at the international airport described in Subsection ~~[(66)]~~ (57)(b);
- 4922 ~~[(67)]~~ (58) sales of construction materials:
- 4923 (a) purchased on or after July 1, 2008;
- 4924 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 4925 (i) located within a county of the second class; and

4926 (ii) that is owned or operated by a city in which an airline as defined in Section
4927 59-2-102 is headquartered; and

4928 (c) if the construction materials are:

4929 (i) clearly identified;

4930 (ii) segregated; and

4931 (iii) installed or converted to real property:

4932 (A) owned or operated by the new airport described in Subsection [(67)] (58)(b);

4933 (B) located at the new airport described in Subsection [(67)] (58)(b); and

4934 (C) as part of the construction of the new airport described in Subsection [(67)]
4935 (58)(b);

4936 ~~[(68) sales of fuel to a common carrier that is a railroad for use in a locomotive~~
4937 ~~engine;]~~

4938 [(69)] (59) purchases and sales described in Section 63H-4-111;

4939 [(70)] (60) (a) sales of tangible personal property to an aircraft maintenance, repair, and
4940 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
4941 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
4942 lists a state or country other than this state as the location of registry of the fixed wing turbine
4943 powered aircraft; or

4944 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
4945 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
4946 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
4947 lists a state or country other than this state as the location of registry of the fixed wing turbine
4948 powered aircraft;

4949 ~~[(71) subject to Section 59-12-104.4, sales of a textbook for a higher education~~
4950 ~~course;]~~

4951 ~~[(a) to a person admitted to an institution of higher education; and]~~

4952 ~~[(b) by a seller, other than a bookstore owned by an institution of higher education, if~~
4953 ~~51% or more of that seller's sales revenue for the previous calendar quarter are sales of a~~
4954 ~~textbook for a higher education course;]~~

4955 [(72)] (61) a license fee or tax a municipality imposes in accordance with Subsection
4956 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced

4957 level of municipal services;
4958 ~~[(73)]~~ (62) amounts paid or charged for construction materials used in the construction
4959 of a new or expanding life science research and development facility in the state, if the
4960 construction materials are:
4961 (a) clearly identified;
4962 (b) segregated; and
4963 (c) installed or converted to real property;
4964 ~~[(74)]~~ (63) amounts paid or charged for:
4965 (a) a purchase or lease of machinery and equipment that:
4966 (i) are used in performing qualified research:
4967 (A) as defined in Section 41(d), Internal Revenue Code; and
4968 (B) in the state; and
4969 (ii) have an economic life of three or more years; and
4970 (b) normal operating repair or replacement parts:
4971 (i) for the machinery and equipment described in Subsection ~~[(74)]~~ (63)(a); and
4972 (ii) that have an economic life of three or more years;
4973 ~~[(75)]~~ (64) a sale or lease of tangible personal property used in the preparation of
4974 prepared food if:
4975 (a) for a sale:
4976 (i) the ownership of the seller and the ownership of the purchaser are identical; and
4977 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
4978 tangible personal property prior to making the sale; or
4979 (b) for a lease:
4980 (i) the ownership of the lessor and the ownership of the lessee are identical; and
4981 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
4982 personal property prior to making the lease;
4983 ~~[(76)]~~ (65) (a) purchases of machinery or equipment if:
4984 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
4985 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
4986 System of the federal Executive Office of the President, Office of Management and Budget;
4987 (ii) the machinery or equipment:

4988 (A) has an economic life of three or more years; and
4989 (B) is used by one or more persons who pay admission or user fees described in
4990 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
4991 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
4992 (A) amounts paid or charged as admission or user fees described in Subsection
4993 59-12-103(1)(f); and
4994 (B) subject to taxation under this chapter; and
4995 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4996 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
4997 previous calendar quarter is:
4998 (i) amounts paid or charged as admission or user fees described in Subsection
4999 59-12-103(1)(f); and
5000 (ii) subject to taxation under this chapter;
5001 ~~[(77)]~~ (66) purchases of a short-term lodging consumable by a business that provides
5002 accommodations and services described in Subsection 59-12-103(1)(i);
5003 ~~[(78) amounts paid or charged to access a database;]~~
5004 ~~[(a) if the primary purpose for accessing the database is to view or retrieve information~~
5005 ~~from the database; and]~~
5006 ~~[(b) not including amounts paid or charged for a:]~~
5007 ~~[(i) digital audiowork;]~~
5008 ~~[(ii) digital audio-visual work; or]~~
5009 ~~[(iii) digital book;]~~
5010 ~~[(79)]~~ (67) amounts paid or charged for a purchase or lease made by an electronic
5011 financial payment service, of:
5012 (a) machinery and equipment that:
5013 (i) are used in the operation of the electronic financial payment service; and
5014 (ii) have an economic life of three or more years; and
5015 (b) normal operating repair or replacement parts that:
5016 (i) are used in the operation of the electronic financial payment service; and
5017 (ii) have an economic life of three or more years;
5018 ~~[(80)]~~ (68) ~~[beginning on April 1, 2013;]~~ sales of a fuel cell as defined in Section

5019 54-15-102;

5020 ~~[(81)]~~ (69) amounts paid or charged for a purchase or lease of tangible personal
5021 property or a product transferred electronically if the tangible personal property or product
5022 transferred electronically:

5023 (a) is stored, used, or consumed in the state; and

5024 (b) is temporarily brought into the state from another state:

5025 (i) during a disaster period as defined in Section 53-2a-1202;

5026 (ii) by an out-of-state business as defined in Section 53-2a-1202;

5027 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

5028 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

5029 ~~[(82)]~~ (70) sales of goods and services at a morale, welfare, and recreation facility, as
5030 defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
5031 Recreation Program;

5032 ~~[(83)]~~ (71) amounts paid or charged for a purchase or lease of molten magnesium;

5033 ~~[(84)]~~ (72) amounts paid or charged for a purchase or lease made by a qualifying
5034 ~~[enterprise]~~ data center or an occupant of a qualifying data center of machinery, equipment, or
5035 normal operating repair or replacement parts, if the machinery, equipment, or normal operating
5036 repair or replacement parts:

5037 (a) are used in ~~[the operation of the establishment; and];~~

5038 (i) the operation of the qualifying data center; or

5039 (ii) the occupant's operations in the qualifying data center; and

5040 (b) have an economic life of one or more years;

5041 ~~[(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a~~
5042 ~~vehicle that includes cleaning or washing of the interior of the vehicle;]~~

5043 ~~[(86)]~~ (73) amounts paid or charged for a purchase or lease of machinery, equipment,
5044 normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or
5045 supplies used or consumed:

5046 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
5047 in Section 63M-4-701 located in the state;

5048 (b) if the machinery, equipment, normal operating repair or replacement parts,
5049 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

5050 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
5051 added to gasoline or diesel fuel;

5052 (ii) research and development;

5053 (iii) transporting, storing, or managing raw materials, work in process, finished
5054 products, and waste materials produced from refining gasoline or diesel fuel, or adding
5055 blendstock to gasoline or diesel fuel;

5056 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
5057 refining; or

5058 (v) preventing, controlling, or reducing pollutants from refining; and

5059 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office
5060 of Energy Development under Subsection 63M-4-702(2);

5061 ~~[(87)]~~ (74) amounts paid to or charged by a proprietor for accommodations and
5062 services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA
5063 accommodations tax imposed under Section 63H-1-205;

5064 ~~[(88)]~~ (75) amounts paid or charged for a purchase or lease of machinery, equipment,
5065 normal operating repair or replacement parts, or materials, except for office equipment or
5066 office supplies, by an establishment, as the commission defines that term in accordance with
5067 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

5068 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
5069 American Industry Classification System of the federal Executive Office of the President,
5070 Office of Management and Budget;

5071 (b) is located in this state; and

5072 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
5073 materials in the operation of the establishment; ~~[and]~~

5074 ~~[(89)]~~ (76) amounts paid or charged for an item exempt under Section 59-12-104.10~~[-]~~;

5075 and

5076 (77) if paid for through a machine that accepts only cash for payment and if the
5077 machine is the only method by which to pay:

5078 (a) sales of cleaning or washing of tangible personal property if the cleaning or
5079 washing of the tangible personal property is not assisted cleaning or washing of tangible
5080 personal property;

5081 (b) sales of food and food ingredients or prepared food from a vending machine if:
 5082 (i) the proceeds of each sale do not exceed \$1; and
 5083 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
 5084 the cost of the food and food ingredients or prepared food as goods consumed;
 5085 (c) sales or rentals of the right to use or operate an unassisted amusement device for
 5086 amusement, entertainment, or recreation; and
 5087 (78) amounts paid or charged for tangible personal property that:
 5088 (a) is not electricity, machinery, equipment, vehicles, parts, office equipment, or office
 5089 supplies; and
 5090 (b) is consumed as part of a service described in Subsection 59-12-103(1)(g), (h), or
 5091 (i).
 5092 Section 43. Section **59-12-104.5** is amended to read:
 5093 **59-12-104.5. Revenue and Taxation Interim Committee review of sales and use**
 5094 **taxes.**
 5095 The Revenue and Taxation Interim Committee shall:
 5096 (1) review Subsection ~~59-12-104[(28)]~~(25) before October 1 of the year after the year
 5097 in which Congress permits a state to participate in the special supplemental nutrition program
 5098 under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on
 5099 purchases of food under that program; and
 5100 (2) review Subsection ~~59-12-104[(21)]~~(18) before October 1 of the year after the year
 5101 in which Congress permits a state to participate in the SNAP as defined in Section ~~35A-1-102~~,
 5102 even if state or local sales taxes are collected within the state on purchases of food under that
 5103 program.
 5104 Section 44. Section **59-12-130** is enacted to read:
 5105 **59-12-130. Sales tax on motor fuel and special fuel.**
 5106 (1) As used in this section:
 5107 (a) "Diesel fuel" means the same as that term is defined in Section 59-13-102.
 5108 (b) "Distributor" means the same as that term is defined in Section 59-13-102.
 5109 (c) "Motor fuel" means the same as that term is defined in Section 59-13-102.
 5110 (d) "Motor fuel or special fuel tax" means the taxes imposed under Chapter 13, Motor
 5111 and Special Fuel Tax Act.

5112 (e) (i) Except as provided in Subsection (1)(e)(ii), "special fuel" means the same as that
5113 term is defined in Section 59-13-102.

5114 (ii) "Special fuel" does not include diesel fuel, propane, or electricity.

5115 (f) (i) "Supplier" means a person that:

5116 (A) imports or acquires immediately upon importation into this state special fuel;

5117 (B) produces, refines, manufactures, or blends special fuel in this state;

5118 (C) otherwise acquires for distribution or sale in this state, special fuel with respect to
5119 which there has been no previous taxable sale or use; or

5120 (D) is in a two party exchange where the receiving party is deemed to be the supplier.

5121 (ii) "Supplier" includes a wholesaler that exercises the payment option described in
5122 Section 59-13-321.

5123 (g) "Two party exchange" means a transaction in which special fuel is transferred
5124 between licensed suppliers pursuant to an exchange agreement.

5125 (2) (a) Beginning on April 1, 2020, and subject to the other provisions of this
5126 Subsection (2), a sales tax is imposed on motor fuel and special fuel at an amount equal to the
5127 product of:

5128 (i) the rate described in Subsection 59-12-103(2)(a)(i)(A);

5129 (ii) the average daily rack price, calculated in accordance with Subsection (3) or (4);

5130 and

5131 (iii) (A) the number of gallons of motor fuel or special fuel other than liquified natural
5132 gas, compressed natural gas, or hydrogen;

5133 (B) the number of diesel gallon equivalent for liquified natural gas; or

5134 (C) the number of gasoline gallon equivalent for compressed natural gas or hydrogen.

5135 (b) (i) The distributor shall pay the tax on motor fuel.

5136 (ii) The supplier shall pay the tax on special fuel.

5137 (c) (i) Except as provided in Subsection (2)(c)(iii), the provisions of Chapter 13, Part 2,
5138 Motor Fuel, apply to the sales tax imposed by this section on motor fuel.

5139 (ii) Except as provided in Subsection (2)(c)(iii), the provisions of Chapter 13, Part 3,
5140 Special Fuel, apply to the sales tax imposed by this section on special fuel.

5141 (iii) (A) The sales tax rate on motor fuel and special fuel is as provided in this
5142 Subsection (2).

5143 (B) The treasurer shall deposit the revenue collected from the sales tax imposed under
5144 this section into the Transportation Investment Fund of 2005 created in Section [72-2-124](#).

5145 (C) The commission shall pay any refunds from the Transportation Investment Fund of
5146 2005 created in Section [72-2-124](#).

5147 (3) (a) The commission shall determine annually the average daily rack price for motor
5148 fuel by:

5149 (i) calculating the previous fiscal year statewide average rack price of a gallon of
5150 regular unleaded motor fuel, excluding federal and state excise taxes, for the 12 months ending
5151 on the previous June 30 as published by an oil pricing service; and

5152 (ii) rounding to the nearest one-hundredth of a cent.

5153 (b) (i) Subject to the requirement in Subsection (3)(b)(ii), the statewide average rack
5154 price of a gallon of motor fuel determined under Subsection (3)(b)(ii) may not be less than
5155 \$1.78 per gallon.

5156 (ii) The commission shall, on January 1, annually adjust the minimum statewide
5157 average rack price of a gallon of motor fuel described in Subsection (3)(b)(i) by taking the
5158 minimum statewide average rack price of a gallon of motor fuel for the previous calendar year
5159 and adding an amount equal to the greater of:

5160 (A) an amount calculated by multiplying the minimum statewide average rack price of
5161 a gallon of motor fuel for the previous calendar year by the actual percent change during the
5162 previous fiscal year in the Consumer Price Index; and

5163 (B) 0.

5164 (iii) The statewide average rack price of a gallon of motor fuel may not exceed \$2.43
5165 per gallon.

5166 (iv) The minimum statewide average rack price of a gallon of motor fuel described and
5167 adjusted under Subsection (3)(b) may not exceed the maximum statewide average rack price of
5168 a gallon of motor fuel under Subsection (3)(b)(iii).

5169 (c) (i) The commission shall annually:

5170 (A) determine the average daily rack price of a gallon of motor fuel in accordance with
5171 this Subsection (3);

5172 (B) publish the average daily rack price calculated in accordance with this Subsection
5173 (3); and

5174 (C) post or otherwise make public the average daily rack price no later than 60 days
5175 prior to the annual effective date under Subsection (3)(c)(ii).

5176 (ii) The average daily rack price described in Subsection (2) and calculated in
5177 accordance with this Subsection (3) shall take effect:

5178 (A) for the 2020 calendar year, on April 1; and

5179 (B) beginning with the 2021 calendar year, on January 1 of each year.

5180 (4) The average daily rack price for special fuels is the product of:

5181 (a) the average daily rack price calculated in accordance with Subsection (3); and

5182 (b) the percentage calculated by dividing the rate calculated in accordance with

5183 Subsection [59-13-301](#)(12) by the rate calculated in accordance with Subsections

5184 [59-13-201](#)(1)(b)(ii), (c), and (d).

5185 Section 45. Section **59-12-1201** is amended to read:

5186 **59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration,**
5187 **collection, and enforcement of tax -- Administrative charge -- Deposits.**

5188 (1) (a) Except as provided in Subsection (3), there is imposed a tax of [~~2.5%~~] 4% on all
5189 short-term leases and rentals of motor vehicles not exceeding 30 days.

5190 (b) The tax imposed in this section is in addition to all other state, county, or municipal
5191 fees and taxes imposed on rentals of motor vehicles.

5192 (2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax
5193 imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

5194 (b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall
5195 take effect on the first day of the first billing period:

5196 (A) that begins after the effective date of the tax rate increase; and

5197 (B) if the billing period for the transaction begins before the effective date of a tax rate
5198 increase imposed under Subsection (1).

5199 (ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax
5200 rate decrease shall take effect on the first day of the last billing period:

5201 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
5202 and

5203 (B) if the billing period for the transaction begins before the effective date of the repeal
5204 of the tax or the tax rate decrease imposed under Subsection (1).

5205 (3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:
5206 (a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;
5207 (b) the motor vehicle is rented as a personal household goods moving van; or
5208 (c) the lease or rental of the motor vehicle is made for the purpose of temporarily
5209 replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an
5210 insurance agreement.

5211 (4) (a) (i) The tax authorized under this section shall be administered, collected, and
5212 enforced in accordance with:

5213 (A) the same procedures used to administer, collect, and enforce the tax under Part 1,
5214 Tax Collection; and

5215 (B) Chapter 1, General Taxation Policies.

5216 (ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to
5217 Subsections 59-12-103(4) through (10) or Section 59-12-107.1 or 59-12-123.

5218 (b) The commission shall retain and deposit an administrative charge in accordance
5219 with Section 59-1-306 from the ~~revenues~~ revenue the commission collects from a tax under
5220 this part.

5221 (c) Except as provided under Subsection (4)(b), all revenue received by the
5222 commission under this section shall be deposited daily with the state treasurer and credited
5223 monthly to the Marda Dillree Corridor Preservation Fund under Section 72-2-117.

5224 Section 46. Section 59-13-202 is amended to read:

5225 **59-13-202. Refund of tax for agricultural uses on individual income and**
5226 **corporate franchise and income tax returns -- Application for permit for refund --**
5227 **Division of Finance to pay claims -- Rules permitted to enforce part -- Penalties --**
5228 **Revenue and Taxation Interim Committee study.**

5229 (1) As used in this section:

5230 (a) (i) Except as provided in Subsection (1)(a)(ii), "claimant" means a resident or
5231 nonresident person.

5232 (ii) "Claimant" does not include an estate or trust.

5233 (b) "Estate" means a nonresident estate or a resident estate.

5234 (c) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or
5235 trust may claim:

5236 (i) as provided by statute; and
5237 (ii) regardless of whether, for the taxable year for which the claimant, estate, or trust
5238 claims the tax credit, the claimant, estate, or trust has a tax liability under:
5239 (A) Chapter 7, Corporate Franchise and Income Taxes; or
5240 (B) Chapter 10, Individual Income Tax Act.
5241 (d) "Trust" means a nonresident trust or a resident trust.
5242 (2) Any claimant, estate, or trust that purchases and uses any motor fuel within the state
5243 for the purpose of operating or propelling stationary farm engines and self-propelled farm
5244 machinery used for nonhighway agricultural uses, and that has paid the tax on the motor fuel as
5245 provided by this part, is entitled to a refund of the tax subject to the conditions and limitations
5246 provided under this part.
5247 (3) (a) A claimant, estate, or trust desiring a nonhighway agricultural use refund under
5248 this part shall claim the refund as a refundable tax credit on the tax return the claimant, estate,
5249 or trust files under:
5250 (i) Chapter 7, Corporate Franchise and Income Taxes; or
5251 (ii) Chapter 10, Individual Income Tax Act.
5252 (b) A claimant, estate, or trust not subject to filing a tax return described in Subsection
5253 (3)(a) shall obtain a permit and file claims on a calendar year basis.
5254 (c) Any claimant, estate, or trust claiming a refundable tax credit under this section is
5255 required to furnish any or all of the information outlined in this section upon request of the
5256 commission.
5257 (d) A refundable tax credit under this section is allowed only on purchases on which
5258 tax is paid during the taxable year covered by the tax return.
5259 (4) In order to obtain a permit for a refund of motor fuel tax paid, an application shall
5260 be filed containing:
5261 (a) the name of the claimant, estate, or trust;
5262 (b) the claimant's, estate's, or trust's address;
5263 (c) location and number of acres owned and operated, location and number of acres
5264 rented and operated, the latter of which shall be verified by a signed statement from the legal
5265 owner;
5266 (d) number of acres planted to each crop, type of soil, and whether irrigated or dry; and

(e) make, size, and type of fuel used and power rating of each piece of equipment using fuel. If the claimant, estate, or trust is an operator of self-propelled or tractor-pulled farm machinery with which the claimant, estate, or trust works for hire doing custom jobs for other farmers, the application shall include information the commission requires and shall all be contained in, and be considered part of, the original application. The claimant, estate, or trust shall also file with the application a certificate from the county assessor showing each piece of equipment using fuel. This original application and all information contained in it constitutes a permanent file with the commission in the name of the claimant, estate, or trust.

(5) A claimant, estate, or trust claiming the right to a refund of motor fuel tax paid shall file a claim with the commission by April 15 of each year for the refund for the previous calendar year. The claim shall state the name and address of the claimant, estate, or trust, the number of gallons of motor fuel purchased for nonhighway agricultural uses, and the amount paid for the motor fuel. The claimant, estate, or trust shall retain the original invoice to support the claim. No more than one claim for a tax refund may be filed annually by each user of motor fuel purchased for nonhighway agricultural uses.

(6) Upon commission approval of the claim for a refund, the Division of Finance shall pay the amount found due to the claimant, estate, or trust. The total amount of claims for refunds shall be paid from motor fuel taxes.

(7) The commission may refuse to accept as evidence of purchase or payment any instruments that show alteration or that fail to indicate the quantity of the purchase, the price of the motor fuel, a statement that the motor fuel is purchased for purposes other than transportation, and the date of purchase and delivery. If the commission is not satisfied with the evidence submitted in connection with the claim, the commission may reject the claim or require additional evidence.

(8) A claimant, estate, or trust aggrieved by the decision of the commission with respect to a refundable tax credit or refund may file a request for agency action, requesting a hearing before the commission.

(9) A claimant, estate, or trust that makes any false claim, report, or statement, as claimant, estate, trust, agent, or creditor, with intent to defraud or secure a refund to which the claimant, estate, or trust is not entitled, is subject to the criminal penalties provided under Section [59-1-401](#), and the commission shall initiate the filing of a complaint for alleged

violations of this part. In addition to these penalties, the claimant, estate, or trust may not receive any refund as a claimant, estate, or trust or as a creditor of a claimant, estate, or trust for refund for a period of five years.

~~[(10)(a) In accordance with any rules prescribed by the commission under Subsection (10)(b), the Division of Finance shall transfer at least annually from the Transportation Fund into the Education Fund an amount equal to the amount of the refund claimed under this section.]~~

~~[(b)]~~ (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for:

(i) making a refund to a claimant, estate, or trust as required by Subsection (3)(a)(i); or
~~[(ii) making a transfer from the Transportation Fund into the Education Fund as required by Subsection (10)(a); or]~~

~~[(iii)]~~ (ii) enforcing this part.

(11) (a) On or before November 30, 2017, and every three years after 2017, the Revenue and Taxation Interim Committee shall review the tax credit provided by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) In conducting the review required by Subsection (11)(a), the Revenue and Taxation Interim Committee shall:

(i) schedule time on at least one committee agenda to conduct the review;
(ii) invite state agencies, individuals, and organizations concerned with the credit under review to provide testimony;

(iii) ensure that the recommendations described in this section include an evaluation of:

(A) the cost of the tax credit to the state;
(B) the purpose and effectiveness of the tax credit; and
(C) the extent to which the state benefits from the tax credit; and

(iv) undertake other review efforts as determined by the chairs of the Revenue and Taxation Interim Committee.

Section 47. Section **59-13-323** is enacted to read:

59-13-323. Additional special fuel tax on diesel fuel.

(1) A supplier shall pay an additional special fuel tax on diesel fuel that is subject to

5329 the special fuel tax imposed under Section [59-13-301](#) in an amount equal to:

5330 (a) beginning on April 1, 2020, and ending on December 31, 2021, six cents per gallon;

5331 and

5332 (b) beginning on January 1, 2022, 10 cents per gallon.

5333 (2) (a) The commission shall deposit daily the revenue that the commission collects

5334 under this section with the state treasurer.

5335 (b) Notwithstanding Section [59-13-301](#), the state treasurer shall credit the revenue

5336 deposited in accordance with Subsection (2)(a) to the Transportation Investment Fund of 2005

5337 created in Section [72-2-124](#).

5338 (3) (a) A person entitled to a refund of a special fuel tax under this part may receive a

5339 refund of the additional special fuel tax due under this section for the same gallons that the

5340 person is entitled to a refund of a special fuel tax.

5341 (b) Notwithstanding Section [59-13-318](#), the total amount of claims for refunds under

5342 Subsection (3)(a) shall be paid from the Transportation Investment Fund of 2005.

5343 (4) Beginning in 2021, the commission shall submit annually on or before October 1,

5344 an electronic report to a legislative committee designated by the Legislative Management

5345 Committee that:

5346 (a) states the amount of revenue collected from the tax imposed under Section

5347 [59-13-323](#) during the preceding fiscal year; and

5348 (b) provides an estimate of the revenue that will be collected from the tax imposed

5349 under Section [59-13-323](#) during the current fiscal year.

5350 Section 48. Section **63I-2-241** is enacted to read:

5351 **63I-2-241. Repeal dates -- Title 41.**

5352 Subsection [41-6a-702](#)(5), which allows a vehicle with a clean fuel vehicle decal to

5353 travel in a lane designated for the use of high occupancy vehicles regardless of the number of

5354 occupants, is repealed September 30, 2025.

5355 Section 49. Section **63I-2-259** is amended to read:

5356 **63I-2-259. Repeal dates -- Title 59.**

5357 [~~(1) Section [59-1-102](#) is repealed on May 14, 2019.~~]

5358 [~~(2)~~] (1) In Section [59-2-926](#), the language that states "applicable" and "or

5359 [53F-2-301.5](#)" is repealed July 1, 2023.

[~~(3)~~ Subsection ~~59-2-1007~~(15) is repealed on December 31, 2018.]

(2) Subsections 59-12-102(61) and (62), which define "life science establishment" and "life science research and development facility," are repealed January 1, 2027.

(3) Subsection 59-12-104(62), which provides a sales and use tax exemption related to amounts paid or charged for construction materials used in the construction of a life science research and development facility, is repealed January 1, 2027.

Section 50. Section **63I-2-272** is amended to read:

63I-2-272. Repeal dates -- Title 72.

(1) Subsections 72-1-213(2) and (3)(a)(i), related to the Road Usage Charge Advisory Committee, are repealed January 1, 2022.

[~~(2)~~ On July 1, 2018:]

[~~(a)~~ in Subsection ~~72-2-108~~(2), the language that states "and except as provided in Subsection (10)" is repealed; and]

[~~(b)~~ in Subsection ~~72-2-108~~(4)(c)(ii)(A), the language that states ", excluding any amounts appropriated as additional support for class B and class C roads under Subsection (10)," is repealed.]

[~~(3)~~] (2) Section 72-3-113 is repealed January 1, 2020.

(3) Section 72-6-121 is repealed September 30, 2025.

Section 51. Section **63M-4-702** is amended to read:

63M-4-702. Refiner gasoline standard reporting -- Office of Energy Development certification of sales and use tax exemption eligibility.

(1) (a) Beginning on July 1, 2021, a refiner that seeks to be eligible for a sales and use tax exemption under Subsection 59-12-104[~~(86)~~](73) shall annually report to the office whether the refiner's facility that is located within the state will have an average gasoline sulfur level of 10 parts per million (ppm) or less using the formulas prescribed in 40 C.F.R. Sec. 80.1603, excluding the offset for credit use and transfer as prescribed in 40 C.F.R. Sec. 80.1616.

(b) Fuels for which a final destination outside Utah can be demonstrated or that are not subject to the standards and requirements of 40 C.F.R. Sec. 80.1603 as specified in 40 C.F.R. Sec. 80.1601 are not subject to the reporting provisions under Subsection (1)(a).

(2) (a) Beginning on July 1, 2021, the office shall annually certify that the refiner is

5391 eligible for the sales and use tax exemption under Subsection 59-12-104[(86)](73):

5392 (i) on a form provided by the State Tax Commission that shall be retained by the
5393 refiner claiming the sales and use tax exemption under Subsection 59-12-104[(86)](73);

5394 (ii) if the refiner's refinery that is located within the state had an average sulfur level of
5395 10 parts per million (ppm) or less as reported under Subsection (1) in the previous calendar
5396 year; and

5397 (iii) before a taxpayer is allowed the sales and use tax exemption under Subsection
5398 59-12-104[(86)](73).

5399 (b) The certification provided by the office under Subsection (2)(a) shall be renewed
5400 annually.

5401 (c) The office:

5402 (i) shall accept a copy of a report submitted by a refiner to the Environmental
5403 Protection Agency under 40 C.F.R. Sec. 80.1652 as sufficient evidence of the refiner's average
5404 gasoline sulfur level; or

5405 (ii) may establish another reporting mechanism through rules made under Subsection
5406 (3).

5407 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5408 office may make rules to implement this section.

5409 Section 52. Section 72-1-201 is amended to read:

5410 **72-1-201. Creation of Department of Transportation -- Functions, powers, duties,**
5411 **rights, and responsibilities.**

5412 (1) There is created the Department of Transportation which shall:

5413 (a) have the general responsibility for planning, research, design, construction,
5414 maintenance, security, and safety of state transportation systems;

5415 (b) provide administration for state transportation systems and programs;

5416 (c) implement the transportation policies of the state;

5417 (d) plan, develop, construct, and maintain state transportation systems that are safe,
5418 reliable, environmentally sensitive, and serve the needs of the traveling public, commerce, and
5419 industry;

5420 (e) establish standards and procedures regarding the technical details of administration
5421 of the state transportation systems as established by statute and administrative rule;

5422 (f) advise the governor and the Legislature about state transportation systems needs;

5423 (g) coordinate with utility companies for the reasonable, efficient, and cost-effective
5424 installation, maintenance, operation, relocation, and upgrade of utilities within state highway
5425 rights-of-way;

5426 (h) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
5427 make rules for the administration of the department, state transportation systems, and
5428 programs;

5429 (i) jointly with the commission annually report to the Transportation Interim
5430 Committee, by November 30 of each year, as to the operation, maintenance, condition,
5431 mobility, and safety needs for state transportation systems;

5432 (j) ensure that any training or certification required of a public official or public
5433 employee, as those terms are defined in Section [63G-22-102](#), complies with Title 63G, Chapter
5434 22, State Training and Certification Requirements, if the training or certification is required:

5435 (i) under this title;

5436 (ii) by the department; or

5437 (iii) by an agency or division within the department; [~~and~~]

5438 (k) study and make recommendations to the Legislature on potential managed lane use
5439 and implementation on selected transportation systems within the state[-]; and

5440 (l) implement one or more strategies to manage congestion on state highways and
5441 generate highway user fees, including the use of one or more high occupancy toll lanes as
5442 defined in Section [72-6-118](#) and implementation of the technology described in Subsection
5443 [72-6-118\(2\)\(e\)](#).

5444 (2) (a) The department shall exercise reasonable care in designing, constructing, and
5445 maintaining a state highway in a reasonably safe condition for travel.

5446 (b) Nothing in this section shall be construed as:

5447 (i) creating a private right of action; or

5448 (ii) expanding or changing the department's common law duty as described in
5449 Subsection (2)(a) for liability purposes.

5450 Section 53. Section **72-1-213.1** is amended to read:

5451 **72-1-213.1. Road usage charge program.**

5452 (1) As used in this section:

5453 (a) "Account manager" means an entity under contract with the department to
5454 administer and manage the road usage charge program.

5455 (b) "Alternative fuel vehicle" means the same as that term is defined in Section
5456 41-1a-102.

5457 (c) "Payment period" means the interval during which an owner is required to report
5458 mileage and pay the appropriate road usage charge according to the terms of the program.

5459 (d) "Program" means the road usage charge program established and described in this
5460 section.

5461 (2) There is established a road usage charge program as described in this section.

5462 (3) (a) The department shall implement and oversee the administration of the program,
5463 which shall begin on January 1, 2020.

5464 (b) To implement and administer the program, the department may contract with an
5465 account manager.

5466 (4) (a) The owner or lessee of an alternative fuel vehicle may apply for enrollment of
5467 the alternative fuel vehicle in the program.

5468 (b) If an application for enrollment into the program is approved by the department, the
5469 owner or lessee of an alternative fuel vehicle may participate in the program in lieu of paying
5470 the fee described in Subsection 41-1a-1206(1)(h) or (2)(b).

5471 (5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
5472 and consistent with this section, the department:

5473 (i) shall make rules to establish:

5474 (A) processes and terms for enrollment into and withdrawal or removal from the
5475 program;

5476 (B) payment periods and other payment methods and procedures for the program;

5477 (C) standards for mileage reporting mechanisms for an owner or lessee of an
5478 alternative fuel vehicle to report mileage as part of participation in the program;

5479 (D) standards for program functions for mileage recording, payment processing,
5480 account management, and other similar aspects of the program;

5481 (E) contractual terms between an owner or lessee of an alternative fuel vehicle owner
5482 and an account manager for participation in the program;

5483 (F) contractual terms between the department and an account manager, including

5484 authority for an account manager to enforce the terms of the program;

5485 (G) procedures to provide security and protection of personal information and data
5486 connected to the program, and penalties for account managers for violating privacy protection
5487 rules;

5488 (H) penalty procedures for a program participant's failure to pay a road usage charge or
5489 tampering with a device necessary for the program; and

5490 (I) department oversight of an account manager, including privacy protection of
5491 personal information and access and auditing capability of financial and other records related to
5492 administration of the program; and

5493 (ii) may make rules to establish:

5494 (A) an enrollment cap for certain alternative fuel vehicle types to participate in the
5495 program;

5496 (B) a process for collection of an unpaid road usage charge or penalty; or

5497 (C) integration of the program with other similar programs, such as tolling.

5498 (b) The department shall make recommendations to and consult with the commission
5499 regarding road usage mileage rates for each type of alternative fuel vehicle.

5500 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and
5501 consistent with this section, the commission shall, after consultation with the department, make
5502 rules to establish the road usage charge mileage rate for each type of alternative fuel vehicle.

5503 (7) (a) Revenue generated by the road usage charge program and relevant penalties
5504 shall be deposited into the Transportation Fund.

5505 (b) The department may use revenue generated by the program to cover the costs of
5506 administering the program.

5507 (8) (a) The department may:

5508 (i) (A) impose a penalty for failure to timely pay a road usage charge according to the
5509 terms of the program or tampering with a device necessary for the program; and

5510 (B) request that the Division of Motor Vehicles place a hold on the registration of the
5511 owner's or lessee's alternative fuel vehicle for failure to pay a road usage charge according to
5512 the terms of the program;

5513 (ii) send correspondence to the owner of an alternative fuel vehicle to inform the owner
5514 or lessee of:

- 5515 (A) the road usage charge program, implementation, and procedures;
- 5516 (B) an unpaid road usage charge and the amount of the road usage charge to be paid to
5517 the department;
- 5518 (C) the penalty for failure to pay a road usage charge within the time period described
5519 in Subsection (8)(a)(iii); and
- 5520 (D) a hold being placed on the owner's or lessee's registration for the alternative fuel
5521 vehicle, if the road usage charge and penalty are not paid within the time period described in
5522 Subsection (8)(a)(iii), which would prevent the renewal of the alternative fuel vehicle's
5523 registration; and
- 5524 (iii) require that the owner or lessee of the alternative fuel vehicle pay the road usage
5525 charge to the department within 30 days of the date when the department sends written notice
5526 of the road usage charge to the owner or lessee.
- 5527 (b) The department shall send the correspondence and notice described in Subsection
5528 (8)(a) to the owner of the alternative fuel vehicle according to the terms of the program.
- 5529 (9) (a) The Division of Motor Vehicles and the department shall share and provide
5530 access to information pertaining to an alternative fuel vehicle and participation in the program
5531 including:
- 5532 (i) registration and ownership information pertaining to an alternative fuel vehicle;
- 5533 (ii) information regarding the failure of an alternative fuel vehicle owner or lessee to
5534 pay a road usage charge or penalty imposed under this section within the time period described
5535 in Subsection (8)(a)(iii); and
- 5536 (iii) the status of a request for a hold on the registration of an alternative fuel vehicle.
- 5537 (b) If the department requests a hold on the registration in accordance with this section,
5538 the Division of Motor Vehicles may not renew the registration of a motor vehicle under Title
5539 41, Chapter 1a, Part 2, Registration, until the department withdraws the hold request.
- 5540 (10) The owner of an alternative fuel vehicle may apply for enrollment in the program
5541 or withdraw from the program according to the terms established by the department pursuant to
5542 rules made under Subsection (5).
- 5543 (11) If enrolled in the program, the owner or lessee of an alternative fuel vehicle shall:
- 5544 (a) report mileage driven as required by the department pursuant to Subsection (5);
- 5545 (b) pay the road usage fee for each payment period as set by the department and the

5546 commission pursuant to Subsections (5) and (6); and

5547 (c) comply with all other provisions of this section and other requirements of the
5548 program.

5549 (12) On or before October 1 of each year, the department shall submit an electronic
5550 report to a legislative committee designated by the Legislative Management Committee that:

5551 (a) describes the amount of revenue generated by the program during the preceding
5552 fiscal year; and

5553 (b) recommends strategies for expanding enrollment in the program.

5554 Section 54. Section **72-2-120** is amended to read:

5555 **72-2-120. Tollway Special Revenue Fund -- Revenue.**

5556 (1) There is created a special revenue fund within the Transportation Fund known as
5557 the "Tollway Special Revenue Fund."

5558 (2) The fund shall be funded from the following sources:

5559 (a) tolls collected by the department under Section 72-6-118;

5560 (b) funds received by the department through a tollway development agreement under
5561 Section 72-6-203;

5562 (c) appropriations made to the fund by the Legislature;

5563 (d) contributions from other public and private sources for deposit into the fund;

5564 (e) interest earnings on cash balances; and

5565 (f) money collected for repayments and interest on fund money.

5566 (3) The Division of Finance may create a subaccount for each tollway as defined in
5567 Section 72-6-118.

5568 (4) The commission may authorize the money deposited into the fund to be spent by
5569 the department ~~[to establish and operate tollways and related facilities and state transportation~~
5570 ~~systems, including design, construction, reconstruction, operation, maintenance, enforcement,~~
5571 ~~impacts from tollways, and the acquisition of right-of-way]~~ for any state transportation
5572 purpose.

5573 Section 55. Section **72-2-124** is amended to read:

5574 **72-2-124. Transportation Investment Fund of 2005.**

5575 (1) There is created a capital projects fund entitled the Transportation Investment Fund
5576 of 2005.

5577 (2) The fund consists of money generated from the following sources:
5578 (a) any voluntary contributions received for the maintenance, construction,
5579 reconstruction, or renovation of state and federal highways;
5580 (b) appropriations made to the fund by the Legislature;
5581 (c) registration fees designated under Section 41-1a-1201;
5582 (d) the sales and use tax revenues deposited into the fund in accordance with [Section
5583 ~~59-12-103~~, and] Sections 59-12-103 and 59-12-130;
5584 (e) the additional special fuel tax revenues deposited into the fund in accordance with
5585 Section 59-13-323; and
5586 ~~[(e)]~~ (f) revenues transferred to the fund in accordance with Section 72-2-106.
5587 (3) (a) The fund shall earn interest.
5588 (b) All interest earned on fund money shall be deposited into the fund.
5589 (4) (a) Except as provided in Subsection (4)(b), the executive director may only use
5590 fund money to pay:
5591 (i) the costs of maintenance, construction, reconstruction, or renovation to state and
5592 federal highways prioritized by the Transportation Commission through the prioritization
5593 process for new transportation capacity projects adopted under Section 72-1-304;
5594 (ii) the costs of maintenance, construction, reconstruction, or renovation to the highway
5595 projects described in Subsections 63B-18-401(2), (3), and (4);
5596 (iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401
5597 minus the costs paid from the County of the First Class Highway Projects Fund in accordance
5598 with Subsection 72-2-121(4)(f);
5599 (iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt
5600 Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified
5601 by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the
5602 debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;
5603 (v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101
5604 for projects prioritized in accordance with Section 72-2-125;
5605 (vi) all highway general obligation bonds that are intended to be paid from revenues in
5606 the Centennial Highway Fund created by Section 72-2-118;
5607 (vii) for fiscal year 2015-16 only, to transfer \$25,000,000 to the County of the First

5608 Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described
5609 in Section 72-2-121; and

5610 (viii) if a political subdivision provides a contribution equal to or greater than 40% of
5611 the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved
5612 nonmotorized transportation for projects that:

5613 (A) mitigate traffic congestion on the state highway system;

5614 (B) are part of an active transportation plan approved by the department; and

5615 (C) are prioritized by the commission through the prioritization process for new
5616 transportation capacity projects adopted under Section 72-1-304.

5617 (b) The executive director may use fund money to exchange for an equal or greater
5618 amount of federal transportation funds to be used as provided in Subsection (4)(a).

5619 (5) (a) Except as provided in Subsection (5)(b), the executive director may not use fund
5620 money, including fund money from the Transit Transportation Investment Fund, within the
5621 boundaries of a municipality that is required to adopt a moderate income housing plan element
5622 as part of the municipality's general plan as described in Subsection 10-9a-401(3), if the
5623 municipality has failed to adopt a moderate income housing plan element as part of the
5624 municipality's general plan or has failed to implement the requirements of the moderate income
5625 housing plan as determined by the results of the Department of Workforce Service's review of
5626 the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

5627 (b) Within the boundaries of a municipality that is required under Subsection
5628 10-9a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate
5629 income housing plan element as part of the municipality's general plan or has failed to
5630 implement the requirements of the moderate income housing plan as determined by the results
5631 of the Department of Workforce Service's review of the annual moderate income housing
5632 report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

5633 (i) may use fund money in accordance with Subsection (4)(a) for a limited-access
5634 facility;

5635 (ii) may not use fund money for the construction, reconstruction, or renovation of an
5636 interchange on a limited-access facility;

5637 (iii) may use Transit Transportation Investment Fund money for a multi-community
5638 fixed guideway public transportation project; and

(iv) may not use Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(6) (a) Except as provided in Subsection (6)(b), the executive director may not use fund money, including fund money from the Transit Transportation Investment Fund, within the boundaries of the unincorporated area of a county, if the county is required to adopt a moderate income housing plan element as part of the county's general plan as described in Subsection 17-27a-401(3) and if the county has failed to adopt a moderate income housing plan element as part of the county's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

(b) Within the boundaries of the unincorporated area of a county where the county is required under Subsection 17-27a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate income housing plan element as part of the county's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

(i) may use fund money in accordance with Subsection (4)(a) for a limited-access facility;

(ii) may not use fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may use Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not use Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2),

(3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(8) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.

(9) (a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

(i) contributions deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

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

(d) Subject to Subsection (9)(e), the Legislature may appropriate money from the fund for public transit capital development of new capacity projects to be used as prioritized by the commission.

(e) (i) The Legislature may only appropriate money from the fund for a public transit capital development project or pedestrian or nonmotorized transportation project that provides connection to the public transit system if the public transit district or political subdivision provides funds of equal to or greater than 40% of the costs needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or part of the 40% requirement described in Subsection (9)(e)(i) if:

(A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

Section 56. Section 72-6-118 is amended to read:

72-6-118. Definitions -- Establishment and operation of tollways -- Imposition and collection of tolls -- Amount of tolls -- Rulemaking.

(1) As used in this section:

(a) (i) ~~["High"]~~ Before January 1, 2025, "high occupancy toll lane" means a high occupancy vehicle lane designated under Section 41-6a-702 that may be used by an operator of a vehicle carrying less than the number of persons specified for the high occupancy vehicle lane if the operator of the vehicle pays a toll or fee.

(ii) On or after January 1, 2025, "high occupancy toll lane" means a high occupancy vehicle lane designated under Section 41-6a-702 that may be used by an operator of a vehicle only if:

(A) the vehicle is carrying three or more occupants; or

(B) the operator pays a toll or fee.

(b) "Toll" means any tax, fee, or charge assessed for the specific use of a tollway.

(c) "Toll lane" means a designated new highway or additional lane capacity that is constructed, operated, or maintained for which a toll is charged for its use.

(d) (i) "Tollway" means a highway, highway lane, bridge, path, tunnel, or right-of-way designed and used as a transportation route that is constructed, operated, or maintained through the use of toll revenues.

(ii) "Tollway" includes a high occupancy toll lane and a toll lane.

(e) "Tollway development agreement" has the same meaning as defined in Section 72-6-202.

(2) Subject to the provisions of Subsection (3), the department may:

(a) establish, expand, and operate tollways and related facilities for the purpose of funding in whole or in part the acquisition of right-of-way and the design, construction, reconstruction, operation, enforcement, and maintenance of or impacts from a transportation route for use by the public;

(b) enter into contracts, agreements, licenses, franchises, tollway development agreements, or other arrangements to implement this section;

(c) impose and collect tolls on any tollway established under this section, including collection of past due payment of a toll or penalty;

(d) grant exclusive or nonexclusive rights to a private entity to impose and collect tolls

5732 pursuant to the terms and conditions of a tollway development agreement;

5733 (e) use technology to automatically monitor a tollway and collect payment of a toll,
5734 including:

5735 (i) license plate reading technology; and

5736 (ii) photographic or video recording technology; and

5737 (f) in accordance with Subsection (5), request that the Division of Motor Vehicles deny
5738 a request for registration of a motor vehicle if the motor vehicle owner has failed to pay a toll
5739 or penalty imposed for usage of a tollway involving the motor vehicle for which registration
5740 renewal has been requested.

5741 (3) (a) The department may establish or operate a tollway on an existing highway if
5742 approved by the commission in accordance with the terms of this section.

5743 (b) To establish a tollway on an existing highway, the department shall submit a
5744 proposal to the commission including:

5745 (i) a description of the tollway project;

5746 (ii) projected traffic on the tollway;

5747 (iii) the anticipated amount of the toll to be charged; and

5748 (iv) projected toll revenue.

5749 (4) (a) For a tollway established under this section, the department may:

5750 (i) according to the terms of each tollway, impose the toll upon the owner of a motor
5751 vehicle using the tollway according to the terms of the tollway;

5752 (ii) send correspondence to the owner of the motor vehicle to inform the owner of:

5753 (A) an unpaid toll and the amount of the toll to be paid to the department;

5754 (B) the penalty for failure to pay the toll timely; and

5755 (C) a hold being placed on the owner's registration for the motor vehicle if the toll and
5756 penalty are not paid timely, which would prevent the renewal of the motor vehicle's
5757 registration;

5758 (iii) require that the owner of the motor vehicle pay the toll to the department within 30
5759 days of the date when the department sends written notice of the toll to the owner; and

5760 (iv) impose a penalty for failure to pay a toll timely.

5761 (b) The department shall mail the correspondence and notice described in Subsection
5762 (4)(a) to the owner of the motor vehicle according to the terms of a tollway.

5763 (5) (a) The Division of Motor Vehicles and the department shall share and provide
5764 access to information pertaining to a motor vehicle and tollway enforcement including:

- 5765 (i) registration and ownership information pertaining to a motor vehicle;
5766 (ii) information regarding the failure of a motor vehicle owner to timely pay a toll or
5767 penalty imposed under this section; and
5768 (iii) the status of a request for a hold on the registration of a motor vehicle.

5769 (b) If the department requests a hold on the registration in accordance with this section,
5770 the Division of Motor Vehicles may not renew the registration of a motor vehicle under Title
5771 41, Chapter 1a, Part 2, Registration, if the owner of the motor vehicle has failed to pay a toll or
5772 penalty imposed under this section for usage of a tollway involving the motor vehicle for which
5773 registration renewal has been requested until the department withdraws the hold request.

5774 (6) (a) Except as provided in Subsection (6)(b), in accordance with Title 63G, Chapter
5775 3, Utah Administrative Rulemaking Act, the commission shall:

- 5776 (i) set the amount of any toll imposed or collected on a tollway on a state highway; and
5777 (ii) for tolls established under Subsection (6)(b), set:

5778 (A) an increase in a toll rate or user fee above an increase specified in a tollway
5779 development agreement; or

5780 (B) an increase in a toll rate or user fee above a maximum toll rate specified in a
5781 tollway development agreement.

5782 (b) A toll or user fee and an increase to a toll or user fee imposed or collected on a
5783 tollway on a state highway that is the subject of a tollway development agreement shall be set
5784 in the tollway development agreement.

5785 (7) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
5786 the department shall make rules:

- 5787 (i) necessary to establish and operate tollways on state highways;
5788 (ii) that establish standards and specifications for automatic tolling systems and
5789 automatic tollway monitoring technology; and

5790 (iii) to set the amount of a penalty for failure to pay a toll under this section.

5791 (b) The rules shall:

- 5792 (i) include minimum criteria for having a tollway; and
5793 (ii) conform to regional and national standards for automatic tolling.

(8) (a) The commission may provide funds for public or private tollway pilot projects or high occupancy toll lanes from General Fund money appropriated by the Legislature to the commission for that purpose.

(b) The commission may determine priorities and funding levels for tollways designated under this section.

(9) (a) Except as provided in Subsection (9)(b), all revenue generated from a tollway on a state highway shall be deposited into the Tollway Special Revenue Fund created in Section 72-2-120 and used for ~~[acquisition of right-of-way and the design, construction, reconstruction, operation, maintenance, enforcement of state transportation systems and facilities, including operating improvements to the tollway, and other facilities used exclusively for the operation of a tollway facility within the corridor served by the tollway]~~ any state transportation purpose.

(b) Revenue generated from a tollway that is the subject of a tollway development agreement shall be deposited into the Tollway Special Revenue Fund and used in accordance with Subsection (9)(a) unless:

(i) the revenue is to a private entity through the tollway development agreement; or
(ii) the revenue is identified for a different purpose under the tollway development agreement.

(10) Data described in Subsection (2)(e) obtained for the purposes of this section:

(a) in accordance with Section 63G-2-305, is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act, if the photographic or video data is maintained by a governmental entity;

(b) may not be used or shared for any purpose other than the purposes described in this section;

(c) may only be preserved:

(i) so long as necessary to collect the payment of a toll or penalty imposed in accordance with this section; or

(ii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an equivalent federal warrant; and

(d) may only be disclosed:

(i) in accordance with the disclosure requirements for a protected record under Section

5825 [63G-2-202](#); or

5826 (ii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an
5827 equivalent federal warrant.

5828 (11) (a) The department may not sell for any purpose photographic or video data
5829 captured under Subsection (2)(e)(ii).

5830 (b) The department may not share captured photographic or video data for a purpose
5831 not authorized under this section.

5832 ~~[(12) Before November 1, 2018, the Driver License Division, the Division of Motor~~
5833 ~~Vehicles, and the department shall jointly study and report findings and recommendations to~~
5834 ~~the Transportation Interim Committee regarding the use of Title 53, Chapter 3, Part 6, Drivers'~~
5835 ~~License Compact, and other methods to collect a toll or penalty under this section from:]~~

5836 ~~[(a) an owner of a motor vehicle registered outside this state; or]~~

5837 ~~[(b) a driver or lessee of a motor vehicle leased or rented for 30 days or less.]~~

5838 Section 57. Section **72-9-603** is amended to read:

5839 **72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned**
5840 **vehicle title restrictions -- Rules for maximum rates and certification.**

5841 (1) Except for a tow truck service that was ordered by a peace officer, or a person
5842 acting on behalf of a law enforcement agency, or a highway authority, after performing a tow
5843 truck service that is being done without the vehicle, vessel, or outboard motor owner's
5844 knowledge, the tow truck operator or the tow truck motor carrier shall:

5845 (a) immediately upon arriving at the place of storage or impound of the vehicle, vessel,
5846 or outboard motor:

5847 (i) send a report of the removal to the Motor Vehicle Division that complies with the
5848 requirements of Subsection [41-6a-1406](#)(4)(b); and

5849 (ii) contact the law enforcement agency having jurisdiction over the area where the
5850 vehicle, vessel, or outboard motor was picked up and notify the agency of the:

5851 (A) location of the vehicle, vessel, or outboard motor;

5852 (B) date, time, and location from which the vehicle, vessel, or outboard motor was
5853 removed;

5854 (C) reasons for the removal of the vehicle, vessel, or outboard motor;

5855 (D) person who requested the removal of the vehicle, vessel, or outboard motor; and

5856 (E) description, including the identification number, license number, or other
5857 identification number issued by a state agency, of the vehicle, vessel, or outboard motor;
5858 (b) within two business days of performing the tow truck service under Subsection
5859 (1)(a), send a certified letter to the last-known address of each party described in Subsection
5860 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor obtained from the
5861 Motor Vehicle Division or, if the person has actual knowledge of the party's address, to the
5862 current address, notifying the party of the:

5863 (i) location of the vehicle, vessel, or outboard motor;
5864 (ii) date, time, and location from which the vehicle, vessel, or outboard motor was
5865 removed;
5866 (iii) reasons for the removal of the vehicle, vessel, or outboard motor;
5867 (iv) person who requested the removal of the vehicle, vessel, or outboard motor;
5868 (v) a description, including its identification number and license number or other
5869 identification number issued by a state agency; and
5870 (vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor; and
5871 (c) upon initial contact with the owner whose vehicle, vessel, or outboard motor was
5872 removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding
5873 Towing established by the department in Subsection (7)(e).

5874 (2) (a) Until the tow truck operator or tow truck motor carrier reports the removal as
5875 required under Subsection (1)(a), a tow truck operator, tow truck motor carrier, or impound
5876 yard may not:

5877 (i) collect any fee associated with the removal; or
5878 (ii) begin charging storage fees.

5879 (b) (i) Except as provided in Subsection (2)(c), a tow truck operator or tow truck motor
5880 carrier may not perform a tow truck service without the vehicle, vessel, or outboard motor
5881 owner's or a lien holder's knowledge at either of the following locations without signage that
5882 meets the requirements of Subsection (2)(b)(ii):

5883 (A) a mobile home park as defined in Section 57-16-3; or

5884 (B) a multifamily dwelling of more than eight units.

5885 (ii) Signage under Subsection (2)(b)(i) shall display:

5886 (A) where parking is subject to towing; and

5887 (B) (I) the Internet website address that provides access to towing database information
5888 in accordance with Section 41-6a-1406; or
5889 (II) one of the following:
5890 (Aa) the name and phone number of the tow truck operator or tow truck motor carrier
5891 that performs a tow truck service for the locations listed under Subsection (2)(b)(i); or
5892 (Bb) the name of the mobile home park or multifamily dwelling and the phone number
5893 of the mobile home park or multifamily dwelling manager or management office that
5894 authorized the vehicle, vessel, or outboard motor to be towed.
5895 (c) Signage is not required under Subsection (2)(b) for parking in a location:
5896 (i) that is prohibited by law; or
5897 (ii) if it is reasonably apparent that the location is not open to parking.
5898 (d) Nothing in Subsection (2)(b) restricts the ability of a mobile home park as defined
5899 in Section 57-16-3 or a multifamily dwelling from instituting and enforcing regulations on
5900 parking.
5901 (3) The party described in Subsection 41-6a-1406(5)(a) with an interest in a vehicle,
5902 vessel, or outboard motor lawfully removed is only responsible for paying:
5903 (a) the tow truck service and storage fees set in accordance with Subsection (7); ~~and~~
5904 (b) the administrative impound fee set in Section 41-6a-1406, if applicable[-]; and
5905 (c) the applicable sales and use tax.
5906 (4) (a) The fees under Subsection (3) are a possessory lien on the vehicle, vessel, or
5907 outboard motor and any nonlife essential items contained in the vehicle, vessel, or outboard
5908 motor that are owned by the owner of the vehicle, vessel, or outboard motor until paid.
5909 (b) The tow truck operator or tow truck motor carrier shall securely store the vehicle,
5910 vessel, or outboard motor and items described in Subsection (4)(a) in an approved state
5911 impound yard until a party described in Subsection 41-6a-1406(5)(a) with an interest in the
5912 vehicle, vessel, or outboard motor:
5913 (i) pays the ~~fees~~ amounts described in Subsection (3); and
5914 (ii) removes the vehicle, vessel, or outboard motor from the state impound yard.
5915 (5) (a) A vehicle, vessel, or outboard motor shall be considered abandoned if a party
5916 described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard
5917 motor does not, within 30 days after notice has been sent under Subsection (1)(b):

5918 (i) pay the [~~fees~~] amounts described in Subsection (3); and
5919 (ii) remove the vehicle, vessel, or outboard motor from the secure storage facility.
5920 (b) A person may not request a transfer of title to an abandoned vehicle, vessel, or
5921 outboard motor until at least 30 days after notice has been sent under Subsection (1)(b).
5922 (6) (a) A tow truck motor carrier or impound yard shall clearly and conspicuously post
5923 and disclose all its current fees, rates, and acceptable forms of payment for tow truck service
5924 and storage of a vehicle in accordance with rules established under Subsection (7).
5925 (b) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept
5926 payment by cash and debit or credit card for a tow truck service under Subsection (1) or any
5927 service rendered, performed, or supplied in connection with a tow truck service under
5928 Subsection (1).
5929 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5930 department shall:
5931 (a) subject to the restriction in Subsection (8), set maximum rates that:
5932 (i) a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel,
5933 or outboard motor that are transported in response to:
5934 (A) a peace officer dispatch call;
5935 (B) a motor vehicle division call; and
5936 (C) any other call or request where the owner of the vehicle, vessel, or outboard motor
5937 has not consented to the removal; and
5938 (ii) an impound yard may charge for the storage of a vehicle, vessel, or outboard motor
5939 stored as a result of one of the conditions listed under Subsection (7)(a)(i);
5940 (b) establish authorized towing certification requirements, not in conflict with federal
5941 law, related to incident safety, clean-up, and hazardous material handling;
5942 (c) specify the form and content of the posting and disclosure of fees and rates charged
5943 and acceptable forms of payment by a tow truck motor carrier or impound yard;
5944 (d) set a maximum rate for an administrative fee that a tow truck motor carrier may
5945 charge for reporting the removal as required under Subsection (1)(a)(i) and providing notice of
5946 the removal to each party described in Subsection 41-6a-1406(5)(a) with an interest in the
5947 vehicle, vessel, or outboard motor as required in Subsection (1)(b); and
5948 (e) establish a Utah Consumer Bill of Rights Regarding Towing form that contains

5949 specific information regarding:

5950 (i) a vehicle owner's rights and responsibilities if the owner's vehicle is towed;

5951 (ii) identifies the maximum rates that a tow truck motor carrier may charge for the tow
5952 truck service of a vehicle, vessel, or outboard motor that is transported in response to a call or
5953 request where the owner of the vehicle, vessel, or outboard motor has not consented to the
5954 removal; and

5955 (iii) identifies the maximum rates that an impound yard may charge for the storage of
5956 vehicle, vessel, or outboard motor that is transported in response to a call or request where the
5957 owner of the vehicle, vessel, or outboard motor has not consented to the removal.

5958 (8) An impound yard may not charge a fee for the storage of an impounded vehicle,
5959 vessel, or outboard motor if:

5960 (a) the vehicle, vessel, or outboard motor is being held as evidence; and

5961 (b) the vehicle, vessel, or outboard motor is not being released to a party described in
5962 Subsection 41-6a-1406(5)(a), even if the party satisfies the requirements to release the vehicle,
5963 vessel, or outboard motor under Section 41-6a-1406.

5964 (9) (a) (i) A tow truck motor carrier may charge a rate up to the maximum rate set by
5965 the department in rules made under Subsection (7).

5966 (ii) In addition to the maximum rates established under Subsection (7) [~~and when~~
5967 ~~receiving payment by credit card~~], a tow truck operator, a tow truck motor carrier, or an
5968 impound yard:

5969 (A) shall collect the sales and use tax due; and

5970 (B) when receiving payment by credit card, may charge a credit card processing fee of
5971 3% of the transaction total.

5972 (b) A tow truck motor carrier may not be required to maintain insurance coverage at a
5973 higher level than required in rules made pursuant to Subsection (7).

5974 (10) When a tow truck motor carrier or impound lot is in possession of a vehicle,
5975 vessel, or outboard motor as a result of a tow service that was performed without the consent of
5976 the owner, and that was not ordered by a peace officer or a person acting on behalf of a law
5977 enforcement agency, the tow truck motor carrier or impound yard shall make personnel
5978 available:

5979 (a) by phone 24 hours a day, seven days a week; and

5980 (b) to release the impounded vehicle, vessel, or outboard motor to the owner within
5981 one hour of when the owner calls the tow truck motor carrier or impound yard.

5982 Section 58. **Repealer.**

5983 This bill repeals:

5984 Section **53F-9-304, Underage Drinking Prevention Program Restricted Account.**

5985 Section **59-12-104.4, Seller recordkeeping for purposes of higher education**
5986 **textbook exemption -- Rulemaking authority.**

5987 Section 59. **Appropriations.**

5988 Subsection 59 (a). **Fiscal Year 2020 Appropriation -- Transfers to Unrestricted**
5989 **Funds.**

5990 The following sums of money are appropriated for the fiscal year beginning July 1,
5991 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for
5992 fiscal year 2020.

5993 The Legislature authorizes the State Division of Finance to transfer the following
5994 amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as
5995 indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the
5996 General Fund, Education Fund, or Uniform School Fund must be authorized by an
5997 appropriation.

5998 ITEM 1

5999 To General Fund, One-time

6000 From Education Fund Restricted --

6001 Underage Drinking Prevention Program Restricted Account \$1,750,000

6002 Schedule of Programs:

6003 General Fund, One-time \$1,750,000

6004 The Legislature intends that, after satisfying all prior appropriations from the Underage
6005 Drinking Prevention Program Restricted Account, the State Division of Finance transfer all
6006 remaining balances in the Underage Drinking Prevention Program Restricted Account to the
6007 General Fund at the close of fiscal year 2020 and close the account.

6008 Subsection 59 (b). **Fiscal Year 2021 Appropriations -- Operating and Capital**
6009 **Budgets.**

6010 The following sums of money are appropriated for the fiscal year beginning July 1,

6011	<u>2020, and ending June 30, 2021. These are additions to amounts otherwise appropriated for</u>	
6012	<u>fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures</u>	
6013	<u>Act, the Legislature appropriates the following sums of money from the funds or accounts</u>	
6014	<u>indicated for the use and support of the government of the state of Utah.</u>	
6015	<u>ITEM 2</u>	
6016	<u>To State Board of Education -- Child Nutrition</u>	
6017	<u>From Education Fund</u>	<u>\$55,500,000</u>
6018	<u>From Dedicated Credits -- Liquor Tax</u>	<u>(\$55,500,000)</u>
6019	<u>ITEM 3</u>	
6020	<u>To State Board of Education -- State Administrative Office</u>	
6021	<u>From Education Fund</u>	<u>\$2,850,000</u>
6022	<u>From Education Fund Restricted --</u>	
6023	<u>Underage Drinking Prevention Program Restricted Account</u>	<u>(\$2,850,000)</u>
6024	<u>ITEM 4</u>	
6025	<u>To University of Utah -- Education and General</u>	
6026	<u>From General Fund</u>	<u>\$101,608,900</u>
6027	<u>From Education Fund</u>	<u>(\$101,608,900)</u>
6028	<u>ITEM 5</u>	
6029	<u>To University of Utah -- School of Medicine</u>	
6030	<u>From General Fund</u>	<u>\$35,899,500</u>
6031	<u>From Education Fund</u>	<u>(\$35,899,500)</u>
6032	<u>ITEM 6</u>	
6033	<u>To University of Utah -- University Hospital</u>	
6034	<u>From General Fund</u>	<u>\$1,533,000</u>
6035	<u>From Education Fund</u>	<u>(\$1,533,000)</u>
6036	<u>ITEM 7</u>	
6037	<u>To University of Utah -- School of Dentistry</u>	
6038	<u>From General Fund</u>	<u>\$2,324,700</u>
6039	<u>From Education Fund</u>	<u>(\$2,324,700)</u>
6040	<u>ITEM 8</u>	
6041	<u>To Utah State University -- Education and General</u>	

6042	<u>From General Fund</u>	<u>\$73,521,400</u>
6043	<u>From Education Fund</u>	<u>(\$73,521,400)</u>
6044	<u>ITEM 9</u>	
6045	<u>To Utah State University -- USU-Eastern Education and General</u>	
6046	<u>From General Fund</u>	<u>\$12,503,400</u>
6047	<u>From Education Fund</u>	<u>(\$12,503,400)</u>
6048	<u>ITEM 10</u>	
6049	<u>To Weber State University -- Education and General</u>	
6050	<u>From General Fund</u>	<u>\$94,098,000</u>
6051	<u>From Education Fund</u>	<u>(\$94,098,000)</u>
6052	<u>ITEM 11</u>	
6053	<u>To Southern Utah University -- Education and General</u>	
6054	<u>From General Fund</u>	<u>\$47,444,900</u>
6055	<u>From Education Fund</u>	<u>(\$47,444,900)</u>
6056	<u>ITEM 12</u>	
6057	<u>To Utah Valley University -- Education and General</u>	
6058	<u>From General Fund</u>	<u>\$123,845,700</u>
6059	<u>From Education Fund</u>	<u>(\$123,845,700)</u>
6060	<u>ITEM 13</u>	
6061	<u>To Snow College -- Education and General</u>	
6062	<u>From General Fund</u>	<u>\$25,910,100</u>
6063	<u>From Education Fund</u>	<u>(\$25,910,100)</u>
6064	<u>ITEM 14</u>	
6065	<u>To Dixie State University -- Education and General</u>	
6066	<u>From General Fund</u>	<u>\$14,810,400</u>
6067	<u>From Education Fund</u>	<u>(\$14,810,400)</u>
6068	<u>ITEM 15</u>	
6069	<u>To Utah Department of Transportation -- Joint Highway Committee</u>	
6070	<u>From Transportation Fund</u>	<u>\$5,000,000</u>
6071	<u>Schedule of Programs:</u>	
6072	<u>Non-urban Road Improvements</u>	<u>\$5,000,000</u>

6073 The Legislature intends that the Utah Department of Transportation allocate the
6074 appropriation under this item for improvement of class B roads in counties with populations of
6075 less than 12,000.

6076 Section 60. **Effective date.**

6077 (1) Except as provided in Subsections (2) through (5), if approved by two-thirds of all
6078 the members elected to each house, this bill takes effect on January 1, 2020.

6079 (2) If approved by two-thirds of all the members elected to each house, the actions
6080 affecting the following sections take effect for a taxable year beginning on or after January 1,
6081 2020:

6082 (a) Section [35A-9-214](#);

6083 (b) Section [59-7-104](#);

6084 (c) Section [59-7-201](#);

6085 (d) Section [59-7-610](#);

6086 (e) Section [59-7-614.1](#);

6087 (f) Section [59-7-618](#);

6088 (g) Section [59-7-620](#);

6089 (h) Section [59-10-104](#);

6090 (i) Section [59-10-529.1](#)

6091 (j) Section [59-10-1005](#);

6092 (k) Section [59-10-1007](#);

6093 (l) Section [59-10-1017](#);

6094 (m) Section [59-10-1017.1](#);

6095 (n) Section [59-10-1018](#);

6096 (o) Section [59-10-1019](#);

6097 (p) Section [59-10-1022](#);

6098 (q) Section [59-10-1023](#);

6099 (r) Section [59-10-1028](#);

6100 (s) Section [59-10-1033](#);

6101 (t) Section [59-10-1035](#);

6102 (u) Section [59-10-1041](#);

6103 (v) Section [59-10-1102.1](#);

- 6104 (w) Section [59-10-1105](#);
6105 (x) Section [59-10-1113](#);
6106 (y) Section [59-10-1114](#);
6107 (z) Section [59-10-1403.3](#); and
6108 (aa) Section [59-13-202](#).
6109 (3) The actions affecting the following sections take effect on April 1, 2020:
6110 (a) Section [15A-1-204](#);
6111 (b) Section [26-36b-208](#);
6112 (c) Section [59-1-1503](#);
6113 (d) Section [59-12-102](#);
6114 (e) Section [59-12-103](#);
6115 (f) Section [59-12-104](#);
6116 (g) Section [59-12-104.5](#);
6117 (h) Section [59-12-1201](#);
6118 (i) Section [59-13-323](#);
6119 (j) Section [63M-4-702](#); and
6120 (k) Section [72-2-124](#).
6121 (4) If approved by two-thirds of all the members elected to each house, Subsection
6122 59(a) of this bill takes effect upon approval by the governor, or the day following the
6123 constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's
6124 signature, or in the case of veto, the date of veto override.
6125 (5) Subsection 59(b) of this bill takes effect on July 1, 2020.
6126 Section 61. **Contingent retrospective operation.**
6127 If this bill is approved by less than two-thirds of all the members elected to each house,
6128 the actions affecting the following sections have retrospective operation for a taxable year
6129 beginning on or after January 1, 2020:
6130 (1) Section [35A-9-214](#);
6131 (2) Section [59-7-104](#);
6132 (3) Section [59-7-201](#);
6133 (4) Section [59-7-610](#);
6134 (5) Section [59-7-614.1](#);

- 6135 (6) Section [59-7-618](#);
- 6136 (7) Section [59-7-620](#);
- 6137 (8) Section [59-10-104](#);
- 6138 (9) Section [59-10-529.1](#)
- 6139 (10) Section [59-10-1005](#);
- 6140 (11) Section [59-10-1007](#);
- 6141 (12) Section [59-10-1017](#);
- 6142 (13) Section [59-10-1017.1](#);
- 6143 (14) Section [59-10-1018](#);
- 6144 (15) Section [59-10-1019](#);
- 6145 (16) Section [59-10-1022](#);
- 6146 (17) Section [59-10-1023](#);
- 6147 (18) Section [59-10-1028](#);
- 6148 (19) Section [59-10-1033](#);
- 6149 (20) Section [59-10-1035](#);
- 6150 (21) Section [59-10-1041](#);
- 6151 (22) Section [59-10-1102.1](#);
- 6152 (23) Section [59-10-1105](#);
- 6153 (24) Section [59-10-1113](#);
- 6154 (25) Section [59-10-1114](#);
- 6155 (26) Section [59-10-1403.3](#); and
- 6156 (27) Section [59-13-202](#).