

Senator Kirk A. Cullimore proposes the following substitute bill:

TAX RESTRUCTURING REVISIONS

2019 SECOND SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Francis D. Gibson

LONG TITLE

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 grocery tax credit;
- ▶ enacts a refundable state earned income tax credit for certain individuals who are experiencing intergenerational poverty;



- 26 ▶ provides for apportionment of the state earned income tax credit and the grocery tax
- 27 credit;
- 28 ▶ provides a taxpayer tax credit rebate;
- 29 ▶ creates an additional grocery tax credit;
- 30 ▶ increases the state sales and use tax rate on food and food ingredients;
- 31 ▶ imposes state and local sales and use tax on amounts paid or charged for certain
- 32 services;
- 33 ▶ modifies the sales and use tax dedications for the Transportation Investment Fund
- 34 of 2005;
- 35 ▶ directs a portion of growth in the amount of revenue collected from the sales and
- 36 use tax on the sale of food and food ingredients be deposited into the Transit
- 37 Transportation Investment Fund;
- 38 ▶ repeals certain sales and use tax exemptions;
- 39 ▶ provides a sales and use tax exemption for certain transactions paid for through a
- 40 machine that only accepts cash;
- 41 ▶ enacts a sales and use tax exemption for tangible personal property consumed in the
- 42 performance of certain taxable services;
- 43 ▶ establishes a repeal date for the sales and use tax exemption for construction
- 44 materials used in the construction of a new or expanding life science research and
- 45 development facility;
- 46 ▶ creates a sales and use tax exemption for menstrual products;
- 47 ▶ enacts a sales tax on motor fuel and special fuel other than diesel and an additional
- 48 excise tax on diesel fuel;
- 49 ▶ increases the state motor vehicle rental tax;
- 50 ▶ provides a repeal date for the program that allows certain clean fuel vehicles to
- 51 travel in a high occupancy vehicle lane regardless of the number of occupants;
- 52 ▶ directs the Utah Department of Transportation to implement one or more strategies
- 53 to manage congestion on state highways and to generate highway user fees;
- 54 ▶ modifies the requirements of a certificate of emissions inspection;
- 55 ▶ requires the Division of Motor Vehicles to share certain information from a
- 56 certificate of emissions inspection with the Utah Department of Transportation;

- 57 ▶ requires certain legislative committees to consider annually a report from the Utah
58 Department of Transportation regarding the road usage charge program;
- 59 ▶ requires the Utah Department of Transportation to notify certain legislative
60 committees when revenue from the road usage charge program equals or exceeds
61 specified amounts of revenue generated from the sales tax on motor fuel and special
62 fuel other than diesel;
- 63 ▶ addresses the requirements for using a high occupancy toll lane;
- 64 ▶ modifies the permissible uses for funds in the Tollway Special Revenue Fund;
- 65 ▶ provides funding from the Transportation Investment Fund of 2005 for
66 improvement of class B roads located in certain counties of the fourth, fifth, and
67 sixth class; and
- 68 ▶ makes technical and conforming changes.

69 **Money Appropriated in this Bill:**

70 This bill appropriates in fiscal year 2020:

- 71 ▶ To Department of Workforce Services -- Administration, as a one-time
72 appropriation:
- 73 • From General Fund, \$500,000.
 - 74 ▶ To the General Fund, as a one-time appropriation:
 - 75 • From the Education Fund Restricted -- Underage Drinking Prevention Program
76 Restricted Account, One-time, \$1,750,000.

77 This bill appropriates in fiscal year 2021:

- 78 ▶ To State Board of Education -- Child Nutrition, as an ongoing appropriation:
 - 79 • From Education Fund, \$55,500,000.
 - 80 • From Dedicated Credits -- Liquor Tax, (\$39,275,700).
- 81 ▶ To State Board of Education -- State Administrative Office, as an ongoing
82 appropriation:
- 83 • From Education Fund, \$2,850,000.
 - 84 • From Education Fund Restricted -- Underage Drinking Prevention Program
85 Restricted Account, (\$1,751,000).
 - 86 ▶ To University of Utah -- Education and General, as an ongoing appropriation:
 - 87 • From General Fund, \$101,608,900.

- 88 • From Education Fund, (\$101,608,900).
- 89 ▶ To University of Utah -- School of Medicine, as an ongoing appropriation:
- 90 • From General Fund, \$35,899,500.
- 91 • From Education Fund, (\$35,899,500).
- 92 ▶ To University of Utah -- University Hospital, as an ongoing appropriation:
- 93 • From General Fund, \$1,533,000.
- 94 • From Education Fund, (\$1,533,000).
- 95 ▶ To University of Utah -- School of Dentistry, as an ongoing appropriation:
- 96 • From General Fund, \$2,324,700.
- 97 • From Education Fund, (\$2,324,700).
- 98 ▶ To Utah State University -- Education and General, as an ongoing appropriation:
- 99 • From General Fund, \$73,521,400.
- 100 • From Education Fund, (\$73,521,400).
- 101 ▶ To Utah State University -- USU-Eastern Education and General, as an ongoing
- 102 appropriation:
- 103 • From General Fund, \$12,503,400.
- 104 • From Education Fund, (\$12,503,400).
- 105 ▶ To Weber State University -- Education and General, as an ongoing appropriation:
- 106 • From General Fund, \$94,098,000.
- 107 • From Education Fund, (\$94,098,000).
- 108 ▶ To Southern Utah University -- Education and General, as an ongoing
- 109 appropriation:
- 110 • From General Fund, \$47,444,900.
- 111 • From Education Fund, (\$47,444,900).
- 112 ▶ To Utah Valley University -- Education and General, as an ongoing appropriation:
- 113 • From General Fund, \$22,092,900.
- 114 • From Education Fund, (\$22,092,900).

115 Other Special Clauses:

116 This bill provides a special effective date.

117 This bill provides contingent retrospective operation.

118 Utah Code Sections Affected:

119 AMENDS:

- 120 [15A-1-204](#), as last amended by Laws of Utah 2017, Chapter 18
121 [26-36b-208](#), as last amended by Laws of Utah 2019, Chapters 1 and 393
122 [32B-2-301](#), as last amended by Laws of Utah 2018, Chapter 329
123 [32B-2-304](#), as last amended by Laws of Utah 2019, Chapter 403
124 [32B-2-305](#), as last amended by Laws of Utah 2013, Chapter 400
125 [35A-8-308](#), as last amended by Laws of Utah 2017, Chapters 181 and 421
126 [35A-8-309](#), as last amended by Laws of Utah 2019, Chapter 493
127 [41-6a-409](#), as last amended by Laws of Utah 2017, Chapter 142
128 [41-6a-505](#), as last amended by Laws of Utah 2019, Chapter 136
129 [41-6a-1406](#), as last amended by Laws of Utah 2019, Chapter 373
130 [41-6a-1642](#), as last amended by Laws of Utah 2019, Chapter 140
131 [41-12a-806](#), as last amended by Laws of Utah 2019, Chapter 55
132 [53B-8a-106](#), as last amended by Laws of Utah 2015, Chapter 94
133 [53G-10-406](#), as last amended by Laws of Utah 2019, Chapter 293
134 [59-1-1503](#), as last amended by Laws of Utah 2012, Chapter 399
135 [59-7-104](#), as last amended by Laws of Utah 2019, Chapter 418
136 [59-7-201](#), as last amended by Laws of Utah 2018, Chapter 456
137 [59-7-610](#), as last amended by Laws of Utah 2019, Chapter 247
138 [59-7-614.1](#), as last amended by Laws of Utah 2016, Chapter 375
139 [59-7-618](#), as last amended by Laws of Utah 2017, Chapter 265
140 [59-7-620](#), as last amended by Laws of Utah 2017, Chapter 222
141 [59-10-104](#), as last amended by Laws of Utah 2018, Chapter 456
142 [59-10-529.1](#), as enacted by Laws of Utah 2015, Chapter 369
143 [59-10-1005](#), as last amended by Laws of Utah 2017, Chapter 148
144 [59-10-1007](#), as last amended by Laws of Utah 2019, Chapter 247
145 [59-10-1017](#), as last amended by Laws of Utah 2017, Chapter 389
146 [59-10-1017.1](#), as enacted by Laws of Utah 2017, Chapter 389
147 [59-10-1018](#), as last amended by Laws of Utah 2018, Second Special Session, Chapter 3
148 [59-10-1019](#), as renumbered and amended by Laws of Utah 2008, Chapter 389
149 [59-10-1022](#), as enacted by Laws of Utah 2008, Chapter 389

- 150 **59-10-1023**, as enacted by Laws of Utah 2008, Chapter 389
- 151 **59-10-1028**, as last amended by Laws of Utah 2012, Chapter 399
- 152 **59-10-1033**, as last amended by Laws of Utah 2017, Chapter 265
- 153 **59-10-1035**, as last amended by Laws of Utah 2017, Chapter 222
- 154 **59-10-1036**, as enacted by Laws of Utah 2016, Chapter 55
- 155 **59-10-1105**, as last amended by Laws of Utah 2016, Chapter 375
- 156 **59-10-1403.3**, as enacted by Laws of Utah 2017, Chapter 270
- 157 **59-12-102**, as last amended by Laws of Utah 2019, Chapters 325, 481, and 486
- 158 **59-12-103**, as last amended by Laws of Utah 2019, Chapters 1, 136, and 479
- 159 **59-12-104**, as last amended by Laws of Utah 2019, Chapters 136 and 486
- 160 **59-12-104.5**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 161 **59-12-1201**, as last amended by Laws of Utah 2016, Chapters 184 and 291
- 162 **59-13-202**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 163 **63I-2-253**, as last amended by Laws of Utah 2019, Chapters 41, 129, 136, 223, 324,
- 164 325, and 444
- 165 **63I-2-259**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 166 **63I-2-272**, as last amended by Laws of Utah 2019, Chapters 136 and 246
- 167 **63M-4-702**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 168 **72-1-201**, as last amended by Laws of Utah 2019, Chapter 431
- 169 **72-1-213.1**, as enacted by Laws of Utah 2019, Chapter 479
- 170 **72-2-120**, as last amended by Laws of Utah 2018, Chapter 269
- 171 **72-2-124**, as last amended by Laws of Utah 2019, Chapters 327 and 479
- 172 **72-6-118**, as last amended by Laws of Utah 2018, Chapter 269
- 173 **72-9-603**, as last amended by Laws of Utah 2019, Chapter 373

174 ENACTS:

- 175 **35A-9-214**, Utah Code Annotated 1953
- 176 **59-10-1018.1**, Utah Code Annotated 1953
- 177 **59-10-1041**, Utah Code Annotated 1953
- 177a **Ĥ→ 59-10-1102.1, Utah Code Annotated 1953 ←Ĥ**
- 178 **59-10-1113**, Utah Code Annotated 1953
- 179 **59-10-1113.1**, Utah Code Annotated 1953
- 180 **59-10-1114**, Utah Code Annotated 1953

- 181 [59-13-323](#), Utah Code Annotated 1953
- 182 [59-13-601](#), Utah Code Annotated 1953
- 183 [63I-2-241](#), Utah Code Annotated 1953
- 184 [72-1-213.2](#), Utah Code Annotated 1953



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

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

188 **15A-1-204. Adoption of State Construction Code -- Amendments by commission**
189 **-- Approved codes -- Exemptions.**

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

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

195 (i) new construction is involved; and

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

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

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

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

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

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

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

207 (i) to the entire state; or

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

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

211 (b) Legislation described in Subsection (2)(a) shall state that the legislation takes effect

212 on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the
213 legislation.

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

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

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

219 (3) (a) Except as provided in Subsection (3)(b), for each update of a nationally
220 recognized construction code, the commission shall prepare a report described in Subsection
221 (4).

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

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

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

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

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

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

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

239 (i) study the recommendations; and

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

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

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

250 (b) The commission may recommend legislative action related to the State
251 Construction Code:

252 (i) on its own initiative;

253 (ii) upon the recommendation of the division; or

254 (iii) upon the receipt of a request by one of the following that the commission
255 recommend legislative action related to the State Construction Code:

256 (A) a local regulator;

257 (B) a state regulator;

258 (C) a state agency involved with the construction and design of a building;

259 (D) the Construction Services Commission;

260 (E) the Electrician Licensing Board;

261 (F) the Plumbers Licensing Board; or

262 (G) a recognized construction-related association.

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

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

270 (i) cause an imminent peril to the public health, safety, or welfare; or

271 (ii) place a person in violation of federal or other state law.

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

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

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

279 (i) publish the amendment to the State Construction Code in accordance with Section
280 15A-1-205; and

281 (ii) prepare and submit, in accordance with Section 68-3-14, a written notice to the
282 Business and Labor Interim Committee containing the amendment to the State Construction
283 Code, including a copy of the commission's analysis described in Subsection (6)(b)(ii).

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

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

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

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

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

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

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

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

301 (a) enforce a federal law or regulation;

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

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

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

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

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

313 (11) (a) Except as provided in Subsection (11)(b), a structure used solely in
314 conjunction with agriculture use, and not for human occupancy, or a structure that is no more
315 than 1,500 square feet and used solely for the type of sales described in Subsection
316 [59-12-104](#)~~(20)~~(17), is exempt from the permit requirements of the State Construction Code.

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

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

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

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

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

328 **26-36b-208. Medicaid Expansion Fund.**

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

331 (2) The fund consists of:

332 (a) assessments collected under this chapter;

333 (b) intergovernmental transfers under Section [26-36b-206](#);

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

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

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

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

342 (g) [~~revenues~~] revenue collected from the sales tax described in Subsection
343 59-12-103[(13)](12);

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

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

347 (j) additional amounts as appropriated by the Legislature.

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

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

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

352 (i) the health coverage improvement program;

353 (ii) the enhancement waiver program;

354 (iii) a Medicaid waiver expansion; and

355 (iv) the outpatient upper payment limit supplemental payments under Section
356 26-36b-210.

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

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

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

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

362 **32B-2-301. State property -- Liquor Control Fund -- Money to be retained by**
363 **department -- Department building process.**

364 (1) The following are property of the state:

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

366 and

367 (b) property acquired, administered, possessed, or received by the department.
368 (2) (a) There is created an enterprise fund known as the "Liquor Control Fund."
369 (b) [~~Except as provided in Section 32B-2-304, the~~] The department shall deposit the
370 following into the Liquor Control Fund:
371 (i) money received in the administration of this title; and
372 (ii) money received from the markup described in Section 32B-2-304.
373 (c) The department may draw from the Liquor Control Fund only to the extent
374 appropriated by the Legislature or provided by statute.
375 (d) The net position of the Liquor Control Fund may not fall below zero.
376 (3) (a) Notwithstanding Subsection (2)(c), the department may draw by warrant from
377 the Liquor Control Fund without an appropriation for an expenditure that is directly incurred by
378 the department:
379 (i) to purchase an alcoholic product;
380 (ii) to transport an alcoholic product from the supplier to a warehouse of the
381 department; or
382 (iii) for variances related to an alcoholic product, including breakage or theft.
383 (b) If the balance of the Liquor Control Fund is not adequate to cover a warrant that the
384 department draws against the Liquor Control Fund, to the extent necessary to cover the
385 warrant, the cash resources of the General Fund may be used.
386 (4) (a) As used in this Subsection (4), "base budget" means the same as that term is
387 defined in legislative rule.
388 (b) The department's base budget shall include as an appropriation from the Liquor
389 Control Fund:
390 (i) credit card related fees paid by the department;
391 (ii) package agency compensation; and
392 (iii) the department's costs of shipping and warehousing alcoholic products.
393 (5) (a) The Division of Finance shall transfer annually from the Liquor Control Fund to
394 the General Fund a sum equal to the amount of net profit earned from the sale of liquor since
395 the preceding transfer of money under this Subsection (5).
396 (b) After each fiscal year, the Division of Finance shall calculate the amount for the
397 transfer on or before September 1 and the Division of Finance shall make the transfer on or

398 before September 30.

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

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

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

403 (ii) report the deposit to the state treasurer.

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

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

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

411 (a) capital equipment purchases;

412 (b) salary increases for department employees;

413 (c) performance awards for department employees; or

414 (d) information technology enhancements because of changes or trends in technology.

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

416 **32B-2-304. Liquor price -- School lunch program -- Remittance of markup.**

417 (1) For purposes of this section:

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

419 (A) the cost of the product; and

420 (B) inbound shipping costs incurred by the department.

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

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

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

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

428 (a) spirituous liquor sold by the department within the state shall be marked up in an

429 amount not less than 88% above the landed case cost to the department;

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

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

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

436 (3) (a) Liquor sold by the department to a military installation in Utah shall be marked
437 up in an amount not less than 17% above the landed case cost to the department.

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

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

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

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

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

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

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

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

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

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

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

459 (f) For purposes of determining whether an alcoholic product qualifies for a markup

460 under this Subsection (3), the department shall evaluate whether the manufacturer satisfies the
461 applicable production requirement without considering the manufacturer's production of any
462 other type of alcoholic product.

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

466 [(5)] (4) This section does not prohibit the department from selling discontinued items
467 at a discount.

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

469 **32B-2-305. Alcoholic Beverage Control Act Enforcement Fund.**

470 (1) As used in this section:

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

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

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

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

477 (3) (a) The fund consists of:

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

479 (ii) interest earned on the fund.

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

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

485 (5) (a) The Department of Public Safety shall expend money from the fund to
486 supplement appropriations by the Legislature so that the Department of Public Safety maintains
487 a sufficient number of alcohol-related law enforcement officers such that beginning on July 1,
488 2012, each year the enforcement ratio as of July 1 is equal to or less than the number specified
489 in Section 32B-1-201.

490 (b) Beginning July 1, 2012, four alcohol-related law enforcement officers shall have as

491 a primary focus the enforcement of this title in relationship to restaurants.

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

493 **35A-8-308. Throughput Infrastructure Fund.**

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

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

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

497 (b) any voluntary contributions received;

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

499 (d) all amounts received from the repayment of loans made by the impact board under

500 Section **35A-8-309**.

501 (3) The state treasurer shall:

502 (a) invest the money in the fund by following the procedures and requirements of Title

503 51, Chapter 7, State Money Management Act; and

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

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

506 **35A-8-309. Throughput Infrastructure Fund administered by impact board --**

507 **Uses -- Review by board -- Annual report -- First project.**

508 (1) The impact board shall:

509 (a) make grants and loans from the Throughput Infrastructure Fund created in Section

510 **35A-8-308** for a throughput infrastructure project;

511 (b) use money transferred to the Throughput Infrastructure Fund [~~in accordance with~~

512 ~~Subsection 59-12-103(12)~~] by statute to provide a loan or grant to finance the cost of

513 acquisition or construction of a throughput infrastructure project to one or more local political

514 subdivisions, including a Utah interlocal agency created under Title 11, Chapter 13, Interlocal

515 Cooperation Act;

516 (c) administer the Throughput Infrastructure Fund in a manner that will keep a portion

517 of the fund revolving;

518 (d) determine provisions for repayment of loans;

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

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

521 (2) The cost of acquisition or construction of a throughput infrastructure project

522 includes amounts for working capital, reserves, transaction costs, and other amounts
523 determined by the impact board to be allocable to a throughput infrastructure project.

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

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

529 (5) (a) The impact board shall:

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

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

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

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

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

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

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

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

547 (7) The board shall include in the annual written report described in Section
548 [35A-1-109](#):

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

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

552 (8) (a) The first throughput infrastructure project considered by the impact board shall

553 be a bulk commodities ocean terminal project.

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

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

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

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

563 **35A-9-214. Intergenerational poverty report to State Tax Commission.**

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

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

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

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

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

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

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

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

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

581 (i) the individual's name; and

582 (ii) the individual's social security number.

583 (b) The department and the commission shall ensure that the information contained in

584 each electronic report is secure and confidential.

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

586 **41-6a-409. Prohibition of flat response fee for motor vehicle accident.**

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

589 (2) A government entity:

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

592 (b) may only charge the individual for the actual cost or a reasonable estimate of the
593 cost of services provided in responding to the motor vehicle accident, limited to:

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

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

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

600 (iv) towing costs[-]; and

601 (v) applicable sales and use taxes.

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

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

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

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

614 **41-6a-505. Sentencing requirements for driving under the influence of alcohol,**

615 **drugs, or a combination of both violations.**

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

617 (a) the court shall:

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

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

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

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

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

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

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

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

631 (B) if the administrative impound fee was paid by a party described in Subsection
632 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
633 reimburse the party; or

634 (viii) (A) order the individual to pay the towing and storage fees described in Section
635 72-9-603 and the applicable sales and use tax; or

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

639 (b) the court may:

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

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

643 (iii) order the individual to participate in a 24-7 sobriety program as defined in Section
644 41-6a-515.5 if the individual is 21 years of age or older; or

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

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

649 (a) the court shall:

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

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

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

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

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

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

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

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

663 (B) if the administrative impound fee was paid by a party described in Subsection
664 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
665 reimburse the party; or

666 (viii) (A) order the individual to pay the towing and storage fees described in Section
667 72-9-603; or

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

671 (b) the court may:

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

674 (ii) order the individual to participate in a 24-7 sobriety program as defined in Section
675 41-6a-515.5 if the individual is 21 years of age or older; or

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

- 677 (3) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison
678 sentence and places the defendant on probation, the court shall impose:
- 679 (a) a fine of not less than \$1,500;
680 (b) a jail sentence of not less than 1,500 hours; and
681 (c) supervised probation.
- 682 (4) For Subsection (3) or Subsection 41-6a-503(2)(b), the court:
- 683 (a) shall impose an order requiring the individual to obtain a screening and assessment
684 for alcohol and substance abuse, and treatment as appropriate; and
685 (b) may impose an order requiring the individual to participate in a 24-7 sobriety
686 program as defined in Section 41-6a-515.5 if the individual is 21 years of age or older.
- 687 (5) The requirements of Subsections (1)(a), (2)(a), (3), and (4) may not be suspended.
- 688 (6) If an individual is convicted of a violation of Section 41-6a-502 and there is
689 admissible evidence that the individual had a blood alcohol level of .16 or higher, the court
690 shall order the following, or describe on record why the order or orders are not appropriate:
- 691 (a) treatment as described under Subsection (1)(b), (2)(b), or (4); and
692 (b) one or more of the following:
- 693 (i) the installation of an ignition interlock system as a condition of probation for the
694 individual in accordance with Section 41-6a-518;
- 695 (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring
696 device as a condition of probation for the individual; or
697 (iii) the imposition of home confinement through the use of electronic monitoring in
698 accordance with Section 41-6a-506.
- 699 Section 11. Section 41-6a-1406 is amended to read:
- 700 **41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification**
701 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**
- 702 (1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under
703 Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace
704 officer or by an order of a person acting on behalf of a law enforcement agency or highway
705 authority, the removal or impoundment of the vehicle, vessel, or outboard motor shall be at the
706 expense of the owner.
- 707 (2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or

708 impounded to a state impound yard.

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

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

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

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

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

716 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck
717 operator is employed.

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

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

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

722 (iii) the vehicle identification number or vessel or outboard motor identification
723 number;

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

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

727 (vi) the reason for removal or impoundment;

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

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

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

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

734 (ii) begin charging storage fees.

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

738 (i) the registered owner;

739 (ii) any lien holder; or
740 (iii) a dealer, as defined in Section 41-1a-102, if the vehicle, vessel, or outboard motor
741 is currently operating under a temporary permit issued by the dealer, as described in Section
742 41-3-302.

743 (b) The notice shall:

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

747 (ii) state that the registered owner is responsible for payment of:

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

750 (B) the applicable sales and use tax;

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

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

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

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

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

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

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

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

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

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

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

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

779 (ii) \$147 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall
780 be deposited in the Department of Public Safety Restricted Account created in Section
781 53-3-106;

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

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

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

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

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

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

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

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

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

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

809 (b) The date of impoundment is considered the date of seizure for computing the time
810 period provided under Section 41-1a-1103.

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

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

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

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

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

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

827 (A) be reasonable and fair; and

828 (B) reflect the cost of administering the database.

829 Section 12. Section 41-6a-1642 is amended to read:

830 **41-6a-1642. Emissions inspection -- County program.**

831 (1) The legislative body of each county required under federal law to utilize a motor

832 vehicle emissions inspection and maintenance program or in which an emissions inspection
833 and maintenance program is necessary to attain or maintain any national ambient air quality
834 standard shall require:

835 (a) a certificate of emissions inspection, a waiver, or other evidence the motor vehicle
836 is exempt from emissions inspection and maintenance program requirements be presented:

837 (i) as a condition of registration or renewal of registration; and

838 (ii) at other times as the county legislative body may require to enforce inspection
839 requirements for individual motor vehicles, except that the county legislative body may not
840 routinely require a certificate of emissions inspection, or waiver of the certificate, more often
841 than required under Subsection (9); and

842 (b) compliance with this section for a motor vehicle registered or principally operated
843 in the county and owned by or being used by a department, division, instrumentality, agency, or
844 employee of:

845 (i) the federal government;

846 (ii) the state and any of its agencies; or

847 (iii) a political subdivision of the state, including school districts.

848 (2) A vehicle owner subject to Subsection (1) shall obtain a motor vehicle emissions
849 inspection and maintenance program certificate of emissions inspection as described in
850 Subsection (1), but the program may not deny vehicle registration based solely on the presence
851 of a defeat device covered in the Volkswagen partial consent decrees or a United States
852 Environmental Protection Agency-approved vehicle modification in the following vehicles:

853 (a) a 2.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide
854 emissions are mitigated in the state pursuant to a partial consent decree, including:

855 (i) Volkswagen Jetta, model years 2009, 2010, 2011, 2012, 2013, 2014, and 2015;

856 (ii) Volkswagen Jetta Sportwagen, model years 2009, 2010, 2011, 2012, 2013, and
857 2014;

858 (iii) Volkswagen Golf, model years 2010, 2011, 2012, 2013, 2014, and 2015;

859 (iv) Volkswagen Golf Sportwagen, model year 2015;

860 (v) Volkswagen Passat, model years 2012, 2013, 2014, and 2015;

861 (vi) Volkswagen Beetle, model years 2013, 2014, and 2015;

862 (vii) Volkswagen Beetle Convertible, model years 2013, 2014, and 2015; and

- 863 (viii) Audi A3, model years 2010, 2011, 2012, 2013, and 2015; and
864 (b) a 3.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide
865 emissions are mitigated in the state to a settlement, including:
866 (i) Volkswagen Touareg, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and
867 2016;
868 (ii) Audi Q7, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;
869 (iii) Audi A6 Quattro, model years 2014, 2015, and 2016;
870 (iv) Audi A7 Quattro, model years 2014, 2015, and 2016;
871 (v) Audi A8, model years 2014, 2015, and 2016;
872 (vi) Audi A8L, model years 2014, 2015, and 2016;
873 (vii) Audi Q5, model years 2014, 2015, and 2016; and
874 (viii) Porsche Cayenne Diesel, model years 2013, 2014, 2015, and 2016.
875 (3) (a) The legislative body of a county identified in Subsection (1), in consultation
876 with the Air Quality Board created under Section 19-1-106, shall make regulations or
877 ordinances regarding:
878 (i) emissions standards;
879 (ii) test procedures;
880 (iii) inspections stations;
881 (iv) repair requirements and dollar limits for correction of deficiencies; and
882 (v) subject to Subsection (3)(e), certificates of emissions inspections.
883 (b) In accordance with Subsection (3)(a), a county legislative body:
884 (i) shall make regulations or ordinances to attain or maintain ambient air quality
885 standards in the county, consistent with the state implementation plan and federal
886 requirements;
887 (ii) may allow for a phase-in of the program by geographical area; and
888 (iii) shall comply with the analyzer design and certification requirements contained in
889 the state implementation plan prepared under Title 19, Chapter 2, Air Conservation Act.
890 (c) The county legislative body and the Air Quality Board shall give preference to an
891 inspection and maintenance program that:
892 (i) is decentralized, to the extent the decentralized program will attain and maintain
893 ambient air quality standards and meet federal requirements;

894 (ii) is the most cost effective means to achieve and maintain the maximum benefit with
895 regard to ambient air quality standards and to meet federal air quality requirements as related to
896 vehicle emissions; and

897 (iii) provides a reasonable phase-out period for replacement of air pollution emission
898 testing equipment made obsolete by the program.

899 (d) The provisions of Subsection (3)(c)(iii) apply only to the extent the phase-out:

900 (i) may be accomplished in accordance with applicable federal requirements; and

901 (ii) does not otherwise interfere with the attainment and maintenance of ambient air
902 quality standards.

903 (e) A certificate of emissions inspection shall contain an odometer reading.

904 (4) The following vehicles are exempt from an emissions inspection program and the
905 provisions of this section:

906 (a) an implement of husbandry as defined in Section 41-1a-102;

907 (b) a motor vehicle that:

908 (i) meets the definition of a farm truck under Section 41-1a-102; and

909 (ii) has a gross vehicle weight rating of 12,001 pounds or more;

910 (c) a vintage vehicle as defined in Section 41-21-1;

911 (d) a custom vehicle as defined in Section 41-6a-1507;

912 (e) to the extent allowed under the current federally approved state implementation
913 plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401, et seq., a motor
914 vehicle that is less than two years old on January 1 based on the age of the vehicle as
915 determined by the model year identified by the manufacturer;

916 (f) a pickup truck, as defined in Section 41-1a-102, with a gross vehicle weight rating
917 of 12,000 pounds or less, if the registered owner of the pickup truck provides a signed
918 statement to the legislative body stating the truck is used:

919 (i) by the owner or operator of a farm located on property that qualifies as land in
920 agricultural use under Sections 59-2-502 and 59-2-503; and

921 (ii) exclusively for the following purposes in operating the farm:

922 (A) for the transportation of farm products, including livestock and its products,
923 poultry and its products, floricultural and horticultural products; and

924 (B) in the transportation of farm supplies, including tile, fence, and every other thing or

925 commodity used in agricultural, floricultural, horticultural, livestock, and poultry production
926 and maintenance;

927 (g) a motorcycle as defined in Section 41-1a-102;

928 (h) a motor vehicle powered solely by electric power; and

929 (i) a motor vehicle with a model year of 1967 or older.

930 (5) The county shall issue to the registered owner who signs and submits a signed
931 statement under Subsection (4)(f) a certificate of exemption from emissions inspection
932 requirements for purposes of registering the exempt vehicle.

933 (6) A legislative body of a county described in Subsection (1) may exempt from an
934 emissions inspection program a diesel-powered motor vehicle with a:

935 (a) gross vehicle weight rating of more than 14,000 pounds; or

936 (b) model year of 1997 or older.

937 (7) (a) The legislative body of a county described in Subsection (1) that does not
938 require an emissions inspection for diesel-powered motor vehicles as of December 31, 2017,
939 shall implement a three-year pilot program as described in Subsection (7)(b).

940 (b) Beginning on January 1, 2019, and ending on December 31, 2021, the legislative
941 body of a county described in Subsection (7)(a) shall require:

942 (i) a computerized emissions inspection for a diesel-powered motor vehicle that has:

943 (A) a model year of 2007 or newer;

944 (B) a gross vehicle weight rating of 14,000 pounds or less; and

945 (C) a model year that is five years old or older; and

946 (ii) a visual inspection of emissions equipment for a diesel-powered motor vehicle:

947 (A) with a gross vehicle weight rating of 14,000 pounds or less;

948 (B) that has a model year of 1998 or newer; and

949 (C) that has a model year that is five years old or older.

950 (c) (i) The legislative body of a county that participates in the pilot program described
951 in this Subsection (7) shall prepare a report including:

952 (A) the total number of diesel-powered vehicles inspected as part of the pilot program
953 using computerized technology;

954 (B) the passage and failure rates of the diesel-powered motor vehicles inspected as part
955 of the pilot program using computerized technology, shown by model year;

956 (C) the total number of diesel-powered vehicles visually inspected as part of the pilot
957 program;

958 (D) the passage and failure rates of the diesel-powered motor vehicles visually
959 inspected as part of the pilot program, shown by model year;

960 (E) the total number of diesel-powered vehicles visually inspected as part of the pilot
961 program where tampering with emissions equipment was found, shown by model year; and

962 (F) any other information the executive body or individual considers relevant.

963 (ii) The legislative body of a county that participates in the pilot program described in
964 this Subsection (7) shall present the report described in Subsection (7)(c)(i) to the Natural
965 Resources, Agriculture, and Environment Interim Committee:

966 (A) one time after January 1, 2020, but before August 31, 2020; and

967 (B) one time after January 1, 2021, but before August 31, 2021.

968 (d) After each report described in Subsection (7)(c), the Division of Air Quality created
969 in Section 19-1-105 shall provide to the Natural Resources, Agriculture, and Environment
970 Interim Committee and the legislative body of a county participating in the pilot program an
971 estimate of the tons of pollution emitted due to the failure rate of the diesel-powered motor
972 vehicles in the pilot program.

973 (8) (a) Subject to Subsection (8)(c), the legislative body of each county required under
974 federal law to utilize a motor vehicle emissions inspection and maintenance program or in
975 which an emissions inspection and maintenance program is necessary to attain or maintain any
976 national ambient air quality standard may require each college or university located in a county
977 subject to this section to require its students and employees who park a motor vehicle not
978 registered in a county subject to this section to provide proof of compliance with an emissions
979 inspection accepted by the county legislative body if the motor vehicle is parked on the college
980 or university campus or property.

981 (b) College or university parking areas that are metered or for which payment is
982 required per use are not subject to the requirements of this Subsection (8).

983 (c) The legislative body of a county shall make the reasons for implementing the
984 provisions of this Subsection (8) part of the record at the time that the county legislative body
985 takes its official action to implement the provisions of this Subsection (8).

986 (9) (a) An emissions inspection station shall issue a certificate of emissions inspection

987 for each motor vehicle that meets the inspection and maintenance program requirements
988 established in rules made under Subsection (3).

989 (b) The frequency of the emissions inspection shall be determined based on the age of
990 the vehicle as determined by model year and shall be required annually subject to the
991 provisions of Subsection (9)(c).

992 (c) (i) To the extent allowed under the current federally approved state implementation
993 plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401 et seq., the legislative
994 body of a county identified in Subsection (1) shall only require the emissions inspection every
995 two years for each vehicle.

996 (ii) The provisions of Subsection (9)(c)(i) apply only to a vehicle that is less than six
997 years old on January 1.

998 (iii) For a county required to implement a new vehicle emissions inspection and
999 maintenance program on or after December 1, 2012, under Subsection (1), but for which no
1000 current federally approved state implementation plan exists, a vehicle shall be tested at a
1001 frequency determined by the county legislative body, in consultation with the Air Quality
1002 Board created under Section 19-1-106, that is necessary to comply with federal law or attain or
1003 maintain any national ambient air quality standard.

1004 (iv) If a county legislative body establishes or changes the frequency of a vehicle
1005 emissions inspection and maintenance program under Subsection (9)(c)(iii), the establishment
1006 or change shall take effect on January 1 if the State Tax Commission receives notice meeting
1007 the requirements of Subsection (9)(c)(v) from the county before October 1.

1008 (v) The notice described in Subsection (9)(c)(iv) shall:

1009 (A) state that the county will establish or change the frequency of the vehicle emissions
1010 inspection and maintenance program under this section;

1011 (B) include a copy of the ordinance establishing or changing the frequency; and

1012 (C) if the county establishes or changes the frequency under this section, state how
1013 frequently the emissions testing will be required.

1014 (d) If an emissions inspection is only required every two years for a vehicle under
1015 Subsection(9)(c), the inspection shall be required for the vehicle in:

1016 (i) odd-numbered years for vehicles with odd-numbered model years; or

1017 (ii) in even-numbered years for vehicles with even-numbered model years.

1018 (10) (a) Except as provided in Subsections (9)(b), (c), and (d), the emissions inspection
1019 required under this section may be made no more than two months before the renewal of
1020 registration.

1021 (b) (i) If the title of a used motor vehicle is being transferred, the owner may use an
1022 emissions inspection certificate issued for the motor vehicle during the previous 11 months to
1023 satisfy the requirement under this section.

1024 (ii) If the transferor is a licensed and bonded used motor vehicle dealer, the owner may
1025 use an emissions inspection certificate issued for the motor vehicle in a licensed and bonded
1026 motor vehicle dealer's name during the previous 11 months to satisfy the requirement under
1027 this section.

1028 (c) If the title of a leased vehicle is being transferred to the lessee of the vehicle, the
1029 lessee may use an emissions inspection certificate issued during the previous 11 months to
1030 satisfy the requirement under this section.

1031 (d) If the motor vehicle is part of a fleet of 101 or more vehicles, the owner may not
1032 use an emissions inspection made more than 11 months before the renewal of registration to
1033 satisfy the requirement under this section.

1034 (e) If the application for renewal of registration is for a six-month registration period
1035 under Section [41-1a-215.5](#), the owner may use an emissions inspection certificate issued during
1036 the previous eight months to satisfy the requirement under this section.

1037 (11) (a) A county identified in Subsection (1) shall collect information about and
1038 monitor the program.

1039 (b) A county identified in Subsection (1) shall supply this information to an appropriate
1040 legislative committee, as designated by the Legislative Management Committee, at times
1041 determined by the designated committee to identify program needs, including funding needs.

1042 (12) If approved by the county legislative body, a county that had an established
1043 emissions inspection fee as of January 1, 2002, may increase the established fee that an
1044 emissions inspection station may charge by \$2.50 for each year that is exempted from
1045 emissions inspections under Subsection (9)(c) up to a \$7.50 increase.

1046 (13) (a) A county identified in Subsection (1) may impose a local emissions
1047 compliance fee on each motor vehicle registration within the county in accordance with the
1048 procedures and requirements of Section [41-1a-1223](#).

1049 (b) A county that imposes a local emissions compliance fee may use revenues
1050 generated from the fee for the establishment and enforcement of an emissions inspection and
1051 maintenance program in accordance with the requirements of this section.

1052 (c) A county that imposes a local emissions compliance fee may use revenues
1053 generated from the fee to promote programs to maintain a local, state, or national ambient air
1054 quality standard.

1055 Section 13. Section **41-12a-806** is amended to read:

1056 **41-12a-806. Restricted account -- Creation -- Funding -- Interest -- Purposes.**

1057 (1) There is created within the Transportation Fund a restricted account known as the
1058 "Uninsured Motorist Identification Restricted Account."

1059 (2) The account consists of money generated from the following revenue sources:

1060 (a) money received by the state under Section [41-1a-1218](#), the uninsured motorist
1061 identification fee;

1062 (b) money received by the state under Section [41-1a-1220](#), the registration
1063 reinstatement fee; and

1064 (c) appropriations made to the account by the Legislature.

1065 (3) (a) The account shall earn interest.

1066 (b) All interest earned on account money shall be deposited into the account.

1067 (4) The Legislature shall appropriate money from the account to:

1068 (a) the department to fund the contract with the designated agent;

1069 (b) the department to offset the costs to state and local law enforcement agencies of
1070 using the information for the purposes authorized under this part;

1071 (c) the Tax Commission to offset the costs to the Motor Vehicle Division for revoking
1072 and reinstating vehicle registrations under Subsection [41-1a-110\(2\)\(a\)\(ii\)](#); and

1073 (d) the department to reimburse a person for the costs, including any applicable sales
1074 and use tax, of towing and storing the person's vehicle if:

1075 (i) the person's vehicle was impounded in accordance with Subsection [41-1a-1101\(2\)](#);

1076 (ii) the impounded vehicle had owner's or operator's security in effect for the vehicle at
1077 the time of the impoundment;

1078 (iii) the database indicated that owner's or operator's security was not in effect for the
1079 impounded vehicle; and

1080 (iv) the department determines that the person's vehicle was wrongfully impounded.

1081 (5) The Legislature may appropriate not more than \$1,000,000 annually from the
1082 account to the Peace Officer Standards and Training Division, created under Section 53-6-103,
1083 for use in law enforcement training, including training on the use of the Uninsured Motorist
1084 Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured
1085 Motorist Identification Database Program.

1086 (6) (a) By following the procedures in Title 63G, Chapter 4, Administrative Procedures
1087 Act, the department shall hold a hearing to determine whether a person's vehicle was
1088 wrongfully impounded under Subsection 41-1a-1101(2).

1089 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1090 division shall make rules establishing procedures for a person to apply for a reimbursement
1091 under Subsection (4)(d).

1092 (c) A person is not eligible for a reimbursement under Subsection (4)(d) unless the
1093 person applies for the reimbursement within six months from the date that the motor vehicle
1094 was impounded.

1095 Section 14. Section 53B-8a-106 is amended to read:

1096 **53B-8a-106. Account agreements.**

1097 The plan may enter into account agreements with account owners on behalf of
1098 beneficiaries under the following terms and agreements:

1099 (1) (a) An account agreement may require an account owner to agree to invest a
1100 specific amount of money in the plan for a specific period of time for the benefit of a specific
1101 beneficiary, not to exceed an amount determined by the executive director.

1102 (b) Account agreements may be amended to provide for adjusted levels of payments
1103 based upon changed circumstances or changes in educational plans.

1104 (c) An account owner may make additional optional payments as long as the total
1105 payments for a specific beneficiary do not exceed the total estimated higher education costs as
1106 determined by the executive director.

1107 (d) Subject to Subsections (1)(f) and (g), the maximum amount of a qualified
1108 investment that a corporation that is an account owner may subtract from unadjusted income
1109 for a taxable year in accordance with Title 59, Chapter 7, Corporate Franchise and Income
1110 Taxes, is \$1,710 for each individual beneficiary for the taxable year beginning on or after

1111 January 1, 2010, but beginning on or before December 31, 2010.

1112 (e) Subject to Subsections (1)(f) and (g), the maximum amount of a qualified
1113 investment that may be used as the basis for claiming a tax credit in accordance with Section
1114 [59-10-1017](#), is:

1115 (i) subject to Subsection (1)(e)(iv), for a resident or nonresident estate or trust that is an
1116 account owner, \$1,710 for each individual beneficiary for the taxable year beginning on or after
1117 January 1, 2010, but beginning on or before December 31, 2010;

1118 (ii) subject to Subsection (1)(e)(iv), for a resident or nonresident individual that is an
1119 account owner, other than a husband and wife who are account owners and file a single return
1120 jointly under Title 59, Chapter 10, Individual Income Tax Act, \$1,710 for each individual
1121 beneficiary for the taxable year beginning on or after January 1, 2010, but beginning on or
1122 before December 31, 2010;

1123 (iii) subject to Subsection (1)(e)(iv), for a husband and wife who are account owners
1124 and file a single return jointly under Title 59, Chapter 10, Individual Income Tax Act, \$3,420
1125 for each individual beneficiary:

1126 (A) for the taxable year beginning on or after January 1, 2010, but beginning on or
1127 before December 31, 2010; and

1128 (B) regardless of whether the plan has entered into:

1129 (I) a separate account agreement with each spouse; or

1130 (II) a single account agreement with both spouses jointly; or

1131 (iv) for a grantor trust:

1132 (A) if the owner of the grantor trust has a single filing status or head of household
1133 filing status as defined in Section [~~59-10-1018~~] [59-10-1017](#), the amount described in
1134 Subsection (1)(e)(ii); or

1135 (B) if the owner of the grantor trust has a joint filing status as defined in Section
1136 [~~59-10-1018~~] [59-10-1017](#), the amount described in Subsection (1)(e)(iii).

1137 (f) (i) For taxable years beginning on or after January 1, 2011, the executive director
1138 shall annually increase the maximum amount of a qualified investment described in
1139 Subsections (1)(d) and (1)(e)(i) and (ii), by a percentage equal to the increase in the consumer
1140 price index for the preceding calendar year.

1141 (ii) After making an increase required by Subsection (1)(f)(i), the executive director

1142 shall:

1143 (A) round the maximum amount of the qualified investments described in Subsections
1144 (1)(d) and (1)(e)(i) and (ii) increased under Subsection (1)(f)(i) to the nearest 10 dollar
1145 increment; and

1146 (B) increase the maximum amount of the qualified investment described in Subsection
1147 (1)(e)(iii) so that the maximum amount of the qualified investment described in Subsection
1148 (1)(e)(iii) is equal to the product of:

1149 (I) the maximum amount of the qualified investment described in Subsection (1)(e)(ii)
1150 as rounded under Subsection (1)(f)(ii)(A); and

1151 (II) two.

1152 (iii) For purposes of Subsections (1)(f)(i) and (ii), the executive director shall calculate
1153 the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

1154 (g) For taxable years beginning on or after January 1, 2011, the executive director shall
1155 keep the previous year's maximum amount of a qualified investment described in Subsections
1156 (1)(d) and (1)(e)(i) and (ii) if the consumer price index for the preceding calendar year
1157 decreases.

1158 (2) (a) Beneficiaries designated in account agreements must be designated after birth
1159 and before age 19 for an account owner to:

1160 (i) subtract a qualified investment from income under Title 59, Chapter 7, Corporate
1161 Franchise and Income Taxes; or

1162 (ii) use a qualified investment as the basis for claiming a tax credit in accordance with
1163 Section 59-10-1017.

1164 (b) Account owners may designate a beneficiary age 19 or older, but investments for
1165 that beneficiary are not eligible to be:

1166 (i) subtracted from income under Title 59, Chapter 7, Corporate Franchise and Income
1167 Taxes; or

1168 (ii) used as the basis for claiming a tax credit in accordance with Section 59-10-1017.

1169 (3) Each account agreement shall state clearly that there are no guarantees regarding
1170 money in the plan as to the return of principal and that losses could occur.

1171 (4) Each account agreement shall provide that:

1172 (a) a contributor to, or designated beneficiary under, an account agreement may not

1173 direct the investment of any contributions or earnings on contributions;

1174 (b) any part of the money in any account may not be used as security for a loan; and

1175 (c) an account owner may not borrow from the plan.

1176 (5) The execution of an account agreement by the plan may not guarantee in any way

1177 that higher education costs will be equal to projections and estimates provided by the plan or

1178 that the beneficiary named in any account agreement will:

1179 (a) be admitted to an institution of higher education;

1180 (b) if admitted, be determined a resident for tuition purposes by the institution of

1181 higher education;

1182 (c) be allowed to continue attendance at the institution of higher education following

1183 admission; or

1184 (d) graduate from the institution of higher education.

1185 (6) A beneficiary may be changed as permitted by the rules and regulations of the

1186 board upon written request of the account owner prior to the date of admission of any

1187 beneficiary under an account agreement by an institution of higher education so long as the

1188 substitute beneficiary is eligible for participation.

1189 (7) An account agreement may be freely amended throughout the term of the account

1190 agreement in order to enable an account owner to increase or decrease the level of

1191 participation, change the designation of beneficiaries, and carry out similar matters as

1192 authorized by rule.

1193 (8) Each account agreement shall provide that:

1194 (a) the account agreement may be canceled upon the terms and conditions, and upon
1195 payment of the fees and costs set forth and contained in the board's rules and regulations; and

1196 (b) the executive director may amend the agreement unilaterally and retroactively, if

1197 necessary, to maintain the plan as a qualified tuition program under Section 529, Internal

1198 Revenue Code.

1199 Section 15. Section **53G-10-406** is amended to read:

1200 **53G-10-406. Underage Drinking Prevention Program -- State board rules.**

1201 (1) As used in this section:

1202 (a) "Advisory council" means the Underage Drinking Prevention Program Advisory

1203 Council created in this section.

- 1204 (b) "Program" means the Underage Drinking Prevention Program created in this
1205 section.
- 1206 (c) "School-based prevention program" means an evidence-based program intended for
1207 students aged 13 and older that:
- 1208 (i) is aimed at preventing underage consumption of alcohol;
 - 1209 (ii) is delivered by methods that engage students in storytelling and visualization;
 - 1210 (iii) addresses the behavioral risk factors associated with underage drinking; and
 - 1211 (iv) provides practical tools to address the dangers of underage drinking.
- 1212 (2) There is created the Underage Drinking Prevention Program that consists of:
- 1213 (a) a school-based prevention program for students in grade 7 or 8; and
 - 1214 (b) a school-based prevention program for students in grade 9 or 10 that increases
1215 awareness of the dangers of driving under the influence of alcohol.
- 1216 (3) (a) Beginning with the 2018-19 school year, an LEA shall offer the program each
1217 school year to each student in grade 7 or 8 and grade 9 or 10.
- 1218 (b) An LEA shall select from the providers qualified by the state board under
1219 Subsection (6) to offer the program.
- 1220 (4) The state board shall administer the program with input from the advisory council.
- 1221 (5) There is created the Underage Drinking Prevention Program Advisory Council
1222 comprised of the following members:
- 1223 (a) the executive director of the Department of Alcoholic Beverage Control or the
1224 executive director's designee;
 - 1225 (b) the executive director of the Department of Health or the executive director's
1226 designee;
 - 1227 (c) the director of the Division of Substance Abuse and Mental Health or the director's
1228 designee;
 - 1229 (d) the director of the Division of Child and Family Services or the director's designee;
 - 1230 (e) the director of the Division of Juvenile Justice Services or the director's designee;
 - 1231 (f) the state superintendent or the state superintendent's designee; and
 - 1232 (g) two members of the state board, appointed by the chair of the state board.
- 1233 (6) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state
1234 board shall qualify one or more providers to provide the program to an LEA.

1235 (b) In selecting a provider described in Subsection (6)(a), the state board shall consider:

1236 (i) whether the provider's program complies with the requirements described in this
1237 section;

1238 (ii) the extent to which the provider's underage drinking prevention program aligns
1239 with core standards for Utah public schools; and

1240 (iii) the provider's experience in providing a program that is effective at reducing
1241 underage drinking.

1242 [~~(7) (a) The state board shall use money from the Underage Drinking Prevention
1243 Program Restricted Account described in Section 53F-9-304 for the program.]~~

1244 [~~(b) The state board may use money from the Underage Drinking Prevention Program
1245 Restricted Account to fund up to .5 of a full-time equivalent position to administer the
1246 program.]~~

1247 [~~(8)~~ (7) The state board shall make rules that:

1248 (a) beginning with the 2018-19 school year, require an LEA to offer the Underage
1249 Drinking Prevention Program each school year to each student in grade 7 or 8 and grade 9 or
1250 10; and

1251 (b) establish criteria for the state board to use in selecting a provider described in
1252 Subsection (6).

1253 Section 16. Section **59-1-1503** is amended to read:

1254 **59-1-1503. Nonrefundable credit -- Sales and use tax exemption -- Sales and use
1255 tax remittance.**

1256 (1) A nonrefundable individual income tax credit is allowed as provided in Section
1257 **59-10-1028** related to a capital gain on a transaction involving the exchange of one form of
1258 legal tender for another form of legal tender.

1259 (2) Sales of currency or coin are exempt from sales and use taxes as provided in
1260 Subsection **59-12-104**~~[(50)]~~(43).

1261 (3) The remittance of a sales and use tax on a transaction involving specie legal tender
1262 is as provided in Section **59-12-107**.

1263 Section 17. Section **59-7-104** is amended to read:

1264 **59-7-104. Tax -- Minimum tax.**

1265 (1) Each domestic and foreign corporation, except a corporation that is exempt under

1266 Section 59-7-102, shall pay an annual tax to the state based on the corporation's Utah taxable
1267 income for the taxable year for the privilege of exercising the corporation's corporate franchise,
1268 as defined in Section 59-7-101, or for the privilege of doing business, as defined in Section
1269 59-7-101, in the state.

1270 (2) The tax shall be [~~4.95%~~] 4.66% of a corporation's Utah taxable income.

1271 (3) The minimum tax a corporation shall pay under this chapter is \$100.

1272 Section 18. Section 59-7-201 is amended to read:

1273 **59-7-201. Tax -- Minimum tax.**

1274 (1) There is imposed upon each corporation, except a corporation that is exempt under
1275 Section 59-7-102, a tax upon the corporation's Utah taxable income for the taxable year that is
1276 derived from sources within this state other than income for any period that the corporation is
1277 required to include in the corporation's tax base under Section 59-7-104.

1278 (2) The tax imposed by Subsection (1) shall be [~~4.95%~~] 4.66% of a corporation's Utah
1279 taxable income.

1280 (3) In no case shall the tax be less than \$100.

1281 Section 19. Section 59-7-610 is amended to read:

1282 **59-7-610. Recycling market development zones tax credits.**

1283 (1) Subject to other provisions of this section, a taxpayer that is a business operating in
1284 a recycling market development zone as defined in Section 63N-2-402 may claim the following
1285 nonrefundable tax credits:

1286 (a) a tax credit [~~of 5% of~~] equal to the product of the percentage listed in Subsection
1287 59-7-104(2) and the purchase price paid for machinery and equipment used directly in:

1288 (i) commercial composting; or

1289 (ii) manufacturing facilities or plant units that:

1290 (A) manufacture, process, compound, or produce recycled items of tangible personal
1291 property for sale; or

1292 (B) reduce or reuse postconsumer waste material; and

1293 (b) a tax credit equal to the lesser of:

1294 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test
1295 inventory, and utilities made by the taxpayer for establishing and operating recycling or
1296 composting technology in Utah; and

1297 (ii) \$2,000.

1298 (2) (a) To claim a tax credit described in Subsection (1), the taxpayer shall receive
1299 from the Governor's Office of Economic Development a written certification, on a form
1300 approved by the commission, that includes:

1301 (i) a statement that the taxpayer is operating a business within the boundaries of a
1302 recycling market development zone;

1303 (ii) for claims of the tax credit described in Subsection (1)(a):

1304 (A) the type of the machinery and equipment that the taxpayer purchased;

1305 (B) the date that the taxpayer purchased the machinery and equipment;

1306 (C) the purchase price for the machinery and equipment;

1307 (D) the total purchase price for all machinery and equipment for which the taxpayer is
1308 claiming a tax credit;

1309 (E) a statement that the machinery and equipment are integral to the composting or
1310 recycling process; and

1311 (F) the amount of the taxpayer's tax credit; and

1312 (iii) for claims of the tax credit described in Subsection (1)(b):

1313 (A) the type of net expenditure that the taxpayer made to a third party;

1314 (B) the date that the taxpayer made the payment to a third party;

1315 (C) the amount that the taxpayer paid to each third party;

1316 (D) the total amount that the taxpayer paid to all third parties;

1317 (E) a statement that the net expenditures support the establishment and operation of
1318 recycling or composting technology in Utah; and

1319 (F) the amount of the taxpayer's tax credit.

1320 (b) (i) The Governor's Office of Economic Development shall provide a taxpayer
1321 seeking to claim a tax credit under Subsection (1) with a copy of the written certification.

1322 (ii) The taxpayer shall retain a copy of the written certification for the same period of
1323 time that a person is required to keep books and records under Section [59-1-1406](#).

1324 (c) The Governor's Office of Economic Development shall submit to the commission
1325 an electronic list that includes:

1326 (i) the name and identifying information of each taxpayer to which the office issues a
1327 written certification; and

- 1328 (ii) for each taxpayer, the amount of each tax credit listed on the written certification.
- 1329 (3) A taxpayer may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or
- 1330 both that exceeds 40% of the taxpayer's state income tax liability as the tax liability is
- 1331 calculated:
- 1332 (a) for the taxable year in which the taxpayer made the purchases or payments;
- 1333 (b) before any other tax credits the taxpayer may claim for the taxable year; and
- 1334 (c) before the taxpayer claiming a tax credit authorized by this section.
- 1335 (4) The commission shall make rules governing what information a taxpayer shall file
- 1336 with the commission to verify the entitlement to and amount of a tax credit.
- 1337 (5) Except as provided in Subsections (6) through (8), a taxpayer may carry forward, to
- 1338 the next three taxable years, the amount of the tax credit that exceeds the taxpayer's income tax
- 1339 liability for the taxable year.
- 1340 (6) A taxpayer may not claim or carry forward a tax credit described in Subsection
- 1341 (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under
- 1342 Section [63N-2-213](#).
- 1343 (7) A taxpayer may not claim or carry forward a tax credit described in Subsection
- 1344 (1)(b) in a taxable year during which the taxpayer claims or carries forward a tax credit under
- 1345 Section [63N-2-213](#).
- 1346 (8) A taxpayer may not claim or carry forward a tax credit under this section for a
- 1347 taxable year during which the taxpayer claims the targeted business income tax credit under
- 1348 Section [59-7-624](#).
- 1349 Section 20. Section **59-7-614.1** is amended to read:
- 1350 **59-7-614.1. Refundable tax credit for hand tools used in farming operations --**
- 1351 **Procedures for refund -- Transfers from General Fund to Education Fund -- Rulemaking**
- 1352 **authority.**
- 1353 (1) [~~For a taxable year beginning on or after January 1, 2004, a~~] A taxpayer may claim
- 1354 a refundable tax credit:
- 1355 (a) as provided in this section;
- 1356 (b) against taxes otherwise due under this chapter; and
- 1357 (c) in an amount equal to the amount of tax the taxpayer pays:
- 1358 (i) on a purchase of a hand tool:

- 1359 (A) if the purchase is made on or after July 1, 2004;
- 1360 (B) if the hand tool is used or consumed primarily and directly in a farming operation
1361 in the state; and
- 1362 (C) if the unit purchase price of the hand tool is more than \$250; and
- 1363 (ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection
1364 (1)(c)(i).
- 1365 (2) A taxpayer:
- 1366 (a) shall retain the following to establish the amount of tax the resident or nonresident
1367 individual paid under Chapter 12, Sales and Use Tax Act, on the purchase described in
1368 Subsection (1)(c)(i):
- 1369 (i) a receipt;
- 1370 (ii) an invoice; or
- 1371 (iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and
- 1372 (b) may not carry forward or carry back a tax credit under this section.
- 1373 (3) (a) In accordance with any rules prescribed by the commission under Subsection
1374 (3)(b)~~[(i)]~~ the commission shall make a refund to a taxpayer that claims a tax credit under this
1375 section if the amount of the tax credit exceeds the taxpayer's tax liability under this chapter~~;~~
1376 ~~and~~].
- 1377 ~~[(ii) the Division of Finance shall transfer at least annually from the General Fund into~~
1378 ~~the Education Fund an amount equal to the amount of tax credit claimed under this section.]~~
- 1379 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1380 commission may make rules providing procedures for making~~[(i)]~~ a refund to a taxpayer as
1381 required by Subsection (3)(a)~~[(i); or]~~.
- 1382 ~~[(ii) transfers from the General Fund into the Education Fund as required by~~
1383 ~~Subsection (3)(a)(ii).]~~
- 1384 Section 21. Section **59-7-618** is amended to read:
- 1385 **59-7-618. Tax credit related to alternative fuel heavy duty vehicles.**
- 1386 (1) As used in this section:
- 1387 (a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air
1388 Conservation Act.
- 1389 (b) "Director" means the director of the Division of Air Quality appointed under

1390 Section 19-2-107.

1391 (c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to
1392 vehicle classifications established by the Federal Highway Administration.

1393 (d) "Natural gas" includes compressed natural gas and liquified natural gas.

1394 (e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

1395 (i) has never been titled or registered and has been driven less than 7,500 miles; and

1396 (ii) is fueled by natural gas, has a 100% electric drivetrain, or has a hydrogen-electric
1397 drivetrain.

1398 (f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

1399 (g) "Qualified taxpayer" means a taxpayer that:

1400 (i) purchases a qualified heavy duty vehicle; and

1401 (ii) receives a tax credit certificate from the director.

1402 (h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and
1403 owned by a single taxpayer.

1404 (i) "Tax credit certificate" means a certificate issued by the director certifying that a
1405 taxpayer is entitled to a tax credit as provided in this section and stating the amount of the tax
1406 credit.

1407 (2) A qualified taxpayer may claim a nonrefundable tax credit against tax otherwise
1408 due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required
1409 to Pay Corporate Franchise or Income Tax Act:

1410 (a) in an amount equal to:

1411 (i) \$25,000, if the qualified purchase of a natural gas heavy duty vehicle occurs during
1412 calendar year 2015 or calendar year 2016;

1413 (ii) \$25,000, if the qualified purchase occurs during calendar year 2017;

1414 (iii) \$20,000, if the qualified purchase occurs during calendar year 2018;

1415 (iv) \$18,000, if the qualified purchase occurs during calendar year 2019; and

1416 (v) \$15,000, if the qualified purchase occurs during calendar year 2020; and

1417 (b) if the qualified taxpayer certifies under oath that over 50% of the miles that the
1418 heavy duty vehicle that is the subject of the qualified purchase will travel annually will be
1419 within the state.

1420 (3) (a) Except as provided in Subsection (3)(b), a taxpayer may not submit an

1421 application for, and the director may not issue to the taxpayer, a tax credit certificate under this
1422 section in any taxable year for a qualified purchase if the director has already issued tax credit
1423 certificates to the taxpayer for 10 qualified purchases in the same taxable year.

1424 (b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of
1425 tax credits under Subsection (5) has not been claimed, a taxpayer may submit an application
1426 for, and the director may issue to the taxpayer, one or more tax credit certificates for up to eight
1427 additional qualified purchases, even if the director has already issued to that taxpayer tax credit
1428 certificates for the maximum number of qualified purchases allowed under Subsection (3)(a).

1429 (4) (a) Subject to Subsection (4)(b), the director shall reserve 25% of all tax credits
1430 available under this section for qualified taxpayers with a small fleet.

1431 (b) Subsection (4)(a) does not prevent a taxpayer from submitting an application for, or
1432 the director from issuing, a tax credit certificate if, before October 1, qualified taxpayers with a
1433 small fleet have not reserved under Subsection (5)(b) tax credits for the full amount reserved
1434 under Subsection (4)(a).

1435 (5) (a) The aggregate annual total amount of tax credits represented by tax credit
1436 certificates that the director issues under this section and Section 59-10-1033 may not exceed
1437 \$500,000.

1438 (b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative
1439 Rulemaking Act, make rules to establish a process under which a taxpayer may reserve a
1440 potential tax credit under this section for a limited time to allow the taxpayer to make a
1441 qualified purchase with the assurance that the aggregate limit under Subsection (5)(a) will not
1442 be met before the taxpayer is able to submit an application for a tax credit certificate.

1443 (6) (a) (i) A taxpayer wishing to claim a tax credit under this section shall, using forms
1444 the board requires by rule:

1445 (A) submit to the director an application for a tax credit;

1446 (B) provide the director proof of a qualified purchase; and

1447 (C) submit to the director the certification under oath required under Subsection (2)(b).

1448 (ii) Upon receiving the application, proof, and certification required under Subsection
1449 (6)(a)(i), the director shall provide the taxpayer a written statement from the director
1450 acknowledging receipt of the proof.

1451 (b) If the director determines that a taxpayer qualifies for a tax credit under this section,

1452 the director shall:

1453 (i) determine the amount of tax credit the taxpayer is allowed under this section; and

1454 (ii) provide the taxpayer with a written tax credit certificate:

1455 (A) stating that the taxpayer has qualified for a tax credit; and

1456 (B) showing the amount of tax credit for which the taxpayer has qualified under this
1457 section.

1458 (c) A qualified taxpayer shall retain the tax credit certificate.

1459 (d) The director shall at least annually submit to the commission a list of all qualified
1460 taxpayers to which the director has issued a tax credit certificate and the amount of each tax
1461 credit represented by the tax credit certificates.

1462 (7) The tax credit under this section is allowed only:

1463 (a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain
1464 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year
1465 by the qualified taxpayer;

1466 (b) for the taxable year in which the qualified purchase occurs; and

1467 (c) once per vehicle.

1468 (8) A qualified taxpayer may not assign a tax credit or a tax credit certificate under this
1469 section to another person.

1470 (9) If the qualified taxpayer receives a tax credit certificate under this section that
1471 allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this
1472 chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay
1473 Corporate Franchise or Income Tax Act, for a taxable year, the qualified taxpayer may carry
1474 forward the amount of the tax credit that exceeds the tax liability for a period that does not
1475 exceed the next five taxable years.

1476 ~~[(10)(a) In accordance with any rules prescribed by the commission under Subsection~~
1477 ~~(10)(b), the Division of Finance shall transfer at least annually from the General Fund into the~~
1478 ~~Education Fund the aggregate amount of all tax credits claimed under this section.]~~

1479 ~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
1480 ~~the commission may make rules for making a transfer from the General Fund into the~~
1481 ~~Education Fund as required by Subsection (10)(a).]~~

1482 Section 22. Section **59-7-620** is amended to read:

1483 **59-7-620. Nonrefundable tax credit for contribution to state Achieving a Better**
1484 **Life Experience Program account.**

1485 (1) As used in this section:

1486 (a) "Account" means an account in a qualified ABLE program where the designated
1487 beneficiary of the account is a resident of this state.

1488 (b) "Contributor" means a corporation that:

1489 (i) makes a contribution to an account; and

1490 (ii) receives a statement from the qualified ABLE program itemizing the contribution.

1491 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.
1492 529A.

1493 (d) "Qualified ABLE program" means the same as that term is defined in Section
1494 [35A-12-102](#).

1495 (2) A contributor to an account may claim a nonrefundable tax credit as provided in
1496 this section.

1497 (3) Subject to the other provisions of this section, the tax credit is equal to the product
1498 of:

1499 (a) [~~5%~~] the percentage listed in Subsection [59-7-104\(2\)](#); and

1500 (b) the total amount of contributions:

1501 (i) the contributor makes for the taxable year; and

1502 (ii) for which the contributor receives a statement from the qualified ABLE program
1503 itemizing the contributions.

1504 (4) A contributor may not claim a tax credit under this section:

1505 (a) for an amount of excess contribution to an account that is returned to the
1506 contributor; or

1507 (b) with respect to an amount the contributor deducts on a federal income tax return.

1508 (5) A tax credit under this section may not be carried forward or carried back.

1509 Section 23. Section **59-10-104** is amended to read:

1510 **59-10-104. Tax basis -- Tax rate -- Exemption.**

1511 (1) A tax is imposed on the state taxable income of a resident individual as provided in
1512 this section.

1513 (2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the

1514 product of:

1515 (a) the resident individual's state taxable income for that taxable year; and

1516 (b) ~~[4.95%]~~ 4.66%.

1517 (3) This section does not apply to a resident individual exempt from taxation under
1518 Section 59-10-104.1.

1519 Section 24. Section 59-10-529.1 is amended to read:

1520 **59-10-529.1. Time period for commission to issue a refund.**

1521 (1) Except as provided in Subsection (2), the commission may not issue a refund
1522 before March 1.

1523 (2) The commission may issue a refund before March 1 if, before March 1, the
1524 commission determines that:

1525 (a) (i) an employer has filed the one or more forms in accordance with Subsection
1526 59-10-406(8) the employer is required to file with respect to an individual; and

1527 (ii) for a refund of a tax credit described in Section 59-10-1114, the Department of
1528 Workforce Services has submitted the electronic report required by Section 35A-9-214; and

1529 (b) the individual has filed a return in accordance with this chapter.

1530 Section 25. Section 59-10-1005 is amended to read:

1531 **59-10-1005. Tax credit for at-home parent.**

1532 (1) As used in this section:

1533 (a) "At-home parent" means a parent:

1534 (i) who provides full-time care at the parent's residence for one or more of the parent's
1535 own qualifying children;

1536 (ii) who claims ~~[the qualifying child as a dependent on the parent's individual income~~
1537 ~~tax return for the taxable year for which the parent claims the credit]~~ a tax credit with respect to
1538 the qualifying child under Section 24, Internal Revenue Code, on the parent's federal individual
1539 income tax return for the taxable year; and

1540 (iii) if the sum of the following amounts are \$3,000 or less for the taxable year for
1541 which the parent claims the credit:

1542 (A) the total wages, tips, and other compensation listed on all of the parent's federal
1543 Forms W-2; and

1544 (B) the gross income listed on the parent's federal Form 1040 Schedule C, Profit or

1545 Loss From Business.

1546 (b) "Parent" means an individual who:

1547 (i) is the biological mother or father of a qualifying child;

1548 (ii) is the stepfather or stepmother of a qualifying child;

1549 (iii) (A) legally adopts a qualifying child; or

1550 (B) has a qualifying child placed in the individual's home:

1551 (I) by a child-placing agency, as defined in Section 62A-2-101; and

1552 (II) for the purpose of legally adopting the child;

1553 (iv) is a foster parent of a qualifying child; or

1554 (v) is a legal guardian of a qualifying child.

1555 (c) "Qualifying child" means a child who is no more than 12 months of age on the last
1556 day of the taxable year for which the tax credit is claimed.

1557 (2) [~~For a taxable year beginning on or after January 1, 2000, a~~] A claimant may claim
1558 on the claimant's individual income tax return a nonrefundable tax credit of \$100 for each
1559 qualifying child if:

1560 (a) the claimant or another claimant filing a joint individual income tax return with the
1561 claimant is an at-home parent; and

1562 (b) the adjusted gross income of all of the claimants filing the individual income tax
1563 return is less than or equal to \$50,000.

1564 (3) A claimant may not carry forward or carry back a tax credit authorized by this
1565 section.

1566 [~~(4)(a) In accordance with any rules prescribed by the commission under Subsection~~
1567 ~~(4)(b), the Division of Finance shall transfer at least annually from the General Fund into the~~
1568 ~~Education Fund the aggregate amount of all tax credits claimed under this section.]~~

1569 [~~(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
1570 ~~the commission may make rules for making a transfer from the General Fund into the~~
1571 ~~Education Fund as required by Subsection (4)(a).]~~

1572 Section 26. Section 59-10-1007 is amended to read:

1573 **59-10-1007. Recycling market development zones tax credits.**

1574 (1) Subject to other provisions of this section, a claimant, estate, or trust in a recycling
1575 market development zone as defined in Section 63N-2-402 may claim the following

1576 nonrefundable tax credits:

1577 (a) a tax credit [~~of 5% of~~] equal to the product of the percentage listed in Subsection
1578 59-10-104(2) and the purchase price paid for machinery and equipment used directly in:

1579 (i) commercial composting; or

1580 (ii) manufacturing facilities or plant units that:

1581 (A) manufacture, process, compound, or produce recycled items of tangible personal
1582 property for sale; or

1583 (B) reduce or reuse postconsumer waste material; and

1584 (b) a tax credit equal to the lesser of:

1585 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test
1586 inventory, and utilities made by the claimant, estate, or trust for establishing and operating
1587 recycling or composting technology in Utah; and

1588 (ii) \$2,000.

1589 (2) (a) To claim a tax credit described in Subsection (1), the claimant, estate, or trust
1590 shall receive from the Governor's Office of Economic Development a written certification, on a
1591 form approved by the commission, that includes:

1592 (i) a statement that the claimant, estate, or trust is operating within the boundaries of a
1593 recycling market development zone;

1594 (ii) for claims of the tax credit described in Subsection (1)(a):

1595 (A) the type of the machinery and equipment that the claimant, estate, or trust
1596 purchased;

1597 (B) the date that the claimant, estate, or trust purchased the machinery and equipment;

1598 (C) the purchase price for the machinery and equipment;

1599 (D) the total purchase price for all machinery and equipment for which the claimant,
1600 estate, or trust is claiming a tax credit;

1601 (E) the amount of the claimant's, estate's, or trust's tax credit; and

1602 (F) a statement that the machinery and equipment are integral to the composting or
1603 recycling process; and

1604 (iii) for claims of the tax credit described in Subsection (1)(b):

1605 (A) the type of net expenditure that the claimant, estate, or trust made to a third party;

1606 (B) the date that the claimant, estate, or trust made the payment to a third party;

- 1607 (C) the amount that the claimant, estate, or trust paid to each third party;
- 1608 (D) the total amount that the claimant, estate, or trust paid to all third parties;
- 1609 (E) a statement that the net expenditures support the establishment and operation of
- 1610 recycling or composting technology in Utah; and
- 1611 (F) the amount of the claimant's, estate's, or trust's tax credit.
- 1612 (b) (i) The Governor's Office of Economic Development shall provide a claimant,
- 1613 estate, or trust seeking to claim a tax credit under Subsection (1) with a copy of the written
- 1614 certification.
- 1615 (ii) The claimant, estate, or trust shall retain a copy of the written certification for the
- 1616 same period of time that a person is required to keep books and records under Section
- 1617 [59-1-1406](#).
- 1618 (c) The Governor's Office of Economic Development shall submit to the commission
- 1619 an electronic list that includes:
- 1620 (i) the name and identifying information of each claimant, estate, or trust to which the
- 1621 office issues a written certification; and
- 1622 (ii) for each claimant, estate, or trust, the amount of each tax credit listed on the written
- 1623 certification.
- 1624 (3) A claimant, estate, or trust may not claim a tax credit under Subsection (1)(a),
- 1625 Subsection (1)(b), or both that exceeds 40% of the claimant's, estate's, or trust's state income
- 1626 tax liability as the tax liability is calculated:
- 1627 (a) for the taxable year in which the claimant, estate, or trust made the purchases or
- 1628 payments;
- 1629 (b) before any other tax credits the claimant, estate, or trust may claim for the taxable
- 1630 year; and
- 1631 (c) before the claimant, estate, or trust claiming a tax credit authorized by this section.
- 1632 (4) The commission shall make rules governing what information a claimant, estate, or
- 1633 trust shall file with the commission to verify the entitlement to and amount of a tax credit.
- 1634 (5) Except as provided in Subsections (6) through (8), a claimant, estate, or trust may
- 1635 carry forward, to the next three taxable years, the amount of the tax credit that exceeds the
- 1636 taxpayer's income tax liability for the taxable year.
- 1637 (6) A claimant, estate, or trust may not claim or carry forward a tax credit described in

1638 Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries
1639 forward a tax credit under Section 63N-2-213.

1640 (7) A claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b)
1641 in a taxable year during which the claimant, estate, or trust claims or carries forward a tax
1642 credit under Section 63N-2-213.

1643 (8) A claimant, estate, or trust may not claim or carry forward a tax credit available
1644 under this section for a taxable year during which the claimant, estate, or trust claims the
1645 targeted business income tax credit under Section 59-10-1112.

1646 Section 27. Section 59-10-1017 is amended to read:

1647 **59-10-1017. Utah Educational Savings Plan tax credit.**

1648 (1) As used in this section:

1649 (a) "Account owner" means the same as that term is defined in Section 53B-8a-102.

1650 (b) "Grantor trust" means the same as that term is defined in Section 53B-8a-102.5.

1651 (c) "Higher education costs" means the same as that term is defined in Section
1652 53B-8a-102.5.

1653 (d) "Joint filing status" means:

1654 (i) spouses who file one return jointly under this chapter for a taxable year; or

1655 (ii) a surviving spouse, as defined in Section (2)(a), Internal Revenue Code, who files a
1656 single federal individual income tax return for the taxable year.

1657 ~~(d)~~ (e) "Maximum amount of a qualified investment for the taxable year" means, for
1658 a taxable year, the product of ~~5%~~ the percentage listed in Subsection 59-10-104(2) and:

1659 (i) subject to Subsection (1)~~(d)~~(e)(iii), for a claimant, estate, or trust that is an account
1660 owner, if that claimant, estate, or trust is other than ~~husband and wife~~ spouse account owners
1661 who file ~~a single~~ one return jointly, the maximum amount of a qualified investment:

1662 (A) listed in Subsection 53B-8a-106(1)(e)(ii); and

1663 (B) increased or kept for that taxable year in accordance with Subsections
1664 53B-8a-106(1)(f) and (g);

1665 (ii) subject to Subsection (1)~~(d)~~(e)(iii), for claimants who are ~~husband and wife~~
1666 spouse account owners who file ~~a single~~ one return jointly, the maximum amount of a
1667 qualified investment:

1668 (A) listed in Subsection 53B-8a-106(1)(e)(iii); and

1669 (B) increased or kept for that taxable year in accordance with Subsections
1670 53B-8a-106(1)(f) and (g); or
1671 (iii) for a grantor trust:
1672 (A) if the owner of the grantor trust has a single filing status or head of household
1673 filing status as defined in Section 59-10-1018, the amount described in Subsection
1674 (1)~~(d)~~(e)(i); or
1675 (B) if the owner of the grantor trust has a joint filing status as defined in Section
1676 59-10-1018, the amount described in Subsection (1)~~(d)~~(e)(ii).
1677 ~~(e)~~ (f) "Owner of the grantor trust" means the same as that term is defined in Section
1678 53B-8a-102.5.
1679 ~~(f)~~ (g) "Qualified investment" means the same as that term is defined in Section
1680 53B-8a-102.5.
1681 (2) Except as provided in Section 59-10-1002.2 and subject to the other provisions of
1682 this section, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax
1683 credit equal to the product of:
1684 (a) the amount of a qualified investment made:
1685 (i) during the taxable year; and
1686 (ii) into an account owned by the claimant, estate, or trust; and
1687 (b) ~~5%~~ the percentage listed in Subsection 59-10-104(2).
1688 (3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may
1689 make a qualified investment described in Subsection (2).
1690 (4) A claimant, estate, or trust that is an account owner may not claim a tax credit
1691 under this section with respect to any portion of a qualified investment described in Subsection
1692 (2) that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal
1693 income tax return.
1694 (5) A tax credit under this section may not exceed the maximum amount of a qualified
1695 investment for the taxable year.
1696 (6) A claimant, estate, or trust that is an account owner may not carry forward or carry
1697 back the tax credit under this section.
1698 (7) A claimant, estate, or trust may claim a tax credit under this section in addition to
1699 the tax credit described in Section 59-10-1017.1.

1700 Section 28. Section **59-10-1017.1** is amended to read:

1701 **59-10-1017.1. Student Prosperity Savings Program tax credit.**

1702 (1) As used in this section, "qualified donation" means an amount donated, in
1703 accordance with Section [53B-8a-203](#), to the Student Prosperity Savings Program created in
1704 Section [53B-8a-202](#).

1705 (2) A claimant, estate, or trust may claim a nonrefundable tax credit for a qualified
1706 donation.

1707 (3) The tax credit equals the product of:

1708 (a) the qualified donation; and

1709 (b) ~~[5%]~~ the percentage listed in Subsection [59-10-104\(2\)](#).

1710 (4) A claimant, estate, or trust may not claim a tax credit under this section with
1711 respect to any portion of a qualified donation that a claimant, estate, or trust deducts on a
1712 federal income tax return.

1713 (5) A claimant, estate, or trust may not carry forward or carry back the portion of the
1714 tax credit allowed by this section that exceeds the claimant's, estate's, or trust's tax liability for
1715 the taxable year in which the claimant, estate, or trust claims the tax credit.

1716 (6) A claimant, estate, or trust may claim a tax credit under this section in addition to
1717 the tax credit described in Section [59-10-1017](#).

1718 Section 29. Section **59-10-1018** is amended to read:

1719 **59-10-1018. Definitions -- Nonrefundable taxpayer tax credits.**

1720 (1) As used in this section:

1721 (a) "Head of household filing status" means a head of household, as defined in Section
1722 2(b), Internal Revenue Code, who files ~~[a single]~~ one federal individual income tax return for
1723 the taxable year.

1724 (b) "Joint filing status" means ~~[-(i)]~~ spouses who file ~~[a single]~~ one return jointly under
1725 this chapter for a taxable year~~[-or].~~

1726 ~~[(ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a~~
1727 ~~single federal individual income tax return for the taxable year.]~~

1728 (c) "Qualifying dependent" means an individual with respect to whom the claimant is
1729 allowed to claim a tax credit under Section 24, Internal Revenue Code, on the claimant's
1730 federal individual income tax return for the taxable year.

1731 (d) "Qualifying widower filing status" means a surviving spouse, as defined in Section
1732 (2)(a), Internal Revenue Code, who files a single federal individual income tax return for the
1733 taxable year.

1734 ~~(d)~~ (e) "Single filing status" means:

1735 (i) a single individual who files a single federal individual income tax return for the
1736 taxable year; or

1737 (ii) a married individual who:

1738 (A) does not file a single federal individual income tax return jointly with that married
1739 individual's spouse for the taxable year; and

1740 (B) files a single federal individual income tax return for the taxable year.

1741 ~~(e)~~ (f) "State or local income tax" means the lesser of:

1742 (i) the amount of state or local income tax that the claimant:

1743 (A) pays for the taxable year; and

1744 (B) reports on the claimant's federal individual income tax return for the taxable year,
1745 regardless of whether the claimant is allowed an itemized deduction on the claimant's federal
1746 individual income tax return for the taxable year for the full amount of state or local income tax
1747 paid; and

1748 (ii) \$10,000.

1749 ~~(f)~~ (g) (i) "Utah itemized deduction" means the amount the claimant deducts as
1750 allowed as an itemized deduction on the claimant's federal individual income tax return for that
1751 taxable year minus any amount of state or local income tax for the taxable year.

1752 (ii) "Utah itemized deduction" does not include any amount of qualified business
1753 income that the claimant subtracts as allowed by Section 199A, Internal Revenue Code, on the
1754 claimant's federal income tax return for that taxable year.

1755 ~~(g)~~ (h) "Utah personal exemption" means, subject to Subsection (6), [~~\$565~~] \$2,500
1756 multiplied by [~~the number of the claimant's qualifying dependents.~~];

1757 (i) for a claimant who has a joint filing status and no qualifying dependents, one; or

1758 (ii) for a claimant who has qualifying dependents, the number of the claimant's
1759 qualifying dependents.

1760 (2) Except as provided in Section [59-10-1002.2](#), and subject to Subsections (3) through
1761 (5), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part

1762 equal to the sum of:

1763 (a) (i) for a claimant that deducts the standard deduction on the claimant's federal
1764 individual income tax return for the taxable year, 6% of the amount the claimant deducts as
1765 allowed as the standard deduction on the claimant's federal individual income tax return for
1766 that taxable year; or

1767 (ii) for a claimant that itemizes deductions on the claimant's federal individual income
1768 tax return for the taxable year, 6% of the amount of the claimant's Utah itemized deduction;
1769 and

1770 (b) 6% of the claimant's Utah personal exemption.

1771 (3) A claimant may not carry forward or carry back a tax credit under this section.

1772 (4) The tax credit allowed by Subsection (2) shall be reduced by \$.013 for each dollar
1773 by which a claimant's state taxable income exceeds:

1774 (a) for a claimant who has a single filing status, [~~\$12,000~~] \$14,879;

1775 (b) for a claimant who has a head of household filing status, [~~\$18,000~~] \$22,318; or

1776 (c) for a claimant who has a joint filing status[~~, \$24,000~~] or a qualifying widower filing
1777 status, \$29,758.

1778 (5) (a) For a taxable year beginning on or after January 1, [~~2009~~] 2021, the commission
1779 shall increase or decrease annually the following dollar amounts by a percentage equal to the
1780 percentage difference between the consumer price index for the preceding calendar year and
1781 the consumer price index for calendar year [~~2007~~] 2019:

1782 (i) the dollar amount listed in Subsection (4)(a); and

1783 (ii) the dollar amount listed in Subsection (4)(b).

1784 (b) After the commission increases or decreases the dollar amounts listed in Subsection
1785 (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the
1786 nearest whole dollar.

1787 (c) After the commission rounds the dollar amounts as required by Subsection (5)(b),
1788 the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that
1789 the dollar amount listed in Subsection (4)(c) is equal to the product of:

1790 (i) the dollar amount listed in Subsection (4)(a); and

1791 (ii) two.

1792 (d) For purposes of Subsection (5)(a), the commission shall calculate the consumer

1793 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

1794 (6) (a) For a taxable year beginning on or after January 1, [~~2019~~] 2021, the commission
1795 shall increase annually the Utah personal exemption amount listed in Subsection (1)[~~(g)~~](h) by
1796 a percentage equal to the percentage by which the consumer price index for the preceding
1797 calendar year exceeds the consumer price index for calendar year [~~2017~~] 2019.

1798 (b) After the commission increases the Utah personal exemption amount as described
1799 in Subsection (6)(a), the commission shall round the Utah personal exemption amount to the
1800 nearest whole dollar.

1801 (c) For purposes of Subsection (6)(a), the commission shall calculate the consumer
1802 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

1803 Section 30. Section **59-10-1018.1** is enacted to read:

1804 **59-10-1018.1. Taxpayer tax credit rebate.**

1805 (1) As used in this section:

1806 (a) "Head of household filing status" means the same as that term is defined in Section
1807 59-10-1018.

1808 (b) "Joint filing status" means the same as that term is defined in Section 59-10-1018.

1809 (c) "Qualifying dependent" means the same as that term is defined in Section
1810 59-10-1018.

1811 (d) "Qualifying filer" means a person who files a return under this chapter:

1812 (i) (A) for a taxable year beginning on or after January 1, 2018, and on or before
1813 December 31, 2018; and

1814 (B) on or before the deadline described in Section 59-10-516; or

1815 (ii) (A) for a taxable year beginning on or after January 1, 2019, and on or before
1816 December 31, 2019; and

1817 (B) on or before the deadline described in Section 59-10-514.

1818 (e) "Qualifying widower filing status" means the same as that term is defined in
1819 Section 59-10-1018.

1820 (f) "Single filing status" means the same as that term is defined in Section 59-10-1018.

1821 (g) "Utah personal exemption rebate" means \$1,285 multiplied by the number of the
1822 claimant's qualifying dependents.

1823 (2) Subject to the other provisions of this section, the commission shall provide a

1824 rebate to each qualifying filer equal to the lesser of:

1825 (a) the qualifying filer's tax liability for:

1826 (i) the taxable year beginning on or after January 1, 2018, and on or before December
1827 31, 2018; or

1828 (ii) if the claimant did not file a return under this chapter for the taxable year described
1829 in Subsection (2)(a), the taxable year beginning on or after January 1, 2019, and on or before
1830 December 31, 2019; and

1831 (b) 6% of the claimant's Utah personal exemption rebate.

1832 (3) The rebate described in Subsection (2) is reduced by \$.013 for each dollar by which
1833 the claimant's state taxable income exceeds:

1834 (a) for a claimant who has a single filing status, \$14,879;

1835 (b) for a claimant who has a head of household filing status, \$22,318; or

1836 (c) for a claimant who has a joint filing status or a qualifying widower filing status,
1837 \$29,758.

1838 (4) For each return filed under this chapter, no more than one qualifying filer may
1839 receive a rebate under this section.

1840 (5) The commission shall provide a qualifying filer who is a nonresident individual or
1841 a part-year resident individual an apportioned amount of the rebate described in this section
1842 equal to:

1843 (a) for a nonresident individual, the product of:

1844 (i) the state income tax percentage for the nonresident individual; and

1845 (ii) the amount of the rebate that the commission would have provided the nonresident
1846 individual but for the apportionment requirements described in this subsection; or

1847 (b) for a part-year resident individual, the product of:

1848 (i) the state income tax percentage for the part-year resident individual; and

1849 (ii) the amount of the rebate that the commission would have provided the part-year
1850 resident individual but for the apportionment requirements described in this subsection.

1851 (6) If the value of a qualifying filer's rebate under this section is less than \$25, the
1852 qualifying filer is not eligible to receive the rebate.

1853 (7) The commission shall comply with Subsection (2) on or before:

1854 (a) April 1, 2020; or

1855 (b) if the claimant did not file a return under this chapter for the taxable year beginning
1856 on or after January 1, 2018, and on or before December 31, 2018, July 1, 2020.

1857 Section 31. Section **59-10-1019** is amended to read:

1858 **59-10-1019. Definitions -- Nonrefundable retirement tax credit.**

1859 (1) As used in this section:

1860 (a) "Eligible over age 65 [~~or older~~] retiree" means a claimant, regardless of whether
1861 that claimant is retired, who [~~:(i) is 65 years of age or older; and (ii)]~~ was born on or before
1862 December 31, 1952.

1863 [~~(b) (i) "Eligible retirement income" means income received by an eligible under age~~
1864 ~~65 retiree as a pension or annuity if that pension or annuity is:]~~

1865 [~~(A) paid to the eligible under age 65 retiree or the surviving spouse of an eligible~~
1866 ~~under age 65 retiree; and]~~

1867 [~~(B) (i) paid from an annuity contract purchased by an employer under a plan that~~
1868 ~~meets the requirements of Section 404(a)(2), Internal Revenue Code;]~~

1869 [~~(H) purchased by an employee under a plan that meets the requirements of Section~~
1870 ~~408, Internal Revenue Code; or]~~

1871 [~~(HH) paid by:]~~

1872 [~~(Aa) the United States;]~~

1873 [~~(Bb) a state or a political subdivision of a state; or]~~

1874 [~~(Cc) the District of Columbia.]~~

1875 [~~(ii) "Eligible retirement income" does not include amounts received by the spouse of a~~
1876 ~~living eligible under age 65 retiree because of the eligible under age 65 retiree's having been~~
1877 ~~employed in a community property state.]~~

1878 [~~(c) "Eligible under age 65 retiree" means a claimant, regardless of whether that~~
1879 ~~claimant is retired, who:]~~

1880 [~~(i) is younger than 65 years of age;]~~

1881 [~~(ii) was born on or before December 31, 1952; and]~~

1882 [~~(iii) has eligible retirement income for the taxable year for which a tax credit is~~
1883 ~~claimed under this section.]~~

1884 [~~(d)~~] (b) "Head of household filing status" [is as] means the same as that term is
1885 defined in Section 59-10-1018.

- 1886 ~~[(e) "Joint filing status" is as defined in Section 59-10-1018.]~~
- 1887 (c) "Joint filing status" means:
- 1888 (i) spouses who file one return jointly under this chapter for a taxable year; or
- 1889 (ii) a surviving spouse, as defined in Section (2)(a), Internal Revenue Code, who files a
- 1890 single federal individual income tax return for the taxable year.
- 1891 ~~[(f)] (d) "Married filing separately status" means a married individual who:~~
- 1892 (i) does not file a single federal individual income tax return jointly with that married
- 1893 individual's spouse for the taxable year; and
- 1894 (ii) files a single federal individual income tax return for the taxable year.
- 1895 ~~[(g)] (e) "Modified adjusted gross income" means the sum of an eligible over age 65~~
- 1896 ~~[or older retiree's or eligible under age 65 retiree's] retiree's:~~
- 1897 (i) adjusted gross income for the taxable year for which a tax credit is claimed under
- 1898 this section;
- 1899 (ii) any interest income that is not included in adjusted gross income for the taxable
- 1900 year described in Subsection (1)~~[(g)](e)(i)~~; and
- 1901 (iii) any addition to adjusted gross income required by Section 59-10-114 for the
- 1902 taxable year described in Subsection (1)~~[(g)](e)(i)~~.
- 1903 ~~[(h)] (f) "Single filing status" means a single individual who files a single federal~~
- 1904 ~~individual income tax return for the taxable year.~~
- 1905 (2) Except as provided in Section 59-10-1002.2 ~~[and subject to Subsections (3) through~~
- 1906 ~~(5):-(a)] and Subsections (3) and (4), each eligible over age 65 [or older] retiree may claim a~~
- 1907 ~~nonrefundable tax credit of \$450 against taxes otherwise due under this part[; or].~~
- 1908 ~~[(b) each eligible under age 65 retiree may claim a nonrefundable tax credit against~~
- 1909 ~~taxes otherwise due under this part in an amount equal to the lesser of:]~~
- 1910 ~~[(i) \$288; or]~~
- 1911 ~~[(ii) the product of:]~~
- 1912 ~~[(A) the eligible under age 65 retiree's eligible retirement income for the taxable year~~
- 1913 ~~for which the eligible under age 65 retiree claims a tax credit under this section; and]~~
- 1914 ~~[(B) 6%.]~~
- 1915 ~~[(3) A tax credit under this section may not be carried forward or carried back.]~~
- 1916 (3) An eligible over age 65 retiree may not:

- 1917 (a) carry forward or carry back a tax credit under this section; or
- 1918 (b) claim a tax credit under this section if a tax credit is claimed under Section
- 1919 59-10-1041 on the same return.
- 1920 (4) The ~~[sum of the tax credits]~~ tax credit allowed by Subsection (2) claimed on ~~[one]~~ a
- 1921 return filed under this part shall be reduced by \$.025 for each dollar by which modified
- 1922 adjusted gross income for purposes of the return exceeds:
- 1923 (a) for a federal individual income tax return that is allowed a married filing separately
- 1924 status, \$16,000;
- 1925 (b) for a federal individual income tax return that is allowed a single filing status,
- 1926 \$25,000;
- 1927 (c) for a federal individual income tax return that is allowed a head of household filing
- 1928 status, \$32,000; or
- 1929 (d) for a return under this chapter that is allowed a joint filing status, \$32,000.
- 1930 ~~[(5) For purposes of determining the ownership of items of retirement income under~~
- 1931 ~~this section, common law doctrine shall be applied in all cases even though some items of~~
- 1932 ~~retirement income may have originated from service or investments in a community property~~
- 1933 ~~state.]~~
- 1934 Section 32. Section **59-10-1022** is amended to read:
- 1935 **59-10-1022. Nonrefundable tax credit for capital gain transactions.**
- 1936 (1) As used in this section:
- 1937 (a) (i) "Capital gain transaction" means a transaction that results in a:
- 1938 (A) short-term capital gain; or
- 1939 (B) long-term capital gain.
- 1940 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1941 commission may by rule define the term "transaction."
- 1942 (b) "Commercial domicile" means the principal place from which the trade or business
- 1943 of a Utah small business corporation is directed or managed.
- 1944 (c) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.
- 1945 (d) "Qualifying stock" means stock that is:
- 1946 (i) (A) common; or
- 1947 (B) preferred;

1948 (ii) as defined by the commission by rule made in accordance with Title 63G, Chapter
1949 3, Utah Administrative Rulemaking Act, originally issued to:

1950 (A) a claimant, estate, or trust; or

1951 (B) a partnership if the claimant, estate, or trust that claims a tax credit under this
1952 section:

1953 (I) was a partner on the day on which the stock was issued; and

1954 (II) remains a partner until the last day of the taxable year for which the claimant,
1955 estate, or trust claims a tax credit under this section; and

1956 (iii) issued:

1957 (A) by a Utah small business corporation;

1958 (B) on or after January 1, 2008; and

1959 (C) for:

1960 (I) money; or

1961 (II) other property, except for stock or securities.

1962 (e) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.

1963 (f) (i) "Utah small business corporation" means a corporation that:

1964 (A) except as provided in Subsection (1)(f)(ii), is a small business corporation as
1965 defined in Section 1244(c)(3), Internal Revenue Code;

1966 (B) except as provided in Subsection (1)(f)(iii), meets the requirements of Section
1967 1244(c)(1)(C), Internal Revenue Code; and

1968 (C) has its commercial domicile in this state.

1969 (ii) The dollar amount listed in Section 1244(c)(3)(A) is considered to be \$2,500,000.

1970 (iii) The phrase "the date the loss on such stock was sustained" in Sections
1971 1244(c)(1)(C) and 1244(c)(2), Internal Revenue Code, is considered to be "the last day of the
1972 taxable year for which the claimant, estate, or trust claims a tax credit under this section."

1973 (2) For taxable years beginning on or after January 1, 2008, a claimant, estate, or trust
1974 that meets the requirements of Subsection (3) may claim a nonrefundable tax credit equal to the
1975 product of:

1976 (a) the total amount of the claimant's, estate's, or trust's short-term capital gain or
1977 long-term capital gain on a capital gain transaction that occurs on or after January 1, 2008; and

1978 (b) ~~5%~~ the percentage listed in Subsection [59-10-104\(2\)](#).

- 1979 (3) For purposes of Subsection (2), a claimant, estate, or trust may claim the
1980 nonrefundable tax credit allowed by Subsection (2) if:
- 1981 (a) 70% or more of the gross proceeds of the capital gain transaction are expended:
1982 (i) to purchase qualifying stock in a Utah small business corporation; and
1983 (ii) within a 12-month period after the day on which the capital gain transaction occurs;
1984 and
- 1985 (b) prior to the purchase of the qualifying stock described in Subsection (3)(a)(i), the
1986 claimant, estate, or trust did not have an ownership interest in the Utah small business
1987 corporation that issued the qualifying stock.
- 1988 (4) A claimant, estate, or trust may not carry forward or carry back a tax credit under
1989 this section.
- 1990 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1991 commission may make rules:
- 1992 (a) defining the term "gross proceeds"; and
1993 (b) prescribing the circumstances under which a claimant, estate, or trust has an
1994 ownership interest in a Utah small business corporation.
- 1995 Section 33. Section **59-10-1023** is amended to read:
- 1996 **59-10-1023. Nonrefundable tax credit for amounts paid under a health benefit**
1997 **plan.**
- 1998 (1) As used in this section:
- 1999 (a) "Claimant with dependents" means a claimant:
- 2000 (i) regardless of the claimant's filing status for purposes of filing a federal individual
2001 income tax return for the taxable year; and
2002 (ii) who claims [~~one or more dependents under Section 151~~] a tax credit under Section
2003 24, Internal Revenue Code, [as allowed] on the claimant's federal individual income tax return
2004 for the taxable year.
- 2005 (b) "Eligible insured individual" means:
- 2006 (i) the claimant who is insured under a health benefit plan;
2007 (ii) the spouse of the claimant described in Subsection (1)(b)(i) if:
- 2008 (A) the claimant files [~~a single~~] one return jointly under this chapter with the claimant's
2009 spouse for the taxable year; and

2010 (B) the spouse is insured under the health benefit plan described in Subsection
2011 (1)(b)(i); or
2012 (iii) a dependent of the claimant described in Subsection (1)(b)(i) if:
2013 (A) the claimant claims the dependent under Section 151, Internal Revenue Code, as
2014 allowed on the claimant's federal individual income tax return for the taxable year; and
2015 (B) the dependent is insured under the health benefit plan described in Subsection
2016 (1)(b)(i).
2017 (c) "Excluded expenses" means an amount a claimant pays for insurance offered under
2018 a health benefit plan for a taxable year if:
2019 (i) the claimant claims a tax credit for that amount under Section 35, Internal Revenue
2020 Code:
2021 (A) on the claimant's federal individual income tax return for the taxable year; and
2022 (B) with respect to an eligible insured individual;
2023 (ii) the claimant deducts that amount under Section 162 or 213, Internal Revenue
2024 Code:
2025 (A) on the claimant's federal individual income tax return for the taxable year; and
2026 (B) with respect to an eligible insured individual; or
2027 (iii) the claimant excludes that amount from gross income under Section 106 or 125,
2028 Internal Revenue Code, with respect to an eligible insured individual.
2029 (d) (i) "Health benefit plan" is as defined in Section [31A-1-301](#).
2030 (ii) "Health benefit plan" does not include equivalent self-insurance as defined by the
2031 Insurance Department by rule made in accordance with Title 63G, Chapter 3, Utah
2032 Administrative Rulemaking Act.
2033 (e) "Joint claimant with no dependents" means ~~[a husband and wife]~~ spouses who:
2034 (i) file ~~[a single]~~ one return jointly under this chapter for the taxable year; and
2035 (ii) do not claim a dependent under Section 151, Internal Revenue Code, on the
2036 ~~[husband's and wife's]~~ spouses' federal individual income tax return for the taxable year.
2037 (f) "Single claimant with no dependents" means:
2038 (i) a single individual who:
2039 (A) files a single federal individual income tax return for the taxable year; and
2040 (B) does not claim a dependent under Section 151, Internal Revenue Code, on the

- 2041 single individual's federal individual income tax return for the taxable year;
- 2042 (ii) a head of household:
- 2043 (A) as defined in Section 2(b), Internal Revenue Code, who files a single federal
- 2044 individual income tax return for the taxable year; and
- 2045 (B) who does not claim a dependent under Section 151, Internal Revenue Code, on the
- 2046 head of household's federal individual income tax return for the taxable year; or
- 2047 (iii) a married individual who:
- 2048 (A) does not file a single federal individual income tax return jointly with that married
- 2049 individual's spouse for the taxable year; and
- 2050 (B) does not claim a dependent under Section 151, Internal Revenue Code, on that
- 2051 married individual's federal individual income tax return for the taxable year.
- 2052 (2) Subject to Subsection (3), and except as provided in Subsection (4), [~~for taxable~~
- 2053 ~~years beginning on or after January 1, 2009;~~] a claimant may claim a nonrefundable tax credit
- 2054 equal to the product of:
- 2055 (a) the difference between:
- 2056 (i) the total amount the claimant pays during the taxable year for:
- 2057 (A) insurance offered under a health benefit plan; and
- 2058 (B) an eligible insured individual; and
- 2059 (ii) excluded expenses; and
- 2060 (b) [5%] the percentage listed in Subsection 59-10-104(2).
- 2061 (3) The maximum amount of a tax credit described in Subsection (2) a claimant may
- 2062 claim on a return for a taxable year is:
- 2063 (a) for a single claimant with no dependents, \$300;
- 2064 (b) for a joint claimant with no dependents, \$600; or
- 2065 (c) for a claimant with dependents, \$900.
- 2066 (4) A claimant may not claim a tax credit under this section if the claimant is eligible to
- 2067 participate in insurance offered under a health benefit plan maintained and funded in whole or
- 2068 in part by:
- 2069 (a) the claimant's employer; or
- 2070 (b) another person's employer.
- 2071 (5) A claimant may not carry forward or carry back a tax credit under this section.

2072 Section 34. Section **59-10-1028** is amended to read:

2073 **59-10-1028. Nonrefundable tax credit for capital gain transactions on the**
2074 **exchange of one form of legal tender for another form of legal tender.**

2075 (1) As used in this section:

2076 (a) "Capital gain transaction" means a transaction that results in a:

2077 (i) short-term capital gain; or

2078 (ii) long-term capital gain.

2079 (b) "Long-term capital gain" [~~is as defined~~] means the same as that term is defined in
2080 Section 1222, Internal Revenue Code.

2081 (c) "Long-term capital loss" [~~is as defined~~] means the same as that term is defined in
2082 Section 1222, Internal Revenue Code.

2083 (d) "Net capital gain" means the amount by which the sum of long-term capital gains
2084 and short-term capital gains on a claimant's, estate's, or trust's transactions from exchanges
2085 made for a taxable year of one form of legal tender for another form of legal tender exceeds the
2086 sum of long-term capital losses and short-term capital losses on those transactions for that
2087 taxable year.

2088 (e) "Short-term capital loss" [~~is as defined~~] means the same as that term is defined in
2089 Section 1222, Internal Revenue Code.

2090 (f) "Short-term capital gain" [~~is as defined~~] means the same as that term is defined in
2091 Section 1222, Internal Revenue Code.

2092 (2) Except as provided in Section [59-10-1002.2](#), [~~for taxable years beginning on or~~
2093 ~~after January 1, 2012;~~] a claimant, estate, or trust may claim a nonrefundable tax credit equal to
2094 the product of:

2095 (a) to the extent a net capital gain is included in taxable income, the amount of the
2096 claimant's, estate's, or trust's net capital gain on capital gain transactions from exchanges made
2097 on or after January 1, 2012, for a taxable year, of one form of legal tender for another form of
2098 legal tender; and

2099 (b) [~~5%~~] the percentage listed in Subsection [59-10-104\(2\)](#).

2100 (3) A claimant, estate, or trust may not carry forward or carry back a tax credit under
2101 this section.

2102 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2103 commission may make rules to implement this section.

2104 Section 35. Section **59-10-1033** is amended to read:

2105 **59-10-1033. Tax credit related to alternative fuel heavy duty vehicles.**

2106 (1) As used in this section:

2107 (a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air
2108 Conservation Act.

2109 (b) "Director" means the director of the Division of Air Quality appointed under
2110 Section [19-2-107](#).

2111 (c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to
2112 vehicle classifications established by the Federal Highway Administration.

2113 (d) "Natural gas" includes compressed natural gas and liquified natural gas.

2114 (e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

2115 (i) has never been titled or registered and has been driven less than 7,500 miles; and

2116 (ii) is fueled by natural gas, has a 100% electric drivetrain, or has a hydrogen-electric
2117 drivetrain.

2118 (f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

2119 (g) "Qualified taxpayer" means a claimant, estate, or trust that:

2120 (i) purchases a qualified heavy duty vehicle; and

2121 (ii) receives a tax credit certificate from the director.

2122 (h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and
2123 owned by a single claimant, estate, or trust.

2124 (i) "Tax credit certificate" means a certificate issued by the director certifying that a
2125 claimant, estate, or trust is entitled to a tax credit as provided in this section and stating the
2126 amount of the tax credit.

2127 (2) A qualified taxpayer may claim a nonrefundable tax credit against tax otherwise
2128 due under this chapter:

2129 (a) in an amount equal to:

2130 (i) \$25,000, if the qualified purchase of a natural gas heavy duty vehicle occurs during
2131 calendar year 2015 or calendar year 2016;

2132 (ii) \$25,000, if the qualified purchase occurs during calendar year 2017;

2133 (iii) \$20,000, if the qualified purchase occurs during calendar year 2018;

2134 (iv) \$18,000, if the qualified purchase occurs during calendar year 2019; and
2135 (v) \$15,000, if the qualified purchase occurs during calendar year 2020; and
2136 (b) if the qualified taxpayer certifies under oath that over 50% of the miles that the
2137 heavy duty vehicle that is the subject of the qualified purchase will travel annually will be
2138 within the state.

2139 (3) (a) Except as provided in Subsection (3)(b), a claimant, estate, or trust may not
2140 submit an application for, and the director may not issue to the claimant, estate, or trust, a tax
2141 credit certificate under this section in any taxable year for a qualified purchase if the director
2142 has already issued tax credit certificates to the claimant, estate, or trust for 10 qualified
2143 purchases in the same taxable year.

2144 (b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of
2145 tax credits under Subsection (5) has not been claimed, a claimant, estate, or trust may submit
2146 an application for, and the director may issue to the claimant, estate, or trust, one or more tax
2147 credit certificates for up to eight additional qualified purchases, even if the director has already
2148 issued to that claimant, estate, or trust tax credit certificates for the maximum number of
2149 qualified purchases allowed under Subsection (3)(a).

2150 (4) (a) Subject to Subsection (4)(b), the director shall reserve 25% of all tax credits
2151 available under this section for qualified taxpayers with a small fleet.

2152 (b) Subsection (4)(a) does not prevent a claimant, estate, or trust from submitting an
2153 application for, or the director from issuing, a tax credit certificate if, before October 1,
2154 qualified taxpayers with a small fleet have not reserved under Subsection (5)(b) tax credits for
2155 the full amount reserved under Subsection (4)(a).

2156 (5) (a) The aggregate annual total amount of tax credits represented by tax credit
2157 certificates that the director issues under this section and Section [59-7-618](#) may not exceed
2158 \$500,000.

2159 (b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative
2160 Rulemaking Act, make rules to establish a process under which a claimant, estate, or trust may
2161 reserve a potential tax credit under this section for a limited time to allow the claimant, estate,
2162 or trust to make a qualified purchase with the assurance that the aggregate limit under
2163 Subsection (5)(a) will not be met before the claimant, estate, or trust is able to submit an
2164 application for a tax credit certificate.

2165 (6) (a) (i) A claimant, estate, or trust wishing to claim a tax credit under this section
2166 shall, using forms the board requires by rule:

- 2167 (A) submit to the director an application for a tax credit;
- 2168 (B) provide the director proof of a qualified purchase; and
- 2169 (C) submit to the director the certification under oath required under Subsection (2)(b).

2170 (ii) Upon receiving the application, proof, and certification required under Subsection
2171 (6)(a)(i), the director shall provide the claimant, estate, or trust a written statement from the
2172 director acknowledging receipt of the proof.

2173 (b) If the director determines that a claimant, estate, or trust qualifies for a tax credit
2174 under this section, the director shall:

- 2175 (i) determine the amount of tax credit the claimant, estate, or trust is allowed under this
2176 section; and
- 2177 (ii) provide the claimant, estate, or trust with a written tax credit certificate:
 - 2178 (A) stating that the claimant, estate, or trust has qualified for a tax credit; and
 - 2179 (B) showing the amount of tax credit for which the claimant, estate, or trust has
2180 qualified under this section.
- 2181 (c) A qualified taxpayer shall retain the tax credit certificate.
- 2182 (d) The director shall at least annually submit to the commission a list of all qualified
2183 taxpayers to which the director has issued a tax credit certificate and the amount of each tax
2184 credit represented by the tax credit certificates.

2185 (7) The tax credit under this section is allowed only:

- 2186 (a) against a tax owed under this chapter in the taxable year by the qualified taxpayer;
- 2187 (b) for the taxable year in which the qualified purchase occurs; and
- 2188 (c) once per vehicle.

2189 (8) A qualified taxpayer may not assign a tax credit or a tax credit certificate under this
2190 section to another person.

2191 (9) If the qualified taxpayer receives a tax credit certificate under this section that
2192 allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this
2193 chapter for a taxable year, the qualified taxpayer may carry forward the amount of the tax credit
2194 that exceeds the tax liability for a period that does not exceed the next five taxable years.

2195 ~~[(10) (a) In accordance with any rules prescribed by the commission under Subsection~~

2196 ~~(10)(b), the Division of Finance shall transfer at least annually from the General Fund into the~~
2197 ~~Education Fund the aggregate amount of all tax credits claimed under this section.]~~

2198 ~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
2199 ~~the commission may make rules for making a transfer from the General Fund into the~~
2200 ~~Education Fund as required by Subsection (10)(a).]~~

2201 Section 36. Section **59-10-1035** is amended to read:

2202 **59-10-1035. Nonrefundable tax credit for contribution to state Achieving a Better**
2203 **Life Experience Program account.**

2204 (1) As used in this section:

2205 (a) "Account" means an account in a qualified ABLE program where the designated
2206 beneficiary of the account is a resident of this state.

2207 (b) "Contributor" means a claimant, estate, or trust that:

2208 (i) makes a contribution to an account; and

2209 (ii) receives a statement from the qualified ABLE program itemizing the contribution.

2210 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.
2211 529A.

2212 (d) "Qualified ABLE program" means the same as that term is defined in Section
2213 [35A-12-102](#).

2214 (2) A contributor to an account may claim a nonrefundable tax credit as provided in
2215 this section.

2216 (3) Subject to the other provisions of this section, the tax credit is equal to the product
2217 of:

2218 (a) ~~[5%]~~ the percentage listed in Subsection [59-10-104\(2\)](#); and

2219 (b) the total amount of contributions:

2220 (i) the contributor makes for the taxable year; and

2221 (ii) for which the contributor receives a statement from the qualified ABLE program
2222 itemizing the contributions.

2223 (4) A contributor may not claim a tax credit under this section:

2224 (a) for an amount of excess contribution to an account that is returned to the
2225 contributor; or

2226 (b) with respect to an amount the contributor deducts on a federal income tax return.

- 2227 (5) A tax credit under this section may not be carried forward or carried back.
- 2228 Section 37. Section **59-10-1036** is amended to read:
- 2229 **59-10-1036. Nonrefundable tax credit for military survivor benefits.**
- 2230 (1) As used in this section:
- 2231 (a) "Dependent child" means the same as that term is defined in 10 U.S.C. Sec. 1447.
- 2232 (b) "Reserve components" means the same as that term is described in 10 U.S.C. Sec.
- 2233 10101.
- 2234 (c) "Surviving spouse" means the same as that term is defined in 10 U.S.C. Sec. 1447.
- 2235 (d) "Survivor benefits" means the amount paid by the federal government in
- 2236 accordance with 10 U.S.C. Secs. 1447 through 1455.
- 2237 (2) A surviving spouse or dependent child may claim a nonrefundable tax credit for
- 2238 survivor benefits if the benefits are paid due to:
- 2239 (a) the death of a member of the armed forces or reserve components while on active
- 2240 duty; or
- 2241 (b) the death of a member of the reserve components that results from a
- 2242 service-connected cause while performing inactive duty training.
- 2243 (3) The tax credit described in Subsection (2) is equal to the product of:
- 2244 (a) the amount of survivor benefits that the surviving spouse or dependent child
- 2245 received during the taxable year; and
- 2246 (b) ~~5%~~ the percentage listed in Subsection [59-10-104\(2\)](#).
- 2247 (4) The tax credit described in Subsection (2):
- 2248 (a) may not be carried forward or carried back; and
- 2249 (b) applies to a taxable year beginning on or after January 1, 2017.
- 2250 Section 38. Section **59-10-1041** is enacted to read:
- 2251 **59-10-1041. Nonrefundable tax credit for social security benefits.**
- 2252 (1) As used in this section:
- 2253 (a) "Head of household filing status" means the same as that term is defined in Section
- 2254 [59-10-1018](#).
- 2255 (b) "Joint filing status" means:
- 2256 (i) spouses who file one return jointly under this chapter for a taxable year; or
- 2257 (ii) a surviving spouse, as defined in Section (2)(a), Internal Revenue Code, who files a

2258 single federal individual income tax return for the taxable year.

2259 (c) "Married filing separately status" means a married individual who:

2260 (i) does not file a single federal individual income tax return jointly with that married
2261 individual's spouse for the taxable year; and

2262 (ii) files a single federal individual income tax return for the taxable year.

2263 (d) "Modified adjusted gross income" means the sum of a claimant's:

2264 (i) adjusted gross income for the taxable year for which a tax credit is claimed under
2265 this section;

2266 (ii) any interest income that is not included in adjusted gross income for the taxable
2267 year described in Subsection (1)(d)(i); and

2268 (iii) any addition to adjusted gross income required by Section [59-10-114](#) for the
2269 taxable year described in Subsection (1)(d)(i).

2270 (e) "Single filing status" means a single individual who files a single federal individual
2271 income tax return for the taxable year.

2272 (f) "Social security benefit" means an amount received by a claimant as a monthly
2273 benefit in accordance with the Social Security Act, 42 U.S.C. Sec. 401 et seq.

2274 (2) Except as provided in Section [59-10-1002.2](#) and Subsections (3) and (4), a claimant
2275 may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the
2276 product of:

2277 (a) the percentage listed in Subsection [59-10-104\(2\)](#); and

2278 (b) the claimant's social security benefit that is included in adjusted gross income on
2279 the claimant's federal income tax return for the taxable year.

2280 (3) A claimant may not:

2281 (a) carry forward or carry back a tax credit under this section; or

2282 (b) claim a tax credit under this section if a tax credit is claimed under Section
2283 [59-10-1019](#) on the same return.

2284 (4) The tax credit allowed by Subsection (2) claimed on a return filed under this part
2285 shall be reduced by \$.025 for each dollar by which modified adjusted gross income for
2286 purposes of the return exceeds:

2287 (a) for a return that has a married filing separately status, \$24,000;

2288 (b) for a return that has a single filing status, \$30,000;

2289 (c) for a return that has a head of household filing status, \$48,000; or

2290 (d) for a return that has a joint filing status, \$48,000.

2291 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2292 commission may make rules governing the calculation and method for claiming a tax credit

2293 described in this section.

2294 Section 39. Section **59-10-1102.1** is enacted to read:

2295 **59-10-1102.1. Apportionment of tax credit.**

2296 (1) A part-year resident individual who claims the tax credit described in Section

2297 59-10-1113 may only claim an apportioned amount of the tax credit equal to the product of:

2298 (a) the state income tax percentage for the part-year resident individual; and

2299 (b) the amount of the tax credit that the part-year resident individual would have been

2300 allowed to claim but for the apportionment requirement of this section.

2301 (2) A nonresident individual or a part-year resident individual who claims the tax credit

2302 described in Section 59-10-1114 may only claim an apportioned amount of the tax credit equal

2303 to the product of:

2304 (a) the state income tax percentage for the nonresident individual or the state income

2305 tax percentage for the part-year resident individual; and

2306 (b) the amount of the tax credit that the nonresident individual or the part-year resident

2307 individual would have been allowed to claim but for the apportionment requirement of this

2308 section.

2309 Section 40. Section **59-10-1105** is amended to read:

2310 **59-10-1105. Tax credit for hand tools used in farming operations -- Procedures**
2311 **for refund -- Transfers from General Fund to Education Fund -- Rulemaking authority.**

2312 (1) [~~For a taxable year beginning on or after January 1, 2004, a~~] A claimant, estate, or
2313 trust may claim a refundable tax credit:

2314 (a) as provided in this section;

2315 (b) against taxes otherwise due under this chapter; and

2316 (c) in an amount equal to the amount of tax the claimant, estate, or trust pays:

2317 (i) on a purchase of a hand tool:

2318 (A) if the purchase is made on or after July 1, 2004;

2319 (B) if the hand tool is used or consumed primarily and directly in a farming operation

2320 in the state; and

2321 (C) if the unit purchase price of the hand tool is more than \$250; and

2322 (ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection
2323 (1)(c)(i).

2324 (2) A claimant, estate, or trust:

2325 (a) shall retain the following to establish the amount of tax the claimant, estate, or trust
2326 paid under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection
2327 (1)(c)(i):

2328 (i) a receipt;

2329 (ii) an invoice; or

2330 (iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and

2331 (b) may not carry forward or carry back a tax credit under this section.

2332 (3) (a) In accordance with any rules prescribed by the commission under Subsection

2333 (3)(b)~~[(i)]~~, the commission shall make a refund to a claimant, estate, or trust that claims a tax
2334 credit under this section if the amount of the tax credit exceeds the claimant's, estate's, or trust's
2335 tax liability under this chapter~~;~~ and~~].~~

2336 ~~[(ii) the Division of Finance shall transfer at least annually from the General Fund into~~
2337 ~~the Education Fund an amount equal to the aggregate amount of all tax credits claimed under~~
2338 ~~this section.]~~

2339 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2340 commission may make rules providing procedures for making~~[(i)]~~ a refund to a claimant,
2341 estate, or trust as required by Subsection (3)(a)~~[(i); or]~~.

2342 ~~[(ii) transfers from the General Fund into the Education Fund as required by~~
2343 ~~Subsection (3)(a)(ii).]~~

2344 Section 41. Section **59-10-1113** is enacted to read:

2345 **59-10-1113. Refundable grocery tax credit.**

2346 (1) As used in this section:

2347 (a) "Federal poverty level" means the poverty guidelines established by the Secretary of
2348 the United States Department of Health and Human Services under 42 U.S.C. Sec. 9909(2).

2349 (b) "Modified adjusted gross income" means the sum of a claimant's:

2350 (i) adjusted gross income for the taxable year for which a tax credit is claimed under

2351 this section;

2352 (ii) any interest income that is not included in adjusted gross income for the taxable
2353 year described in Subsection (1)(b)(i); and

2354 (iii) any addition to adjusted gross income required by Section 59-10-114 for the
2355 taxable year described in Subsection (1)(b)(i).

2356 (c) "Phaseout amount" means an amount equal to 0.0035% of the amount calculated
2357 under Subsection (2).

2358 (d) "Qualifying dependent" means the same as that term is defined in Section
2359 59-10-1018.

2360 (e) "Qualifying household member" means:

2361 (i) the qualifying individual;

2362 (ii) the qualifying individual's spouse, if the qualifying individual:

2363 (A) files one return jointly under this chapter with the qualifying individual's spouse
2364 for a taxable year; or

2365 (B) is a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files
2366 a single federal individual income tax return for a taxable year; and

2367 (iii) a qualifying dependent.

2368 (f) "Qualifying individual" means a resident individual who is not a qualifying
2369 dependent.

2370 (2) Subject to Section 59-10-1102.1 and the provisions of this section, a qualifying
2371 individual may claim a refundable grocery tax credit equal to the sum of:

2372 (a) \$125 multiplied by the number of qualifying household members, up to four; and

2373 (b) \$50 multiplied by the number of qualifying household members that exceeds four.

2374 (3) (a) If a qualifying household member was incarcerated for any part of the taxable
2375 year for which the qualifying individual claims the grocery tax credit, the qualifying
2376 individual's credit for the qualifying household member is reduced by an amount proportionate
2377 to the time the qualifying household member was incarcerated during the taxable year.

2378 (b) For purposes of calculating the proportionate amount under Subsection (3)(a), the
2379 qualifying household member who was incarcerated is considered:

2380 (i) one of the qualifying household members described in Subsection (2)(a); or

2381 (ii) if four other qualifying household members were incarcerated for part of the

2382 taxable year and each considered one of the four qualifying household members described in
2383 Subsection (2)(a), one of the qualifying household members described in Subsection (2)(b).

2384 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2385 commission may make rules for calculating the proportionate amount described in this
2386 subsection.

2387 (4) The tax credit described in this section is reduced by the phaseout amount for each
2388 dollar by which the claimant's modified adjusted gross income exceeds the lesser of:

2389 (a) 175% of the federal poverty level for the claimant's household size; or

2390 (b) 175% of the federal poverty level for a household with five individuals.

2391 (5) (a) Except as provided in Subsection (5)(b), to claim the tax credit described in this
2392 section, a qualifying individual shall file a return under this chapter.

2393 (b) A qualifying individual who is not required to file a return under this chapter for the
2394 taxable year in which the qualifying individual claims a credit under this section, may claim the
2395 tax credit described in this section by filing a form prescribed by the commission.

2396 (6) For each return filed under this chapter, no more than one qualifying individual
2397 may receive a credit under this section.

2398 Section 42. Section **59-10-1113.1** is enacted to read:

2399 **59-10-1113.1. Additional grocery tax credit.**

2400 (1) As used in this section:

2401 (a) "2019 credit amount" means the amount of a grocery tax credit an individual could
2402 have claimed for a taxable year beginning on or after January 1, 2019, and on or before
2403 December 31, 2019, if the grocery tax credit had been in effect, without applying the provisions
2404 of Subsection [59-10-1113\(3\)](#).

2405 (b) "2019 qualifying individual" means a qualifying individual as defined in Section
2406 [59-10-1113](#) who files a 2019 return on or before the deadline described in Section [59-10-514](#).

2407 (c) "2019 return" means a return filed under this chapter for a taxable year beginning
2408 on or after January 1, 2019, and on or before December 31, 2019.

2409 (d) "Grocery tax credit" means the refundable grocery tax credit described in Section
2410 [59-10-1113](#).

2411 (2) Subject to the other provisions of this section, the commission shall provide each
2412 2019 qualifying individual an additional grocery tax credit equal to 25% of the 2019 qualifying

2413 individual's 2019 credit amount.

2414 (3) For each return filed under this chapter, no more than one 2019 qualifying
2415 individual may receive a credit under this section.

2416 (4) The commission shall provide a 2019 qualifying individual who is a part-year
2417 resident individual an apportioned amount of the additional grocery tax credit equal to the
2418 product of:

2419 (a) the state income tax percentage for the part-year resident individual; and

2420 (b) the amount of the additional grocery tax credit that the commission would have
2421 provided the part-year resident individual but for the apportionment requirements of this
2422 subsection.

2423 (5) If the value of a 2019 qualifying individual's additional grocery tax credit under this
2424 section is less than \$20, the 2019 qualifying individual is not eligible to receive the credit.

2425 (6) The commission shall comply with Subsection (2) on or before July 1, 2020.

2426 (7) The provisions of Sections [59-10-529](#) and [63A-3-302](#) do not apply to a credit
2427 described in this section.

2428 Section 43. Section **59-10-1114** is enacted to read:

2429 **59-10-1114. Refundable state earned income tax credit.**

2430 (1) As used in this section:

2431 (a) "Department" means the Department of Workforce Services created in Section
2432 [35A-1-103](#).

2433 (b) "Federal earned income tax credit" means the federal earned income tax credit
2434 described in Section 32, Internal Revenue Code.

2435 (c) "Qualifying claimant" means a resident individual or nonresident individual who:

2436 (i) is identified by the department as experiencing intergenerational poverty in
2437 accordance with Section [35A-9-214](#); and

2438 (ii) claimed the federal earned income tax credit for the previous taxable year.

2439 (2) Except as provided in Section [59-10-1102.1](#), a qualifying claimant may claim a
2440 refundable earned income tax credit equal to 10% of the amount of the federal earned income
2441 tax credit that the qualifying claimant was entitled to claim on a federal income tax return in
2442 the previous taxable year.

2443 (3) (a) The commission shall use the electronic report described in Section [35A-9-214](#)

2444 to verify that a qualifying claimant is identified as experiencing intergenerational poverty.

2445 (b) The commission may not use the electronic report described in Section [35A-9-214](#)
2446 for any other purpose.

2447 Section 44. Section **59-10-1403.3** is amended to read:

2448 **59-10-1403.3. Refund of amounts paid or withheld for a pass-through entity.**

2449 (1) As used in this section:

2450 (a) "Committee" means the Revenue and Taxation Interim Committee.

2451 (b) "Qualifying excess withholding" means an amount that:

2452 (i) is paid or withheld:

2453 (A) by a pass-through entity that has a different taxable year than the pass-through
2454 entity that requests a refund under this section; and

2455 (B) on behalf of the pass-through entity that requests the refund, if the pass-through
2456 entity that requests the refund also is a pass-through entity taxpayer; and

2457 (ii) is equal to the difference between:

2458 (A) the amount paid or withheld for the taxable year on behalf of the pass-through
2459 entity that requests the refund; and

2460 (B) the product of [~~5%~~] the percentage listed in Subsection [59-10-104\(2\)](#) and the
2461 income, described in Subsection [59-10-1403.2\(1\)\(a\)\(i\)](#), of the pass-through entity that requests
2462 the refund.

2463 (2) [~~For a taxable year ending on or after July 1, 2017, a~~] A pass-through entity may
2464 claim a refund of qualifying excess withholding, if the amount of the qualifying excess
2465 withholding is equal to or greater than \$250,000.

2466 (3) A pass-through entity that requests a refund of qualifying excess withholding under
2467 this section shall:

2468 (a) apply to the commission for a refund on or, subject to Subsection (4), after the day
2469 on which the pass-through entity files the pass-through entity's income tax return; and

2470 (b) provide any information that the commission may require to determine that the
2471 pass-through entity is eligible to receive the refund.

2472 (4) A pass-through entity shall claim a refund of qualifying excess withholding under
2473 this section within 30 days after the earlier of the day on which:

2474 (a) the pass-through entity files an income tax return; or

2475 (b) the pass-through entity's income tax return is due, including any extension of due
2476 date authorized in statute.

2477 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2478 commission may make rules establishing the information that a pass-through entity shall
2479 provide to the commission to obtain a refund of qualifying excess withholding under this
2480 section.

2481 ~~[(6) (a) On or before November 30, 2018, the committee shall review the \$250,000~~
2482 ~~threshold described in Subsection (2) for the purpose of assessing whether the threshold~~
2483 ~~amount should be maintained, increased, or decreased.]~~

2484 ~~[(b) To assist the committee in conducting the review described in Subsection (6)(a),~~
2485 ~~the commission shall provide the committee with:]~~

2486 ~~[(i) the total number of refund requests made under this section;]~~

2487 ~~[(ii) the total costs of any refunds issued under this section;]~~

2488 ~~[(iii) the costs of any audits conducted on refund requests made under this section; and]~~

2489 ~~[(iv) an estimation of:]~~

2490 ~~[(A) the number of refund requests the commission expects to receive if the Legislature~~
2491 ~~increases the threshold;]~~

2492 ~~[(B) the number of refund requests the commission expects to receive if the Legislature~~
2493 ~~decreases the threshold; and]~~

2494 ~~[(C) the costs of any audits the commission would conduct if the Legislature increases~~
2495 ~~or decreases the threshold.]~~

2496 Section 45. Section **59-12-102** is amended to read:

2497 **59-12-102. Definitions.**

2498 As used in this chapter:

2499 (1) "800 service" means a telecommunications service that:

2500 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

2501 (b) is typically marketed:

2502 (i) under the name 800 toll-free calling;

2503 (ii) under the name 855 toll-free calling;

2504 (iii) under the name 866 toll-free calling;

2505 (iv) under the name 877 toll-free calling;

2506 (v) under the name 888 toll-free calling; or
2507 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
2508 Federal Communications Commission.

2509 (2) (a) "900 service" means an inbound toll telecommunications service that:
2510 (i) a subscriber purchases;
2511 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
2512 the subscriber's:

2513 (A) prerecorded announcement; or
2514 (B) live service; and
2515 (iii) is typically marketed:
2516 (A) under the name 900 service; or
2517 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
2518 Communications Commission.

2519 (b) "900 service" does not include a charge for:
2520 (i) a collection service a seller of a telecommunications service provides to a
2521 subscriber; or
2522 (ii) the following a subscriber sells to the subscriber's customer:
2523 (A) a product; or
2524 (B) a service.

2525 (3) (a) "Admission or user fees" includes season passes.
2526 (b) "Admission or user fees" does not include annual membership dues to private
2527 organizations.

2528 (4) "Affiliate" or "affiliated person" means a person that, with respect to another
2529 person:
2530 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
2531 person; or
2532 (b) is related to the other person because a third person, or a group of third persons who
2533 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,
2534 whether direct or indirect, in the related persons.

2535 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
2536 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax

2537 Agreement after November 12, 2002.

2538 (6) "Agreement combined tax rate" means the sum of the tax rates:

2539 (a) listed under Subsection (7); and

2540 (b) that are imposed within a local taxing jurisdiction.

2541 (7) "Agreement sales and use tax" means a tax imposed under:

2542 (a) Subsection 59-12-103(2)(a)(i)(A);

2543 (b) Subsection 59-12-103(2)(b)(i);

2544 (c) Subsection 59-12-103(2)(c)(i);

2545 (d) Subsection 59-12-103(2)(d)(i)(A)(I);

2546 (e) Section 59-12-204;

2547 (f) Section 59-12-401;

2548 (g) Section 59-12-402;

2549 (h) Section 59-12-402.1;

2550 (i) Section 59-12-703;

2551 (j) Section 59-12-802;

2552 (k) Section 59-12-804;

2553 (l) Section 59-12-1102;

2554 (m) Section 59-12-1302;

2555 (n) Section 59-12-1402;

2556 (o) Section 59-12-1802;

2557 (p) Section 59-12-2003;

2558 (q) Section 59-12-2103;

2559 (r) Section 59-12-2213;

2560 (s) Section 59-12-2214;

2561 (t) Section 59-12-2215;

2562 (u) Section 59-12-2216;

2563 (v) Section 59-12-2217;

2564 (w) Section 59-12-2218;

2565 (x) Section 59-12-2219; or

2566 (y) Section 59-12-2220.

2567 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.

- 2568 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
2569 (a) except for:
2570 (i) an airline as defined in Section 59-2-102; or
2571 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
2572 includes a corporation that is qualified to do business but is not otherwise doing business in the
2573 state, of an airline; and
2574 (b) that has the workers, expertise, and facilities to perform the following, regardless of
2575 whether the business entity performs the following in this state:
2576 (i) check, diagnose, overhaul, and repair:
2577 (A) an onboard system of a fixed wing turbine powered aircraft; and
2578 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
2579 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
2580 engine;
2581 (iii) perform at least the following maintenance on a fixed wing turbine powered
2582 aircraft:
2583 (A) an inspection;
2584 (B) a repair, including a structural repair or modification;
2585 (C) changing landing gear; and
2586 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
2587 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
2588 completely apply new paint to the fixed wing turbine powered aircraft; and
2589 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
2590 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
2591 authority that certifies the fixed wing turbine powered aircraft.
2592 (10) "Alcoholic beverage" means a beverage that:
2593 (a) is suitable for human consumption; and
2594 (b) contains .5% or more alcohol by volume.
2595 (11) "Alternative energy" means:
2596 (a) biomass energy;
2597 (b) geothermal energy;
2598 (c) hydroelectric energy;

- 2599 (d) solar energy;
- 2600 (e) wind energy; or
- 2601 (f) energy that is derived from:
 - 2602 (i) coal-to-liquids;
 - 2603 (ii) nuclear fuel;
 - 2604 (iii) oil-impregnated diatomaceous earth;
 - 2605 (iv) oil sands;
 - 2606 (v) oil shale;
 - 2607 (vi) petroleum coke; or
 - 2608 (vii) waste heat from:
 - 2609 (A) an industrial facility; or
 - 2610 (B) a power station in which an electric generator is driven through a process in which
 - 2611 water is heated, turns into steam, and spins a steam turbine.
- 2612 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production
- 2613 facility" means a facility that:
 - 2614 (i) uses alternative energy to produce electricity; and
 - 2615 (ii) has a production capacity of two megawatts or greater.
- 2616 (b) A facility is an alternative energy electricity production facility regardless of
- 2617 whether the facility is:
 - 2618 (i) connected to an electric grid; or
 - 2619 (ii) located on the premises of an electricity consumer.
- 2620 (13) (a) "Ancillary service" means a service associated with, or incidental to, the
- 2621 provision of telecommunications service.
- 2622 (b) "Ancillary service" includes:
 - 2623 (i) a conference bridging service;
 - 2624 (ii) a detailed communications billing service;
 - 2625 (iii) directory assistance;
 - 2626 (iv) a vertical service; or
 - 2627 (v) a voice mail service.
- 2628 (14) "Area agency on aging" means the same as that term is defined in Section
- 2629 [62A-3-101](#).

2630 ~~[(15) "Assisted amusement device" means an amusement device, skill device, or ride~~
2631 ~~device that is started and stopped by an individual:]~~

2632 ~~[(a) who is not the purchaser or renter of the right to use or operate the amusement~~
2633 ~~device, skill device, or ride device; and]~~

2634 ~~[(b) at the direction of the seller of the right to use the amusement device, skill device,~~
2635 ~~or ride device.]~~

2636 ~~[(16)]~~ (15) "Assisted cleaning or washing of tangible personal property" means
2637 cleaning or washing of tangible personal property if the cleaning or washing labor is primarily
2638 performed by an individual:

2639 (a) who is not the purchaser of the cleaning or washing of the tangible personal
2640 property; and

2641 (b) at the direction of the seller of the cleaning or washing of the tangible personal
2642 property.

2643 ~~[(17)]~~ (16) "Authorized carrier" means:

2644 (a) in the case of vehicles operated over public highways, the holder of credentials
2645 indicating that the vehicle is or will be operated pursuant to both the International Registration
2646 Plan and the International Fuel Tax Agreement;

2647 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
2648 certificate or air carrier's operating certificate; or

2649 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
2650 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
2651 stock in more than one state.

2652 ~~[(18)]~~ (17) (a) Except as provided in Subsection ~~[(18)]~~ (17)(b), "biomass energy"
2653 means any of the following that is used as the primary source of energy to produce fuel or
2654 electricity:

2655 (i) material from a plant or tree; or

2656 (ii) other organic matter that is available on a renewable basis, including:

2657 (A) slash and brush from forests and woodlands;

2658 (B) animal waste;

2659 (C) waste vegetable oil;

2660 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of

- 2661 wastewater residuals, or through the conversion of a waste material through a nonincineration,
2662 thermal conversion process;
- 2663 (E) aquatic plants; and
2664 (F) agricultural products.
- 2665 (b) "Biomass energy" does not include:
2666 (i) black liquor; or
2667 (ii) treated woods.
- 2668 [~~(19)~~] (18) (a) "Bundled transaction" means the sale of two or more items of tangible
2669 personal property, products, or services if the tangible personal property, products, or services
2670 are:
- 2671 (i) distinct and identifiable; and
2672 (ii) sold for one nonitemized price.
- 2673 (b) "Bundled transaction" does not include:
2674 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
2675 the basis of the selection by the purchaser of the items of tangible personal property included in
2676 the transaction;
- 2677 (ii) the sale of real property;
2678 (iii) the sale of services to real property;
2679 (iv) the retail sale of tangible personal property and a service if:
2680 (A) the tangible personal property:
2681 (I) is essential to the use of the service; and
2682 (II) is provided exclusively in connection with the service; and
2683 (B) the service is the true object of the transaction;
2684 (v) the retail sale of two services if:
2685 (A) one service is provided that is essential to the use or receipt of a second service;
2686 (B) the first service is provided exclusively in connection with the second service; and
2687 (C) the second service is the true object of the transaction;
2688 (vi) a transaction that includes tangible personal property or a product subject to
2689 taxation under this chapter and tangible personal property or a product that is not subject to
2690 taxation under this chapter if the:
2691 (A) seller's purchase price of the tangible personal property or product subject to

2692 taxation under this chapter is de minimis; or

2693 (B) seller's sales price of the tangible personal property or product subject to taxation
2694 under this chapter is de minimis; and

2695 (vii) the retail sale of tangible personal property that is not subject to taxation under
2696 this chapter and tangible personal property that is subject to taxation under this chapter if:

2697 (A) that retail sale includes:

2698 (I) food and food ingredients;

2699 (II) a drug;

2700 (III) durable medical equipment;

2701 (IV) mobility enhancing equipment;

2702 (V) an over-the-counter drug;

2703 (VI) a prosthetic device; or

2704 (VII) a medical supply; and

2705 (B) subject to Subsection [~~(19)~~] (18)(f):

2706 (I) the seller's purchase price of the tangible personal property subject to taxation under
2707 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

2708 (II) the seller's sales price of the tangible personal property subject to taxation under
2709 this chapter is 50% or less of the seller's total sales price of that retail sale.

2710 (c) (i) For purposes of Subsection [~~(19)~~] (18)(a)(i), tangible personal property, a
2711 product, or a service that is distinct and identifiable does not include:

2712 (A) packaging that:

2713 (I) accompanies the sale of the tangible personal property, product, or service; and

2714 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
2715 service;

2716 (B) tangible personal property, a product, or a service provided free of charge with the
2717 purchase of another item of tangible personal property, a product, or a service; or

2718 (C) an item of tangible personal property, a product, or a service included in the
2719 definition of "purchase price."

2720 (ii) For purposes of Subsection [~~(19)~~] (18)(c)(i)(B), an item of tangible personal
2721 property, a product, or a service is provided free of charge with the purchase of another item of
2722 tangible personal property, a product, or a service if the sales price of the purchased item of

2723 tangible personal property, product, or service does not vary depending on the inclusion of the
2724 tangible personal property, product, or service provided free of charge.

2725 (d) (i) For purposes of Subsection [~~(19)~~] (18)(a)(ii), property sold for one nonitemized
2726 price does not include a price that is separately identified by tangible personal property,
2727 product, or service on the following, regardless of whether the following is in paper format or
2728 electronic format:

2729 (A) a binding sales document; or

2730 (B) another supporting sales-related document that is available to a purchaser.

2731 (ii) For purposes of Subsection [~~(19)~~] (18)(d)(i), a binding sales document or another
2732 supporting sales-related document that is available to a purchaser includes:

2733 (A) a bill of sale;

2734 (B) a contract;

2735 (C) an invoice;

2736 (D) a lease agreement;

2737 (E) a periodic notice of rates and services;

2738 (F) a price list;

2739 (G) a rate card;

2740 (H) a receipt; or

2741 (I) a service agreement.

2742 (e) (i) For purposes of Subsection [~~(19)~~] (18)(b)(vi), the sales price of tangible personal
2743 property or a product subject to taxation under this chapter is de minimis if:

2744 (A) the seller's purchase price of the tangible personal property or product is 10% or
2745 less of the seller's total purchase price of the bundled transaction; or

2746 (B) the seller's sales price of the tangible personal property or product is 10% or less of
2747 the seller's total sales price of the bundled transaction.

2748 (ii) For purposes of Subsection [~~(19)~~] (18)(b)(vi), a seller:

2749 (A) shall use the seller's purchase price or the seller's sales price to determine if the
2750 purchase price or sales price of the tangible personal property or product subject to taxation
2751 under this chapter is de minimis; and

2752 (B) may not use a combination of the seller's purchase price and the seller's sales price
2753 to determine if the purchase price or sales price of the tangible personal property or product

2754 subject to taxation under this chapter is de minimis.

2755 (iii) For purposes of Subsection [~~(19)~~] (18)(b)(vi), a seller shall use the full term of a
2756 service contract to determine if the sales price of tangible personal property or a product is de
2757 minimis.

2758 (f) For purposes of Subsection [~~(19)~~] (18)(b)(vii)(B), a seller may not use a
2759 combination of the seller's purchase price and the seller's sales price to determine if tangible
2760 personal property subject to taxation under this chapter is 50% or less of the seller's total
2761 purchase price or sales price of that retail sale.

2762 [~~(20)~~] (19) "Certified automated system" means software certified by the governing
2763 board of the agreement that:

2764 (a) calculates the agreement sales and use tax imposed within a local taxing
2765 jurisdiction:

2766 (i) on a transaction; and

2767 (ii) in the states that are members of the agreement;

2768 (b) determines the amount of agreement sales and use tax to remit to a state that is a
2769 member of the agreement; and

2770 (c) maintains a record of the transaction described in Subsection [~~(20)~~] (19)(a)(i).

2771 [~~(21)~~] (20) "Certified service provider" means an agent certified:

2772 (a) by the governing board of the agreement; and

2773 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax,
2774 as outlined in the contract between the governing board of the agreement and the certified
2775 service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the
2776 seller's own purchases.

2777 [~~(22)~~] (21) (a) Subject to Subsection [~~(22)~~] (21)(b), "clothing" means all human
2778 wearing apparel suitable for general use.

2779 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2780 commission shall make rules:

2781 (i) listing the items that constitute "clothing"; and

2782 (ii) that are consistent with the list of items that constitute "clothing" under the
2783 agreement.

2784 [~~(23)~~] (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic

2785 fuel.

2786 ~~[(24)]~~ (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or
2787 other fuels that does not constitute industrial use under Subsection (57) or residential use under
2788 Subsection ~~[(111)]~~ (115).

2789 ~~[(25)]~~ (24) (a) "Common carrier" means a person engaged in or transacting the
2790 business of transporting passengers, freight, merchandise, or other property for hire within this
2791 state.

2792 (b) (i) "Common carrier" does not include a person that, at the time the person is
2793 traveling to or from that person's place of employment, transports a passenger to or from the
2794 passenger's place of employment.

2795 (ii) For purposes of Subsection ~~[(25)]~~ (24)(b)(i), in accordance with Title 63G, Chapter
2796 3, Utah Administrative Rulemaking Act, the commission may make rules defining what
2797 constitutes a person's place of employment.

2798 (c) "Common carrier" does not include a person that provides transportation network
2799 services, as defined in Section [13-51-102](#).

2800 ~~[(26)]~~ (25) "Component part" includes:

2801 (a) poultry, dairy, and other livestock feed, and their components;

2802 (b) baling ties and twine used in the baling of hay and straw;

2803 (c) fuel used for providing temperature control of orchards and commercial
2804 greenhouses doing a majority of their business in wholesale sales, and for providing power for
2805 off-highway type farm machinery; and

2806 (d) feed, seeds, and seedlings.

2807 ~~[(27)]~~ (26) "Computer" means an electronic device that accepts information:

2808 (a) (i) in digital form; or

2809 (ii) in a form similar to digital form; and

2810 (b) manipulates that information for a result based on a sequence of instructions.

2811 ~~[(28)]~~ (27) "Computer software" means a set of coded instructions designed to cause:

2812 (a) a computer to perform a task; or

2813 (b) automatic data processing equipment to perform a task.

2814 ~~[(29)]~~ (28) "Computer software maintenance contract" means a contract that obligates a
2815 seller of computer software to provide a customer with:

- 2816 (a) future updates or upgrades to computer software;
- 2817 (b) support services with respect to computer software; or
- 2818 (c) a combination of Subsections [~~(29)~~] (28)(a) and (b).
- 2819 [~~(30)~~] (29) (a) "Conference bridging service" means an ancillary service that links two
- 2820 or more participants of an audio conference call or video conference call.
- 2821 (b) "Conference bridging service" may include providing a telephone number as part of
- 2822 the ancillary service described in Subsection [~~(30)~~] (29)(a).
- 2823 (c) "Conference bridging service" does not include a telecommunications service used
- 2824 to reach the ancillary service described in Subsection [~~(30)~~] (29)(a).
- 2825 [~~(31)~~] (30) "Construction materials" means any tangible personal property that will be
- 2826 converted into real property.
- 2827 [~~(32)~~] (31) "Delivered electronically" means delivered to a purchaser by means other
- 2828 than tangible storage media.
- 2829 (32) "Dating referral services" means services that are primarily intended to introduce
- 2830 or match adults for social or romantic activities, including computer dating or video dating
- 2831 services.
- 2832 (33) (a) "Delivery charge" means a charge:
- 2833 (i) by a seller of:
- 2834 (A) tangible personal property;
- 2835 (B) a product transferred electronically; or
- 2836 (C) a service; and
- 2837 (ii) for preparation and delivery of the tangible personal property, product transferred
- 2838 electronically, or services described in Subsection (33)(a)(i) to a location designated by the
- 2839 purchaser.
- 2840 (b) "Delivery charge" includes a charge for the following:
- 2841 (i) transportation;
- 2842 (ii) shipping;
- 2843 (iii) postage;
- 2844 (iv) handling;
- 2845 (v) crating; or
- 2846 (vi) packing.

2847 (34) "Detailed telecommunications billing service" means an ancillary service of
2848 separately stating information pertaining to individual calls on a customer's billing statement.

2849 (35) "Dietary supplement" means a product, other than tobacco, that:

2850 (a) is intended to supplement the diet;

2851 (b) contains one or more of the following dietary ingredients:

2852 (i) a vitamin;

2853 (ii) a mineral;

2854 (iii) an herb or other botanical;

2855 (iv) an amino acid;

2856 (v) a dietary substance for use by humans to supplement the diet by increasing the total
2857 dietary intake; or

2858 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
2859 described in Subsections (35)(b)(i) through (v);

2860 (c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:

2861 (A) tablet form;

2862 (B) capsule form;

2863 (C) powder form;

2864 (D) softgel form;

2865 (E) gelcap form; or

2866 (F) liquid form; or

2867 (ii) if the product is not intended for ingestion in a form described in Subsections
2868 (35)(c)(i)(A) through (F), is not represented:

2869 (A) as conventional food; and

2870 (B) for use as a sole item of:

2871 (I) a meal; or

2872 (II) the diet; and

2873 (d) is required to be labeled as a dietary supplement:

2874 (i) identifiable by the "Supplemental Facts" box found on the label; and

2875 (ii) as required by 21 C.F.R. Sec. 101.36.

2876 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
2877 musical, spoken, or other sounds.

- 2878 (b) "Digital audio work" includes a ringtone.
- 2879 (37) "Digital audio-visual work" means a series of related images which, when shown
2880 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 2881 (38) "Digital book" means a work that is generally recognized in the ordinary and usual
2882 sense as a book.
- 2883 (39) (a) "Direct mail" means printed material delivered or distributed by United States
2884 mail or other delivery service:
- 2885 (i) to:
- 2886 (A) a mass audience; or
- 2887 (B) addressees on a mailing list provided:
- 2888 (I) by a purchaser of the mailing list; or
- 2889 (II) at the discretion of the purchaser of the mailing list; and
- 2890 (ii) if the cost of the printed material is not billed directly to the recipients.
- 2891 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
2892 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 2893 (c) "Direct mail" does not include multiple items of printed material delivered to a
2894 single address.
- 2895 (40) "Directory assistance" means an ancillary service of providing:
- 2896 (a) address information; or
- 2897 (b) telephone number information.
- 2898 (41) (a) "Disposable home medical equipment or supplies" means medical equipment
2899 or supplies that:
- 2900 (i) cannot withstand repeated use; and
- 2901 (ii) are purchased by, for, or on behalf of a person other than:
- 2902 (A) a health care facility as defined in Section [26-21-2](#);
- 2903 (B) a health care provider as defined in Section [78B-3-403](#);
- 2904 (C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or
- 2905 (D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).
- 2906 (b) "Disposable home medical equipment or supplies" does not include:
- 2907 (i) a drug;
- 2908 (ii) durable medical equipment;

- 2909 (iii) a hearing aid;
- 2910 (iv) a hearing aid accessory;
- 2911 (v) mobility enhancing equipment; or
- 2912 (vi) tangible personal property used to correct impaired vision, including:
- 2913 (A) eyeglasses; or
- 2914 (B) contact lenses.
- 2915 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2916 commission may by rule define what constitutes medical equipment or supplies.
- 2917 (42) "Drilling equipment manufacturer" means a facility:
- 2918 (a) located in the state;
- 2919 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 2920 consist of manufacturing component parts of drilling equipment;
- 2921 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 2922 manufacturing process; and
- 2923 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 2924 manufacturing process.
- 2925 (43) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 2926 compound, substance, or preparation that is:
- 2927 (i) recognized in:
- 2928 (A) the official United States Pharmacopoeia;
- 2929 (B) the official Homeopathic Pharmacopoeia of the United States;
- 2930 (C) the official National Formulary; or
- 2931 (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);
- 2932 (ii) intended for use in the:
- 2933 (A) diagnosis of disease;
- 2934 (B) cure of disease;
- 2935 (C) mitigation of disease;
- 2936 (D) treatment of disease; or
- 2937 (E) prevention of disease; or
- 2938 (iii) intended to affect:
- 2939 (A) the structure of the body; or

- 2940 (B) any function of the body.
- 2941 (b) "Drug" does not include:
- 2942 (i) food and food ingredients;
- 2943 (ii) a dietary supplement;
- 2944 (iii) an alcoholic beverage; or
- 2945 (iv) a prosthetic device.
- 2946 (44) (a) Except as provided in Subsection (44)(c), "durable medical equipment" means
- 2947 equipment that:
- 2948 (i) can withstand repeated use;
- 2949 (ii) is primarily and customarily used to serve a medical purpose;
- 2950 (iii) generally is not useful to a person in the absence of illness or injury; and
- 2951 (iv) is not worn in or on the body.
- 2952 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 2953 equipment described in Subsection (44)(a).
- 2954 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 2955 (45) "Electronic" means:
- 2956 (a) relating to technology; and
- 2957 (b) having:
- 2958 (i) electrical capabilities;
- 2959 (ii) digital capabilities;
- 2960 (iii) magnetic capabilities;
- 2961 (iv) wireless capabilities;
- 2962 (v) optical capabilities;
- 2963 (vi) electromagnetic capabilities; or
- 2964 (vii) capabilities similar to Subsections (45)(b)(i) through (vi).
- 2965 (46) "Electronic financial payment service" means an establishment:
- 2966 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 2967 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 2968 federal Executive Office of the President, Office of Management and Budget; and
- 2969 (b) that performs electronic financial payment services.
- 2970 (47) "Employee" means the same as that term is defined in Section [59-10-401](#).

- 2971 (48) "Fixed guideway" means a public transit facility that uses and occupies:
2972 (a) rail for the use of public transit; or
2973 (b) a separate right-of-way for the use of public transit.
2974 (49) "Fixed wing turbine powered aircraft" means an aircraft that:
2975 (a) is powered by turbine engines;
2976 (b) operates on jet fuel; and
2977 (c) has wings that are permanently attached to the fuselage of the aircraft.
2978 (50) "Fixed wireless service" means a telecommunications service that provides radio
2979 communication between fixed points.
2980 (51) (a) "Food and food ingredients" means substances:
2981 (i) regardless of whether the substances are in:
2982 (A) liquid form;
2983 (B) concentrated form;
2984 (C) solid form;
2985 (D) frozen form;
2986 (E) dried form; or
2987 (F) dehydrated form; and
2988 (ii) that are:
2989 (A) sold for:
2990 (I) ingestion by humans; or
2991 (II) chewing by humans; and
2992 (B) consumed for the substance's:
2993 (I) taste; or
2994 (II) nutritional value.
2995 (b) "Food and food ingredients" includes an item described in Subsection [~~(95)~~]
2996 (99)(b)(iii).
2997 (c) "Food and food ingredients" does not include:
2998 (i) an alcoholic beverage;
2999 (ii) tobacco; or
3000 (iii) prepared food.
3001 (52) (a) "Fundraising sales" means sales:

- 3002 (i) (A) made by a school; or
3003 (B) made by a school student;
3004 (ii) that are for the purpose of raising funds for the school to purchase equipment,
3005 materials, or provide transportation; and
3006 (iii) that are part of an officially sanctioned school activity.
3007 (b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity"
3008 means a school activity:
3009 (i) that is conducted in accordance with a formal policy adopted by the school or school
3010 district governing the authorization and supervision of fundraising activities;
3011 (ii) that does not directly or indirectly compensate an individual teacher or other
3012 educational personnel by direct payment, commissions, or payment in kind; and
3013 (iii) the net or gross revenues from which are deposited in a dedicated account
3014 controlled by the school or school district.
3015 (53) "Geothermal energy" means energy contained in heat that continuously flows
3016 outward from the earth that is used as the sole source of energy to produce electricity.
3017 (54) "Governing board of the agreement" means the governing board of the agreement
3018 that is:
3019 (a) authorized to administer the agreement; and
3020 (b) established in accordance with the agreement.
3021 (55) (a) [~~For purposes of Subsection 59-12-104(41), "governmental]~~ "Governmental
3022 entity" means:
3023 (i) the executive branch of the state, including all departments, institutions, boards,
3024 divisions, bureaus, offices, commissions, and committees;
3025 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
3026 Administrative Office of the Courts, and similar administrative units in the judicial branch;
3027 (iii) the legislative branch of the state, including the House of Representatives, the
3028 Senate, the Legislative Printing Office, the Office of Legislative Research and General
3029 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
3030 Analyst;
3031 (iv) the National Guard;
3032 (v) an independent entity as defined in Section 63E-1-102; or

- 3033 (vi) a political subdivision as defined in Section 17B-1-102.
- 3034 (b) "Governmental entity" does not include the state systems of public and higher
- 3035 education, including:
 - 3036 (i) a school;
 - 3037 (ii) the State Board of Education;
 - 3038 (iii) the State Board of Regents; or
 - 3039 (iv) an institution of higher education described in Section 53B-1-102.
- 3040 (56) "Hydroelectric energy" means water used as the sole source of energy to produce
- 3041 electricity.
- 3042 (57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 3043 other fuels:
 - 3044 (a) in mining or extraction of minerals;
 - 3045 (b) in agricultural operations to produce an agricultural product up to the time of
 - 3046 harvest or placing the agricultural product into a storage facility, including:
 - 3047 (i) commercial greenhouses;
 - 3048 (ii) irrigation pumps;
 - 3049 (iii) farm machinery;
 - 3050 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
 - 3051 under Title 41, Chapter 1a, Part 2, Registration; and
 - 3052 (v) other farming activities;
 - 3053 (c) in manufacturing tangible personal property at an establishment described in:
 - 3054 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
 - 3055 the federal Executive Office of the President, Office of Management and Budget; or
 - 3056 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
 - 3057 American Industry Classification System of the federal Executive Office of the President,
 - 3058 Office of Management and Budget;
 - 3059 (d) by a scrap recycler if:
 - 3060 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
 - 3061 one or more of the following items into prepared grades of processed materials for use in new
 - 3062 products:
 - 3063 (A) iron;

3064 (B) steel;

3065 (C) nonferrous metal;

3066 (D) paper;

3067 (E) glass;

3068 (F) plastic;

3069 (G) textile; or

3070 (H) rubber; and

3071 (ii) the new products under Subsection (57)(d)(i) would otherwise be made with

3072 nonrecycled materials; or

3073 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a

3074 cogeneration facility as defined in Section 54-2-1.

3075 ~~[(58) (a) Except as provided in Subsection (58)(b), "installation charge" means a~~

3076 ~~charge for installing:]~~

3077 ~~[(i) tangible personal property; or]~~

3078 ~~[(ii) a product transferred electronically.]~~

3079 ~~[(b) "Installation charge" does not include a charge for:]~~

3080 ~~[(i) repairs or renovations of:]~~

3081 ~~[(A) tangible personal property; or]~~

3082 ~~[(B) a product transferred electronically; or]~~

3083 ~~[(ii) attaching tangible personal property or a product transferred electronically:]~~

3084 ~~[(A) to other tangible personal property; and]~~

3085 ~~[(B) as part of a manufacturing or fabrication process.]~~

3086 (58) (a) "Installation charge" means a charge:

3087 (i) by a seller of:

3088 (A) tangible personal property; or

3089 (B) a product transferred electronically; and

3090 (ii) for installing the tangible personal property or the product transferred electronically

3091 described in Subsection (58)(a)(i).

3092 (b) "Installation charge" does not include a charge for:

3093 (i) installing tangible personal property if the tangible personal property is permanently

3094 attached to real property;

- 3095 (ii) converting tangible personal property to real property.
- 3096 (59) "Institution of higher education" means an institution of higher education listed in
- 3097 Section [53B-2-101](#).
- 3098 (60) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 3099 personal property or a product transferred electronically for:
- 3100 (i) (A) a fixed term; or
- 3101 (B) an indeterminate term; and
- 3102 (ii) consideration.
- 3103 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
- 3104 amount of consideration may be increased or decreased by reference to the amount realized
- 3105 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
- 3106 Code.
- 3107 (c) "Lease" or "rental" does not include:
- 3108 (i) a transfer of possession or control of property under a security agreement or
- 3109 deferred payment plan that requires the transfer of title upon completion of the required
- 3110 payments;
- 3111 (ii) a transfer of possession or control of property under an agreement that requires the
- 3112 transfer of title:
- 3113 (A) upon completion of required payments; and
- 3114 (B) if the payment of an option price does not exceed the greater of:
- 3115 (I) \$100; or
- 3116 (II) 1% of the total required payments; or
- 3117 (iii) providing tangible personal property along with an operator for a fixed period of
- 3118 time or an indeterminate period of time if the operator is necessary for equipment to perform as
- 3119 designed.
- 3120 (d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to
- 3121 perform as designed if the operator's duties exceed the:
- 3122 (i) set-up of tangible personal property;
- 3123 (ii) maintenance of tangible personal property; or
- 3124 (iii) inspection of tangible personal property.
- 3125 (61) "Life science establishment" means an establishment in this state that is classified

3126 under the following NAICS codes of the 2007 North American Industry Classification System
3127 of the federal Executive Office of the President, Office of Management and Budget:

3128 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

3129 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

3130 Manufacturing; or

3131 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

3132 (62) "Life science research and development facility" means a facility owned, leased,
3133 or rented by a life science establishment if research and development is performed in 51% or
3134 more of the total area of the facility.

3135 (63) "Load and leave" means delivery to a purchaser by use of a tangible storage media
3136 if the tangible storage media is not physically transferred to the purchaser.

3137 (64) "Local taxing jurisdiction" means a:

3138 (a) county that is authorized to impose an agreement sales and use tax;

3139 (b) city that is authorized to impose an agreement sales and use tax; or

3140 (c) town that is authorized to impose an agreement sales and use tax.

3141 (65) "Manufactured home" means the same as that term is defined in Section
3142 [15A-1-302](#).

3143 (66) "Manufacturing facility" means:

3144 (a) an establishment described in:

3145 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
3146 the federal Executive Office of the President, Office of Management and Budget; or

3147 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
3148 American Industry Classification System of the federal Executive Office of the President,
3149 Office of Management and Budget;

3150 (b) a scrap recycler if:

3151 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
3152 one or more of the following items into prepared grades of processed materials for use in new
3153 products:

3154 (A) iron;

3155 (B) steel;

3156 (C) nonferrous metal;

3157 (D) paper;

3158 (E) glass;

3159 (F) plastic;

3160 (G) textile; or

3161 (H) rubber; and

3162 (ii) the new products under Subsection (66)(b)(i) would otherwise be made with

3163 nonrecycled materials; or

3164 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is

3165 placed in service on or after May 1, 2006.

3166 (67) (a) "Marketplace" means a physical or electronic place, platform, or forum where

3167 tangible personal property, a product transferred electronically, or a service is offered for sale.

3168 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a

3169 dedicated sales software application.

3170 (68) (a) "Marketplace facilitator" means a person, including an affiliate of the person,

3171 that enters into a contract, an agreement, or otherwise with sellers, for consideration, to

3172 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or

3173 controls and that directly or indirectly:

3174 (i) does any of the following:

3175 (A) lists, makes available, or advertises tangible personal property, a product

3176 transferred electronically, or a service for sale by a marketplace seller on a marketplace that the

3177 person owns, operates, or controls;

3178 (B) facilitates the sale of a marketplace seller's tangible personal property, product

3179 transferred electronically, or service by transmitting or otherwise communicating an offer or

3180 acceptance of a retail sale between the marketplace seller and a purchaser using the

3181 marketplace;

3182 (C) owns, rents, licenses, makes available, or operates any electronic or physical

3183 infrastructure or any property, process, method, copyright, trademark, or patent that connects a

3184 marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal

3185 property, a product transferred electronically, or a service;

3186 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible

3187 personal property, a product transferred electronically, or a service, regardless of ownership or

3188 control of the tangible personal property, the product transferred electronically, or the service
3189 that is the subject of the retail sale;

3190 (E) provides software development or research and development activities related to
3191 any activity described in this Subsection (68)(a)(i), if the software development or research and
3192 development activity is directly related to the person's marketplace;

3193 (F) provides or offers fulfillment or storage services for a marketplace seller;

3194 (G) sets prices for the sale of tangible personal property, a product transferred
3195 electronically, or a service by a marketplace seller;

3196 (H) provides or offers customer service to a marketplace seller or a marketplace seller's
3197 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal
3198 property, a product transferred electronically, or a service sold by a marketplace seller on the
3199 person's marketplace; or

3200 (I) brands or otherwise identifies sales as those of the person; and

3201 (ii) does any of the following:

3202 (A) collects the sales price or purchase price of a retail sale of tangible personal
3203 property, a product transferred electronically, or a service;

3204 (B) provides payment processing services for a retail sale of tangible personal property,
3205 a product transferred electronically, or a service;

3206 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing
3207 fee, a fee for inserting or making available tangible personal property, a product transferred
3208 electronically, or a service on the person's marketplace, or other consideration for the
3209 facilitation of a retail sale of tangible personal property, a product transferred electronically, or
3210 a service, regardless of ownership or control of the tangible personal property, the product
3211 transferred electronically, or the service that is the subject of the retail sale;

3212 (D) through terms and conditions, an agreement, or another arrangement with a third
3213 person, collects payment from a purchase for a retail sale of tangible personal property, a
3214 product transferred electronically, or a service and transmits that payment to the marketplace
3215 seller, regardless of whether the third person receives compensation or other consideration in
3216 exchange for the service; or

3217 (E) provides a virtual currency for a purchaser to use to purchase tangible personal
3218 property, a product transferred electronically, or service offered for sale.

3219 (b) "Marketplace facilitator" does not include a person that only provides payment
3220 processing services.

3221 (69) "Marketplace seller" means a seller that makes one or more retail sales through a
3222 marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the
3223 seller is required to be registered to collect and remit the tax under this part.

3224 (70) "Member of the immediate family of the producer" means a person who is related
3225 to a producer described in Subsection ~~59-12-104(20)~~(17)(a) as a:

3226 (a) child or stepchild, regardless of whether the child or stepchild is:

3227 (i) an adopted child or adopted stepchild; or

3228 (ii) a foster child or foster stepchild;

3229 (b) grandchild or stepgrandchild;

3230 (c) grandparent or stepgrandparent;

3231 (d) nephew or stepnephew;

3232 (e) niece or stepniece;

3233 (f) parent or stepparent;

3234 (g) sibling or stepsibling;

3235 (h) spouse;

3236 (i) person who is the spouse of a person described in Subsections (70)(a) through (g);

3237 or

3238 (j) person similar to a person described in Subsections (70)(a) through (i) as

3239 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
3240 Administrative Rulemaking Act.

3241 (71) (a) "Menstrual products" means:

3242 (i) tampons;

3243 (ii) panty liners;

3244 (iii) menstrual cups;

3245 (iv) sanitary napkins; or

3246 (v) other similar tangible personal property designed for hygiene in connection with the
3247 human menstrual cycle.

3248 (b) "Menstrual products" does not include:

3249 (i) soaps or cleaning solutions;

- 3250 (ii) shampoo;
- 3251 (iii) toothpaste;
- 3252 (iv) mouthwash;
- 3253 (v) antiperspirants; or
- 3254 (vi) suntan lotions or screens.
- 3255 ~~[(71)]~~ (72) "Mobile home" means the same as that term is defined in Section
- 3256 [15A-1-302](#).
- 3257 ~~[(72)]~~ (73) "Mobile telecommunications service" means the same as that term is
- 3258 defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 3259 ~~[(73)]~~ (74) (a) "Mobile wireless service" means a telecommunications service,
- 3260 regardless of the technology used, if:
- 3261 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 3262 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 3263 (iii) the origination point described in Subsection ~~[(73)]~~ (74)(a)(i) and the termination
- 3264 point described in Subsection ~~[(73)]~~ (74)(a)(ii) are not fixed.
- 3265 (b) "Mobile wireless service" includes a telecommunications service that is provided
- 3266 by a commercial mobile radio service provider.
- 3267 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3268 commission may by rule define "commercial mobile radio service provider."
- 3269 ~~[(74)]~~ (75) (a) ~~[Except as provided in Subsection (74)(c), "mobility]~~ "Mobility
- 3270 enhancing equipment" means equipment that is:
- 3271 (i) primarily and customarily used to provide or increase the ability to move from one
- 3272 place to another;
- 3273 (ii) appropriate for use in a:
- 3274 (A) home; or
- 3275 (B) motor vehicle; and
- 3276 (iii) not generally used by persons with normal mobility.
- 3277 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
- 3278 the equipment described in Subsection ~~[(74)]~~ (75)(a).
- 3279 (c) "Mobility enhancing equipment" does not include:
- 3280 (i) a motor vehicle;

3281 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
3282 vehicle manufacturer;

3283 (iii) durable medical equipment; or

3284 (iv) a prosthetic device.

3285 ~~[(75)]~~ (76) "Model 1 seller" means a seller registered under the agreement that has
3286 selected a certified service provider as the seller's agent to perform the seller's sales and use tax
3287 functions for agreement sales and use taxes, as outlined in the contract between the governing
3288 board of the agreement and the certified service provider, other than the seller's obligation
3289 under Section 59-12-124 to remit a tax on the seller's own purchases.

3290 ~~[(76)]~~ (77) "Model 2 seller" means a seller registered under the agreement that:

3291 (a) except as provided in Subsection ~~[(76)]~~ (77)(b), has selected a certified automated
3292 system to perform the seller's sales tax functions for agreement sales and use taxes; and

3293 (b) retains responsibility for remitting all of the sales tax:

3294 (i) collected by the seller; and

3295 (ii) to the appropriate local taxing jurisdiction.

3296 ~~[(77)]~~ (78) (a) Subject to Subsection ~~[(77)]~~ (78)(b), "model 3 seller" means a seller
3297 registered under the agreement that has:

3298 (i) sales in at least five states that are members of the agreement;

3299 (ii) total annual sales ~~[revenues]~~ revenue of at least \$500,000,000;

3300 (iii) a proprietary system that calculates the amount of tax:

3301 (A) for an agreement sales and use tax; and

3302 (B) due to each local taxing jurisdiction; and

3303 (iv) entered into a performance agreement with the governing board of the agreement.

3304 (b) ~~[For purposes of Subsection (77)(a), "model]~~ "Model 3 seller" includes an affiliated
3305 group of sellers using the same proprietary system.

3306 ~~[(78)]~~ (79) "Model 4 seller" means a seller that is registered under the agreement and is
3307 not a model 1 seller, model 2 seller, or model 3 seller.

3308 ~~[(79)]~~ (80) "Modular home" means a modular unit as defined in Section 15A-1-302.

3309 ~~[(80)]~~ (81) "Motor vehicle" means the same as that term is defined in Section
3310 41-1a-102.

3311 ~~[(81)]~~ (82) "Oil sands" means impregnated bituminous sands that:

3312 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
3313 other hydrocarbons, or otherwise treated;

3314 (b) yield mixtures of liquid hydrocarbon; and

3315 (c) require further processing other than mechanical blending before becoming finished
3316 petroleum products.

3317 ~~[(82)]~~ (83) "Oil shale" means a group of fine black to dark brown shales containing
3318 kerogen material that yields petroleum upon heating and distillation.

3319 ~~[(83)]~~ (84) "Optional computer software maintenance contract" means a computer
3320 software maintenance contract that a customer is not obligated to purchase as a condition to the
3321 retail sale of computer software.

3322 ~~[(84)]~~ (85) (a) "Other fuels" means products that burn independently to produce heat or
3323 energy.

3324 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
3325 personal property.

3326 ~~[(85)]~~ (86) (a) "Paging service" means a telecommunications service that provides
3327 transmission of a coded radio signal for the purpose of activating a specific pager.

3328 (b) For purposes of Subsection ~~[(85)]~~ (86)(a), the transmission of a coded radio signal
3329 includes a transmission by message or sound.

3330 (87) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).

3331 ~~[(86)]~~ (88) "Pawnbroker" means the same as that term is defined in Section
3332 [13-32a-102](#).

3333 ~~[(87)] "Pawn transaction" means the same as that term is defined in Section~~
3334 ~~[13-32a-102](#);~~

3335 ~~[(88)]~~ (89) (a) "Permanently attached to real property" means that for tangible personal
3336 property attached to real property:

3337 (i) the attachment of the tangible personal property to the real property:

3338 (A) is essential to the use of the tangible personal property; and

3339 (B) suggests that the tangible personal property will remain attached to the real
3340 property in the same place over the useful life of the tangible personal property; or

3341 (ii) if the tangible personal property is detached from the real property, the detachment
3342 would:

- 3343 (A) cause substantial damage to the tangible personal property; or
- 3344 (B) require substantial alteration or repair of the real property to which the tangible
- 3345 personal property is attached.
- 3346 (b) "Permanently attached to real property" includes:
- 3347 (i) the attachment of an accessory to the tangible personal property if the accessory is:
- 3348 (A) essential to the operation of the tangible personal property; and
- 3349 (B) attached only to facilitate the operation of the tangible personal property;
- 3350 (ii) a temporary detachment of tangible personal property from real property for a
- 3351 repair or renovation if the repair or renovation is performed where the tangible personal
- 3352 property and real property are located; or
- 3353 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
- 3354 Subsection [~~(88)~~] (89)(c)(iii) or (iv).
- 3355 (c) "Permanently attached to real property" does not include:
- 3356 (i) the attachment of portable or movable tangible personal property to real property if
- 3357 that portable or movable tangible personal property is attached to real property only for:
- 3358 (A) convenience;
- 3359 (B) stability; or
- 3360 (C) for an obvious temporary purpose;
- 3361 (ii) the detachment of tangible personal property from real property except for the
- 3362 detachment described in Subsection [~~(88)~~] (89)(b)(ii);
- 3363 (iii) an attachment of the following tangible personal property to real property if the
- 3364 attachment to real property is only through a line that supplies water, electricity, gas,
- 3365 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 3366 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 3367 (A) a computer;
- 3368 (B) a telephone;
- 3369 (C) a television; or
- 3370 (D) tangible personal property similar to Subsections [~~(88)~~] (89)(c)(iii)(A) through (C)
- 3371 as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 3372 Administrative Rulemaking Act; or
- 3373 (iv) an item listed in Subsection [~~(129)~~] (135)(c).

3374 ~~[(89)]~~ (90) "Person" includes any individual, firm, partnership, joint venture,
3375 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
3376 city, municipality, district, or other local governmental entity of the state, or any group or
3377 combination acting as a unit.

3378 (91) (a) "Personal transportation service" means the transportation of one or more
3379 individuals by motor vehicle.

3380 (b) "Personal transportation" includes taxicab service, limousine service, driver service,
3381 shuttle service, scenic or sightseeing transportation, and a prearranged ride as defined in
3382 Section [13-51-102](#).

3383 (c) "Personal transportation service" does not include:

3384 (i) services provided by or through a governmental entity;

3385 (ii) transportation by ambulance as defined in Section [26-8a-102](#);

3386 (iii) transportation provided in connection with a funeral; or

3387 (iv) transportation by a low-speed vehicle, as defined in Section [41-6a-102](#), within a
3388 county of the first class, as classified in Section [17-50-501](#).

3389 (92) (a) "Pet boarding or care" means the furnishing of:

3390 (i) boarding for a pet; or

3391 (ii) daytime care for a pet at a location other than the pet owner's residence where the
3392 pet is dropped off and picked up.

3393 (b) "Pet boarding or care" does not include a service described in Subsection (92)(a):

3394 (i) by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, in
3395 conjunction with a veterinary medical service; or

3396 (ii) for a working animal, livestock, or a laboratory animal.

3397 (93) (a) "Pet grooming" means:

3398 (i) cleaning, maintaining, or enhancing the physical appearance of a pet; or

3399 (ii) furnishing other hygienic care for a pet.

3400 (b) "Pet grooming" does not include a service described in Subsection (93)(a):

3401 (i) by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, in
3402 conjunction with a veterinary medical service; or

3403 (ii) for a working animal, livestock, or a laboratory animal.

3404 ~~[(90)]~~ (94) "Place of primary use":

3405 (a) for telecommunications service other than mobile telecommunications service,
3406 means the street address representative of where the customer's use of the telecommunications
3407 service primarily occurs, which shall be:

3408 (i) the residential street address of the customer; or

3409 (ii) the primary business street address of the customer; or

3410 (b) for mobile telecommunications service, means the same as that term is defined in
3411 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

3412 ~~[(91)]~~ (95) (a) "Postpaid calling service" means a telecommunications service a person
3413 obtains by making a payment on a call-by-call basis:

3414 (i) through the use of a:

3415 (A) bank card;

3416 (B) credit card;

3417 (C) debit card; or

3418 (D) travel card; or

3419 (ii) by a charge made to a telephone number that is not associated with the origination
3420 or termination of the telecommunications service.

3421 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
3422 service, that would be a prepaid wireless calling service if the service were exclusively a
3423 telecommunications service.

3424 ~~[(92)]~~ (96) "Postproduction" means an activity related to the finishing or duplication of
3425 a medium described in Subsection [59-12-104](#)~~[(54)]~~(47)(a).

3426 ~~[(93)]~~ (97) "Prepaid calling service" means a telecommunications service:

3427 (a) that allows a purchaser access to telecommunications service that is exclusively
3428 telecommunications service;

3429 (b) that:

3430 (i) is paid for in advance; and

3431 (ii) enables the origination of a call using an:

3432 (A) access number; or

3433 (B) authorization code;

3434 (c) that is dialed:

3435 (i) manually; or

- 3436 (ii) electronically; and
- 3437 (d) sold in predetermined units or dollars that decline:
- 3438 (i) by a known amount; and
- 3439 (ii) with use.
- 3440 [~~94~~] (98) "Prepaid wireless calling service" means a telecommunications service:
- 3441 (a) that provides the right to utilize:
- 3442 (i) mobile wireless service; and
- 3443 (ii) other service that is not a telecommunications service, including:
- 3444 (A) the download of a product transferred electronically;
- 3445 (B) a content service; or
- 3446 (C) an ancillary service;
- 3447 (b) that:
- 3448 (i) is paid for in advance; and
- 3449 (ii) enables the origination of a call using an:
- 3450 (A) access number; or
- 3451 (B) authorization code;
- 3452 (c) that is dialed:
- 3453 (i) manually; or
- 3454 (ii) electronically; and
- 3455 (d) sold in predetermined units or dollars that decline:
- 3456 (i) by a known amount; and
- 3457 (ii) with use.
- 3458 [~~95~~] (99) (a) "Prepared food" means:
- 3459 (i) food:
- 3460 (A) sold in a heated state; or
- 3461 (B) heated by a seller;
- 3462 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 3463 item; or
- 3464 (iii) except as provided in Subsection [~~95~~] (99)(c), food sold with an eating utensil
- 3465 provided by the seller, including a:
- 3466 (A) plate;

- 3467 (B) knife;
- 3468 (C) fork;
- 3469 (D) spoon;
- 3470 (E) glass;
- 3471 (F) cup;
- 3472 (G) napkin; or
- 3473 (H) straw.
- 3474 (b) "Prepared food" does not include:
- 3475 (i) food that a seller only:
- 3476 (A) cuts;
- 3477 (B) repackages; or
- 3478 (C) pasteurizes; or
- 3479 (ii) (A) the following:
- 3480 (I) raw egg;
- 3481 (II) raw fish;
- 3482 (III) raw meat;
- 3483 (IV) raw poultry; or
- 3484 (V) a food containing an item described in Subsections [~~95~~] (99)(b)(ii)(A)(I) through
- 3485 (IV); and
- 3486 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 3487 Food and Drug Administration's Food Code that a consumer cook the items described in
- 3488 Subsection [~~95~~] (99)(b)(ii)(A) to prevent food borne illness; or
- 3489 (iii) the following if sold without eating utensils provided by the seller:
- 3490 (A) food and food ingredients sold by a seller if the seller's proper primary
- 3491 classification under the 2002 North American Industry Classification System of the federal
- 3492 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 3493 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 3494 Manufacturing;
- 3495 (B) food and food ingredients sold in an unheated state:
- 3496 (I) by weight or volume; and
- 3497 (II) as a single item; or

- 3498 (C) a bakery item, including:
- 3499 (I) a bagel;
- 3500 (II) a bar;
- 3501 (III) a biscuit;
- 3502 (IV) bread;
- 3503 (V) a bun;
- 3504 (VI) a cake;
- 3505 (VII) a cookie;
- 3506 (VIII) a croissant;
- 3507 (IX) a danish;
- 3508 (X) a donut;
- 3509 (XI) a muffin;
- 3510 (XII) a pastry;
- 3511 (XIII) a pie;
- 3512 (XIV) a roll;
- 3513 (XV) a tart;
- 3514 (XVI) a torte; or
- 3515 (XVII) a tortilla.

3516 (c) An eating utensil provided by the seller does not include the following used to
3517 transport the food:

- 3518 (i) a container; or
- 3519 (ii) packaging.

3520 [(96)] (100) "Prescription" means an order, formula, or recipe that is issued:

- 3521 (a) (i) orally;
- 3522 (ii) in writing;
- 3523 (iii) electronically; or
- 3524 (iv) by any other manner of transmission; and

3525 (b) by a licensed practitioner authorized by the laws of a state.

3526 [(97)] (101) (a) [~~Except as provided in Subsection (97)(b)(ii) or (iii), "prewritten]~~

3527 "Prewritten computer software" means computer software that is not designed and developed:

- 3528 (i) by the author or other creator of the computer software; and

- 3529 (ii) to the specifications of a specific purchaser.
- 3530 (b) "Prewritten computer software" includes:
- 3531 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 3532 software is not designed and developed:
- 3533 (A) by the author or other creator of the computer software; and
- 3534 (B) to the specifications of a specific purchaser;
- 3535 (ii) computer software designed and developed by the author or other creator of the
- 3536 computer software to the specifications of a specific purchaser if the computer software is sold
- 3537 to a person other than the purchaser; or
- 3538 (iii) except as provided in Subsection [~~97~~] (101)(c), prewritten computer software or
- 3539 a prewritten portion of prewritten computer software:
- 3540 (A) that is modified or enhanced to any degree; and
- 3541 (B) if the modification or enhancement described in Subsection [~~97~~] (101)(b)(iii)(A)
- 3542 is designed and developed to the specifications of a specific purchaser.
- 3543 (c) "Prewritten computer software" does not include a modification or enhancement
- 3544 described in Subsection [~~97~~] (101)(b)(iii) if the charges for the modification or enhancement
- 3545 are:
- 3546 (i) reasonable; and
- 3547 (ii) subject to Subsections [59-12-103\(2\)\(e\)\(ii\)](#) and [\(2\)\(f\)\(i\)](#), separately stated on the
- 3548 invoice or other statement of price provided to the purchaser at the time of sale or later, as
- 3549 demonstrated by:
- 3550 (A) the books and records the seller keeps at the time of the transaction in the regular
- 3551 course of business, including books and records the seller keeps at the time of the transaction in
- 3552 the regular course of business for nontax purposes;
- 3553 (B) a preponderance of the facts and circumstances at the time of the transaction; and
- 3554 (C) the understanding of all of the parties to the transaction.
- 3555 [~~98~~] (102) (a) "Private communications service" means a telecommunications
- 3556 service:
- 3557 (i) that entitles a customer to exclusive or priority use of one or more communications
- 3558 channels between or among termination points; and
- 3559 (ii) regardless of the manner in which the one or more communications channels are

3560 connected.

3561 (b) "Private communications service" includes the following provided in connection
3562 with the use of one or more communications channels:

3563 (i) an extension line;

3564 (ii) a station;

3565 (iii) switching capacity; or

3566 (iv) another associated service that is provided in connection with the use of one or
3567 more communications channels as defined in Section 59-12-215.

3568 ~~[(99)]~~ (103) (a) ~~[Except as provided in Subsection (99)(b), "product]~~ "Product
3569 transferred electronically" means a product transferred electronically that would be subject to a
3570 tax under this chapter if that product was transferred in a manner other than electronically.

3571 (b) "Product transferred electronically" does not include:

3572 (i) an ancillary service;

3573 (ii) computer software; or

3574 (iii) a telecommunications service.

3575 ~~[(100)]~~ (104) (a) "Prosthetic device" means a device that is worn on or in the body to:

3576 (i) artificially replace a missing portion of the body;

3577 (ii) prevent or correct a physical deformity or physical malfunction; or

3578 (iii) support a weak or deformed portion of the body.

3579 (b) "Prosthetic device" includes:

3580 (i) parts used in the repairs or renovation of a prosthetic device;

3581 (ii) replacement parts for a prosthetic device;

3582 (iii) a dental prosthesis; or

3583 (iv) a hearing aid.

3584 (c) "Prosthetic device" does not include:

3585 (i) corrective eyeglasses; or

3586 (ii) contact lenses.

3587 ~~[(101)]~~ (105) (a) "Protective equipment" means an item:

3588 (i) for human wear; and

3589 (ii) that is:

3590 (A) designed as protection:

3591 (I) to the wearer against injury or disease; or
3592 (II) against damage or injury of other persons or property; and
3593 (B) not suitable for general use.
3594 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3595 commission shall make rules:
3596 (i) listing the items that constitute "protective equipment"; and
3597 (ii) that are consistent with the list of items that constitute "protective equipment"
3598 under the agreement.
3599 ~~[(102)]~~ (106) (a) For purposes of Subsection ~~59-12-104~~~~[(41)]~~(36), "publication" means
3600 any written or printed matter, other than a photocopy:
3601 (i) regardless of:
3602 (A) characteristics;
3603 (B) copyright;
3604 (C) form;
3605 (D) format;
3606 (E) method of reproduction; or
3607 (F) source; and
3608 (ii) made available in printed or electronic format.
3609 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3610 commission may by rule define the term "photocopy."
3611 ~~[(103)]~~ (107) (a) "Purchase price" and "sales price" mean the total amount of
3612 consideration:
3613 (i) valued in money; and
3614 (ii) for which tangible personal property, a product transferred electronically, or
3615 services are:
3616 (A) sold;
3617 (B) leased; or
3618 (C) rented.
3619 (b) "Purchase price" and "sales price" include:
3620 (i) the seller's cost of the tangible personal property, a product transferred
3621 electronically, or services sold;

- 3622 (ii) expenses of the seller, including:
- 3623 (A) the cost of materials used;
- 3624 (B) a labor cost;
- 3625 (C) a service cost;
- 3626 (D) interest;
- 3627 (E) a loss;
- 3628 (F) the cost of transportation to the seller; or
- 3629 (G) a tax imposed on the seller;
- 3630 (iii) a delivery charge; or
- 3631 (iv) an installation charge;
- 3632 [~~(iii)~~] (v) a charge by the seller for any service necessary to complete the sale; or
- 3633 [~~(iv)~~] (vi) consideration a seller receives from a person other than the purchaser if:
- 3634 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 3635 and
- 3636 (II) the consideration described in Subsection [~~(103)~~] (107)(b)[~~(iv)~~](vi)(A)(I) is directly
- 3637 related to a price reduction or discount on the sale;
- 3638 (B) the seller has an obligation to pass the price reduction or discount through to the
- 3639 purchaser;
- 3640 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 3641 the seller at the time of the sale to the purchaser; and
- 3642 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 3643 seller to claim a price reduction or discount; and
- 3644 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 3645 coupon, or other documentation with the understanding that the person other than the seller
- 3646 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 3647 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 3648 organization allowed a price reduction or discount, except that a preferred customer card that is
- 3649 available to any patron of a seller does not constitute membership in a group or organization
- 3650 allowed a price reduction or discount; or
- 3651 (III) the price reduction or discount is identified as a third party price reduction or
- 3652 discount on the:

- 3653 (Aa) invoice the purchaser receives; or
3654 (Bb) certificate, coupon, or other documentation the purchaser presents.
3655 (c) "Purchase price" and "sales price" do not include:
3656 (i) a discount:
3657 (A) in a form including:
3658 (I) cash;
3659 (II) term; or
3660 (III) coupon;
3661 (B) that is allowed by a seller;
3662 (C) taken by a purchaser on a sale; and
3663 (D) that is not reimbursed by a third party; or
3664 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
3665 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
3666 sale or later, as demonstrated by the books and records the seller keeps at the time of the
3667 transaction in the regular course of business, including books and records the seller keeps at the
3668 time of the transaction in the regular course of business for nontax purposes, by a
3669 preponderance of the facts and circumstances at the time of the transaction, and by the
3670 understanding of all of the parties to the transaction:
3671 (A) the following from credit extended on the sale of tangible personal property or
3672 services:
3673 (I) a carrying charge;
3674 (II) a financing charge; or
3675 (III) an interest charge;
3676 [~~(B) a delivery charge;~~]
3677 [~~(C) an installation charge;~~]
3678 [~~(D)~~] (B) a manufacturer rebate on a motor vehicle; or
3679 [~~(E)~~] (C) a tax or fee legally imposed directly on the consumer.
3680 [~~(104)~~] (108) "Purchaser" means a person to whom:
3681 (a) a sale of tangible personal property is made;
3682 (b) a product is transferred electronically; or
3683 (c) a service is furnished.

3684 ~~[(105)]~~ (109) "Qualifying ~~[enterprise]~~ data center" means ~~[an establishment that will:~~
3685 ~~(a) own and operate]~~ a data center facility that ~~[will house]:~~

3686 (a) houses a group of networked server computers in one physical location in order to
3687 ~~[centralize the dissemination, management, and storage of]~~ disseminate, manage, and store data
3688 and information;

3689 (b) ~~[be]~~ is located in the state;

3690 (c) ~~[be]~~ is a new operation constructed on or after July 1, 2016;

3691 (d) ~~[consist]~~ consists of one or more buildings that total 150,000 or more square feet;

3692 (e) ~~[be]~~ is owned or leased by:

3693 (i) the ~~[establishment]~~ operator of the data center facility; or

3694 (ii) a person under common ownership, as defined in Section 59-7-101, of the
3695 ~~[establishment]~~ operator of the data center facility; and

3696 (f) ~~[be]~~ is located on one or more parcels of land that are owned or leased by:

3697 (i) the ~~[establishment]~~ operator of the data center facility; or

3698 (ii) a person under common ownership, as defined in Section 59-7-101, of the
3699 ~~[establishment]~~ operator of the data center facility.

3700 ~~[(106)]~~ (110) "Regularly rented" means:

3701 (a) rented to a guest for value three or more times during a calendar year; or

3702 (b) advertised or held out to the public as a place that is regularly rented to guests for
3703 value.

3704 ~~[(107)]~~ (111) "Rental" means the same as that term is defined in Subsection (60).

3705 ~~[(108)]~~ (112) (a) ~~[Except as provided in Subsection (108)(b), "repairs"]~~ "Repairs or
3706 renovations of tangible personal property" means:

3707 (i) a repair or renovation of tangible personal property that is not permanently attached
3708 to real property; or

3709 (ii) attaching tangible personal property or a product transferred electronically to other
3710 tangible personal property or detaching tangible personal property or a product transferred
3711 electronically from other tangible personal property if:

3712 (A) the other tangible personal property to which the tangible personal property or
3713 product transferred electronically is attached or from which the tangible personal property or
3714 product transferred electronically is detached is not permanently attached to real property; and

3715 (B) the attachment of tangible personal property or a product transferred electronically
3716 to other tangible personal property or detachment of tangible personal property or a product
3717 transferred electronically from other tangible personal property is made in conjunction with a
3718 repair or replacement of tangible personal property or a product transferred electronically.

3719 (b) "Repairs or renovations of tangible personal property" does not include:

3720 (i) attaching prewritten computer software to other tangible personal property if the
3721 other tangible personal property to which the prewritten computer software is attached is not
3722 permanently attached to real property; or

3723 (ii) detaching prewritten computer software from other tangible personal property if the
3724 other tangible personal property from which the prewritten computer software is detached is
3725 not permanently attached to real property.

3726 [~~(H9)~~] (113) "Research and development" means the process of inquiry or
3727 experimentation aimed at the discovery of facts, devices, technologies, or applications and the
3728 process of preparing those devices, technologies, or applications for marketing.

3729 [~~(H0)~~] (114) (a) "Residential telecommunications services" means a
3730 telecommunications service or an ancillary service that is provided to an individual for personal
3731 use:

3732 (i) at a residential address; or

3733 (ii) at an institution, including a nursing home or a school, if the telecommunications
3734 service or ancillary service is provided to and paid for by the individual residing at the
3735 institution rather than the institution.

3736 (b) For purposes of Subsection [~~(H0)~~] (114)(a)(i), a residential address includes an:

3737 (i) apartment; or

3738 (ii) other individual dwelling unit.

3739 [~~(H1)~~] (115) "Residential use" means the use in or around a home, apartment building,
3740 sleeping quarters, and similar facilities or accommodations.

3741 [~~(H2)~~] (116) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
3742 other than:

3743 (a) resale;

3744 (b) sublease; or

3745 (c) subrent.

3746 [~~(H3)~~] (117) (a) "Retailer" means any person, unless prohibited by the Constitution of
3747 the United States or federal law, that is engaged in a regularly organized business in tangible
3748 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is
3749 selling to the user or consumer and not for resale.

3750 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
3751 engaged in the business of selling to users or consumers within the state.

3752 [~~(H4)~~] (118) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
3753 otherwise, in any manner, of tangible personal property or any other taxable transaction under
3754 Subsection 59-12-103(1), for consideration.

3755 (b) "Sale" includes:

3756 (i) installment and credit sales;

3757 (ii) any closed transaction constituting a sale;

3758 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
3759 chapter;

3760 (iv) any transaction if the possession of property is transferred but the seller retains the
3761 title as security for the payment of the price; and

3762 (v) any transaction under which right to possession, operation, or use of any article of
3763 tangible personal property is granted under a lease or contract and the transfer of possession
3764 would be taxable if an outright sale were made.

3765 [~~(H5)~~] (119) "Sale at retail" means the same as that term is defined in Subsection
3766 [~~(H2)~~] (116).

3767 [~~(H6)~~] (120) "Sale-leaseback transaction" means a transaction by which title to
3768 tangible personal property or a product transferred electronically that is subject to a tax under
3769 this chapter is transferred:

3770 (a) by a purchaser-lessee;

3771 (b) to a lessor;

3772 (c) for consideration; and

3773 (d) if:

3774 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
3775 of the tangible personal property or product transferred electronically;

3776 (ii) the sale of the tangible personal property or product transferred electronically to the

3777 lessor is intended as a form of financing:

3778 (A) for the tangible personal property or product transferred electronically; and

3779 (B) to the purchaser-lessee; and

3780 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee

3781 is required to:

3782 (A) capitalize the tangible personal property or product transferred electronically for

3783 financial reporting purposes; and

3784 (B) account for the lease payments as payments made under a financing arrangement.

3785 [~~(117)~~] (121) "Sales price" means the same as that term is defined in Subsection

3786 [~~(103)~~] (107).

3787 [~~(118)~~] (122) (a) "Sales relating to schools" means the following sales by, amounts

3788 paid to, or amounts charged by a school:

3789 (i) sales that are directly related to the school's educational functions or activities

3790 including:

3791 (A) the sale of:

3792 (I) textbooks;

3793 (II) textbook fees;

3794 (III) laboratory fees;

3795 (IV) laboratory supplies; or

3796 (V) safety equipment;

3797 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

3798 that:

3799 (I) a student is specifically required to wear as a condition of participation in a

3800 school-related event or school-related activity; and

3801 (II) is not readily adaptable to general or continued usage to the extent that it takes the

3802 place of ordinary clothing;

3803 (C) sales of the following if the net or gross revenues generated by the sales are

3804 deposited into a school district fund or school fund dedicated to school meals:

3805 (I) food and food ingredients; or

3806 (II) prepared food; or

3807 (D) transportation charges for official school activities; or

3808 (ii) amounts paid to or amounts charged by a school for admission to a school-related
3809 event or school-related activity.

3810 (b) "Sales relating to schools" does not include:

3811 (i) bookstore sales of items that are not educational materials or supplies;

3812 (ii) except as provided in Subsection [~~(118)~~] (122)(a)(i)(B):

3813 (A) clothing;

3814 (B) clothing accessories or equipment;

3815 (C) protective equipment; or

3816 (D) sports or recreational equipment; or

3817 (iii) amounts paid to or amounts charged by a school for admission to a school-related
3818 event or school-related activity if the amounts paid or charged are passed through to a person:

3819 (A) other than a:

3820 (I) school;

3821 (II) nonprofit organization authorized by a school board or a governing body of a
3822 private school to organize and direct a competitive secondary school activity; or

3823 (III) nonprofit association authorized by a school board or a governing body of a
3824 private school to organize and direct a competitive secondary school activity; and

3825 (B) that is required to collect sales and use taxes under this chapter.

3826 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3827 commission may make rules defining the term "passed through."

3828 [~~(119)~~] (123) For purposes of this section and Section [59-12-104](#), "school" means:

3829 (a) an elementary school or a secondary school that:

3830 (i) is a:

3831 (A) public school; or

3832 (B) private school; and

3833 (ii) provides instruction for one or more grades kindergarten through 12; or

3834 (b) a public school district.

3835 (124) "Security system monitoring" means the service of monitoring signals from an
3836 alarm system, as defined in Section [58-55-102](#), regardless of whether the monitoring is
3837 performed electronically or by an individual.

3838 [~~(120)~~] (125) (a) "Seller" means a person that makes a sale, lease, or rental of:

- 3839 (i) tangible personal property;
- 3840 (ii) a product transferred electronically; or
- 3841 (iii) a service.
- 3842 (b) "Seller" includes a marketplace facilitator.
- 3843 (126) "Seller-hosted prewritten computer software" means prewritten computer
- 3844 software that is accessed through the Internet or a seller-hosted server, regardless of whether:
- 3845 (a) the access is permanent; or
- 3846 (b) any downloading occurs.
- 3847 [~~(121)~~] (127) (a) "Semiconductor fabricating, processing, research, or development
- 3848 materials" means tangible personal property or a product transferred electronically if the
- 3849 tangible personal property or product transferred electronically is:
- 3850 (i) used primarily in the process of:
- 3851 (A) (I) manufacturing a semiconductor;
- 3852 (II) fabricating a semiconductor; or
- 3853 (III) research or development of a:
- 3854 (Aa) semiconductor; or
- 3855 (Bb) semiconductor manufacturing process; or
- 3856 (B) maintaining an environment suitable for a semiconductor; or
- 3857 (ii) consumed primarily in the process of:
- 3858 (A) (I) manufacturing a semiconductor;
- 3859 (II) fabricating a semiconductor; or
- 3860 (III) research or development of a:
- 3861 (Aa) semiconductor; or
- 3862 (Bb) semiconductor manufacturing process; or
- 3863 (B) maintaining an environment suitable for a semiconductor.
- 3864 (b) "Semiconductor fabricating, processing, research, or development materials"
- 3865 includes:
- 3866 (i) parts used in the repairs or renovations of tangible personal property or a product
- 3867 transferred electronically described in Subsection [~~(121)~~] (127)(a); or
- 3868 (ii) a chemical, catalyst, or other material used to:
- 3869 (A) produce or induce in a semiconductor a:

- 3870 (I) chemical change; or
3871 (II) physical change;
3872 (B) remove impurities from a semiconductor; or
3873 (C) improve the marketable condition of a semiconductor.
3874 [(122)] (128) "Senior citizen center" means a facility having the primary purpose of
3875 providing services to the aged as defined in Section 62A-3-101.
3876 [(123)] (129) (a) [~~Subject to Subsections (123)(b) and (c), "short-term~~] "Short-term
3877 lodging consumable" means tangible personal property that:
3878 (i) a business that provides accommodations and services described in Subsection
3879 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
3880 to a purchaser;
3881 (ii) is intended to be consumed by the purchaser; and
3882 (iii) is:
3883 (A) included in the purchase price of the accommodations and services; and
3884 (B) not separately stated on an invoice, bill of sale, or other similar document provided
3885 to the purchaser.
3886 (b) "Short-term lodging consumable" includes:
3887 (i) a beverage;
3888 (ii) a brush or comb;
3889 (iii) a cosmetic;
3890 (iv) a hair care product;
3891 (v) lotion;
3892 (vi) a magazine;
3893 (vii) makeup;
3894 (viii) a meal;
3895 (ix) mouthwash;
3896 (x) nail polish remover;
3897 (xi) a newspaper;
3898 (xii) a notepad;
3899 (xiii) a pen;
3900 (xiv) a pencil;

- 3901 (xv) a razor;
- 3902 (xvi) saline solution;
- 3903 (xvii) a sewing kit;
- 3904 (xviii) shaving cream;
- 3905 (xix) a shoe shine kit;
- 3906 (xx) a shower cap;
- 3907 (xxi) a snack item;
- 3908 (xxii) soap;
- 3909 (xxiii) toilet paper;
- 3910 (xxiv) a toothbrush;
- 3911 (xxv) toothpaste; or
- 3912 (xxvi) an item similar to Subsections [~~(123)~~] (129)(b)(i) through (xxv) as the
- 3913 commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah
- 3914 Administrative Rulemaking Act.
- 3915 (c) "Short-term lodging consumable" does not include:
- 3916 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 3917 property to be reused; or
- 3918 (ii) a product transferred electronically.
- 3919 [~~(124)~~] (130) "Simplified electronic return" means the electronic return:
- 3920 (a) described in Section 318(C) of the agreement; and
- 3921 (b) approved by the governing board of the agreement.
- 3922 [~~(125)~~] (131) "Solar energy" means the sun used as the sole source of energy for
- 3923 producing electricity.
- 3924 [~~(126)~~] (132) (a) "Sports or recreational equipment" means an item:
- 3925 (i) designed for human use; and
- 3926 (ii) that is:
- 3927 (A) worn in conjunction with:
- 3928 (I) an athletic activity; or
- 3929 (II) a recreational activity; and
- 3930 (B) not suitable for general use.
- 3931 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3932 commission shall make rules:

3933 (i) listing the items that constitute "sports or recreational equipment"; and

3934 (ii) that are consistent with the list of items that constitute "sports or recreational
3935 equipment" under the agreement.

3936 [(127)] (133) "State" means the state of Utah, its departments, and agencies.

3937 [(128)] (134) "Storage" means any keeping or retention of tangible personal property or
3938 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
3939 except sale in the regular course of business.

3940 [(129)] (135) (a) [~~Except as provided in Subsection (129)(d) or (e), "tangible"~~]
3941 "Tangible personal property" means personal property that:

3942 (i) may be:

3943 (A) seen;

3944 (B) weighed;

3945 (C) measured;

3946 (D) felt; or

3947 (E) touched; or

3948 (ii) is in any manner perceptible to the senses.

3949 (b) "Tangible personal property" includes:

3950 (i) electricity;

3951 (ii) water;

3952 (iii) gas;

3953 (iv) steam; or

3954 (v) prewritten computer software, regardless of the manner in which the prewritten
3955 computer software is transferred.

3956 (c) "Tangible personal property" includes the following regardless of whether the item
3957 is attached to real property:

3958 (i) a dishwasher;

3959 (ii) a dryer;

3960 (iii) a freezer;

3961 (iv) a microwave;

3962 (v) a refrigerator;

- 3963 (vi) a stove;
- 3964 (vii) a washer; or
- 3965 (viii) an item similar to Subsections [~~(129)~~] (135)(c)(i) through (vii) as determined by
- 3966 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 3967 Rulemaking Act.
- 3968 (d) "Tangible personal property" does not include a product that is transferred
- 3969 electronically.
- 3970 (e) "Tangible personal property" does not include the following if attached to real
- 3971 property, regardless of whether the attachment to real property is only through a line that
- 3972 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
- 3973 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 3974 Rulemaking Act:
- 3975 (i) a hot water heater;
- 3976 (ii) a water filtration system; or
- 3977 (iii) a water softener system.
- 3978 [~~(130)~~] (136) (a) "Telecommunications enabling or facilitating equipment, machinery,
- 3979 or software" means an item listed in Subsection [~~(130)~~] (136)(b) if that item is purchased or
- 3980 leased primarily to enable or facilitate one or more of the following to function:
- 3981 (i) telecommunications switching or routing equipment, machinery, or software; or
- 3982 (ii) telecommunications transmission equipment, machinery, or software.
- 3983 (b) The following apply to Subsection [~~(130)~~] (136)(a):
- 3984 (i) a pole;
- 3985 (ii) software;
- 3986 (iii) a supplementary power supply;
- 3987 (iv) temperature or environmental equipment or machinery;
- 3988 (v) test equipment;
- 3989 (vi) a tower; or
- 3990 (vii) equipment, machinery, or software that functions similarly to an item listed in
- 3991 Subsections [~~(130)~~] (136)(b)(i) through (vi) as determined by the commission by rule made in
- 3992 accordance with Subsection [~~(130)~~] (136)(c).
- 3993 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3994 commission may by rule define what constitutes equipment, machinery, or software that
3995 functions similarly to an item listed in Subsections [~~(130)~~] (136)(b)(i) through (vi).

3996 [~~(131)~~] (137) "Telecommunications equipment, machinery, or software required for
3997 911 service" means equipment, machinery, or software that is required to comply with 47
3998 C.F.R. Sec. 20.18.

3999 [~~(132)~~] (138) "Telecommunications maintenance or repair equipment, machinery, or
4000 software" means equipment, machinery, or software purchased or leased primarily to maintain
4001 or repair one or more of the following, regardless of whether the equipment, machinery, or
4002 software is purchased or leased as a spare part or as an upgrade or modification to one or more
4003 of the following:

- 4004 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 4005 (b) telecommunications switching or routing equipment, machinery, or software; or
- 4006 (c) telecommunications transmission equipment, machinery, or software.

4007 [~~(133)~~] (139) (a) "Telecommunications service" means the electronic conveyance,
4008 routing, or transmission of audio, data, video, voice, or any other information or signal to a
4009 point, or among or between points.

4010 (b) "Telecommunications service" includes:

4011 (i) an electronic conveyance, routing, or transmission with respect to which a computer
4012 processing application is used to act:

4013 (A) on the code, form, or protocol of the content;

4014 (B) for the purpose of electronic conveyance, routing, or transmission; and

4015 (C) regardless of whether the service:

4016 (I) is referred to as voice over Internet protocol service; or

4017 (II) is classified by the Federal Communications Commission as enhanced or value
4018 added;

4019 (ii) an 800 service;

4020 (iii) a 900 service;

4021 (iv) a fixed wireless service;

4022 (v) a mobile wireless service;

4023 (vi) a postpaid calling service;

4024 (vii) a prepaid calling service;

- 4025 (viii) a prepaid wireless calling service; or
- 4026 (ix) a private communications service.
- 4027 (c) "Telecommunications service" does not include:
- 4028 (i) advertising, including directory advertising;
- 4029 (ii) an ancillary service;
- 4030 (iii) a billing and collection service provided to a third party;
- 4031 (iv) a data processing and information service if:
- 4032 (A) the data processing and information service allows data to be:
- 4033 (I) (Aa) acquired;
- 4034 (Bb) generated;
- 4035 (Cc) processed;
- 4036 (Dd) retrieved; or
- 4037 (Ee) stored; and
- 4038 (II) delivered by an electronic transmission to a purchaser; and
- 4039 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 4040 or information;
- 4041 (v) installation or maintenance of the following on a customer's premises:
- 4042 (A) equipment; or
- 4043 (B) wiring;
- 4044 (vi) Internet access service;
- 4045 (vii) a paging service;
- 4046 (viii) a product transferred electronically, including:
- 4047 (A) music;
- 4048 (B) reading material;
- 4049 (C) a ring tone;
- 4050 (D) software; or
- 4051 (E) video;
- 4052 (ix) a radio and television audio and video programming service:
- 4053 (A) regardless of the medium; and
- 4054 (B) including:
- 4055 (I) furnishing conveyance, routing, or transmission of a television audio and video

4056 programming service by a programming service provider;

4057 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or

4058 (III) audio and video programming services delivered by a commercial mobile radio

4059 service provider as defined in 47 C.F.R. Sec. 20.3;

4060 (x) a value-added nonvoice data service; or

4061 (xi) tangible personal property.

4062 [~~(134)~~] (140) (a) "Telecommunications service provider" means a person that:

4063 (i) owns, controls, operates, or manages a telecommunications service; and

4064 (ii) engages in an activity described in Subsection [~~(134)~~] (140)(a)(i) for the shared use
4065 with or resale to any person of the telecommunications service.

4066 (b) A person described in Subsection [~~(134)~~] (140)(a) is a telecommunications service
4067 provider whether or not the Public Service Commission of Utah regulates:

4068 (i) that person; or

4069 (ii) the telecommunications service that the person owns, controls, operates, or
4070 manages.

4071 [~~(135)~~] (141) (a) "Telecommunications switching or routing equipment, machinery, or
4072 software" means an item listed in Subsection [~~(135)~~] (141)(b) if that item is purchased or
4073 leased primarily for switching or routing:

4074 (i) an ancillary service;

4075 (ii) data communications;

4076 (iii) voice communications; or

4077 (iv) telecommunications service.

4078 (b) The following apply to Subsection [~~(135)~~] (141)(a):

4079 (i) a bridge;

4080 (ii) a computer;

4081 (iii) a cross connect;

4082 (iv) a modem;

4083 (v) a multiplexer;

4084 (vi) plug in circuitry;

4085 (vii) a router;

4086 (viii) software;

- 4087 (ix) a switch; or
- 4088 (x) equipment, machinery, or software that functions similarly to an item listed in
- 4089 Subsections [~~(135)~~] (141)(b)(i) through (ix) as determined by the commission by rule made in
- 4090 accordance with Subsection [~~(135)~~] (141)(c).
- 4091 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 4092 commission may by rule define what constitutes equipment, machinery, or software that
- 4093 functions similarly to an item listed in Subsections [~~(135)~~] (141)(b)(i) through (ix).
- 4094 [~~(136)~~] (142) (a) "Telecommunications transmission equipment, machinery, or
- 4095 software" means an item listed in Subsection [~~(136)~~] (142)(b) if that item is purchased or
- 4096 leased primarily for sending, receiving, or transporting:
- 4097 (i) an ancillary service;
- 4098 (ii) data communications;
- 4099 (iii) voice communications; or
- 4100 (iv) telecommunications service.
- 4101 (b) The following apply to Subsection [~~(136)~~] (142)(a):
- 4102 (i) an amplifier;
- 4103 (ii) a cable;
- 4104 (iii) a closure;
- 4105 (iv) a conduit;
- 4106 (v) a controller;
- 4107 (vi) a duplexer;
- 4108 (vii) a filter;
- 4109 (viii) an input device;
- 4110 (ix) an input/output device;
- 4111 (x) an insulator;
- 4112 (xi) microwave machinery or equipment;
- 4113 (xii) an oscillator;
- 4114 (xiii) an output device;
- 4115 (xiv) a pedestal;
- 4116 (xv) a power converter;
- 4117 (xvi) a power supply;

- 4118 (xvii) a radio channel;
- 4119 (xviii) a radio receiver;
- 4120 (xix) a radio transmitter;
- 4121 (xx) a repeater;
- 4122 (xxi) software;
- 4123 (xxii) a terminal;
- 4124 (xxiii) a timing unit;
- 4125 (xxiv) a transformer;
- 4126 (xxv) a wire; or
- 4127 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 4128 Subsections ~~[(136)]~~ (142)(b)(i) through (xxv) as determined by the commission by rule made in
- 4129 accordance with Subsection ~~[(136)]~~ (142)(c).

4130 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

4131 commission may by rule define what constitutes equipment, machinery, or software that

4132 functions similarly to an item listed in Subsections ~~[(136)]~~ (142)(b)(i) through (xxv).

4133 ~~[(137)(a) "Textbook for a higher education course" means a textbook or other printed~~

4134 ~~material that is required for a course:]~~

4135 ~~[(i) offered by an institution of higher education; and]~~

4136 ~~[(ii) that the purchaser of the textbook or other printed material attends or will attend:]~~

4137 ~~[(b) "Textbook for a higher education course" includes a textbook in electronic~~

4138 ~~format.]~~

4139 ~~[(138)]~~ (143) "Tobacco" means:

- 4140 (a) a cigarette;
- 4141 (b) a cigar;
- 4142 (c) chewing tobacco;
- 4143 (d) pipe tobacco; or
- 4144 (e) any other item that contains tobacco.

4145 ~~[(139)]~~ (144) "Unassisted amusement device" means an amusement device, skill

4146 device, or ride device that is started ~~[and]~~ or stopped by the purchaser or renter of the right to

4147 use or operate the amusement device, skill device, or ride device.

4148 ~~[(140)]~~ (145) (a) "Use" means the exercise of any right or power over tangible personal

4149 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
4150 incident to the ownership or the leasing of that tangible personal property, product transferred
4151 electronically, or service.

4152 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
4153 property, a product transferred electronically, or a service in the regular course of business and
4154 held for resale.

4155 ~~[(141)]~~ (146) "Value-added nonvoice data service" means a service:

4156 (a) that otherwise meets the definition of a telecommunications service except that a
4157 computer processing application is used to act primarily for a purpose other than conveyance,
4158 routing, or transmission; and

4159 (b) with respect to which a computer processing application is used to act on data or
4160 information:

- 4161 (i) code;
- 4162 (ii) content;
- 4163 (iii) form; or
- 4164 (iv) protocol.

4165 ~~[(142)]~~ (147) (a) Subject to Subsection ~~[(142)]~~ (147)(b), "vehicle" means the following
4166 that are required to be titled, registered, or titled and registered:

- 4167 (i) an aircraft as defined in Section 72-10-102;
- 4168 (ii) a vehicle as defined in Section 41-1a-102;
- 4169 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 4170 (iv) a vessel as defined in Section 41-1a-102.

4171 (b) For purposes of Subsection 59-12-104~~[(33)]~~(30) only, "vehicle" includes:

- 4172 (i) a vehicle described in Subsection ~~[(142)]~~ (147)(a); or
- 4173 (ii) (A) a locomotive;
- 4174 (B) a freight car;
- 4175 (C) railroad work equipment; or
- 4176 (D) other railroad rolling stock.

4177 ~~[(143)]~~ (148) "Vehicle dealer" means a person engaged in the business of buying,
4178 selling, or exchanging a vehicle ~~[as defined in Subsection (142)]~~.

4179 ~~[(144)]~~ (149) (a) "Vertical service" means an ancillary service that:

4180 (i) is offered in connection with one or more telecommunications services; and
4181 (ii) offers an advanced calling feature that allows a customer to:
4182 (A) identify a caller; and
4183 (B) manage multiple calls and call connections.
4184 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
4185 conference bridging service.

4186 ~~[(145)]~~ (150) (a) "Voice mail service" means an ancillary service that enables a
4187 customer to receive, send, or store a recorded message.

4188 (b) "Voice mail service" does not include a vertical service that a customer is required
4189 to have in order to utilize a voice mail service.

4190 ~~[(146)]~~ (151) (a) ~~[Except as provided in Subsection (146)(b), "waste"]~~ "Waste energy
4191 facility" means a facility that generates electricity:

4192 (i) using as the primary source of energy waste materials that would be placed in a
4193 landfill or refuse pit if it were not used to generate electricity, including:

4194 (A) tires;

4195 (B) waste coal;

4196 (C) oil shale; or

4197 (D) municipal solid waste; and

4198 (ii) in amounts greater than actually required for the operation of the facility.

4199 (b) "Waste energy facility" does not include a facility that incinerates:

4200 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

4201 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

4202 ~~[(147)]~~ (152) "Watercraft" means a vessel as defined in Section 73-18-2.

4203 ~~[(148)]~~ (153) "Wind energy" means wind used as the sole source of energy to produce
4204 electricity.

4205 ~~[(149)]~~ (154) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
4206 geographic location by the United States Postal Service.

4207 Section 46. Section **59-12-103** is amended to read:

4208 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
4209 **tax revenue.**

4210 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or

- 4211 sales price for amounts paid or charged for the following transactions:
- 4212 (a) retail sales of tangible personal property made within the state;
- 4213 (b) amounts paid for:
- 4214 (i) telecommunications service, other than mobile telecommunications service or a 900
- 4215 service, that originates and terminates within the boundaries of this state;
- 4216 (ii) mobile telecommunications service that originates and terminates within the
- 4217 boundaries of one state only to the extent permitted by the Mobile Telecommunications
- 4218 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; [~~or~~]
- 4219 (iii) a 900 service; or
- 4220 [~~(iii)~~] (iv) an ancillary service associated with a:
- 4221 (A) telecommunications service described in Subsection (1)(b)(i); [~~or~~]
- 4222 (B) mobile telecommunications service described in Subsection (1)(b)(ii); or
- 4223 (C) 900 service;
- 4224 (c) sales of the following for commercial use:
- 4225 (i) gas;
- 4226 (ii) electricity;
- 4227 (iii) heat;
- 4228 (iv) coal;
- 4229 (v) fuel oil; or
- 4230 (vi) other fuels;
- 4231 (d) sales of the following for residential use:
- 4232 (i) gas;
- 4233 (ii) electricity;
- 4234 (iii) heat;
- 4235 (iv) coal;
- 4236 (v) fuel oil; or
- 4237 (vi) other fuels;
- 4238 (e) sales of prepared food;
- 4239 (f) except as provided in Section [59-12-104](#), amounts paid or charged as admission or
- 4240 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 4241 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,

4242 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
4243 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
4244 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
4245 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
4246 horseback rides, sports activities, or any other amusement, entertainment, recreation,
4247 exhibition, cultural, or athletic activity;

4248 (g) amounts paid or charged for services for repairs or renovations of tangible personal
4249 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

4250 (i) the tangible personal property; and

4251 (ii) parts used in the repairs or renovations of the tangible personal property described
4252 in Subsection (1)(g)(i), regardless of whether:

4253 (A) any parts are actually used in the repairs or renovations of that tangible personal
4254 property; or

4255 (B) the particular parts used in the repairs or renovations of that tangible personal
4256 property are exempt from a tax under this chapter;

4257 (h) [~~except as provided in Subsection 59-12-104(7);~~] amounts paid or charged for
4258 [~~assisted~~] cleaning or washing of tangible personal property;

4259 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
4260 accommodations and services that are regularly rented for less than 30 consecutive days;

4261 (j) amounts paid or charged for laundry or dry cleaning services;

4262 (k) amounts paid or charged for leases or rentals of tangible personal property if within
4263 this state the tangible personal property is:

4264 (i) stored;

4265 (ii) used; or

4266 (iii) otherwise consumed;

4267 (l) amounts paid or charged for tangible personal property if within this state the
4268 tangible personal property is:

4269 (i) stored;

4270 (ii) used; or

4271 (iii) consumed; [~~and~~]

4272 (m) amounts paid or charged for a sale:

- 4273 (i) (A) of a product transferred electronically; or
4274 (B) of a repair or renovation of a product transferred electronically; and
4275 (ii) regardless of whether the sale provides:
4276 (A) a right of permanent use of the product; or
4277 (B) a right to use the product that is less than a permanent use, including a right:
4278 (I) for a definite or specified length of time; and
4279 (II) that terminates upon the occurrence of a condition[-];
4280 (n) amounts paid or charged for access to digital audio-visual works, digital audio
4281 works, digital books, or gaming services, including the streaming of or subscription for access
4282 to digital audio-visual works, digital audio works, digital books, or gaming services regardless
4283 of:
4284 (i) the delivery method; or
4285 (ii) whether the amount paid or charged for access provides a right to:
4286 (A) single-use access to the digital audio-visual works, digital audio works, digital
4287 books, or gaming services; or
4288 (B) access the digital audio-visual works, digital audio works, digital books, or gaming
4289 services through a subscription, including a right that terminates upon the occurrence of a
4290 condition;
4291 (o) amounts paid or charged for the storage, use, or other consumption of:
4292 (i) prewritten computer software delivered electronically or by load and leave; or
4293 (ii) seller-hosted prewritten computer software; and
4294 (p) amounts paid or charged for the following services:
4295 (i) security system monitoring;
4296 (ii) personal transportation that originates in the state and terminates in the state;
4297 (iii) parking or garaging a motor vehicle at a location that:
4298 (A) is designed and used for parking or garaging one or more motor vehicles,
4299 regardless of whether the location is sometimes used for other purposes; and
4300 (B) is not residential property;
4301 (iv) tow truck service as defined in Section [72-9-102](#), including any related fees;
4302 (v) pet boarding or care;
4303 (vi) pet grooming;

4304 (vii) dating referral services; and

4305 (viii) identity theft protection.

4306 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
4307 are imposed on a transaction described in Subsection (1) equal to the sum of:

4308 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

4309 [~~(A) (I) through March 31, 2019, 4.70%; and~~]

4310 [~~(H) (A) [beginning on April 1, 2019,]~~ 4.70% plus the rate specified in Subsection
4311 [~~(H3)~~] (A) (12)(a); and

4312 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
4313 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
4314 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
4315 State Sales and Use Tax Act; and

4316 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
4317 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
4318 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
4319 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

4320 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
4321 transaction under this chapter other than this part.

4322 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax are
4323 imposed on a transaction described in Subsection (1)(d) equal to the sum of:

4324 (i) a state tax imposed on the transaction at a tax rate of 2%; and

4325 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
4326 transaction under this chapter other than this part.

4327 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax are
4328 imposed on amounts paid or charged for food and food ingredients equal to the sum of:

4329 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
4330 a tax rate of [~~1.75%~~] 4.85%; and

4331 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
4332 amounts paid or charged for food and food ingredients under this chapter other than this part.

4333 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
4334 tangible personal property other than food and food ingredients, a state tax and a local tax is

4335 imposed on the entire bundled transaction equal to the sum of:

4336 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

4337 (I) the tax rate described in Subsection (2)(a)(i)(A); and

4338 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State

4339 Sales and Use Tax Act, if the location of the transaction as determined under Sections

4340 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,

4341 Additional State Sales and Use Tax Act; and

4342 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State

4343 Sales and Use Tax Act, if the location of the transaction as determined under Sections

4344 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which

4345 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

4346 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates

4347 described in Subsection (2)(a)(ii).

4348 (ii) If an optional computer software maintenance contract is a bundled transaction that

4349 consists of taxable and nontaxable products that are not separately itemized on an invoice or

4350 similar billing document, the purchase of the optional computer software maintenance contract

4351 is 40% taxable under this chapter and 60% nontaxable under this chapter.

4352 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled

4353 transaction described in Subsection (2)(d)(i) or (ii):

4354 (A) if the sales price of the bundled transaction is attributable to tangible personal

4355 property, a product, or a service that is subject to taxation under this chapter and tangible

4356 personal property, a product, or service that is not subject to taxation under this chapter, the

4357 entire bundled transaction is subject to taxation under this chapter unless:

4358 (I) the seller is able to identify by reasonable and verifiable standards the tangible

4359 personal property, product, or service that is not subject to taxation under this chapter from the

4360 books and records the seller keeps in the seller's regular course of business; or

4361 (II) state or federal law provides otherwise; or

4362 (B) if the sales price of a bundled transaction is attributable to two or more items of

4363 tangible personal property, products, or services that are subject to taxation under this chapter

4364 at different rates, the entire bundled transaction is subject to taxation under this chapter at the

4365 higher tax rate unless:

4366 (I) the seller is able to identify by reasonable and verifiable standards the tangible
4367 personal property, product, or service that is subject to taxation under this chapter at the lower
4368 tax rate from the books and records the seller keeps in the seller's regular course of business; or

4369 (II) state or federal law provides otherwise.

4370 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
4371 seller's regular course of business includes books and records the seller keeps in the regular
4372 course of business for nontax purposes.

4373 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
4374 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
4375 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
4376 of tangible personal property, other property, a product, or a service that is not subject to
4377 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
4378 the seller, at the time of the transaction:

4379 (A) separately states the portion of the transaction that is not subject to taxation under
4380 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

4381 (B) is able to identify by reasonable and verifiable standards, from the books and
4382 records the seller keeps in the seller's regular course of business, the portion of the transaction
4383 that is not subject to taxation under this chapter.

4384 (ii) A purchaser and a seller may correct the taxability of a transaction if:

4385 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
4386 the transaction that is not subject to taxation under this chapter was not separately stated on an
4387 invoice, bill of sale, or similar document provided to the purchaser because of an error or
4388 ignorance of the law; and

4389 (B) the seller is able to identify by reasonable and verifiable standards, from the books
4390 and records the seller keeps in the seller's regular course of business, the portion of the
4391 transaction that is not subject to taxation under this chapter.

4392 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
4393 in the seller's regular course of business includes books and records the seller keeps in the
4394 regular course of business for nontax purposes.

4395 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
4396 personal property, products, or services that are subject to taxation under this chapter at

4397 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
4398 unless the seller, at the time of the transaction:

4399 (A) separately states the items subject to taxation under this chapter at each of the
4400 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

4401 (B) is able to identify by reasonable and verifiable standards the tangible personal
4402 property, product, or service that is subject to taxation under this chapter at the lower tax rate
4403 from the books and records the seller keeps in the seller's regular course of business.

4404 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
4405 seller's regular course of business includes books and records the seller keeps in the regular
4406 course of business for nontax purposes.

4407 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
4408 rate imposed under the following shall take effect on the first day of a calendar quarter:

4409 (i) Subsection (2)(a)(i)(A);

4410 (ii) Subsection (2)(b)(i);

4411 (iii) Subsection (2)(c)(i); or

4412 (iv) Subsection (2)(d)(i)(A)(I).

4413 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
4414 begins on or after the effective date of the tax rate increase if the billing period for the
4415 transaction begins before the effective date of a tax rate increase imposed under:

4416 (A) Subsection (2)(a)(i)(A);

4417 (B) Subsection (2)(b)(i);

4418 (C) Subsection (2)(c)(i); or

4419 (D) Subsection (2)(d)(i)(A)(I).

4420 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
4421 statement for the billing period is rendered on or after the effective date of the repeal of the tax
4422 or the tax rate decrease imposed under:

4423 (A) Subsection (2)(a)(i)(A);

4424 (B) Subsection (2)(b)(i);

4425 (C) Subsection (2)(c)(i); or

4426 (D) Subsection (2)(d)(i)(A)(I).

4427 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is

4428 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
4429 change in a tax rate takes effect:

4430 (A) on the first day of a calendar quarter; and
4431 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

4432 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

4433 (A) Subsection (2)(a)(i)(A);

4434 (B) Subsection (2)(b)(i);

4435 (C) Subsection (2)(c)(i); or

4436 (D) Subsection (2)(d)(i)(A)(I).

4437 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
4438 the commission may by rule define the term "catalogue sale."

4439 (3) (a) The following state taxes shall be deposited into the General Fund:

4440 (i) the tax imposed by Subsection (2)(a)(i)(A);

4441 (ii) the tax imposed by Subsection (2)(b)(i);

4442 (iii) the tax imposed by Subsection (2)(c)(i); or

4443 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

4444 (b) The following local taxes shall be distributed to a county, city, or town as provided
4445 in this chapter:

4446 (i) the tax imposed by Subsection (2)(a)(ii);

4447 (ii) the tax imposed by Subsection (2)(b)(ii);

4448 (iii) the tax imposed by Subsection (2)(c)(ii); and

4449 (iv) the tax imposed by Subsection (2)(d)(i)(B).

4450 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
4451 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
4452 through (g):

4453 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

4454 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

4455 (B) for the fiscal year; or

4456 (ii) \$17,500,000.

4457 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
4458 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the

4459 Department of Natural Resources to:

4460 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
4461 protect sensitive plant and animal species; or

4462 (B) award grants, up to the amount authorized by the Legislature in an appropriations
4463 act, to political subdivisions of the state to implement the measures described in Subsections
4464 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

4465 (ii) Money transferred to the Department of Natural Resources under Subsection
4466 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
4467 person to list or attempt to have listed a species as threatened or endangered under the
4468 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

4469 (iii) At the end of each fiscal year:

4470 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
4471 Conservation and Development Fund created in Section 73-10-24;

4472 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
4473 Program Subaccount created in Section 73-10c-5; and

4474 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
4475 Program Subaccount created in Section 73-10c-5.

4476 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
4477 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
4478 created in Section 4-18-106.

4479 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
4480 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
4481 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
4482 water rights.

4483 (ii) At the end of each fiscal year:

4484 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
4485 Conservation and Development Fund created in Section 73-10-24;

4486 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
4487 Program Subaccount created in Section 73-10c-5; and

4488 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
4489 Program Subaccount created in Section 73-10c-5.

4490 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
4491 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
4492 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

4493 (ii) In addition to the uses allowed of the Water Resources Conservation and
4494 Development Fund under Section 73-10-24, the Water Resources Conservation and
4495 Development Fund may also be used to:

4496 (A) conduct hydrologic and geotechnical investigations by the Division of Water
4497 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
4498 quantifying surface and ground water resources and describing the hydrologic systems of an
4499 area in sufficient detail so as to enable local and state resource managers to plan for and
4500 accommodate growth in water use without jeopardizing the resource;

4501 (B) fund state required dam safety improvements; and

4502 (C) protect the state's interest in interstate water compact allocations, including the
4503 hiring of technical and legal staff.

4504 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
4505 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
4506 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

4507 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
4508 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
4509 created in Section 73-10c-5 for use by the Division of Drinking Water to:

4510 (i) provide for the installation and repair of collection, treatment, storage, and
4511 distribution facilities for any public water system, as defined in Section 19-4-102;

4512 (ii) develop underground sources of water, including springs and wells; and

4513 (iii) develop surface water sources.

4514 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
4515 2006, the difference between the following amounts shall be expended as provided in this
4516 Subsection (5), if that difference is greater than \$1:

4517 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
4518 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

4519 (ii) \$17,500,000.

4520 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

4521 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
4522 credits; and

4523 (B) expended by the Department of Natural Resources for watershed rehabilitation or
4524 restoration.

4525 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
4526 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
4527 created in Section 73-10-24.

4528 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
4529 remaining difference described in Subsection (5)(a) shall be:

4530 (A) transferred each fiscal year to the Division of Water Resources as dedicated
4531 credits; and

4532 (B) expended by the Division of Water Resources for cloud-seeding projects
4533 authorized by Title 73, Chapter 15, Modification of Weather.

4534 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
4535 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
4536 created in Section 73-10-24.

4537 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
4538 remaining difference described in Subsection (5)(a) shall be deposited into the Water
4539 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
4540 Division of Water Resources for:

4541 (i) preconstruction costs:

4542 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
4543 26, Bear River Development Act; and

4544 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
4545 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

4546 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
4547 Chapter 26, Bear River Development Act;

4548 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
4549 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

4550 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
4551 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

4552 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
4553 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be
4554 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
4555 incurred for employing additional technical staff for the administration of water rights.

4556 (f) At the end of each fiscal year, any unexpended dedicated credits described in
4557 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
4558 Fund created in Section 73-10-24.

4559 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
4560 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
4561 (1) for the fiscal year shall be deposited as follows:

4562 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)
4563 shall be deposited into the Transportation Investment Fund of 2005 created by Section
4564 72-2-124;

4565 (b) for fiscal year 2017-18 only:

4566 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the
4567 Transportation Investment Fund of 2005 created by Section 72-2-124; and

4568 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the
4569 Water Infrastructure Restricted Account created by Section 73-10g-103;

4570 (c) for fiscal year 2018-19 only:

4571 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the
4572 Transportation Investment Fund of 2005 created by Section 72-2-124; and

4573 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the
4574 Water Infrastructure Restricted Account created by Section 73-10g-103;

4575 (d) for fiscal year 2019-20 only:

4576 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the
4577 Transportation Investment Fund of 2005 created by Section 72-2-124; and

4578 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the
4579 Water Infrastructure Restricted Account created by Section 73-10g-103;

4580 (e) for fiscal year 2020-21 only:

4581 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
4582 Transportation Investment Fund of 2005 created by Section 72-2-124; and

4583 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
4584 Water Infrastructure Restricted Account created by Section 73-10g-103; and

4585 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
4586 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
4587 created by Section 73-10g-103.

4588 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
4589 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
4590 [~~2012~~] 2020, the Division of Finance shall deposit into the Transportation Investment Fund of
4591 2005 created by Section 72-2-124:

4592 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
4593 the [~~revenues~~] revenue collected from the following taxes, which represents a portion of the
4594 approximately 17% of sales and use tax [~~revenues~~] revenue generated annually by the sales and
4595 use tax on vehicles and vehicle-related products:

4596 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

4597 (B) the tax imposed by Subsection (2)(b)(i);

4598 (C) the tax imposed by Subsection (2)(c)(i); and

4599 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

4600 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
4601 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
4602 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
4603 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

4604 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
4605 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total
4606 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
4607 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
4608 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
4609 (7)(a) equal to the product of:

4610 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
4611 previous fiscal year; and

4612 (B) the total sales and use tax revenue generated by the taxes described in Subsections
4613 (7)(a)(i)(A) through (D) in the current fiscal year.

4614 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
4615 Subsection (7)(a) would exceed ~~[17%]~~ 14.31% of the ~~[revenues]~~ revenue collected from the
4616 sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year,
4617 the Division of Finance shall deposit ~~[17%]~~ 14.31% of the ~~[revenues]~~ revenue collected from
4618 the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal
4619 year under Subsection (7)(a).

4620 (iii) In all subsequent fiscal years after a year in which ~~[17%]~~ 14.31% of the ~~[revenues]~~
4621 revenue collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through
4622 (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit
4623 ~~[17%]~~ 14.31% of the ~~[revenues]~~ revenue collected from the sales and use taxes described in
4624 Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

4625 ~~[(8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited~~
4626 ~~under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall~~
4627 ~~deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into~~
4628 ~~the Transportation Investment Fund of 2005 created by Section 72-2-124.]~~

4629 ~~[(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under~~
4630 ~~Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit~~
4631 ~~\$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the~~
4632 ~~Transportation Investment Fund of 2005 created by Section 72-2-124.]~~

4633 ~~[(c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under~~
4634 ~~Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning on or~~
4635 ~~after July 1, 2018, the commission shall annually deposit into the Transportation Investment~~
4636 ~~Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a)~~
4637 ~~in an amount equal to 3.68% of the revenues collected from the following taxes:]~~

4638 ~~[(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;]~~

4639 ~~[(B) the tax imposed by Subsection (2)(b)(i);]~~

4640 ~~[(C) the tax imposed by Subsection (2)(c)(i); and]~~

4641 ~~[(D) the tax imposed by Subsection (2)(d)(i)(A)(I).]~~

4642 ~~[(ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually~~
4643 ~~reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i)~~
4644 ~~by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year~~

4645 by the portion of the tax imposed on motor and special fuel that is sold, used, or received for
4646 sale or use in this state that exceeds 29.4 cents per gallon.]

4647 [(iii)] (8) The commission shall deposit annually [~~deposit the amount described in~~
4648 ~~Subsection (8)(c)(ii)] an amount equal to 50% of the growth in the amount of revenue collected
4649 in the current fiscal year from the tax imposed under Subsection (2)(c)(i) that exceeds the
4650 amount collected from the tax imposed under Subsection (2)(c)(i) in the 2020-2021 fiscal year
4651 into the Transit [~~and~~] Transportation Investment Fund created in Section 72-2-124.~~

4652 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
4653 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
4654 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

4655 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),
4656 in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17
4657 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund
4658 of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on
4659 the transactions described in Subsection (1).

4660 (b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in
4661 addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance
4662 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
4663 amount of revenue described as follows:

4664 (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%
4665 tax rate on the transactions described in Subsection (1);

4666 (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05%
4667 tax rate on the transactions described in Subsection (1);

4668 (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%
4669 tax rate on the transactions described in Subsection (1);

4670 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
4671 .05% tax rate on the transactions described in Subsection (1); and

4672 (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%
4673 tax rate on the transactions described in Subsection (1).

4674 (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not
4675 deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts

4676 paid or charged for food and food ingredients, except for tax revenue generated by a bundled
4677 transaction attributable to food and food ingredients and tangible personal property other than
4678 food and food ingredients described in Subsection (2)(d).

4679 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
4680 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
4681 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
4682 Finance shall, for two consecutive fiscal years, [~~annually~~] deposit annually \$1,900,000 of the
4683 revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation
4684 Fund, created in Section 63N-2-512.

4685 [~~(12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the~~
4686 ~~Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed~~
4687 ~~under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section~~
4688 ~~35A-8-308.]~~

4689 [~~(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division~~
4690 ~~of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under~~
4691 ~~Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.]~~

4692 [~~(13)~~] (12) (a) The rate specified in this subsection is 0.15%.

4693 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall [~~-(i) on or before~~
4694 ~~September 30, 2019, transfer the amount of revenue collected from the rate described in~~
4695 ~~Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the~~
4696 ~~transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the~~
4697 ~~Medicaid Expansion Fund created in Section 26-36b-208; and (ii)] for a fiscal year beginning
4698 on or after July 1, 2019, [~~annually~~] transfer annually the amount of revenue collected from the
4699 rate described in Subsection [~~(13)~~] (12)(a) on the transactions that are subject to the sales and
4700 use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section
4701 26-36b-208.~~

4702 Section 47. Section 59-12-104 is amended to read:

4703 **59-12-104. Exemptions.**

4704 [~~Exemptions from the taxes imposed by this chapter are as follows] Except as provided
4705 in Subsection 59-12-103(2)(d), the purchase price of the following are exempt from the taxes
4706 imposed by this chapter:~~

4707 (1) (a) sales of aviation fuel~~[, motor fuel, and special]~~ or diesel fuel subject to a ~~[Utah]~~
 4708 state excise tax under Chapter 13, Motor and Special Fuel Tax Act; or

4709 (b) sales of motor fuel or nondiesel special fuel, as defined in Section [59-13-601](#), that
 4710 are subject to a sales tax under Chapter 13, Part 6, Sales Tax on Motor Fuel and Special Fuel,
 4711 Other than Diesel Fuel;

4712 (2) subject to Section [59-12-104.6](#), sales to the state, its institutions, and its political
 4713 subdivisions; however, this exemption does not apply to sales of:

4714 (a) construction materials except:

4715 (i) construction materials purchased by or on behalf of institutions of the public
 4716 education system as defined in Utah Constitution, Article X, Section 2, provided the
 4717 construction materials are clearly identified and segregated and installed or converted to real
 4718 property which is owned by institutions of the public education system; and

4719 (ii) construction materials purchased by the state, its institutions, or its political
 4720 subdivisions which are installed or converted to real property by employees of the state, its
 4721 institutions, or its political subdivisions; or

4722 (b) tangible personal property in connection with the construction, operation,
 4723 maintenance, repair, or replacement of a project, as defined in Section [11-13-103](#), or facilities
 4724 providing additional project capacity, as defined in Section [11-13-103](#);

4725 ~~[(3)(a) sales of an item described in Subsection (3)(b) from a vending machine if:]~~

4726 ~~[(i) the proceeds of each sale do not exceed \$1; and]~~

4727 ~~[(ii) the seller or operator of the vending machine reports an amount equal to 150% of~~
 4728 ~~the cost of the item described in Subsection (3)(b) as goods consumed; and]~~

4729 ~~[(b) Subsection (3)(a) applies to:]~~

4730 ~~[(i) food and food ingredients; or]~~

4731 ~~[(ii) prepared food;]~~

4732 ~~[(4)]~~ (3) (a) sales of the following to a commercial airline carrier for in-flight
 4733 consumption:

4734 (i) alcoholic beverages;

4735 (ii) food and food ingredients; or

4736 (iii) prepared food;

4737 (b) sales of tangible personal property or a product transferred electronically:

4738 (i) to a passenger;
4739 (ii) by a commercial airline carrier; and
4740 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
4741 (c) services related to Subsection ~~[(4)]~~ (3)(a) or (b);
4742 ~~[(5)(a)(i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts~~
4743 ~~and equipment:]~~
4744 ~~[(A)(I) by an establishment described in NAICS Code 336411 or 336412 of the 2002~~
4745 ~~North American Industry Classification System of the federal Executive Office of the~~
4746 ~~President, Office of Management and Budget; and]~~
4747 ~~[(H) for:]~~
4748 ~~[(Aa) installation in an aircraft, including services relating to the installation of parts or~~
4749 ~~equipment in the aircraft;]~~
4750 ~~[(Bb) renovation of an aircraft; or]~~
4751 ~~[(Cc) repair of an aircraft; or]~~
4752 ~~[(B) for installation in an aircraft operated by a common carrier in interstate or foreign~~
4753 ~~commerce; or]~~
4754 ~~[(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an~~
4755 ~~aircraft operated by a common carrier in interstate or foreign commerce; and]~~
4756 ~~[(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~
4757 ~~a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a~~
4758 ~~refund:]~~
4759 ~~[(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;]~~
4760 ~~[(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;]~~
4761 ~~[(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for~~
4762 ~~the sale prior to filing for the refund;]~~
4763 ~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~
4764 ~~[(v) in accordance with Section 59-1-1410; and]~~
4765 ~~[(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,~~
4766 ~~if the person files for the refund on or before September 30, 2011;]~~
4767 (4) sales of parts and equipment for installation in an aircraft operated by a common
4768 carrier in interstate or foreign commerce;

4769 ~~[(6)]~~ (5) sales of commercials, motion picture films, prerecorded audio program tapes
4770 or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
4771 exhibitor, distributor, or commercial television or radio broadcaster;

4772 ~~[(7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of~~
4773 ~~cleaning or washing of tangible personal property if the cleaning or washing of the tangible~~
4774 ~~personal property is not assisted cleaning or washing of tangible personal property;]~~

4775 ~~[(b) if a seller that sells at the same business location assisted cleaning or washing of~~
4776 ~~tangible personal property and cleaning or washing of tangible personal property that is not~~
4777 ~~assisted cleaning or washing of tangible personal property, the exemption described in~~
4778 ~~Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning~~
4779 ~~or washing of the tangible personal property; and]~~

4780 ~~[(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,~~
4781 ~~Utah Administrative Rulemaking Act, the commission may make rules:]~~

4782 ~~[(i) governing the circumstances under which sales are at the same business location;~~
4783 ~~and]~~

4784 ~~[(ii) establishing the procedures and requirements for a seller to separately account for~~
4785 ~~sales of assisted cleaning or washing of tangible personal property;]~~

4786 (8) (6) sales made to or by religious or charitable institutions in the conduct of their
4787 regular religious or charitable functions and activities, if the requirements of Section
4788 [59-12-104.1](#) are fulfilled;

4789 ~~[(9)]~~ (7) sales of a vehicle of a type required to be registered under the motor vehicle
4790 laws of this state if the vehicle is:

4791 (a) not registered in this state; and

4792 (b) (i) not used in this state; or

4793 (ii) used in this state:

4794 (A) if the vehicle is not used to conduct business, for a time period that does not
4795 exceed the longer of:

4796 (I) 30 days in any calendar year; or

4797 (II) the time period necessary to transport the vehicle to the borders of this state; or

4798 (B) if the vehicle is used to conduct business, for the time period necessary to transport
4799 the vehicle to the borders of this state;

4800 ~~[(10)(a)]~~ (8) amounts paid for ~~[an item described in Subsection (10)(b) if]:~~
4801 (a) menstrual products; or
4802 (b) a drug, syringe, or stoma supply if:
4803 (i) the item is intended for human use; and
4804 (ii) (A) a prescription was issued for the item; or
4805 (B) the item was purchased by a hospital or other medical facility; ~~[and]~~
4806 ~~[(b) (i) Subsection (10)(a) applies to:]~~
4807 ~~[(A) a drug;~~
4808 ~~[(B) a syringe; or]~~
4809 ~~[(C) a stoma supply; and]~~
4810 ~~[(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
4811 ~~the commission may by rule define the terms:]~~
4812 ~~[(A) "syringe"; or]~~
4813 ~~[(B) "stoma supply";]~~
4814 ~~[(H)]~~ (9) purchases or leases exempt under Section [19-12-201](#);
4815 ~~[(12)]~~ (10) (a) sales of an item described in Subsection ~~[(12)]~~ (10)(c) served by:
4816 (i) the following if the item described in Subsection ~~[(12)]~~ (10)(c) is not available to
4817 the general public:
4818 (A) a church; or
4819 (B) a charitable institution; or
4820 (ii) an institution of higher education if:
4821 (A) the item described in Subsection ~~[(12)]~~ (10)(c) is not available to the general
4822 public; or
4823 (B) the item described in Subsection ~~[(12)]~~ (10)(c) is prepaid as part of a student meal
4824 plan offered by the institution of higher education; or
4825 (b) sales of an item described in Subsection ~~[(12)]~~ (10)(c) provided for a patient by:
4826 (i) a medical facility; or
4827 (ii) a nursing facility; and
4828 (c) Subsections ~~[(12)]~~ (10)(a) and (b) apply to:
4829 (i) food and food ingredients;
4830 (ii) prepared food; or

- 4831 (iii) alcoholic beverages;
- 4832 [~~(13)~~] (11) (a) except as provided in Subsection [~~(13)~~] (11)(b), the sale of tangible
- 4833 personal property or a product transferred electronically by a person:
- 4834 (i) regardless of the number of transactions involving the sale of that tangible personal
- 4835 property or product transferred electronically by that person; and
- 4836 (ii) not regularly engaged in the business of selling that type of tangible personal
- 4837 property or product transferred electronically;
- 4838 (b) this Subsection [~~(13)~~] (11) does not apply if:
- 4839 (i) the sale is one of a series of sales of a character to indicate that the person is
- 4840 regularly engaged in the business of selling that type of tangible personal property or product
- 4841 transferred electronically;
- 4842 (ii) the person holds that person out as regularly engaged in the business of selling that
- 4843 type of tangible personal property or product transferred electronically;
- 4844 (iii) the person sells an item of tangible personal property or product transferred
- 4845 electronically that the person purchased as a sale that is exempt under Subsection [~~(25)~~] (22);
- 4846 or
- 4847 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
- 4848 this state in which case the tax is based upon:
- 4849 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
- 4850 sold; or
- 4851 (B) in the absence of a bill of sale or other written evidence of value, the fair market
- 4852 value of the vehicle or vessel being sold at the time of the sale as determined by the
- 4853 commission; and
- 4854 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 4855 commission shall make rules establishing the circumstances under which:
- 4856 (i) a person is regularly engaged in the business of selling a type of tangible personal
- 4857 property or product transferred electronically;
- 4858 (ii) a sale of tangible personal property or a product transferred electronically is one of
- 4859 a series of sales of a character to indicate that a person is regularly engaged in the business of
- 4860 selling that type of tangible personal property or product transferred electronically; or
- 4861 (iii) a person holds that person out as regularly engaged in the business of selling a type

4862 of tangible personal property or product transferred electronically;
4863 ~~[(14)]~~ (12) amounts paid or charged for a purchase or lease of machinery, equipment,
4864 normal operating repair or replacement parts, or materials, except for office equipment or
4865 office supplies, by:

4866 (a) a manufacturing facility that:

4867 (i) is located in the state; and

4868 (ii) uses or consumes the machinery, equipment, normal operating repair or
4869 replacement parts, or materials:

4870 (A) in the manufacturing process to manufacture an item sold as tangible personal
4871 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
4872 Utah Administrative Rulemaking Act; or

4873 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
4874 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
4875 Administrative Rulemaking Act;

4876 (b) an establishment, as the commission defines that term in accordance with Title
4877 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

4878 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
4879 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
4880 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
4881 2002 North American Industry Classification System of the federal Executive Office of the
4882 President, Office of Management and Budget;

4883 (ii) is located in the state; and

4884 (iii) uses or consumes the machinery, equipment, normal operating repair or
4885 replacement parts, or materials in:

4886 (A) the production process to produce an item sold as tangible personal property, as the
4887 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
4888 Administrative Rulemaking Act;

4889 (B) research and development, as the commission may define that phrase in accordance
4890 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

4891 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
4892 produced from mining;

4893 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
4894 mining; or

4895 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

4896 (c) an establishment, as the commission defines that term in accordance with Title 63G,
4897 Chapter 3, Utah Administrative Rulemaking Act, that:

4898 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
4899 American Industry Classification System of the federal Executive Office of the President,
4900 Office of Management and Budget;

4901 (ii) is located in the state; and

4902 (iii) uses or consumes the machinery, equipment, normal operating repair or
4903 replacement parts, or materials in the operation of the web search portal;

4904 ~~[(15)]~~ (13) (a) sales of the following if the requirements of Subsection ~~[(15)]~~ (13)(b)
4905 are met:

4906 (i) tooling;

4907 (ii) special tooling;

4908 (iii) support equipment;

4909 (iv) special test equipment; or

4910 (v) parts used in the repairs or renovations of tooling or equipment described in
4911 Subsections ~~[(15)]~~ (13)(a)(i) through (iv); and

4912 (b) sales of tooling, equipment, or parts described in Subsection ~~[(15)]~~ (13)(a) are
4913 exempt if:

4914 (i) the tooling, equipment, or parts are used or consumed exclusively in the
4915 performance of any aerospace or electronics industry contract with the United States
4916 government or any subcontract under that contract; and

4917 (ii) under the terms of the contract or subcontract described in Subsection ~~[(15)]~~
4918 (13)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as
4919 evidenced by:

4920 (A) a government identification tag placed on the tooling, equipment, or parts; or

4921 (B) listing on a government-approved property record if placing a government
4922 identification tag on the tooling, equipment, or parts is impractical;

4923 ~~[(16) sales of newspapers or newspaper subscriptions;]~~

4924 [~~(17)~~] (14) (a) except as provided in Subsection [~~(17)~~] (14)(b), tangible personal
4925 property or a product transferred electronically traded in as full or part payment of the purchase
4926 price, except that for purposes of calculating sales or use tax upon vehicles not sold by a
4927 vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

4928 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
4929 vehicle being traded in; or

4930 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
4931 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
4932 commission; and

4933 (b) Subsection [~~(17)~~] (14)(a) does not apply to the following items of tangible personal
4934 property or products transferred electronically traded in as full or part payment of the purchase
4935 price:

4936 (i) money;

4937 (ii) electricity;

4938 (iii) water;

4939 (iv) gas; or

4940 (v) steam;

4941 [~~(18)~~] (15) (a) (i) except as provided in Subsection [~~(18)~~] (15)(b), sales of tangible
4942 personal property or a product transferred electronically used or consumed primarily and
4943 directly in farming operations, regardless of whether the tangible personal property or product
4944 transferred electronically:

4945 (A) becomes part of real estate; or

4946 (B) is installed by a^[*] farmer, contractor, or subcontractor; or

4947 [~~(I)~~ farmer;]

4948 [~~(II)~~ contractor; or]

4949 [~~(III)~~ subcontractor; or]

4950 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
4951 product transferred electronically if the tangible personal property or product transferred
4952 electronically is exempt under Subsection [~~(18)~~] (15)(a)(i); and

4953 (b) amounts paid or charged for the following are subject to the taxes imposed by this
4954 chapter:

4955 (i) (A) subject to Subsection [~~(18)~~] (15)(b)(i)(B), machinery, equipment, materials, or
4956 supplies if used in a manner that is incidental to farming; and
4957 (B) tangible personal property that is considered to be used in a manner that is
4958 incidental to farming includes:
4959 (I) hand tools; or
4960 (II) maintenance and janitorial equipment and supplies;
4961 (ii) (A) subject to Subsection [~~(18)~~] (15)(b)(ii)(B), tangible personal property or a
4962 product transferred electronically if the tangible personal property or product transferred
4963 electronically is used in an activity other than farming; and
4964 (B) tangible personal property or a product transferred electronically that is considered
4965 to be used in an activity other than farming includes:
4966 (I) office equipment and supplies; or
4967 (II) equipment and supplies used in:
4968 (Aa) the sale or distribution of farm products;
4969 (Bb) research; or
4970 (Cc) transportation; or
4971 (iii) a vehicle required to be registered by the laws of this state during the period
4972 ending two years after the date of the vehicle's purchase;
4973 [~~(19)~~] (16) sales of hay;
4974 [~~(20)~~] (17) exclusive sale during the harvest season of seasonal crops, seedling plants,
4975 or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
4976 garden, farm, or other agricultural produce is sold by:
4977 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
4978 agricultural produce;
4979 (b) an employee of the producer described in Subsection [~~(20)~~] (17)(a); or
4980 (c) a member of the immediate family of the producer described in Subsection [~~(20)~~]
4981 (17)(a);
4982 [~~(21)~~] (18) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is
4983 issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;;
4984 [~~(22)~~] (19) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
4985 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,

4986 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
4987 manufacturer, processor, wholesaler, or retailer;
4988 [~~(23)~~] (20) a product stored in the state for resale;
4989 [~~(24)~~] (21) (a) purchases of a product if:
4990 (i) the product is:
4991 (A) purchased outside of this state;
4992 (B) brought into this state:
4993 (I) at any time after the purchase described in Subsection [~~(24)~~] (21)(a)(i)(A); and
4994 (II) by a nonresident person who is not living or working in this state at the time of the
4995 purchase;
4996 (C) used for the personal use or enjoyment of the nonresident person described in
4997 Subsection [~~(24)~~] (21)(a)(i)(B)(II) while that nonresident person is within the state; and
4998 (D) not used in conducting business in this state; and
4999 (ii) for:
5000 (A) a product other than a boat described in Subsection [~~(24)~~] (21)(a)(ii)(B), the first
5001 use of the product for a purpose for which the product is designed occurs outside of this state;
5002 (B) a boat, the boat is registered outside of this state; or
5003 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
5004 outside of this state;
5005 (b) the exemption provided for in Subsection [~~(24)~~] (21)(a) does not apply to:
5006 (i) a lease or rental of a product; or
5007 (ii) a sale of a vehicle exempt under Subsection [~~(33)~~] (30); and
5008 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
5009 purposes of Subsection [~~(24)~~] (21)(a), the commission may by rule define what constitutes the
5010 following:
5011 (i) conducting business in this state if that phrase has the same meaning in this
5012 Subsection [~~(24)~~] (21) as in Subsection [~~(63)~~] (55);
5013 (ii) the first use of a product if that phrase has the same meaning in this Subsection
5014 [~~(24)~~] (21) as in Subsection [~~(63)~~] (55); or
5015 (iii) a purpose for which a product is designed if that phrase has the same meaning in
5016 this Subsection [~~(24)~~] (21) as in Subsection [~~(63)~~] (55);

5017 [~~(25)~~] (22) a product purchased for resale in the regular course of business, either in its
5018 original form or as an ingredient or component part of a manufactured or compounded product;

5019 [~~(26)~~] (23) a product upon which a sales or use tax was paid to some other state, or one
5020 of its subdivisions, except that the state shall be paid any difference between the tax paid and
5021 the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is
5022 allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and
5023 Use Tax Act;

5024 [~~(27)~~] (24) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d)
5025 to a person for use in compounding a service taxable under the subsections;

5026 [~~(28)~~] (25) purchases made in accordance with the special supplemental nutrition
5027 program for women, infants, and children established in 42 U.S.C. Sec. 1786;

5028 [~~(29)~~] (26) sales or leases of rolls, rollers, refractory brick, electric motors, or other
5029 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
5030 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
5031 the President, Office of Management and Budget;

5032 [~~(30)~~] (27) sales of a boat of a type required to be registered under Title 73, Chapter 18,
5033 State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard
5034 motor is:

5035 (a) not registered in this state; and

5036 (b) (i) not used in this state; or

5037 (ii) used in this state:

5038 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
5039 time period that does not exceed the longer of:

5040 (I) 30 days in any calendar year; or

5041 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
5042 the borders of this state; or

5043 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
5044 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
5045 state;

5046 [~~(31)~~] (28) sales of aircraft manufactured in Utah;

5047 [~~(32)~~] (29) amounts paid for the purchase of telecommunications service for purposes

5048 of providing telecommunications service;

5049 ~~[(33)]~~ (30) sales, leases, or uses of the following:

5050 (a) a vehicle by an authorized carrier; or

5051 (b) tangible personal property that is installed on a vehicle:

5052 (i) sold or leased to or used by an authorized carrier; and

5053 (ii) before the vehicle is placed in service for the first time;

5054 ~~[(34)]~~ (31) (a) 45% of the sales price of any new manufactured home; and

5055 (b) 100% of the sales price of any used manufactured home;

5056 ~~[(35)]~~ (32) sales relating to schools and fundraising sales;

5057 ~~[(36)]~~ (33) sales or rentals of durable medical equipment if:

5058 (a) a person presents a prescription for the durable medical equipment; and

5059 (b) the durable medical equipment is used for home use only;

5060 ~~[(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in~~

5061 ~~Section 72-11-102; and]~~

5062 ~~[(b) the commission shall by rule determine the method for calculating sales exempt~~

5063 ~~under Subsection (37)(a) that are not separately metered and accounted for in utility billings;]~~

5064 ~~[(38)]~~ (34) sales to a ski resort of:

5065 (a) snowmaking equipment;

5066 (b) ski slope grooming equipment;

5067 (c) passenger ropeways as defined in Section 72-11-102; or

5068 (d) parts used in the repairs or renovations of equipment or passenger ropeways

5069 described in Subsections ~~[(38)]~~ (34)(a) through (c);

5070 ~~[(39)]~~ (35) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for

5071 industrial use;

5072 ~~[(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for~~

5073 ~~amusement, entertainment, or recreation an unassisted amusement device as defined in Section~~

5074 ~~59-12-102;]~~

5075 ~~[(b) if a seller that sells or rents at the same business location the right to use or operate~~

5076 ~~for amusement, entertainment, or recreation one or more unassisted amusement devices and~~

5077 ~~one or more assisted amusement devices, the exemption described in Subsection (40)(a)~~

5078 ~~applies if the seller separately accounts for the sales or rentals of the right to use or operate for~~

5079 amusement, entertainment, or recreation for the assisted amusement devices; and]
5080 [~~(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,~~
5081 ~~Utah Administrative Rulemaking Act, the commission may make rules:]~~
5082 [~~(i) governing the circumstances under which sales are at the same business location;~~
5083 ~~and]~~
5084 [~~(ii) establishing the procedures and requirements for a seller to separately account for~~
5085 ~~the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for~~
5086 ~~assisted amusement devices;]~~
5087 [~~(41)~~ (36) (a) sales of photocopies by:
5088 (i) a governmental entity; or
5089 (ii) an entity within the state system of public education, including:
5090 (A) a school; or
5091 (B) the State Board of Education; or
5092 (b) sales of publications by a governmental entity;
5093 [~~(42) amounts paid for admission to an athletic event at an institution of higher~~
5094 ~~education that is subject to the provisions of Title IX of the Education Amendments of 1972,~~
5095 ~~20 U.S.C. Sec. 1681 et seq.;~~]
5096 [~~(43)~~ (37) (a) sales made to or by:
5097 (i) an area agency on aging; or
5098 (ii) a senior citizen center owned by a county, city, or town; or
5099 (b) sales made by a senior citizen center that contracts with an area agency on aging;
5100 [~~(44)~~ (38) sales or leases of semiconductor fabricating, processing, research, or
5101 development materials regardless of whether the semiconductor fabricating, processing,
5102 research, or development materials:
5103 (a) actually come into contact with a semiconductor; or
5104 (b) ultimately become incorporated into real property;
5105 [~~(45)~~ (39) an amount paid by or charged to a purchaser for accommodations and
5106 services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under
5107 Section 59-12-104.2;
5108 [~~(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary~~
5109 ~~sports event registration certificate in accordance with Section 41-3-306 for the event period~~

5110 specified on the temporary sports event registration certificate;]

5111 [~~(47)~~] (40) (a) sales or uses of electricity, if the sales or uses are made under a retail

5112 tariff adopted by the Public Service Commission only for purchase of electricity produced from

5113 a new alternative energy source built after January 1, 2016, as designated in the tariff by the

5114 Public Service Commission; and

5115 (b) for a residential use customer only, the exemption under Subsection [~~(47)~~] (40)(a)

5116 applies only to the portion of the tariff rate a customer pays under the tariff described in

5117 Subsection [~~(47)~~] (40)(a) that exceeds the tariff rate under the tariff described in Subsection

5118 [~~(47)~~] (40)(a) that the customer would have paid absent the tariff;

5119 [~~(48)~~] (41) sales or rentals of mobility enhancing equipment if a person presents a

5120 prescription for the mobility enhancing equipment;

5121 [~~(49)~~] (42) sales of water in a:

5122 (a) pipe;

5123 (b) conduit;

5124 (c) ditch; or

5125 (d) reservoir;

5126 [~~(50)~~] (43) sales of currency or coins that constitute legal tender of a state, the United

5127 States, or a foreign nation;

5128 [~~(51)~~] (44) (a) sales of an item described in Subsection [~~(51)~~] (44)(b) if the item:

5129 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and

5130 (ii) has a gold, silver, or platinum content of 50% or more; and

5131 (b) Subsection [~~(51)~~] (44)(a) applies to a gold, silver, or platinum:

5132 (i) ingot;

5133 (ii) bar;

5134 (iii) medallion; or

5135 (iv) decorative coin;

5136 [~~(52)~~] (45) amounts paid on a sale-leaseback transaction;

5137 [~~(53)~~] (46) sales of a prosthetic device:

5138 (a) for use on or in a human; and

5139 (b) (i) for which a prescription is required; or

5140 (ii) if the prosthetic device is purchased by a hospital or other medical facility;

5141 [~~(54)~~] (47) (a) except as provided in Subsection [~~(54)~~] (47)(b), purchases, leases, or
5142 rentals of machinery or equipment by an establishment described in Subsection [~~(54)~~] (47)(c) if
5143 the machinery or equipment is primarily used in the production or postproduction of the
5144 following media for commercial distribution:

5145 (i) a motion picture;

5146 (ii) a television program;

5147 (iii) a movie made for television;

5148 (iv) a music video;

5149 (v) a commercial;

5150 (vi) a documentary; or

5151 (vii) a medium similar to Subsections [~~(54)~~] (47)(a)(i) through (vi) as determined by
5152 the commission by administrative rule made in accordance with Subsection [~~(54)~~] (47)(d); or

5153 (b) purchases, leases, or rentals of machinery or equipment by an establishment
5154 described in Subsection [~~(54)~~] (47)(c) that is used for the production or postproduction of the
5155 following are subject to the taxes imposed by this chapter:

5156 (i) a live musical performance;

5157 (ii) a live news program; or

5158 (iii) a live sporting event;

5159 (c) the following establishments listed in the 1997 North American Industry
5160 Classification System of the federal Executive Office of the President, Office of Management
5161 and Budget, apply to Subsections [~~(54)~~] (47)(a) and (b):

5162 (i) NAICS Code 512110; or

5163 (ii) NAICS Code 51219; and

5164 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5165 commission may by rule:

5166 (i) prescribe what constitutes a medium similar to Subsections [~~(54)~~] (47)(a)(i) through
5167 (vi); or

5168 (ii) define:

5169 (A) "commercial distribution";

5170 (B) "live musical performance";

5171 (C) "live news program"; or

5172 (D) "live sporting event";
5173 [~~(55)~~] (48) (a) leases of seven or more years or purchases made on or after July 1,
5174 2004, but on or before June 30, 2027, of tangible personal property that:
5175 (i) is leased or purchased for or by a facility that:
5176 (A) is an alternative energy electricity production facility;
5177 (B) is located in the state; and
5178 (C) (I) becomes operational on or after July 1, 2004; or
5179 (II) has its generation capacity increased by one or more megawatts on or after July 1,
5180 2004, as a result of the use of the tangible personal property;
5181 (ii) has an economic life of five or more years; and
5182 (iii) is used to make the facility or the increase in capacity of the facility described in
5183 Subsection [~~(55)~~] (48)(a)(i) operational up to the point of interconnection with an existing
5184 transmission grid including:
5185 (A) a wind turbine;
5186 (B) generating equipment;
5187 (C) a control and monitoring system;
5188 (D) a power line;
5189 (E) substation equipment;
5190 (F) lighting;
5191 (G) fencing;
5192 (H) pipes; or
5193 (I) other equipment used for locating a power line or pole; and
5194 (b) this Subsection [~~(55)~~] (48) does not apply to:
5195 (i) tangible personal property used in construction of:
5196 (A) a new alternative energy electricity production facility; or
5197 (B) the increase in the capacity of an alternative energy electricity production facility;
5198 (ii) contracted services required for construction and routine maintenance activities;
5199 and
5200 (iii) unless the tangible personal property is used or acquired for an increase in capacity
5201 of the facility described in Subsection [~~(55)~~] (48)(a)(i)(C)(II), tangible personal property used
5202 or acquired after:

- 5203 (A) the alternative energy electricity production facility described in Subsection [~~(55)~~
5204 (48)(a)(i) is operational as described in Subsection [~~(55)~~] (48)(a)(iii); or
- 5205 (B) the increased capacity described in Subsection [~~(55)~~] (48)(a)(i) is operational as
5206 described in Subsection [~~(55)~~] (48)(a)(iii);
- 5207 [~~(56)~~] (49) (a) leases of seven or more years or purchases made on or after July 1,
5208 2004, but on or before June 30, 2027, of tangible personal property that:
- 5209 (i) is leased or purchased for or by a facility that:
- 5210 (A) is a waste energy production facility;
- 5211 (B) is located in the state; and
- 5212 (C) (I) becomes operational on or after July 1, 2004; or
- 5213 (II) has its generation capacity increased by one or more megawatts on or after July 1,
5214 2004, as a result of the use of the tangible personal property;
- 5215 (ii) has an economic life of five or more years; and
- 5216 (iii) is used to make the facility or the increase in capacity of the facility described in
5217 Subsection [~~(56)~~] (49)(a)(i) operational up to the point of interconnection with an existing
5218 transmission grid including:
- 5219 (A) generating equipment;
- 5220 (B) a control and monitoring system;
- 5221 (C) a power line;
- 5222 (D) substation equipment;
- 5223 (E) lighting;
- 5224 (F) fencing;
- 5225 (G) pipes; or
- 5226 (H) other equipment used for locating a power line or pole; and
- 5227 (b) this Subsection [~~(56)~~] (49) does not apply to:
- 5228 (i) tangible personal property used in construction of:
- 5229 (A) a new waste energy facility; or
- 5230 (B) the increase in the capacity of a waste energy facility;
- 5231 (ii) contracted services required for construction and routine maintenance activities;
- 5232 and
- 5233 (iii) unless the tangible personal property is used or acquired for an increase in capacity

5234 described in Subsection [~~(56)~~] (49)(a)(i)(C)(II), tangible personal property used or acquired
5235 after:

5236 (A) the waste energy facility described in Subsection [~~(56)~~] (49)(a)(i) is operational as
5237 described in Subsection [~~(56)~~] (49)(a)(iii); or

5238 (B) the increased capacity described in Subsection [~~(56)~~] (49)(a)(i) is operational as
5239 described in Subsection [~~(56)~~] (49)(a)(iii);

5240 [~~(57)~~] (50) (a) leases of five or more years or purchases made on or after July 1, 2004,
5241 but on or before June 30, 2027, of tangible personal property that:

5242 (i) is leased or purchased for or by a facility that:

5243 (A) is located in the state;

5244 (B) produces fuel from alternative energy, including:

5245 (I) methanol; or

5246 (II) ethanol; and

5247 (C) (I) becomes operational on or after July 1, 2004; or

5248 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
5249 a result of the installation of the tangible personal property;

5250 (ii) has an economic life of five or more years; and

5251 (iii) is installed on the facility described in Subsection [~~(57)~~] (50)(a)(i);

5252 (b) this Subsection [~~(57)~~] (50) does not apply to:

5253 (i) tangible personal property used in construction of:

5254 (A) a new facility described in Subsection [~~(57)~~] (50)(a)(i); or

5255 (B) the increase in capacity of the facility described in Subsection [~~(57)~~] (50)(a)(i); or

5256 (ii) contracted services required for construction and routine maintenance activities;

5257 and

5258 (iii) unless the tangible personal property is used or acquired for an increase in capacity
5259 described in Subsection [~~(57)~~] (50)(a)(i)(C)(II), tangible personal property used or acquired

5260 after:

5261 (A) the facility described in Subsection [~~(57)~~] (50)(a)(i) is operational; or

5262 (B) the increased capacity described in Subsection [~~(57)~~] (50)(a)(i) is operational;

5263 [~~(58)~~] (51) (a) subject to Subsection [~~(58)(b) or (c)~~] (51)(b), sales of tangible personal
5264 property or a product transferred electronically to a person within this state if that tangible

5265 personal property or product transferred electronically is subsequently shipped outside the state
5266 and incorporated pursuant to contract into and becomes a part of real property located outside
5267 of this state; and

5268 (b) the exemption under Subsection [~~(58)~~] (51)(a) is not allowed to the extent that the
5269 other state or political entity to which the tangible personal property is shipped imposes a sales,
5270 use, gross receipts, or other similar transaction excise tax on the transaction against which the
5271 other state or political entity allows a credit for sales and use taxes imposed by this chapter;
5272 [~~and~~]

5273 [~~(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~
5274 ~~a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a~~
5275 ~~refund:]~~

5276 [(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;]

5277 [(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
5278 which the sale is made;]

5279 [(iii) if the person did not claim the exemption allowed by this Subsection (58) for the
5280 sale prior to filing for the refund;]

5281 [(iv) for sales and use taxes paid under this chapter on the sale;]

5282 [(v) in accordance with Section 59-1-1410; and]

5283 [(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,
5284 if the person files for the refund on or before June 30, 2011;]

5285 [~~(59) purchases:]~~

5286 [(a) of one or more of the following items in printed or electronic format:]

5287 [(i) a list containing information that includes one or more:]

5288 [(A) names; or]

5289 [(B) addresses; or]

5290 [(ii) a database containing information that includes one or more:]

5291 [(A) names; or]

5292 [(B) addresses; and]

5293 [(b) used to send direct mail;]

5294 [~~(60)~~] (52) redemptions or repurchases of a product by a person if that product was:

5295 (a) delivered to a pawnbroker as part of a pawn transaction; and

5296 (b) redeemed or repurchased within the time period established in a written agreement
5297 between the person and the pawnbroker for redeeming or repurchasing the product;

5298 ~~[(61)]~~ (53) (a) purchases or leases of an item described in Subsection ~~[(61)]~~ (53)(b) if
5299 the item:

5300 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
5301 and

5302 (ii) has a useful economic life of one or more years; and

5303 (b) the following apply to Subsection ~~[(61)]~~ (53)(a):

5304 (i) telecommunications enabling or facilitating equipment, machinery, or software;

5305 (ii) telecommunications equipment, machinery, or software required for 911 service;

5306 (iii) telecommunications maintenance or repair equipment, machinery, or software;

5307 (iv) telecommunications switching or routing equipment, machinery, or software; or

5308 (v) telecommunications transmission equipment, machinery, or software;

5309 ~~[(62)]~~ (54) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of
5310 tangible personal property or a product transferred electronically that are used in the research
5311 and development of alternative energy technology; and

5312 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5313 commission may, for purposes of Subsection ~~[(62)]~~ (54)(a), make rules defining what
5314 constitutes purchases of tangible personal property or a product transferred electronically that
5315 are used in the research and development of alternative energy technology;

5316 ~~[(63)]~~ (55) (a) purchases of tangible personal property or a product transferred
5317 electronically if:

5318 (i) the tangible personal property or product transferred electronically is:

5319 (A) purchased outside of this state;

5320 (B) brought into this state at any time after the purchase described in Subsection ~~[(63)]~~
5321 (55)(a)(i)(A); and

5322 (C) used in conducting business in this state; and

5323 (ii) for:

5324 (A) tangible personal property or a product transferred electronically other than the
5325 tangible personal property described in Subsection ~~[(63)]~~ (55)(a)(ii)(B), the first use of the
5326 property for a purpose for which the property is designed occurs outside of this state; or

5327 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
5328 outside of this state;

5329 (b) the exemption provided for in Subsection ~~[(63)]~~ (55)(a) does not apply to:

5330 (i) a lease or rental of tangible personal property or a product transferred electronically;

5331 or

5332 (ii) a sale of a vehicle exempt under Subsection ~~[(33)]~~ (30); and

5333 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
5334 purposes of Subsection ~~[(63)]~~ (55)(a), the commission may by rule define what constitutes the
5335 following:

5336 (i) conducting business in this state if that phrase has the same meaning in this

5337 Subsection ~~[(63)]~~ (55) as in Subsection ~~[(24)]~~ (21);

5338 (ii) the first use of tangible personal property or a product transferred electronically if
5339 that phrase has the same meaning in this Subsection ~~[(63)]~~ (55) as in Subsection ~~[(24)]~~ (21); or

5340 (iii) a purpose for which tangible personal property or a product transferred
5341 electronically is designed if that phrase has the same meaning in this Subsection ~~[(63)]~~ (55) as
5342 in Subsection ~~[(24)]~~ (21);

5343 ~~[(64)]~~ (56) sales of disposable home medical equipment or supplies if:

5344 (a) a person presents a prescription for the disposable home medical equipment or
5345 supplies;

5346 (b) the disposable home medical equipment or supplies are used exclusively by the
5347 person to whom the prescription described in Subsection ~~[(64)]~~ (56)(a) is issued; and

5348 (c) the disposable home medical equipment and supplies are listed as eligible for
5349 payment under:

5350 (i) Title XVIII, federal Social Security Act; or

5351 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

5352 ~~[(65) sales:]~~

5353 ~~[(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit~~
5354 ~~District Act; or]~~

5355 ~~[(b) of tangible personal property to a subcontractor of a public transit district, if the~~
5356 ~~tangible personal property is:]~~

5357 ~~[(i) clearly identified; and]~~

5358 ~~[(ii) installed or converted to real property owned by the public transit district;]~~
5359 ~~[(66)]~~ (57) sales of construction materials:
5360 (a) purchased on or after July 1, 2010;
5361 (b) purchased by, on behalf of, or for the benefit of an international airport:
5362 (i) located within a county of the first class; and
5363 (ii) that has a United States customs office on its premises; and
5364 (c) if the construction materials are:
5365 (i) clearly identified;
5366 (ii) segregated; and
5367 (iii) installed or converted to real property:
5368 (A) owned or operated by the international airport described in Subsection ~~[(66)]~~
5369 (57)(b); and
5370 (B) located at the international airport described in Subsection ~~[(66)]~~ (57)(b);
5371 ~~[(67)]~~ (58) sales of construction materials:
5372 (a) purchased on or after July 1, 2008;
5373 (b) purchased by, on behalf of, or for the benefit of a new airport:
5374 (i) located within a county of the second class; and
5375 (ii) that is owned or operated by a city in which an airline as defined in Section
5376 59-2-102 is headquartered; and
5377 (c) if the construction materials are:
5378 (i) clearly identified;
5379 (ii) segregated; and
5380 (iii) installed or converted to real property:
5381 (A) owned or operated by the new airport described in Subsection ~~[(67)]~~ (58)(b);
5382 (B) located at the new airport described in Subsection ~~[(67)]~~ (58)(b); and
5383 (C) as part of the construction of the new airport described in Subsection ~~[(67)]~~
5384 (58)(b);
5385 ~~[(68) sales of fuel to a common carrier that is a railroad for use in a locomotive~~
5386 ~~engine;]~~
5387 ~~[(69)]~~ (59) purchases and sales described in Section 63H-4-111;
5388 ~~[(70)]~~ (60) (a) sales of tangible personal property to an aircraft maintenance, repair, and

5389 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
5390 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
5391 lists a state or country other than this state as the location of registry of the fixed wing turbine
5392 powered aircraft; or

5393 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
5394 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
5395 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
5396 lists a state or country other than this state as the location of registry of the fixed wing turbine
5397 powered aircraft;

5398 [~~(71)~~ subject to Section ~~59-12-104.4~~, sales of a textbook for a higher education
5399 course;]

5400 [~~(a)~~ to a person admitted to an institution of higher education; and]

5401 [~~(b)~~ by a seller, other than a bookstore owned by an institution of higher education, if
5402 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
5403 textbook for a higher education course;]

5404 [~~(72)~~ (61) a license fee or tax a municipality imposes in accordance with Subsection
5405 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
5406 level of municipal services;

5407 [~~(73)~~ (62) amounts paid or charged for construction materials used in the construction
5408 of a new or expanding life science research and development facility in the state, if the
5409 construction materials are:

5410 (a) clearly identified;

5411 (b) segregated; and

5412 (c) installed or converted to real property;

5413 [~~(74)~~ (63) amounts paid or charged for:

5414 (a) a purchase or lease of machinery and equipment that:

5415 (i) are used in performing qualified research:

5416 (A) as defined in Section 41(d), Internal Revenue Code; and

5417 (B) in the state; and

5418 (ii) have an economic life of three or more years; and

5419 (b) normal operating repair or replacement parts:

- 5420 (i) for the machinery and equipment described in Subsection [~~(74)~~] (63)(a); and
- 5421 (ii) that have an economic life of three or more years;
- 5422 [~~(75)~~] (64) a sale or lease of tangible personal property used in the preparation of
- 5423 prepared food if:
- 5424 (a) for a sale:
- 5425 (i) the ownership of the seller and the ownership of the purchaser are identical; and
- 5426 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
- 5427 tangible personal property prior to making the sale; or
- 5428 (b) for a lease:
- 5429 (i) the ownership of the lessor and the ownership of the lessee are identical; and
- 5430 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
- 5431 personal property prior to making the lease;
- 5432 [~~(76)~~] (65) (a) purchases of machinery or equipment if:
- 5433 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
- 5434 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
- 5435 System of the federal Executive Office of the President, Office of Management and Budget;
- 5436 (ii) the machinery or equipment:
- 5437 (A) has an economic life of three or more years; and
- 5438 (B) is used by one or more persons who pay admission or user fees described in
- 5439 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- 5440 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- 5441 (A) amounts paid or charged as admission or user fees described in Subsection
- 5442 59-12-103(1)(f); and
- 5443 (B) subject to taxation under this chapter; and
- 5444 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 5445 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
- 5446 previous calendar quarter is:
- 5447 (i) amounts paid or charged as admission or user fees described in Subsection
- 5448 59-12-103(1)(f); and
- 5449 (ii) subject to taxation under this chapter;
- 5450 [~~(77)~~] (66) purchases of a short-term lodging consumable by a business that provides

5451 accommodations and services described in Subsection [59-12-103\(1\)\(i\)](#);
5452 ~~[(78) amounts paid or charged to access a database:]~~
5453 ~~[(a) if the primary purpose for accessing the database is to view or retrieve information~~
5454 ~~from the database; and]~~
5455 ~~[(b) not including amounts paid or charged for a:]~~
5456 ~~[(i) digital audiowork;]~~
5457 ~~[(ii) digital audio-visual work; or]~~
5458 ~~[(iii) digital book;]~~
5459 ~~[(79)]~~ [\(67\)](#) amounts paid or charged for a purchase or lease made by an electronic
5460 financial payment service, of:
5461 (a) machinery and equipment that:
5462 (i) are used in the operation of the electronic financial payment service; and
5463 (ii) have an economic life of three or more years; and
5464 (b) normal operating repair or replacement parts that:
5465 (i) are used in the operation of the electronic financial payment service; and
5466 (ii) have an economic life of three or more years;
5467 ~~[(80)]~~ [\(68\)](#) ~~[beginning on April 1, 2013;]~~ sales of a fuel cell as defined in Section
5468 [54-15-102](#);
5469 ~~[(81)]~~ [\(69\)](#) amounts paid or charged for a purchase or lease of tangible personal
5470 property or a product transferred electronically if the tangible personal property or product
5471 transferred electronically:
5472 (a) is stored, used, or consumed in the state; and
5473 (b) is temporarily brought into the state from another state:
5474 (i) during a disaster period as defined in Section [53-2a-1202](#);
5475 (ii) by an out-of-state business as defined in Section [53-2a-1202](#);
5476 (iii) for a declared state disaster or emergency as defined in Section [53-2a-1202](#); and
5477 (iv) for disaster- or emergency-related work as defined in Section [53-2a-1202](#);
5478 ~~[(82)]~~ [\(70\)](#) sales of goods and services at a morale, welfare, and recreation facility, as
5479 defined in Section [39-9-102](#), made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
5480 Recreation Program;
5481 ~~[(83)]~~ [\(71\)](#) amounts paid or charged for a purchase or lease of molten magnesium;

5482 ~~[(84)]~~ (72) amounts paid or charged for a purchase or lease made by a qualifying
5483 ~~[enterprise]~~ data center or an occupant of a qualifying data center of machinery, equipment, or
5484 normal operating repair or replacement parts, if the machinery, equipment, or normal operating
5485 repair or replacement parts:

5486 (a) are used in ~~[the operation of the establishment; and]~~:

5487 (i) the operation of the qualifying data center; or

5488 (ii) the occupant's operations in the qualifying data center; and

5489 (b) have an economic life of one or more years;

5490 ~~[(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a~~
5491 ~~vehicle that includes cleaning or washing of the interior of the vehicle;]~~

5492 ~~[(86)]~~ (73) amounts paid or charged for a purchase or lease of machinery, equipment,
5493 normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or
5494 supplies used or consumed:

5495 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
5496 in Section [63M-4-701](#) located in the state;

5497 (b) if the machinery, equipment, normal operating repair or replacement parts,
5498 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

5499 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
5500 added to gasoline or diesel fuel;

5501 (ii) research and development;

5502 (iii) transporting, storing, or managing raw materials, work in process, finished
5503 products, and waste materials produced from refining gasoline or diesel fuel, or adding
5504 blendstock to gasoline or diesel fuel;

5505 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
5506 refining; or

5507 (v) preventing, controlling, or reducing pollutants from refining; and

5508 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office
5509 of Energy Development under Subsection [63M-4-702\(2\)](#);

5510 ~~[(87)]~~ (74) amounts paid to or charged by a proprietor for accommodations and
5511 services, as defined in Section [63H-1-205](#), if the proprietor is subject to the MIDA
5512 accommodations tax imposed under Section [63H-1-205](#);

5513 ~~[(88)]~~ (75) amounts paid or charged for a purchase or lease of machinery, equipment,
5514 normal operating repair or replacement parts, or materials, except for office equipment or
5515 office supplies, by an establishment, as the commission defines that term in accordance with
5516 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

5517 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
5518 American Industry Classification System of the federal Executive Office of the President,
5519 Office of Management and Budget;

5520 (b) is located in this state; and

5521 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
5522 materials in the operation of the establishment; ~~[and]~~

5523 ~~[(89)]~~ (76) amounts paid or charged for an item exempt under Section [59-12-104.10](#)~~[-]~~;
5524 and

5525 (77) if paid for through a machine that accepts only cash for payment and if the
5526 machine is the only method by which to pay:

5527 (a) sales of cleaning or washing of tangible personal property if the cleaning or
5528 washing of the tangible personal property is not assisted cleaning or washing of tangible
5529 personal property;

5530 (b) sales of food and food ingredients or prepared food from a vending machine if:

5531 (i) the proceeds of each sale do not exceed \$1; and

5532 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
5533 the cost of the food and food ingredients or prepared food as goods consumed;

5534 (c) sales or rentals of the right to use or operate an unassisted amusement device for
5535 amusement, entertainment, or recreation; and

5536 (78) amounts paid or charged for tangible personal property that:

5537 (a) is not electricity, gas, machinery, equipment, vehicles, parts, office equipment, or
5538 office supplies; and

5539 (b) is consumed as part of a service described in Subsection [59-12-103\(1\)\(g\), \(h\), or](#)
5540 (i).

5541 Section 48. Section **59-12-104.5** is amended to read:

5542 **59-12-104.5. Revenue and Taxation Interim Committee review of sales and use**
5543 **taxes.**

5544 The Revenue and Taxation Interim Committee shall:

5545 (1) review Subsection ~~59-12-104[(28)]~~(25) before October 1 of the year after the year
5546 in which Congress permits a state to participate in the special supplemental nutrition program
5547 under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on
5548 purchases of food under that program; and

5549 (2) review Subsection ~~59-12-104[(21)]~~(18) before October 1 of the year after the year
5550 in which Congress permits a state to participate in the SNAP as defined in Section ~~35A-1-102~~,
5551 even if state or local sales taxes are collected within the state on purchases of food under that
5552 program.

5553 Section 49. Section ~~59-12-1201~~ is amended to read:

5554 **59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration,**
5555 **collection, and enforcement of tax -- Administrative charge -- Deposits.**

5556 (1) (a) Except as provided in Subsection (3), there is imposed a tax of ~~[2.5%]~~ 4% on all
5557 short-term leases and rentals of motor vehicles not exceeding 30 days.

5558 (b) The tax imposed in this section is in addition to all other state, county, or municipal
5559 fees and taxes imposed on rentals of motor vehicles.

5560 (2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax
5561 imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

5562 (b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall
5563 take effect on the first day of the first billing period:

5564 (A) that begins after the effective date of the tax rate increase; and

5565 (B) if the billing period for the transaction begins before the effective date of a tax rate
5566 increase imposed under Subsection (1).

5567 (ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax
5568 rate decrease shall take effect on the first day of the last billing period:

5569 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
5570 and

5571 (B) if the billing period for the transaction begins before the effective date of the repeal
5572 of the tax or the tax rate decrease imposed under Subsection (1).

5573 (3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

5574 (a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

5575 (b) the motor vehicle is rented as a personal household goods moving van; or
 5576 (c) the lease or rental of the motor vehicle is made for the purpose of temporarily
 5577 replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an
 5578 insurance agreement.

5579 (4) (a) (i) The tax authorized under this section shall be administered, collected, and
 5580 enforced in accordance with:

5581 (A) the same procedures used to administer, collect, and enforce the tax under Part 1,
 5582 Tax Collection; and

5583 (B) Chapter 1, General Taxation Policies.

5584 (ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to
 5585 Subsections 59-12-103(4) through (10) or Section 59-12-107.1 or 59-12-123.

5586 (b) The commission shall retain and deposit an administrative charge in accordance
 5587 with Section 59-1-306 from the ~~revenues~~ revenue the commission collects from a tax under
 5588 this part.

5589 (c) Except as provided under Subsection (4)(b), all revenue received by the
 5590 commission under this section shall be deposited daily with the state treasurer and credited
 5591 monthly to the Marda Dillree Corridor Preservation Fund under Section 72-2-117.

5592 Section 50. Section 59-13-202 is amended to read:

5593 **59-13-202. Refund of tax for agricultural uses on individual income and**
 5594 **corporate franchise and income tax returns -- Application for permit for refund --**
 5595 **Division of Finance to pay claims -- Rules permitted to enforce part -- Penalties --**
 5596 **Revenue and Taxation Interim Committee study.**

5597 (1) As used in this section:

5598 (a) (i) Except as provided in Subsection (1)(a)(ii), "claimant" means a resident or
 5599 nonresident person.

5600 (ii) "Claimant" does not include an estate or trust.

5601 (b) "Estate" means a nonresident estate or a resident estate.

5602 (c) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or
 5603 trust may claim:

5604 (i) as provided by statute; and

5605 (ii) regardless of whether, for the taxable year for which the claimant, estate, or trust

5606 claims the tax credit, the claimant, estate, or trust has a tax liability under:

5607 (A) Chapter 7, Corporate Franchise and Income Taxes; or

5608 (B) Chapter 10, Individual Income Tax Act.

5609 (d) "Trust" means a nonresident trust or a resident trust.

5610 (2) Any claimant, estate, or trust that purchases and uses any motor fuel within the state
5611 for the purpose of operating or propelling stationary farm engines and self-propelled farm
5612 machinery used for nonhighway agricultural uses, and that has paid the tax on the motor fuel as
5613 provided by this part, is entitled to a refund of the tax subject to the conditions and limitations
5614 provided under this part.

5615 (3) (a) A claimant, estate, or trust desiring a nonhighway agricultural use refund under
5616 this part shall claim the refund as a refundable tax credit on the tax return the claimant, estate,
5617 or trust files under:

5618 (i) Chapter 7, Corporate Franchise and Income Taxes; or

5619 (ii) Chapter 10, Individual Income Tax Act.

5620 (b) A claimant, estate, or trust not subject to filing a tax return described in Subsection
5621 (3)(a) shall obtain a permit and file claims on a calendar year basis.

5622 (c) Any claimant, estate, or trust claiming a refundable tax credit under this section is
5623 required to furnish any or all of the information outlined in this section upon request of the
5624 commission.

5625 (d) A refundable tax credit under this section is allowed only on purchases on which
5626 tax is paid during the taxable year covered by the tax return.

5627 (4) In order to obtain a permit for a refund of motor fuel tax paid, an application shall
5628 be filed containing:

5629 (a) the name of the claimant, estate, or trust;

5630 (b) the claimant's, estate's, or trust's address;

5631 (c) location and number of acres owned and operated, location and number of acres
5632 rented and operated, the latter of which shall be verified by a signed statement from the legal
5633 owner;

5634 (d) number of acres planted to each crop, type of soil, and whether irrigated or dry; and

5635 (e) make, size, and type of fuel used and power rating of each piece of equipment using
5636 fuel. If the claimant, estate, or trust is an operator of self-propelled or tractor-pulled farm

5637 machinery with which the claimant, estate, or trust works for hire doing custom jobs for other
5638 farmers, the application shall include information the commission requires and shall all be
5639 contained in, and be considered part of, the original application. The claimant, estate, or trust
5640 shall also file with the application a certificate from the county assessor showing each piece of
5641 equipment using fuel. This original application and all information contained in it constitutes a
5642 permanent file with the commission in the name of the claimant, estate, or trust.

5643 (5) A claimant, estate, or trust claiming the right to a refund of motor fuel tax paid shall
5644 file a claim with the commission by April 15 of each year for the refund for the previous
5645 calendar year. The claim shall state the name and address of the claimant, estate, or trust, the
5646 number of gallons of motor fuel purchased for nonhighway agricultural uses, and the amount
5647 paid for the motor fuel. The claimant, estate, or trust shall retain the original invoice to support
5648 the claim. No more than one claim for a tax refund may be filed annually by each user of
5649 motor fuel purchased for nonhighway agricultural uses.

5650 (6) Upon commission approval of the claim for a refund, the Division of Finance shall
5651 pay the amount found due to the claimant, estate, or trust. The total amount of claims for
5652 refunds shall be paid from motor fuel taxes.

5653 (7) The commission may refuse to accept as evidence of purchase or payment any
5654 instruments that show alteration or that fail to indicate the quantity of the purchase, the price of
5655 the motor fuel, a statement that the motor fuel is purchased for purposes other than
5656 transportation, and the date of purchase and delivery. If the commission is not satisfied with
5657 the evidence submitted in connection with the claim, the commission may reject the claim or
5658 require additional evidence.

5659 (8) A claimant, estate, or trust aggrieved by the decision of the commission with
5660 respect to a refundable tax credit or refund may file a request for agency action, requesting a
5661 hearing before the commission.

5662 (9) A claimant, estate, or trust that makes any false claim, report, or statement, as
5663 claimant, estate, trust, agent, or creditor, with intent to defraud or secure a refund to which the
5664 claimant, estate, or trust is not entitled, is subject to the criminal penalties provided under
5665 Section [59-1-401](#), and the commission shall initiate the filing of a complaint for alleged
5666 violations of this part. In addition to these penalties, the claimant, estate, or trust may not
5667 receive any refund as a claimant, estate, or trust or as a creditor of a claimant, estate, or trust for

5668 refund for a period of five years.

5669 ~~[(10)(a) In accordance with any rules prescribed by the commission under Subsection~~
5670 ~~(10)(b), the Division of Finance shall transfer at least annually from the Transportation Fund~~
5671 ~~into the Education Fund an amount equal to the amount of the refund claimed under this~~
5672 ~~section.]~~

5673 ~~[(b)]~~ (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
5674 Act, the commission may make rules providing procedures for:

5675 (i) making a refund to a claimant, estate, or trust as required by Subsection (3)(a)(i); or

5676 ~~[(ii) making a transfer from the Transportation Fund into the Education Fund as~~
5677 ~~required by Subsection (10)(a); or]~~

5678 ~~[(iii)]~~ (ii) enforcing this part.

5679 (11) (a) On or before November 30, 2017, and every three years after 2017, the
5680 Revenue and Taxation Interim Committee shall review the tax credit provided by this section
5681 and make recommendations concerning whether the tax credit should be continued, modified,
5682 or repealed.

5683 (b) In conducting the review required by Subsection (11)(a), the Revenue and Taxation
5684 Interim Committee shall:

5685 (i) schedule time on at least one committee agenda to conduct the review;

5686 (ii) invite state agencies, individuals, and organizations concerned with the credit under
5687 review to provide testimony;

5688 (iii) ensure that the recommendations described in this section include an evaluation of:

5689 (A) the cost of the tax credit to the state;

5690 (B) the purpose and effectiveness of the tax credit; and

5691 (C) the extent to which the state benefits from the tax credit; and

5692 (iv) undertake other review efforts as determined by the chairs of the Revenue and
5693 Taxation Interim Committee.

5694 Section 51. Section **59-13-323** is enacted to read:

5695 **59-13-323. Additional special fuel tax on diesel fuel.**

5696 (1) A supplier shall pay an additional special fuel tax on diesel fuel that is subject to
5697 the special fuel tax imposed under Section [59-13-301](#) in an amount equal to:

5698 (a) beginning on April 1, 2020, and ending on December 31, 2021, six cents per gallon;

5699 and

5700 (b) beginning on January 1, 2022, 10 cents per gallon.

5701 (2) (a) The commission shall deposit daily the revenue that the commission collects
5702 under this section with the state treasurer.

5703 (b) Notwithstanding Section 59-13-301, the state treasurer shall credit the revenue
5704 deposited in accordance with Subsection (2)(a) to the Transportation Investment Fund of 2005
5705 created in Section 72-2-124.

5706 (3) (a) A person entitled to a refund of a special fuel tax under this part may receive a
5707 refund of the additional special fuel tax due under this section for the same gallons that the
5708 person is entitled to a refund of a special fuel tax.

5709 (b) Notwithstanding Section 59-13-318, the total amount of claims for refunds under
5710 Subsection (3)(a) shall be paid from the Transportation Investment Fund of 2005.

5711 (4) Beginning in 2021, the commission shall submit annually on or before October 1,
5712 an electronic report to a legislative committee designated by the Legislative Management
5713 Committee that:

5714 (a) states the amount of revenue collected from the tax imposed under Section
5715 59-13-323 during the preceding fiscal year; and

5716 (b) provides an estimate of the revenue that will be collected from the tax imposed
5717 under Section 59-13-323 during the current fiscal year.

5718 Section 52. Section 59-13-601 is enacted to read:

5719 **Part 6. Sales Tax on Motor Fuel and Special Fuel, Other than Diesel Fuel**
5720 **59-13-601. Sales tax on motor fuel and special fuel, other than diesel fuel.**

5721 (1) (a) As used in this part, "nondiesel special fuel" means special fuel, other than
5722 diesel fuel.

5723 (b) For purposes of this part, the definitions in Section 59-13-102 that contain the
5724 words special fuel in the definition shall be read as though the words special fuel were replaced
5725 with nondiesel special fuel.

5726 (2) (a) Beginning on April 1, 2020, and subject to the other provisions of this
5727 Subsection (2), a sales tax is imposed on motor fuel and nondiesel special fuel at an
5728 amount equal to the product of:

5729 (i) the rate described in Subsection 59-12-103(2)(a)(i)(A);

5730 (ii) the average daily rack price, calculated in accordance with Subsection (3) or (4);
5731 and
5732 (iii) (A) the number of gallons of motor fuel;
5733 (B) the number of diesel gallon equivalent for liquified natural gas;
5734 (C) the number of gasoline gallon equivalent for compressed natural gas or hydrogen;
5735 or
5736 (D) the number of units sold of nondiesel special fuel that is not liquified natural gas,
5737 compressed natural gas, or hydrogen.
5738 (b) (i) The distributor shall pay the tax on motor fuel.
5739 (ii) The supplier shall pay the tax on nondiesel special fuel.
5740 (c) (i) Except as provided in Subsection (2)(c)(iii), the provisions of Part 2, Motor
5741 Fuel, apply to the sales tax imposed by this section on motor fuel.
5742 (ii) Except as provided in Subsection (2)(c)(iii), the provisions of Part 3, Special Fuel,
5743 apply to the sales tax imposed by this section on nondiesel special fuel.
5744 (iii) (A) The sales tax rate on motor fuel and nondiesel special fuel is as provided in
5745 this
5746 Subsection (2).
5747 (B) The treasurer shall deposit the revenue collected from the sales tax imposed under
5748 this section into the Transportation Investment Fund of 2005 created in Section
5749 [72-2-124](#).
5750 (C) The commission shall pay any refunds from the Transportation Investment Fund of
5751 2005 created in Section 72-2-124.
5752 (3) (a) The commission shall determine annually the average daily rack price for motor
5753 fuel.
5754 (b) For the 2020 calendar year, the commission shall make the determination required
5755 by Subsection (3)(a) by:
5756 (i) calculating the previous fiscal year statewide average rack price of a gallon of
5757 regular unleaded motor fuel, excluding federal and state excise taxes, for the 12 months ending
5758 on the previous June 30 as published by an oil pricing service; and
5759 (ii) rounding to the nearest one-hundredth of a cent.
5760 (c) For the 2021 calendar year, the commission shall make the determination required

5761 by Subsection (3)(a) by:

5762 (i) calculating the previous two fiscal years statewide average rack price of a gallon of
5763 regular unleaded motor fuel, excluding federal and state excise taxes, for the 24 months ending
5764 on the previous June 30 as published by an oil pricing service.

5765 (d) Beginning on January 1, 2022, the commission shall make the determination
5766 required by Subsection (3)(a) by:

5767 (i) calculating the previous three fiscal years statewide average rack price of a gallon of
5768 regular unleaded motor fuel, excluding federal and state excise taxes, for the 36 months ending
5769 on the previous June 30 as published by an oil pricing service; and

5770 (ii) rounding to the nearest one-hundredth of a cent.

5771 (e) If the average daily rack price of a gallon of motor fuel determined under
5772 Subsection (3)(c) or (d) is less than the average daily rack price of a gallon of motor fuel
5773 calculated in accordance with Subsection (3)(b), the average daily rack price shall be the
5774 average daily rack price calculated in accordance with Subsection (3)(b).

5775 (4) The average daily rack price for nondiesel special fuel is the product of:

5776 (a) the average daily rack price calculated in accordance with Subsection (3); and

5777 (b) the percentage calculated by dividing the rate calculated in accordance with
5778 Subsection [59-13-301](#)(12) by the rate calculated in accordance with Subsection [59-13-201](#)(1).

5779 (5) (a) The commission shall annually:

5780 (i) publish the average daily rack prices calculated in accordance with Subsections (3)
5781 and (4); and

5782 (ii) post or otherwise make public the average daily rack prices no later than 60 days
5783 prior to the annual effective date under Subsection (5)(b).

5784 (b) The average daily rack price described in Subsection (2) and calculated in
5785 accordance with Subsections (3) and (4) shall take effect:

5786 (i) for the 2020 calendar year, on April 1; and

5787 (ii) beginning with the 2021 calendar year, on January 1 of each year.

5788 Section 53. Section **63I-2-241** is enacted to read:

5789 **63I-2-241. Repeal dates -- Title 41.**

5790 Subsection [41-6a-702](#)(5), which allows a vehicle with a clean fuel vehicle decal to
5791 travel in a lane designated for the use of high occupancy vehicles regardless of the number of

5792 occupants, is repealed September 30, 2025.

5793 Section 54. Section **63I-2-253** is amended to read:

5794 **63I-2-253. Repeal dates -- Titles 53 through 53G.**

5795 (1) (a) Subsections **53B-2a-103**(2) and (4), regarding the composition of the UTech
5796 Board of Trustees and the transition to that composition, are repealed July 1, 2019.

5797 (b) When repealing Subsections **53B-2a-103**(2) and (4), the Office of Legislative
5798 Research and General Counsel shall, in addition to its authority under Subsection **36-12-12**(3),
5799 make necessary changes to subsection numbering and cross references.

5800 (2) (a) Subsection **53B-2a-108**(5), regarding exceptions to the composition of a
5801 technical college board of directors, is repealed July 1, 2022.

5802 (b) When repealing Subsection **53B-2a-108**(5), the Office of Legislative Research and
5803 General Counsel shall, in addition to its authority under Subsection **36-12-12**(3), make
5804 necessary changes to subsection numbering and cross references.

5805 (3) Section **53B-6-105.7** is repealed July 1, 2024.

5806 (4) (a) Subsection **53B-7-705**(6)(b)(ii)(A), the language that states "Except as provided
5807 in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

5808 (b) Subsection **53B-7-705**(6)(b)(ii)(B), regarding comparing a technical college's
5809 change in performance with the technical college's average performance, is repealed July 1,
5810 2021.

5811 (5) (a) Subsection **53B-7-707**(3)(a)(ii), the language that states "Except as provided in
5812 Subsection (3)(b)," is repealed July 1, 2021.

5813 (b) Subsection **53B-7-707**(3)(b), regarding performance data of a technical college
5814 during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

5815 (6) Section **53B-8-112** is repealed July 1, 2024.

5816 (7) Section **53B-8-114** is repealed July 1, 2024.

5817 (8) (a) The following sections, regarding the Regents' scholarship program, are
5818 repealed on July 1, 2023:

5819 (i) Section **53B-8-202**;

5820 (ii) Section **53B-8-203**;

5821 (iii) Section **53B-8-204**; and

5822 (iv) Section **53B-8-205**.

- 5823 (b) (i) Subsection [53B-8-201](#)(2), regarding the Regents' scholarship program for
5824 students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.
- 5825 (ii) When repealing Subsection [53B-8-201](#)(2), the Office of Legislative Research and
5826 General Counsel shall, in addition to its authority under Subsection [36-12-12](#)(3), make
5827 necessary changes to subsection numbering and cross references.
- 5828 (9) Section [53B-10-101](#) is repealed on July 1, 2027.
- 5829 (10) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is
5830 repealed July 1, 2023.
- 5831 (11) Section [53E-3-519](#) regarding school counselor services is repealed July 1, 2020.
- 5832 (12) Section [53E-3-520](#) is repealed July 1, 2021.
- 5833 (13) Subsection [53E-5-306](#)(3)(b)(ii)(B), related to improving school performance and
5834 continued funding relating to the School Recognition and Reward Program, is repealed July 1,
5835 2020.
- 5836 (14) Section [53E-5-307](#) is repealed July 1, 2020.
- 5837 (15) In Subsections [53F-2-205](#)(4) and (5), regarding the State Board of Education's
5838 duties if contributions from the minimum basic tax rate are overestimated or underestimated,
5839 the language that states "or [53F-2-301.5](#), as applicable" is repealed July 1, 2023.
- 5840 (16) Subsection [53F-2-301](#)(1), relating to the years the section is not in effect, is
5841 repealed July 1, 2023.
- 5842 (17) In Subsection [53F-2-515](#)(1), the language that states "or [53F-2-301.5](#), as
5843 applicable" is repealed July 1, 2023.
- 5844 (18) Section [53F-4-204](#) is repealed July 1, 2019.
- 5845 (19) In Subsection [53F-9-302](#)(3), the language that states "or [53F-2-301.5](#), as
5846 applicable" is repealed July 1, 2023.
- 5847 (20) Section [53F-9-304](#) is repealed July 1, 2020.
- 5848 [~~(20)~~] (21) In Subsection [53F-9-305](#)(3)(a), the language that states "or [53F-2-301.5](#), as
5849 applicable" is repealed July 1, 2023.
- 5850 [~~(21)~~] (22) In Subsection [53F-9-306](#)(3)(a), the language that states "or [53F-2-301.5](#), as
5851 applicable" is repealed July 1, 2023.
- 5852 [~~(22)~~] (23) In Subsection [53G-3-304](#)(1)(c)(i), the language that states "or [53F-2-301.5](#),
5853 as applicable" is repealed July 1, 2023.

5854 ~~[(23)]~~ (24) On July 1, 2023, when making changes in this section, the Office of
5855 Legislative Research and General Counsel shall, in addition to the office's authority under
5856 Subsection [36-12-12\(3\)](#), make corrections necessary to ensure that sections and subsections
5857 identified in this section are complete sentences and accurately reflect the office's perception of
5858 the Legislature's intent.

5859 Section 55. Section **63I-2-259** is amended to read:

5860 **63I-2-259. Repeal dates -- Title 59.**

5861 ~~[(1) Section [59-1-102](#) is repealed on May 14, 2019.]~~

5862 ~~[(2)]~~ (1) In Section [59-2-926](#), the language that states "applicable" and "or
5863 [53F-2-301.5](#)" is repealed July 1, 2023.

5864 ~~[(3) Subsection [59-2-1007\(15\)](#) is repealed on December 31, 2018.]~~

5865 (2) Section [59-10-1018.1](#) is repealed January 1, 2021.

5866 (3) Section [59-10-1113.1](#) is repealed January 1, 2021.

5867 (4) Subsections [59-12-102\(61\)](#) and [\(62\)](#), which define "life science establishment" and
5868 "life science research and development facility," are repealed January 1, 2027.

5869 (5) Subsection [59-12-104\(62\)](#), which provides a sales and use tax exemption related to
5870 amounts paid or charged for construction materials used in the construction of a life science
5871 research and development facility, is repealed January 1, 2027.

5872 (6) Section [59-12-104.4](#) is repealed April 1, 2020.

5873 Section 56. Section **63I-2-272** is amended to read:

5874 **63I-2-272. Repeal dates -- Title 72.**

5875 (1) Subsections [72-1-213\(2\)](#) and [\(3\)\(a\)\(i\)](#), related to the Road Usage Charge Advisory
5876 Committee, are repealed January 1, 2022.

5877 ~~[(2) On July 1, 2018:]~~

5878 ~~[(a) in Subsection [72-2-108\(2\)](#), the language that states "and except as provided in~~
5879 ~~Subsection (10)" is repealed; and]~~

5880 ~~[(b) in Subsection [72-2-108\(4\)\(c\)\(ii\)\(A\)](#), the language that states ", excluding any~~
5881 ~~amounts appropriated as additional support for class B and class C roads under Subsection~~
5882 ~~(10)," is repealed.]~~

5883 ~~[(3)]~~ (2) Section [72-3-113](#) is repealed January 1, 2020.

5884 (3) Section [72-6-121](#) is repealed September 30, 2025.

5885 Section 57. Section **63M-4-702** is amended to read:

5886 **63M-4-702. Refiner gasoline standard reporting -- Office of Energy Development**
5887 **certification of sales and use tax exemption eligibility.**

5888 (1) (a) Beginning on July 1, 2021, a refiner that seeks to be eligible for a sales and use
5889 tax exemption under Subsection [59-12-104~~\(86\)~~\(73\)](#) shall annually report to the office
5890 whether the refiner's facility that is located within the state will have an average gasoline sulfur
5891 level of 10 parts per million (ppm) or less using the formulas prescribed in 40 C.F.R. Sec.
5892 80.1603, excluding the offset for credit use and transfer as prescribed in 40 C.F.R. Sec.
5893 80.1616.

5894 (b) Fuels for which a final destination outside Utah can be demonstrated or that are not
5895 subject to the standards and requirements of 40 C.F.R. Sec. 80.1603 as specified in 40 C.F.R.
5896 Sec. 80.1601 are not subject to the reporting provisions under Subsection (1)(a).

5897 (2) (a) Beginning on July 1, 2021, the office shall annually certify that the refiner is
5898 eligible for the sales and use tax exemption under Subsection [59-12-104~~\(86\)~~\(73\)](#):

5899 (i) on a form provided by the State Tax Commission that shall be retained by the
5900 refiner claiming the sales and use tax exemption under Subsection [59-12-104~~\(86\)~~\(73\)](#);

5901 (ii) if the refiner's refinery that is located within the state had an average sulfur level of
5902 10 parts per million (ppm) or less as reported under Subsection (1) in the previous calendar
5903 year; and

5904 (iii) before a taxpayer is allowed the sales and use tax exemption under Subsection
5905 [59-12-104~~\(86\)~~\(73\)](#).

5906 (b) The certification provided by the office under Subsection (2)(a) shall be renewed
5907 annually.

5908 (c) The office:

5909 (i) shall accept a copy of a report submitted by a refiner to the Environmental
5910 Protection Agency under 40 C.F.R. Sec. 80.1652 as sufficient evidence of the refiner's average
5911 gasoline sulfur level; or

5912 (ii) may establish another reporting mechanism through rules made under Subsection
5913 (3).

5914 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5915 office may make rules to implement this section.

5916 Section 58. Section 72-1-201 is amended to read:

5917 **72-1-201. Creation of Department of Transportation -- Functions, powers, duties,**
5918 **rights, and responsibilities.**

5919 (1) There is created the Department of Transportation which shall:

5920 (a) have the general responsibility for planning, research, design, construction,
5921 maintenance, security, and safety of state transportation systems;

5922 (b) provide administration for state transportation systems and programs;

5923 (c) implement the transportation policies of the state;

5924 (d) plan, develop, construct, and maintain state transportation systems that are safe,
5925 reliable, environmentally sensitive, and serve the needs of the traveling public, commerce, and
5926 industry;

5927 (e) establish standards and procedures regarding the technical details of administration
5928 of the state transportation systems as established by statute and administrative rule;

5929 (f) advise the governor and the Legislature about state transportation systems needs;

5930 (g) coordinate with utility companies for the reasonable, efficient, and cost-effective
5931 installation, maintenance, operation, relocation, and upgrade of utilities within state highway
5932 rights-of-way;

5933 (h) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
5934 make rules for the administration of the department, state transportation systems, and
5935 programs;

5936 (i) jointly with the commission annually report to the Transportation Interim
5937 Committee, by November 30 of each year, as to the operation, maintenance, condition,
5938 mobility, and safety needs for state transportation systems;

5939 (j) ensure that any training or certification required of a public official or public
5940 employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter
5941 22, State Training and Certification Requirements, if the training or certification is required:

5942 (i) under this title;

5943 (ii) by the department; or

5944 (iii) by an agency or division within the department; [~~and~~]

5945 (k) study and make recommendations to the Legislature on potential managed lane use
5946 and implementation on selected transportation systems within the state[-]; and

5947 (l) implement one or more strategies to manage congestion on state highways and
5948 generate highway user fees, including the use of one or more high occupancy toll lanes as
5949 defined in Section 72-6-118 and implementation of the technology described in Subsection
5950 72-6-118(2)(e).

5951 (2) (a) The department shall exercise reasonable care in designing, constructing, and
5952 maintaining a state highway in a reasonably safe condition for travel.

5953 (b) Nothing in this section shall be construed as:

5954 (i) creating a private right of action; or

5955 (ii) expanding or changing the department's common law duty as described in
5956 Subsection (2)(a) for liability purposes.

5957 Section 59. Section 72-1-213.1 is amended to read:

5958 **72-1-213.1. Road usage charge program.**

5959 (1) As used in this section:

5960 (a) "Account manager" means an entity under contract with the department to
5961 administer and manage the road usage charge program.

5962 (b) "Alternative fuel vehicle" means the same as that term is defined in Section
5963 41-1a-102.

5964 (c) "Payment period" means the interval during which an owner is required to report
5965 mileage and pay the appropriate road usage charge according to the terms of the program.

5966 (d) "Program" means the road usage charge program established and described in this
5967 section.

5968 (2) There is established a road usage charge program as described in this section.

5969 (3) (a) The department shall implement and oversee the administration of the program,
5970 which shall begin on January 1, 2020.

5971 (b) To implement and administer the program, the department may contract with an
5972 account manager.

5973 (4) (a) The owner or lessee of an alternative fuel vehicle may apply for enrollment of
5974 the alternative fuel vehicle in the program.

5975 (b) If an application for enrollment into the program is approved by the department, the
5976 owner or lessee of an alternative fuel vehicle may participate in the program in lieu of paying
5977 the fee described in Subsection 41-1a-1206(1)(h) or (2)(b).

5978 (5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
5979 and consistent with this section, the department:

5980 (i) shall make rules to establish:

5981 (A) processes and terms for enrollment into and withdrawal or removal from the
5982 program;

5983 (B) payment periods and other payment methods and procedures for the program;

5984 (C) standards for mileage reporting mechanisms for an owner or lessee of an
5985 alternative fuel vehicle to report mileage as part of participation in the program;

5986 (D) standards for program functions for mileage recording, payment processing,
5987 account management, and other similar aspects of the program;

5988 (E) contractual terms between an owner or lessee of an alternative fuel vehicle owner
5989 and an account manager for participation in the program;

5990 (F) contractual terms between the department and an account manager, including
5991 authority for an account manager to enforce the terms of the program;

5992 (G) procedures to provide security and protection of personal information and data
5993 connected to the program, and penalties for account managers for violating privacy protection
5994 rules;

5995 (H) penalty procedures for a program participant's failure to pay a road usage charge or
5996 tampering with a device necessary for the program; and

5997 (I) department oversight of an account manager, including privacy protection of
5998 personal information and access and auditing capability of financial and other records related to
5999 administration of the program; and

6000 (ii) may make rules to establish:

6001 (A) an enrollment cap for certain alternative fuel vehicle types to participate in the
6002 program;

6003 (B) a process for collection of an unpaid road usage charge or penalty; or

6004 (C) integration of the program with other similar programs, such as tolling.

6005 (b) The department shall make recommendations to and consult with the commission
6006 regarding road usage mileage rates for each type of alternative fuel vehicle.

6007 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and
6008 consistent with this section, the commission shall, after consultation with the department, make

6009 rules to establish the road usage charge mileage rate for each type of alternative fuel vehicle.

6010 (7) (a) Revenue generated by the road usage charge program and relevant penalties
6011 shall be deposited into the Transportation Fund.

6012 (b) The department may use revenue generated by the program to cover the costs of
6013 administering the program.

6014 (8) (a) The department may:

6015 (i) (A) impose a penalty for failure to timely pay a road usage charge according to the
6016 terms of the program or tampering with a device necessary for the program; and

6017 (B) request that the Division of Motor Vehicles place a hold on the registration of the
6018 owner's or lessee's alternative fuel vehicle for failure to pay a road usage charge according to
6019 the terms of the program;

6020 (ii) send correspondence to the owner of an alternative fuel vehicle to inform the owner
6021 or lessee of:

6022 (A) the road usage charge program, implementation, and procedures;

6023 (B) an unpaid road usage charge and the amount of the road usage charge to be paid to
6024 the department;

6025 (C) the penalty for failure to pay a road usage charge within the time period described
6026 in Subsection (8)(a)(iii); and

6027 (D) a hold being placed on the owner's or lessee's registration for the alternative fuel
6028 vehicle, if the road usage charge and penalty are not paid within the time period described in
6029 Subsection (8)(a)(iii), which would prevent the renewal of the alternative fuel vehicle's
6030 registration; and

6031 (iii) require that the owner or lessee of the alternative fuel vehicle pay the road usage
6032 charge to the department within 30 days of the date when the department sends written notice
6033 of the road usage charge to the owner or lessee.

6034 (b) The department shall send the correspondence and notice described in Subsection
6035 (8)(a) to the owner of the alternative fuel vehicle according to the terms of the program.

6036 (9) (a) The Division of Motor Vehicles and the department shall share and provide
6037 access to:

6038 (i) information pertaining to an alternative fuel vehicle and participation in the program
6039 including:

6040 [(i)] (A) registration and ownership information pertaining to an alternative fuel
6041 vehicle;

6042 [(ii)] (B) information regarding the failure of an alternative fuel vehicle owner or lessee
6043 to pay a road usage charge or penalty imposed under this section within the time period
6044 described in Subsection (8)(a)(iii); and

6045 [(iii)] (C) the status of a request for a hold on the registration of an alternative fuel
6046 vehicle[-]; and

6047 (ii) the following information, in a format that does not allow the department to
6048 identify the vehicle owner, from each certificate of emissions inspection provided in
6049 accordance with Section 41-6a-1642:

6050 (A) the odometer reading; and

6051 (B) the date of the odometer reading.

6052 (b) If the department requests a hold on the registration in accordance with this section,
6053 the Division of Motor Vehicles may not renew the registration of a motor vehicle under Title
6054 41, Chapter 1a, Part 2, Registration, until the department withdraws the hold request.

6055 (10) The owner of an alternative fuel vehicle may apply for enrollment in the program
6056 or withdraw from the program according to the terms established by the department pursuant to
6057 rules made under Subsection (5).

6058 (11) If enrolled in the program, the owner or lessee of an alternative fuel vehicle shall:

6059 (a) report mileage driven as required by the department pursuant to Subsection (5);

6060 (b) pay the road usage fee for each payment period as set by the department and the
6061 commission pursuant to Subsections (5) and (6); and

6062 (c) comply with all other provisions of this section and other requirements of the
6063 program.

6064 (12) On or before October 1 of each year, the department shall submit an electronic
6065 report to a legislative committee designated by the Legislative Management Committee that:

6066 (a) describes the amount of revenue generated by the program during the preceding
6067 fiscal year; and

6068 (b) recommends strategies for expanding enrollment in the program.

6069 Section 60. Section 72-1-213.2 is enacted to read:

6070 **72-1-213.2. Reports on revenue from road usage charge program.**

6071 (1) As used in this section:

6072 (a) "Committees" means the Transportation Interim Committee and the Infrastructure
6073 and General Government Appropriations Subcommittee.

6074 (b) "Program" means the same as that term is defined in Section [72-1-213.1](#).

6075 (2) On or before October 1, 2020, the department shall submit to the committees a plan
6076 to enroll all vehicles registered in the state in the program by December 31, 2020.

6077 (3) Beginning in 2021, the committees shall receive and consider annually, on or
6078 before October 1, an electronic report from the department that:

6079 (a) provides the participation rate in the program;

6080 (b) states for the preceding fiscal year:

6081 (i) the amount of revenue collected from the program; and

6082 (ii) the department's cost to administer the program;

6083 (c) provides for the current fiscal year, an estimate of:

6084 (i) the revenue that will be collected from the program; and

6085 (ii) the department's cost to administer the program; and

6086 (d) recommends strategies to expand enrollment in the program to meet the deadline
6087 provided in Subsection (2).

6088 (4) In a year in which the revenue generated under the program, minus cost to
6089 administer the program, equals or exceeds 25%, 50%, 75%, or 100% of the revenue collected
6090 under Section [59-13-601](#), the department shall include that information in the report required
6091 under Subsection (3).

6092 Section 61. Section **72-2-120** is amended to read:

6093 **72-2-120. Tollway Special Revenue Fund -- Revenue.**

6094 (1) There is created a special revenue fund within the Transportation Fund known as
6095 the "Tollway Special Revenue Fund."

6096 (2) The fund shall be funded from the following sources:

6097 (a) tolls collected by the department under Section [72-6-118](#);

6098 (b) funds received by the department through a tollway development agreement under
6099 Section [72-6-203](#);

6100 (c) appropriations made to the fund by the Legislature;

6101 (d) contributions from other public and private sources for deposit into the fund;

- 6102 (e) interest earnings on cash balances; and
- 6103 (f) money collected for repayments and interest on fund money.
- 6104 (3) The Division of Finance may create a subaccount for each tollway as defined in
- 6105 Section [72-6-118](#).
- 6106 (4) The commission may authorize the money deposited into the fund to be spent by
- 6107 the department [~~to establish and operate tollways and related facilities and state transportation~~
- 6108 ~~systems, including design, construction, reconstruction, operation, maintenance, enforcement,~~
- 6109 ~~impacts from tollways, and the acquisition of right-of-way] for any state transportation~~
- 6110 purpose.
- 6111 Section 62. Section **72-2-124** is amended to read:
- 6112 **72-2-124. Transportation Investment Fund of 2005.**
- 6113 (1) There is created a capital projects fund entitled the Transportation Investment Fund
- 6114 of 2005.
- 6115 (2) The fund consists of money generated from the following sources:
- 6116 (a) any voluntary contributions received for the maintenance, construction,
- 6117 reconstruction, or renovation of state and federal highways;
- 6118 (b) appropriations made to the fund by the Legislature;
- 6119 (c) registration fees designated under Section [41-1a-1201](#);
- 6120 (d) the sales and use tax revenues deposited into the fund in accordance with [~~Section~~
- 6121 ~~[59-12-103](#); and] Sections [59-12-103](#) and [59-13-601](#);~~
- 6122 (e) the additional special fuel tax revenues deposited into the fund in accordance with
- 6123 Section [59-13-323](#); and
- 6124 ~~(e)] (f) revenues transferred to the fund in accordance with Section [72-2-106](#).~~
- 6125 (3) (a) The fund shall earn interest.
- 6126 (b) All interest earned on fund money shall be deposited into the fund.
- 6127 (4) (a) Except as provided in Subsection (4)(b), the executive director may only use
- 6128 fund money to pay:
- 6129 (i) the costs of maintenance, construction, reconstruction, or renovation to state and
- 6130 federal highways prioritized by the Transportation Commission through the prioritization
- 6131 process for new transportation capacity projects adopted under Section [72-1-304](#);
- 6132 (ii) the costs of maintenance, construction, reconstruction, or renovation to the highway

6133 projects described in Subsections [63B-18-401](#)(2), (3), and (4);

6134 (iii) principal, interest, and issuance costs of bonds authorized by Section [63B-18-401](#)
6135 minus the costs paid from the County of the First Class Highway Projects Fund in accordance
6136 with Subsection [72-2-121](#)(4)(f);

6137 (iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt
6138 Lake County Revenue Bond Sinking Fund created by Section [72-2-121.3](#) the amount certified
6139 by Salt Lake County in accordance with Subsection [72-2-121.3](#)(4)(c) as necessary to pay the
6140 debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;

6141 (v) principal, interest, and issuance costs of bonds authorized by Section [63B-16-101](#)
6142 for projects prioritized in accordance with Section [72-2-125](#);

6143 (vi) all highway general obligation bonds that are intended to be paid from revenues in
6144 the Centennial Highway Fund created by Section [72-2-118](#);

6145 [~~(vii) for fiscal year 2015-16 only, to transfer \$25,000,000 to the County of the First~~
6146 ~~Class Highway Projects Fund created in Section [72-2-121](#) to be used for the purposes described~~
6147 ~~in Section [72-2-121](#); and]~~

6148 [~~(viii)~~] (vii) if a political subdivision provides a contribution equal to or greater than
6149 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or
6150 paved nonmotorized transportation for projects that:

6151 (A) mitigate traffic congestion on the state highway system;

6152 (B) are part of an active transportation plan approved by the department; and

6153 (C) are prioritized by the commission through the prioritization process for new
6154 transportation capacity projects adopted under Section [72-1-304](#)[~~-~~]; and

6155 (viii) for a fiscal year beginning on or after July 1, 2020, to annually transfer an equal
6156 portion of \$5,000,000 to each county with a population of less than 14,000, as determined by
6157 the lieutenant governor in accordance with Subsection [17-50-502](#)(2), for expenses related to the
6158 improvement of class B roads located within the county.

6159 (b) The executive director may use fund money to exchange for an equal or greater
6160 amount of federal transportation funds to be used as provided in Subsection (4)(a).

6161 (5) (a) Except as provided in Subsection (5)(b), the executive director may not use fund
6162 money, including fund money from the Transit Transportation Investment Fund, within the
6163 boundaries of a municipality that is required to adopt a moderate income housing plan element

6164 as part of the municipality's general plan as described in Subsection 10-9a-401(3), if the
6165 municipality has failed to adopt a moderate income housing plan element as part of the
6166 municipality's general plan or has failed to implement the requirements of the moderate income
6167 housing plan as determined by the results of the Department of Workforce Service's review of
6168 the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

6169 (b) Within the boundaries of a municipality that is required under Subsection
6170 10-9a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate
6171 income housing plan element as part of the municipality's general plan or has failed to
6172 implement the requirements of the moderate income housing plan as determined by the results
6173 of the Department of Workforce Service's review of the annual moderate income housing
6174 report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

6175 (i) may use fund money in accordance with Subsection (4)(a) for a limited-access
6176 facility;

6177 (ii) may not use fund money for the construction, reconstruction, or renovation of an
6178 interchange on a limited-access facility;

6179 (iii) may use Transit Transportation Investment Fund money for a multi-community
6180 fixed guideway public transportation project; and

6181 (iv) may not use Transit Transportation Investment Fund money for the construction,
6182 reconstruction, or renovation of a station that is part of a fixed guideway public transportation
6183 project.

6184 (6) (a) Except as provided in Subsection (6)(b), the executive director may not use fund
6185 money, including fund money from the Transit Transportation Investment Fund, within the
6186 boundaries of the unincorporated area of a county, if the county is required to adopt a moderate
6187 income housing plan element as part of the county's general plan as described in Subsection
6188 17-27a-401(3) and if the county has failed to adopt a moderate income housing plan element as
6189 part of the county's general plan or has failed to implement the requirements of the moderate
6190 income housing plan as determined by the results of the Department of Workforce Service's
6191 review of the annual moderate income housing report described in Subsection
6192 35A-8-803(1)(a)(vii).

6193 (b) Within the boundaries of the unincorporated area of a county where the county is
6194 required under Subsection 17-27a-401(3) to plan for moderate income housing growth but has

6195 failed to adopt a moderate income housing plan element as part of the county's general plan or
6196 has failed to implement the requirements of the moderate income housing plan as determined
6197 by the results of the Department of Workforce Service's review of the annual moderate income
6198 housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

6199 (i) may use fund money in accordance with Subsection (4)(a) for a limited-access
6200 facility;

6201 (ii) may not use fund money for the construction, reconstruction, or renovation of an
6202 interchange on a limited-access facility;

6203 (iii) may use Transit Transportation Investment Fund money for a multi-community
6204 fixed guideway public transportation project; and

6205 (iv) may not use Transit Transportation Investment Fund money for the construction,
6206 reconstruction, or renovation of a station that is part of a fixed guideway public transportation
6207 project.

6208 (7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued
6209 in any fiscal year, the department and the commission shall appear before the Executive
6210 Appropriations Committee of the Legislature and present the amount of bond proceeds that the
6211 department needs to provide funding for the projects identified in Subsections 63B-18-401(2),
6212 (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

6213 (b) The Executive Appropriations Committee of the Legislature shall review and
6214 comment on the amount of bond proceeds needed to fund the projects.

6215 (8) The Division of Finance shall, from money deposited into the fund, transfer the
6216 amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by
6217 Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or
6218 sinking fund.

6219 (9) (a) There is created in the Transportation Investment Fund of 2005 the Transit
6220 Transportation Investment Fund.

6221 (b) The fund shall be funded by:

6222 (i) contributions deposited into the fund in accordance with Section 59-12-103;

6223 (ii) appropriations into the account by the Legislature;

6224 (iii) private contributions; and

6225 (iv) donations or grants from public or private entities.

6226 (c) (i) The fund shall earn interest.

6227 (ii) All interest earned on fund money shall be deposited into the fund.

6228 (d) Subject to Subsection (9)(e), the Legislature may appropriate money from the fund
6229 for public transit capital development of new capacity projects to be used as prioritized by the
6230 commission.

6231 (e) (i) The Legislature may only appropriate money from the fund for a public transit
6232 capital development project or pedestrian or nonmotorized transportation project that provides
6233 connection to the public transit system if the public transit district or political subdivision
6234 provides funds of equal to or greater than 40% of the costs needed for the project.

6235 (ii) A public transit district or political subdivision may use money derived from a loan
6236 granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or
6237 part of the 40% requirement described in Subsection (9)(e)(i) if:

6238 (A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2,
6239 State Infrastructure Bank Fund; and

6240 (B) the proposed capital project has been prioritized by the commission pursuant to
6241 Section 72-1-303.

6242 Section 63. Section 72-6-118 is amended to read:

6243 **72-6-118. Definitions -- Establishment and operation of tollways -- Imposition**
6244 **and collection of tolls -- Amount of tolls -- Rulemaking.**

6245 (1) As used in this section:

6246 (a) (i) ~~["High]~~ Before January 1, 2025, "high occupancy toll lane" means a high
6247 occupancy vehicle lane designated under Section 41-6a-702 that may be used by an operator of
6248 a vehicle carrying less than the number of persons specified for the high occupancy vehicle
6249 lane if the operator of the vehicle pays a toll or fee.

6250 (ii) On or after January 1, 2025, "high occupancy toll lane" means a high occupancy
6251 vehicle lane designated under Section 41-6a-702 that may be used by an operator of a vehicle
6252 only if:

6253 (A) the vehicle is carrying three or more occupants; or

6254 (B) the operator pays a toll or fee.

6255 (b) "Toll" means any tax, fee, or charge assessed for the specific use of a tollway.

6256 (c) "Toll lane" means a designated new highway or additional lane capacity that is

6257 constructed, operated, or maintained for which a toll is charged for its use.

6258 (d) (i) "Tollway" means a highway, highway lane, bridge, path, tunnel, or right-of-way
6259 designed and used as a transportation route that is constructed, operated, or maintained through
6260 the use of toll revenues.

6261 (ii) "Tollway" includes a high occupancy toll lane and a toll lane.

6262 (e) "Tollway development agreement" has the same meaning as defined in Section
6263 [72-6-202](#).

6264 (2) Subject to the provisions of Subsection (3), the department may:

6265 (a) establish, expand, and operate tollways and related facilities for the purpose of
6266 funding in whole or in part the acquisition of right-of-way and the design, construction,
6267 reconstruction, operation, enforcement, and maintenance of or impacts from a transportation
6268 route for use by the public;

6269 (b) enter into contracts, agreements, licenses, franchises, tollway development
6270 agreements, or other arrangements to implement this section;

6271 (c) impose and collect tolls on any tollway established under this section, including
6272 collection of past due payment of a toll or penalty;

6273 (d) grant exclusive or nonexclusive rights to a private entity to impose and collect tolls
6274 pursuant to the terms and conditions of a tollway development agreement;

6275 (e) use technology to automatically monitor a tollway and collect payment of a toll,
6276 including:

6277 (i) license plate reading technology; and

6278 (ii) photographic or video recording technology; and

6279 (f) in accordance with Subsection (5), request that the Division of Motor Vehicles deny
6280 a request for registration of a motor vehicle if the motor vehicle owner has failed to pay a toll
6281 or penalty imposed for usage of a tollway involving the motor vehicle for which registration
6282 renewal has been requested.

6283 (3) (a) The department may establish or operate a tollway on an existing highway if
6284 approved by the commission in accordance with the terms of this section.

6285 (b) To establish a tollway on an existing highway, the department shall submit a
6286 proposal to the commission including:

6287 (i) a description of the tollway project;

- 6288 (ii) projected traffic on the tollway;
- 6289 (iii) the anticipated amount of the toll to be charged; and
- 6290 (iv) projected toll revenue.
- 6291 (4) (a) For a tollway established under this section, the department may:
- 6292 (i) according to the terms of each tollway, impose the toll upon the owner of a motor
- 6293 vehicle using the tollway according to the terms of the tollway;
- 6294 (ii) send correspondence to the owner of the motor vehicle to inform the owner of:
- 6295 (A) an unpaid toll and the amount of the toll to be paid to the department;
- 6296 (B) the penalty for failure to pay the toll timely; and
- 6297 (C) a hold being placed on the owner's registration for the motor vehicle if the toll and
- 6298 penalty are not paid timely, which would prevent the renewal of the motor vehicle's
- 6299 registration;
- 6300 (iii) require that the owner of the motor vehicle pay the toll to the department within 30
- 6301 days of the date when the department sends written notice of the toll to the owner; and
- 6302 (iv) impose a penalty for failure to pay a toll timely.
- 6303 (b) The department shall mail the correspondence and notice described in Subsection
- 6304 (4)(a) to the owner of the motor vehicle according to the terms of a tollway.
- 6305 (5) (a) The Division of Motor Vehicles and the department shall share and provide
- 6306 access to information pertaining to a motor vehicle and tollway enforcement including:
- 6307 (i) registration and ownership information pertaining to a motor vehicle;
- 6308 (ii) information regarding the failure of a motor vehicle owner to timely pay a toll or
- 6309 penalty imposed under this section; and
- 6310 (iii) the status of a request for a hold on the registration of a motor vehicle.
- 6311 (b) If the department requests a hold on the registration in accordance with this section,
- 6312 the Division of Motor Vehicles may not renew the registration of a motor vehicle under Title
- 6313 41, Chapter 1a, Part 2, Registration, if the owner of the motor vehicle has failed to pay a toll or
- 6314 penalty imposed under this section for usage of a tollway involving the motor vehicle for which
- 6315 registration renewal has been requested until the department withdraws the hold request.
- 6316 (6) (a) Except as provided in Subsection (6)(b), in accordance with Title 63G, Chapter
- 6317 3, Utah Administrative Rulemaking Act, the commission shall:
- 6318 (i) set the amount of any toll imposed or collected on a tollway on a state highway; and

6319 (ii) for tolls established under Subsection (6)(b), set:

6320 (A) an increase in a toll rate or user fee above an increase specified in a tollway
6321 development agreement; or

6322 (B) an increase in a toll rate or user fee above a maximum toll rate specified in a
6323 tollway development agreement.

6324 (b) A toll or user fee and an increase to a toll or user fee imposed or collected on a
6325 tollway on a state highway that is the subject of a tollway development agreement shall be set
6326 in the tollway development agreement.

6327 (7) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
6328 the department shall make rules:

6329 (i) necessary to establish and operate tollways on state highways;

6330 (ii) that establish standards and specifications for automatic tolling systems and
6331 automatic tollway monitoring technology; and

6332 (iii) to set the amount of a penalty for failure to pay a toll under this section.

6333 (b) The rules shall:

6334 (i) include minimum criteria for having a tollway; and

6335 (ii) conform to regional and national standards for automatic tolling.

6336 (8) (a) The commission may provide funds for public or private tollway pilot projects
6337 or high occupancy toll lanes from General Fund money appropriated by the Legislature to the
6338 commission for that purpose.

6339 (b) The commission may determine priorities and funding levels for tollways
6340 designated under this section.

6341 (9) (a) Except as provided in Subsection (9)(b), all revenue generated from a tollway
6342 on a state highway shall be deposited into the Tollway Special Revenue Fund created in
6343 Section [72-2-120](#) and used for [~~acquisition of right-of-way and the design, construction,
6344 reconstruction, operation, maintenance, enforcement of state transportation systems and
6345 facilities, including operating improvements to the tollway, and other facilities used exclusively
6346 for the operation of a tollway facility within the corridor served by the tollway~~] any state
6347 transportation purpose.

6348 (b) Revenue generated from a tollway that is the subject of a tollway development
6349 agreement shall be deposited into the Tollway Special Revenue Fund and used in accordance

6350 with Subsection (9)(a) unless:

6351 (i) the revenue is to a private entity through the tollway development agreement; or

6352 (ii) the revenue is identified for a different purpose under the tollway development
6353 agreement.

6354 (10) Data described in Subsection (2)(e) obtained for the purposes of this section:

6355 (a) in accordance with Section 63G-2-305, is a protected record under Title 63G,
6356 Chapter 2, Government Records Access and Management Act, if the photographic or video
6357 data is maintained by a governmental entity;

6358 (b) may not be used or shared for any purpose other than the purposes described in this
6359 section;

6360 (c) may only be preserved:

6361 (i) so long as necessary to collect the payment of a toll or penalty imposed in
6362 accordance with this section; or

6363 (ii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an
6364 equivalent federal warrant; and

6365 (d) may only be disclosed:

6366 (i) in accordance with the disclosure requirements for a protected record under Section
6367 63G-2-202; or

6368 (ii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an
6369 equivalent federal warrant.

6370 (11) (a) The department may not sell for any purpose photographic or video data
6371 captured under Subsection (2)(e)(ii).

6372 (b) The department may not share captured photographic or video data for a purpose
6373 not authorized under this section.

6374 ~~[(12) Before November 1, 2018, the Driver License Division, the Division of Motor
6375 Vehicles, and the department shall jointly study and report findings and recommendations to
6376 the Transportation Interim Committee regarding the use of Title 53, Chapter 3, Part 6, Drivers'
6377 License Compact, and other methods to collect a toll or penalty under this section from:]~~

6378 ~~[(a) an owner of a motor vehicle registered outside this state; or]~~

6379 ~~[(b) a driver or lessee of a motor vehicle leased or rented for 30 days or less.]~~

6380 Section 64. Section 72-9-603 is amended to read:

6381 **72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned**
6382 **vehicle title restrictions -- Rules for maximum rates and certification.**

6383 (1) Except for a tow truck service that was ordered by a peace officer, or a person
6384 acting on behalf of a law enforcement agency, or a highway authority, after performing a tow
6385 truck service that is being done without the vehicle, vessel, or outboard motor owner's
6386 knowledge, the tow truck operator or the tow truck motor carrier shall:

6387 (a) immediately upon arriving at the place of storage or impound of the vehicle, vessel,
6388 or outboard motor:

6389 (i) send a report of the removal to the Motor Vehicle Division that complies with the
6390 requirements of Subsection [41-6a-1406\(4\)\(b\)](#); and

6391 (ii) contact the law enforcement agency having jurisdiction over the area where the
6392 vehicle, vessel, or outboard motor was picked up and notify the agency of the:

6393 (A) location of the vehicle, vessel, or outboard motor;

6394 (B) date, time, and location from which the vehicle, vessel, or outboard motor was
6395 removed;

6396 (C) reasons for the removal of the vehicle, vessel, or outboard motor;

6397 (D) person who requested the removal of the vehicle, vessel, or outboard motor; and

6398 (E) description, including the identification number, license number, or other
6399 identification number issued by a state agency, of the vehicle, vessel, or outboard motor;

6400 (b) within two business days of performing the tow truck service under Subsection
6401 (1)(a), send a certified letter to the last-known address of each party described in Subsection
6402 [41-6a-1406\(5\)\(a\)](#) with an interest in the vehicle, vessel, or outboard motor obtained from the
6403 Motor Vehicle Division or, if the person has actual knowledge of the party's address, to the
6404 current address, notifying the party of the:

6405 (i) location of the vehicle, vessel, or outboard motor;

6406 (ii) date, time, and location from which the vehicle, vessel, or outboard motor was
6407 removed;

6408 (iii) reasons for the removal of the vehicle, vessel, or outboard motor;

6409 (iv) person who requested the removal of the vehicle, vessel, or outboard motor;

6410 (v) a description, including its identification number and license number or other
6411 identification number issued by a state agency; and

6412 (vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor; and
6413 (c) upon initial contact with the owner whose vehicle, vessel, or outboard motor was
6414 removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding
6415 Towing established by the department in Subsection (7)(e).

6416 (2) (a) Until the tow truck operator or tow truck motor carrier reports the removal as
6417 required under Subsection (1)(a), a tow truck operator, tow truck motor carrier, or impound
6418 yard may not:

6419 (i) collect any fee associated with the removal; or

6420 (ii) begin charging storage fees.

6421 (b) (i) Except as provided in Subsection (2)(c), a tow truck operator or tow truck motor
6422 carrier may not perform a tow truck service without the vehicle, vessel, or outboard motor
6423 owner's or a lien holder's knowledge at either of the following locations without signage that
6424 meets the requirements of Subsection (2)(b)(ii):

6425 (A) a mobile home park as defined in Section 57-16-3; or

6426 (B) a multifamily dwelling of more than eight units.

6427 (ii) Signage under Subsection (2)(b)(i) shall display:

6428 (A) where parking is subject to towing; and

6429 (B) (I) the Internet website address that provides access to towing database information
6430 in accordance with Section 41-6a-1406; or

6431 (II) one of the following:

6432 (Aa) the name and phone number of the tow truck operator or tow truck motor carrier
6433 that performs a tow truck service for the locations listed under Subsection (2)(b)(i); or

6434 (Bb) the name of the mobile home park or multifamily dwelling and the phone number
6435 of the mobile home park or multifamily dwelling manager or management office that
6436 authorized the vehicle, vessel, or outboard motor to be towed.

6437 (c) Signage is not required under Subsection (2)(b) for parking in a location:

6438 (i) that is prohibited by law; or

6439 (ii) if it is reasonably apparent that the location is not open to parking.

6440 (d) Nothing in Subsection (2)(b) restricts the ability of a mobile home park as defined
6441 in Section 57-16-3 or a multifamily dwelling from instituting and enforcing regulations on
6442 parking.

6443 (3) The party described in Subsection 41-6a-1406(5)(a) with an interest in a vehicle,
6444 vessel, or outboard motor lawfully removed is only responsible for paying:

6445 (a) the tow truck service and storage fees set in accordance with Subsection (7); [~~and~~]

6446 (b) the administrative impound fee set in Section 41-6a-1406, if applicable[-]; and

6447 (c) the applicable sales and use tax.

6448 (4) (a) The fees under Subsection (3) are a possessory lien on the vehicle, vessel, or
6449 outboard motor and any nonlife essential items contained in the vehicle, vessel, or outboard
6450 motor that are owned by the owner of the vehicle, vessel, or outboard motor until paid.

6451 (b) The tow truck operator or tow truck motor carrier shall securely store the vehicle,
6452 vessel, or outboard motor and items described in Subsection (4)(a) in an approved state
6453 impound yard until a party described in Subsection 41-6a-1406(5)(a) with an interest in the
6454 vehicle, vessel, or outboard motor:

6455 (i) pays the [~~fees~~] amounts described in Subsection (3); and

6456 (ii) removes the vehicle, vessel, or outboard motor from the state impound yard.

6457 (5) (a) A vehicle, vessel, or outboard motor shall be considered abandoned if a party
6458 described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard
6459 motor does not, within 30 days after notice has been sent under Subsection (1)(b):

6460 (i) pay the [~~fees~~] amounts described in Subsection (3); and

6461 (ii) remove the vehicle, vessel, or outboard motor from the secure storage facility.

6462 (b) A person may not request a transfer of title to an abandoned vehicle, vessel, or
6463 outboard motor until at least 30 days after notice has been sent under Subsection (1)(b).

6464 (6) (a) A tow truck motor carrier or impound yard shall clearly and conspicuously post
6465 and disclose all its current fees, rates, and acceptable forms of payment for tow truck service
6466 and storage of a vehicle in accordance with rules established under Subsection (7).

6467 (b) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept
6468 payment by cash and debit or credit card for a tow truck service under Subsection (1) or any
6469 service rendered, performed, or supplied in connection with a tow truck service under
6470 Subsection (1).

6471 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6472 department shall:

6473 (a) subject to the restriction in Subsection (8), set maximum rates that:

- 6474 (i) a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel,
6475 or outboard motor that are transported in response to:
- 6476 (A) a peace officer dispatch call;
 - 6477 (B) a motor vehicle division call; and
 - 6478 (C) any other call or request where the owner of the vehicle, vessel, or outboard motor
6479 has not consented to the removal; and
- 6480 (ii) an impound yard may charge for the storage of a vehicle, vessel, or outboard motor
6481 stored as a result of one of the conditions listed under Subsection (7)(a)(i);
- 6482 (b) establish authorized towing certification requirements, not in conflict with federal
6483 law, related to incident safety, clean-up, and hazardous material handling;
 - 6484 (c) specify the form and content of the posting and disclosure of fees and rates charged
6485 and acceptable forms of payment by a tow truck motor carrier or impound yard;
 - 6486 (d) set a maximum rate for an administrative fee that a tow truck motor carrier may
6487 charge for reporting the removal as required under Subsection (1)(a)(i) and providing notice of
6488 the removal to each party described in Subsection [41-6a-1406\(5\)\(a\)](#) with an interest in the
6489 vehicle, vessel, or outboard motor as required in Subsection (1)(b); and
 - 6490 (e) establish a Utah Consumer Bill of Rights Regarding Towing form that contains
6491 specific information regarding:
 - 6492 (i) a vehicle owner's rights and responsibilities if the owner's vehicle is towed;
 - 6493 (ii) identifies the maximum rates that a tow truck motor carrier may charge for the tow
6494 truck service of a vehicle, vessel, or outboard motor that is transported in response to a call or
6495 request where the owner of the vehicle, vessel, or outboard motor has not consented to the
6496 removal; and
 - 6497 (iii) identifies the maximum rates that an impound yard may charge for the storage of
6498 vehicle, vessel, or outboard motor that is transported in response to a call or request where the
6499 owner of the vehicle, vessel, or outboard motor has not consented to the removal.
- 6500 (8) An impound yard may not charge a fee for the storage of an impounded vehicle,
6501 vessel, or outboard motor if:
- 6502 (a) the vehicle, vessel, or outboard motor is being held as evidence; and
 - 6503 (b) the vehicle, vessel, or outboard motor is not being released to a party described in
6504 Subsection [41-6a-1406\(5\)\(a\)](#), even if the party satisfies the requirements to release the vehicle,

6505 vessel, or outboard motor under Section [41-6a-1406](#).

6506 (9) (a) (i) A tow truck motor carrier may charge a rate up to the maximum rate set by
6507 the department in rules made under Subsection (7).

6508 (ii) In addition to the maximum rates established under Subsection (7) [~~and when~~
6509 ~~receiving payment by credit card~~], a tow truck operator, a tow truck motor carrier, or an
6510 impound yard;

6511 (A) shall collect the sales and use tax due; and

6512 (B) when receiving payment by credit card, may charge a credit card processing fee of
6513 3% of the transaction total.

6514 (b) A tow truck motor carrier may not be required to maintain insurance coverage at a
6515 higher level than required in rules made pursuant to Subsection (7).

6516 (10) When a tow truck motor carrier or impound lot is in possession of a vehicle,
6517 vessel, or outboard motor as a result of a tow service that was performed without the consent of
6518 the owner, and that was not ordered by a peace officer or a person acting on behalf of a law
6519 enforcement agency, the tow truck motor carrier or impound yard shall make personnel
6520 available:

6521 (a) by phone 24 hours a day, seven days a week; and

6522 (b) to release the impounded vehicle, vessel, or outboard motor to the owner within
6523 one hour of when the owner calls the tow truck motor carrier or impound yard.

6524 **Section 65. Appropriations -- Operating and Capital Budgets.**

6525 **Subsection 65 (a)(i). Fiscal Year 2020 Appropriation -- Operating and Capital**
6526 **Budgets.**

6527 The following sums of money are appropriated for the fiscal year beginning July 1,
6528 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for
6529 fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
6530 Act, the Legislature appropriates the following sums of money from the funds or accounts
6531 indicated for the use and support of the government of the state of Utah.

6532 ITEM 1

6533 To Department of Workforce Services -- Administration

6534 From General Fund, One-time

\$500,000

6535 Schedule of Programs:

6536 Communications \$500,000

6537 The Legislature intends that the Department of Workforce Services use this
6538 appropriation for outreach to inform eligible individuals, particularly low income individuals,
6539 of available income tax credits, exemptions, and rebates and how to claim them.

6540 Subsection 65 (a)(ii). **Fiscal Year 2020 Appropriation -- Transfers to Unrestricted**
6541 **Funds.**

6542 The following sums of money are appropriated for the fiscal year beginning July 1,
6543 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for
6544 fiscal year 2020.

6545 The Legislature authorizes the State Division of Finance to transfer the following
6546 amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as
6547 indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the
6548 General Fund, Education Fund, or Uniform School Fund must be authorized by an
6549 appropriation.

6550 ITEM 2

6551 To General Fund, One-time

6552 From Education Fund Restricted --

6553 Underage Drinking Prevention Program Restricted Account \$1,750,000

6554 Schedule of Programs:

6555 General Fund, One-time \$1,750,000

6556 The Legislature intends that, after satisfying all prior appropriations from the Underage
6557 Drinking Prevention Program Restricted Account, the State Division of Finance transfer all
6558 remaining balances in the Underage Drinking Prevention Program Restricted Account to the
6559 General Fund at the close of fiscal year 2020 and close the account.

6560 Subsection 65 (b). **Fiscal Year 2021 Appropriations -- Operating and Capital**
6561 **Budgets.**

6562 The following sums of money are appropriated for the fiscal year beginning July 1,
6563 2020, and ending June 30, 2021. These are additions to amounts otherwise appropriated for
6564 fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
6565 Act, the Legislature appropriates the following sums of money from the funds or accounts
6566 indicated for the use and support of the government of the state of Utah.

6567	<u>ITEM 3</u>		
6568	<u>To State Board of Education -- Child Nutrition</u>		
6569	<u>From Education Fund</u>		<u>\$55,500,000</u>
6570	<u>From Dedicated Credits -- Liquor Tax</u>		<u>(\$39,275,700)</u>
6571	<u>Schedule of Programs:</u>		
6572	<u>Child Nutrition</u>	<u>\$16,224,300</u>	
6573	<u>ITEM 4</u>		
6574	<u>To State Board of Education -- State Administrative Office</u>		
6575	<u>From Education Fund</u>		<u>\$2,850,000</u>
6576	<u>From Education Fund Restricted --</u>		
6577	<u>Underage Drinking Prevention Program Restricted Account</u>		<u>(\$1,751,000)</u>
6578	<u>Schedule of Programs:</u>		
6579	<u>Student Advocacy Services</u>	<u>\$1,099,000</u>	
6580	<u>ITEM 5</u>		
6581	<u>To University of Utah -- Education and General</u>		
6582	<u>From General Fund</u>		<u>\$101,608,900</u>
6583	<u>From Education Fund</u>		<u>(\$101,608,900)</u>
6584	<u>ITEM 6</u>		
6585	<u>To University of Utah -- School of Medicine</u>		
6586	<u>From General Fund</u>		<u>\$35,899,500</u>
6587	<u>From Education Fund</u>		<u>(\$35,899,500)</u>
6588	<u>ITEM 7</u>		
6589	<u>To University of Utah -- University Hospital</u>		
6590	<u>From General Fund</u>		<u>\$1,533,000</u>
6591	<u>From Education Fund</u>		<u>(\$1,533,000)</u>
6592	<u>ITEM 8</u>		
6593	<u>To University of Utah -- School of Dentistry</u>		
6594	<u>From General Fund</u>		<u>\$2,324,700</u>
6595	<u>From Education Fund</u>		<u>(\$2,324,700)</u>
6596	<u>ITEM 9</u>		
6597	<u>To Utah State University -- Education and General</u>		

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6598	<u>From General Fund</u>	<u>\$73,521,400</u>
6599	<u>From Education Fund</u>	<u>(\$73,521,400)</u>
6600	<u>ITEM 10</u>	
6601	<u>To Utah State University -- USU-Eastern Education and General</u>	
6602	<u>From General Fund</u>	<u>\$12,503,400</u>
6603	<u>From Education Fund</u>	<u>(\$12,503,400)</u>
6604	<u>ITEM 11</u>	
6605	<u>To Weber State University -- Education and General</u>	
6606	<u>From General Fund</u>	<u>\$94,098,000</u>
6607	<u>From Education Fund</u>	<u>(\$94,098,000)</u>
6608	<u>ITEM 12</u>	
6609	<u>To Southern Utah University -- Education and General</u>	
6610	<u>From General Fund</u>	<u>\$47,444,900</u>
6611	<u>From Education Fund</u>	<u>(\$47,444,900)</u>
6612	<u>ITEM 13</u>	
6613	<u>To Utah Valley University -- Education and General</u>	
6614	<u>From General Fund</u>	<u>\$22,092,900</u>
6615	<u>From Education Fund</u>	<u>(\$22,092,900)</u>
6616	Section 66. Effective date.	
6617	<u>(1) Except as provided in Subsections (2) through (6), if approved by two-thirds of all</u>	
6618	<u>the members elected to each house, this bill takes effect on January 1, 2020.</u>	
6619	<u>(2) If approved by two-thirds of all the members elected to each house, the following</u>	
6620	<u>sections take effect for a taxable year beginning on or after January 1, 2020:</u>	
6621	<u>(a) Section 35A-9-214;</u>	
6622	<u>(b) Section 59-7-104;</u>	
6623	<u>(c) Section 59-7-201;</u>	
6624	<u>(d) Section 59-7-610;</u>	
6625	<u>(e) Section 59-7-614.1;</u>	
6626	<u>(f) Section 59-7-618;</u>	
6627	<u>(g) Section 59-7-620;</u>	
6628	<u>(h) Section 59-10-104;</u>	

- 6629 (i) Section 59-10-529.1;
- 6630 (j) Section 59-10-1005;
- 6631 (k) Section 59-10-1007;
- 6632 (l) Section 59-10-1017;
- 6633 (m) Section 59-10-1017.1;
- 6634 (n) Section 59-10-1018;
- 6635 (o) Section 59-10-1019;
- 6636 (p) Section 59-10-1022;
- 6637 (q) Section 59-10-1023;
- 6638 (r) Section 59-10-1028;
- 6639 (s) Section 59-10-1033;
- 6640 (t) Section 59-10-1035;
- 6641 (u) Section 59-10-1036;
- 6642 (v) Section 59-10-1041;
- 6643 (w) Section 59-10-1102.1;
- 6644 (x) Section 59-10-1105;
- 6645 (y) Section 59-10-1113;
- 6646 (z) Section 59-10-1114;
- 6647 (aa) Section 59-10-1403.3; and
- 6648 (bb) Section 59-13-202.
- 6649 (3) The following sections take effect on April 1, 2020:
- 6650 (a) Section 15A-1-204;
- 6651 (b) Section 26-36b-208;
- 6652 (c) Section 59-1-1503;
- 6653 (d) Section 59-12-102;
- 6654 (e) Section 59-12-103;
- 6655 (f) Section 59-12-104;
- 6656 (g) Section 59-12-104.5;
- 6657 (h) Section 59-12-1201;
- 6658 (i) Section 59-13-323;
- 6659 (j) Section 63I-2-259;

6660 (k) Section 63M-4-702; and

6661 (l) Section 72-2-124.

6662 (4) If approved by two-thirds of all the members elected to each house, Subsection

6663 Ĥ→ [62] 65 ←Ĥ (a) of this bill takes effect upon approval by the governor, or the day following the
6664 constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's
6665 signature, or in the case of veto, the date of veto override.

6666 (5) Subsection Ĥ→ [62] 65 ←Ĥ (b) of this bill takes effect on July 1, 2020.

6667 (6) The following sections take effect on January 1, 2021:

6668 (a) Section 46-6a-1642; and

6669 (b) Section 72-1-213.2.

6670 Section 67. **Contingent retrospective operation.**

6671 If this bill is approved by less than two-thirds of all the members elected to each house,
6672 the following sections have retrospective operation for a taxable year beginning on or after
6673 January 1, 2020:

6674 (1) Section 35A-9-214;

6675 (2) Section 59-7-104;

6676 (3) Section 59-7-201;

6677 (4) Section 59-7-610;

6678 (5) Section 59-7-614.1;

6679 (6) Section 59-7-618;

6680 (7) Section 59-7-620;

6681 (8) Section 59-10-104;

6682 (9) Section 59-10-529.1;

6683 (10) Section 59-10-1005;

6684 (11) Section 59-10-1007;

6685 (12) Section 59-10-1017;

6686 (13) Section 59-10-1017.1;

6687 (14) Section 59-10-1018;

6688 (15) Section 59-10-1019;

6689 (16) Section 59-10-1022;

6690 (17) Section 59-10-1023;

- 6691 (18) Section 59-10-1028;
- 6692 (19) Section 59-10-1033;
- 6693 (20) Section 59-10-1035;
- 6694 (21) Section 59-10-1036;
- 6695 (22) Section 59-10-1041;
- 6696 (23) Section 59-10-1102.1;
- 6697 (24) Section 59-10-1105;
- 6698 (25) Section 59-10-1113;
- 6699 (26) Section 59-10-1114;
- 6700 (27) Section 59-10-1403.3; and
- 6701 (28) Section 59-13-202.