

STATE INCOME AND SALES TAX REDUCTION

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike Schultz

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the state individual income tax rate and the state sales and use tax rate.

Highlighted Provisions:

This bill:

- ▶ modifies the state individual income tax rate and the state sales and use tax rate; and
- ▶ requires the Division of Finance to deposit .45% of certain state sales and use tax

revenue into the Income and Sales Tax Growth Account.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

REPEALS AND REENACTS:

59-10-104, as last amended by Laws of Utah 2008, Chapter 389

59-12-103, as last amended by Laws of Utah 2017, Chapters 234, 421, and 422

59-12-103.2, as last amended by Laws of Utah 2013, Chapter 150

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



28 Section 1. Section **59-10-104** is repealed and reenacted to read:

29 **59-10-104. Tax basis -- Tax rate -- Exemption.**

30 (1) For taxable years beginning on or after January 1, 2008, a tax is imposed on the
31 state taxable income of a resident individual as provided in this section.

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

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

35 (b) 5%.

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

38 Section 2. Section **59-12-103** is repealed and reenacted to read:

39 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
40 **tax revenues.**

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

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

44 (b) amounts paid for:

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

47 (ii) mobile telecommunications service that originates and terminates within the
48 boundaries of one state only to the extent permitted by the Mobile Telecommunications

49 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

50 (iii) an ancillary service associated with a:

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

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

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

54 (i) gas;

55 (ii) electricity;

56 (iii) heat;

57 (iv) coal;

58 (v) fuel oil; or

- 59 (vi) other fuels;
- 60 (d) sales of the following for residential use:
- 61 (i) gas;
- 62 (ii) electricity;
- 63 (iii) heat;
- 64 (iv) coal;
- 65 (v) fuel oil; or
- 66 (vi) other fuels;
- 67 (e) sales of prepared food;
- 68 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 69 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 70 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 71 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 72 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 73 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 74 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 75 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 76 exhibition, cultural, or athletic activity;
- 77 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 78 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 79 (i) the tangible personal property; and
- 80 (ii) parts used in the repairs or renovations of the tangible personal property described
- 81 in Subsection (1)(g)(i), regardless of whether:
- 82 (A) any parts are actually used in the repairs or renovations of that tangible personal
- 83 property; or
- 84 (B) the particular parts used in the repairs or renovations of that tangible personal
- 85 property are exempt from a tax under this chapter;
- 86 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 87 assisted cleaning or washing of tangible personal property;
- 88 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 89 accommodations and services that are regularly rented for less than 30 consecutive days;

90 (j) amounts paid or charged for laundry or dry cleaning services;
91 (k) amounts paid or charged for leases or rentals of tangible personal property if within
92 this state the tangible personal property is:
93 (i) stored;
94 (ii) used; or
95 (iii) otherwise consumed;
96 (l) amounts paid or charged for tangible personal property if within this state the
97 tangible personal property is:
98 (i) stored;
99 (ii) used; or
100 (iii) consumed; and
101 (m) amounts paid or charged for a sale:
102 (i) (A) of a product transferred electronically; or
103 (B) of a repair or renovation of a product transferred electronically; and
104 (ii) regardless of whether the sale provides:
105 (A) a right of permanent use of the product; or
106 (B) a right to use the product that is less than a permanent use, including a right:
107 (I) for a definite or specified length of time; and
108 (II) that terminates upon the occurrence of a condition.
109 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
110 is imposed on a transaction described in Subsection (1) equal to the sum of:
111 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
112 (A) 4.70%; and
113 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
114 and Use Tax Act, if the location of the transaction as determined under Sections [59-12-211](#)
115 through [59-12-215](#) is in a county in which the state imposes the tax under Part 18, Additional
116 State Sales and Use Tax Act; and
117 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
118 and Use Tax Act, if the location of the transaction as determined under Sections [59-12-211](#)
119 through [59-12-215](#) is in a city, town, or the unincorporated area of a county in which the state
120 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

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

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

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

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

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

130 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
131 a tax rate of 1.75%; and

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

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

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

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

139 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
140 Sales and Use Tax Act, if the location of the transaction as determined under Sections
141 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
142 Additional State Sales and Use Tax Act; and

143 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
144 Sales and Use Tax Act, if the location of the transaction as determined under Sections
145 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
146 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

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

149 (ii) If an optional computer software maintenance contract is a bundled transaction that
150 consists of taxable and nontaxable products that are not separately itemized on an invoice or
151 similar billing document, the purchase of the optional computer software maintenance contract

152 is 40% taxable under this chapter and 60% nontaxable under this chapter.

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

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

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

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

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

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

170 (II) state or federal law provides otherwise.

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

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

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

182 (B) is able to identify by reasonable and verifiable standards, from the books and

183 records the seller keeps in the seller's regular course of business, the portion of the transaction
184 that is not subject to taxation under this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

251 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
252 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
253 through (g):

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

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

256 (B) for the fiscal year; or

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

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

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

263 (B) award grants, up to the amount authorized by the Legislature in an appropriations
264 act, to political subdivisions of the state to implement the measures described in Subsections
265 [79-2-303\(3\)\(a\)](#) through (d) to protect sensitive plant and animal species.

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

270 (iii) At the end of each fiscal year:

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

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

275 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

276 Program Subaccount created in Section 73-10c-5.

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

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

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

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

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

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

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

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

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

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

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

305 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
306 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount

307 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

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

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

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

314 (iii) develop surface water sources.

315 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
316 2006, the difference between the following amounts shall be expended as provided in this
317 Subsection (5), if that difference is greater than \$1:

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

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

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

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

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

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

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

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

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

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

338 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
339 remaining difference described in Subsection (5)(a) shall be deposited into the Water
340 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
341 Division of Water Resources for:

342 (i) preconstruction costs:

343 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
344 26, Bear River Development Act; and

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

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

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

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

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

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

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

363 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)
364 shall be deposited into the Transportation Investment Fund of 2005 created by Section
365 72-2-124;

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

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

369 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the
370 Water Infrastructure Restricted Account created by Section [73-10g-103](#);
371 (c) for fiscal year 2018-19 only:
372 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the
373 Transportation Investment Fund of 2005 created by Section [72-2-124](#); and
374 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the
375 Water Infrastructure Restricted Account created by Section [73-10g-103](#);
376 (d) for fiscal year 2019-20 only:
377 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the
378 Transportation Investment Fund of 2005 created by Section [72-2-124](#); and
379 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the
380 Water Infrastructure Restricted Account created by Section [73-10g-103](#);
381 (e) for fiscal year 2020-21 only:
382 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
383 Transportation Investment Fund of 2005 created by Section [72-2-124](#); and
384 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
385 Water Infrastructure Restricted Account created by Section [73-10g-103](#); and
386 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
387 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
388 created by Section [73-10g-103](#).
389 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
390 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
391 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
392 created by Section [72-2-124](#):
393 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
394 the revenues collected from the following taxes, which represents a portion of the
395 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
396 on vehicles and vehicle-related products:
397 (A) the tax imposed by Subsection (2)(a)(i)(A);
398 (B) the tax imposed by Subsection (2)(b)(i);
399 (C) the tax imposed by Subsection (2)(c)(i); and

400 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus
401 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
402 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
403 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
404 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

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

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

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

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

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

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

429 (b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
430 Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit

431 \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the
432 Transportation Investment Fund of 2005 created by Section 72-2-124.

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

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

439 (B) the tax imposed by Subsection (2)(b)(i);

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

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

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

447 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
448 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
449 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

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

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

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

461 (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05%

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

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

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

465 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a

466 .05% tax rate on the transactions described in Subsection (1); and

467 (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%

468 tax rate on the transactions described in Subsection (1).

469 (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not

470 deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts

471 paid or charged for food and food ingredients, except for tax revenue generated by a bundled

472 transaction attributable to food and food ingredients and tangible personal property other than

473 food and food ingredients described in Subsection (2)(d).

474 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the

475 fiscal year during which the Division of Finance receives notice under Section [63N-2-510](#) that

476 construction on a qualified hotel, as defined in Section [63N-2-502](#), has begun, the Division of

477 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue

478 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,

479 created in Section [63N-2-512](#).

480 (12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the

481 Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed

482 under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section [35A-8-308](#).

483 (b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of

484 Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under

485 Subsection (3)(a) into the Throughput Infrastructure Fund created by Section [35A-8-308](#).

486 (13) Notwithstanding Subsections (4) through (12) and (14), an amount required to be

487 expended or deposited in accordance with Subsections (4) through (12) and (14) may not

488 include an amount the Division of Finance deposits in accordance with Section [59-12-103.2](#).

489 (14) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,

490 2019, the Division of Finance shall deposit into the Income and Sales Tax Growth Account

491 created in Section [63J-1-316](#) the amount of tax that is:

492 (a) collected from a .45% tax rate on the transactions described in Subsection (1) that

493 are subject to the state sales and use tax under Subsection [59-12-103\(2\)\(a\)\(i\)\(A\)](#); and

494 (b) not subject to Subsections (4) through (12).

495 Section 3. Section [59-12-103.2](#) is repealed and reenacted to read:

496 **59-12-103.2. Definitions -- Remote Sales Restricted Account -- Creation --**

497 **Funding for account -- Interest -- Division of Finance accounting.**

498 (1) As used in this section:

499 (a) "Additional state revenue collected from remote sellers" means the state revenue
500 generated by a .45% tax rate the commission collects under Section [59-12-103.1](#) for a fiscal
501 year from sellers who obtain a license under Section [59-12-106](#) for the first time on or after the
502 earlier of:

503 (i) the date a decision described in Subsection [59-12-103.1\(1\)\(a\)](#) becomes a final,
504 unappealable decision; or

505 (ii) the effective date of the action by Congress described in Subsection
506 [59-12-103.1\(1\)\(b\)](#).

507 (b) "Qualified local revenue collected from remote sellers" means the local revenue the
508 commission collects under Section [59-12-103.1](#) for a fiscal year from sellers who obtain a
509 license under Section [59-12-106](#) for the first time on or after the earlier of:

510 (i) the date a decision described in Subsection [59-12-103.1\(1\)\(a\)](#) becomes a final,
511 unappealable decision; or

512 (ii) the effective date of the action by Congress described in Subsection
513 [59-12-103.1\(1\)\(b\)](#).

514 (c) "Qualified state revenue collected from remote sellers" means the state revenue
515 generated by a 4.25% tax rate the commission collects under Section [59-12-103.1](#) for a fiscal
516 year from sellers who obtain a license under Section [59-12-106](#) for the first time on or after the
517 earlier of:

518 (i) the date a decision described in Subsection [59-12-103.1\(1\)\(a\)](#) becomes a final,
519 unappealable decision; or

520 (ii) the effective date of the action by Congress described in Subsection
521 [59-12-103.1\(1\)\(b\)](#).

522 (2) There is created within the General Fund a restricted account known as the
523 "Remote Sales Restricted Account."

524 (3) The account shall be funded by:
525 (a) the qualified local revenue collected from remote sellers;
526 (b) the qualified state revenue collected from remote sellers; and
527 (c) the additional state revenue collected from remote sellers.
528 (4) (a) The account shall earn interest.
529 (b) The interest described in Subsection (4)(a) shall be deposited into the account.
530 (5) The Division of Finance shall deposit the revenue described in Subsection (3) into
531 the account.

532 (6) The Division of Finance shall separately account for:
533 (a) (i) the qualified local revenue collected from remote sellers; and
534 (ii) interest earned on the amount described in Subsection (6)(a)(i);
535 (b) (i) the qualified state revenue collected from remote sellers; and
536 (ii) interest earned on the amount described in Subsection (6)(b)(i); and
537 (c) (i) the additional state revenue collected from remote sellers; and
538 (ii) interest earned on the amount described in Subsection (6)(c)(i).
539 (7) (a) The revenue and interest described in Subsection (6)(a) may be used to lower
540 local sales and use tax rates as the Legislature may provide by statute.
541 (b) The revenue and interest described in Subsection (6)(b) may be used to lower state
542 sales and use tax rates as the Legislature may provide by statute.
543 (c) The revenue and interest described in Subsection (6)(c) may not be used to lower
544 state or local sales and use tax rates but shall be deposited into the Income and Sales Tax
545 Growth Account described in Section [63J-1-316](#).

546 **Section 4. Contingent effective date.**

547 This bill takes effect on March 1, 2019, if, between the date of this bill's passage and
548 March 1, 2019:

549 (1) the state's individual income tax rate described in Section [59-10-104](#) increases by
550 .45% or more; and
551 (2) the state's sales and use tax rate described in Subsection [59-12-103](#)(2)(a)(i)(A)
552 increases by .45% or more.

553 **Section 5. Contingent retrospective operation.**

554 The repeal and reenactment of Section [59-10-104](#) has retrospective operation for a

555 taxable year beginning on or after January 1, 2019.

Legislative Review Note
Office of Legislative Research and General Counsel