

ECONOMIC DEVELOPMENT MODIFICATIONS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Douglas V. Sagers

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates the Utah Strategic Growth Revolving Loan Fund.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ creates the Utah Strategic Growth Revolving Loan Fund;
- ▶ specifies revenue sources for the Utah Strategic Growth Revolving Loan Fund;
- ▶ provides that certain sales and use tax revenues shall be deposited in the Utah Strategic Growth Revolving Loan Fund;
- ▶ specifies how revenue in the Utah Strategic Growth Revolving Loan Fund shall be used;
- ▶ specifies eligibility, qualifications, application procedures, and loan requirements for loans provided from the Utah Strategic Growth Revolving Loan Fund; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:



28 59-12-103, as last amended by Laws of Utah 2017, Chapters 234, 421, and 422
29 59-12-1201, as last amended by Laws of Utah 2016, Chapters 184, 291, and 291

30 ENACTS:

- 31 63N-3-501, Utah Code Annotated 1953
- 32 63N-3-502, Utah Code Annotated 1953
- 33 63N-3-503, Utah Code Annotated 1953
- 34 63N-3-504, Utah Code Annotated 1953
- 35 63N-3-505, Utah Code Annotated 1953
- 36 63N-3-506, Utah Code Annotated 1953
- 37 63N-3-507, Utah Code Annotated 1953
- 38 63N-3-508, Utah Code Annotated 1953



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

41 Section 1. Section 59-12-103 is amended to read:

42 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
43 **tax revenues.**

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

- 46 (a) retail sales of tangible personal property made within the state;
- 47 (b) amounts paid for:
 - 48 (i) telecommunications service, other than mobile telecommunications service, that
 - 49 originates and terminates within the boundaries of this state;
 - 50 (ii) mobile telecommunications service that originates and terminates within the
 - 51 boundaries of one state only to the extent permitted by the Mobile Telecommunications
 - 52 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

- 53 (iii) an ancillary service associated with a:
 - 54 (A) telecommunications service described in Subsection (1)(b)(i); or
 - 55 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
- 56 (c) sales of the following for commercial use:
 - 57 (i) gas;
 - 58 (ii) electricity;

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

90 assisted cleaning or washing of tangible personal property;

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

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

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

96 (i) stored;

97 (ii) used; or

98 (iii) otherwise consumed;

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

101 (i) stored;

102 (ii) used; or

103 (iii) consumed; and

104 (m) amounts paid or charged for a sale:

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

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

107 (ii) regardless of whether the sale provides:

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

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

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

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

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

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

115 (A) 4.70%; and

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

120 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales

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

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

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

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

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

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

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

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

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

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

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

142 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
143 Sales and Use Tax Act, if the location of the transaction as determined under Sections
144 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
145 Additional State Sales and Use Tax Act; and

146 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
147 Sales and Use Tax Act, if the location of the transaction as determined under Sections
148 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
149 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

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

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

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

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

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

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

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

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

173 (II) state or federal law provides otherwise.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 214 (ii) Subsection (2)(b)(i);
- 215 (iii) Subsection (2)(c)(i); or
- 216 (iv) Subsection (2)(d)(i)(A)(I).
- 217 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
- 218 begins on or after the effective date of the tax rate increase if the billing period for the
- 219 transaction begins before the effective date of a tax rate increase imposed under:
 - 220 (A) Subsection (2)(a)(i)(A);
 - 221 (B) Subsection (2)(b)(i);
 - 222 (C) Subsection (2)(c)(i); or
 - 223 (D) Subsection (2)(d)(i)(A)(I).
- 224 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
- 225 statement for the billing period is rendered on or after the effective date of the repeal of the tax
- 226 or the tax rate decrease imposed under:
 - 227 (A) Subsection (2)(a)(i)(A);
 - 228 (B) Subsection (2)(b)(i);
 - 229 (C) Subsection (2)(c)(i); or
 - 230 (D) Subsection (2)(d)(i)(A)(I).
- 231 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
- 232 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
- 233 change in a tax rate takes effect:
 - 234 (A) on the first day of a calendar quarter; and
 - 235 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 236 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:
 - 237 (A) Subsection (2)(a)(i)(A);
 - 238 (B) Subsection (2)(b)(i);
 - 239 (C) Subsection (2)(c)(i); or
 - 240 (D) Subsection (2)(d)(i)(A)(I).
- 241 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 242 the commission may by rule define the term "catalogue sale."
- 243 (3) (a) The following state taxes shall be deposited into the General Fund:
- 244 (i) the tax imposed by Subsection (2)(a)(i)(A);

- 245 (ii) the tax imposed by Subsection (2)(b)(i);
246 (iii) the tax imposed by Subsection (2)(c)(i); or
247 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

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

- 250 (i) the tax imposed by Subsection (2)(a)(ii);
251 (ii) the tax imposed by Subsection (2)(b)(ii);
252 (iii) the tax imposed by Subsection (2)(c)(ii); and
253 (iv) the tax imposed by Subsection (2)(d)(i)(B).

254 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
255 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
256 through (g):

- 257 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
258 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
259 (B) for the fiscal year; or
260 (ii) \$17,500,000.

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

- 264 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
265 protect sensitive plant and animal species; or
266 (B) award grants, up to the amount authorized by the Legislature in an appropriations
267 act, to political subdivisions of the state to implement the measures described in Subsections
268 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

306 (C) protect the state's interest in interstate water compact allocations, including the

307 hiring of technical and legal staff.

308 (f) 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 Utah Wastewater Loan Program Subaccount
310 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

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

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

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

317 (iii) develop surface water sources.

318 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
319 2006, the difference between the following amounts shall be expended as provided in this
320 Subsection (5), if that difference is greater than \$1:

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

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

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

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

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

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

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

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

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

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

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

345 (i) preconstruction costs:

346 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
347 26, Bear River Development Act; and

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

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

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

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

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

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

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

366 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)
367 shall be deposited into the Transportation Investment Fund of 2005 created by Section
368 72-2-124;

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

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

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

374 (c) for fiscal year 2018-19 only:

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

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

379 (d) for fiscal year 2019-20 only:

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

382 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the
383 Water Infrastructure Restricted Account created by Section 73-10g-103;

384 (e) for fiscal year 2020-21 only:

385 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
386 Transportation Investment Fund of 2005 created by Section 72-2-124; and

387 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
388 Water Infrastructure Restricted Account created by Section 73-10g-103; and

389 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
390 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
391 created by Section 73-10g-103.

392 (7) ~~[(a)]~~ Notwithstanding Subsection (3)(a)~~;~~ and in addition to the amounts deposited
393 in Subsection (6), ~~[and subject to Subsection (7)(b);]~~ for a fiscal year beginning on or after July
394 1, ~~[2012]~~ 2018, the Division of Finance shall deposit into the Transportation Investment Fund
395 of 2005 created by Section 72-2-124~~[(i)]~~ a portion of the taxes listed under Subsection (3)(a)
396 in an amount equal to ~~[8.3%]~~ 17% of the revenues collected from the following taxes, which
397 represents ~~[a portion of]~~ the approximately 17% of sales and use tax revenues generated
398 annually by the sales and use tax on vehicles and vehicle-related products:

399 ~~[(A)]~~ (a) the tax imposed by Subsection (2)(a)(i)(A);

400 ~~[(B)]~~ (b) the tax imposed by Subsection (2)(b)(i);

401 ~~[(C)]~~ (c) the tax imposed by Subsection (2)(c)(i); and

402 ~~[(D)]~~ (d) the tax imposed by Subsection (2)(d)(i)(A)(I); ~~plus~~].

403 ~~[(ii) an amount equal to 30% of the growth in the amount of revenues collected in the~~
404 ~~current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through~~
405 ~~(D) that exceeds the amount collected from the sales and use taxes described in Subsections~~
406 ~~(7)(a)(i)(A) through (D) in the 2010-11 fiscal year.]~~

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

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

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

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

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

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

431 (b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
432 Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit
433 \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the
434 Transportation Investment Fund of 2005 created by Section 72-2-124.

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

- 440 (A) the tax imposed by Subsection (2)(a)(i)(A);
- 441 (B) the tax imposed by Subsection (2)(b)(i);
- 442 (C) the tax imposed by Subsection (2)(c)(i); and
- 443 (D) the tax imposed by Subsection (2)(d)(i)(A)(I).

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

449 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
450 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
451 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

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

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

461 (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%

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

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

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

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

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

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

468 .05% tax rate on the transactions described in Subsection (1); and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

489 2018, the commission shall annually deposit into the Utah Strategic Growth Revolving Loan

490 Fund created by Section [63N-3-504](#) a portion of the taxes listed under Subsection (3)(a) in an

491 amount equal to 1.3% of the revenues collected from the following taxes:

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

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

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

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

496 [~~(13)~~] (14) Notwithstanding Subsections (4) through [~~(12)~~] (13), an amount required to
 497 be expended or deposited in accordance with Subsections (4) through [~~(12)~~] (13) may not
 498 include an amount the Division of Finance deposits in accordance with Section [59-12-103.2](#).

499 Section 2. Section **59-12-1201** is amended to read:

500 **59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration,**
 501 **collection, and enforcement of tax -- Administrative charge -- Deposits.**

502 (1) (a) Except as provided in Subsection (3), there is imposed a tax of 2.5% on all
 503 short-term leases and rentals of motor vehicles not exceeding 30 days.

504 (b) The tax imposed in this section is in addition to all other state, county, or municipal
 505 fees and taxes imposed on rentals of motor vehicles.

506 (2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax
 507 imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

508 (b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall
 509 take effect on the first day of the first billing period:

510 (A) that begins after the effective date of the tax rate increase; and

511 (B) if the billing period for the transaction begins before the effective date of a tax rate
 512 increase imposed under Subsection (1).

513 (ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax
 514 rate decrease shall take effect on the first day of the last billing period:

515 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
 516 and

517 (B) if the billing period for the transaction begins before the effective date of the repeal
 518 of the tax or the tax rate decrease imposed under Subsection (1).

519 (3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

520 (a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

521 (b) the motor vehicle is rented as a personal household goods moving van; or

522 (c) the lease or rental of the motor vehicle is made for the purpose of temporarily
 523 replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an

524 insurance agreement.

525 (4) (a) (i) The tax authorized under this section shall be administered, collected, and
526 enforced in accordance with:

527 (A) the same procedures used to administer, collect, and enforce the tax under Part 1,
528 Tax Collection; and

529 (B) Chapter 1, General Taxation Policies.

530 (ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to
531 Subsections [59-12-103](#)(4) through (10), [Subsection 59-12-103\(13\)](#), or Section [59-12-107.1](#) or
532 [59-12-123](#).

533 (b) The commission shall retain and deposit an administrative charge in accordance
534 with Section [59-1-306](#) from the revenues the commission collects from a tax under this part.

535 (c) Except as provided under Subsection (4)(b), all revenue received by the
536 commission under this section shall be deposited daily with the state treasurer and credited
537 monthly to the Marda Dillree Corridor Preservation Fund under Section [72-2-117](#).

538 Section 3. Section **63N-3-501** is enacted to read:

539 **Part 5. Utah Strategic Growth Revolving Loan Fund Act**

540 **63N-3-501. Title.**

541 This part is known as the "Utah Strategic Growth Revolving Loan Fund Act."

542 Section 4. Section **63N-3-502** is enacted to read:

543 **63N-3-502. Purpose.**

544 This part is enacted to:

545 (1) foster and develop industry in the state, to provide additional employment
546 opportunities for Utah's citizens, and to improve the state's economy;

547 (2) address the opportunity of prospective high paying jobs, the lack of new economic
548 growth, and the corresponding lack of incremental new state and local revenues to the state
549 caused by the lack of financial resources to take advantage of economic opportunities;

550 (3) provide loans to attract new commercial projects, new jobs, capital investment, and
551 economic activity in strategic areas and industries in the state; and

552 (4) provide a cooperative and unified working relationship between state and local
553 economic development efforts and the private sector.

554 Section 5. Section **63N-3-503** is enacted to read:

555 63N-3-503. Definitions.556 As used in this part:557 (1) "Administrator" means the executive director or the executive director's designee.558 (2) "Business entity" means a person that enters into an agreement with the office to
559 initiate an economic opportunity or a new commercial project in Utah that will qualify the
560 person to receive a loan under Section [63N-3-505](#).561 (3) "Economic opportunity" means a unique business situation or community
562 circumstance that furthers the economic interests of the state by providing a catalyst or stimulus
563 to the growth or retention, or both, of commerce and industry in the state, including the
564 retention of a company whose relocation outside the state would have a significant detrimental
565 economic impact on the state as a whole, regions of the state, or specific components of the
566 state as determined by the board.567 (4) "Fund" means the Utah Strategic Growth Revolving Loan Fund created in Section
568 [63N-3-504](#).569 (5) "High paying jobs" means:570 (a) with respect to a business entity, the aggregate average annual gross wages, not
571 including health care or other paid or unpaid benefits, of newly created full-time employment
572 positions in a business entity that are at least 100% of the average wage of a community in
573 which the employment positions will exist;574 (b) with respect to a county, the aggregate average annual gross wages, not including
575 health care or other paid or unpaid benefits, of newly created full-time employment positions in
576 a new commercial project within the county that are at least 100% of the average wage of the
577 county in which the employment positions will exist; or578 (c) with respect to a city or town, the aggregate average annual gross wages, not
579 including health care or other paid or unpaid benefits of newly created full-time employment
580 positions in a new commercial project within the city or town that are at least 100% of the
581 average wages of the city or town in which the employment positions will exist.582 (6) "Local government entity" means a county, city, town, local district, special service
583 district, or an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal
584 Cooperation Act.585 (7) "New commercial project" means an economic development opportunity that

586 involves new or expanded industrial, manufacturing, distribution, or business services in Utah.

587 (8) (a) "New incremental jobs" means full-time employment positions that are filled by
588 employees who work at least 30 hours per week and that are:

589 (i) with respect to a business entity, created in addition to the baseline count of
590 employment positions that existed within the business entity before the new commercial
591 project;

592 (ii) with respect to a county, created as a result of a new commercial project with
593 respect to which the county seeks to claim a loan under Section [63N-3-505](#); or

594 (iii) with respect to a city or town, created as a result of a new commercial project with
595 respect to which the city or town seeks to obtain a loan under Section [63N-3-505](#).

596 (b) "New incremental jobs" may include full-time equivalent positions that are filled by
597 more than one employee, if each employee who works less than 30 hours per week is provided
598 benefits comparable to a full-time employee.

599 (c) "New incremental jobs" does not include jobs that are shifted from one jurisdiction
600 in the state to another jurisdiction in the state.

601 (9) "New state revenues" means:

602 (a) with respect to a business entity:

603 (i) incremental new state sales and use tax revenues that a business entity pays under
604 Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project;

605 (ii) incremental new state tax revenues that a business entity pays as a result of a new
606 commercial project under:

607 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

608 (B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and
609 Information;

610 (C) Title 59, Chapter 10, Part 2, Trusts and Estates;

611 (D) Title 59, Chapter 10, Part 4, Withholding of Tax; or

612 (E) a combination of Subsections (9)(a)(ii)(A) through (D);

613 (iii) incremental new state tax revenues paid as individual income taxes under Title 59,
614 Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by
615 employees of a new or expanded industrial, manufacturing, distribution, or business service
616 within a new commercial project as evidenced by payroll records that indicate the amount of

617 employee income taxes withheld and transmitted to the State Tax Commission by the new or
 618 expanded industrial, manufacturing, distribution, or business service within the new
 619 commercial project; or

620 (iv) a combination of Subsections (9)(a)(i) through (iii); or

621 (b) with respect to a local government entity:

622 (i) incremental new state sales and use tax revenues that are collected under Title 59,
 623 Chapter 12, Sales and Use Tax Act, as a result of a new commercial project;

624 (ii) incremental new state tax revenues that are collected as a result of a new
 625 commercial project under:

626 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

627 (B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and
 628 Information;

629 (C) Title 59, Chapter 10, Part 2, Trusts and Estates;

630 (D) Title 59, Chapter 10, Part 4, Withholding of Tax; or

631 (E) a combination of Subsections (9)(b)(ii)(A) through (D);

632 (iii) incremental new state tax revenues paid as individual income taxes under Title 59,
 633 Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by
 634 employees of a new or expanded industrial, manufacturing, distribution, or business service
 635 within a new commercial project as evidenced by payroll records that indicate the amount of
 636 employee income taxes withheld and transmitted to the State Tax Commission by the new or
 637 expanded industrial, manufacturing, distribution, or business service within the new
 638 commercial project; or

639 (iv) a combination of Subsections (9)(b)(i) through (iii).

640 Section 6. Section **63N-3-504** is enacted to read:

641 **63N-3-504. Utah Strategic Growth Revolving Loan Fund -- Deposits and contents**
 642 **-- Use of fund money.**

643 (1) There is created an expendable special revenue fund known as the "Utah Strategic
 644 Growth Revolving Loan Fund."

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

646 (a) all amounts transferred to the fund under Subsection [59-12-103\(13\)](#);

647 (b) any voluntary contributions received;

648 (c) appropriations made to the fund by the Legislature; and
649 (d) all amounts received from the repayment of loans made by the administrator under

650 Section 63N-3-505.

651 (3) (a) The administrator shall administer the fund under the policy direction of the
652 board.

653 (b) The administrator may hire appropriate support staff to perform the duties required
654 under this part.

655 (4) The costs of administering the fund shall be paid from money in the fund.

656 (5) Interest accrued from the investment of money in the fund shall remain in the fund.

657 Section 7. Section 63N-3-505 is enacted to read:

658 **63N-3-505. Administration of fund -- Eligibility for loans.**

659 (1) The administrator shall:

660 (a) make loans from the fund for economic opportunities or new commercial projects
661 within the state;

662 (b) administer the fund in a manner that will keep the fund revolving;

663 (c) determine provisions for repayment of loans;

664 (d) establish criteria for awarding loans; and

665 (e) establish criteria for determining eligibility for loan assistance under this section.

666 (2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
667 the office shall make rules establishing the requirements for a business entity or local
668 government entity to qualify for a loan for an economic opportunity or new commercial project
669 under this part.

670 (b) The office shall ensure that the requirements described in Subsection (2)(a) include:

671 (i) a requirement that the economic opportunity or new commercial project meets one
672 of the following:

673 (A) the economic opportunity or new commercial project includes direct investment
674 within the geographic boundaries of Utah;

675 (B) the new commercial project brings new incremental jobs to Utah;

676 (C) the new commercial project includes the creation of high paying jobs in the state,
677 significant capital investment in the state, or significant purchases from vendors, contractors, or
678 service providers in the state, or a combination of these three economic factors; or

679 (D) the new commercial project generates new state revenues; and

680 (ii) a requirement that the business entity or local government entity meets the
681 requirements of Section 63N-3-506.

682 (3) (a) The office, after consultation with the board, may enter into a written agreement
683 with a business entity or local government entity authorizing a loan to the business entity or
684 local government entity if the business entity or local government entity meets the requirements
685 described in this section.

686 (b) (i) With respect to a new commercial project, the office may authorize a loan to a
687 business entity or a local government entity, but not both.

688 (ii) In determining whether to authorize a loan with respect to a new commercial
689 project to a business entity or a local government entity, the office shall authorize the loan in a
690 manner that the office determines will result in providing the most effective incentive for the
691 new commercial project.

692 Section 8. Section 63N-3-506 is enacted to read:

693 **63N-3-506. Application procedures -- Loan repayment.**

694 (1) The office shall certify a business entity's or local government entity's eligibility for
695 a loan as provided in this part.

696 (2) A business entity or local government entity seeking to receive a loan as provided
697 in this part shall:

698 (a) provide the office with an application for a loan, including a certification, by an
699 officer of the business entity, of any signature on the application;

700 (b) demonstrate to the satisfaction of the administrator that the business entity or local
701 government entity will expend funds in Utah with employees, vendors, subcontractors, or other
702 businesses for a minimum period of five years beginning on the date the loan is granted or
703 approved;

704 (c) demonstrate to the satisfaction of the administrator the applicant's ability to sustain
705 economic activity in the state sufficient to repay the loan provided by the fund; and

706 (d) satisfy other criteria the administrator considers appropriate.

707 (3) (a) Subject to Subsection (3)(b), the administrator has authority to determine the
708 structure, amount, and nature of any loan from the fund.

709 (b) A loan made under this part shall be structured so the intended repayment or return

710 to the state equals at least the amount of the loan assistance together with an annual interest
711 charge as negotiated by the administrator.

712 (c) The administrator shall ensure that repayment terms are evidenced by bonds, notes,
713 or other obligations of the appropriate business entity or local government entity issued to the
714 board and payable from the net revenues of an economic opportunity or new commercial
715 project.

716 (d) The administrator may restructure or forgive all or part of a business entity's or
717 local government entity's obligation to repay a loan made under this part for extenuating
718 circumstances.

719 (4) A cash loan repayment or other cash recovery from a loan issued under this part,
720 including interest, shall be deposited into the fund.

721 Section 9. Section **63N-3-507** is enacted to read:

722 **63N-3-507. Agreements.**

723 The administrator shall enter into agreements with each successful applicant that have
724 specific terms and conditions for each loan, including:

725 (1) repayment schedules;

726 (2) interest rates;

727 (3) specific economic activity required to qualify for the loan;

728 (4) collateral or security, if any; and

729 (5) other terms and conditions considered appropriate by the administrator.

730 Section 10. Section **63N-3-508** is enacted to read:

731 **63N-3-508. Reports to board.**

732 The administrator shall make a quarterly report to the board of the loans made by the
733 administrator under this part and submit a report to the office on the loans and their impact on
734 economic development in the state for inclusion in the office's annual written report described
735 in Section [63N-1-301](#).

736 Section 11. **Effective date.**

737 This bill takes effect on July 1, 2018.

Legislative Review Note
Office of Legislative Research and General Counsel