

TAX RESTRUCTURING REVISIONS

2019 SECOND SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Francis D. Gibson

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ decreases the corporate franchise and income tax rate and the individual income tax rate;
- ▶ amends the calculation of certain tax credits to match the applicable income tax rate;
- ▶ repeals certain transfers from the General Fund into the Education Fund;
- ▶ modifies the calculation of the Utah personal exemption for purposes of the taxpayer tax credit;
- ▶ enacts a nonrefundable tax credit for social security benefits that are included in the claimant's federal adjusted gross income;
- ▶ provides that an individual who claims the tax credit for social security benefits may not also claim the retirement tax credit on the same return;
- ▶ enacts a refundable grocery tax credit;
- ▶ enacts a refundable state earned income tax credit for certain individuals who are experiencing intergenerational poverty;
- ▶ provides for apportionment of the state earned income tax credit and the grocery tax credit;
- ▶ provides a taxpayer tax credit rebate;

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

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

70 Money Appropriated in this Bill:

71 This bill appropriates in fiscal year 2020:

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

78 This bill appropriates in fiscal year 2021:

- 79 ▶ To State Board of Education -- Child Nutrition, as an ongoing appropriation:
- 80 • From Education Fund, \$55,500,000.
- 81 • From Dedicated Credits -- Liquor Tax, (\$39,275,700).
- 82 ▶ To State Board of Education -- State Administrative Office, as an ongoing
- 83 appropriation:
- 84 • From Education Fund, \$2,850,000.
- 85 • From Education Fund Restricted -- Underage Drinking Prevention Program

- 86 Restricted Account, (\$1,751,000).
- 87 ▶ To University of Utah -- Education and General, as an ongoing appropriation:
- 88 • From General Fund, \$101,608,900.
- 89 • From Education Fund, (\$101,608,900).
- 90 ▶ To University of Utah -- School of Medicine, as an ongoing appropriation:
- 91 • From General Fund, \$35,899,500.
- 92 • From Education Fund, (\$35,899,500).
- 93 ▶ To University of Utah -- University Hospital, as an ongoing appropriation:
- 94 • From General Fund, \$1,533,000.
- 95 • From Education Fund, (\$1,533,000).
- 96 ▶ To University of Utah -- School of Dentistry, as an ongoing appropriation:
- 97 • From General Fund, \$2,324,700.
- 98 • From Education Fund, (\$2,324,700).
- 99 ▶ To Utah State University -- Education and General, as an ongoing appropriation:
- 100 • From General Fund, \$73,521,400.
- 101 • From Education Fund, (\$73,521,400).
- 102 ▶ To Utah State University -- USU-Eastern Education and General, as an ongoing
- 103 appropriation:
- 104 • From General Fund, \$12,503,400.
- 105 • From Education Fund, (\$12,503,400).
- 106 ▶ To Weber State University -- Education and General, as an ongoing appropriation:
- 107 • From General Fund, \$94,098,000.
- 108 • From Education Fund, (\$94,098,000).
- 109 ▶ To Southern Utah University -- Education and General, as an ongoing
- 110 appropriation:
- 111 • From General Fund, \$47,444,900.
- 112 • From Education Fund, (\$47,444,900).
- 113 ▶ To Utah Valley University -- Education and General, as an ongoing appropriation:

- 114 • From General Fund, \$22,092,900.
- 115 • From Education Fund, (\$22,092,900).

Other Special Clauses:

117 This bill provides a special effective date.

118 This bill provides contingent retrospective operation.

Utah Code Sections Affected:

AMENDS:

- 121 **15A-1-204**, as last amended by Laws of Utah 2017, Chapter 18
- 122 **26-36b-208**, as last amended by Laws of Utah 2019, Chapters 1 and 393
- 123 **32B-2-301**, as last amended by Laws of Utah 2018, Chapter 329
- 124 **32B-2-304**, as last amended by Laws of Utah 2019, Chapter 403
- 125 **32B-2-305**, as last amended by Laws of Utah 2013, Chapter 400
- 126 **35A-8-308**, as last amended by Laws of Utah 2017, Chapters 181 and 421
- 127 **35A-8-309**, as last amended by Laws of Utah 2019, Chapter 493
- 128 **41-6a-409**, as last amended by Laws of Utah 2017, Chapter 142
- 129 **41-6a-505**, as last amended by Laws of Utah 2019, Chapter 136
- 130 **41-6a-1406**, as last amended by Laws of Utah 2019, Chapter 373
- 131 **41-6a-1642**, as last amended by Laws of Utah 2019, Chapter 140
- 132 **41-12a-806**, as last amended by Laws of Utah 2019, Chapter 55
- 133 **53B-8a-106**, as last amended by Laws of Utah 2015, Chapter 94
- 134 **53G-10-406**, as last amended by Laws of Utah 2019, Chapter 293
- 135 **59-1-1503**, as last amended by Laws of Utah 2012, Chapter 399
- 136 **59-7-104**, as last amended by Laws of Utah 2019, Chapter 418
- 137 **59-7-201**, as last amended by Laws of Utah 2018, Chapter 456
- 138 **59-7-610**, as last amended by Laws of Utah 2019, Chapter 247
- 139 **59-7-614.1**, as last amended by Laws of Utah 2016, Chapter 375
- 140 **59-7-618**, as last amended by Laws of Utah 2017, Chapter 265
- 141 **59-7-620**, as last amended by Laws of Utah 2017, Chapter 222

- 142 **59-10-104**, as last amended by Laws of Utah 2018, Chapter 456
- 143 **59-10-529.1**, as enacted by Laws of Utah 2015, Chapter 369
- 144 **59-10-1005**, as last amended by Laws of Utah 2017, Chapter 148
- 145 **59-10-1007**, as last amended by Laws of Utah 2019, Chapter 247
- 146 **59-10-1017**, as last amended by Laws of Utah 2017, Chapter 389
- 147 **59-10-1017.1**, as enacted by Laws of Utah 2017, Chapter 389
- 148 **59-10-1018**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 3
- 149 **59-10-1019**, as renumbered and amended by Laws of Utah 2008, Chapter 389
- 150 **59-10-1022**, as enacted by Laws of Utah 2008, Chapter 389
- 151 **59-10-1023**, as enacted by Laws of Utah 2008, Chapter 389
- 152 **59-10-1028**, as last amended by Laws of Utah 2012, Chapter 399
- 153 **59-10-1033**, as last amended by Laws of Utah 2017, Chapter 265
- 154 **59-10-1035**, as last amended by Laws of Utah 2017, Chapter 222
- 155 **59-10-1036**, as enacted by Laws of Utah 2016, Chapter 55
- 156 **59-10-1105**, as last amended by Laws of Utah 2016, Chapter 375
- 157 **59-10-1403.3**, as enacted by Laws of Utah 2017, Chapter 270
- 158 **59-12-102**, as last amended by Laws of Utah 2019, Chapters 325, 481, and 486
- 159 **59-12-103**, as last amended by Laws of Utah 2019, Chapters 1, 136, and 479
- 160 **59-12-104**, as last amended by Laws of Utah 2019, Chapters 136 and 486
- 161 **59-12-104.5**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 162 **59-12-1201**, as last amended by Laws of Utah 2016, Chapters 184 and 291
- 163 **59-13-202**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 164 **63I-2-253**, as last amended by Laws of Utah 2019, Chapters 41, 129, 136, 223, 324,
- 165 325, and 444
- 166 **63I-2-259**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 167 **63I-2-272**, as last amended by Laws of Utah 2019, Chapters 136 and 246
- 168 **63M-4-702**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 169 **72-1-201**, as last amended by Laws of Utah 2019, Chapter 431

- 170 [72-1-213.1](#), as enacted by Laws of Utah 2019, Chapter 479
- 171 [72-2-120](#), as last amended by Laws of Utah 2018, Chapter 269
- 172 [72-2-124](#), as last amended by Laws of Utah 2019, Chapters 327 and 479
- 173 [72-6-118](#), as last amended by Laws of Utah 2018, Chapter 269
- 174 [72-9-603](#), as last amended by Laws of Utah 2019, Chapter 373

175 ENACTS:

- 176 [35A-9-214](#), Utah Code Annotated 1953
- 177 [59-10-1018.1](#), Utah Code Annotated 1953
- 178 [59-10-1041](#), Utah Code Annotated 1953
- 179 [59-10-1102.1](#), Utah Code Annotated 1953
- 180 [59-10-1113](#), Utah Code Annotated 1953
- 181 [59-10-1113.1](#), Utah Code Annotated 1953
- 182 [59-10-1114](#), Utah Code Annotated 1953
- 183 [59-13-323](#), Utah Code Annotated 1953
- 184 [59-13-601](#), Utah Code Annotated 1953
- 185 [63I-2-241](#), Utah Code Annotated 1953
- 186 [72-1-213.2](#), Utah Code Annotated 1953

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

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

190 **15A-1-204. Adoption of State Construction Code -- Amendments by commission**
 191 **-- Approved codes -- Exemptions.**

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

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

- 197 (i) new construction is involved; and

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

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

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

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

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

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

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

209 (i) to the entire state; or

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

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

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

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

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

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

221 (3) (a) Except as provided in Subsection (3)(b), for each update of a nationally
222 recognized construction code, the commission shall prepare a report described in Subsection
223 (4).

224 (b) For the provisions of a nationally recognized construction code that apply only to
225 detached one- and two-family dwellings and townhouses not more than three stories above

226 grade plane in height with separate means of egress and their accessory structures, the
227 commission shall:

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

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

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

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

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

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

241 (i) study the recommendations; and

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

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

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

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

- 254 (i) on its own initiative;
- 255 (ii) upon the recommendation of the division; or
- 256 (iii) upon the receipt of a request by one of the following that the commission
257 recommend legislative action related to the State Construction Code:
- 258 (A) a local regulator;
- 259 (B) a state regulator;
- 260 (C) a state agency involved with the construction and design of a building;
- 261 (D) the Construction Services Commission;
- 262 (E) the Electrician Licensing Board;
- 263 (F) the Plumbers Licensing Board; or
- 264 (G) a recognized construction-related association.
- 265 (c) If the Business and Labor Interim Committee decides to recommend legislative
266 action to the Legislature, the Business and Labor Interim Committee shall prepare legislation
267 for consideration by the Legislature in the next general session.
- 268 (6) (a) Notwithstanding the provisions of this section, the commission may, in
269 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend the State
270 Construction Code if the commission determines that waiting for legislative action in the next
271 general legislative session would:
- 272 (i) cause an imminent peril to the public health, safety, or welfare; or
- 273 (ii) place a person in violation of federal or other state law.
- 274 (b) If the commission amends the State Construction Code in accordance with this
275 Subsection (6), the commission shall file with the division:
- 276 (i) the text of the amendment to the State Construction Code; and
- 277 (ii) an analysis that includes the specific reasons and justifications for the commission's
278 findings.
- 279 (c) If the State Construction Code is amended under this Subsection (6), the division
280 shall:
- 281 (i) publish the amendment to the State Construction Code in accordance with Section

282 15A-1-205; and

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

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

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

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

- 295 (i) adopt an ordinance requiring removal, demolition, or repair of a building;
- 296 (ii) adopt, by ordinance or rule, a dangerous building code; or
- 297 (iii) adopt, by ordinance or rule, a building rehabilitation code.

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

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

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

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

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

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

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

315 (11) (a) Except as provided in Subsection (11)(b), a structure used solely in
316 conjunction with agriculture use, and not for human occupancy, or a structure that is no more
317 than 1,500 square feet and used solely for the type of sales described in Subsection
318 [59-12-104](#)~~(20)~~(17), is exempt from the permit requirements of the State Construction Code.

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

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

- 326 (A) within the boundaries of a city or town, and less than five contiguous acres; or
- 327 (B) within a subdivision for which the county has approved a subdivision plat under
328 Title 17, Chapter 27a, Part 6, Subdivisions, and less than two contiguous acres.

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

330 **26-36b-208. Medicaid Expansion Fund.**

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

333 (2) The fund consists of:

- 334 (a) assessments collected under this chapter;
- 335 (b) intergovernmental transfers under Section [26-36b-206](#);
- 336 (c) savings attributable to the health coverage improvement program as determined by
337 the department;

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

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

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

344 (g) [~~revenues~~] revenue collected from the sales tax described in Subsection
345 59-12-103[~~(13)~~](12);

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

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

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

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

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

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

354 (i) the health coverage improvement program;

355 (ii) the enhancement waiver program;

356 (iii) a Medicaid waiver expansion; and

357 (iv) the outpatient upper payment limit supplemental payments under Section
358 26-36b-210.

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

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

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

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

364 **32B-2-301. State property -- Liquor Control Fund -- Money to be retained by**
365 **department -- Department building process.**

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

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

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

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

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

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

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

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

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

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

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

413 (a) capital equipment purchases;

414 (b) salary increases for department employees;

415 (c) performance awards for department employees; or

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

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

418 **32B-2-304. Liquor price -- School lunch program -- Remittance of markup.**

419 (1) For purposes of this section:

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

421 (A) the cost of the product; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

449 (i) (A) except as provided in Subsection (3)(c)(i)(B), the wine is manufactured by a

450 manufacturer producing less than 20,000 gallons of wine in a calendar year; or

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

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

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

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

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

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

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

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

468 [(5)] (4) This section does not prohibit the department from selling discontinued items
469 at a discount.

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

471 **32B-2-305. Alcoholic Beverage Control Act Enforcement Fund.**

472 (1) As used in this section:

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

474 (b) "Enforcement ratio" is as defined in Section [32B-1-201](#).

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

477 (2) There is created an expendable special revenue fund known as the "Alcoholic

478 Beverage Control Act Enforcement Fund."

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

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

481 (ii) interest earned on the fund.

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

483 (4) [~~After the deposit made under Section 32B-2-304 for the school lunch program,~~

484 ~~the~~] The department shall deposit 1% of the total gross revenue from the sale of liquor with the

485 state treasurer to be credited to the fund to be used by the Department of Public Safety as

486 provided in Subsection (5).

487 (5) (a) The Department of Public Safety shall expend money from the fund to

488 supplement appropriations by the Legislature so that the Department of Public Safety maintains

489 a sufficient number of alcohol-related law enforcement officers such that beginning on July 1,

490 2012, each year the enforcement ratio as of July 1 is equal to or less than the number specified

491 in Section 32B-1-201.

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

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

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

495 **35A-8-308. Throughput Infrastructure Fund.**

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

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

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

499 (b) any voluntary contributions received;

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

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

502 Section 35A-8-309.

503 (3) The state treasurer shall:

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

505 51, Chapter 7, State Money Management Act; and

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

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

508 **35A-8-309. Throughput Infrastructure Fund administered by impact board --**

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

510 (1) The impact board shall:

511 (a) make grants and loans from the Throughput Infrastructure Fund created in Section
512 **35A-8-308** for a throughput infrastructure project;

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

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

520 (d) determine provisions for repayment of loans;

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

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

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

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

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

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

532 (i) review the proposed uses of the Throughput Infrastructure Fund for a loan or grant
533 before approving the loan or grant and may condition its approval on whatever assurances the

534 impact board considers necessary to ensure that proceeds of the loan or grant will be used in
535 accordance with this section;

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

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

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

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

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

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

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

549 (7) The board shall include in the annual written report described in Section

550 [35A-1-109](#):

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

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

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

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

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

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

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

565 **35A-9-214. Intergenerational poverty report to State Tax Commission.**

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

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

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

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

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

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

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

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

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

583 (i) the individual's name; and

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

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

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

588 **41-6a-409. Prohibition of flat response fee for motor vehicle accident.**

589 (1) As used in this section, "government entity" means the Department of

590 Transportation, the Utah Highway Patrol Division, or a local government entity or agency.

591 (2) A government entity:

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

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

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

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

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

602 (iv) towing costs[-]; and

603 (v) applicable sales and use taxes.

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

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

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

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

616 **41-6a-505. Sentencing requirements for driving under the influence of alcohol,**
617 **drugs, or a combination of both violations.**

- 618 (1) As part of any sentence for a first conviction of Section 41-6a-502:
619 (a) the court shall:
620 (i) (A) impose a jail sentence of not less than 48 consecutive hours; or
621 (B) require the individual to work in a compensatory-service work program for not less
622 than 48 hours;
623 (ii) order the individual to participate in a screening;
624 (iii) order the individual to participate in an assessment, if it is found appropriate by a
625 screening under Subsection (1)(a)(ii);
626 (iv) order the individual to participate in an educational series if the court does not
627 order substance abuse treatment as described under Subsection (1)(b);
628 (v) impose a fine of not less than \$700;
629 (vi) order probation for the individual in accordance with Section 41-6a-507, if there is
630 admissible evidence that the individual had a blood alcohol level of .16 or higher;
631 (vii) (A) order the individual to pay the administrative impound fee described in
632 Section 41-6a-1406; or
633 (B) if the administrative impound fee was paid by a party described in Subsection
634 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
635 reimburse the party; or
636 (viii) (A) order the individual to pay the towing and storage fees described in Section
637 72-9-603 and the applicable sales and use tax; or
638 (B) if the ~~[towing and storage fees]~~ amounts described in Subsection (1)(a)(viii)(A)
639 were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual
640 sentenced, order the individual sentenced to reimburse the party; and
641 (b) the court may:
642 (i) order the individual to obtain substance abuse treatment if the substance abuse
643 treatment program determines that substance abuse treatment is appropriate;
644 (ii) order probation for the individual in accordance with Section 41-6a-507;
645 (iii) order the individual to participate in a 24-7 sobriety program as defined in Section

646 41-6a-515.5 if the individual is 21 years of age or older; or
647 (iv) order a combination of Subsections (1)(b)(i) through (iii).
648 (2) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is
649 within 10 years of the current conviction under Section 41-6a-502 or the commission of the
650 offense upon which the current conviction is based:
651 (a) the court shall:
652 (i) (A) impose a jail sentence of not less than 240 hours; or
653 (B) impose a jail sentence of not less than 120 hours in addition to home confinement
654 of not fewer than 720 consecutive hours through the use of electronic monitoring that includes
655 a substance abuse testing instrument in accordance with Section 41-6a-506;
656 (ii) order the individual to participate in a screening;
657 (iii) order the individual to participate in an assessment, if it is found appropriate by a
658 screening under Subsection (2)(a)(ii);
659 (iv) order the individual to participate in an educational series if the court does not
660 order substance abuse treatment as described under Subsection (2)(b);
661 (v) impose a fine of not less than \$800;
662 (vi) order probation for the individual in accordance with Section 41-6a-507;
663 (vii) (A) order the individual to pay the administrative impound fee described in
664 Section 41-6a-1406; or
665 (B) if the administrative impound fee was paid by a party described in Subsection
666 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
667 reimburse the party; or
668 (viii) (A) order the individual to pay the towing and storage fees described in Section
669 72-9-603; or
670 (B) if the ~~[towing and storage fees]~~ amounts described in Subsection (2)(a)(viii)(A)
671 were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual
672 sentenced, order the individual sentenced to reimburse the party; and
673 (b) the court may:

- 674 (i) order the individual to obtain substance abuse treatment if the substance abuse
675 treatment program determines that substance abuse treatment is appropriate;
- 676 (ii) order the individual to participate in a 24-7 sobriety program as defined in Section
677 41-6a-515.5 if the individual is 21 years of age or older; or
- 678 (iii) order a combination of Subsections (2)(b)(i) and (ii).
- 679 (3) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison
680 sentence and places the defendant on probation, the court shall impose:
- 681 (a) a fine of not less than \$1,500;
- 682 (b) a jail sentence of not less than 1,500 hours; and
- 683 (c) supervised probation.
- 684 (4) For Subsection (3) or Subsection 41-6a-503(2)(b), the court:
- 685 (a) shall impose an order requiring the individual to obtain a screening and assessment
686 for alcohol and substance abuse, and treatment as appropriate; and
- 687 (b) may impose an order requiring the individual to participate in a 24-7 sobriety
688 program as defined in Section 41-6a-515.5 if the individual is 21 years of age or older.
- 689 (5) The requirements of Subsections (1)(a), (2)(a), (3), and (4) may not be suspended.
- 690 (6) If an individual is convicted of a violation of Section 41-6a-502 and there is
691 admissible evidence that the individual had a blood alcohol level of .16 or higher, the court
692 shall order the following, or describe on record why the order or orders are not appropriate:
- 693 (a) treatment as described under Subsection (1)(b), (2)(b), or (4); and
- 694 (b) one or more of the following:
- 695 (i) the installation of an ignition interlock system as a condition of probation for the
696 individual in accordance with Section 41-6a-518;
- 697 (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring
698 device as a condition of probation for the individual; or
- 699 (iii) the imposition of home confinement through the use of electronic monitoring in
700 accordance with Section 41-6a-506.
- 701 Section 11. Section 41-6a-1406 is amended to read:

702 **41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification**
703 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

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

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

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

- 713 (a) under Title 72, Chapter 9, Motor Carrier Safety Act; and
- 714 (b) by the department under Subsection (10).

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

- 717 (i) the peace officer or agency by whom the peace officer is employed; and
- 718 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck
719 operator is employed.

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

- 722 (i) the operator's name, if known;
- 723 (ii) a description of the vehicle, vessel, or outboard motor;
- 724 (iii) the vehicle identification number or vessel or outboard motor identification
725 number;
- 726 (iv) the license number, temporary permit number, or other identification number
727 issued by a state agency;
- 728 (v) the date, time, and place of impoundment;
- 729 (vi) the reason for removal or impoundment;

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

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

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

735 (i) collect any fee associated with the removal; and
736 (ii) begin charging storage fees.

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

740 (i) the registered owner;
741 (ii) any lien holder; or
742 (iii) a dealer, as defined in Section 41-1a-102, if the vehicle, vessel, or outboard motor
743 is currently operating under a temporary permit issued by the dealer, as described in Section
744 41-3-302.

745 (b) The notice shall:

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

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

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

752 (B) the applicable sales and use tax;

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

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

758 vehicle, vessel, or outboard motor.

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

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

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

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

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

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

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

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

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

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

781 (ii) \$147 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall
782 be deposited in the Department of Public Safety Restricted Account created in Section
783 53-3-106;

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

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

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

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

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

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

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

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

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

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

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

813 (8) A party described in Subsection (5)(a) that pays all fees [~~and~~], charges, and taxes

814 incurred in the impoundment of the owner's vehicle, vessel, or outboard motor has a cause of
815 action for all the fees and charges, together with damages, court costs, and attorney fees,
816 against the operator of the vehicle, vessel, or outboard motor whose actions caused the removal
817 or impoundment.

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

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

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

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

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

829 (A) be reasonable and fair; and

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

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

832 **41-6a-1642. Emissions inspection -- County program.**

833 (1) The legislative body of each county required under federal law to utilize a motor
834 vehicle emissions inspection and maintenance program or in which an emissions inspection
835 and maintenance program is necessary to attain or maintain any national ambient air quality
836 standard shall require:

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

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

840 (ii) at other times as the county legislative body may require to enforce inspection
841 requirements for individual motor vehicles, except that the county legislative body may not

842 routinely require a certificate of emissions inspection, or waiver of the certificate, more often
843 than required under Subsection (9); and

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

- 847 (i) the federal government;
- 848 (ii) the state and any of its agencies; or
- 849 (iii) a political subdivision of the state, including school districts.

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

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

- 857 (i) Volkswagen Jetta, model years 2009, 2010, 2011, 2012, 2013, 2014, and 2015;
- 858 (ii) Volkswagen Jetta Sportwagen, model years 2009, 2010, 2011, 2012, 2013, and
859 2014;
- 860 (iii) Volkswagen Golf, model years 2010, 2011, 2012, 2013, 2014, and 2015;
- 861 (iv) Volkswagen Golf Sportwagen, model year 2015;
- 862 (v) Volkswagen Passat, model years 2012, 2013, 2014, and 2015;
- 863 (vi) Volkswagen Beetle, model years 2013, 2014, and 2015;
- 864 (vii) Volkswagen Beetle Convertible, model years 2013, 2014, and 2015; and
- 865 (viii) Audi A3, model years 2010, 2011, 2012, 2013, and 2015; and

866 (b) a 3.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide
867 emissions are mitigated in the state to a settlement, including:

- 868 (i) Volkswagen Touareg, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and
869 2016;

- 870 (ii) Audi Q7, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;
- 871 (iii) Audi A6 Quattro, model years 2014, 2015, and 2016;
- 872 (iv) Audi A7 Quattro, model years 2014, 2015, and 2016;
- 873 (v) Audi A8, model years 2014, 2015, and 2016;
- 874 (vi) Audi A8L, model years 2014, 2015, and 2016;
- 875 (vii) Audi Q5, model years 2014, 2015, and 2016; and
- 876 (viii) Porsche Cayenne Diesel, model years 2013, 2014, 2015, and 2016.

877 (3) (a) The legislative body of a county identified in Subsection (1), in consultation
878 with the Air Quality Board created under Section 19-1-106, shall make regulations or
879 ordinances regarding:

- 880 (i) emissions standards;
 - 881 (ii) test procedures;
 - 882 (iii) inspections stations;
 - 883 (iv) repair requirements and dollar limits for correction of deficiencies; and
 - 884 (v) subject to Subsection (3)(e), certificates of emissions inspections.
- 885 (b) In accordance with Subsection (3)(a), a county legislative body:
- 886 (i) shall make regulations or ordinances to attain or maintain ambient air quality
887 standards in the county, consistent with the state implementation plan and federal
888 requirements;
 - 889 (ii) may allow for a phase-in of the program by geographical area; and
 - 890 (iii) shall comply with the analyzer design and certification requirements contained in
891 the state implementation plan prepared under Title 19, Chapter 2, Air Conservation Act.

892 (c) The county legislative body and the Air Quality Board shall give preference to an
893 inspection and maintenance program that:

- 894 (i) is decentralized, to the extent the decentralized program will attain and maintain
895 ambient air quality standards and meet federal requirements;
- 896 (ii) is the most cost effective means to achieve and maintain the maximum benefit with
897 regard to ambient air quality standards and to meet federal air quality requirements as related to

898 vehicle emissions; and

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

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

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

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

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

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

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

909 (b) a motor vehicle that:

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

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

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

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

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

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

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

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

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

926 (B) in the transportation of farm supplies, including tile, fence, and every other thing or
927 commodity used in agricultural, floricultural, horticultural, livestock, and poultry production
928 and maintenance;

929 (g) a motorcycle as defined in Section [41-1a-102](#);

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

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

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

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

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

938 (b) model year of 1997 or older.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

982 or university campus or property.

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

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

988 (9) (a) An emissions inspection station shall issue a certificate of emissions inspection
989 for each motor vehicle that meets the inspection and maintenance program requirements
990 established in rules made under Subsection (3).

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

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

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

1000 (iii) For a county required to implement a new vehicle emissions inspection and
1001 maintenance program on or after December 1, 2012, under Subsection (1), but for which no
1002 current federally approved state implementation plan exists, a vehicle shall be tested at a
1003 frequency determined by the county legislative body, in consultation with the Air Quality
1004 Board created under Section 19-1-106, that is necessary to comply with federal law or attain or
1005 maintain any national ambient air quality standard.

1006 (iv) If a county legislative body establishes or changes the frequency of a vehicle
1007 emissions inspection and maintenance program under Subsection (9)(c)(iii), the establishment
1008 or change shall take effect on January 1 if the State Tax Commission receives notice meeting
1009 the requirements of Subsection (9)(c)(v) from the county before October 1.

- 1010 (v) The notice described in Subsection (9)(c)(iv) shall:
- 1011 (A) state that the county will establish or change the frequency of the vehicle emissions
1012 inspection and maintenance program under this section;
- 1013 (B) include a copy of the ordinance establishing or changing the frequency; and
- 1014 (C) if the county establishes or changes the frequency under this section, state how
1015 frequently the emissions testing will be required.
- 1016 (d) If an emissions inspection is only required every two years for a vehicle under
1017 Subsection(9)(c), the inspection shall be required for the vehicle in:
- 1018 (i) odd-numbered years for vehicles with odd-numbered model years; or
- 1019 (ii) in even-numbered years for vehicles with even-numbered model years.
- 1020 (10) (a) Except as provided in Subsections (9)(b), (c), and (d), the emissions inspection
1021 required under this section may be made no more than two months before the renewal of
1022 registration.
- 1023 (b) (i) If the title of a used motor vehicle is being transferred, the owner may use an
1024 emissions inspection certificate issued for the motor vehicle during the previous 11 months to
1025 satisfy the requirement under this section.
- 1026 (ii) If the transferor is a licensed and bonded used motor vehicle dealer, the owner may
1027 use an emissions inspection certificate issued for the motor vehicle in a licensed and bonded
1028 motor vehicle dealer's name during the previous 11 months to satisfy the requirement under
1029 this section.
- 1030 (c) If the title of a leased vehicle is being transferred to the lessee of the vehicle, the
1031 lessee may use an emissions inspection certificate issued during the previous 11 months to
1032 satisfy the requirement under this section.
- 1033 (d) If the motor vehicle is part of a fleet of 101 or more vehicles, the owner may not
1034 use an emissions inspection made more than 11 months before the renewal of registration to
1035 satisfy the requirement under this section.
- 1036 (e) If the application for renewal of registration is for a six-month registration period
1037 under Section [41-1a-215.5](#), the owner may use an emissions inspection certificate issued during

1038 the previous eight months to satisfy the requirement under this section.

1039 (11) (a) A county identified in Subsection (1) shall collect information about and
1040 monitor the program.

1041 (b) A county identified in Subsection (1) shall supply this information to an appropriate
1042 legislative committee, as designated by the Legislative Management Committee, at times
1043 determined by the designated committee to identify program needs, including funding needs.

1044 (12) If approved by the county legislative body, a county that had an established
1045 emissions inspection fee as of January 1, 2002, may increase the established fee that an
1046 emissions inspection station may charge by \$2.50 for each year that is exempted from
1047 emissions inspections under Subsection (9)(c) up to a \$7.50 increase.

1048 (13) (a) A county identified in Subsection (1) may impose a local emissions
1049 compliance fee on each motor vehicle registration within the county in accordance with the
1050 procedures and requirements of Section [41-1a-1223](#).

1051 (b) A county that imposes a local emissions compliance fee may use revenues
1052 generated from the fee for the establishment and enforcement of an emissions inspection and
1053 maintenance program in accordance with the requirements of this section.

1054 (c) A county that imposes a local emissions compliance fee may use revenues
1055 generated from the fee to promote programs to maintain a local, state, or national ambient air
1056 quality standard.

1057 Section 13. Section **41-12a-806** is amended to read:

1058 **41-12a-806. Restricted account -- Creation -- Funding -- Interest -- Purposes.**

1059 (1) There is created within the Transportation Fund a restricted account known as the
1060 "Uninsured Motorist Identification Restricted Account."

1061 (2) The account consists of money generated from the following revenue sources:

1062 (a) money received by the state under Section [41-1a-1218](#), the uninsured motorist
1063 identification fee;

1064 (b) money received by the state under Section [41-1a-1220](#), the registration
1065 reinstatement fee; and

- 1066 (c) appropriations made to the account by the Legislature.
- 1067 (3) (a) The account shall earn interest.
- 1068 (b) All interest earned on account money shall be deposited into the account.
- 1069 (4) The Legislature shall appropriate money from the account to:
- 1070 (a) the department to fund the contract with the designated agent;
- 1071 (b) the department to offset the costs to state and local law enforcement agencies of
- 1072 using the information for the purposes authorized under this part;
- 1073 (c) the Tax Commission to offset the costs to the Motor Vehicle Division for revoking
- 1074 and reinstating vehicle registrations under Subsection 41-1a-110(2)(a)(ii); and
- 1075 (d) the department to reimburse a person for the costs, including any applicable sales
- 1076 and use tax, of towing and storing the person's vehicle if:
- 1077 (i) the person's vehicle was impounded in accordance with Subsection 41-1a-1101(2);
- 1078 (ii) the impounded vehicle had owner's or operator's security in effect for the vehicle at
- 1079 the time of the impoundment;
- 1080 (iii) the database indicated that owner's or operator's security was not in effect for the
- 1081 impounded vehicle; and
- 1082 (iv) the department determines that the person's vehicle was wrongfully impounded.
- 1083 (5) The Legislature may appropriate not more than \$1,000,000 annually from the
- 1084 account to the Peace Officer Standards and Training Division, created under Section 53-6-103,
- 1085 for use in law enforcement training, including training on the use of the Uninsured Motorist
- 1086 Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured
- 1087 Motorist Identification Database Program.
- 1088 (6) (a) By following the procedures in Title 63G, Chapter 4, Administrative Procedures
- 1089 Act, the department shall hold a hearing to determine whether a person's vehicle was
- 1090 wrongfully impounded under Subsection 41-1a-1101(2).
- 1091 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1092 division shall make rules establishing procedures for a person to apply for a reimbursement
- 1093 under Subsection (4)(d).

1094 (c) A person is not eligible for a reimbursement under Subsection (4)(d) unless the
1095 person applies for the reimbursement within six months from the date that the motor vehicle
1096 was impounded.

1097 Section 14. Section **53B-8a-106** is amended to read:

1098 **53B-8a-106. Account agreements.**

1099 The plan may enter into account agreements with account owners on behalf of
1100 beneficiaries under the following terms and agreements:

1101 (1) (a) An account agreement may require an account owner to agree to invest a
1102 specific amount of money in the plan for a specific period of time for the benefit of a specific
1103 beneficiary, not to exceed an amount determined by the executive director.

1104 (b) Account agreements may be amended to provide for adjusted levels of payments
1105 based upon changed circumstances or changes in educational plans.

1106 (c) An account owner may make additional optional payments as long as the total
1107 payments for a specific beneficiary do not exceed the total estimated higher education costs as
1108 determined by the executive director.

1109 (d) Subject to Subsections (1)(f) and (g), the maximum amount of a qualified
1110 investment that a corporation that is an account owner may subtract from unadjusted income
1111 for a taxable year in accordance with Title 59, Chapter 7, Corporate Franchise and Income
1112 Taxes, is \$1,710 for each individual beneficiary for the taxable year beginning on or after
1113 January 1, 2010, but beginning on or before December 31, 2010.

1114 (e) Subject to Subsections (1)(f) and (g), the maximum amount of a qualified
1115 investment that may be used as the basis for claiming a tax credit in accordance with Section
1116 [59-10-1017](#), is:

1117 (i) subject to Subsection (1)(e)(iv), for a resident or nonresident estate or trust that is an
1118 account owner, \$1,710 for each individual beneficiary for the taxable year beginning on or after
1119 January 1, 2010, but beginning on or before December 31, 2010;

1120 (ii) subject to Subsection (1)(e)(iv), for a resident or nonresident individual that is an
1121 account owner, other than a husband and wife who are account owners and file a single return

1122 jointly under Title 59, Chapter 10, Individual Income Tax Act, \$1,710 for each individual
1123 beneficiary for the taxable year beginning on or after January 1, 2010, but beginning on or
1124 before December 31, 2010;

1125 (iii) subject to Subsection (1)(e)(iv), for a husband and wife who are account owners
1126 and file a single return jointly under Title 59, Chapter 10, Individual Income Tax Act, \$3,420
1127 for each individual beneficiary:

1128 (A) for the taxable year beginning on or after January 1, 2010, but beginning on or
1129 before December 31, 2010; and

1130 (B) regardless of whether the plan has entered into:

1131 (I) a separate account agreement with each spouse; or

1132 (II) a single account agreement with both spouses jointly; or

1133 (iv) for a grantor trust:

1134 (A) if the owner of the grantor trust has a single filing status or head of household
1135 filing status as defined in Section [~~59-10-1018~~] [59-10-1017](#), the amount described in
1136 Subsection (1)(e)(ii); or

1137 (B) if the owner of the grantor trust has a joint filing status as defined in Section
1138 [~~59-10-1018~~] [59-10-1017](#), the amount described in Subsection (1)(e)(iii).

1139 (f) (i) For taxable years beginning on or after January 1, 2011, the executive director
1140 shall annually increase the maximum amount of a qualified investment described in
1141 Subsections (1)(d) and (1)(e)(i) and (ii), by a percentage equal to the increase in the consumer
1142 price index for the preceding calendar year.

1143 (ii) After making an increase required by Subsection (1)(f)(i), the executive director
1144 shall:

1145 (A) round the maximum amount of the qualified investments described in Subsections
1146 (1)(d) and (1)(e)(i) and (ii) increased under Subsection (1)(f)(i) to the nearest 10 dollar
1147 increment; and

1148 (B) increase the maximum amount of the qualified investment described in Subsection
1149 (1)(e)(iii) so that the maximum amount of the qualified investment described in Subsection

1150 (1)(e)(iii) is equal to the product of:

1151 (I) the maximum amount of the qualified investment described in Subsection (1)(e)(ii)
1152 as rounded under Subsection (1)(f)(ii)(A); and

1153 (II) two.

1154 (iii) For purposes of Subsections (1)(f)(i) and (ii), the executive director shall calculate
1155 the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

1156 (g) For taxable years beginning on or after January 1, 2011, the executive director shall
1157 keep the previous year's maximum amount of a qualified investment described in Subsections
1158 (1)(d) and (1)(e)(i) and (ii) if the consumer price index for the preceding calendar year
1159 decreases.

1160 (2) (a) Beneficiaries designated in account agreements must be designated after birth
1161 and before age 19 for an account owner to:

1162 (i) subtract a qualified investment from income under Title 59, Chapter 7, Corporate
1163 Franchise and Income Taxes; or

1164 (ii) use a qualified investment as the basis for claiming a tax credit in accordance with
1165 Section 59-10-1017.

1166 (b) Account owners may designate a beneficiary age 19 or older, but investments for
1167 that beneficiary are not eligible to be:

1168 (i) subtracted from income under Title 59, Chapter 7, Corporate Franchise and Income
1169 Taxes; or

1170 (ii) used as the basis for claiming a tax credit in accordance with Section 59-10-1017.

1171 (3) Each account agreement shall state clearly that there are no guarantees regarding
1172 money in the plan as to the return of principal and that losses could occur.

1173 (4) Each account agreement shall provide that:

1174 (a) a contributor to, or designated beneficiary under, an account agreement may not
1175 direct the investment of any contributions or earnings on contributions;

1176 (b) any part of the money in any account may not be used as security for a loan; and

1177 (c) an account owner may not borrow from the plan.

1178 (5) The execution of an account agreement by the plan may not guarantee in any way
1179 that higher education costs will be equal to projections and estimates provided by the plan or
1180 that the beneficiary named in any account agreement will:

1181 (a) be admitted to an institution of higher education;

1182 (b) if admitted, be determined a resident for tuition purposes by the institution of
1183 higher education;

1184 (c) be allowed to continue attendance at the institution of higher education following
1185 admission; or

1186 (d) graduate from the institution of higher education.

1187 (6) A beneficiary may be changed as permitted by the rules and regulations of the
1188 board upon written request of the account owner prior to the date of admission of any
1189 beneficiary under an account agreement by an institution of higher education so long as the
1190 substitute beneficiary is eligible for participation.

1191 (7) An account agreement may be freely amended throughout the term of the account
1192 agreement in order to enable an account owner to increase or decrease the level of
1193 participation, change the designation of beneficiaries, and carry out similar matters as
1194 authorized by rule.

1195 (8) Each account agreement shall provide that:

1196 (a) the account agreement may be canceled upon the terms and conditions, and upon
1197 payment of the fees and costs set forth and contained in the board's rules and regulations; and

1198 (b) the executive director may amend the agreement unilaterally and retroactively, if
1199 necessary, to maintain the plan as a qualified tuition program under Section 529, Internal
1200 Revenue Code.

1201 Section 15. Section **53G-10-406** is amended to read:

1202 **53G-10-406. Underage Drinking Prevention Program -- State board rules.**

1203 (1) As used in this section:

1204 (a) "Advisory council" means the Underage Drinking Prevention Program Advisory
1205 Council created in this section.

1206 (b) "Program" means the Underage Drinking Prevention Program created in this
1207 section.

1208 (c) "School-based prevention program" means an evidence-based program intended for
1209 students aged 13 and older that:

- 1210 (i) is aimed at preventing underage consumption of alcohol;
- 1211 (ii) is delivered by methods that engage students in storytelling and visualization;
- 1212 (iii) addresses the behavioral risk factors associated with underage drinking; and
- 1213 (iv) provides practical tools to address the dangers of underage drinking.

1214 (2) There is created the Underage Drinking Prevention Program that consists of:

- 1215 (a) a school-based prevention program for students in grade 7 or 8; and
- 1216 (b) a school-based prevention program for students in grade 9 or 10 that increases
1217 awareness of the dangers of driving under the influence of alcohol.

1218 (3) (a) Beginning with the 2018-19 school year, an LEA shall offer the program each
1219 school year to each student in grade 7 or 8 and grade 9 or 10.

1220 (b) An LEA shall select from the providers qualified by the state board under
1221 Subsection (6) to offer the program.

1222 (4) The state board shall administer the program with input from the advisory council.

1223 (5) There is created the Underage Drinking Prevention Program Advisory Council
1224 comprised of the following members:

- 1225 (a) the executive director of the Department of Alcoholic Beverage Control or the
1226 executive director's designee;
- 1227 (b) the executive director of the Department of Health or the executive director's
1228 designee;
- 1229 (c) the director of the Division of Substance Abuse and Mental Health or the director's
1230 designee;
- 1231 (d) the director of the Division of Child and Family Services or the director's designee;
- 1232 (e) the director of the Division of Juvenile Justice Services or the director's designee;
- 1233 (f) the state superintendent or the state superintendent's designee; and

- 1234 (g) two members of the state board, appointed by the chair of the state board.
- 1235 (6) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state
1236 board shall qualify one or more providers to provide the program to an LEA.
- 1237 (b) In selecting a provider described in Subsection (6)(a), the state board shall consider:
- 1238 (i) whether the provider's program complies with the requirements described in this
1239 section;
- 1240 (ii) the extent to which the provider's underage drinking prevention program aligns
1241 with core standards for Utah public schools; and
- 1242 (iii) the provider's experience in providing a program that is effective at reducing
1243 underage drinking.
- 1244 [~~(7) (a) The state board shall use money from the Underage Drinking Prevention
1245 Program Restricted Account described in Section 53F-9-304 for the program.~~]
- 1246 [~~(b) The state board may use money from the Underage Drinking Prevention Program
1247 Restricted Account to fund up to .5 of a full-time equivalent position to administer the
1248 program.~~]
- 1249 [~~(8)~~ (7) The state board shall make rules that:
- 1250 (a) beginning with the 2018-19 school year, require an LEA to offer the Underage
1251 Drinking Prevention Program each school year to each student in grade 7 or 8 and grade 9 or
1252 10; and
- 1253 (b) establish criteria for the state board to use in selecting a provider described in
1254 Subsection (6).
- 1255 Section 16. Section **59-1-1503** is amended to read:
- 1256 **59-1-1503. Nonrefundable credit -- Sales and use tax exemption -- Sales and use**
1257 **tax remittance.**
- 1258 (1) A nonrefundable individual income tax credit is allowed as provided in Section
1259 **59-10-1028** related to a capital gain on a transaction involving the exchange of one form of
1260 legal tender for another form of legal tender.
- 1261 (2) Sales of currency or coin are exempt from sales and use taxes as provided in

1262 Subsection ~~59-12-104(50)~~(43).

1263 (3) The remittance of a sales and use tax on a transaction involving specie legal tender
1264 is as provided in Section 59-12-107.

1265 Section 17. Section 59-7-104 is amended to read:

1266 **59-7-104. Tax -- Minimum tax.**

1267 (1) Each domestic and foreign corporation, except a corporation that is exempt under
1268 Section 59-7-102, shall pay an annual tax to the state based on the corporation's Utah taxable
1269 income for the taxable year for the privilege of exercising the corporation's corporate franchise,
1270 as defined in Section 59-7-101, or for the privilege of doing business, as defined in Section
1271 59-7-101, in the state.

1272 (2) The tax shall be ~~[4.95%]~~ 4.66% of a corporation's Utah taxable income.

1273 (3) The minimum tax a corporation shall pay under this chapter is \$100.

1274 Section 18. Section 59-7-201 is amended to read:

1275 **59-7-201. Tax -- Minimum tax.**

1276 (1) There is imposed upon each corporation, except a corporation that is exempt under
1277 Section 59-7-102, a tax upon the corporation's Utah taxable income for the taxable year that is
1278 derived from sources within this state other than income for any period that the corporation is
1279 required to include in the corporation's tax base under Section 59-7-104.

1280 (2) The tax imposed by Subsection (1) shall be ~~[4.95%]~~ 4.66% of a corporation's Utah
1281 taxable income.

1282 (3) In no case shall the tax be less than \$100.

1283 Section 19. Section 59-7-610 is amended to read:

1284 **59-7-610. Recycling market development zones tax credits.**

1285 (1) Subject to other provisions of this section, a taxpayer that is a business operating in
1286 a recycling market development zone as defined in Section 63N-2-402 may claim the following
1287 nonrefundable tax credits:

1288 (a) a tax credit ~~[of 5% of]~~ equal to the product of the percentage listed in Subsection
1289 59-7-104(2) and the purchase price paid for machinery and equipment used directly in:

- 1290 (i) commercial composting; or
- 1291 (ii) manufacturing facilities or plant units that:
 - 1292 (A) manufacture, process, compound, or produce recycled items of tangible personal
 - 1293 property for sale; or
 - 1294 (B) reduce or reuse postconsumer waste material; and
- 1295 (b) a tax credit equal to the lesser of:
 - 1296 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test
 - 1297 inventory, and utilities made by the taxpayer for establishing and operating recycling or
 - 1298 composting technology in Utah; and
 - 1299 (ii) \$2,000.
- 1300 (2) (a) To claim a tax credit described in Subsection (1), the taxpayer shall receive
- 1301 from the Governor's Office of Economic Development a written certification, on a form
- 1302 approved by the commission, that includes:
 - 1303 (i) a statement that the taxpayer is operating a business within the boundaries of a
 - 1304 recycling market development zone;
 - 1305 (ii) for claims of the tax credit described in Subsection (1)(a):
 - 1306 (A) the type of the machinery and equipment that the taxpayer purchased;
 - 1307 (B) the date that the taxpayer purchased the machinery and equipment;
 - 1308 (C) the purchase price for the machinery and equipment;
 - 1309 (D) the total purchase price for all machinery and equipment for which the taxpayer is
 - 1310 claiming a tax credit;
 - 1311 (E) a statement that the machinery and equipment are integral to the composting or
 - 1312 recycling process; and
 - 1313 (F) the amount of the taxpayer's tax credit; and
 - 1314 (iii) for claims of the tax credit described in Subsection (1)(b):
 - 1315 (A) the type of net expenditure that the taxpayer made to a third party;
 - 1316 (B) the date that the taxpayer made the payment to a third party;
 - 1317 (C) the amount that the taxpayer paid to each third party;

- 1318 (D) the total amount that the taxpayer paid to all third parties;
- 1319 (E) a statement that the net expenditures support the establishment and operation of
1320 recycling or composting technology in Utah; and
- 1321 (F) the amount of the taxpayer's tax credit.
- 1322 (b) (i) The Governor's Office of Economic Development shall provide a taxpayer
1323 seeking to claim a tax credit under Subsection (1) with a copy of the written certification.
- 1324 (ii) The taxpayer shall retain a copy of the written certification for the same period of
1325 time that a person is required to keep books and records under Section [59-1-1406](#).
- 1326 (c) The Governor's Office of Economic Development shall submit to the commission
1327 an electronic list that includes:
- 1328 (i) the name and identifying information of each taxpayer to which the office issues a
1329 written certification; and
- 1330 (ii) for each taxpayer, the amount of each tax credit listed on the written certification.
- 1331 (3) A taxpayer may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or
1332 both that exceeds 40% of the taxpayer's state income tax liability as the tax liability is
1333 calculated:
- 1334 (a) for the taxable year in which the taxpayer made the purchases or payments;
- 1335 (b) before any other tax credits the taxpayer may claim for the taxable year; and
- 1336 (c) before the taxpayer claiming a tax credit authorized by this section.
- 1337 (4) The commission shall make rules governing what information a taxpayer shall file
1338 with the commission to verify the entitlement to and amount of a tax credit.
- 1339 (5) Except as provided in Subsections (6) through (8), a taxpayer may carry forward, to
1340 the next three taxable years, the amount of the tax credit that exceeds the taxpayer's income tax
1341 liability for the taxable year.
- 1342 (6) A taxpayer may not claim or carry forward a tax credit described in Subsection
1343 (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under
1344 Section [63N-2-213](#).
- 1345 (7) A taxpayer may not claim or carry forward a tax credit described in Subsection

1346 (1)(b) in a taxable year during which the taxpayer claims or carries forward a tax credit under
1347 Section 63N-2-213.

1348 (8) A taxpayer may not claim or carry forward a tax credit under this section for a
1349 taxable year during which the taxpayer claims the targeted business income tax credit under
1350 Section 59-7-624.

1351 Section 20. Section 59-7-614.1 is amended to read:

1352 **59-7-614.1. Refundable tax credit for hand tools used in farming operations --**
1353 **Procedures for refund -- Transfers from General Fund to Education Fund -- Rulemaking**
1354 **authority.**

1355 (1) [~~For a taxable year beginning on or after January 1, 2004, a~~] A taxpayer may claim
1356 a refundable tax credit:

1357 (a) as provided in this section;

1358 (b) against taxes otherwise due under this chapter; and

1359 (c) in an amount equal to the amount of tax the taxpayer pays:

1360 (i) on a purchase of a hand tool:

1361 (A) if the purchase is made on or after July 1, 2004;

1362 (B) if the hand tool is used or consumed primarily and directly in a farming operation
1363 in the state; and

1364 (C) if the unit purchase price of the hand tool is more than \$250; and

1365 (ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection
1366 (1)(c)(i).

1367 (2) A taxpayer:

1368 (a) shall retain the following to establish the amount of tax the resident or nonresident
1369 individual paid under Chapter 12, Sales and Use Tax Act, on the purchase described in
1370 Subsection (1)(c)(i):

1371 (i) a receipt;

1372 (ii) an invoice; or

1373 (iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and

1374 (b) may not carry forward or carry back a tax credit under this section.

1375 (3) (a) In accordance with any rules prescribed by the commission under Subsection

1376 (3)(b)~~[(i)]~~ the commission shall make a refund to a taxpayer that claims a tax credit under this

1377 section if the amount of the tax credit exceeds the taxpayer's tax liability under this chapter~~;~~

1378 ~~and~~].

1379 ~~[(ii) the Division of Finance shall transfer at least annually from the General Fund into~~

1380 ~~the Education Fund an amount equal to the amount of tax credit claimed under this section.]~~

1381 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1382 commission may make rules providing procedures for making~~[(i)]~~ a refund to a taxpayer as

1383 required by Subsection (3)(a)~~[(i); or]~~.

1384 ~~[(ii) transfers from the General Fund into the Education Fund as required by~~

1385 ~~Subsection (3)(a)(ii).]~~

1386 Section 21. Section **59-7-618** is amended to read:

1387 **59-7-618. Tax credit related to alternative fuel heavy duty vehicles.**

1388 (1) As used in this section:

1389 (a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air

1390 Conservation Act.

1391 (b) "Director" means the director of the Division of Air Quality appointed under

1392 Section [19-2-107](#).

1393 (c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to

1394 vehicle classifications established by the Federal Highway Administration.

1395 (d) "Natural gas" includes compressed natural gas and liquified natural gas.

1396 (e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

1397 (i) has never been titled or registered and has been driven less than 7,500 miles; and

1398 (ii) is fueled by natural gas, has a 100% electric drivetrain, or has a hydrogen-electric

1399 drivetrain.

1400 (f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

1401 (g) "Qualified taxpayer" means a taxpayer that:

- 1402 (i) purchases a qualified heavy duty vehicle; and
1403 (ii) receives a tax credit certificate from the director.
1404 (h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and
1405 owned by a single taxpayer.
- 1406 (i) "Tax credit certificate" means a certificate issued by the director certifying that a
1407 taxpayer is entitled to a tax credit as provided in this section and stating the amount of the tax
1408 credit.
- 1409 (2) A qualified taxpayer may claim a nonrefundable tax credit against tax otherwise
1410 due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required
1411 to Pay Corporate Franchise or Income Tax Act:
- 1412 (a) in an amount equal to:
- 1413 (i) \$25,000, if the qualified purchase of a natural gas heavy duty vehicle occurs during
1414 calendar year 2015 or calendar year 2016;
- 1415 (ii) \$25,000, if the qualified purchase occurs during calendar year 2017;
- 1416 (iii) \$20,000, if the qualified purchase occurs during calendar year 2018;
- 1417 (iv) \$18,000, if the qualified purchase occurs during calendar year 2019; and
- 1418 (v) \$15,000, if the qualified purchase occurs during calendar year 2020; and
- 1419 (b) if the qualified taxpayer certifies under oath that over 50% of the miles that the
1420 heavy duty vehicle that is the subject of the qualified purchase will travel annually will be
1421 within the state.
- 1422 (3) (a) Except as provided in Subsection (3)(b), a taxpayer may not submit an
1423 application for, and the director may not issue to the taxpayer, a tax credit certificate under this
1424 section in any taxable year for a qualified purchase if the director has already issued tax credit
1425 certificates to the taxpayer for 10 qualified purchases in the same taxable year.
- 1426 (b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of
1427 tax credits under Subsection (5) has not been claimed, a taxpayer may submit an application
1428 for, and the director may issue to the taxpayer, one or more tax credit certificates for up to eight
1429 additional qualified purchases, even if the director has already issued to that taxpayer tax credit

1430 certificates for the maximum number of qualified purchases allowed under Subsection (3)(a).

1431 (4) (a) Subject to Subsection (4)(b), the director shall reserve 25% of all tax credits
1432 available under this section for qualified taxpayers with a small fleet.

1433 (b) Subsection (4)(a) does not prevent a taxpayer from submitting an application for, or
1434 the director from issuing, a tax credit certificate if, before October 1, qualified taxpayers with a
1435 small fleet have not reserved under Subsection (5)(b) tax credits for the full amount reserved
1436 under Subsection (4)(a).

1437 (5) (a) The aggregate annual total amount of tax credits represented by tax credit
1438 certificates that the director issues under this section and Section 59-10-1033 may not exceed
1439 \$500,000.

1440 (b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative
1441 Rulemaking Act, make rules to establish a process under which a taxpayer may reserve a
1442 potential tax credit under this section for a limited time to allow the taxpayer to make a
1443 qualified purchase with the assurance that the aggregate limit under Subsection (5)(a) will not
1444 be met before the taxpayer is able to submit an application for a tax credit certificate.

1445 (6) (a) (i) A taxpayer wishing to claim a tax credit under this section shall, using forms
1446 the board requires by rule:

1447 (A) submit to the director an application for a tax credit;

1448 (B) provide the director proof of a qualified purchase; and

1449 (C) submit to the director the certification under oath required under Subsection (2)(b).

1450 (ii) Upon receiving the application, proof, and certification required under Subsection
1451 (6)(a)(i), the director shall provide the taxpayer a written statement from the director
1452 acknowledging receipt of the proof.

1453 (b) If the director determines that a taxpayer qualifies for a tax credit under this section,
1454 the director shall:

1455 (i) determine the amount of tax credit the taxpayer is allowed under this section; and

1456 (ii) provide the taxpayer with a written tax credit certificate:

1457 (A) stating that the taxpayer has qualified for a tax credit; and

1458 (B) showing the amount of tax credit for which the taxpayer has qualified under this
1459 section.

1460 (c) A qualified taxpayer shall retain the tax credit certificate.

1461 (d) The director shall at least annually submit to the commission a list of all qualified
1462 taxpayers to which the director has issued a tax credit certificate and the amount of each tax
1463 credit represented by the tax credit certificates.

1464 (7) The tax credit under this section is allowed only:

1465 (a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain
1466 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year
1467 by the qualified taxpayer;

1468 (b) for the taxable year in which the qualified purchase occurs; and

1469 (c) once per vehicle.

1470 (8) A qualified taxpayer may not assign a tax credit or a tax credit certificate under this
1471 section to another person.

1472 (9) If the qualified taxpayer receives a tax credit certificate under this section that
1473 allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this
1474 chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay
1475 Corporate Franchise or Income Tax Act, for a taxable year, the qualified taxpayer may carry
1476 forward the amount of the tax credit that exceeds the tax liability for a period that does not
1477 exceed the next five taxable years.

1478 ~~[(10) (a) In accordance with any rules prescribed by the commission under Subsection~~
1479 ~~(10)(b), the Division of Finance shall transfer at least annually from the General Fund into the~~
1480 ~~Education Fund the aggregate amount of all tax credits claimed under this section.]~~

1481 ~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
1482 ~~the commission may make rules for making a transfer from the General Fund into the~~
1483 ~~Education Fund as required by Subsection (10)(a).]~~

1484 Section 22. Section **59-7-620** is amended to read:

1485 **59-7-620. Nonrefundable tax credit for contribution to state Achieving a Better**

1486 **Life Experience Program account.**

1487 (1) As used in this section:

1488 (a) "Account" means an account in a qualified ABLE program where the designated
1489 beneficiary of the account is a resident of this state.

1490 (b) "Contributor" means a corporation that:

1491 (i) makes a contribution to an account; and

1492 (ii) receives a statement from the qualified ABLE program itemizing the contribution.

1493 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.
1494 529A.

1495 (d) "Qualified ABLE program" means the same as that term is defined in Section
1496 [35A-12-102](#).

1497 (2) A contributor to an account may claim a nonrefundable tax credit as provided in
1498 this section.

1499 (3) Subject to the other provisions of this section, the tax credit is equal to the product
1500 of:

1501 (a) ~~[5%]~~ the percentage listed in Subsection [59-7-104\(2\)](#); and

1502 (b) the total amount of contributions:

1503 (i) the contributor makes for the taxable year; and

1504 (ii) for which the contributor receives a statement from the qualified ABLE program
1505 itemizing the contributions.

1506 (4) A contributor may not claim a tax credit under this section:

1507 (a) for an amount of excess contribution to an account that is returned to the
1508 contributor; or

1509 (b) with respect to an amount the contributor deducts on a federal income tax return.

1510 (5) A tax credit under this section may not be carried forward or carried back.

1511 Section 23. Section **59-10-104** is amended to read:

1512 **59-10-104. Tax basis -- Tax rate -- Exemption.**

1513 (1) A tax is imposed on the state taxable income of a resident individual as provided in

1514 this section.

1515 (2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the
1516 product of:

1517 (a) the resident individual's state taxable income for that taxable year; and

1518 (b) ~~[4.95%]~~ 4.66%.

1519 (3) This section does not apply to a resident individual exempt from taxation under
1520 Section 59-10-104.1.

1521 Section 24. Section **59-10-529.1** is amended to read:

1522 **59-10-529.1. Time period for commission to issue a refund.**

1523 (1) Except as provided in Subsection (2), the commission may not issue a refund
1524 before March 1.

1525 (2) The commission may issue a refund before March 1 if, before March 1, the
1526 commission determines that:

1527 (a) (i) an employer has filed the one or more forms in accordance with Subsection
1528 59-10-406(8) the employer is required to file with respect to an individual; and

1529 (ii) for a refund of a tax credit described in Section 59-10-1114, the Department of
1530 Workforce Services has submitted the electronic report required by Section 35A-9-214; and

1531 (b) the individual has filed a return in accordance with this chapter.

1532 Section 25. Section **59-10-1005** is amended to read:

1533 **59-10-1005. Tax credit for at-home parent.**

1534 (1) As used in this section:

1535 (a) "At-home parent" means a parent:

1536 (i) who provides full-time care at the parent's residence for one or more of the parent's
1537 own qualifying children;

1538 (ii) who claims ~~[the qualifying child as a dependent on the parent's individual income~~
1539 ~~tax return for the taxable year for which the parent claims the credit]~~ a tax credit with respect to
1540 the qualifying child under Section 24, Internal Revenue Code, on the parent's federal individual
1541 income tax return for the taxable year; and

1542 (iii) if the sum of the following amounts are \$3,000 or less for the taxable year for
1543 which the parent claims the credit:

1544 (A) the total wages, tips, and other compensation listed on all of the parent's federal
1545 Forms W-2; and

1546 (B) the gross income listed on the parent's federal Form 1040 Schedule C, Profit or
1547 Loss From Business.

1548 (b) "Parent" means an individual who:

1549 (i) is the biological mother or father of a qualifying child;

1550 (ii) is the stepfather or stepmother of a qualifying child;

1551 (iii) (A) legally adopts a qualifying child; or

1552 (B) has a qualifying child placed in the individual's home:

1553 (I) by a child-placing agency, as defined in Section 62A-2-101; and

1554 (II) for the purpose of legally adopting the child;

1555 (iv) is a foster parent of a qualifying child; or

1556 (v) is a legal guardian of a qualifying child.

1557 (c) "Qualifying child" means a child who is no more than 12 months of age on the last
1558 day of the taxable year for which the tax credit is claimed.

1559 (2) [~~For a taxable year beginning on or after January 1, 2000, a~~] A claimant may claim
1560 on the claimant's individual income tax return a nonrefundable tax credit of \$100 for each
1561 qualifying child if:

1562 (a) the claimant or another claimant filing a joint individual income tax return with the
1563 claimant is an at-home parent; and

1564 (b) the adjusted gross income of all of the claimants filing the individual income tax
1565 return is less than or equal to \$50,000.

1566 (3) A claimant may not carry forward or carry back a tax credit authorized by this
1567 section.

1568 [~~(4)(a) In accordance with any rules prescribed by the commission under Subsection~~
1569 ~~(4)(b), the Division of Finance shall transfer at least annually from the General Fund into the~~

1570 Education Fund the aggregate amount of all tax credits claimed under this section.]

1571 ~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
1572 ~~the commission may make rules for making a transfer from the General Fund into the~~
1573 ~~Education Fund as required by Subsection (4)(a).]~~

1574 Section 26. Section **59-10-1007** is amended to read:

1575 **59-10-1007. Recycling market development zones tax credits.**

1576 (1) Subject to other provisions of this section, a claimant, estate, or trust in a recycling
1577 market development zone as defined in Section [63N-2-402](#) may claim the following
1578 nonrefundable tax credits:

1579 (a) a tax credit ~~[of 5% of]~~ equal to the product of the percentage listed in Subsection
1580 [59-10-104\(2\)](#) and the purchase price paid for machinery and equipment used directly in:

1581 (i) commercial composting; or

1582 (ii) manufacturing facilities or plant units that:

1583 (A) manufacture, process, compound, or produce recycled items of tangible personal
1584 property for sale; or

1585 (B) reduce or reuse postconsumer waste material; and

1586 (b) a tax credit equal to the lesser of:

1587 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test
1588 inventory, and utilities made by the claimant, estate, or trust for establishing and operating
1589 recycling or composting technology in Utah; and

1590 (ii) \$2,000.

1591 (2) (a) To claim a tax credit described in Subsection (1), the claimant, estate, or trust
1592 shall receive from the Governor's Office of Economic Development a written certification, on a
1593 form approved by the commission, that includes:

1594 (i) a statement that the claimant, estate, or trust is operating within the boundaries of a
1595 recycling market development zone;

1596 (ii) for claims of the tax credit described in Subsection (1)(a):

1597 (A) the type of the machinery and equipment that the claimant, estate, or trust

1598 purchased;

1599 (B) the date that the claimant, estate, or trust purchased the machinery and equipment;

1600 (C) the purchase price for the machinery and equipment;

1601 (D) the total purchase price for all machinery and equipment for which the claimant,

1602 estate, or trust is claiming a tax credit;

1603 (E) the amount of the claimant's, estate's, or trust's tax credit; and

1604 (F) a statement that the machinery and equipment are integral to the composting or

1605 recycling process; and

1606 (iii) for claims of the tax credit described in Subsection (1)(b):

1607 (A) the type of net expenditure that the claimant, estate, or trust made to a third party;

1608 (B) the date that the claimant, estate, or trust made the payment to a third party;

1609 (C) the amount that the claimant, estate, or trust paid to each third party;

1610 (D) the total amount that the claimant, estate, or trust paid to all third parties;

1611 (E) a statement that the net expenditures support the establishment and operation of

1612 recycling or composting technology in Utah; and

1613 (F) the amount of the claimant's, estate's, or trust's tax credit.

1614 (b) (i) The Governor's Office of Economic Development shall provide a claimant,

1615 estate, or trust seeking to claim a tax credit under Subsection (1) with a copy of the written

1616 certification.

1617 (ii) The claimant, estate, or trust shall retain a copy of the written certification for the

1618 same period of time that a person is required to keep books and records under Section

1619 [59-1-1406](#).

1620 (c) The Governor's Office of Economic Development shall submit to the commission

1621 an electronic list that includes:

1622 (i) the name and identifying information of each claimant, estate, or trust to which the

1623 office issues a written certification; and

1624 (ii) for each claimant, estate, or trust, the amount of each tax credit listed on the written

1625 certification.

1626 (3) A claimant, estate, or trust may not claim a tax credit under Subsection (1)(a),
1627 Subsection (1)(b), or both that exceeds 40% of the claimant's, estate's, or trust's state income
1628 tax liability as the tax liability is calculated:

1629 (a) for the taxable year in which the claimant, estate, or trust made the purchases or
1630 payments;

1631 (b) before any other tax credits the claimant, estate, or trust may claim for the taxable
1632 year; and

1633 (c) before the claimant, estate, or trust claiming a tax credit authorized by this section.

1634 (4) The commission shall make rules governing what information a claimant, estate, or
1635 trust shall file with the commission to verify the entitlement to and amount of a tax credit.

1636 (5) Except as provided in Subsections (6) through (8), a claimant, estate, or trust may
1637 carry forward, to the next three taxable years, the amount of the tax credit that exceeds the
1638 taxpayer's income tax liability for the taxable year.

1639 (6) A claimant, estate, or trust may not claim or carry forward a tax credit described in
1640 Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries
1641 forward a tax credit under Section [63N-2-213](#).

1642 (7) A claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b)
1643 in a taxable year during which the claimant, estate, or trust claims or carries forward a tax
1644 credit under Section [63N-2-213](#).

1645 (8) A claimant, estate, or trust may not claim or carry forward a tax credit available
1646 under this section for a taxable year during which the claimant, estate, or trust claims the
1647 targeted business income tax credit under Section [59-10-1112](#).

1648 Section 27. Section **59-10-1017** is amended to read:

1649 **59-10-1017. Utah Educational Savings Plan tax credit.**

1650 (1) As used in this section:

1651 (a) "Account owner" means the same as that term is defined in Section [53B-8a-102](#).

1652 (b) "Grantor trust" means the same as that term is defined in Section [53B-8a-102.5](#).

1653 (c) "Higher education costs" means the same as that term is defined in Section

1654 [53B-8a-102.5](#).

1655 (d) "Joint filing status" means:

1656 (i) spouses who file one return jointly under this chapter for a taxable year; or

1657 (ii) a surviving spouse, as defined in Section (2)(a), Internal Revenue Code, who files a
1658 single federal individual income tax return for the taxable year.

1659 ~~(d)~~ (e) "Maximum amount of a qualified investment for the taxable year" means, for
1660 a taxable year, the product of ~~5%~~ the percentage listed in Subsection [59-10-104\(2\)](#) and:

1661 (i) subject to Subsection (1)~~(d)~~(e)(iii), for a claimant, estate, or trust that is an account
1662 owner, if that claimant, estate, or trust is other than ~~[husband and wife]~~ spouse account owners
1663 who file ~~[a single]~~ one return jointly, the maximum amount of a qualified investment:

1664 (A) listed in Subsection [53B-8a-106\(1\)\(e\)\(ii\)](#); and

1665 (B) increased or kept for that taxable year in accordance with Subsections
1666 [53B-8a-106\(1\)\(f\)](#) and (g);

1667 (ii) subject to Subsection (1)~~(d)~~(e)(iii), for claimants who are ~~[husband and wife]~~
1668 spouse account owners who file ~~[a single]~~ one return jointly, the maximum amount of a
1669 qualified investment:

1670 (A) listed in Subsection [53B-8a-106\(1\)\(e\)\(iii\)](#); and

1671 (B) increased or kept for that taxable year in accordance with Subsections
1672 [53B-8a-106\(1\)\(f\)](#) and (g); or

1673 (iii) for a grantor trust:

1674 (A) if the owner of the grantor trust has a single filing status or head of household
1675 filing status as defined in Section [59-10-1018](#), the amount described in Subsection

1676 ~~(1)(d)~~(e)(i); or

1677 (B) if the owner of the grantor trust has a joint filing status as defined in Section
1678 [59-10-1018](#), the amount described in Subsection (1)~~(d)~~(e)(ii).

1679 ~~(e)~~ (f) "Owner of the grantor trust" means the same as that term is defined in Section
1680 [53B-8a-102.5](#).

1681 ~~(f)~~ (g) "Qualified investment" means the same as that term is defined in Section

1682 [53B-8a-102.5](#).

1683 (2) Except as provided in Section [59-10-1002.2](#) and subject to the other provisions of
1684 this section, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax
1685 credit equal to the product of:

1686 (a) the amount of a qualified investment made:

1687 (i) during the taxable year; and

1688 (ii) into an account owned by the claimant, estate, or trust; and

1689 (b) ~~5%~~ the percentage listed in Subsection [59-10-104\(2\)](#).

1690 (3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may
1691 make a qualified investment described in Subsection (2).

1692 (4) A claimant, estate, or trust that is an account owner may not claim a tax credit
1693 under this section with respect to any portion of a qualified investment described in Subsection
1694 (2) that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal
1695 income tax return.

1696 (5) A tax credit under this section may not exceed the maximum amount of a qualified
1697 investment for the taxable year.

1698 (6) A claimant, estate, or trust that is an account owner may not carry forward or carry
1699 back the tax credit under this section.

1700 (7) A claimant, estate, or trust may claim a tax credit under this section in addition to
1701 the tax credit described in Section [59-10-1017.1](#).

1702 Section 28. Section [59-10-1017.1](#) is amended to read:

1703 **[59-10-1017.1. Student Prosperity Savings Program tax credit.](#)**

1704 (1) As used in this section, "qualified donation" means an amount donated, in
1705 accordance with Section [53B-8a-203](#), to the Student Prosperity Savings Program created in
1706 Section [53B-8a-202](#).

1707 (2) A claimant, estate, or trust may claim a nonrefundable tax credit for a qualified
1708 donation.

1709 (3) The tax credit equals the product of:

1710 (a) the qualified donation; and
1711 (b) ~~[5%]~~ the percentage listed in Subsection [59-10-104\(2\)](#).
1712 (4) A claimant, estate, or trust may not claim a tax credit under this section with
1713 respect to any portion of a qualified donation that a claimant, estate, or trust deducts on a
1714 federal income tax return.

1715 (5) A claimant, estate, or trust may not carry forward or carry back the portion of the
1716 tax credit allowed by this section that exceeds the claimant's, estate's, or trust's tax liability for
1717 the taxable year in which the claimant, estate, or trust claims the tax credit.

1718 (6) A claimant, estate, or trust may claim a tax credit under this section in addition to
1719 the tax credit described in Section [59-10-1017](#).

1720 Section 29. Section **59-10-1018** is amended to read:

1721 **59-10-1018. Definitions -- Nonrefundable taxpayer tax credits.**

1722 (1) As used in this section:

1723 (a) "Head of household filing status" means a head of household, as defined in Section
1724 2(b), Internal Revenue Code, who files ~~[a single]~~ one federal individual income tax return for
1725 the taxable year.

1726 (b) "Joint filing status" means ~~[(i)]~~ spouses who file ~~[a single]~~ one return jointly under
1727 this chapter for a taxable year ~~[; or]~~.

1728 ~~[(ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a
1729 single federal individual income tax return for the taxable year.]~~

1730 (c) "Qualifying dependent" means an individual with respect to whom the claimant is
1731 allowed to claim a tax credit under Section 24, Internal Revenue Code, on the claimant's
1732 federal individual income tax return for the taxable year.

1733 (d) "Qualifying widower filing status" means a surviving spouse, as defined in Section
1734 (2)(a), Internal Revenue Code, who files a single federal individual income tax return for the
1735 taxable year.

1736 ~~[(d)]~~ (e) "Single filing status" means:

1737 (i) a single individual who files a single federal individual income tax return for the

1738 taxable year; or

1739 (ii) a married individual who:

1740 (A) does not file a single federal individual income tax return jointly with that married

1741 individual's spouse for the taxable year; and

1742 (B) files a single federal individual income tax return for the taxable year.

1743 ~~[(e)]~~ (f) "State or local income tax" means the lesser of:

1744 (i) the amount of state or local income tax that the claimant:

1745 (A) pays for the taxable year; and

1746 (B) reports on the claimant's federal individual income tax return for the taxable year,

1747 regardless of whether the claimant is allowed an itemized deduction on the claimant's federal

1748 individual income tax return for the taxable year for the full amount of state or local income tax

1749 paid; and

1750 (ii) \$10,000.

1751 ~~[(f)]~~ (g) (i) "Utah itemized deduction" means the amount the claimant deducts as

1752 allowed as an itemized deduction on the claimant's federal individual income tax return for that

1753 taxable year minus any amount of state or local income tax for the taxable year.

1754 (ii) "Utah itemized deduction" does not include any amount of qualified business

1755 income that the claimant subtracts as allowed by Section 199A, Internal Revenue Code, on the

1756 claimant's federal income tax return for that taxable year.

1757 ~~[(g)]~~ (h) "Utah personal exemption" means, subject to Subsection (6), ~~[\$565]~~ \$2,500

1758 multiplied by ~~[the number of the claimant's qualifying dependents.];~~

1759 (i) for a claimant who has a joint filing status and no qualifying dependents, one; or

1760 (ii) for a claimant who has qualifying dependents, the number of the claimant's

1761 qualifying dependents.

1762 (2) Except as provided in Section [59-10-1002.2](#), and subject to Subsections (3) through

1763 (5), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part

1764 equal to the sum of:

1765 (a) (i) for a claimant that deducts the standard deduction on the claimant's federal

1766 individual income tax return for the taxable year, 6% of the amount the claimant deducts as
1767 allowed as the standard deduction on the claimant's federal individual income tax return for
1768 that taxable year; or

1769 (ii) for a claimant that itemizes deductions on the claimant's federal individual income
1770 tax return for the taxable year, 6% of the amount of the claimant's Utah itemized deduction;
1771 and

1772 (b) 6% of the claimant's Utah personal exemption.

1773 (3) A claimant may not carry forward or carry back a tax credit under this section.

1774 (4) The tax credit allowed by Subsection (2) shall be reduced by \$.013 for each dollar
1775 by which a claimant's state taxable income exceeds:

1776 (a) for a claimant who has a single filing status, [~~\$12,000~~] \$14,879;

1777 (b) for a claimant who has a head of household filing status, [~~\$18,000~~] \$22,318; or

1778 (c) for a claimant who has a joint filing status[~~-, \$24,000~~] or a qualifying widower filing
1779 status, \$29,758.

1780 (5) (a) For a taxable year beginning on or after January 1, [~~2009~~] 2021, the commission
1781 shall increase or decrease annually the following dollar amounts by a percentage equal to the
1782 percentage difference between the consumer price index for the preceding calendar year and
1783 the consumer price index for calendar year [~~2007~~] 2019:

1784 (i) the dollar amount listed in Subsection (4)(a); and

1785 (ii) the dollar amount listed in Subsection (4)(b).

1786 (b) After the commission increases or decreases the dollar amounts listed in Subsection
1787 (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the
1788 nearest whole dollar.

1789 (c) After the commission rounds the dollar amounts as required by Subsection (5)(b),
1790 the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that
1791 the dollar amount listed in Subsection (4)(c) is equal to the product of:

1792 (i) the dollar amount listed in Subsection (4)(a); and

1793 (ii) two.

1794 (d) For purposes of Subsection (5)(a), the commission shall calculate the consumer
1795 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

1796 (6) (a) For a taxable year beginning on or after January 1, [~~2019~~] 2021, the commission
1797 shall increase annually the Utah personal exemption amount listed in Subsection (1)[~~(g)~~](h) by
1798 a percentage equal to the percentage by which the consumer price index for the preceding
1799 calendar year exceeds the consumer price index for calendar year [~~2017~~] 2019.

1800 (b) After the commission increases the Utah personal exemption amount as described
1801 in Subsection (6)(a), the commission shall round the Utah personal exemption amount to the
1802 nearest whole dollar.

1803 (c) For purposes of Subsection (6)(a), the commission shall calculate the consumer
1804 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

1805 Section 30. Section **59-10-1018.1** is enacted to read:

1806 **59-10-1018.1. Taxpayer tax credit rebate.**

1807 (1) As used in this section:

1808 (a) "Head of household filing status" means the same as that term is defined in Section
1809 [59-10-1018](#).

1810 (b) "Joint filing status" means the same as that term is defined in Section [59-10-1018](#).

1811 (c) "Qualifying dependent" means the same as that term is defined in Section
1812 [59-10-1018](#).

1813 (d) "Qualifying filer" means a person who files a return under this chapter:

1814 (i) (A) for a taxable year beginning on or after January 1, 2018, and on or before
1815 December 31, 2018; and

1816 (B) on or before the deadline described in Section [59-10-516](#); or

1817 (ii) (A) for a taxable year beginning on or after January 1, 2019, and on or before
1818 December 31, 2019; and

1819 (B) on or before the deadline described in Section [59-10-514](#).

1820 (e) "Qualifying widower filing status" means the same as that term is defined in
1821 Section [59-10-1018](#).

1822 (f) "Single filing status" means the same as that term is defined in Section 59-10-1018.

1823 (g) "Utah personal exemption rebate" means \$1,285 multiplied by the number of the
1824 claimant's qualifying dependents.

1825 (2) Subject to the other provisions of this section, the commission shall provide a
1826 rebate to each qualifying filer equal to the lesser of:

1827 (a) the qualifying filer's tax liability for:

1828 (i) the taxable year beginning on or after January 1, 2018, and on or before December
1829 31, 2018; or

1830 (ii) if the claimant did not file a return under this chapter for the taxable year described
1831 in Subsection (2)(a), the taxable year beginning on or after January 1, 2019, and on or before
1832 December 31, 2019; and

1833 (b) 6% of the claimant's Utah personal exemption rebate.

1834 (3) The rebate described in Subsection (2) is reduced by \$.013 for each dollar by which
1835 the claimant's state taxable income exceeds:

1836 (a) for a claimant who has a single filing status, \$14,879;

1837 (b) for a claimant who has a head of household filing status, \$22,318; or

1838 (c) for a claimant who has a joint filing status or a qualifying widower filing status,
1839 \$29,758.

1840 (4) For each return filed under this chapter, no more than one qualifying filer may
1841 receive a rebate under this section.

1842 (5) The commission shall provide a qualifying filer who is a nonresident individual or
1843 a part-year resident individual an apportioned amount of the rebate described in this section
1844 equal to:

1845 (a) for a nonresident individual, the product of:

1846 (i) the state income tax percentage for the nonresident individual; and

1847 (ii) the amount of the rebate that the commission would have provided the nonresident
1848 individual but for the apportionment requirements described in this subsection; or

1849 (b) for a part-year resident individual, the product of:

1850 (i) the state income tax percentage for the part-year resident individual; and
 1851 (ii) the amount of the rebate that the commission would have provided the part-year
 1852 resident individual but for the apportionment requirements described in this subsection.

1853 (6) If the value of a qualifying filer's rebate under this section is less than \$25, the
 1854 qualifying filer is not eligible to receive the rebate.

1855 (7) The commission shall comply with Subsection (2) on or before:

1856 (a) April 1, 2020; or

1857 (b) if the claimant did not file a return under this chapter for the taxable year beginning
 1858 on or after January 1, 2018, and on or before December 31, 2018, July 1, 2020.

1859 Section 31. Section **59-10-1019** is amended to read:

1860 **59-10-1019. Definitions -- Nonrefundable retirement tax credit.**

1861 (1) As used in this section:

1862 (a) "Eligible over age 65 [~~or older~~] retiree" means a claimant, regardless of whether
 1863 that claimant is retired, who [~~:(i) is 65 years of age or older; and (ii)] was born on or before~~
 1864 December 31, 1952.

1865 [~~(b) (i) "Eligible retirement income" means income received by an eligible under age~~
 1866 ~~65 retiree as a pension or annuity if that pension or annuity is:]~~

1867 [~~(A) paid to the eligible under age 65 retiree or the surviving spouse of an eligible~~
 1868 ~~under age 65 retiree; and]~~

1869 [~~(B) (I) paid from an annuity contract purchased by an employer under a plan that~~
 1870 ~~meets the requirements of Section 404(a)(2), Internal Revenue Code;]~~

1871 [~~(H) purchased by an employee under a plan that meets the requirements of Section~~
 1872 ~~408, Internal Revenue Code; or]~~

1873 [~~(H) paid by:]~~

1874 [~~(Aa) the United States;]~~

1875 [~~(Bb) a state or a political subdivision of a state; or]~~

1876 [~~(Cc) the District of Columbia.;~~

1877 [~~(ii) "Eligible retirement income" does not include amounts received by the spouse of a~~

1878 living eligible under age 65 retiree because of the eligible under age 65 retiree's having been
1879 employed in a community property state.]

1880 [~~(c)~~ "Eligible under age 65 retiree" means a claimant, regardless of whether that
1881 claimant is retired, who:]

1882 [(i) is younger than 65 years of age;]

1883 [(ii) was born on or before December 31, 1952; and]

1884 [(iii) has eligible retirement income for the taxable year for which a tax credit is
1885 claimed under this section.]

1886 [~~(d)~~] (b) "Head of household filing status" [~~is as~~] means the same as that term is
1887 defined in Section 59-10-1018.

1888 [~~(e)~~ "Joint filing status" is as defined in Section 59-10-1018.]

1889 (c) "Joint filing status" means:

1890 (i) spouses who file one return jointly under this chapter for a taxable year; or

1891 (ii) a surviving spouse, as defined in Section (2)(a), Internal Revenue Code, who files a
1892 single federal individual income tax return for the taxable year.

1893 [~~(f)~~] (d) "Married filing separately status" means a married individual who:

1894 (i) does not file a single federal individual income tax return jointly with that married
1895 individual's spouse for the taxable year; and

1896 (ii) files a single federal individual income tax return for the taxable year.

1897 [~~(g)~~] (e) "Modified adjusted gross income" means the sum of an eligible over age 65
1898 [~~or older retiree's or eligible under age 65 retiree's~~] retiree's:

1899 (i) adjusted gross income for the taxable year for which a tax credit is claimed under
1900 this section;

1901 (ii) any interest income that is not included in adjusted gross income for the taxable
1902 year described in Subsection (1)[~~(g)~~](e)(i); and

1903 (iii) any addition to adjusted gross income required by Section 59-10-114 for the
1904 taxable year described in Subsection (1)[~~(g)~~](e)(i).

1905 [~~(h)~~] (f) "Single filing status" means a single individual who files a single federal

1906 individual income tax return for the taxable year.

1907 (2) Except as provided in Section [59-10-1002.2](#) ~~[and subject to Subsections (3) through~~
 1908 ~~(5): (a)]~~ and Subsections (3) and (4), each eligible over age 65 ~~[or older]~~ retiree may claim a
 1909 nonrefundable tax credit of \$450 against taxes otherwise due under this part~~[-or].~~

1910 ~~[(b) each eligible under age 65 retiree may claim a nonrefundable tax credit against~~
 1911 ~~taxes otherwise due under this part in an amount equal to the lesser of:]~~

1912 ~~[(i) \$288; or]~~

1913 ~~[(ii) the product of:]~~

1914 ~~[(A) the eligible under age 65 retiree's eligible retirement income for the taxable year~~
 1915 ~~for which the eligible under age 65 retiree claims a tax credit under this section; and]~~

1916 ~~[(B) 6%.]~~

1917 ~~[(3) A tax credit under this section may not be carried forward or carried back.]~~

1918 (3) An eligible over age 65 retiree may not:

1919 (a) carry forward or carry back a tax credit under this section; or

1920 (b) claim a tax credit under this section if a tax credit is claimed under Section

1921 [59-10-1041](#) on the same return.

1922 (4) The ~~[sum of the tax credits]~~ tax credit allowed by Subsection (2) claimed on ~~[one]~~ a
 1923 return filed under this part shall be reduced by \$.025 for each dollar by which modified
 1924 adjusted gross income for purposes of the return exceeds:

1925 (a) for a federal individual income tax return that is allowed a married filing separately
 1926 status, \$16,000;

1927 (b) for a federal individual income tax return that is allowed a single filing status,
 1928 \$25,000;

1929 (c) for a federal individual income tax return that is allowed a head of household filing
 1930 status, \$32,000; or

1931 (d) for a return under this chapter that is allowed a joint filing status, \$32,000.

1932 ~~[(5) For purposes of determining the ownership of items of retirement income under~~
 1933 ~~this section, common law doctrine shall be applied in all cases even though some items of~~

1934 ~~retirement income may have originated from service or investments in a community property~~
1935 ~~state.]~~

1936 Section 32. Section **59-10-1022** is amended to read:

1937 **59-10-1022. Nonrefundable tax credit for capital gain transactions.**

1938 (1) As used in this section:

1939 (a) (i) "Capital gain transaction" means a transaction that results in a:

1940 (A) short-term capital gain; or

1941 (B) long-term capital gain.

1942 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1943 commission may by rule define the term "transaction."

1944 (b) "Commercial domicile" means the principal place from which the trade or business
1945 of a Utah small business corporation is directed or managed.

1946 (c) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.

1947 (d) "Qualifying stock" means stock that is:

1948 (i) (A) common; or

1949 (B) preferred;

1950 (ii) as defined by the commission by rule made in accordance with Title 63G, Chapter
1951 3, Utah Administrative Rulemaking Act, originally issued to:

1952 (A) a claimant, estate, or trust; or

1953 (B) a partnership if the claimant, estate, or trust that claims a tax credit under this
1954 section:

1955 (I) was a partner on the day on which the stock was issued; and

1956 (II) remains a partner until the last day of the taxable year for which the claimant,
1957 estate, or trust claims a tax credit under this section; and

1958 (iii) issued:

1959 (A) by a Utah small business corporation;

1960 (B) on or after January 1, 2008; and

1961 (C) for:

1962 (I) money; or
1963 (II) other property, except for stock or securities.
1964 (e) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.
1965 (f) (i) "Utah small business corporation" means a corporation that:
1966 (A) except as provided in Subsection (1)(f)(ii), is a small business corporation as
1967 defined in Section 1244(c)(3), Internal Revenue Code;
1968 (B) except as provided in Subsection (1)(f)(iii), meets the requirements of Section
1969 1244(c)(1)(C), Internal Revenue Code; and
1970 (C) has its commercial domicile in this state.
1971 (ii) The dollar amount listed in Section 1244(c)(3)(A) is considered to be \$2,500,000.
1972 (iii) The phrase "the date the loss on such stock was sustained" in Sections
1973 1244(c)(1)(C) and 1244(c)(2), Internal Revenue Code, is considered to be "the last day of the
1974 taxable year for which the claimant, estate, or trust claims a tax credit under this section."
1975 (2) For taxable years beginning on or after January 1, 2008, a claimant, estate, or trust
1976 that meets the requirements of Subsection (3) may claim a nonrefundable tax credit equal to the
1977 product of:
1978 (a) the total amount of the claimant's, estate's, or trust's short-term capital gain or
1979 long-term capital gain on a capital gain transaction that occurs on or after January 1, 2008; and
1980 (b) [5%] the percentage listed in Subsection 59-10-104(2).
1981 (3) For purposes of Subsection (2), a claimant, estate, or trust may claim the
1982 nonrefundable tax credit allowed by Subsection (2) if:
1983 (a) 70% or more of the gross proceeds of the capital gain transaction are expended:
1984 (i) to purchase qualifying stock in a Utah small business corporation; and
1985 (ii) within a 12-month period after the day on which the capital gain transaction occurs;
1986 and
1987 (b) prior to the purchase of the qualifying stock described in Subsection (3)(a)(i), the
1988 claimant, estate, or trust did not have an ownership interest in the Utah small business
1989 corporation that issued the qualifying stock.

1990 (4) A claimant, estate, or trust may not carry forward or carry back a tax credit under
1991 this section.

1992 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1993 commission may make rules:

1994 (a) defining the term "gross proceeds"; and

1995 (b) prescribing the circumstances under which a claimant, estate, or trust has an
1996 ownership interest in a Utah small business corporation.

1997 Section 33. Section **59-10-1023** is amended to read:

1998 **59-10-1023. Nonrefundable tax credit for amounts paid under a health benefit**
1999 **plan.**

2000 (1) As used in this section:

2001 (a) "Claimant with dependents" means a claimant:

2002 (i) regardless of the claimant's filing status for purposes of filing a federal individual
2003 income tax return for the taxable year; and

2004 (ii) who claims [~~one or more dependents under Section 151~~] a tax credit under Section
2005 24, Internal Revenue Code, [~~as allowed~~] on the claimant's federal individual income tax return
2006 for the taxable year.

2007 (b) "Eligible insured individual" means:

2008 (i) the claimant who is insured under a health benefit plan;

2009 (ii) the spouse of the claimant described in Subsection (1)(b)(i) if:

2010 (A) the claimant files [~~a single~~] one return jointly under this chapter with the claimant's
2011 spouse for the taxable year; and

2012 (B) the spouse is insured under the health benefit plan described in Subsection
2013 (1)(b)(i); or

2014 (iii) a dependent of the claimant described in Subsection (1)(b)(i) if:

2015 (A) the claimant claims the dependent under Section 151, Internal Revenue Code, as
2016 allowed on the claimant's federal individual income tax return for the taxable year; and

2017 (B) the dependent is insured under the health benefit plan described in Subsection

2018 (1)(b)(i).
2019 (c) "Excluded expenses" means an amount a claimant pays for insurance offered under
2020 a health benefit plan for a taxable year if:
2021 (i) the claimant claims a tax credit for that amount under Section 35, Internal Revenue
2022 Code:
2023 (A) on the claimant's federal individual income tax return for the taxable year; and
2024 (B) with respect to an eligible insured individual;
2025 (ii) the claimant deducts that amount under Section 162 or 213, Internal Revenue
2026 Code:
2027 (A) on the claimant's federal individual income tax return for the taxable year; and
2028 (B) with respect to an eligible insured individual; or
2029 (iii) the claimant excludes that amount from gross income under Section 106 or 125,
2030 Internal Revenue Code, with respect to an eligible insured individual.
2031 (d) (i) "Health benefit plan" is as defined in Section 31A-1-301.
2032 (ii) "Health benefit plan" does not include equivalent self-insurance as defined by the
2033 Insurance Department by rule made in accordance with Title 63G, Chapter 3, Utah
2034 Administrative Rulemaking Act.
2035 (e) "Joint claimant with no dependents" means [~~a husband and wife~~] spouses who:
2036 (i) file [~~a single~~] one return jointly under this chapter for the taxable year; and
2037 (ii) do not claim a dependent under Section 151, Internal Revenue Code, on the
2038 [~~husband's and wife's~~] spouses' federal individual income tax return for the taxable year.
2039 (f) "Single claimant with no dependents" means:
2040 (i) a single individual who:
2041 (A) files a single federal individual income tax return for the taxable year; and
2042 (B) does not claim a dependent under Section 151, Internal Revenue Code, on the
2043 single individual's federal individual income tax return for the taxable year;
2044 (ii) a head of household:
2045 (A) as defined in Section 2(b), Internal Revenue Code, who files a single federal

2046 individual income tax return for the taxable year; and

2047 (B) who does not claim a dependent under Section 151, Internal Revenue Code, on the
2048 head of household's federal individual income tax return for the taxable year; or

2049 (iii) a married individual who:

2050 (A) does not file a single federal individual income tax return jointly with that married
2051 individual's spouse for the taxable year; and

2052 (B) does not claim a dependent under Section 151, Internal Revenue Code, on that
2053 married individual's federal individual income tax return for the taxable year.

2054 (2) Subject to Subsection (3), and except as provided in Subsection (4), [~~for taxable~~
2055 ~~years beginning on or after January 1, 2009;~~] a claimant may claim a nonrefundable tax credit
2056 equal to the product of:

2057 (a) the difference between:

2058 (i) the total amount the claimant pays during the taxable year for:

2059 (A) insurance offered under a health benefit plan; and

2060 (B) an eligible insured individual; and

2061 (ii) excluded expenses; and

2062 (b) [5%] the percentage listed in Subsection 59-10-104(2).

2063 (3) The maximum amount of a tax credit described in Subsection (2) a claimant may
2064 claim on a return for a taxable year is:

2065 (a) for a single claimant with no dependents, \$300;

2066 (b) for a joint claimant with no dependents, \$600; or

2067 (c) for a claimant with dependents, \$900.

2068 (4) A claimant may not claim a tax credit under this section if the claimant is eligible to
2069 participate in insurance offered under a health benefit plan maintained and funded in whole or
2070 in part by:

2071 (a) the claimant's employer; or

2072 (b) another person's employer.

2073 (5) A claimant may not carry forward or carry back a tax credit under this section.

2074 Section 34. Section **59-10-1028** is amended to read:

2075 **59-10-1028. Nonrefundable tax credit for capital gain transactions on the**
2076 **exchange of one form of legal tender for another form of legal tender.**

2077 (1) As used in this section:

2078 (a) "Capital gain transaction" means a transaction that results in a:

2079 (i) short-term capital gain; or

2080 (ii) long-term capital gain.

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

2083 (c) "Long-term capital loss" [~~is as defined~~] means the same as that term is defined in
2084 Section 1222, Internal Revenue Code.

2085 (d) "Net capital gain" means the amount by which the sum of long-term capital gains
2086 and short-term capital gains on a claimant's, estate's, or trust's transactions from exchanges
2087 made for a taxable year of one form of legal tender for another form of legal tender exceeds the
2088 sum of long-term capital losses and short-term capital losses on those transactions for that
2089 taxable year.

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

2092 (f) "Short-term capital gain" [~~is as defined~~] means the same as that term is defined in
2093 Section 1222, Internal Revenue Code.

2094 (2) Except as provided in Section [59-10-1002.2](#), [~~for taxable years beginning on or~~
2095 ~~after January 1, 2012,~~] a claimant, estate, or trust may claim a nonrefundable tax credit equal to
2096 the product of:

2097 (a) to the extent a net capital gain is included in taxable income, the amount of the
2098 claimant's, estate's, or trust's net capital gain on capital gain transactions from exchanges made
2099 on or after January 1, 2012, for a taxable year, of one form of legal tender for another form of
2100 legal tender; and

2101 (b) [~~5%~~] the percentage listed in Subsection [59-10-104\(2\)](#).

2102 (3) A claimant, estate, or trust may not carry forward or carry back a tax credit under
2103 this section.

2104 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2105 commission may make rules to implement this section.

2106 Section 35. Section **59-10-1033** is amended to read:

2107 **59-10-1033. Tax credit related to alternative fuel heavy duty vehicles.**

2108 (1) As used in this section:

2109 (a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air
2110 Conservation Act.

2111 (b) "Director" means the director of the Division of Air Quality appointed under
2112 Section [19-2-107](#).

2113 (c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to
2114 vehicle classifications established by the Federal Highway Administration.

2115 (d) "Natural gas" includes compressed natural gas and liquified natural gas.

2116 (e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

2117 (i) has never been titled or registered and has been driven less than 7,500 miles; and

2118 (ii) is fueled by natural gas, has a 100% electric drivetrain, or has a hydrogen-electric
2119 drivetrain.

2120 (f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

2121 (g) "Qualified taxpayer" means a claimant, estate, or trust that:

2122 (i) purchases a qualified heavy duty vehicle; and

2123 (ii) receives a tax credit certificate from the director.

2124 (h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and
2125 owned by a single claimant, estate, or trust.

2126 (i) "Tax credit certificate" means a certificate issued by the director certifying that a
2127 claimant, estate, or trust is entitled to a tax credit as provided in this section and stating the
2128 amount of the tax credit.

2129 (2) A qualified taxpayer may claim a nonrefundable tax credit against tax otherwise

2130 due under this chapter:

2131 (a) in an amount equal to:

2132 (i) \$25,000, if the qualified purchase of a natural gas heavy duty vehicle occurs during
2133 calendar year 2015 or calendar year 2016;

2134 (ii) \$25,000, if the qualified purchase occurs during calendar year 2017;

2135 (iii) \$20,000, if the qualified purchase occurs during calendar year 2018;

2136 (iv) \$18,000, if the qualified purchase occurs during calendar year 2019; and

2137 (v) \$15,000, if the qualified purchase occurs during calendar year 2020; and

2138 (b) if the qualified taxpayer certifies under oath that over 50% of the miles that the
2139 heavy duty vehicle that is the subject of the qualified purchase will travel annually will be
2140 within the state.

2141 (3) (a) Except as provided in Subsection (3)(b), a claimant, estate, or trust may not
2142 submit an application for, and the director may not issue to the claimant, estate, or trust, a tax
2143 credit certificate under this section in any taxable year for a qualified purchase if the director
2144 has already issued tax credit certificates to the claimant, estate, or trust for 10 qualified
2145 purchases in the same taxable year.

2146 (b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of
2147 tax credits under Subsection (5) has not been claimed, a claimant, estate, or trust may submit
2148 an application for, and the director may issue to the claimant, estate, or trust, one or more tax
2149 credit certificates for up to eight additional qualified purchases, even if the director has already
2150 issued to that claimant, estate, or trust tax credit certificates for the maximum number of
2151 qualified purchases allowed under Subsection (3)(a).

2152 (4) (a) Subject to Subsection (4)(b), the director shall reserve 25% of all tax credits
2153 available under this section for qualified taxpayers with a small fleet.

2154 (b) Subsection (4)(a) does not prevent a claimant, estate, or trust from submitting an
2155 application for, or the director from issuing, a tax credit certificate if, before October 1,
2156 qualified taxpayers with a small fleet have not reserved under Subsection (5)(b) tax credits for
2157 the full amount reserved under Subsection (4)(a).

2158 (5) (a) The aggregate annual total amount of tax credits represented by tax credit
2159 certificates that the director issues under this section and Section 59-7-618 may not exceed
2160 \$500,000.

2161 (b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative
2162 Rulemaking Act, make rules to establish a process under which a claimant, estate, or trust may
2163 reserve a potential tax credit under this section for a limited time to allow the claimant, estate,
2164 or trust to make a qualified purchase with the assurance that the aggregate limit under
2165 Subsection (5)(a) will not be met before the claimant, estate, or trust is able to submit an
2166 application for a tax credit certificate.

2167 (6) (a) (i) A claimant, estate, or trust wishing to claim a tax credit under this section
2168 shall, using forms the board requires by rule:

2169 (A) submit to the director an application for a tax credit;

2170 (B) provide the director proof of a qualified purchase; and

2171 (C) submit to the director the certification under oath required under Subsection (2)(b).

2172 (ii) Upon receiving the application, proof, and certification required under Subsection
2173 (6)(a)(i), the director shall provide the claimant, estate, or trust a written statement from the
2174 director acknowledging receipt of the proof.

2175 (b) If the director determines that a claimant, estate, or trust qualifies for a tax credit
2176 under this section, the director shall:

2177 (i) determine the amount of tax credit the claimant, estate, or trust is allowed under this
2178 section; and

2179 (ii) provide the claimant, estate, or trust with a written tax credit certificate:

2180 (A) stating that the claimant, estate, or trust has qualified for a tax credit; and

2181 (B) showing the amount of tax credit for which the claimant, estate, or trust has
2182 qualified under this section.

2183 (c) A qualified taxpayer shall retain the tax credit certificate.

2184 (d) The director shall at least annually submit to the commission a list of all qualified
2185 taxpayers to which the director has issued a tax credit certificate and the amount of each tax

2186 credit represented by the tax credit certificates.

2187 (7) The tax credit under this section is allowed only:

2188 (a) against a tax owed under this chapter in the taxable year by the qualified taxpayer;

2189 (b) for the taxable year in which the qualified purchase occurs; and

2190 (c) once per vehicle.

2191 (8) A qualified taxpayer may not assign a tax credit or a tax credit certificate under this
2192 section to another person.

2193 (9) If the qualified taxpayer receives a tax credit certificate under this section that
2194 allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this
2195 chapter for a taxable year, the qualified taxpayer may carry forward the amount of the tax credit
2196 that exceeds the tax liability for a period that does not exceed the next five taxable years.

2197 ~~[(10)(a) In accordance with any rules prescribed by the commission under Subsection~~
2198 ~~(10)(b), the Division of Finance shall transfer at least annually from the General Fund into the~~
2199 ~~Education Fund the aggregate amount of all tax credits claimed under this section.]~~

2200 ~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
2201 ~~the commission may make rules for making a transfer from the General Fund into the~~
2202 ~~Education Fund as required by Subsection (10)(a).]~~

2203 Section 36. Section **59-10-1035** is amended to read:

2204 **59-10-1035. Nonrefundable tax credit for contribution to state Achieving a Better**
2205 **Life Experience Program account.**

2206 (1) As used in this section:

2207 (a) "Account" means an account in a qualified ABLE program where the designated
2208 beneficiary of the account is a resident of this state.

2209 (b) "Contributor" means a claimant, estate, or trust that:

2210 (i) makes a contribution to an account; and

2211 (ii) receives a statement from the qualified ABLE program itemizing the contribution.

2212 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.
2213 529A.

2214 (d) "Qualified ABLE program" means the same as that term is defined in Section
2215 [35A-12-102](#).

2216 (2) A contributor to an account may claim a nonrefundable tax credit as provided in
2217 this section.

2218 (3) Subject to the other provisions of this section, the tax credit is equal to the product
2219 of:

2220 (a) [~~5%~~] the percentage listed in Subsection [59-10-104\(2\)](#); and

2221 (b) the total amount of contributions:

2222 (i) the contributor makes for the taxable year; and

2223 (ii) for which the contributor receives a statement from the qualified ABLE program
2224 itemizing the contributions.

2225 (4) A contributor may not claim a tax credit under this section:

2226 (a) for an amount of excess contribution to an account that is returned to the
2227 contributor; or

2228 (b) with respect to an amount the contributor deducts on a federal income tax return.

2229 (5) A tax credit under this section may not be carried forward or carried back.

2230 Section 37. Section **59-10-1036** is amended to read:

2231 **59-10-1036. Nonrefundable tax credit for military survivor benefits.**

2232 (1) As used in this section:

2233 (a) "Dependent child" means the same as that term is defined in 10 U.S.C. Sec. 1447.

2234 (b) "Reserve components" means the same as that term is described in 10 U.S.C. Sec.
2235 10101.

2236 (c) "Surviving spouse" means the same as that term is defined in 10 U.S.C. Sec. 1447.

2237 (d) "Survivor benefits" means the amount paid by the federal government in
2238 accordance with 10 U.S.C. Secs. 1447 through 1455.

2239 (2) A surviving spouse or dependent child may claim a nonrefundable tax credit for
2240 survivor benefits if the benefits are paid due to:

2241 (a) the death of a member of the armed forces or reserve components while on active

2242 duty; or

2243 (b) the death of a member of the reserve components that results from a
2244 service-connected cause while performing inactive duty training.

2245 (3) The tax credit described in Subsection (2) is equal to the product of:

2246 (a) the amount of survivor benefits that the surviving spouse or dependent child
2247 received during the taxable year; and

2248 (b) ~~5%~~ the percentage listed in Subsection [59-10-104\(2\)](#).

2249 (4) The tax credit described in Subsection (2):

2250 (a) may not be carried forward or carried back; and

2251 (b) applies to a taxable year beginning on or after January 1, 2017.

2252 Section 38. Section **59-10-1041** is enacted to read:

2253 **59-10-1041. Nonrefundable tax credit for social security benefits.**

2254 (1) As used in this section:

2255 (a) "Head of household filing status" means the same as that term is defined in Section
2256 [59-10-1018](#).

2257 (b) "Joint filing status" means:

2258 (i) spouses who file one return jointly under this chapter for a taxable year; or

2259 (ii) a surviving spouse, as defined in Section (2)(a), Internal Revenue Code, who files a
2260 single federal individual income tax return for the taxable year.

2261 (c) "Married filing separately status" means a married individual who:

2262 (i) does not file a single federal individual income tax return jointly with that married
2263 individual's spouse for the taxable year; and

2264 (ii) files a single federal individual income tax return for the taxable year.

2265 (d) "Modified adjusted gross income" means the sum of a claimant's:

2266 (i) adjusted gross income for the taxable year for which a tax credit is claimed under
2267 this section;

2268 (ii) any interest income that is not included in adjusted gross income for the taxable
2269 year described in Subsection (1)(d)(i); and

2270 (iii) any addition to adjusted gross income required by Section 59-10-114 for the
2271 taxable year described in Subsection (1)(d)(i).

2272 (e) "Single filing status" means a single individual who files a single federal individual
2273 income tax return for the taxable year.

2274 (f) "Social security benefit" means an amount received by a claimant as a monthly
2275 benefit in accordance with the Social Security Act, 42 U.S.C. Sec. 401 et seq.

2276 (2) Except as provided in Section 59-10-1002.2 and Subsections (3) and (4), a claimant
2277 may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the
2278 product of:

2279 (a) the percentage listed in Subsection 59-10-104(2); and

2280 (b) the claimant's social security benefit that is included in adjusted gross income on
2281 the claimant's federal income tax return for the taxable year.

2282 (3) A claimant may not:

2283 (a) carry forward or carry back a tax credit under this section; or

2284 (b) claim a tax credit under this section if a tax credit is claimed under Section
2285 59-10-1019 on the same return.

2286 (4) The tax credit allowed by Subsection (2) claimed on a return filed under this part
2287 shall be reduced by \$.025 for each dollar by which modified adjusted gross income for
2288 purposes of the return exceeds:

2289 (a) for a return that has a married filing separately status, \$24,000;

2290 (b) for a return that has a single filing status, \$30,000;

2291 (c) for a return that has a head of household filing status, \$48,000; or

2292 (d) for a return that has a joint filing status, \$48,000.

2293 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2294 commission may make rules governing the calculation and method for claiming a tax credit
2295 described in this section.

2296 Section 39. Section 59-10-1102.1 is enacted to read:

2297 **59-10-1102.1. Apportionment of tax credit.**

- 2298 (1) A part-year resident individual who claims the tax credit described in Section
2299 59-10-1113 may only claim an apportioned amount of the tax credit equal to the product of:
2300 (a) the state income tax percentage for the part-year resident individual; and
2301 (b) the amount of the tax credit that the part-year resident individual would have been
2302 allowed to claim but for the apportionment requirement of this section.
- 2303 (2) A nonresident individual or a part-year resident individual who claims the tax credit
2304 described in Section 59-10-1114 may only claim an apportioned amount of the tax credit equal
2305 to the product of:
2306 (a) the state income tax percentage for the nonresident individual or the state income
2307 tax percentage for the part-year resident individual; and
2308 (b) the amount of the tax credit that the nonresident individual or the part-year resident
2309 individual would have been allowed to claim but for the apportionment requirement of this
2310 section.
- 2311 Section 40. Section **59-10-1105** is amended to read:
- 2312 **59-10-1105. Tax credit for hand tools used in farming operations -- Procedures**
2313 **for refund -- Transfers from General Fund to Education Fund -- Rulemaking authority.**
- 2314 (1) [~~For a taxable year beginning on or after January 1, 2004, a~~] A claimant, estate, or
2315 trust may claim a refundable tax credit:
- 2316 (a) as provided in this section;
- 2317 (b) against taxes otherwise due under this chapter; and
- 2318 (c) in an amount equal to the amount of tax the claimant, estate, or trust pays:
- 2319 (i) on a purchase of a hand tool:
- 2320 (A) if the purchase is made on or after July 1, 2004;
- 2321 (B) if the hand tool is used or consumed primarily and directly in a farming operation
2322 in the state; and
- 2323 (C) if the unit purchase price of the hand tool is more than \$250; and
- 2324 (ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection
2325 (1)(c)(i).

2326 (2) A claimant, estate, or trust:

2327 (a) shall retain the following to establish the amount of tax the claimant, estate, or trust
2328 paid under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection

2329 (1)(c)(i):

2330 (i) a receipt;

2331 (ii) an invoice; or

2332 (iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and

2333 (b) may not carry forward or carry back a tax credit under this section.

2334 (3) (a) In accordance with any rules prescribed by the commission under Subsection

2335 (3)(b)~~[(i)]~~, the commission shall make a refund to a claimant, estate, or trust that claims a tax
2336 credit under this section if the amount of the tax credit exceeds the claimant's, estate's, or trust's
2337 tax liability under this chapter~~;~~ and].

2338 ~~[(ii) the Division of Finance shall transfer at least annually from the General Fund into~~
2339 ~~the Education Fund an amount equal to the aggregate amount of all tax credits claimed under~~
2340 ~~this section.]~~

2341 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2342 commission may make rules providing procedures for making~~[(i)]~~ a refund to a claimant,
2343 estate, or trust as required by Subsection (3)(a)~~[(i)]~~ or].

2344 ~~[(ii) transfers from the General Fund into the Education Fund as required by~~
2345 ~~Subsection (3)(a)(ii).]~~

2346 Section 41. Section **59-10-1113** is enacted to read:

2347 **59-10-1113. Refundable grocery tax credit.**

2348 (1) As used in this section:

2349 (a) "Federal poverty level" means the poverty guidelines established by the Secretary of
2350 the United States Department of Health and Human Services under 42 U.S.C. Sec. 9909(2).

2351 (b) "Modified adjusted gross income" means the sum of a claimant's:

2352 (i) adjusted gross income for the taxable year for which a tax credit is claimed under
2353 this section;

2354 (ii) any interest income that is not included in adjusted gross income for the taxable
2355 year described in Subsection (1)(b)(i); and

2356 (iii) any addition to adjusted gross income required by Section 59-10-114 for the
2357 taxable year described in Subsection (1)(b)(i).

2358 (c) "Phaseout amount" means an amount equal to 0.0035% of the amount calculated
2359 under Subsection (2).

2360 (d) "Qualifying dependent" means the same as that term is defined in Section
2361 59-10-1018.

2362 (e) "Qualifying household member" means:

2363 (i) the qualifying individual;

2364 (ii) the qualifying individual's spouse, if the qualifying individual:

2365 (A) files one return jointly under this chapter with the qualifying individual's spouse
2366 for a taxable year; or

2367 (B) is a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files
2368 a single federal individual income tax return for a taxable year; and

2369 (iii) a qualifying dependent.

2370 (f) "Qualifying individual" means a resident individual who is not a qualifying
2371 dependent.

2372 (2) Subject to Section 59-10-1102.1 and the provisions of this section, a qualifying
2373 individual may claim a refundable grocery tax credit equal to the sum of:

2374 (a) \$125 multiplied by the number of qualifying household members, up to four; and

2375 (b) \$50 multiplied by the number of qualifying household members that exceeds four.

2376 (3) (a) If a qualifying household member was incarcerated for any part of the taxable
2377 year for which the qualifying individual claims the grocery tax credit, the qualifying
2378 individual's credit for the qualifying household member is reduced by an amount proportionate
2379 to the time the qualifying household member was incarcerated during the taxable year.

2380 (b) For purposes of calculating the proportionate amount under Subsection (3)(a), the
2381 qualifying household member who was incarcerated is considered:

2382 (i) one of the qualifying household members described in Subsection (2)(a); or
2383 (ii) if four other qualifying household members were incarcerated for part of the
2384 taxable year and each considered one of the four qualifying household members described in
2385 Subsection (2)(a), one of the qualifying household members described in Subsection (2)(b).

2386 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2387 commission may make rules for calculating the proportionate amount described in this
2388 subsection.

2389 (4) The tax credit described in this section is reduced by the phaseout amount for each
2390 dollar by which the claimant's modified adjusted gross income exceeds the lesser of:

- 2391 (a) 175% of the federal poverty level for the claimant's household size; or
2392 (b) 175% of the federal poverty level for a household with five individuals.

2393 (5) (a) Except as provided in Subsection (5)(b), to claim the tax credit described in this
2394 section, a qualifying individual shall file a return under this chapter.

2395 (b) A qualifying individual who is not required to file a return under this chapter for the
2396 taxable year in which the qualifying individual claims a credit under this section, may claim the
2397 tax credit described in this section by filing a form prescribed by the commission.

2398 (6) For each return filed under this chapter, no more than one qualifying individual
2399 may receive a credit under this section.

2400 Section 42. Section **59-10-1113.1** is enacted to read:

2401 **59-10-1113.1. Additional grocery tax credit.**

2402 (1) As used in this section:

2403 (a) "2019 credit amount" means the amount of a grocery tax credit an individual could
2404 have claimed for a taxable year beginning on or after January 1, 2019, and on or before
2405 December 31, 2019, if the grocery tax credit had been in effect, without applying the provisions
2406 of Subsection [59-10-1113\(3\)](#).

2407 (b) "2019 qualifying individual" means a qualifying individual as defined in Section
2408 [59-10-1113](#) who files a 2019 return on or before the deadline described in Section [59-10-514](#).

2409 (c) "2019 return" means a return filed under this chapter for a taxable year beginning

2410 on or after January 1, 2019, and on or before December 31, 2019.

2411 (d) "Grocery tax credit" means the refundable grocery tax credit described in Section
2412 59-10-1113.

2413 (2) Subject to the other provisions of this section, the commission shall provide each
2414 2019 qualifying individual an additional grocery tax credit equal to 25% of the 2019 qualifying
2415 individual's 2019 credit amount.

2416 (3) For each return filed under this chapter, no more than one 2019 qualifying
2417 individual may receive a credit under this section.

2418 (4) The commission shall provide a 2019 qualifying individual who is a part-year
2419 resident individual an apportioned amount of the additional grocery tax credit equal to the
2420 product of:

2421 (a) the state income tax percentage for the part-year resident individual; and

2422 (b) the amount of the additional grocery tax credit that the commission would have
2423 provided the part-year resident individual but for the apportionment requirements of this
2424 subsection.

2425 (5) If the value of a 2019 qualifying individual's additional grocery tax credit under this
2426 section is less than \$20, the 2019 qualifying individual is not eligible to receive the credit.

2427 (6) The commission shall comply with Subsection (2) on or before July 1, 2020.

2428 (7) The provisions of Sections 59-10-529 and 63A-3-302 do not apply to a credit
2429 described in this section.

2430 Section 43. Section **59-10-1114** is enacted to read:

2431 **59-10-1114. Refundable state earned income tax credit.**

2432 (1) As used in this section:

2433 (a) "Department" means the Department of Workforce Services created in Section
2434 35A-1-103.

2435 (b) "Federal earned income tax credit" means the federal earned income tax credit
2436 described in Section 32, Internal Revenue Code.

2437 (c) "Qualifying claimant" means a resident individual or nonresident individual who:

2438 (i) is identified by the department as experiencing intergenerational poverty in
2439 accordance with Section 35A-9-214; and
2440 (ii) claimed the federal earned income tax credit for the previous taxable year.
2441 (2) Except as provided in Section 59-10-1102.1, a qualifying claimant may claim a
2442 refundable earned income tax credit equal to 10% of the amount of the federal earned income
2443 tax credit that the qualifying claimant was entitled to claim on a federal income tax return in
2444 the previous taxable year.

2445 (3) (a) The commission shall use the electronic report described in Section 35A-9-214
2446 to verify that a qualifying claimant is identified as experiencing intergenerational poverty.

2447 (b) The commission may not use the electronic report described in Section 35A-9-214
2448 for any other purpose.

2449 Section 44. Section 59-10-1403.3 is amended to read:

2450 **59-10-1403.3. Refund of amounts paid or withheld for a pass-through entity.**

2451 (1) As used in this section:

2452 (a) "Committee" means the Revenue and Taxation Interim Committee.

2453 (b) "Qualifying excess withholding" means an amount that:

2454 (i) is paid or withheld:

2455 (A) by a pass-through entity that has a different taxable year than the pass-through
2456 entity that requests a refund under this section; and

2457 (B) on behalf of the pass-through entity that requests the refund, if the pass-through
2458 entity that requests the refund also is a pass-through entity taxpayer; and

2459 (ii) is equal to the difference between:

2460 (A) the amount paid or withheld for the taxable year on behalf of the pass-through
2461 entity that requests the refund; and

2462 (B) the product of [5%] the percentage listed in Subsection 59-10-104(2) and the
2463 income, described in Subsection 59-10-1403.2(1)(a)(i), of the pass-through entity that requests
2464 the refund.

2465 (2) [~~For a taxable year ending on or after July 1, 2017, a~~] A pass-through entity may

2466 claim a refund of qualifying excess withholding, if the amount of the qualifying excess
2467 withholding is equal to or greater than \$250,000.

2468 (3) A pass-through entity that requests a refund of qualifying excess withholding under
2469 this section shall:

2470 (a) apply to the commission for a refund on or, subject to Subsection (4), after the day
2471 on which the pass-through entity files the pass-through entity's income tax return; and

2472 (b) provide any information that the commission may require to determine that the
2473 pass-through entity is eligible to receive the refund.

2474 (4) A pass-through entity shall claim a refund of qualifying excess withholding under
2475 this section within 30 days after the earlier of the day on which:

2476 (a) the pass-through entity files an income tax return; or

2477 (b) the pass-through entity's income tax return is due, including any extension of due
2478 date authorized in statute.

2479 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2480 commission may make rules establishing the information that a pass-through entity shall
2481 provide to the commission to obtain a refund of qualifying excess withholding under this
2482 section.

2483 ~~[(6) (a) On or before November 30, 2018, the committee shall review the \$250,000~~
2484 ~~threshold described in Subsection (2) for the purpose of assessing whether the threshold~~
2485 ~~amount should be maintained, increased, or decreased.]~~

2486 ~~[(b) To assist the committee in conducting the review described in Subsection (6)(a),~~
2487 ~~the commission shall provide the committee with:]~~

2488 ~~[(i) the total number of refund requests made under this section;]~~

2489 ~~[(ii) the total costs of any refunds issued under this section;]~~

2490 ~~[(iii) the costs of any audits conducted on refund requests made under this section; and]~~

2491 ~~[(iv) an estimation of:]~~

2492 ~~[(A) the number of refund requests the commission expects to receive if the Legislature~~
2493 ~~increases the threshold;]~~

2494 [~~(B) the number of refund requests the commission expects to receive if the Legislature~~
2495 ~~decreases the threshold; and]~~

2496 [~~(C) the costs of any audits the commission would conduct if the Legislature increases~~
2497 ~~or decreases the threshold.]~~

2498 Section 45. Section **59-12-102** is amended to read:

2499 **59-12-102. Definitions.**

2500 As used in this chapter:

2501 (1) "800 service" means a telecommunications service that:

2502 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

2503 (b) is typically marketed:

2504 (i) under the name 800 toll-free calling;

2505 (ii) under the name 855 toll-free calling;

2506 (iii) under the name 866 toll-free calling;

2507 (iv) under the name 877 toll-free calling;

2508 (v) under the name 888 toll-free calling; or

2509 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the

2510 Federal Communications Commission.

2511 (2) (a) "900 service" means an inbound toll telecommunications service that:

2512 (i) a subscriber purchases;

2513 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
2514 the subscriber's:

2515 (A) prerecorded announcement; or

2516 (B) live service; and

2517 (iii) is typically marketed:

2518 (A) under the name 900 service; or

2519 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal

2520 Communications Commission.

2521 (b) "900 service" does not include a charge for:

- 2522 (i) a collection service a seller of a telecommunications service provides to a
2523 subscriber; or
- 2524 (ii) the following a subscriber sells to the subscriber's customer:
2525 (A) a product; or
2526 (B) a service.
- 2527 (3) (a) "Admission or user fees" includes season passes.
2528 (b) "Admission or user fees" does not include annual membership dues to private
2529 organizations.
- 2530 (4) "Affiliate" or "affiliated person" means a person that, with respect to another
2531 person:
2532 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
2533 person; or
2534 (b) is related to the other person because a third person, or a group of third persons who
2535 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,
2536 whether direct or indirect, in the related persons.
- 2537 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
2538 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
2539 Agreement after November 12, 2002.
- 2540 (6) "Agreement combined tax rate" means the sum of the tax rates:
2541 (a) listed under Subsection (7); and
2542 (b) that are imposed within a local taxing jurisdiction.
- 2543 (7) "Agreement sales and use tax" means a tax imposed under:
2544 (a) Subsection 59-12-103(2)(a)(i)(A);
2545 (b) Subsection 59-12-103(2)(b)(i);
2546 (c) Subsection 59-12-103(2)(c)(i);
2547 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
2548 (e) Section 59-12-204;
2549 (f) Section 59-12-401;

- 2550 (g) Section 59-12-402;
- 2551 (h) Section 59-12-402.1;
- 2552 (i) Section 59-12-703;
- 2553 (j) Section 59-12-802;
- 2554 (k) Section 59-12-804;
- 2555 (l) Section 59-12-1102;
- 2556 (m) Section 59-12-1302;
- 2557 (n) Section 59-12-1402;
- 2558 (o) Section 59-12-1802;
- 2559 (p) Section 59-12-2003;
- 2560 (q) Section 59-12-2103;
- 2561 (r) Section 59-12-2213;
- 2562 (s) Section 59-12-2214;
- 2563 (t) Section 59-12-2215;
- 2564 (u) Section 59-12-2216;
- 2565 (v) Section 59-12-2217;
- 2566 (w) Section 59-12-2218;
- 2567 (x) Section 59-12-2219; or
- 2568 (y) Section 59-12-2220.
- 2569 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 2570 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 2571 (a) except for:
- 2572 (i) an airline as defined in Section 59-2-102; or
- 2573 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 2574 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 2575 state, of an airline; and
- 2576 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 2577 whether the business entity performs the following in this state:

- 2578 (i) check, diagnose, overhaul, and repair:
- 2579 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 2580 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 2581 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 2582 engine;
- 2583 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 2584 aircraft:
- 2585 (A) an inspection;
- 2586 (B) a repair, including a structural repair or modification;
- 2587 (C) changing landing gear; and
- 2588 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 2589 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 2590 completely apply new paint to the fixed wing turbine powered aircraft; and
- 2591 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 2592 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 2593 authority that certifies the fixed wing turbine powered aircraft.
- 2594 (10) "Alcoholic beverage" means a beverage that:
- 2595 (a) is suitable for human consumption; and
- 2596 (b) contains .5% or more alcohol by volume.
- 2597 (11) "Alternative energy" means:
- 2598 (a) biomass energy;
- 2599 (b) geothermal energy;
- 2600 (c) hydroelectric energy;
- 2601 (d) solar energy;
- 2602 (e) wind energy; or
- 2603 (f) energy that is derived from:
- 2604 (i) coal-to-liquids;
- 2605 (ii) nuclear fuel;

- 2606 (iii) oil-impregnated diatomaceous earth;
- 2607 (iv) oil sands;
- 2608 (v) oil shale;
- 2609 (vi) petroleum coke; or
- 2610 (vii) waste heat from:
- 2611 (A) an industrial facility; or
- 2612 (B) a power station in which an electric generator is driven through a process in which
- 2613 water is heated, turns into steam, and spins a steam turbine.

2614 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production

2615 facility" means a facility that:

- 2616 (i) uses alternative energy to produce electricity; and
- 2617 (ii) has a production capacity of two megawatts or greater.

2618 (b) A facility is an alternative energy electricity production facility regardless of

2619 whether the facility is:

- 2620 (i) connected to an electric grid; or
- 2621 (ii) located on the premises of an electricity consumer.

2622 (13) (a) "Ancillary service" means a service associated with, or incidental to, the

2623 provision of telecommunications service.

2624 (b) "Ancillary service" includes:

- 2625 (i) a conference bridging service;
- 2626 (ii) a detailed communications billing service;
- 2627 (iii) directory assistance;
- 2628 (iv) a vertical service; or
- 2629 (v) a voice mail service.

2630 (14) "Area agency on aging" means the same as that term is defined in Section

2631 [62A-3-101](#).

2632 [~~(15) "Assisted amusement device" means an amusement device, skill device, or ride~~

2633 ~~device that is started and stopped by an individual.~~]

2634 ~~[(a) who is not the purchaser or renter of the right to use or operate the amusement~~
2635 ~~device, skill device, or ride device; and]~~

2636 ~~[(b) at the direction of the seller of the right to use the amusement device, skill device,~~
2637 ~~or ride device.]~~

2638 ~~[(16)]~~ (15) "Assisted cleaning or washing of tangible personal property" means
2639 cleaning or washing of tangible personal property if the cleaning or washing labor is primarily
2640 performed by an individual:

2641 (a) who is not the purchaser of the cleaning or washing of the tangible personal
2642 property; and

2643 (b) at the direction of the seller of the cleaning or washing of the tangible personal
2644 property.

2645 ~~[(17)]~~ (16) "Authorized carrier" means:

2646 (a) in the case of vehicles operated over public highways, the holder of credentials
2647 indicating that the vehicle is or will be operated pursuant to both the International Registration
2648 Plan and the International Fuel Tax Agreement;

2649 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
2650 certificate or air carrier's operating certificate; or

2651 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
2652 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
2653 stock in more than one state.

2654 ~~[(18)]~~ (17) (a) Except as provided in Subsection ~~[(18)]~~ (17)(b), "biomass energy"
2655 means any of the following that is used as the primary source of energy to produce fuel or
2656 electricity:

2657 (i) material from a plant or tree; or

2658 (ii) other organic matter that is available on a renewable basis, including:

2659 (A) slash and brush from forests and woodlands;

2660 (B) animal waste;

2661 (C) waste vegetable oil;

2662 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
2663 wastewater residuals, or through the conversion of a waste material through a nonincineration,
2664 thermal conversion process;

2665 (E) aquatic plants; and

2666 (F) agricultural products.

2667 (b) "Biomass energy" does not include:

2668 (i) black liquor; or

2669 (ii) treated woods.

2670 ~~[(19)]~~ (18) (a) "Bundled transaction" means the sale of two or more items of tangible
2671 personal property, products, or services if the tangible personal property, products, or services
2672 are:

2673 (i) distinct and identifiable; and

2674 (ii) sold for one nonitemized price.

2675 (b) "Bundled transaction" does not include:

2676 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
2677 the basis of the selection by the purchaser of the items of tangible personal property included in
2678 the transaction;

2679 (ii) the sale of real property;

2680 (iii) the sale of services to real property;

2681 (iv) the retail sale of tangible personal property and a service if:

2682 (A) the tangible personal property:

2683 (I) is essential to the use of the service; and

2684 (II) is provided exclusively in connection with the service; and

2685 (B) the service is the true object of the transaction;

2686 (v) the retail sale of two services if:

2687 (A) one service is provided that is essential to the use or receipt of a second service;

2688 (B) the first service is provided exclusively in connection with the second service; and

2689 (C) the second service is the true object of the transaction;

2690 (vi) a transaction that includes tangible personal property or a product subject to
2691 taxation under this chapter and tangible personal property or a product that is not subject to
2692 taxation under this chapter if the:

2693 (A) seller's purchase price of the tangible personal property or product subject to
2694 taxation under this chapter is de minimis; or

2695 (B) seller's sales price of the tangible personal property or product subject to taxation
2696 under this chapter is de minimis; and

2697 (vii) the retail sale of tangible personal property that is not subject to taxation under
2698 this chapter and tangible personal property that is subject to taxation under this chapter if:

2699 (A) that retail sale includes:

2700 (I) food and food ingredients;

2701 (II) a drug;

2702 (III) durable medical equipment;

2703 (IV) mobility enhancing equipment;

2704 (V) an over-the-counter drug;

2705 (VI) a prosthetic device; or

2706 (VII) a medical supply; and

2707 (B) subject to Subsection [~~(19)~~] (18)(f):

2708 (I) the seller's purchase price of the tangible personal property subject to taxation under
2709 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

2710 (II) the seller's sales price of the tangible personal property subject to taxation under
2711 this chapter is 50% or less of the seller's total sales price of that retail sale.

2712 (c) (i) For purposes of Subsection [~~(19)~~] (18)(a)(i), tangible personal property, a
2713 product, or a service that is distinct and identifiable does not include:

2714 (A) packaging that:

2715 (I) accompanies the sale of the tangible personal property, product, or service; and

2716 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
2717 service;

2718 (B) tangible personal property, a product, or a service provided free of charge with the
2719 purchase of another item of tangible personal property, a product, or a service; or

2720 (C) an item of tangible personal property, a product, or a service included in the
2721 definition of "purchase price."

2722 (ii) For purposes of Subsection [~~(19)~~] (18)(c)(i)(B), an item of tangible personal
2723 property, a product, or a service is provided free of charge with the purchase of another item of
2724 tangible personal property, a product, or a service if the sales price of the purchased item of
2725 tangible personal property, product, or service does not vary depending on the inclusion of the
2726 tangible personal property, product, or service provided free of charge.

2727 (d) (i) For purposes of Subsection [~~(19)~~] (18)(a)(ii), property sold for one nonitemized
2728 price does not include a price that is separately identified by tangible personal property,
2729 product, or service on the following, regardless of whether the following is in paper format or
2730 electronic format:

2731 (A) a binding sales document; or

2732 (B) another supporting sales-related document that is available to a purchaser.

2733 (ii) For purposes of Subsection [~~(19)~~] (18)(d)(i), a binding sales document or another
2734 supporting sales-related document that is available to a purchaser includes:

2735 (A) a bill of sale;

2736 (B) a contract;

2737 (C) an invoice;

2738 (D) a lease agreement;

2739 (E) a periodic notice of rates and services;

2740 (F) a price list;

2741 (G) a rate card;

2742 (H) a receipt; or

2743 (I) a service agreement.

2744 (e) (i) For purposes of Subsection [~~(19)~~] (18)(b)(vi), the sales price of tangible personal
2745 property or a product subject to taxation under this chapter is de minimis if:

2746 (A) the seller's purchase price of the tangible personal property or product is 10% or
2747 less of the seller's total purchase price of the bundled transaction; or

2748 (B) the seller's sales price of the tangible personal property or product is 10% or less of
2749 the seller's total sales price of the bundled transaction.

2750 (ii) For purposes of Subsection [~~(19)~~] (18)(b)(vi), a seller:

2751 (A) shall use the seller's purchase price or the seller's sales price to determine if the
2752 purchase price or sales price of the tangible personal property or product subject to taxation
2753 under this chapter is de minimis; and

2754 (B) may not use a combination of the seller's purchase price and the seller's sales price
2755 to determine if the purchase price or sales price of the tangible personal property or product
2756 subject to taxation under this chapter is de minimis.

2757 (iii) For purposes of Subsection [~~(19)~~] (18)(b)(vi), a seller shall use the full term of a
2758 service contract to determine if the sales price of tangible personal property or a product is de
2759 minimis.

2760 (f) For purposes of Subsection [~~(19)~~] (18)(b)(vii)(B), a seller may not use a
2761 combination of the seller's purchase price and the seller's sales price to determine if tangible
2762 personal property subject to taxation under this chapter is 50% or less of the seller's total
2763 purchase price or sales price of that retail sale.

2764 [~~(20)~~] (19) "Certified automated system" means software certified by the governing
2765 board of the agreement that:

2766 (a) calculates the agreement sales and use tax imposed within a local taxing
2767 jurisdiction:

2768 (i) on a transaction; and

2769 (ii) in the states that are members of the agreement;

2770 (b) determines the amount of agreement sales and use tax to remit to a state that is a
2771 member of the agreement; and

2772 (c) maintains a record of the transaction described in Subsection [~~(20)~~] (19)(a)(i).

2773 [~~(21)~~] (20) "Certified service provider" means an agent certified:

2774 (a) by the governing board of the agreement; and

2775 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax,
2776 as outlined in the contract between the governing board of the agreement and the certified
2777 service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the
2778 seller's own purchases.

2779 ~~[(22)]~~ (21) (a) Subject to Subsection ~~[(22)]~~ (21)(b), "clothing" means all human
2780 wearing apparel suitable for general use.

2781 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2782 commission shall make rules:

2783 (i) listing the items that constitute "clothing"; and

2784 (ii) that are consistent with the list of items that constitute "clothing" under the
2785 agreement.

2786 ~~[(23)]~~ (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic
2787 fuel.

2788 ~~[(24)]~~ (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or
2789 other fuels that does not constitute industrial use under Subsection (57) or residential use under
2790 Subsection ~~[(111)]~~ (115).

2791 ~~[(25)]~~ (24) (a) "Common carrier" means a person engaged in or transacting the
2792 business of transporting passengers, freight, merchandise, or other property for hire within this
2793 state.

2794 (b) (i) "Common carrier" does not include a person that, at the time the person is
2795 traveling to or from that person's place of employment, transports a passenger to or from the
2796 passenger's place of employment.

2797 (ii) For purposes of Subsection ~~[(25)]~~ (24)(b)(i), in accordance with Title 63G, Chapter
2798 3, Utah Administrative Rulemaking Act, the commission may make rules defining what
2799 constitutes a person's place of employment.

2800 (c) "Common carrier" does not include a person that provides transportation network
2801 services, as defined in Section 13-51-102.

- 2802 [~~(26)~~] (25) "Component part" includes:
- 2803 (a) poultry, dairy, and other livestock feed, and their components;
- 2804 (b) baling ties and twine used in the baling of hay and straw;
- 2805 (c) fuel used for providing temperature control of orchards and commercial
- 2806 greenhouses doing a majority of their business in wholesale sales, and for providing power for
- 2807 off-highway type farm machinery; and
- 2808 (d) feed, seeds, and seedlings.
- 2809 [~~(27)~~] (26) "Computer" means an electronic device that accepts information:
- 2810 (a) (i) in digital form; or
- 2811 (ii) in a form similar to digital form; and
- 2812 (b) manipulates that information for a result based on a sequence of instructions.
- 2813 [~~(28)~~] (27) "Computer software" means a set of coded instructions designed to cause:
- 2814 (a) a computer to perform a task; or
- 2815 (b) automatic data processing equipment to perform a task.
- 2816 [~~(29)~~] (28) "Computer software maintenance contract" means a contract that obligates a
- 2817 seller of computer software to provide a customer with:
- 2818 (a) future updates or upgrades to computer software;
- 2819 (b) support services with respect to computer software; or
- 2820 (c) a combination of Subsections [~~(29)~~] (28)(a) and (b).
- 2821 [~~(30)~~] (29) (a) "Conference bridging service" means an ancillary service that links two
- 2822 or more participants of an audio conference call or video conference call.
- 2823 (b) "Conference bridging service" may include providing a telephone number as part of
- 2824 the ancillary service described in Subsection [~~(30)~~] (29)(a).
- 2825 (c) "Conference bridging service" does not include a telecommunications service used
- 2826 to reach the ancillary service described in Subsection [~~(30)~~] (29)(a).
- 2827 [~~(31)~~] (30) "Construction materials" means any tangible personal property that will be
- 2828 converted into real property.
- 2829 [~~(32)~~] (31) "Delivered electronically" means delivered to a purchaser by means other

2830 than tangible storage media.

2831 (32) "Dating referral services" means services that are primarily intended to introduce
2832 or match adults for social or romantic activities, including computer dating or video dating
2833 services.

2834 (33) (a) "Delivery charge" means a charge:

2835 (i) by a seller of:

2836 (A) tangible personal property;

2837 (B) a product transferred electronically; or

2838 (C) a service; and

2839 (ii) for preparation and delivery of the tangible personal property, product transferred
2840 electronically, or services described in Subsection (33)(a)(i) to a location designated by the
2841 purchaser.

2842 (b) "Delivery charge" includes a charge for the following:

2843 (i) transportation;

2844 (ii) shipping;

2845 (iii) postage;

2846 (iv) handling;

2847 (v) crating; or

2848 (vi) packing.

2849 (34) "Detailed telecommunications billing service" means an ancillary service of
2850 separately stating information pertaining to individual calls on a customer's billing statement.

2851 (35) "Dietary supplement" means a product, other than tobacco, that:

2852 (a) is intended to supplement the diet;

2853 (b) contains one or more of the following dietary ingredients:

2854 (i) a vitamin;

2855 (ii) a mineral;

2856 (iii) an herb or other botanical;

2857 (iv) an amino acid;

2858 (v) a dietary substance for use by humans to supplement the diet by increasing the total
2859 dietary intake; or

2860 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
2861 described in Subsections (35)(b)(i) through (v);

2862 (c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:

2863 (A) tablet form;

2864 (B) capsule form;

2865 (C) powder form;

2866 (D) softgel form;

2867 (E) gelcap form; or

2868 (F) liquid form; or

2869 (ii) if the product is not intended for ingestion in a form described in Subsections
2870 (35)(c)(i)(A) through (F), is not represented:

2871 (A) as conventional food; and

2872 (B) for use as a sole item of:

2873 (I) a meal; or

2874 (II) the diet; and

2875 (d) is required to be labeled as a dietary supplement:

2876 (i) identifiable by the "Supplemental Facts" box found on the label; and

2877 (ii) as required by 21 C.F.R. Sec. 101.36.

2878 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
2879 musical, spoken, or other sounds.

2880 (b) "Digital audio work" includes a ringtone.

2881 (37) "Digital audio-visual work" means a series of related images which, when shown
2882 in succession, imparts an impression of motion, together with accompanying sounds, if any.

2883 (38) "Digital book" means a work that is generally recognized in the ordinary and usual
2884 sense as a book.

2885 (39) (a) "Direct mail" means printed material delivered or distributed by United States

- 2886 mail or other delivery service:
- 2887 (i) to:
- 2888 (A) a mass audience; or
- 2889 (B) addressees on a mailing list provided:
- 2890 (I) by a purchaser of the mailing list; or
- 2891 (II) at the discretion of the purchaser of the mailing list; and
- 2892 (ii) if the cost of the printed material is not billed directly to the recipients.
- 2893 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 2894 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 2895 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 2896 single address.
- 2897 (40) "Directory assistance" means an ancillary service of providing:
- 2898 (a) address information; or
- 2899 (b) telephone number information.
- 2900 (41) (a) "Disposable home medical equipment or supplies" means medical equipment
- 2901 or supplies that:
- 2902 (i) cannot withstand repeated use; and
- 2903 (ii) are purchased by, for, or on behalf of a person other than:
- 2904 (A) a health care facility as defined in Section 26-21-2;
- 2905 (B) a health care provider as defined in Section 78B-3-403;
- 2906 (C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or
- 2907 (D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).
- 2908 (b) "Disposable home medical equipment or supplies" does not include:
- 2909 (i) a drug;
- 2910 (ii) durable medical equipment;
- 2911 (iii) a hearing aid;
- 2912 (iv) a hearing aid accessory;
- 2913 (v) mobility enhancing equipment; or

- 2914 (vi) tangible personal property used to correct impaired vision, including:
- 2915 (A) eyeglasses; or
- 2916 (B) contact lenses.
- 2917 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2918 commission may by rule define what constitutes medical equipment or supplies.
- 2919 (42) "Drilling equipment manufacturer" means a facility:
- 2920 (a) located in the state;
- 2921 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 2922 consist of manufacturing component parts of drilling equipment;
- 2923 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 2924 manufacturing process; and
- 2925 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 2926 manufacturing process.
- 2927 (43) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 2928 compound, substance, or preparation that is:
- 2929 (i) recognized in:
- 2930 (A) the official United States Pharmacopoeia;
- 2931 (B) the official Homeopathic Pharmacopoeia of the United States;
- 2932 (C) the official National Formulary; or
- 2933 (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);
- 2934 (ii) intended for use in the:
- 2935 (A) diagnosis of disease;
- 2936 (B) cure of disease;
- 2937 (C) mitigation of disease;
- 2938 (D) treatment of disease; or
- 2939 (E) prevention of disease; or
- 2940 (iii) intended to affect:
- 2941 (A) the structure of the body; or

2942 (B) any function of the body.

2943 (b) "Drug" does not include:

2944 (i) food and food ingredients;

2945 (ii) a dietary supplement;

2946 (iii) an alcoholic beverage; or

2947 (iv) a prosthetic device.

2948 (44) (a) Except as provided in Subsection (44)(c), "durable medical equipment" means
2949 equipment that:

2950 (i) can withstand repeated use;

2951 (ii) is primarily and customarily used to serve a medical purpose;

2952 (iii) generally is not useful to a person in the absence of illness or injury; and

2953 (iv) is not worn in or on the body.

2954 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
2955 equipment described in Subsection (44)(a).

2956 (c) "Durable medical equipment" does not include mobility enhancing equipment.

2957 (45) "Electronic" means:

2958 (a) relating to technology; and

2959 (b) having:

2960 (i) electrical capabilities;

2961 (ii) digital capabilities;

2962 (iii) magnetic capabilities;

2963 (iv) wireless capabilities;

2964 (v) optical capabilities;

2965 (vi) electromagnetic capabilities; or

2966 (vii) capabilities similar to Subsections (45)(b)(i) through (vi).

2967 (46) "Electronic financial payment service" means an establishment:

2968 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and

2969 Clearinghouse Activities, of the 2012 North American Industry Classification System of the

- 2970 federal Executive Office of the President, Office of Management and Budget; and
- 2971 (b) that performs electronic financial payment services.
- 2972 (47) "Employee" means the same as that term is defined in Section 59-10-401.
- 2973 (48) "Fixed guideway" means a public transit facility that uses and occupies:
- 2974 (a) rail for the use of public transit; or
- 2975 (b) a separate right-of-way for the use of public transit.
- 2976 (49) "Fixed wing turbine powered aircraft" means an aircraft that:
- 2977 (a) is powered by turbine engines;
- 2978 (b) operates on jet fuel; and
- 2979 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 2980 (50) "Fixed wireless service" means a telecommunications service that provides radio
- 2981 communication between fixed points.
- 2982 (51) (a) "Food and food ingredients" means substances:
- 2983 (i) regardless of whether the substances are in:
- 2984 (A) liquid form;
- 2985 (B) concentrated form;
- 2986 (C) solid form;
- 2987 (D) frozen form;
- 2988 (E) dried form; or
- 2989 (F) dehydrated form; and
- 2990 (ii) that are:
- 2991 (A) sold for:
- 2992 (I) ingestion by humans; or
- 2993 (II) chewing by humans; and
- 2994 (B) consumed for the substance's:
- 2995 (I) taste; or
- 2996 (II) nutritional value.
- 2997 (b) "Food and food ingredients" includes an item described in Subsection [(95)]

2998 (99)(b)(iii).
2999 (c) "Food and food ingredients" does not include:
3000 (i) an alcoholic beverage;
3001 (ii) tobacco; or
3002 (iii) prepared food.
3003 (52) (a) "Fundraising sales" means sales:
3004 (i) (A) made by a school; or
3005 (B) made by a school student;
3006 (ii) that are for the purpose of raising funds for the school to purchase equipment,
3007 materials, or provide transportation; and
3008 (iii) that are part of an officially sanctioned school activity.
3009 (b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity"
3010 means a school activity:
3011 (i) that is conducted in accordance with a formal policy adopted by the school or school
3012 district governing the authorization and supervision of fundraising activities;
3013 (ii) that does not directly or indirectly compensate an individual teacher or other
3014 educational personnel by direct payment, commissions, or payment in kind; and
3015 (iii) the net or gross revenues from which are deposited in a dedicated account
3016 controlled by the school or school district.
3017 (53) "Geothermal energy" means energy contained in heat that continuously flows
3018 outward from the earth that is used as the sole source of energy to produce electricity.
3019 (54) "Governing board of the agreement" means the governing board of the agreement
3020 that is:
3021 (a) authorized to administer the agreement; and
3022 (b) established in accordance with the agreement.
3023 (55) (a) [~~For purposes of Subsection 59-12-104(41), "governmental]~~ "Governmental
3024 entity" means:
3025 (i) the executive branch of the state, including all departments, institutions, boards,

3026 divisions, bureaus, offices, commissions, and committees;

3027 (ii) the judicial branch of the state, including the courts, the Judicial Council, the

3028 Administrative Office of the Courts, and similar administrative units in the judicial branch;

3029 (iii) the legislative branch of the state, including the House of Representatives, the

3030 Senate, the Legislative Printing Office, the Office of Legislative Research and General

3031 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal

3032 Analyst;

3033 (iv) the National Guard;

3034 (v) an independent entity as defined in Section [63E-1-102](#); or

3035 (vi) a political subdivision as defined in Section [17B-1-102](#).

3036 (b) "Governmental entity" does not include the state systems of public and higher

3037 education, including:

3038 (i) a school;

3039 (ii) the State Board of Education;

3040 (iii) the State Board of Regents; or

3041 (iv) an institution of higher education described in Section [53B-1-102](#).

3042 (56) "Hydroelectric energy" means water used as the sole source of energy to produce

3043 electricity.

3044 (57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or

3045 other fuels:

3046 (a) in mining or extraction of minerals;

3047 (b) in agricultural operations to produce an agricultural product up to the time of

3048 harvest or placing the agricultural product into a storage facility, including:

3049 (i) commercial greenhouses;

3050 (ii) irrigation pumps;

3051 (iii) farm machinery;

3052 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered

3053 under Title 41, Chapter 1a, Part 2, Registration; and

- 3054 (v) other farming activities;
- 3055 (c) in manufacturing tangible personal property at an establishment described in:
 - 3056 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
 - 3057 the federal Executive Office of the President, Office of Management and Budget; or
 - 3058 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
 - 3059 American Industry Classification System of the federal Executive Office of the President,
 - 3060 Office of Management and Budget;
- 3061 (d) by a scrap recycler if:
 - 3062 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
 - 3063 one or more of the following items into prepared grades of processed materials for use in new
 - 3064 products:
 - 3065 (A) iron;
 - 3066 (B) steel;
 - 3067 (C) nonferrous metal;
 - 3068 (D) paper;
 - 3069 (E) glass;
 - 3070 (F) plastic;
 - 3071 (G) textile; or
 - 3072 (H) rubber; and
 - 3073 (ii) the new products under Subsection (57)(d)(i) would otherwise be made with
 - 3074 nonrecycled materials; or
- 3075 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
- 3076 cogeneration facility as defined in Section 54-2-1.
- 3077 [~~(58)(a) Except as provided in Subsection (58)(b), "installation charge" means a~~
- 3078 ~~charge for installing.~~]
- 3079 [~~(i) tangible personal property; or~~]
- 3080 [~~(ii) a product transferred electronically.~~]
- 3081 [~~(b) "Installation charge" does not include a charge for.~~]

- 3082 ~~[(i) repairs or renovations of:]~~
- 3083 ~~[(A) tangible personal property; or]~~
- 3084 ~~[(B) a product transferred electronically; or]~~
- 3085 ~~[(ii) attaching tangible personal property or a product transferred electronically:]~~
- 3086 ~~[(A) to other tangible personal property; and]~~
- 3087 ~~[(B) as part of a manufacturing or fabrication process.]~~
- 3088 (58) (a) "Installation charge" means a charge:
- 3089 (i) by a seller of:
- 3090 (A) tangible personal property; or
- 3091 (B) a product transferred electronically; and
- 3092 (ii) for installing the tangible personal property or the product transferred electronically
- 3093 described in Subsection (58)(a)(i).
- 3094 (b) "Installation charge" does not include a charge for:
- 3095 (i) installing tangible personal property if the tangible personal property is permanently
- 3096 attached to real property;
- 3097 (ii) converting tangible personal property to real property.
- 3098 (59) "Institution of higher education" means an institution of higher education listed in
- 3099 Section [53B-2-101](#).
- 3100 (60) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 3101 personal property or a product transferred electronically for:
- 3102 (i) (A) a fixed term; or
- 3103 (B) an indeterminate term; and
- 3104 (ii) consideration.
- 3105 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
- 3106 amount of consideration may be increased or decreased by reference to the amount realized
- 3107 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
- 3108 Code.
- 3109 (c) "Lease" or "rental" does not include:

3110 (i) a transfer of possession or control of property under a security agreement or
3111 deferred payment plan that requires the transfer of title upon completion of the required
3112 payments;

3113 (ii) a transfer of possession or control of property under an agreement that requires the
3114 transfer of title:

3115 (A) upon completion of required payments; and

3116 (B) if the payment of an option price does not exceed the greater of:

3117 (I) \$100; or

3118 (II) 1% of the total required payments; or

3119 (iii) providing tangible personal property along with an operator for a fixed period of
3120 time or an indeterminate period of time if the operator is necessary for equipment to perform as
3121 designed.

3122 (d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to
3123 perform as designed if the operator's duties exceed the:

3124 (i) set-up of tangible personal property;

3125 (ii) maintenance of tangible personal property; or

3126 (iii) inspection of tangible personal property.

3127 (61) "Life science establishment" means an establishment in this state that is classified
3128 under the following NAICS codes of the 2007 North American Industry Classification System
3129 of the federal Executive Office of the President, Office of Management and Budget:

3130 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

3131 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
3132 Manufacturing; or

3133 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

3134 (62) "Life science research and development facility" means a facility owned, leased,
3135 or rented by a life science establishment if research and development is performed in 51% or
3136 more of the total area of the facility.

3137 (63) "Load and leave" means delivery to a purchaser by use of a tangible storage media

3138 if the tangible storage media is not physically transferred to the purchaser.

3139 (64) "Local taxing jurisdiction" means a:

3140 (a) county that is authorized to impose an agreement sales and use tax;

3141 (b) city that is authorized to impose an agreement sales and use tax; or

3142 (c) town that is authorized to impose an agreement sales and use tax.

3143 (65) "Manufactured home" means the same as that term is defined in Section

3144 [15A-1-302](#).

3145 (66) "Manufacturing facility" means:

3146 (a) an establishment described in:

3147 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of

3148 the federal Executive Office of the President, Office of Management and Budget; or

3149 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North

3150 American Industry Classification System of the federal Executive Office of the President,

3151 Office of Management and Budget;

3152 (b) a scrap recycler if:

3153 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process

3154 one or more of the following items into prepared grades of processed materials for use in new

3155 products:

3156 (A) iron;

3157 (B) steel;

3158 (C) nonferrous metal;

3159 (D) paper;

3160 (E) glass;

3161 (F) plastic;

3162 (G) textile; or

3163 (H) rubber; and

3164 (ii) the new products under Subsection (66)(b)(i) would otherwise be made with

3165 nonrecycled materials; or

3166 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
3167 placed in service on or after May 1, 2006.

3168 (67) (a) "Marketplace" means a physical or electronic place, platform, or forum where
3169 tangible personal property, a product transferred electronically, or a service is offered for sale.

3170 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a
3171 dedicated sales software application.

3172 (68) (a) "Marketplace facilitator" means a person, including an affiliate of the person,
3173 that enters into a contract, an agreement, or otherwise with sellers, for consideration, to
3174 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or
3175 controls and that directly or indirectly:

3176 (i) does any of the following:

3177 (A) lists, makes available, or advertises tangible personal property, a product
3178 transferred electronically, or a service for sale by a marketplace seller on a marketplace that the
3179 person owns, operates, or controls;

3180 (B) facilitates the sale of a marketplace seller's tangible personal property, product
3181 transferred electronically, or service by transmitting or otherwise communicating an offer or
3182 acceptance of a retail sale between the marketplace seller and a purchaser using the
3183 marketplace;

3184 (C) owns, rents, licenses, makes available, or operates any electronic or physical
3185 infrastructure or any property, process, method, copyright, trademark, or patent that connects a
3186 marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal
3187 property, a product transferred electronically, or a service;

3188 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible
3189 personal property, a product transferred electronically, or a service, regardless of ownership or
3190 control of the tangible personal property, the product transferred electronically, or the service
3191 that is the subject of the retail sale;

3192 (E) provides software development or research and development activities related to
3193 any activity described in this Subsection (68)(a)(i), if the software development or research and

3194 development activity is directly related to the person's marketplace;
3195 (F) provides or offers fulfillment or storage services for a marketplace seller;
3196 (G) sets prices for the sale of tangible personal property, a product transferred
3197 electronically, or a service by a marketplace seller;
3198 (H) provides or offers customer service to a marketplace seller or a marketplace seller's
3199 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal
3200 property, a product transferred electronically, or a service sold by a marketplace seller on the
3201 person's marketplace; or
3202 (I) brands or otherwise identifies sales as those of the person; and
3203 (ii) does any of the following:
3204 (A) collects the sales price or purchase price of a retail sale of tangible personal
3205 property, a product transferred electronically, or a service;
3206 (B) provides payment processing services for a retail sale of tangible personal property,
3207 a product transferred electronically, or a service;
3208 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing
3209 fee, a fee for inserting or making available tangible personal property, a product transferred
3210 electronically, or a service on the person's marketplace, or other consideration for the
3211 facilitation of a retail sale of tangible personal property, a product transferred electronically, or
3212 a service, regardless of ownership or control of the tangible personal property, the product
3213 transferred electronically, or the service that is the subject of the retail sale;
3214 (D) through terms and conditions, an agreement, or another arrangement with a third
3215 person, collects payment from a purchase for a retail sale of tangible personal property, a
3216 product transferred electronically, or a service and transmits that payment to the marketplace
3217 seller, regardless of whether the third person receives compensation or other consideration in
3218 exchange for the service; or
3219 (E) provides a virtual currency for a purchaser to use to purchase tangible personal
3220 property, a product transferred electronically, or service offered for sale.
3221 (b) "Marketplace facilitator" does not include a person that only provides payment

3222 processing services.

3223 (69) "Marketplace seller" means a seller that makes one or more retail sales through a
3224 marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the
3225 seller is required to be registered to collect and remit the tax under this part.

3226 (70) "Member of the immediate family of the producer" means a person who is related
3227 to a producer described in Subsection ~~59-12-104(20)~~(17)(a) as a:

3228 (a) child or stepchild, regardless of whether the child or stepchild is:

3229 (i) an adopted child or adopted stepchild; or

3230 (ii) a foster child or foster stepchild;

3231 (b) grandchild or stepgrandchild;

3232 (c) grandparent or stepgrandparent;

3233 (d) nephew or stepnephew;

3234 (e) niece or stepniece;

3235 (f) parent or stepparent;

3236 (g) sibling or stepsibling;

3237 (h) spouse;

3238 (i) person who is the spouse of a person described in Subsections (70)(a) through (g);

3239 or

3240 (j) person similar to a person described in Subsections (70)(a) through (i) as

3241 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

3242 Administrative Rulemaking Act.

3243 (71) (a) "Menstrual products" means:

3244 (i) tampons;

3245 (ii) panty liners;

3246 (iii) menstrual cups;

3247 (iv) sanitary napkins; or

3248 (v) other similar tangible personal property designed for hygiene in connection with the

3249 human menstrual cycle.

3250 (b) "Menstrual products" does not include:

3251 (i) soaps or cleaning solutions;

3252 (ii) shampoo;

3253 (iii) toothpaste;

3254 (iv) mouthwash;

3255 (v) antiperspirants; or

3256 (vi) suntan lotions or screens.

3257 ~~[(71)]~~ (72) "Mobile home" means the same as that term is defined in Section

3258 15A-1-302.

3259 ~~[(72)]~~ (73) "Mobile telecommunications service" means the same as that term is

3260 defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

3261 ~~[(73)]~~ (74) (a) "Mobile wireless service" means a telecommunications service,

3262 regardless of the technology used, if:

3263 (i) the origination point of the conveyance, routing, or transmission is not fixed;

3264 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

3265 (iii) the origination point described in Subsection ~~[(73)]~~ (74)(a)(i) and the termination

3266 point described in Subsection ~~[(73)]~~ (74)(a)(ii) are not fixed.

3267 (b) "Mobile wireless service" includes a telecommunications service that is provided

3268 by a commercial mobile radio service provider.

3269 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3270 commission may by rule define "commercial mobile radio service provider."

3271 ~~[(74)]~~ (75) (a) ~~[Except as provided in Subsection (74)(c), "mobility"]~~ "Mobility

3272 enhancing equipment" means equipment that is:

3273 (i) primarily and customarily used to provide or increase the ability to move from one

3274 place to another;

3275 (ii) appropriate for use in a:

3276 (A) home; or

3277 (B) motor vehicle; and

- 3278 (iii) not generally used by persons with normal mobility.
- 3279 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
3280 the equipment described in Subsection [~~(74)~~] (75)(a).
- 3281 (c) "Mobility enhancing equipment" does not include:
- 3282 (i) a motor vehicle;
- 3283 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
3284 vehicle manufacturer;
- 3285 (iii) durable medical equipment; or
- 3286 (iv) a prosthetic device.
- 3287 [~~(75)~~] (76) "Model 1 seller" means a seller registered under the agreement that has
3288 selected a certified service provider as the seller's agent to perform the seller's sales and use tax
3289 functions for agreement sales and use taxes, as outlined in the contract between the governing
3290 board of the agreement and the certified service provider, other than the seller's obligation
3291 under Section 59-12-124 to remit a tax on the seller's own purchases.
- 3292 [~~(76)~~] (77) "Model 2 seller" means a seller registered under the agreement that:
- 3293 (a) except as provided in Subsection [~~(76)~~] (77)(b), has selected a certified automated
3294 system to perform the seller's sales tax functions for agreement sales and use taxes; and
- 3295 (b) retains responsibility for remitting all of the sales tax:
- 3296 (i) collected by the seller; and
- 3297 (ii) to the appropriate local taxing jurisdiction.
- 3298 [~~(77)~~] (78) (a) Subject to Subsection [~~(77)~~] (78)(b), "model 3 seller" means a seller
3299 registered under the agreement that has:
- 3300 (i) sales in at least five states that are members of the agreement;
- 3301 (ii) total annual sales [~~revenues~~] revenue of at least \$500,000,000;
- 3302 (iii) a proprietary system that calculates the amount of tax:
- 3303 (A) for an agreement sales and use tax; and
- 3304 (B) due to each local taxing jurisdiction; and
- 3305 (iv) entered into a performance agreement with the governing board of the agreement.

3306 (b) [~~For purposes of Subsection (77)(a), "model]~~ Model 3 seller" includes an affiliated
3307 group of sellers using the same proprietary system.

3308 [~~(78)] (79)~~ "Model 4 seller" means a seller that is registered under the agreement and is
3309 not a model 1 seller, model 2 seller, or model 3 seller.

3310 [~~(79)] (80)~~ "Modular home" means a modular unit as defined in Section [15A-1-302](#).

3311 [~~(80)] (81)~~ "Motor vehicle" means the same as that term is defined in Section
3312 [41-1a-102](#).

3313 [~~(81)] (82)~~ "Oil sands" means impregnated bituminous sands that:

3314 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
3315 other hydrocarbons, or otherwise treated;

3316 (b) yield mixtures of liquid hydrocarbon; and

3317 (c) require further processing other than mechanical blending before becoming finished
3318 petroleum products.

3319 [~~(82)] (83)~~ "Oil shale" means a group of fine black to dark brown shales containing
3320 kerogen material that yields petroleum upon heating and distillation.

3321 [~~(83)] (84)~~ "Optional computer software maintenance contract" means a computer
3322 software maintenance contract that a customer is not obligated to purchase as a condition to the
3323 retail sale of computer software.

3324 [~~(84)] (85)~~ (a) "Other fuels" means products that burn independently to produce heat or
3325 energy.

3326 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
3327 personal property.

3328 [~~(85)] (86)~~ (a) "Paging service" means a telecommunications service that provides
3329 transmission of a coded radio signal for the purpose of activating a specific pager.

3330 (b) For purposes of Subsection [~~(85)] (86)(a)~~, the transmission of a coded radio signal
3331 includes a transmission by message or sound.

3332 (87) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).

3333 [~~(86)] (88)~~ "Pawnbroker" means the same as that term is defined in Section

3334 13-32a-102.

3335 [~~(87)~~ "Pawn transaction" means the same as that term is defined in Section
3336 ~~13-32a-102~~.]

3337 [~~(88)~~ (89) (a) "Permanently attached to real property" means that for tangible personal
3338 property attached to real property:

3339 (i) the attachment of the tangible personal property to the real property:

3340 (A) is essential to the use of the tangible personal property; and

3341 (B) suggests that the tangible personal property will remain attached to the real
3342 property in the same place over the useful life of the tangible personal property; or

3343 (ii) if the tangible personal property is detached from the real property, the detachment
3344 would:

3345 (A) cause substantial damage to the tangible personal property; or

3346 (B) require substantial alteration or repair of the real property to which the tangible
3347 personal property is attached.

3348 (b) "Permanently attached to real property" includes:

3349 (i) the attachment of an accessory to the tangible personal property if the accessory is:

3350 (A) essential to the operation of the tangible personal property; and

3351 (B) attached only to facilitate the operation of the tangible personal property;

3352 (ii) a temporary detachment of tangible personal property from real property for a
3353 repair or renovation if the repair or renovation is performed where the tangible personal
3354 property and real property are located; or

3355 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
3356 Subsection [~~(88)~~ (89)(c)(iii) or (iv).

3357 (c) "Permanently attached to real property" does not include:

3358 (i) the attachment of portable or movable tangible personal property to real property if
3359 that portable or movable tangible personal property is attached to real property only for:

3360 (A) convenience;

3361 (B) stability; or

- 3362 (C) for an obvious temporary purpose;
- 3363 (ii) the detachment of tangible personal property from real property except for the
- 3364 detachment described in Subsection ~~[(88)]~~ (89)(b)(ii);
- 3365 (iii) an attachment of the following tangible personal property to real property if the
- 3366 attachment to real property is only through a line that supplies water, electricity, gas,
- 3367 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 3368 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 3369 (A) a computer;
- 3370 (B) a telephone;
- 3371 (C) a television; or
- 3372 (D) tangible personal property similar to Subsections ~~[(88)]~~ (89)(c)(iii)(A) through (C)
- 3373 as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 3374 Administrative Rulemaking Act; or
- 3375 (iv) an item listed in Subsection ~~[(129)]~~ (135)(c).
- 3376 ~~[(89)]~~ (90) "Person" includes any individual, firm, partnership, joint venture,
- 3377 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
- 3378 city, municipality, district, or other local governmental entity of the state, or any group or
- 3379 combination acting as a unit.
- 3380 (91) (a) "Personal transportation service" means the transportation of one or more
- 3381 individuals by motor vehicle.
- 3382 (b) "Personal transportation" includes taxicab service, limousine service, driver service,
- 3383 shuttle service, scenic or sightseeing transportation, and a prearranged ride as defined in
- 3384 Section 13-51-102.
- 3385 (c) "Personal transportation service" does not include:
- 3386 (i) services provided by or through a governmental entity;
- 3387 (ii) transportation by ambulance as defined in Section 26-8a-102;
- 3388 (iii) transportation provided in connection with a funeral; or
- 3389 (iv) transportation by a low-speed vehicle, as defined in Section 41-6a-102, within a

3390 county of the first class, as classified in Section 17-50-501.

3391 (92) (a) "Pet boarding or care" means the furnishing of:

3392 (i) boarding for a pet; or

3393 (ii) daytime care for a pet at a location other than the pet owner's residence where the
3394 pet is dropped off and picked up.

3395 (b) "Pet boarding or care" does not include a service described in Subsection (92)(a):

3396 (i) by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, in
3397 conjunction with a veterinary medical service; or

3398 (ii) for a working animal, livestock, or a laboratory animal.

3399 (93) (a) "Pet grooming" means:

3400 (i) cleaning, maintaining, or enhancing the physical appearance of a pet; or

3401 (ii) furnishing other hygienic care for a pet.

3402 (b) "Pet grooming" does not include a service described in Subsection (93)(a):

3403 (i) by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, in
3404 conjunction with a veterinary medical service; or

3405 (ii) for a working animal, livestock, or a laboratory animal.

3406 ~~[(90)]~~ (94) "Place of primary use":

3407 (a) for telecommunications service other than mobile telecommunications service,
3408 means the street address representative of where the customer's use of the telecommunications
3409 service primarily occurs, which shall be:

3410 (i) the residential street address of the customer; or

3411 (ii) the primary business street address of the customer; or

3412 (b) for mobile telecommunications service, means the same as that term is defined in
3413 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

3414 ~~[(91)]~~ (95) (a) "Postpaid calling service" means a telecommunications service a person
3415 obtains by making a payment on a call-by-call basis:

3416 (i) through the use of a:

3417 (A) bank card;

3418 (B) credit card;
3419 (C) debit card; or
3420 (D) travel card; or
3421 (ii) by a charge made to a telephone number that is not associated with the origination
3422 or termination of the telecommunications service.

3423 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
3424 service, that would be a prepaid wireless calling service if the service were exclusively a
3425 telecommunications service.

3426 ~~[(92)]~~ (96) "Postproduction" means an activity related to the finishing or duplication of
3427 a medium described in Subsection [59-12-104](#)~~[(54)]~~(47)(a).

3428 ~~[(93)]~~ (97) "Prepaid calling service" means a telecommunications service:

3429 (a) that allows a purchaser access to telecommunications service that is exclusively
3430 telecommunications service;

3431 (b) that:

3432 (i) is paid for in advance; and

3433 (ii) enables the origination of a call using an:

3434 (A) access number; or

3435 (B) authorization code;

3436 (c) that is dialed:

3437 (i) manually; or

3438 (ii) electronically; and

3439 (d) sold in predetermined units or dollars that decline:

3440 (i) by a known amount; and

3441 (ii) with use.

3442 ~~[(94)]~~ (98) "Prepaid wireless calling service" means a telecommunications service:

3443 (a) that provides the right to utilize:

3444 (i) mobile wireless service; and

3445 (ii) other service that is not a telecommunications service, including:

- 3446 (A) the download of a product transferred electronically;
- 3447 (B) a content service; or
- 3448 (C) an ancillary service;
- 3449 (b) that:
- 3450 (i) is paid for in advance; and
- 3451 (ii) enables the origination of a call using an:
- 3452 (A) access number; or
- 3453 (B) authorization code;
- 3454 (c) that is dialed:
- 3455 (i) manually; or
- 3456 (ii) electronically; and
- 3457 (d) sold in predetermined units or dollars that decline:
- 3458 (i) by a known amount; and
- 3459 (ii) with use.
- 3460 ~~[(95)]~~ (99) (a) "Prepared food" means:
- 3461 (i) food:
- 3462 (A) sold in a heated state; or
- 3463 (B) heated by a seller;
- 3464 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 3465 item; or
- 3466 (iii) except as provided in Subsection ~~[(95)]~~ (99)(c), food sold with an eating utensil
- 3467 provided by the seller, including a:
- 3468 (A) plate;
- 3469 (B) knife;
- 3470 (C) fork;
- 3471 (D) spoon;
- 3472 (E) glass;
- 3473 (F) cup;

- 3474 (G) napkin; or
- 3475 (H) straw.
- 3476 (b) "Prepared food" does not include:
- 3477 (i) food that a seller only:
- 3478 (A) cuts;
- 3479 (B) repackages; or
- 3480 (C) pasteurizes; or
- 3481 (ii) (A) the following:
- 3482 (I) raw egg;
- 3483 (II) raw fish;
- 3484 (III) raw meat;
- 3485 (IV) raw poultry; or
- 3486 (V) a food containing an item described in Subsections [~~(95)~~] (99)(b)(ii)(A)(I) through
- 3487 (IV); and
- 3488 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 3489 Food and Drug Administration's Food Code that a consumer cook the items described in
- 3490 Subsection [~~(95)~~] (99)(b)(ii)(A) to prevent food borne illness; or
- 3491 (iii) the following if sold without eating utensils provided by the seller:
- 3492 (A) food and food ingredients sold by a seller if the seller's proper primary
- 3493 classification under the 2002 North American Industry Classification System of the federal
- 3494 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 3495 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 3496 Manufacturing;
- 3497 (B) food and food ingredients sold in an unheated state:
- 3498 (I) by weight or volume; and
- 3499 (II) as a single item; or
- 3500 (C) a bakery item, including:
- 3501 (I) a bagel;

- 3502 (II) a bar;
- 3503 (III) a biscuit;
- 3504 (IV) bread;
- 3505 (V) a bun;
- 3506 (VI) a cake;
- 3507 (VII) a cookie;
- 3508 (VIII) a croissant;
- 3509 (IX) a danish;
- 3510 (X) a donut;
- 3511 (XI) a muffin;
- 3512 (XII) a pastry;
- 3513 (XIII) a pie;
- 3514 (XIV) a roll;
- 3515 (XV) a tart;
- 3516 (XVI) a torte; or
- 3517 (XVII) a tortilla.

3518 (c) An eating utensil provided by the seller does not include the following used to
3519 transport the food:

- 3520 (i) a container; or
- 3521 (ii) packaging.

3522 [(96)] (100) "Prescription" means an order, formula, or recipe that is issued:

- 3523 (a) (i) orally;
- 3524 (ii) in writing;
- 3525 (iii) electronically; or
- 3526 (iv) by any other manner of transmission; and
- 3527 (b) by a licensed practitioner authorized by the laws of a state.

3528 [(97)] (101) (a) [~~Except as provided in Subsection (97)(b)(ii) or (iii), "prewritten~~]
3529 "Prewritten computer software" means computer software that is not designed and developed:

- 3530 (i) by the author or other creator of the computer software; and
3531 (ii) to the specifications of a specific purchaser.
- 3532 (b) "Prewritten computer software" includes:
3533 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
3534 software is not designed and developed:
3535 (A) by the author or other creator of the computer software; and
3536 (B) to the specifications of a specific purchaser;
3537 (ii) computer software designed and developed by the author or other creator of the
3538 computer software to the specifications of a specific purchaser if the computer software is sold
3539 to a person other than the purchaser; or
3540 (iii) except as provided in Subsection [~~97~~] (101)(c), prewritten computer software or
3541 a prewritten portion of prewritten computer software:
3542 (A) that is modified or enhanced to any degree; and
3543 (B) if the modification or enhancement described in Subsection [~~97~~] (101)(b)(iii)(A)
3544 is designed and developed to the specifications of a specific purchaser.
- 3545 (c) "Prewritten computer software" does not include a modification or enhancement
3546 described in Subsection [~~97~~] (101)(b)(iii) if the charges for the modification or enhancement
3547 are:
3548 (i) reasonable; and
3549 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
3550 invoice or other statement of price provided to the purchaser at the time of sale or later, as
3551 demonstrated by:
3552 (A) the books and records the seller keeps at the time of the transaction in the regular
3553 course of business, including books and records the seller keeps at the time of the transaction in
3554 the regular course of business for nontax purposes;
3555 (B) a preponderance of the facts and circumstances at the time of the transaction; and
3556 (C) the understanding of all of the parties to the transaction.
- 3557 [~~98~~] (102) (a) "Private communications service" means a telecommunications

3558 service:

3559 (i) that entitles a customer to exclusive or priority use of one or more communications
3560 channels between or among termination points; and

3561 (ii) regardless of the manner in which the one or more communications channels are
3562 connected.

3563 (b) "Private communications service" includes the following provided in connection
3564 with the use of one or more communications channels:

3565 (i) an extension line;

3566 (ii) a station;

3567 (iii) switching capacity; or

3568 (iv) another associated service that is provided in connection with the use of one or
3569 more communications channels as defined in Section [59-12-215](#).

3570 ~~[(99)]~~ (103) (a) ~~[Except as provided in Subsection (99)(b), "product]~~ "Product
3571 transferred electronically" means a product transferred electronically that would be subject to a
3572 tax under this chapter if that product was transferred in a manner other than electronically.

3573 (b) "Product transferred electronically" does not include:

3574 (i) an ancillary service;

3575 (ii) computer software; or

3576 (iii) a telecommunications service.

3577 ~~[(100)]~~ (104) (a) "Prosthetic device" means a device that is worn on or in the body to:

3578 (i) artificially replace a missing portion of the body;

3579 (ii) prevent or correct a physical deformity or physical malfunction; or

3580 (iii) support a weak or deformed portion of the body.

3581 (b) "Prosthetic device" includes:

3582 (i) parts used in the repairs or renovation of a prosthetic device;

3583 (ii) replacement parts for a prosthetic device;

3584 (iii) a dental prosthesis; or

3585 (iv) a hearing aid.

3586 (c) "Prosthetic device" does not include:
3587 (i) corrective eyeglasses; or
3588 (ii) contact lenses.
3589 ~~[(101)]~~ (105) (a) "Protective equipment" means an item:
3590 (i) for human wear; and
3591 (ii) that is:
3592 (A) designed as protection:
3593 (I) to the wearer against injury or disease; or
3594 (II) against damage or injury of other persons or property; and
3595 (B) not suitable for general use.
3596 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3597 commission shall make rules:
3598 (i) listing the items that constitute "protective equipment"; and
3599 (ii) that are consistent with the list of items that constitute "protective equipment"
3600 under the agreement.
3601 ~~[(102)]~~ (106) (a) For purposes of Subsection ~~59-12-104~~~~[(41)]~~(36), "publication" means
3602 any written or printed matter, other than a photocopy:
3603 (i) regardless of:
3604 (A) characteristics;
3605 (B) copyright;
3606 (C) form;
3607 (D) format;
3608 (E) method of reproduction; or
3609 (F) source; and
3610 (ii) made available in printed or electronic format.
3611 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3612 commission may by rule define the term "photocopy."
3613 ~~[(103)]~~ (107) (a) "Purchase price" and "sales price" mean the total amount of

3614 consideration:

3615 (i) valued in money; and

3616 (ii) for which tangible personal property, a product transferred electronically, or

3617 services are:

3618 (A) sold;

3619 (B) leased; or

3620 (C) rented.

3621 (b) "Purchase price" and "sales price" include:

3622 (i) the seller's cost of the tangible personal property, a product transferred

3623 electronically, or services sold;

3624 (ii) expenses of the seller, including:

3625 (A) the cost of materials used;

3626 (B) a labor cost;

3627 (C) a service cost;

3628 (D) interest;

3629 (E) a loss;

3630 (F) the cost of transportation to the seller; or

3631 (G) a tax imposed on the seller;

3632 (iii) a delivery charge;

3633 (iv) an installation charge;

3634 ~~[(iii)]~~ (v) a charge by the seller for any service necessary to complete the sale; or

3635 ~~[(iv)]~~ (vi) consideration a seller receives from a person other than the purchaser if:

3636 (A) (I) the seller actually receives consideration from a person other than the purchaser;

3637 and

3638 (II) the consideration described in Subsection ~~[(103)]~~ (107)(b)~~[(iv)]~~(vi)(A)(I) is directly

3639 related to a price reduction or discount on the sale;

3640 (B) the seller has an obligation to pass the price reduction or discount through to the

3641 purchaser;

3642 (C) the amount of the consideration attributable to the sale is fixed and determinable by
3643 the seller at the time of the sale to the purchaser; and

3644 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
3645 seller to claim a price reduction or discount; and

3646 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
3647 coupon, or other documentation with the understanding that the person other than the seller
3648 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

3649 (II) the purchaser identifies that purchaser to the seller as a member of a group or
3650 organization allowed a price reduction or discount, except that a preferred customer card that is
3651 available to any patron of a seller does not constitute membership in a group or organization
3652 allowed a price reduction or discount; or

3653 (III) the price reduction or discount is identified as a third party price reduction or
3654 discount on the:

3655 (Aa) invoice the purchaser receives; or

3656 (Bb) certificate, coupon, or other documentation the purchaser presents.

3657 (c) "Purchase price" and "sales price" do not include:

3658 (i) a discount:

3659 (A) in a form including:

3660 (I) cash;

3661 (II) term; or

3662 (III) coupon;

3663 (B) that is allowed by a seller;

3664 (C) taken by a purchaser on a sale; and

3665 (D) that is not reimbursed by a third party; or

3666 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
3667 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
3668 sale or later, as demonstrated by the books and records the seller keeps at the time of the
3669 transaction in the regular course of business, including books and records the seller keeps at the

3670 time of the transaction in the regular course of business for nontax purposes, by a
 3671 preponderance of the facts and circumstances at the time of the transaction, and by the
 3672 understanding of all of the parties to the transaction:

3673 (A) the following from credit extended on the sale of tangible personal property or
 3674 services:

3675 (I) a carrying charge;

3676 (II) a financing charge; or

3677 (III) an interest charge;

3678 [~~(B) a delivery charge;~~]

3679 [~~(C) an installation charge;~~]

3680 [~~(D)~~] (B) a manufacturer rebate on a motor vehicle; or

3681 [~~(E)~~] (C) a tax or fee legally imposed directly on the consumer.

3682 [~~(104)~~] (108) "Purchaser" means a person to whom:

3683 (a) a sale of tangible personal property is made;

3684 (b) a product is transferred electronically; or

3685 (c) a service is furnished.

3686 [~~(105)~~] (109) "Qualifying [~~enterprise~~] data center" means [~~an establishment that will:~~

3687 ~~(a) own and operate~~] a data center facility that [~~will house~~]:

3688 (a) houses a group of networked server computers in one physical location in order to

3689 [~~centralize the dissemination, management, and storage of~~] disseminate, manage, and store data

3690 and information;

3691 (b) [~~be~~] is located in the state;

3692 (c) [~~be~~] is a new operation constructed on or after July 1, 2016;

3693 (d) [~~consist~~] consists of one or more buildings that total 150,000 or more square feet;

3694 (e) [~~be~~] is owned or leased by:

3695 (i) the [~~establishment~~] operator of the data center facility; or

3696 (ii) a person under common ownership, as defined in Section [59-7-101](#), of the

3697 [~~establishment~~] operator of the data center facility; and

- 3698 (f) ~~[be]~~ is located on one or more parcels of land that are owned or leased by:
- 3699 (i) the ~~[establishment]~~ operator of the data center facility; or
- 3700 (ii) a person under common ownership, as defined in Section 59-7-101, of the
- 3701 ~~[establishment]~~ operator of the data center facility.
- 3702 ~~[(106)]~~ (110) "Regularly rented" means:
- 3703 (a) rented to a guest for value three or more times during a calendar year; or
- 3704 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 3705 value.
- 3706 ~~[(107)]~~ (111) "Rental" means the same as that term is defined in Subsection (60).
- 3707 ~~[(108)]~~ (112) (a) ~~[Except as provided in Subsection (108)(b), "repairs"]~~ "Repairs or
- 3708 renovations of tangible personal property" means:
- 3709 (i) a repair or renovation of tangible personal property that is not permanently attached
- 3710 to real property; or
- 3711 (ii) attaching tangible personal property or a product transferred electronically to other
- 3712 tangible personal property or detaching tangible personal property or a product transferred
- 3713 electronically from other tangible personal property if:
- 3714 (A) the other tangible personal property to which the tangible personal property or
- 3715 product transferred electronically is attached or from which the tangible personal property or
- 3716 product transferred electronically is detached is not permanently attached to real property; and
- 3717 (B) the attachment of tangible personal property or a product transferred electronically
- 3718 to other tangible personal property or detachment of tangible personal property or a product
- 3719 transferred electronically from other tangible personal property is made in conjunction with a
- 3720 repair or replacement of tangible personal property or a product transferred electronically.
- 3721 (b) "Repairs or renovations of tangible personal property" does not include:
- 3722 (i) attaching prewritten computer software to other tangible personal property if the
- 3723 other tangible personal property to which the prewritten computer software is attached is not
- 3724 permanently attached to real property; or
- 3725 (ii) detaching prewritten computer software from other tangible personal property if the

3726 other tangible personal property from which the prewritten computer software is detached is
3727 not permanently attached to real property.

3728 ~~[(109)]~~ (113) "Research and development" means the process of inquiry or
3729 experimentation aimed at the discovery of facts, devices, technologies, or applications and the
3730 process of preparing those devices, technologies, or applications for marketing.

3731 ~~[(110)]~~ (114) (a) "Residential telecommunications services" means a
3732 telecommunications service or an ancillary service that is provided to an individual for personal
3733 use:

3734 (i) at a residential address; or

3735 (ii) at an institution, including a nursing home or a school, if the telecommunications
3736 service or ancillary service is provided to and paid for by the individual residing at the
3737 institution rather than the institution.

3738 (b) For purposes of Subsection ~~[(110)]~~ (114)(a)(i), a residential address includes an:

3739 (i) apartment; or

3740 (ii) other individual dwelling unit.

3741 ~~[(111)]~~ (115) "Residential use" means the use in or around a home, apartment building,
3742 sleeping quarters, and similar facilities or accommodations.

3743 ~~[(112)]~~ (116) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
3744 other than:

3745 (a) resale;

3746 (b) sublease; or

3747 (c) subrent.

3748 ~~[(113)]~~ (117) (a) "Retailer" means any person, unless prohibited by the Constitution of
3749 the United States or federal law, that is engaged in a regularly organized business in tangible
3750 personal property or any other taxable transaction under Subsection [59-12-103\(1\)](#), and who is
3751 selling to the user or consumer and not for resale.

3752 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
3753 engaged in the business of selling to users or consumers within the state.

3754 [~~(H4)~~] (118) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
3755 otherwise, in any manner, of tangible personal property or any other taxable transaction under
3756 Subsection 59-12-103(1), for consideration.

3757 (b) "Sale" includes:

3758 (i) installment and credit sales;

3759 (ii) any closed transaction constituting a sale;

3760 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
3761 chapter;

3762 (iv) any transaction if the possession of property is transferred but the seller retains the
3763 title as security for the payment of the price; and

3764 (v) any transaction under which right to possession, operation, or use of any article of
3765 tangible personal property is granted under a lease or contract and the transfer of possession
3766 would be taxable if an outright sale were made.

3767 [~~(H5)~~] (119) "Sale at retail" means the same as that term is defined in Subsection
3768 [~~(H2)~~] (116).

3769 [~~(H6)~~] (120) "Sale-leaseback transaction" means a transaction by which title to
3770 tangible personal property or a product transferred electronically that is subject to a tax under
3771 this chapter is transferred:

3772 (a) by a purchaser-lessee;

3773 (b) to a lessor;

3774 (c) for consideration; and

3775 (d) if:

3776 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
3777 of the tangible personal property or product transferred electronically;

3778 (ii) the sale of the tangible personal property or product transferred electronically to the
3779 lessor is intended as a form of financing:

3780 (A) for the tangible personal property or product transferred electronically; and

3781 (B) to the purchaser-lessee; and

3782 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
3783 is required to:

3784 (A) capitalize the tangible personal property or product transferred electronically for
3785 financial reporting purposes; and

3786 (B) account for the lease payments as payments made under a financing arrangement.

3787 [~~(117)~~] (121) "Sales price" means the same as that term is defined in Subsection
3788 [~~(103)~~] (107).

3789 [~~(118)~~] (122) (a) "Sales relating to schools" means the following sales by, amounts
3790 paid to, or amounts charged by a school:

3791 (i) sales that are directly related to the school's educational functions or activities
3792 including:

3793 (A) the sale of:

3794 (I) textbooks;

3795 (II) textbook fees;

3796 (III) laboratory fees;

3797 (IV) laboratory supplies; or

3798 (V) safety equipment;

3799 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
3800 that:

3801 (I) a student is specifically required to wear as a condition of participation in a
3802 school-related event or school-related activity; and

3803 (II) is not readily adaptable to general or continued usage to the extent that it takes the
3804 place of ordinary clothing;

3805 (C) sales of the following if the net or gross revenues generated by the sales are
3806 deposited into a school district fund or school fund dedicated to school meals:

3807 (I) food and food ingredients; or

3808 (II) prepared food; or

3809 (D) transportation charges for official school activities; or

3810 (ii) amounts paid to or amounts charged by a school for admission to a school-related
3811 event or school-related activity.

3812 (b) "Sales relating to schools" does not include:

3813 (i) bookstore sales of items that are not educational materials or supplies;

3814 (ii) except as provided in Subsection [~~(118)~~] (122)(a)(i)(B):

3815 (A) clothing;

3816 (B) clothing accessories or equipment;

3817 (C) protective equipment; or

3818 (D) sports or recreational equipment; or

3819 (iii) amounts paid to or amounts charged by a school for admission to a school-related
3820 event or school-related activity if the amounts paid or charged are passed through to a person:

3821 (A) other than a:

3822 (I) school;

3823 (II) nonprofit organization authorized by a school board or a governing body of a
3824 private school to organize and direct a competitive secondary school activity; or

3825 (III) nonprofit association authorized by a school board or a governing body of a
3826 private school to organize and direct a competitive secondary school activity; and

3827 (B) that is required to collect sales and use taxes under this chapter.

3828 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3829 commission may make rules defining the term "passed through."

3830 [~~(119)~~] (123) For purposes of this section and Section [59-12-104](#), "school" means:

3831 (a) an elementary school or a secondary school that:

3832 (i) is a:

3833 (A) public school; or

3834 (B) private school; and

3835 (ii) provides instruction for one or more grades kindergarten through 12; or

3836 (b) a public school district.

3837 (124) "Security system monitoring" means the service of monitoring signals from an

3838 alarm system, as defined in Section 58-55-102, regardless of whether the monitoring is
3839 performed electronically or by an individual.

3840 ~~[(120)]~~ (125) (a) "Seller" means a person that makes a sale, lease, or rental of:

- 3841 (i) tangible personal property;
- 3842 (ii) a product transferred electronically; or
- 3843 (iii) a service.

3844 (b) "Seller" includes a marketplace facilitator.

3845 (126) "Seller-hosted prewritten computer software" means prewritten computer
3846 software that is accessed through the Internet or a seller-hosted server, regardless of whether:

3847 (a) the access is permanent; or

3848 (b) any downloading occurs.

3849 ~~[(121)]~~ (127) (a) "Semiconductor fabricating, processing, research, or development
3850 materials" means tangible personal property or a product transferred electronically if the
3851 tangible personal property or product transferred electronically is:

3852 (i) used primarily in the process of:

- 3853 (A) (I) manufacturing a semiconductor;
- 3854 (II) fabricating a semiconductor; or
- 3855 (III) research or development of a:
 - 3856 (Aa) semiconductor; or
 - 3857 (Bb) semiconductor manufacturing process; or
 - 3858 (B) maintaining an environment suitable for a semiconductor; or

3859 (ii) consumed primarily in the process of:

- 3860 (A) (I) manufacturing a semiconductor;
- 3861 (II) fabricating a semiconductor; or
- 3862 (III) research or development of a:
 - 3863 (Aa) semiconductor; or
 - 3864 (Bb) semiconductor manufacturing process; or
 - 3865 (B) maintaining an environment suitable for a semiconductor.

3866 (b) "Semiconductor fabricating, processing, research, or development materials"

3867 includes:

3868 (i) parts used in the repairs or renovations of tangible personal property or a product
3869 transferred electronically described in Subsection [~~(121)~~] (127)(a); or

3870 (ii) a chemical, catalyst, or other material used to:

3871 (A) produce or induce in a semiconductor a:

3872 (I) chemical change; or

3873 (II) physical change;

3874 (B) remove impurities from a semiconductor; or

3875 (C) improve the marketable condition of a semiconductor.

3876 [~~(122)~~] (128) "Senior citizen center" means a facility having the primary purpose of
3877 providing services to the aged as defined in Section [62A-3-101](#).

3878 [~~(123)~~] (129) (a) [~~Subject to Subsections (123)(b) and (c), "short-term"~~] "Short-term
3879 lodging consumable" means tangible personal property that:

3880 (i) a business that provides accommodations and services described in Subsection
3881 [59-12-103\(1\)\(i\)](#) purchases as part of a transaction to provide the accommodations and services
3882 to a purchaser;

3883 (ii) is intended to be consumed by the purchaser; and

3884 (iii) is:

3885 (A) included in the purchase price of the accommodations and services; and

3886 (B) not separately stated on an invoice, bill of sale, or other similar document provided
3887 to the purchaser.

3888 (b) "Short-term lodging consumable" includes:

3889 (i) a beverage;

3890 (ii) a brush or comb;

3891 (iii) a cosmetic;

3892 (iv) a hair care product;

3893 (v) lotion;

- 3894 (vi) a magazine;
- 3895 (vii) makeup;
- 3896 (viii) a meal;
- 3897 (ix) mouthwash;
- 3898 (x) nail polish remover;
- 3899 (xi) a newspaper;
- 3900 (xii) a notepad;
- 3901 (xiii) a pen;
- 3902 (xiv) a pencil;
- 3903 (xv) a razor;
- 3904 (xvi) saline solution;
- 3905 (xvii) a sewing kit;
- 3906 (xviii) shaving cream;
- 3907 (xix) a shoe shine kit;
- 3908 (xx) a shower cap;
- 3909 (xxi) a snack item;
- 3910 (xxii) soap;
- 3911 (xxiii) toilet paper;
- 3912 (xxiv) a toothbrush;
- 3913 (xxv) toothpaste; or
- 3914 (xxvi) an item similar to Subsections [~~(123)~~] (129)(b)(i) through (xxv) as the
- 3915 commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah
- 3916 Administrative Rulemaking Act.
- 3917 (c) "Short-term lodging consumable" does not include:
- 3918 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 3919 property to be reused; or
- 3920 (ii) a product transferred electronically.
- 3921 [~~(124)~~] (130) "Simplified electronic return" means the electronic return:

- 3922 (a) described in Section 318(C) of the agreement; and
- 3923 (b) approved by the governing board of the agreement.
- 3924 ~~[(125)]~~ (131) "Solar energy" means the sun used as the sole source of energy for
- 3925 producing electricity.
- 3926 ~~[(126)]~~ (132) (a) "Sports or recreational equipment" means an item:
- 3927 (i) designed for human use; and
- 3928 (ii) that is:
- 3929 (A) worn in conjunction with:
- 3930 (I) an athletic activity; or
- 3931 (II) a recreational activity; and
- 3932 (B) not suitable for general use.
- 3933 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3934 commission shall make rules:
- 3935 (i) listing the items that constitute "sports or recreational equipment"; and
- 3936 (ii) that are consistent with the list of items that constitute "sports or recreational
- 3937 equipment" under the agreement.
- 3938 ~~[(127)]~~ (133) "State" means the state of Utah, its departments, and agencies.
- 3939 ~~[(128)]~~ (134) "Storage" means any keeping or retention of tangible personal property or
- 3940 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
- 3941 except sale in the regular course of business.
- 3942 ~~[(129)]~~ (135) (a) ~~[Except as provided in Subsection (129)(d) or (e), "tangible]~~
- 3943 "Tangible personal property" means personal property that:
- 3944 (i) may be:
- 3945 (A) seen;
- 3946 (B) weighed;
- 3947 (C) measured;
- 3948 (D) felt; or
- 3949 (E) touched; or

3950 (ii) is in any manner perceptible to the senses.

3951 (b) "Tangible personal property" includes:

3952 (i) electricity;

3953 (ii) water;

3954 (iii) gas;

3955 (iv) steam; or

3956 (v) prewritten computer software, regardless of the manner in which the prewritten
3957 computer software is transferred.

3958 (c) "Tangible personal property" includes the following regardless of whether the item
3959 is attached to real property:

3960 (i) a dishwasher;

3961 (ii) a dryer;

3962 (iii) a freezer;

3963 (iv) a microwave;

3964 (v) a refrigerator;

3965 (vi) a stove;

3966 (vii) a washer; or

3967 (viii) an item similar to Subsections [~~129~~] (135)(c)(i) through (vii) as determined by
3968 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3969 Rulemaking Act.

3970 (d) "Tangible personal property" does not include a product that is transferred
3971 electronically.

3972 (e) "Tangible personal property" does not include the following if attached to real
3973 property, regardless of whether the attachment to real property is only through a line that
3974 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
3975 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3976 Rulemaking Act:

3977 (i) a hot water heater;

3978 (ii) a water filtration system; or

3979 (iii) a water softener system.

3980 [~~(130)~~] (136) (a) "Telecommunications enabling or facilitating equipment, machinery,
3981 or software" means an item listed in Subsection [~~(130)~~] (136)(b) if that item is purchased or
3982 leased primarily to enable or facilitate one or more of the following to function:

3983 (i) telecommunications switching or routing equipment, machinery, or software; or

3984 (ii) telecommunications transmission equipment, machinery, or software.

3985 (b) The following apply to Subsection [~~(130)~~] (136)(a):

3986 (i) a pole;

3987 (ii) software;

3988 (iii) a supplementary power supply;

3989 (iv) temperature or environmental equipment or machinery;

3990 (v) test equipment;

3991 (vi) a tower; or

3992 (vii) equipment, machinery, or software that functions similarly to an item listed in
3993 Subsections [~~(130)~~] (136)(b)(i) through (vi) as determined by the commission by rule made in
3994 accordance with Subsection [~~(130)~~] (136)(c).

3995 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3996 commission may by rule define what constitutes equipment, machinery, or software that
3997 functions similarly to an item listed in Subsections [~~(130)~~] (136)(b)(i) through (vi).

3998 [~~(131)~~] (137) "Telecommunications equipment, machinery, or software required for
3999 911 service" means equipment, machinery, or software that is required to comply with 47
4000 C.F.R. Sec. 20.18.

4001 [~~(132)~~] (138) "Telecommunications maintenance or repair equipment, machinery, or
4002 software" means equipment, machinery, or software purchased or leased primarily to maintain
4003 or repair one or more of the following, regardless of whether the equipment, machinery, or
4004 software is purchased or leased as a spare part or as an upgrade or modification to one or more
4005 of the following:

- 4006 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 4007 (b) telecommunications switching or routing equipment, machinery, or software; or
- 4008 (c) telecommunications transmission equipment, machinery, or software.

4009 ~~[(133)]~~ (139) (a) "Telecommunications service" means the electronic conveyance,
4010 routing, or transmission of audio, data, video, voice, or any other information or signal to a
4011 point, or among or between points.

4012 (b) "Telecommunications service" includes:

4013 (i) an electronic conveyance, routing, or transmission with respect to which a computer
4014 processing application is used to act:

4015 (A) on the code, form, or protocol of the content;

4016 (B) for the purpose of electronic conveyance, routing, or transmission; and

4017 (C) regardless of whether the service:

4018 (I) is referred to as voice over Internet protocol service; or

4019 (II) is classified by the Federal Communications Commission as enhanced or value
4020 added;

4021 (ii) an 800 service;

4022 (iii) a 900 service;

4023 (iv) a fixed wireless service;

4024 (v) a mobile wireless service;

4025 (vi) a postpaid calling service;

4026 (vii) a prepaid calling service;

4027 (viii) a prepaid wireless calling service; or

4028 (ix) a private communications service.

4029 (c) "Telecommunications service" does not include:

4030 (i) advertising, including directory advertising;

4031 (ii) an ancillary service;

4032 (iii) a billing and collection service provided to a third party;

4033 (iv) a data processing and information service if:

- 4034 (A) the data processing and information service allows data to be:
- 4035 (I) (Aa) acquired;
- 4036 (Bb) generated;
- 4037 (Cc) processed;
- 4038 (Dd) retrieved; or
- 4039 (Ee) stored; and
- 4040 (II) delivered by an electronic transmission to a purchaser; and
- 4041 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 4042 or information;
- 4043 (v) installation or maintenance of the following on a customer's premises:
- 4044 (A) equipment; or
- 4045 (B) wiring;
- 4046 (vi) Internet access service;
- 4047 (vii) a paging service;
- 4048 (viii) a product transferred electronically, including:
- 4049 (A) music;
- 4050 (B) reading material;
- 4051 (C) a ring tone;
- 4052 (D) software; or
- 4053 (E) video;
- 4054 (ix) a radio and television audio and video programming service:
- 4055 (A) regardless of the medium; and
- 4056 (B) including:
- 4057 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 4058 programming service by a programming service provider;
- 4059 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 4060 (III) audio and video programming services delivered by a commercial mobile radio
- 4061 service provider as defined in 47 C.F.R. Sec. 20.3;

4062 (x) a value-added nonvoice data service; or

4063 (xi) tangible personal property.

4064 [~~(134)~~] (140) (a) "Telecommunications service provider" means a person that:

4065 (i) owns, controls, operates, or manages a telecommunications service; and

4066 (ii) engages in an activity described in Subsection [~~(134)~~] (140)(a)(i) for the shared use
4067 with or resale to any person of the telecommunications service.

4068 (b) A person described in Subsection [~~(134)~~] (140)(a) is a telecommunications service
4069 provider whether or not the Public Service Commission of Utah regulates:

4070 (i) that person; or

4071 (ii) the telecommunications service that the person owns, controls, operates, or
4072 manages.

4073 [~~(135)~~] (141) (a) "Telecommunications switching or routing equipment, machinery, or
4074 software" means an item listed in Subsection [~~(135)~~] (141)(b) if that item is purchased or
4075 leased primarily for switching or routing:

4076 (i) an ancillary service;

4077 (ii) data communications;

4078 (iii) voice communications; or

4079 (iv) telecommunications service.

4080 (b) The following apply to Subsection [~~(135)~~] (141)(a):

4081 (i) a bridge;

4082 (ii) a computer;

4083 (iii) a cross connect;

4084 (iv) a modem;

4085 (v) a multiplexer;

4086 (vi) plug in circuitry;

4087 (vii) a router;

4088 (viii) software;

4089 (ix) a switch; or

4090 (x) equipment, machinery, or software that functions similarly to an item listed in
4091 Subsections [~~(135)~~] (141)(b)(i) through (ix) as determined by the commission by rule made in
4092 accordance with Subsection [~~(135)~~] (141)(c).

4093 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4094 commission may by rule define what constitutes equipment, machinery, or software that
4095 functions similarly to an item listed in Subsections [~~(135)~~] (141)(b)(i) through (ix).

4096 [~~(136)~~] (142) (a) "Telecommunications transmission equipment, machinery, or
4097 software" means an item listed in Subsection [~~(136)~~] (142)(b) if that item is purchased or
4098 leased primarily for sending, receiving, or transporting:

- 4099 (i) an ancillary service;
- 4100 (ii) data communications;
- 4101 (iii) voice communications; or
- 4102 (iv) telecommunications service.

4103 (b) The following apply to Subsection [~~(136)~~] (142)(a):

- 4104 (i) an amplifier;
- 4105 (ii) a cable;
- 4106 (iii) a closure;
- 4107 (iv) a conduit;
- 4108 (v) a controller;
- 4109 (vi) a duplexer;
- 4110 (vii) a filter;
- 4111 (viii) an input device;
- 4112 (ix) an input/output device;
- 4113 (x) an insulator;
- 4114 (xi) microwave machinery or equipment;
- 4115 (xii) an oscillator;
- 4116 (xiii) an output device;
- 4117 (xiv) a pedestal;

- 4118 (xv) a power converter;
- 4119 (xvi) a power supply;
- 4120 (xvii) a radio channel;
- 4121 (xviii) a radio receiver;
- 4122 (xix) a radio transmitter;
- 4123 (xx) a repeater;
- 4124 (xxi) software;
- 4125 (xxii) a terminal;
- 4126 (xxiii) a timing unit;
- 4127 (xxiv) a transformer;
- 4128 (xxv) a wire; or
- 4129 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 4130 Subsections [~~(136)~~] (142)(b)(i) through (xxv) as determined by the commission by rule made in
- 4131 accordance with Subsection [~~(136)~~] (142)(c).
- 4132 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 4133 commission may by rule define what constitutes equipment, machinery, or software that
- 4134 functions similarly to an item listed in Subsections [~~(136)~~] (142)(b)(i) through (xxv).
- 4135 [~~(137) (a) "Textbook for a higher education course" means a textbook or other printed~~
- 4136 ~~material that is required for a course:]~~
- 4137 [~~(i) offered by an institution of higher education; and~~
- 4138 [~~(ii) that the purchaser of the textbook or other printed material attends or will attend.]~~
- 4139 [~~(b) "Textbook for a higher education course" includes a textbook in electronic~~
- 4140 ~~format.]~~
- 4141 [~~(138)~~] (143) "Tobacco" means:
- 4142 (a) a cigarette;
- 4143 (b) a cigar;
- 4144 (c) chewing tobacco;
- 4145 (d) pipe tobacco; or

4146 (e) any other item that contains tobacco.

4147 ~~[(139)]~~ (144) "Unassisted amusement device" means an amusement device, skill
 4148 device, or ride device that is started ~~[and]~~ or stopped by the purchaser or renter of the right to
 4149 use or operate the amusement device, skill device, or ride device.

4150 ~~[(140)]~~ (145) (a) "Use" means the exercise of any right or power over tangible personal
 4151 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
 4152 incident to the ownership or the leasing of that tangible personal property, product transferred
 4153 electronically, or service.

4154 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
 4155 property, a product transferred electronically, or a service in the regular course of business and
 4156 held for resale.

4157 ~~[(141)]~~ (146) "Value-added nonvoice data service" means a service:

4158 (a) that otherwise meets the definition of a telecommunications service except that a
 4159 computer processing application is used to act primarily for a purpose other than conveyance,
 4160 routing, or transmission; and

4161 (b) with respect to which a computer processing application is used to act on data or
 4162 information:

- 4163 (i) code;
- 4164 (ii) content;
- 4165 (iii) form; or
- 4166 (iv) protocol.

4167 ~~[(142)]~~ (147) (a) Subject to Subsection ~~[(142)]~~ (147)(b), "vehicle" means the following
 4168 that are required to be titled, registered, or titled and registered:

- 4169 (i) an aircraft as defined in Section 72-10-102;
- 4170 (ii) a vehicle as defined in Section 41-1a-102;
- 4171 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 4172 (iv) a vessel as defined in Section 41-1a-102.

4173 (b) For purposes of Subsection 59-12-104~~[(33)]~~(30) only, "vehicle" includes:

- 4174 (i) a vehicle described in Subsection [~~(142)~~] (147)(a); or
- 4175 (ii) (A) a locomotive;
- 4176 (B) a freight car;
- 4177 (C) railroad work equipment; or
- 4178 (D) other railroad rolling stock.
- 4179 [~~(143)~~] (148) "Vehicle dealer" means a person engaged in the business of buying,
- 4180 selling, or exchanging a vehicle [~~as defined in Subsection (142)~~].
- 4181 [~~(144)~~] (149) (a) "Vertical service" means an ancillary service that:
- 4182 (i) is offered in connection with one or more telecommunications services; and
- 4183 (ii) offers an advanced calling feature that allows a customer to:
- 4184 (A) identify a caller; and
- 4185 (B) manage multiple calls and call connections.
- 4186 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 4187 conference bridging service.
- 4188 [~~(145)~~] (150) (a) "Voice mail service" means an ancillary service that enables a
- 4189 customer to receive, send, or store a recorded message.
- 4190 (b) "Voice mail service" does not include a vertical service that a customer is required
- 4191 to have in order to utilize a voice mail service.
- 4192 [~~(146)~~] (151) (a) [~~Except as provided in Subsection (146)(b), "waste"~~] "Waste energy
- 4193 facility" means a facility that generates electricity:
- 4194 (i) using as the primary source of energy waste materials that would be placed in a
- 4195 landfill or refuse pit if it were not used to generate electricity, including:
- 4196 (A) tires;
- 4197 (B) waste coal;
- 4198 (C) oil shale; or
- 4199 (D) municipal solid waste; and
- 4200 (ii) in amounts greater than actually required for the operation of the facility.
- 4201 (b) "Waste energy facility" does not include a facility that incinerates:

- 4202 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 4203 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 4204 [~~(147)~~] (152) "Watercraft" means a vessel as defined in Section [73-18-2](#).
- 4205 [~~(148)~~] (153) "Wind energy" means wind used as the sole source of energy to produce
- 4206 electricity.
- 4207 [~~(149)~~] (154) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
- 4208 geographic location by the United States Postal Service.
- 4209 Section 46. Section **59-12-103** is amended to read:
- 4210 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
- 4211 **tax revenue.**
- 4212 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
- 4213 sales price for amounts paid or charged for the following transactions:
- 4214 (a) retail sales of tangible personal property made within the state;
- 4215 (b) amounts paid for:
- 4216 (i) telecommunications service, other than mobile telecommunications service or a 900
- 4217 service, that originates and terminates within the boundaries of this state;
- 4218 (ii) mobile telecommunications service that originates and terminates within the
- 4219 boundaries of one state only to the extent permitted by the Mobile Telecommunications
- 4220 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; [~~or~~]
- 4221 (iii) a 900 service; or
- 4222 [~~(iii)~~] (iv) an ancillary service associated with a:
- 4223 (A) telecommunications service described in Subsection (1)(b)(i); [~~or~~]
- 4224 (B) mobile telecommunications service described in Subsection (1)(b)(ii); or
- 4225 (C) 900 service;
- 4226 (c) sales of the following for commercial use:
- 4227 (i) gas;
- 4228 (ii) electricity;
- 4229 (iii) heat;

- 4230 (iv) coal;
- 4231 (v) fuel oil; or
- 4232 (vi) other fuels;
- 4233 (d) sales of the following for residential use:
- 4234 (i) gas;
- 4235 (ii) electricity;
- 4236 (iii) heat;
- 4237 (iv) coal;
- 4238 (v) fuel oil; or
- 4239 (vi) other fuels;
- 4240 (e) sales of prepared food;
- 4241 (f) except as provided in Section [59-12-104](#), amounts paid or charged as admission or
- 4242 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 4243 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 4244 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 4245 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 4246 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 4247 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 4248 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 4249 exhibition, cultural, or athletic activity;
- 4250 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 4251 property, unless Section [59-12-104](#) provides for an exemption from sales and use tax for:
- 4252 (i) the tangible personal property; and
- 4253 (ii) parts used in the repairs or renovations of the tangible personal property described
- 4254 in Subsection (1)(g)(i), regardless of whether:
- 4255 (A) any parts are actually used in the repairs or renovations of that tangible personal
- 4256 property; or
- 4257 (B) the particular parts used in the repairs or renovations of that tangible personal

4258 property are exempt from a tax under this chapter;

4259 (h) ~~[except as provided in Subsection 59-12-104(7),]~~ amounts paid or charged for
4260 ~~[assisted]~~ cleaning or washing of tangible personal property;

4261 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
4262 accommodations and services that are regularly rented for less than 30 consecutive days;

4263 (j) amounts paid or charged for laundry or dry cleaning services;

4264 (k) amounts paid or charged for leases or rentals of tangible personal property if within
4265 this state the tangible personal property is:

4266 (i) stored;

4267 (ii) used; or

4268 (iii) otherwise consumed;

4269 (l) amounts paid or charged for tangible personal property if within this state the
4270 tangible personal property is:

4271 (i) stored;

4272 (ii) used; or

4273 (iii) consumed; ~~[and]~~

4274 (m) amounts paid or charged for a sale:

4275 (i) (A) of a product transferred electronically; or

4276 (B) of a repair or renovation of a product transferred electronically; and

4277 (ii) regardless of whether the sale provides:

4278 (A) a right of permanent use of the product; or

4279 (B) a right to use the product that is less than a permanent use, including a right:

4280 (I) for a definite or specified length of time; and

4281 (II) that terminates upon the occurrence of a condition[-];

4282 (n) amounts paid or charged for access to digital audio-visual works, digital audio

4283 works, digital books, or gaming services, including the streaming of or subscription for access

4284 to digital audio-visual works, digital audio works, digital books, or gaming services regardless

4285 of:

4286 (i) the delivery method; or
4287 (ii) whether the amount paid or charged for access provides a right to:
4288 (A) single-use access to the digital audio-visual works, digital audio works, digital
4289 books, or gaming services; or
4290 (B) access the digital audio-visual works, digital audio works, digital books, or gaming
4291 services through a subscription, including a right that terminates upon the occurrence of a
4292 condition;
4293 (o) amounts paid or charged for the storage, use, or other consumption of:
4294 (i) prewritten computer software delivered electronically or by load and leave; or
4295 (ii) seller-hosted prewritten computer software; and
4296 (p) amounts paid or charged for the following services:
4297 (i) security system monitoring;
4298 (ii) personal transportation that originates in the state and terminates in the state;
4299 (iii) parking or garaging a motor vehicle at a location that:
4300 (A) is designed and used for parking or garaging one or more motor vehicles,
4301 regardless of whether the location is sometimes used for other purposes; and
4302 (B) is not residential property;
4303 (iv) tow truck service as defined in Section [72-9-102](#), including any related fees;
4304 (v) pet boarding or care;
4305 (vi) pet grooming;
4306 (vii) dating referral services; and
4307 (viii) identity theft protection.
4308 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
4309 are imposed on a transaction described in Subsection (1) equal to the sum of:
4310 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
4311 [~~(A) (I) through March 31, 2019, 4.70%; and~~
4312 [~~(H)] (A) [beginning on April 1, 2019,~~ 4.70% plus the rate specified in Subsection
4313 [~~(13)] (12)(a); and~~

4314 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
4315 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
4316 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
4317 State Sales and Use Tax Act; and

4318 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
4319 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
4320 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
4321 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

4322 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
4323 transaction under this chapter other than this part.

4324 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax are
4325 imposed on a transaction described in Subsection (1)(d) equal to the sum of:

4326 (i) a state tax imposed on the transaction at a tax rate of 2%; and

4327 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
4328 transaction under this chapter other than this part.

4329 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax are
4330 imposed on amounts paid or charged for food and food ingredients equal to the sum of:

4331 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
4332 a tax rate of [~~1.75%~~] 4.85%; and

4333 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
4334 amounts paid or charged for food and food ingredients under this chapter other than this part.

4335 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
4336 tangible personal property other than food and food ingredients, a state tax and a local tax is
4337 imposed on the entire bundled transaction equal to the sum of:

4338 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

4339 (I) the tax rate described in Subsection (2)(a)(i)(A); and

4340 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
4341 Sales and Use Tax Act, if the location of the transaction as determined under Sections

4342 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
4343 Additional State Sales and Use Tax Act; and

4344 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
4345 Sales and Use Tax Act, if the location of the transaction as determined under Sections
4346 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
4347 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

4348 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
4349 described in Subsection (2)(a)(ii).

4350 (ii) If an optional computer software maintenance contract is a bundled transaction that
4351 consists of taxable and nontaxable products that are not separately itemized on an invoice or
4352 similar billing document, the purchase of the optional computer software maintenance contract
4353 is 40% taxable under this chapter and 60% nontaxable under this chapter.

4354 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
4355 transaction described in Subsection (2)(d)(i) or (ii):

4356 (A) if the sales price of the bundled transaction is attributable to tangible personal
4357 property, a product, or a service that is subject to taxation under this chapter and tangible
4358 personal property, a product, or service that is not subject to taxation under this chapter, the
4359 entire bundled transaction is subject to taxation under this chapter unless:

4360 (I) the seller is able to identify by reasonable and verifiable standards the tangible
4361 personal property, product, or service that is not subject to taxation under this chapter from the
4362 books and records the seller keeps in the seller's regular course of business; or

4363 (II) state or federal law provides otherwise; or

4364 (B) if the sales price of a bundled transaction is attributable to two or more items of
4365 tangible personal property, products, or services that are subject to taxation under this chapter
4366 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
4367 higher tax rate unless:

4368 (I) the seller is able to identify by reasonable and verifiable standards the tangible
4369 personal property, product, or service that is subject to taxation under this chapter at the lower

4370 tax rate from the books and records the seller keeps in the seller's regular course of business; or
4371 (II) state or federal law provides otherwise.

4372 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
4373 seller's regular course of business includes books and records the seller keeps in the regular
4374 course of business for nontax purposes.

4375 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
4376 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
4377 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
4378 of tangible personal property, other property, a product, or a service that is not subject to
4379 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
4380 the seller, at the time of the transaction:

4381 (A) separately states the portion of the transaction that is not subject to taxation under
4382 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

4383 (B) is able to identify by reasonable and verifiable standards, from the books and
4384 records the seller keeps in the seller's regular course of business, the portion of the transaction
4385 that is not subject to taxation under this chapter.

4386 (ii) A purchaser and a seller may correct the taxability of a transaction if:

4387 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
4388 the transaction that is not subject to taxation under this chapter was not separately stated on an
4389 invoice, bill of sale, or similar document provided to the purchaser because of an error or
4390 ignorance of the law; and

4391 (B) the seller is able to identify by reasonable and verifiable standards, from the books
4392 and records the seller keeps in the seller's regular course of business, the portion of the
4393 transaction that is not subject to taxation under this chapter.

4394 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
4395 in the seller's regular course of business includes books and records the seller keeps in the
4396 regular course of business for nontax purposes.

4397 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible

4398 personal property, products, or services that are subject to taxation under this chapter at
4399 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
4400 unless the seller, at the time of the transaction:

4401 (A) separately states the items subject to taxation under this chapter at each of the
4402 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

4403 (B) is able to identify by reasonable and verifiable standards the tangible personal
4404 property, product, or service that is subject to taxation under this chapter at the lower tax rate
4405 from the books and records the seller keeps in the seller's regular course of business.

4406 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
4407 seller's regular course of business includes books and records the seller keeps in the regular
4408 course of business for nontax purposes.

4409 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
4410 rate imposed under the following shall take effect on the first day of a calendar quarter:

4411 (i) Subsection (2)(a)(i)(A);

4412 (ii) Subsection (2)(b)(i);

4413 (iii) Subsection (2)(c)(i); or

4414 (iv) Subsection (2)(d)(i)(A)(I).

4415 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
4416 begins on or after the effective date of the tax rate increase if the billing period for the
4417 transaction begins before the effective date of a tax rate increase imposed under:

4418 (A) Subsection (2)(a)(i)(A);

4419 (B) Subsection (2)(b)(i);

4420 (C) Subsection (2)(c)(i); or

4421 (D) Subsection (2)(d)(i)(A)(I).

4422 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
4423 statement for the billing period is rendered on or after the effective date of the repeal of the tax
4424 or the tax rate decrease imposed under:

4425 (A) Subsection (2)(a)(i)(A);

- 4426 (B) Subsection (2)(b)(i);
- 4427 (C) Subsection (2)(c)(i); or
- 4428 (D) Subsection (2)(d)(i)(A)(I).
- 4429 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
- 4430 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
- 4431 change in a tax rate takes effect:
 - 4432 (A) on the first day of a calendar quarter; and
 - 4433 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 4434 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:
 - 4435 (A) Subsection (2)(a)(i)(A);
 - 4436 (B) Subsection (2)(b)(i);
 - 4437 (C) Subsection (2)(c)(i); or
 - 4438 (D) Subsection (2)(d)(i)(A)(I).
- 4439 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 4440 the commission may by rule define the term "catalogue sale."
- 4441 (3) (a) The following state taxes shall be deposited into the General Fund:
 - 4442 (i) the tax imposed by Subsection (2)(a)(i)(A);
 - 4443 (ii) the tax imposed by Subsection (2)(b)(i);
 - 4444 (iii) the tax imposed by Subsection (2)(c)(i); or
 - 4445 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
- 4446 (b) The following local taxes shall be distributed to a county, city, or town as provided
- 4447 in this chapter:
 - 4448 (i) the tax imposed by Subsection (2)(a)(ii);
 - 4449 (ii) the tax imposed by Subsection (2)(b)(ii);
 - 4450 (iii) the tax imposed by Subsection (2)(c)(ii); and
 - 4451 (iv) the tax imposed by Subsection (2)(d)(i)(B).
- 4452 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
- 4453 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)

4454 through (g):

4455 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

4456 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

4457 (B) for the fiscal year; or

4458 (ii) \$17,500,000.

4459 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount

4460 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the

4461 Department of Natural Resources to:

4462 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
4463 protect sensitive plant and animal species; or

4464 (B) award grants, up to the amount authorized by the Legislature in an appropriations
4465 act, to political subdivisions of the state to implement the measures described in Subsections
4466 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

4467 (ii) Money transferred to the Department of Natural Resources under Subsection
4468 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
4469 person to list or attempt to have listed a species as threatened or endangered under the
4470 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

4471 (iii) At the end of each fiscal year:

4472 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
4473 Conservation and Development Fund created in Section 73-10-24;

4474 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
4475 Program Subaccount created in Section 73-10c-5; and

4476 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
4477 Program Subaccount created in Section 73-10c-5.

4478 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
4479 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
4480 created in Section 4-18-106.

4481 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described

4482 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
4483 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
4484 water rights.

4485 (ii) At the end of each fiscal year:

4486 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
4487 Conservation and Development Fund created in Section 73-10-24;

4488 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
4489 Program Subaccount created in Section 73-10c-5; and

4490 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
4491 Program Subaccount created in Section 73-10c-5.

4492 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
4493 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
4494 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

4495 (ii) In addition to the uses allowed of the Water Resources Conservation and
4496 Development Fund under Section 73-10-24, the Water Resources Conservation and
4497 Development Fund may also be used to:

4498 (A) conduct hydrologic and geotechnical investigations by the Division of Water
4499 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
4500 quantifying surface and ground water resources and describing the hydrologic systems of an
4501 area in sufficient detail so as to enable local and state resource managers to plan for and
4502 accommodate growth in water use without jeopardizing the resource;

4503 (B) fund state required dam safety improvements; and

4504 (C) protect the state's interest in interstate water compact allocations, including the
4505 hiring of technical and legal staff.

4506 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
4507 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
4508 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

4509 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described

4510 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
4511 created in Section 73-10c-5 for use by the Division of Drinking Water to:

- 4512 (i) provide for the installation and repair of collection, treatment, storage, and
4513 distribution facilities for any public water system, as defined in Section 19-4-102;
- 4514 (ii) develop underground sources of water, including springs and wells; and
- 4515 (iii) develop surface water sources.

4516 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
4517 2006, the difference between the following amounts shall be expended as provided in this
4518 Subsection (5), if that difference is greater than \$1:

4519 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
4520 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

4521 (ii) \$17,500,000.

4522 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

4523 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
4524 credits; and

4525 (B) expended by the Department of Natural Resources for watershed rehabilitation or
4526 restoration.

4527 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
4528 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
4529 created in Section 73-10-24.

4530 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
4531 remaining difference described in Subsection (5)(a) shall be:

4532 (A) transferred each fiscal year to the Division of Water Resources as dedicated
4533 credits; and

4534 (B) expended by the Division of Water Resources for cloud-seeding projects
4535 authorized by Title 73, Chapter 15, Modification of Weather.

4536 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
4537 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund

4538 created in Section 73-10-24.

4539 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
4540 remaining difference described in Subsection (5)(a) shall be deposited into the Water
4541 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
4542 Division of Water Resources for:

4543 (i) preconstruction costs:

4544 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
4545 26, Bear River Development Act; and

4546 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
4547 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

4548 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
4549 Chapter 26, Bear River Development Act;

4550 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
4551 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

4552 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
4553 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

4554 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
4555 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be
4556 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
4557 incurred for employing additional technical staff for the administration of water rights.

4558 (f) At the end of each fiscal year, any unexpended dedicated credits described in
4559 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
4560 Fund created in Section 73-10-24.

4561 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
4562 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
4563 (1) for the fiscal year shall be deposited as follows:

4564 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)
4565 shall be deposited into the Transportation Investment Fund of 2005 created by Section

4566 72-2-124;

4567 (b) for fiscal year 2017-18 only:

4568 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the
4569 Transportation Investment Fund of 2005 created by Section 72-2-124; and

4570 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the
4571 Water Infrastructure Restricted Account created by Section 73-10g-103;

4572 (c) for fiscal year 2018-19 only:

4573 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the
4574 Transportation Investment Fund of 2005 created by Section 72-2-124; and

4575 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the
4576 Water Infrastructure Restricted Account created by Section 73-10g-103;

4577 (d) for fiscal year 2019-20 only:

4578 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the
4579 Transportation Investment Fund of 2005 created by Section 72-2-124; and

4580 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the
4581 Water Infrastructure Restricted Account created by Section 73-10g-103;

4582 (e) for fiscal year 2020-21 only:

4583 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
4584 Transportation Investment Fund of 2005 created by Section 72-2-124; and

4585 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
4586 Water Infrastructure Restricted Account created by Section 73-10g-103; and

4587 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
4588 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
4589 created by Section 73-10g-103.

4590 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
4591 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
4592 [2012] 2020, the Division of Finance shall deposit into the Transportation Investment Fund of
4593 2005 created by Section 72-2-124:

4594 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
4595 the [revenues] revenue collected from the following taxes, which represents a portion of the
4596 approximately 17% of sales and use tax [revenues] revenue generated annually by the sales and
4597 use tax on vehicles and vehicle-related products:

4598 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

4599 (B) the tax imposed by Subsection (2)(b)(i);

4600 (C) the tax imposed by Subsection (2)(c)(i); and

4601 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

4602 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
4603 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
4604 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
4605 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

4606 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
4607 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total
4608 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
4609 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
4610 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
4611 (7)(a) equal to the product of:

4612 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
4613 previous fiscal year; and

4614 (B) the total sales and use tax revenue generated by the taxes described in Subsections
4615 (7)(a)(i)(A) through (D) in the current fiscal year.

4616 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
4617 Subsection (7)(a) would exceed [~~17%~~] 14.31% of the [revenues] revenue collected from the
4618 sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year,
4619 the Division of Finance shall deposit [~~17%~~] 14.31% of the [revenues] revenue collected from
4620 the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal
4621 year under Subsection (7)(a).

4622 (iii) In all subsequent fiscal years after a year in which [~~17%~~] 14.31% of the [~~revenues~~]
4623 revenue collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through
4624 (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit
4625 [~~17%~~] 14.31% of the [~~revenues~~] revenue collected from the sales and use taxes described in
4626 Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

4627 [~~(8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited~~
4628 ~~under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall~~
4629 ~~deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into~~
4630 ~~the Transportation Investment Fund of 2005 created by Section ~~72-2-124.~~]~~

4631 [~~(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under~~
4632 ~~Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit~~
4633 ~~\$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the~~
4634 ~~Transportation Investment Fund of 2005 created by Section ~~72-2-124.~~]~~

4635 [~~(c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under~~
4636 ~~Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning on or~~
4637 ~~after July 1, 2018, the commission shall annually deposit into the Transportation Investment~~
4638 ~~Fund of 2005 created by Section ~~72-2-124~~ a portion of the taxes listed under Subsection (3)(a)~~
4639 ~~in an amount equal to 3.68% of the revenues collected from the following taxes:]~~

4640 [~~(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;~~]

4641 [~~(B) the tax imposed by Subsection (2)(b)(i);~~]

4642 [~~(C) the tax imposed by Subsection (2)(c)(i); and~~]

4643 [~~(D) the tax imposed by Subsection (2)(d)(i)(A)(I).]~~

4644 [~~(ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually~~
4645 ~~reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i)~~
4646 ~~by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year~~
4647 ~~by the portion of the tax imposed on motor and special fuel that is sold, used, or received for~~
4648 ~~sale or use in this state that exceeds 29.4 cents per gallon.]~~

4649 [(iii)] (8) The commission shall deposit annually [~~deposit the amount described in~~

4650 ~~Subsection (8)(c)(ii)]~~ an amount equal to 50% of the growth in the amount of revenue collected
4651 in the current fiscal year from the tax imposed under Subsection (2)(c)(i) that exceeds the
4652 amount collected from the tax imposed under Subsection (2)(c)(i) in the 2020-2021 fiscal year
4653 into the Transit [and] Transportation Investment Fund created in Section 72-2-124.

4654 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
4655 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
4656 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

4657 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),
4658 in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17
4659 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund
4660 of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on
4661 the transactions described in Subsection (1).

4662 (b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in
4663 addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance
4664 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
4665 amount of revenue described as follows:

4666 (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%
4667 tax rate on the transactions described in Subsection (1);

4668 (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05%
4669 tax rate on the transactions described in Subsection (1);

4670 (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%
4671 tax rate on the transactions described in Subsection (1);

4672 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
4673 .05% tax rate on the transactions described in Subsection (1); and

4674 (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%
4675 tax rate on the transactions described in Subsection (1).

4676 (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not
4677 deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts

4678 paid or charged for food and food ingredients, except for tax revenue generated by a bundled
4679 transaction attributable to food and food ingredients and tangible personal property other than
4680 food and food ingredients described in Subsection (2)(d).

4681 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
4682 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
4683 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
4684 Finance shall, for two consecutive fiscal years, [annually] deposit annually \$1,900,000 of the
4685 revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation
4686 Fund, created in Section 63N-2-512.

4687 [~~(12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the~~
4688 ~~Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed~~
4689 ~~under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section~~
4690 ~~35A-8-308;]~~

4691 [~~(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division~~
4692 ~~of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under~~
4693 ~~Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308;]~~

4694 [~~(13)~~] (12) (a) The rate specified in this subsection is 0.15%.

4695 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall[~~-(i) on or before~~
4696 ~~September 30, 2019, transfer the amount of revenue collected from the rate described in~~
4697 ~~Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the~~
4698 ~~transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the~~
4699 ~~Medicaid Expansion Fund created in Section 26-36b-208, and (ii)] for a fiscal year beginning
4700 on or after July 1, 2019, [annually] transfer annually the amount of revenue collected from the
4701 rate described in Subsection [~~(13)~~] (12)(a) on the transactions that are subject to the sales and
4702 use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section
4703 26-36b-208.~~

4704 Section 47. Section 59-12-104 is amended to read:

4705 **59-12-104. Exemptions.**

4706 ~~[Exemptions from the taxes imposed by this chapter are as follows]~~ Except as provided
4707 in Subsection 59-12-103(2)(d), the purchase price of the following are exempt from the taxes
4708 imposed by this chapter:

4709 (1) (a) sales of aviation fuel~~[- motor fuel, and special]~~ or diesel fuel subject to a ~~[Utah]~~
4710 state excise tax under Chapter 13, Motor and Special Fuel Tax Act; or

4711 (b) sales of motor fuel or nondiesel special fuel, as defined in Section 59-13-601, that
4712 are subject to a sales tax under Chapter 13, Part 6, Sales Tax on Motor Fuel and Special Fuel,
4713 Other than Diesel Fuel;

4714 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
4715 subdivisions; however, this exemption does not apply to sales of:

4716 (a) construction materials except:

4717 (i) construction materials purchased by or on behalf of institutions of the public
4718 education system as defined in Utah Constitution, Article X, Section 2, provided the
4719 construction materials are clearly identified and segregated and installed or converted to real
4720 property which is owned by institutions of the public education system; and

4721 (ii) construction materials purchased by the state, its institutions, or its political
4722 subdivisions which are installed or converted to real property by employees of the state, its
4723 institutions, or its political subdivisions; or

4724 (b) tangible personal property in connection with the construction, operation,
4725 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
4726 providing additional project capacity, as defined in Section 11-13-103;

4727 ~~[(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:]~~

4728 ~~[(i) the proceeds of each sale do not exceed \$1; and]~~

4729 ~~[(ii) the seller or operator of the vending machine reports an amount equal to 150% of~~
4730 ~~the cost of the item described in Subsection (3)(b) as goods consumed; and]~~

4731 ~~[(b) Subsection (3)(a) applies to:]~~

4732 ~~[(i) food and food ingredients; or]~~

4733 ~~[(ii) prepared food;]~~

4734 ~~[(4)]~~ (3) (a) sales of the following to a commercial airline carrier for in-flight
4735 consumption:
4736 (i) alcoholic beverages;
4737 (ii) food and food ingredients; or
4738 (iii) prepared food;
4739 (b) sales of tangible personal property or a product transferred electronically:
4740 (i) to a passenger;
4741 (ii) by a commercial airline carrier; and
4742 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
4743 (c) services related to Subsection ~~[(4)]~~ (3)(a) or (b);
4744 ~~[(5)(a)(i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts~~
4745 ~~and equipment:]~~
4746 ~~[(A)(I) by an establishment described in NAICS Code 336411 or 336412 of the 2002~~
4747 ~~North American Industry Classification System of the federal Executive Office of the~~
4748 ~~President, Office of Management and Budget; and]~~
4749 ~~[(H) for:]~~
4750 ~~[(Aa) installation in an aircraft, including services relating to the installation of parts or~~
4751 ~~equipment in the aircraft;]~~
4752 ~~[(Bb) renovation of an aircraft; or]~~
4753 ~~[(Cc) repair of an aircraft; or]~~
4754 ~~[(B) for installation in an aircraft operated by a common carrier in interstate or foreign~~
4755 ~~commerce; or]~~
4756 ~~[(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an~~
4757 ~~aircraft operated by a common carrier in interstate or foreign commerce; and]~~
4758 ~~[(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~
4759 ~~a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a~~
4760 ~~refund:]~~
4761 ~~[(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;]~~

4762 [~~(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;~~]

4763 [~~(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for~~
4764 ~~the sale prior to filing for the refund;~~]

4765 [~~(iv) for sales and use taxes paid under this chapter on the sale;~~]

4766 [~~(v) in accordance with Section [59-1-1410](#); and]~~

4767 [~~(vi) subject to any extension allowed for filing for a refund under Section [59-1-1410](#),~~
4768 ~~if the person files for the refund on or before September 30, 2011;~~]

4769 (4) sales of parts and equipment for installation in an aircraft operated by a common
4770 carrier in interstate or foreign commerce;

4771 [~~(6)~~] (5) sales of commercials, motion picture films, prerecorded audio program tapes
4772 or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
4773 exhibitor, distributor, or commercial television or radio broadcaster;

4774 [~~(7)(a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of~~
4775 ~~cleaning or washing of tangible personal property if the cleaning or washing of the tangible~~
4776 ~~personal property is not assisted cleaning or washing of tangible personal property;~~]

4777 [(b) if a seller that sells at the same business location assisted cleaning or washing of
4778 tangible personal property and cleaning or washing of tangible personal property that is not
4779 assisted cleaning or washing of tangible personal property, the exemption described in
4780 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
4781 or washing of the tangible personal property; and]

4782 [(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
4783 ~~Utah Administrative Rulemaking Act, the commission may make rules:~~]

4784 [(i) governing the circumstances under which sales are at the same business location;
4785 and]

4786 [(ii) establishing the procedures and requirements for a seller to separately account for
4787 sales of assisted cleaning or washing of tangible personal property;]

4788 [~~(8)~~] (6) sales made to or by religious or charitable institutions in the conduct of their
4789 regular religious or charitable functions and activities, if the requirements of Section

4790 59-12-104.1 are fulfilled;

4791 ~~[(9)]~~ (7) sales of a vehicle of a type required to be registered under the motor vehicle
4792 laws of this state if the vehicle is:

4793 (a) not registered in this state; and

4794 (b) (i) not used in this state; or

4795 (ii) used in this state:

4796 (A) if the vehicle is not used to conduct business, for a time period that does not
4797 exceed the longer of:

4798 (I) 30 days in any calendar year; or

4799 (II) the time period necessary to transport the vehicle to the borders of this state; or

4800 (B) if the vehicle is used to conduct business, for the time period necessary to transport
4801 the vehicle to the borders of this state;

4802 ~~[(10)(a)]~~ (8) amounts paid for ~~[an item described in Subsection (10)(b) if]:~~

4803 (a) menstrual products; or

4804 (b) a drug, syringe, or stoma supply if:

4805 (i) the item is intended for human use; and

4806 (ii) (A) a prescription was issued for the item; or

4807 (B) the item was purchased by a hospital or other medical facility; ~~[and]~~

4808 ~~[(b) (i) Subsection (10)(a) applies to:]~~

4809 ~~[(A) a drug;]~~

4810 ~~[(B) a syringe; or]~~

4811 ~~[(C) a stoma supply; and]~~

4812 ~~[(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
4813 ~~the commission may by rule define the terms:]~~

4814 ~~[(A) "syringe"; or]~~

4815 ~~[(B) "stoma supply";]~~

4816 ~~[(H)]~~ (9) purchases or leases exempt under Section 19-12-201;

4817 ~~[(12)]~~ (10) (a) sales of an item described in Subsection ~~[(12)]~~ (10)(c) served by:

4818 (i) the following if the item described in Subsection [~~(12)~~] (10)(c) is not available to
4819 the general public:

4820 (A) a church; or

4821 (B) a charitable institution; or

4822 (ii) an institution of higher education if:

4823 (A) the item described in Subsection [~~(12)~~] (10)(c) is not available to the general
4824 public; or

4825 (B) the item described in Subsection [~~(12)~~] (10)(c) is prepaid as part of a student meal
4826 plan offered by the institution of higher education; or

4827 (b) sales of an item described in Subsection [~~(12)~~] (10)(c) provided for a patient by:

4828 (i) a medical facility; or

4829 (ii) a nursing facility; and

4830 (c) Subsections [~~(12)~~] (10)(a) and (b) apply to:

4831 (i) food and food ingredients;

4832 (ii) prepared food; or

4833 (iii) alcoholic beverages;

4834 [~~(13)~~] (11) (a) except as provided in Subsection [~~(13)~~] (11)(b), the sale of tangible
4835 personal property or a product transferred electronically by a person:

4836 (i) regardless of the number of transactions involving the sale of that tangible personal
4837 property or product transferred electronically by that person; and

4838 (ii) not regularly engaged in the business of selling that type of tangible personal
4839 property or product transferred electronically;

4840 (b) this Subsection [~~(13)~~] (11) does not apply if:

4841 (i) the sale is one of a series of sales of a character to indicate that the person is
4842 regularly engaged in the business of selling that type of tangible personal property or product
4843 transferred electronically;

4844 (ii) the person holds that person out as regularly engaged in the business of selling that
4845 type of tangible personal property or product transferred electronically;

4846 (iii) the person sells an item of tangible personal property or product transferred
4847 electronically that the person purchased as a sale that is exempt under Subsection [~~(25)~~] (22);
4848 or

4849 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
4850 this state in which case the tax is based upon:

4851 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
4852 sold; or

4853 (B) in the absence of a bill of sale or other written evidence of value, the fair market
4854 value of the vehicle or vessel being sold at the time of the sale as determined by the
4855 commission; and

4856 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4857 commission shall make rules establishing the circumstances under which:

4858 (i) a person is regularly engaged in the business of selling a type of tangible personal
4859 property or product transferred electronically;

4860 (ii) a sale of tangible personal property or a product transferred electronically is one of
4861 a series of sales of a character to indicate that a person is regularly engaged in the business of
4862 selling that type of tangible personal property or product transferred electronically; or

4863 (iii) a person holds that person out as regularly engaged in the business of selling a type
4864 of tangible personal property or product transferred electronically;

4865 [~~(14)~~] (12) amounts paid or charged for a purchase or lease of machinery, equipment,
4866 normal operating repair or replacement parts, or materials, except for office equipment or
4867 office supplies, by:

4868 (a) a manufacturing facility that:

4869 (i) is located in the state; and

4870 (ii) uses or consumes the machinery, equipment, normal operating repair or
4871 replacement parts, or materials:

4872 (A) in the manufacturing process to manufacture an item sold as tangible personal
4873 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,

4874 Utah Administrative Rulemaking Act; or
4875 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
4876 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
4877 Administrative Rulemaking Act;
4878 (b) an establishment, as the commission defines that term in accordance with Title
4879 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
4880 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
4881 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
4882 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
4883 2002 North American Industry Classification System of the federal Executive Office of the
4884 President, Office of Management and Budget;
4885 (ii) is located in the state; and
4886 (iii) uses or consumes the machinery, equipment, normal operating repair or
4887 replacement parts, or materials in:
4888 (A) the production process to produce an item sold as tangible personal property, as the
4889 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
4890 Administrative Rulemaking Act;
4891 (B) research and development, as the commission may define that phrase in accordance
4892 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
4893 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
4894 produced from mining;
4895 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
4896 mining; or
4897 (E) preventing, controlling, or reducing dust or other pollutants from mining; or
4898 (c) an establishment, as the commission defines that term in accordance with Title 63G,
4899 Chapter 3, Utah Administrative Rulemaking Act, that:
4900 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
4901 American Industry Classification System of the federal Executive Office of the President,

4902 Office of Management and Budget;

4903 (ii) is located in the state; and

4904 (iii) uses or consumes the machinery, equipment, normal operating repair or

4905 replacement parts, or materials in the operation of the web search portal;

4906 ~~[(15)]~~ (13) (a) sales of the following if the requirements of Subsection ~~[(15)]~~ (13)(b)

4907 are met:

4908 (i) tooling;

4909 (ii) special tooling;

4910 (iii) support equipment;

4911 (iv) special test equipment; or

4912 (v) parts used in the repairs or renovations of tooling or equipment described in

4913 Subsections ~~[(15)]~~ (13)(a)(i) through (iv); and

4914 (b) sales of tooling, equipment, or parts described in Subsection ~~[(15)]~~ (13)(a) are

4915 exempt if:

4916 (i) the tooling, equipment, or parts are used or consumed exclusively in the

4917 performance of any aerospace or electronics industry contract with the United States

4918 government or any subcontract under that contract; and

4919 (ii) under the terms of the contract or subcontract described in Subsection ~~[(15)]~~

4920 (13)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as

4921 evidenced by:

4922 (A) a government identification tag placed on the tooling, equipment, or parts; or

4923 (B) listing on a government-approved property record if placing a government

4924 identification tag on the tooling, equipment, or parts is impractical;

4925 ~~[(16) sales of newspapers or newspaper subscriptions;]~~

4926 ~~[(17)]~~ (14) (a) except as provided in Subsection ~~[(17)]~~ (14)(b), tangible personal

4927 property or a product transferred electronically traded in as full or part payment of the purchase

4928 price, except that for purposes of calculating sales or use tax upon vehicles not sold by a

4929 vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

- 4930 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
4931 vehicle being traded in; or
- 4932 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
4933 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
4934 commission; and
- 4935 (b) Subsection ~~[(17)]~~ (14)(a) does not apply to the following items of tangible personal
4936 property or products transferred electronically traded in as full or part payment of the purchase
4937 price:
- 4938 (i) money;
 - 4939 (ii) electricity;
 - 4940 (iii) water;
 - 4941 (iv) gas; or
 - 4942 (v) steam;
- 4943 ~~[(18)]~~ (15) (a) (i) except as provided in Subsection ~~[(18)]~~ (15)(b), sales of tangible
4944 personal property or a product transferred electronically used or consumed primarily and
4945 directly in farming operations, regardless of whether the tangible personal property or product
4946 transferred electronically:
- 4947 (A) becomes part of real estate; or
 - 4948 (B) is installed by a^[-] farmer, contractor, or subcontractor; or
 - 4949 ~~[(F) farmer;]~~
 - 4950 ~~[(H) contractor; or]~~
 - 4951 ~~[(H) subcontractor; or]~~
- 4952 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
4953 product transferred electronically if the tangible personal property or product transferred
4954 electronically is exempt under Subsection ~~[(18)]~~ (15)(a)(i); and
- 4955 (b) amounts paid or charged for the following are subject to the taxes imposed by this
4956 chapter:
- 4957 (i) (A) subject to Subsection ~~[(18)]~~ (15)(b)(i)(B), machinery, equipment, materials, or

4958 supplies if used in a manner that is incidental to farming; and
4959 (B) tangible personal property that is considered to be used in a manner that is
4960 incidental to farming includes:
4961 (I) hand tools; or
4962 (II) maintenance and janitorial equipment and supplies;
4963 (ii) (A) subject to Subsection [~~(18)~~] (15)(b)(ii)(B), tangible personal property or a
4964 product transferred electronically if the tangible personal property or product transferred
4965 electronically is used in an activity other than farming; and
4966 (B) tangible personal property or a product transferred electronically that is considered
4967 to be used in an activity other than farming includes:
4968 (I) office equipment and supplies; or
4969 (II) equipment and supplies used in:
4970 (Aa) the sale or distribution of farm products;
4971 (Bb) research; or
4972 (Cc) transportation; or
4973 (iii) a vehicle required to be registered by the laws of this state during the period
4974 ending two years after the date of the vehicle's purchase;
4975 [~~(19)~~] (16) sales of hay;
4976 [~~(20)~~] (17) exclusive sale during the harvest season of seasonal crops, seedling plants,
4977 or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
4978 garden, farm, or other agricultural produce is sold by:
4979 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
4980 agricultural produce;
4981 (b) an employee of the producer described in Subsection [~~(20)~~] (17)(a); or
4982 (c) a member of the immediate family of the producer described in Subsection [~~(20)~~]
4983 (17)(a);
4984 [~~(21)~~] (18) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is
4985 issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

4986 [~~(22)~~] (19) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
4987 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
4988 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
4989 manufacturer, processor, wholesaler, or retailer;

4990 [~~(23)~~] (20) a product stored in the state for resale;

4991 [~~(24)~~] (21) (a) purchases of a product if:

4992 (i) the product is:

4993 (A) purchased outside of this state;

4994 (B) brought into this state:

4995 (I) at any time after the purchase described in Subsection [~~(24)~~] (21)(a)(i)(A); and

4996 (II) by a nonresident person who is not living or working in this state at the time of the
4997 purchase;

4998 (C) used for the personal use or enjoyment of the nonresident person described in
4999 Subsection [~~(24)~~] (21)(a)(i)(B)(II) while that nonresident person is within the state; and

5000 (D) not used in conducting business in this state; and

5001 (ii) for:

5002 (A) a product other than a boat described in Subsection [~~(24)~~] (21)(a)(ii)(B), the first
5003 use of the product for a purpose for which the product is designed occurs outside of this state;

5004 (B) a boat, the boat is registered outside of this state; or

5005 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
5006 outside of this state;

5007 (b) the exemption provided for in Subsection [~~(24)~~] (21)(a) does not apply to:

5008 (i) a lease or rental of a product; or

5009 (ii) a sale of a vehicle exempt under Subsection [~~(33)~~] (30); and

5010 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
5011 purposes of Subsection [~~(24)~~] (21)(a), the commission may by rule define what constitutes the
5012 following:

5013 (i) conducting business in this state if that phrase has the same meaning in this

5014 Subsection ~~[(24)]~~ (21) as in Subsection ~~[(63)]~~ (55);
5015 (ii) the first use of a product if that phrase has the same meaning in this Subsection
5016 ~~[(24)]~~ (21) as in Subsection ~~[(63)]~~ (55); or
5017 (iii) a purpose for which a product is designed if that phrase has the same meaning in
5018 this Subsection ~~[(24)]~~ (21) as in Subsection ~~[(63)]~~ (55);
5019 ~~[(25)]~~ (22) a product purchased for resale in the regular course of business, either in its
5020 original form or as an ingredient or component part of a manufactured or compounded product;
5021 ~~[(26)]~~ (23) a product upon which a sales or use tax was paid to some other state, or one
5022 of its subdivisions, except that the state shall be paid any difference between the tax paid and
5023 the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is
5024 allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and
5025 Use Tax Act;
5026 ~~[(27)]~~ (24) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d)
5027 to a person for use in compounding a service taxable under the subsections;
5028 ~~[(28)]~~ (25) purchases made in accordance with the special supplemental nutrition
5029 program for women, infants, and children established in 42 U.S.C. Sec. 1786;
5030 ~~[(29)]~~ (26) sales or leases of rolls, rollers, refractory brick, electric motors, or other
5031 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
5032 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
5033 the President, Office of Management and Budget;
5034 ~~[(30)]~~ (27) sales of a boat of a type required to be registered under Title 73, Chapter 18,
5035 State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard
5036 motor is:
5037 (a) not registered in this state; and
5038 (b) (i) not used in this state; or
5039 (ii) used in this state:
5040 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
5041 time period that does not exceed the longer of:

- 5042 (I) 30 days in any calendar year; or
- 5043 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
- 5044 the borders of this state; or
- 5045 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
- 5046 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
- 5047 state;
- 5048 ~~[(31)]~~ (28) sales of aircraft manufactured in Utah;
- 5049 ~~[(32)]~~ (29) amounts paid for the purchase of telecommunications service for purposes
- 5050 of providing telecommunications service;
- 5051 ~~[(33)]~~ (30) sales, leases, or uses of the following:
- 5052 (a) a vehicle by an authorized carrier; or
- 5053 (b) tangible personal property that is installed on a vehicle:
- 5054 (i) sold or leased to or used by an authorized carrier; and
- 5055 (ii) before the vehicle is placed in service for the first time;
- 5056 ~~[(34)]~~ (31) (a) 45% of the sales price of any new manufactured home; and
- 5057 (b) 100% of the sales price of any used manufactured home;
- 5058 ~~[(35)]~~ (32) sales relating to schools and fundraising sales;
- 5059 ~~[(36)]~~ (33) sales or rentals of durable medical equipment if:
- 5060 (a) a person presents a prescription for the durable medical equipment; and
- 5061 (b) the durable medical equipment is used for home use only;
- 5062 ~~[(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in~~
- 5063 ~~Section 72-11-102, and]~~
- 5064 ~~[(b) the commission shall by rule determine the method for calculating sales exempt~~
- 5065 ~~under Subsection (37)(a) that are not separately metered and accounted for in utility billings;]~~
- 5066 ~~[(38)]~~ (34) sales to a ski resort of:
- 5067 (a) snowmaking equipment;
- 5068 (b) ski slope grooming equipment;
- 5069 (c) passenger ropeways as defined in Section 72-11-102; or

5070 (d) parts used in the repairs or renovations of equipment or passenger ropeways
5071 described in Subsections ~~[(38)]~~ (34)(a) through (c);
5072 ~~[(39)]~~ (35) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for
5073 industrial use;
5074 ~~[(40)(a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for~~
5075 ~~amusement, entertainment, or recreation an unassisted amusement device as defined in Section~~
5076 ~~59-12-102;]~~
5077 ~~[(b) if a seller that sells or rents at the same business location the right to use or operate~~
5078 ~~for amusement, entertainment, or recreation one or more unassisted amusement devices and~~
5079 ~~one or more assisted amusement devices, the exemption described in Subsection (40)(a)~~
5080 ~~applies if the seller separately accounts for the sales or rentals of the right to use or operate for~~
5081 ~~amusement, entertainment, or recreation for the assisted amusement devices; and]~~
5082 ~~[(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,~~
5083 ~~Utah Administrative Rulemaking Act, the commission may make rules:]~~
5084 ~~[(i) governing the circumstances under which sales are at the same business location;~~
5085 ~~and]~~
5086 ~~[(ii) establishing the procedures and requirements for a seller to separately account for~~
5087 ~~the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for~~
5088 ~~assisted amusement devices;]~~
5089 ~~[(41)]~~ (36) (a) sales of photocopies by:
5090 (i) a governmental entity; or
5091 (ii) an entity within the state system of public education, including:
5092 (A) a school; or
5093 (B) the State Board of Education; or
5094 (b) sales of publications by a governmental entity;
5095 ~~[(42) amounts paid for admission to an athletic event at an institution of higher~~
5096 ~~education that is subject to the provisions of Title IX of the Education Amendments of 1972,~~
5097 ~~20 U.S.C. Sec. 1681 et seq.;]~~

- 5098 ~~[(43)]~~ (37) (a) sales made to or by:
- 5099 (i) an area agency on aging; or
- 5100 (ii) a senior citizen center owned by a county, city, or town; or
- 5101 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 5102 ~~[(44)]~~ (38) sales or leases of semiconductor fabricating, processing, research, or
- 5103 development materials regardless of whether the semiconductor fabricating, processing,
- 5104 research, or development materials:
- 5105 (a) actually come into contact with a semiconductor; or
- 5106 (b) ultimately become incorporated into real property;
- 5107 ~~[(45)]~~ (39) an amount paid by or charged to a purchaser for accommodations and
- 5108 services described in Subsection [59-12-103\(1\)\(i\)](#) to the extent the amount is exempt under
- 5109 Section [59-12-104.2](#);
- 5110 ~~[(46)] beginning on September 1, 2001, the lease or use of a vehicle issued a temporary~~
- 5111 ~~sports event registration certificate in accordance with Section [41-3-306](#) for the event period~~
- 5112 ~~specified on the temporary sports event registration certificate;]~~
- 5113 ~~[(47)]~~ (40) (a) sales or uses of electricity, if the sales or uses are made under a retail
- 5114 tariff adopted by the Public Service Commission only for purchase of electricity produced from
- 5115 a new alternative energy source built after January 1, 2016, as designated in the tariff by the
- 5116 Public Service Commission; and
- 5117 (b) for a residential use customer only, the exemption under Subsection ~~[(47)]~~ (40)(a)
- 5118 applies only to the portion of the tariff rate a customer pays under the tariff described in
- 5119 Subsection ~~[(47)]~~ (40)(a) that exceeds the tariff rate under the tariff described in Subsection
- 5120 ~~[(47)]~~ (40)(a) that the customer would have paid absent the tariff;
- 5121 ~~[(48)]~~ (41) sales or rentals of mobility enhancing equipment if a person presents a
- 5122 prescription for the mobility enhancing equipment;
- 5123 ~~[(49)]~~ (42) sales of water in a:
- 5124 (a) pipe;
- 5125 (b) conduit;

- 5126 (c) ditch; or
- 5127 (d) reservoir;
- 5128 [~~(50)~~] (43) sales of currency or coins that constitute legal tender of a state, the United
- 5129 States, or a foreign nation;
- 5130 [~~(51)~~] (44) (a) sales of an item described in Subsection [~~(51)~~] (44)(b) if the item:
- 5131 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
- 5132 (ii) has a gold, silver, or platinum content of 50% or more; and
- 5133 (b) Subsection [~~(51)~~] (44)(a) applies to a gold, silver, or platinum:
- 5134 (i) ingot;
- 5135 (ii) bar;
- 5136 (iii) medallion; or
- 5137 (iv) decorative coin;
- 5138 [~~(52)~~] (45) amounts paid on a sale-leaseback transaction;
- 5139 [~~(53)~~] (46) sales of a prosthetic device:
- 5140 (a) for use on or in a human; and
- 5141 (b) (i) for which a prescription is required; or
- 5142 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 5143 [~~(54)~~] (47) (a) except as provided in Subsection [~~(54)~~] (47)(b), purchases, leases, or
- 5144 rentals of machinery or equipment by an establishment described in Subsection [~~(54)~~] (47)(c) if
- 5145 the machinery or equipment is primarily used in the production or postproduction of the
- 5146 following media for commercial distribution:
- 5147 (i) a motion picture;
- 5148 (ii) a television program;
- 5149 (iii) a movie made for television;
- 5150 (iv) a music video;
- 5151 (v) a commercial;
- 5152 (vi) a documentary; or
- 5153 (vii) a medium similar to Subsections [~~(54)~~] (47)(a)(i) through (vi) as determined by

5154 the commission by administrative rule made in accordance with Subsection [~~(54)~~] (47)(d); or

5155 (b) purchases, leases, or rentals of machinery or equipment by an establishment
5156 described in Subsection [~~(54)~~] (47)(c) that is used for the production or postproduction of the
5157 following are subject to the taxes imposed by this chapter:

5158 (i) a live musical performance;

5159 (ii) a live news program; or

5160 (iii) a live sporting event;

5161 (c) the following establishments listed in the 1997 North American Industry
5162 Classification System of the federal Executive Office of the President, Office of Management
5163 and Budget, apply to Subsections [~~(54)~~] (47)(a) and (b):

5164 (i) NAICS Code 512110; or

5165 (ii) NAICS Code 51219; and

5166 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5167 commission may by rule:

5168 (i) prescribe what constitutes a medium similar to Subsections [~~(54)~~] (47)(a)(i) through
5169 (vi); or

5170 (ii) define:

5171 (A) "commercial distribution";

5172 (B) "live musical performance";

5173 (C) "live news program"; or

5174 (D) "live sporting event";

5175 [~~(55)~~] (48) (a) leases of seven or more years or purchases made on or after July 1,
5176 2004, but on or before June 30, 2027, of tangible personal property that:

5177 (i) is leased or purchased for or by a facility that:

5178 (A) is an alternative energy electricity production facility;

5179 (B) is located in the state; and

5180 (C) (I) becomes operational on or after July 1, 2004; or

5181 (II) has its generation capacity increased by one or more megawatts on or after July 1,

5182 2004, as a result of the use of the tangible personal property;

5183 (ii) has an economic life of five or more years; and

5184 (iii) is used to make the facility or the increase in capacity of the facility described in

5185 Subsection [~~(55)~~] (48)(a)(i) operational up to the point of interconnection with an existing

5186 transmission grid including:

5187 (A) a wind turbine;

5188 (B) generating equipment;

5189 (C) a control and monitoring system;

5190 (D) a power line;

5191 (E) substation equipment;

5192 (F) lighting;

5193 (G) fencing;

5194 (H) pipes; or

5195 (I) other equipment used for locating a power line or pole; and

5196 (b) this Subsection [~~(55)~~] (48) does not apply to:

5197 (i) tangible personal property used in construction of:

5198 (A) a new alternative energy electricity production facility; or

5199 (B) the increase in the capacity of an alternative energy electricity production facility;

5200 (ii) contracted services required for construction and routine maintenance activities;

5201 and

5202 (iii) unless the tangible personal property is used or acquired for an increase in capacity

5203 of the facility described in Subsection [~~(55)~~] (48)(a)(i)(C)(II), tangible personal property used

5204 or acquired after:

5205 (A) the alternative energy electricity production facility described in Subsection [~~(55)~~]

5206 (48)(a)(i) is operational as described in Subsection [~~(55)~~] (48)(a)(iii); or

5207 (B) the increased capacity described in Subsection [~~(55)~~] (48)(a)(i) is operational as

5208 described in Subsection [~~(55)~~] (48)(a)(iii);

5209 [~~(56)~~] (49) (a) leases of seven or more years or purchases made on or after July 1,

5210 2004, but on or before June 30, 2027, of tangible personal property that:

5211 (i) is leased or purchased for or by a facility that:

5212 (A) is a waste energy production facility;

5213 (B) is located in the state; and

5214 (C) (I) becomes operational on or after July 1, 2004; or

5215 (II) has its generation capacity increased by one or more megawatts on or after July 1,

5216 2004, as a result of the use of the tangible personal property;

5217 (ii) has an economic life of five or more years; and

5218 (iii) is used to make the facility or the increase in capacity of the facility described in

5219 Subsection [~~56~~] (49)(a)(i) operational up to the point of interconnection with an existing

5220 transmission grid including:

5221 (A) generating equipment;

5222 (B) a control and monitoring system;

5223 (C) a power line;

5224 (D) substation equipment;

5225 (E) lighting;

5226 (F) fencing;

5227 (G) pipes; or

5228 (H) other equipment used for locating a power line or pole; and

5229 (b) this Subsection [~~56~~] (49) does not apply to:

5230 (i) tangible personal property used in construction of:

5231 (A) a new waste energy facility; or

5232 (B) the increase in the capacity of a waste energy facility;

5233 (ii) contracted services required for construction and routine maintenance activities;

5234 and

5235 (iii) unless the tangible personal property is used or acquired for an increase in capacity

5236 described in Subsection [~~56~~] (49)(a)(i)(C)(II), tangible personal property used or acquired

5237 after:

5238 (A) the waste energy facility described in Subsection [~~(56)~~] (49)(a)(i) is operational as
5239 described in Subsection [~~(56)~~] (49)(a)(iii); or
5240 (B) the increased capacity described in Subsection [~~(56)~~] (49)(a)(i) is operational as
5241 described in Subsection [~~(56)~~] (49)(a)(iii);
5242 [~~(57)~~] (50) (a) leases of five or more years or purchases made on or after July 1, 2004,
5243 but on or before June 30, 2027, of tangible personal property that:
5244 (i) is leased or purchased for or by a facility that:
5245 (A) is located in the state;
5246 (B) produces fuel from alternative energy, including:
5247 (I) methanol; or
5248 (II) ethanol; and
5249 (C) (I) becomes operational on or after July 1, 2004; or
5250 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
5251 a result of the installation of the tangible personal property;
5252 (ii) has an economic life of five or more years; and
5253 (iii) is installed on the facility described in Subsection [~~(57)~~] (50)(a)(i);
5254 (b) this Subsection [~~(57)~~] (50) does not apply to:
5255 (i) tangible personal property used in construction of:
5256 (A) a new facility described in Subsection [~~(57)~~] (50)(a)(i); or
5257 (B) the increase in capacity of the facility described in Subsection [~~(57)~~] (50)(a)(i); or
5258 (ii) contracted services required for construction and routine maintenance activities;
5259 and
5260 (iii) unless the tangible personal property is used or acquired for an increase in capacity
5261 described in Subsection [~~(57)~~] (50)(a)(i)(C)(II), tangible personal property used or acquired
5262 after:
5263 (A) the facility described in Subsection [~~(57)~~] (50)(a)(i) is operational; or
5264 (B) the increased capacity described in Subsection [~~(57)~~] (50)(a)(i) is operational;
5265 [~~(58)~~] (51) (a) subject to Subsection [~~(58)~~](b) or (c) (51)(b), sales of tangible personal

5266 property or a product transferred electronically to a person within this state if that tangible
5267 personal property or product transferred electronically is subsequently shipped outside the state
5268 and incorporated pursuant to contract into and becomes a part of real property located outside
5269 of this state; and

5270 (b) the exemption under Subsection [~~(58)~~] (51)(a) is not allowed to the extent that the
5271 other state or political entity to which the tangible personal property is shipped imposes a sales,
5272 use, gross receipts, or other similar transaction excise tax on the transaction against which the
5273 other state or political entity allows a credit for sales and use taxes imposed by this chapter;
5274 [~~and~~]

5275 [~~(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~
5276 ~~a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a~~
5277 ~~refund:]~~

5278 [(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;]

5279 [(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
5280 which the sale is made;]

5281 [(iii) if the person did not claim the exemption allowed by this Subsection (58) for the
5282 sale prior to filing for the refund;]

5283 [(iv) for sales and use taxes paid under this chapter on the sale;]

5284 [(v) in accordance with Section 59-1-1410; and]

5285 [(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410;
5286 if the person files for the refund on or before June 30, 2011;]

5287 [~~(59) purchases:]~~

5288 [(a) of one or more of the following items in printed or electronic format:]

5289 [(i) a list containing information that includes one or more:]

5290 [(A) names; or]

5291 [(B) addresses; or]

5292 [(ii) a database containing information that includes one or more:]

5293 [(A) names; or]

5294 [~~(B)~~ addresses; and]
5295 [~~(b)~~ used to send direct mail;]
5296 [~~(60)~~] (52) redemptions or repurchases of a product by a person if that product was:
5297 (a) delivered to a pawnbroker as part of a pawn transaction; and
5298 (b) redeemed or repurchased within the time period established in a written agreement
5299 between the person and the pawnbroker for redeeming or repurchasing the product;
5300 [~~(61)~~] (53) (a) purchases or leases of an item described in Subsection [~~(61)~~] (53)(b) if
5301 the item:
5302 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
5303 and
5304 (ii) has a useful economic life of one or more years; and
5305 (b) the following apply to Subsection [~~(61)~~] (53)(a):
5306 (i) telecommunications enabling or facilitating equipment, machinery, or software;
5307 (ii) telecommunications equipment, machinery, or software required for 911 service;
5308 (iii) telecommunications maintenance or repair equipment, machinery, or software;
5309 (iv) telecommunications switching or routing equipment, machinery, or software; or
5310 (v) telecommunications transmission equipment, machinery, or software;
5311 [~~(62)~~] (54) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of
5312 tangible personal property or a product transferred electronically that are used in the research
5313 and development of alternative energy technology; and
5314 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5315 commission may, for purposes of Subsection [~~(62)~~] (54)(a), make rules defining what
5316 constitutes purchases of tangible personal property or a product transferred electronically that
5317 are used in the research and development of alternative energy technology;
5318 [~~(63)~~] (55) (a) purchases of tangible personal property or a product transferred
5319 electronically if:
5320 (i) the tangible personal property or product transferred electronically is:
5321 (A) purchased outside of this state;

5322 (B) brought into this state at any time after the purchase described in Subsection [~~(63)~~
5323 (55)(a)(i)(A); and

5324 (C) used in conducting business in this state; and

5325 (ii) for:

5326 (A) tangible personal property or a product transferred electronically other than the
5327 tangible personal property described in Subsection [~~(63)~~] (55)(a)(ii)(B), the first use of the
5328 property for a purpose for which the property is designed occurs outside of this state; or

5329 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
5330 outside of this state;

5331 (b) the exemption provided for in Subsection [~~(63)~~] (55)(a) does not apply to:

5332 (i) a lease or rental of tangible personal property or a product transferred electronically;
5333 or

5334 (ii) a sale of a vehicle exempt under Subsection [~~(33)~~] (30); and

5335 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
5336 purposes of Subsection [~~(63)~~] (55)(a), the commission may by rule define what constitutes the
5337 following:

5338 (i) conducting business in this state if that phrase has the same meaning in this
5339 Subsection [~~(63)~~] (55) as in Subsection [~~(24)~~] (21);

5340 (ii) the first use of tangible personal property or a product transferred electronically if
5341 that phrase has the same meaning in this Subsection [~~(63)~~] (55) as in Subsection [~~(24)~~] (21); or

5342 (iii) a purpose for which tangible personal property or a product transferred
5343 electronically is designed if that phrase has the same meaning in this Subsection [~~(63)~~] (55) as
5344 in Subsection [~~(24)~~] (21);

5345 [~~(64)~~] (56) sales of disposable home medical equipment or supplies if:

5346 (a) a person presents a prescription for the disposable home medical equipment or
5347 supplies;

5348 (b) the disposable home medical equipment or supplies are used exclusively by the
5349 person to whom the prescription described in Subsection [~~(64)~~] (56)(a) is issued; and

- 5350 (c) the disposable home medical equipment and supplies are listed as eligible for
5351 payment under:
- 5352 (i) Title XVIII, federal Social Security Act; or
 - 5353 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- 5354 [~~(65) sales:~~]
5355 [~~(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit~~
5356 ~~District Act; or]~~
- 5357 [~~(b) of tangible personal property to a subcontractor of a public transit district, if the~~
5358 ~~tangible personal property is:~~]
5359 [~~(i) clearly identified; and]~~
5360 [~~(ii) installed or converted to real property owned by the public transit district;]~~
5361 [~~(66)~~] (57) sales of construction materials:
5362 (a) purchased on or after July 1, 2010;
5363 (b) purchased by, on behalf of, or for the benefit of an international airport:
5364 (i) located within a county of the first class; and
5365 (ii) that has a United States customs office on its premises; and
5366 (c) if the construction materials are:
5367 (i) clearly identified;
5368 (ii) segregated; and
5369 (iii) installed or converted to real property:
5370 (A) owned or operated by the international airport described in Subsection [~~(66)~~]
5371 (57)(b); and
5372 (B) located at the international airport described in Subsection [~~(66)~~] (57)(b);
5373 [~~(67)~~] (58) sales of construction materials:
5374 (a) purchased on or after July 1, 2008;
5375 (b) purchased by, on behalf of, or for the benefit of a new airport:
5376 (i) located within a county of the second class; and
5377 (ii) that is owned or operated by a city in which an airline as defined in Section

5378 59-2-102 is headquartered; and

5379 (c) if the construction materials are:

5380 (i) clearly identified;

5381 (ii) segregated; and

5382 (iii) installed or converted to real property:

5383 (A) owned or operated by the new airport described in Subsection ~~[(67)]~~ (58)(b);

5384 (B) located at the new airport described in Subsection ~~[(67)]~~ (58)(b); and

5385 (C) as part of the construction of the new airport described in Subsection ~~[(67)]~~

5386 (58)(b);

5387 ~~[(68) sales of fuel to a common carrier that is a railroad for use in a locomotive~~

5388 ~~engine;]~~

5389 ~~[(69)]~~ (59) purchases and sales described in Section 63H-4-111;

5390 ~~[(70)]~~ (60) (a) sales of tangible personal property to an aircraft maintenance, repair, and

5391 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of

5392 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration

5393 lists a state or country other than this state as the location of registry of the fixed wing turbine

5394 powered aircraft; or

5395 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul

5396 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of

5397 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration

5398 lists a state or country other than this state as the location of registry of the fixed wing turbine

5399 powered aircraft;

5400 ~~[(71) subject to Section 59-12-104.4, sales of a textbook for a higher education~~

5401 ~~course;]~~

5402 ~~[(a) to a person admitted to an institution of higher education; and]~~

5403 ~~[(b) by a seller, other than a bookstore owned by an institution of higher education, if~~

5404 ~~51% or more of that seller's sales revenue for the previous calendar quarter are sales of a~~

5405 ~~textbook for a higher education course;]~~

5406 [~~(72)~~] (61) a license fee or tax a municipality imposes in accordance with Subsection
5407 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
5408 level of municipal services;

5409 [~~(73)~~] (62) amounts paid or charged for construction materials used in the construction
5410 of a new or expanding life science research and development facility in the state, if the
5411 construction materials are:

- 5412 (a) clearly identified;
- 5413 (b) segregated; and
- 5414 (c) installed or converted to real property;

5415 [~~(74)~~] (63) amounts paid or charged for:

5416 (a) a purchase or lease of machinery and equipment that:

- 5417 (i) are used in performing qualified research:
 - 5418 (A) as defined in Section 41(d), Internal Revenue Code; and
 - 5419 (B) in the state; and

5420 (ii) have an economic life of three or more years; and

5421 (b) normal operating repair or replacement parts:

- 5422 (i) for the machinery and equipment described in Subsection [~~(74)~~] (63)(a); and
- 5423 (ii) that have an economic life of three or more years;

5424 [~~(75)~~] (64) a sale or lease of tangible personal property used in the preparation of
5425 prepared food if:

5426 (a) for a sale:

- 5427 (i) the ownership of the seller and the ownership of the purchaser are identical; and
- 5428 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
5429 tangible personal property prior to making the sale; or

5430 (b) for a lease:

- 5431 (i) the ownership of the lessor and the ownership of the lessee are identical; and
- 5432 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
5433 personal property prior to making the lease;

5434 ~~[(76)]~~ (65) (a) purchases of machinery or equipment if:

5435 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,

5436 Gambling, and Recreation Industries, of the 2012 North American Industry Classification

5437 System of the federal Executive Office of the President, Office of Management and Budget;

5438 (ii) the machinery or equipment:

5439 (A) has an economic life of three or more years; and

5440 (B) is used by one or more persons who pay admission or user fees described in

5441 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

5442 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

5443 (A) amounts paid or charged as admission or user fees described in Subsection

5444 59-12-103(1)(f); and

5445 (B) subject to taxation under this chapter; and

5446 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

5447 commission may make rules for verifying that 51% of a purchaser's sales revenue for the

5448 previous calendar quarter is:

5449 (i) amounts paid or charged as admission or user fees described in Subsection

5450 59-12-103(1)(f); and

5451 (ii) subject to taxation under this chapter;

5452 ~~[(77)]~~ (66) purchases of a short-term lodging consumable by a business that provides

5453 accommodations and services described in Subsection 59-12-103(1)(i);

5454 ~~[(78) amounts paid or charged to access a database;]~~

5455 ~~[(a) if the primary purpose for accessing the database is to view or retrieve information~~

5456 ~~from the database; and]~~

5457 ~~[(b) not including amounts paid or charged for a:]~~

5458 ~~[(i) digital audiowork;]~~

5459 ~~[(ii) digital audio-visual work; or]~~

5460 ~~[(iii) digital book;]~~

5461 ~~[(79)]~~ (67) amounts paid or charged for a purchase or lease made by an electronic

5462 financial payment service, of:

5463 (a) machinery and equipment that:

5464 (i) are used in the operation of the electronic financial payment service; and

5465 (ii) have an economic life of three or more years; and

5466 (b) normal operating repair or replacement parts that:

5467 (i) are used in the operation of the electronic financial payment service; and

5468 (ii) have an economic life of three or more years;

5469 ~~[(80)]~~ (68) ~~[beginning on April 1, 2013,]~~ sales of a fuel cell as defined in Section

5470 [54-15-102](#);

5471 ~~[(81)]~~ (69) amounts paid or charged for a purchase or lease of tangible personal

5472 property or a product transferred electronically if the tangible personal property or product

5473 transferred electronically:

5474 (a) is stored, used, or consumed in the state; and

5475 (b) is temporarily brought into the state from another state:

5476 (i) during a disaster period as defined in Section [53-2a-1202](#);

5477 (ii) by an out-of-state business as defined in Section [53-2a-1202](#);

5478 (iii) for a declared state disaster or emergency as defined in Section [53-2a-1202](#); and

5479 (iv) for disaster- or emergency-related work as defined in Section [53-2a-1202](#);

5480 ~~[(82)]~~ (70) sales of goods and services at a morale, welfare, and recreation facility, as

5481 defined in Section [39-9-102](#), made pursuant to Title 39, Chapter 9, State Morale, Welfare, and

5482 Recreation Program;

5483 ~~[(83)]~~ (71) amounts paid or charged for a purchase or lease of molten magnesium;

5484 ~~[(84)]~~ (72) amounts paid or charged for a purchase or lease made by a qualifying

5485 ~~[enterprise]~~ data center or an occupant of a qualifying data center of machinery, equipment, or

5486 normal operating repair or replacement parts, if the machinery, equipment, or normal operating

5487 repair or replacement parts:

5488 (a) are used in ~~[the operation of the establishment, and];~~

5489 (i) the operation of the qualifying data center; or

5490 (ii) the occupant's operations in the qualifying data center; and
5491 (b) have an economic life of one or more years;
5492 [~~(85)~~ sales of cleaning or washing of a vehicle, except for cleaning or washing of a
5493 vehicle that includes cleaning or washing of the interior of the vehicle;]
5494 [~~(86)~~] (73) amounts paid or charged for a purchase or lease of machinery, equipment,
5495 normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or
5496 supplies used or consumed:
5497 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
5498 in Section 63M-4-701 located in the state;
5499 (b) if the machinery, equipment, normal operating repair or replacement parts,
5500 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:
5501 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
5502 added to gasoline or diesel fuel;
5503 (ii) research and development;
5504 (iii) transporting, storing, or managing raw materials, work in process, finished
5505 products, and waste materials produced from refining gasoline or diesel fuel, or adding
5506 blendstock to gasoline or diesel fuel;
5507 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
5508 refining; or
5509 (v) preventing, controlling, or reducing pollutants from refining; and
5510 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office
5511 of Energy Development under Subsection 63M-4-702(2);
5512 [~~(87)~~] (74) amounts paid to or charged by a proprietor for accommodations and
5513 services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA
5514 accommodations tax imposed under Section 63H-1-205;
5515 [~~(88)~~] (75) amounts paid or charged for a purchase or lease of machinery, equipment,
5516 normal operating repair or replacement parts, or materials, except for office equipment or
5517 office supplies, by an establishment, as the commission defines that term in accordance with

5518 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

5519 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
5520 American Industry Classification System of the federal Executive Office of the President,
5521 Office of Management and Budget;

5522 (b) is located in this state; and

5523 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
5524 materials in the operation of the establishment; ~~and~~

5525 ~~[(89)]~~ (76) amounts paid or charged for an item exempt under Section 59-12-104.10[-];

5526 (77) if paid for through a machine that accepts only cash for payment and if the
5527 machine is the only method by which to pay:

5528 (a) sales of cleaning or washing of tangible personal property if the cleaning or
5529 washing of the tangible personal property is not assisted cleaning or washing of tangible
5530 personal property;

5531 (b) sales of food and food ingredients or prepared food from a vending machine if:

5532 (i) the proceeds of each sale do not exceed \$1; and

5533 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
5534 the cost of the food and food ingredients or prepared food as goods consumed;

5535 (c) sales or rentals of the right to use or operate an unassisted amusement device for
5536 amusement, entertainment, or recreation; and

5537 (78) amounts paid or charged for tangible personal property that:

5538 (a) is not electricity, gas, machinery, equipment, vehicles, parts, office equipment, or
5539 office supplies; and

5540 (b) is consumed as part of a service described in Subsection 59-12-103(1)(g), (h), or
5541 (j).

5542 Section 48. Section **59-12-104.5** is amended to read:

5543 **59-12-104.5. Revenue and Taxation Interim Committee review of sales and use**
5544 **taxes.**

5545 The Revenue and Taxation Interim Committee shall:

5546 (1) review Subsection ~~59-12-104~~(28)(25) before October 1 of the year after the year
5547 in which Congress permits a state to participate in the special supplemental nutrition program
5548 under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on
5549 purchases of food under that program; and

5550 (2) review Subsection ~~59-12-104~~(21)(18) before October 1 of the year after the year
5551 in which Congress permits a state to participate in the SNAP as defined in Section ~~35A-1-102~~,
5552 even if state or local sales taxes are collected within the state on purchases of food under that
5553 program.

5554 Section 49. Section **59-12-1201** is amended to read:

5555 **59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration,**
5556 **collection, and enforcement of tax -- Administrative charge -- Deposits.**

5557 (1) (a) Except as provided in Subsection (3), there is imposed a tax of ~~[2.5%~~ 4% on all
5558 short-term leases and rentals of motor vehicles not exceeding 30 days.

5559 (b) The tax imposed in this section is in addition to all other state, county, or municipal
5560 fees and taxes imposed on rentals of motor vehicles.

5561 (2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax
5562 imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

5563 (b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall
5564 take effect on the first day of the first billing period:

5565 (A) that begins after the effective date of the tax rate increase; and

5566 (B) if the billing period for the transaction begins before the effective date of a tax rate
5567 increase imposed under Subsection (1).

5568 (ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax
5569 rate decrease shall take effect on the first day of the last billing period:

5570 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;

5571 and

5572 (B) if the billing period for the transaction begins before the effective date of the repeal
5573 of the tax or the tax rate decrease imposed under Subsection (1).

5574 (3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:
5575 (a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;
5576 (b) the motor vehicle is rented as a personal household goods moving van; or
5577 (c) the lease or rental of the motor vehicle is made for the purpose of temporarily
5578 replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an
5579 insurance agreement.

5580 (4) (a) (i) The tax authorized under this section shall be administered, collected, and
5581 enforced in accordance with:

5582 (A) the same procedures used to administer, collect, and enforce the tax under Part 1,
5583 Tax Collection; and

5584 (B) Chapter 1, General Taxation Policies.

5585 (ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to
5586 Subsections 59-12-103(4) through (10) or Section 59-12-107.1 or 59-12-123.

5587 (b) The commission shall retain and deposit an administrative charge in accordance
5588 with Section 59-1-306 from the ~~revenues~~ revenue the commission collects from a tax under
5589 this part.

5590 (c) Except as provided under Subsection (4)(b), all revenue received by the
5591 commission under this section shall be deposited daily with the state treasurer and credited
5592 monthly to the Marda Dillree Corridor Preservation Fund under Section 72-2-117.

5593 Section 50. Section 59-13-202 is amended to read:

5594 **59-13-202. Refund of tax for agricultural uses on individual income and**
5595 **corporate franchise and income tax returns -- Application for permit for refund --**
5596 **Division of Finance to pay claims -- Rules permitted to enforce part -- Penalties --**
5597 **Revenue and Taxation Interim Committee study.**

5598 (1) As used in this section:

5599 (a) (i) Except as provided in Subsection (1)(a)(ii), "claimant" means a resident or
5600 nonresident person.

5601 (ii) "Claimant" does not include an estate or trust.

- 5602 (b) "Estate" means a nonresident estate or a resident estate.
- 5603 (c) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or
5604 trust may claim:
- 5605 (i) as provided by statute; and
- 5606 (ii) regardless of whether, for the taxable year for which the claimant, estate, or trust
5607 claims the tax credit, the claimant, estate, or trust has a tax liability under:
- 5608 (A) Chapter 7, Corporate Franchise and Income Taxes; or
- 5609 (B) Chapter 10, Individual Income Tax Act.
- 5610 (d) "Trust" means a nonresident trust or a resident trust.
- 5611 (2) Any claimant, estate, or trust that purchases and uses any motor fuel within the state
5612 for the purpose of operating or propelling stationary farm engines and self-propelled farm
5613 machinery used for nonhighway agricultural uses, and that has paid the tax on the motor fuel as
5614 provided by this part, is entitled to a refund of the tax subject to the conditions and limitations
5615 provided under this part.
- 5616 (3) (a) A claimant, estate, or trust desiring a nonhighway agricultural use refund under
5617 this part shall claim the refund as a refundable tax credit on the tax return the claimant, estate,
5618 or trust files under:
- 5619 (i) Chapter 7, Corporate Franchise and Income Taxes; or
- 5620 (ii) Chapter 10, Individual Income Tax Act.
- 5621 (b) A claimant, estate, or trust not subject to filing a tax return described in Subsection
5622 (3)(a) shall obtain a permit and file claims on a calendar year basis.
- 5623 (c) Any claimant, estate, or trust claiming a refundable tax credit under this section is
5624 required to furnish any or all of the information outlined in this section upon request of the
5625 commission.
- 5626 (d) A refundable tax credit under this section is allowed only on purchases on which
5627 tax is paid during the taxable year covered by the tax return.
- 5628 (4) In order to obtain a permit for a refund of motor fuel tax paid, an application shall
5629 be filed containing:

- 5630 (a) the name of the claimant, estate, or trust;
- 5631 (b) the claimant's, estate's, or trust's address;
- 5632 (c) location and number of acres owned and operated, location and number of acres
5633 rented and operated, the latter of which shall be verified by a signed statement from the legal
5634 owner;
- 5635 (d) number of acres planted to each crop, type of soil, and whether irrigated or dry; and
- 5636 (e) make, size, and type of fuel used and power rating of each piece of equipment using
5637 fuel. If the claimant, estate, or trust is an operator of self-propelled or tractor-pulled farm
5638 machinery with which the claimant, estate, or trust works for hire doing custom jobs for other
5639 farmers, the application shall include information the commission requires and shall all be
5640 contained in, and be considered part of, the original application. The claimant, estate, or trust
5641 shall also file with the application a certificate from the county assessor showing each piece of
5642 equipment using fuel. This original application and all information contained in it constitutes a
5643 permanent file with the commission in the name of the claimant, estate, or trust.
- 5644 (5) A claimant, estate, or trust claiming the right to a refund of motor fuel tax paid shall
5645 file a claim with the commission by April 15 of each year for the refund for the previous
5646 calendar year. The claim shall state the name and address of the claimant, estate, or trust, the
5647 number of gallons of motor fuel purchased for nonhighway agricultural uses, and the amount
5648 paid for the motor fuel. The claimant, estate, or trust shall retain the original invoice to support
5649 the claim. No more than one claim for a tax refund may be filed annually by each user of
5650 motor fuel purchased for nonhighway agricultural uses.
- 5651 (6) Upon commission approval of the claim for a refund, the Division of Finance shall
5652 pay the amount found due to the claimant, estate, or trust. The total amount of claims for
5653 refunds shall be paid from motor fuel taxes.
- 5654 (7) The commission may refuse to accept as evidence of purchase or payment any
5655 instruments that show alteration or that fail to indicate the quantity of the purchase, the price of
5656 the motor fuel, a statement that the motor fuel is purchased for purposes other than
5657 transportation, and the date of purchase and delivery. If the commission is not satisfied with

5658 the evidence submitted in connection with the claim, the commission may reject the claim or
5659 require additional evidence.

5660 (8) A claimant, estate, or trust aggrieved by the decision of the commission with
5661 respect to a refundable tax credit or refund may file a request for agency action, requesting a
5662 hearing before the commission.

5663 (9) A claimant, estate, or trust that makes any false claim, report, or statement, as
5664 claimant, estate, trust, agent, or creditor, with intent to defraud or secure a refund to which the
5665 claimant, estate, or trust is not entitled, is subject to the criminal penalties provided under
5666 Section 59-1-401, and the commission shall initiate the filing of a complaint for alleged
5667 violations of this part. In addition to these penalties, the claimant, estate, or trust may not
5668 receive any refund as a claimant, estate, or trust or as a creditor of a claimant, estate, or trust for
5669 refund for a period of five years.

5670 ~~[(10)(a) In accordance with any rules prescribed by the commission under Subsection~~
5671 ~~(10)(b), the Division of Finance shall transfer at least annually from the Transportation Fund~~
5672 ~~into the Education Fund an amount equal to the amount of the refund claimed under this~~
5673 ~~section.]~~

5674 ~~[(b)]~~ (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
5675 Act, the commission may make rules providing procedures for:

5676 (i) making a refund to a claimant, estate, or trust as required by Subsection (3)(a)(i); or

5677 ~~[(ii) making a transfer from the Transportation Fund into the Education Fund as~~
5678 ~~required by Subsection (10)(a); or]~~

5679 ~~[(iii)]~~ (ii) enforcing this part.

5680 (11) (a) On or before November 30, 2017, and every three years after 2017, the
5681 Revenue and Taxation Interim Committee shall review the tax credit provided by this section
5682 and make recommendations concerning whether the tax credit should be continued, modified,
5683 or repealed.

5684 (b) In conducting the review required by Subsection (11)(a), the Revenue and Taxation
5685 Interim Committee shall:

- 5686 (i) schedule time on at least one committee agenda to conduct the review;
- 5687 (ii) invite state agencies, individuals, and organizations concerned with the credit under
- 5688 review to provide testimony;
- 5689 (iii) ensure that the recommendations described in this section include an evaluation of:
- 5690 (A) the cost of the tax credit to the state;
- 5691 (B) the purpose and effectiveness of the tax credit; and
- 5692 (C) the extent to which the state benefits from the tax credit; and
- 5693 (iv) undertake other review efforts as determined by the chairs of the Revenue and
- 5694 Taxation Interim Committee.

5695 Section 51. Section **59-13-323** is enacted to read:

5696 **59-13-323. Additional special fuel tax on diesel fuel.**

5697 (1) A supplier shall pay an additional special fuel tax on diesel fuel that is subject to

5698 the special fuel tax imposed under Section 59-13-301 in an amount equal to:

5699 (a) beginning on April 1, 2020, and ending on December 31, 2021, six cents per gallon;

5700 and

5701 (b) beginning on January 1, 2022, 10 cents per gallon.

5702 (2) (a) The commission shall deposit daily the revenue that the commission collects

5703 under this section with the state treasurer.

5704 (b) Notwithstanding Section 59-13-301, the state treasurer shall credit the revenue

5705 deposited in accordance with Subsection (2)(a) to the Transportation Investment Fund of 2005

5706 created in Section 72-2-124.

5707 (3) (a) A person entitled to a refund of a special fuel tax under this part may receive a

5708 refund of the additional special fuel tax due under this section for the same gallons that the

5709 person is entitled to a refund of a special fuel tax.

5710 (b) Notwithstanding Section 59-13-318, the total amount of claims for refunds under

5711 Subsection (3)(a) shall be paid from the Transportation Investment Fund of 2005.

5712 (4) Beginning in 2021, the commission shall submit annually on or before October 1,

5713 an electronic report to a legislative committee designated by the Legislative Management

5714 Committee that:

5715 (a) states the amount of revenue collected from the tax imposed under Section
5716 59-13-323 during the preceding fiscal year; and

5717 (b) provides an estimate of the revenue that will be collected from the tax imposed
5718 under Section 59-13-323 during the current fiscal year.

5719 Section 52. Section **59-13-601** is enacted to read:

5720 **Part 6. Sales Tax on Motor Fuel and Special Fuel, Other than Diesel Fuel**

5721 **59-13-601. Sales tax on motor fuel and special fuel, other than diesel fuel.**

5722 (1) (a) As used in this part, "nondiesel special fuel" means special fuel, other than
5723 diesel fuel.

5724 (b) For purposes of this part, the definitions in Section 59-13-102 that contain the
5725 words special fuel in the definition shall be read as though the words special fuel were replaced
5726 with nondiesel special fuel.

5727 (2) (a) Beginning on April 1, 2020, and subject to the other provisions of this
5728 Subsection (2), a sales tax is imposed on motor fuel and nondiesel special fuel at an amount
5729 equal to the product of:

5730 (i) the rate described in Subsection 59-12-103(2)(a)(i)(A);

5731 (ii) the average daily rack price, calculated in accordance with Subsection (3) or (4);

5732 and

5733 (iii) (A) the number of gallons of motor fuel;

5734 (B) the number of diesel gallon equivalent for liquified natural gas;

5735 (C) the number of gasoline gallon equivalent for compressed natural gas or hydrogen;

5736 or

5737 (D) the number of units sold of nondiesel special fuel that is not liquified natural gas,
5738 compressed natural gas, or hydrogen.

5739 (b) (i) The distributor shall pay the tax on motor fuel.

5740 (ii) The supplier shall pay the tax on nondiesel special fuel.

5741 (c) (i) Except as provided in Subsection (2)(c)(iii), the provisions of Part 2, Motor

5742 Fuel, apply to the sales tax imposed by this section on motor fuel.

5743 (ii) Except as provided in Subsection (2)(c)(iii), the provisions of Part 3, Special Fuel,
5744 apply to the sales tax imposed by this section on nondiesel special fuel.

5745 (iii) (A) The sales tax rate on motor fuel and nondiesel special fuel is as provided in
5746 this Subsection (2).

5747 (B) The treasurer shall deposit the revenue collected from the sales tax imposed under
5748 this section into the Transportation Investment Fund of 2005 created in Section [72-2-124](#).

5749 (C) The commission shall pay any refunds from the Transportation Investment Fund of
5750 2005 created in Section [72-2-124](#).

5751 (3) (a) The commission shall determine annually the average daily rack price for motor
5752 fuel.

5753 (b) For the 2020 calendar year, the commission shall make the determination required
5754 by Subsection (3)(a) by:

5755 (i) calculating the previous fiscal year statewide average rack price of a gallon of
5756 regular unleaded motor fuel, excluding federal and state excise taxes, for the 12 months ending
5757 on the previous June 30 as published by an oil pricing service; and

5758 (ii) rounding to the nearest one-hundredth of a cent.

5759 (c) For the 2021 calendar year, the commission shall make the determination required
5760 by Subsection (3)(a) by:

5761 (i) calculating the previous two fiscal years' statewide average rack price of a gallon of
5762 regular unleaded motor fuel, excluding federal and state excise taxes, for the 24 months ending
5763 on the previous June 30 as published by an oil pricing service.

5764 (d) Beginning on January 1, 2022, the commission shall make the determination
5765 required by Subsection (3)(a) by:

5766 (i) calculating the previous three fiscal years' statewide average rack price of a gallon
5767 of regular unleaded motor fuel, excluding federal and state excise taxes, for the 36 months
5768 ending on the previous June 30 as published by an oil pricing service; and

5769 (ii) rounding to the nearest one-hundredth of a cent.

5770 (e) If the average daily rack price of a gallon of motor fuel determined under
5771 Subsection (3)(c) or (d) is less than the average daily rack price of a gallon of motor fuel
5772 calculated in accordance with Subsection (3)(b), the average daily rack price shall be the
5773 average daily rack price calculated in accordance with Subsection (3)(b).

5774 (4) The average daily rack price for nondiesel special fuel is the product of:
5775 (a) the average daily rack price calculated in accordance with Subsection (3); and
5776 (b) the percentage calculated by dividing the rate calculated in accordance with
5777 Subsection 59-13-301(12) by the rate calculated in accordance with Subsection 59-13-201(1).

5778 (5) (a) The commission shall annually:
5779 (i) publish the average daily rack prices calculated in accordance with Subsections (3)
5780 and (4); and

5781 (ii) post or otherwise make public the average daily rack prices no later than 60 days
5782 prior to the annual effective date under Subsection (5)(b).

5783 (b) The average daily rack price described in Subsection (2) and calculated in
5784 accordance with Subsections (3) and (4) shall take effect:

5785 (i) for the 2020 calendar year, on April 1; and
5786 (ii) beginning with the 2021 calendar year, on January 1 of each year.

5787 Section 53. Section **63I-2-241** is enacted to read:

5788 **63I-2-241. Repeal dates -- Title 41.**

5789 Subsection 41-6a-702(5), which allows a vehicle with a clean fuel vehicle decal to
5790 travel in a lane designated for the use of high occupancy vehicles regardless of the number of
5791 occupants, is repealed September 30, 2025.

5792 Section 54. Section **63I-2-253** is amended to read:

5793 **63I-2-253. Repeal dates -- Titles 53 through 53G.**

5794 (1) (a) Subsections **53B-2a-103**(2) and (4), regarding the composition of the UTech
5795 Board of Trustees and the transition to that composition, are repealed July 1, 2019.

5796 (b) When repealing Subsections **53B-2a-103**(2) and (4), the Office of Legislative
5797 Research and General Counsel shall, in addition to its authority under Subsection **36-12-12**(3),

5798 make necessary changes to subsection numbering and cross references.

5799 (2) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a
5800 technical college board of directors, is repealed July 1, 2022.

5801 (b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and
5802 General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make
5803 necessary changes to subsection numbering and cross references.

5804 (3) Section 53B-6-105.7 is repealed July 1, 2024.

5805 (4) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states "Except as provided
5806 in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

5807 (b) Subsection 53B-7-705(6)(b)(ii)(B), regarding comparing a technical college's
5808 change in performance with the technical college's average performance, is repealed July 1,
5809 2021.

5810 (5) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as provided in
5811 Subsection (3)(b)," is repealed July 1, 2021.

5812 (b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college
5813 during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

5814 (6) Section 53B-8-112 is repealed July 1, 2024.

5815 (7) Section 53B-8-114 is repealed July 1, 2024.

5816 (8) (a) The following sections, regarding the Regents' scholarship program, are
5817 repealed on July 1, 2023:

5818 (i) Section 53B-8-202;

5819 (ii) Section 53B-8-203;

5820 (iii) Section 53B-8-204; and

5821 (iv) Section 53B-8-205.

5822 (b) (i) Subsection 53B-8-201(2), regarding the Regents' scholarship program for
5823 students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.

5824 (ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and
5825 General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make

- 5826 necessary changes to subsection numbering and cross references.
- 5827 (9) Section [53B-10-101](#) is repealed on July 1, 2027.
- 5828 (10) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is
5829 repealed July 1, 2023.
- 5830 (11) Section [53E-3-519](#) regarding school counselor services is repealed July 1, 2020.
- 5831 (12) Section [53E-3-520](#) is repealed July 1, 2021.
- 5832 (13) Subsection [53E-5-306\(3\)\(b\)\(ii\)\(B\)](#), related to improving school performance and
5833 continued funding relating to the School Recognition and Reward Program, is repealed July 1,
5834 2020.
- 5835 (14) Section [53E-5-307](#) is repealed July 1, 2020.
- 5836 (15) In Subsections [53F-2-205\(4\)](#) and (5), regarding the State Board of Education's
5837 duties if contributions from the minimum basic tax rate are overestimated or underestimated,
5838 the language that states "or [53F-2-301.5](#), as applicable" is repealed July 1, 2023.
- 5839 (16) Subsection [53F-2-301\(1\)](#), relating to the years the section is not in effect, is
5840 repealed July 1, 2023.
- 5841 (17) In Subsection [53F-2-515\(1\)](#), the language that states "or [53F-2-301.5](#), as
5842 applicable" is repealed July 1, 2023.
- 5843 (18) Section [53F-4-204](#) is repealed July 1, 2019.
- 5844 (19) In Subsection [53F-9-302\(3\)](#), the language that states "or [53F-2-301.5](#), as
5845 applicable" is repealed July 1, 2023.
- 5846 (20) Section [53F-9-304](#) is repealed July 1, 2020.
- 5847 [~~(20)~~] (21) In Subsection [53F-9-305\(3\)\(a\)](#), the language that states "or [53F-2-301.5](#), as
5848 applicable" is repealed July 1, 2023.
- 5849 [~~(21)~~] (22) In Subsection [53F-9-306\(3\)\(a\)](#), the language that states "or [53F-2-301.5](#), as
5850 applicable" is repealed July 1, 2023.
- 5851 [~~(22)~~] (23) In Subsection [53G-3-304\(1\)\(c\)\(i\)](#), the language that states "or [53F-2-301.5](#),
5852 as applicable" is repealed July 1, 2023.
- 5853 [~~(23)~~] (24) On July 1, 2023, when making changes in this section, the Office of

5854 Legislative Research and General Counsel shall, in addition to the office's authority under
5855 Subsection [36-12-12](#)(3), make corrections necessary to ensure that sections and subsections
5856 identified in this section are complete sentences and accurately reflect the office's perception of
5857 the Legislature's intent.

5858 Section 55. Section **63I-2-259** is amended to read:

5859 **63I-2-259. Repeal dates -- Title 59.**

5860 [~~(1) Section [59-1-102](#) is repealed on May 14, 2019.~~]

5861 [~~(2)~~] (1) In Section [59-2-926](#), the language that states "applicable" and "or
5862 [53F-2-301.5](#)" is repealed July 1, 2023.

5863 [~~(3) Subsection [59-2-1007](#)(15) is repealed on December 31, 2018.~~]

5864 (2) Section [59-10-1018.1](#) is repealed January 1, 2021.

5865 (3) Section [59-10-1113.1](#) is repealed January 1, 2021.

5866 (4) Subsections [59-12-102](#)(61) and (62), which define "life science establishment" and
5867 "life science research and development facility," are repealed January 1, 2027.

5868 (5) Subsection [59-12-104](#)(62), which provides a sales and use tax exemption related to
5869 amounts paid or charged for construction materials used in the construction of a life science
5870 research and development facility, is repealed January 1, 2027.

5871 (6) Section [59-12-104.4](#) is repealed April 1, 2020.

5872 Section 56. Section **63I-2-272** is amended to read:

5873 **63I-2-272. Repeal dates -- Title 72.**

5874 (1) Subsections [72-1-213](#)(2) and (3)(a)(i), related to the Road Usage Charge Advisory
5875 Committee, are repealed January 1, 2022.

5876 [~~(2) On July 1, 2018:~~]

5877 [~~(a) in Subsection [72-2-108](#)(2), the language that states "and except as provided in
5878 Subsection (10)" is repealed; and]~~

5879 [~~(b) in Subsection [72-2-108](#)(4)(c)(ii)(A), the language that states " , excluding any
5880 amounts appropriated as additional support for class B and class C roads under Subsection
5881 (10)," is repealed.~~]

5882 [~~(3)~~] (2) Section [72-3-113](#) is repealed January 1, 2020.

5883 (3) Section [72-6-121](#) is repealed September 30, 2025.

5884 Section 57. Section **63M-4-702** is amended to read:

5885 **63M-4-702. Refiner gasoline standard reporting -- Office of Energy Development**
5886 **certification of sales and use tax exemption eligibility.**

5887 (1) (a) Beginning on July 1, 2021, a refiner that seeks to be eligible for a sales and use
5888 tax exemption under Subsection [59-12-104](#)~~(86)~~(73) shall annually report to the office
5889 whether the refiner's facility that is located within the state will have an average gasoline sulfur
5890 level of 10 parts per million (ppm) or less using the formulas prescribed in 40 C.F.R. Sec.
5891 80.1603, excluding the offset for credit use and transfer as prescribed in 40 C.F.R. Sec.
5892 80.1616.

5893 (b) Fuels for which a final destination outside Utah can be demonstrated or that are not
5894 subject to the standards and requirements of 40 C.F.R. Sec. 80.1603 as specified in 40 C.F.R.
5895 Sec. 80.1601 are not subject to the reporting provisions under Subsection (1)(a).

5896 (2) (a) Beginning on July 1, 2021, the office shall annually certify that the refiner is
5897 eligible for the sales and use tax exemption under Subsection [59-12-104](#)~~(86)~~(73):

5898 (i) on a form provided by the State Tax Commission that shall be retained by the
5899 refiner claiming the sales and use tax exemption under Subsection [59-12-104](#)~~(86)~~(73);

5900 (ii) if the refiner's refinery that is located within the state had an average sulfur level of
5901 10 parts per million (ppm) or less as reported under Subsection (1) in the previous calendar
5902 year; and

5903 (iii) before a taxpayer is allowed the sales and use tax exemption under Subsection
5904 [59-12-104](#)~~(86)~~(73).

5905 (b) The certification provided by the office under Subsection (2)(a) shall be renewed
5906 annually.

5907 (c) The office:

5908 (i) shall accept a copy of a report submitted by a refiner to the Environmental
5909 Protection Agency under 40 C.F.R. Sec. 80.1652 as sufficient evidence of the refiner's average

5910 gasoline sulfur level; or

5911 (ii) may establish another reporting mechanism through rules made under Subsection
5912 (3).

5913 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5914 office may make rules to implement this section.

5915 Section 58. Section **72-1-201** is amended to read:

5916 **72-1-201. Creation of Department of Transportation -- Functions, powers, duties,**
5917 **rights, and responsibilities.**

5918 (1) There is created the Department of Transportation which shall:

5919 (a) have the general responsibility for planning, research, design, construction,
5920 maintenance, security, and safety of state transportation systems;

5921 (b) provide administration for state transportation systems and programs;

5922 (c) implement the transportation policies of the state;

5923 (d) plan, develop, construct, and maintain state transportation systems that are safe,
5924 reliable, environmentally sensitive, and serve the needs of the traveling public, commerce, and
5925 industry;

5926 (e) establish standards and procedures regarding the technical details of administration
5927 of the state transportation systems as established by statute and administrative rule;

5928 (f) advise the governor and the Legislature about state transportation systems needs;

5929 (g) coordinate with utility companies for the reasonable, efficient, and cost-effective
5930 installation, maintenance, operation, relocation, and upgrade of utilities within state highway
5931 rights-of-way;

5932 (h) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
5933 make rules for the administration of the department, state transportation systems, and
5934 programs;

5935 (i) jointly with the commission annually report to the Transportation Interim
5936 Committee, by November 30 of each year, as to the operation, maintenance, condition,
5937 mobility, and safety needs for state transportation systems;

5938 (j) ensure that any training or certification required of a public official or public
5939 employee, as those terms are defined in Section [63G-22-102](#), complies with Title 63G, Chapter
5940 22, State Training and Certification Requirements, if the training or certification is required:

5941 (i) under this title;

5942 (ii) by the department; or

5943 (iii) by an agency or division within the department; [~~and~~]

5944 (k) study and make recommendations to the Legislature on potential managed lane use
5945 and implementation on selected transportation systems within the state[-]; and

5946 (l) implement one or more strategies to manage congestion on state highways and
5947 generate highway user fees, including the use of one or more high occupancy toll lanes as
5948 defined in Section [72-6-118](#) and implementation of the technology described in Subsection
5949 [72-6-118\(2\)\(e\)](#).

5950 (2) (a) The department shall exercise reasonable care in designing, constructing, and
5951 maintaining a state highway in a reasonably safe condition for travel.

5952 (b) Nothing in this section shall be construed as:

5953 (i) creating a private right of action; or

5954 (ii) expanding or changing the department's common law duty as described in
5955 Subsection (2)(a) for liability purposes.

5956 Section 59. Section [72-1-213.1](#) is amended to read:

5957 **[72-1-213.1. Road usage charge program.](#)**

5958 (1) As used in this section:

5959 (a) "Account manager" means an entity under contract with the department to
5960 administer and manage the road usage charge program.

5961 (b) "Alternative fuel vehicle" means the same as that term is defined in Section
5962 [41-1a-102](#).

5963 (c) "Payment period" means the interval during which an owner is required to report
5964 mileage and pay the appropriate road usage charge according to the terms of the program.

5965 (d) "Program" means the road usage charge program established and described in this

5966 section.

5967 (2) There is established a road usage charge program as described in this section.

5968 (3) (a) The department shall implement and oversee the administration of the program,
5969 which shall begin on January 1, 2020.

5970 (b) To implement and administer the program, the department may contract with an
5971 account manager.

5972 (4) (a) The owner or lessee of an alternative fuel vehicle may apply for enrollment of
5973 the alternative fuel vehicle in the program.

5974 (b) If an application for enrollment into the program is approved by the department, the
5975 owner or lessee of an alternative fuel vehicle may participate in the program in lieu of paying
5976 the fee described in Subsection [41-1a-1206\(1\)\(h\)](#) or (2)(b).

5977 (5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
5978 and consistent with this section, the department:

5979 (i) shall make rules to establish:

5980 (A) processes and terms for enrollment into and withdrawal or removal from the
5981 program;

5982 (B) payment periods and other payment methods and procedures for the program;

5983 (C) standards for mileage reporting mechanisms for an owner or lessee of an
5984 alternative fuel vehicle to report mileage as part of participation in the program;

5985 (D) standards for program functions for mileage recording, payment processing,
5986 account management, and other similar aspects of the program;

5987 (E) contractual terms between an owner or lessee of an alternative fuel vehicle owner
5988 and an account manager for participation in the program;

5989 (F) contractual terms between the department and an account manager, including
5990 authority for an account manager to enforce the terms of the program;

5991 (G) procedures to provide security and protection of personal information and data
5992 connected to the program, and penalties for account managers for violating privacy protection
5993 rules;

5994 (H) penalty procedures for a program participant's failure to pay a road usage charge or
5995 tampering with a device necessary for the program; and

5996 (I) department oversight of an account manager, including privacy protection of
5997 personal information and access and auditing capability of financial and other records related to
5998 administration of the program; and

5999 (ii) may make rules to establish:

6000 (A) an enrollment cap for certain alternative fuel vehicle types to participate in the
6001 program;

6002 (B) a process for collection of an unpaid road usage charge or penalty; or

6003 (C) integration of the program with other similar programs, such as tolling.

6004 (b) The department shall make recommendations to and consult with the commission
6005 regarding road usage mileage rates for each type of alternative fuel vehicle.

6006 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and
6007 consistent with this section, the commission shall, after consultation with the department, make
6008 rules to establish the road usage charge mileage rate for each type of alternative fuel vehicle.

6009 (7) (a) Revenue generated by the road usage charge program and relevant penalties
6010 shall be deposited into the Transportation Fund.

6011 (b) The department may use revenue generated by the program to cover the costs of
6012 administering the program.

6013 (8) (a) The department may:

6014 (i) (A) impose a penalty for failure to timely pay a road usage charge according to the
6015 terms of the program or tampering with a device necessary for the program; and

6016 (B) request that the Division of Motor Vehicles place a hold on the registration of the
6017 owner's or lessee's alternative fuel vehicle for failure to pay a road usage charge according to
6018 the terms of the program;

6019 (ii) send correspondence to the owner of an alternative fuel vehicle to inform the owner
6020 or lessee of:

6021 (A) the road usage charge program, implementation, and procedures;

6022 (B) an unpaid road usage charge and the amount of the road usage charge to be paid to
6023 the department;

6024 (C) the penalty for failure to pay a road usage charge within the time period described
6025 in Subsection (8)(a)(iii); and

6026 (D) a hold being placed on the owner's or lessee's registration for the alternative fuel
6027 vehicle, if the road usage charge and penalty are not paid within the time period described in
6028 Subsection (8)(a)(iii), which would prevent the renewal of the alternative fuel vehicle's
6029 registration; and

6030 (iii) require that the owner or lessee of the alternative fuel vehicle pay the road usage
6031 charge to the department within 30 days of the date when the department sends written notice
6032 of the road usage charge to the owner or lessee.

6033 (b) The department shall send the correspondence and notice described in Subsection
6034 (8)(a) to the owner of the alternative fuel vehicle according to the terms of the program.

6035 (9) (a) The Division of Motor Vehicles and the department shall share and provide
6036 access to:

6037 (i) information pertaining to an alternative fuel vehicle and participation in the program
6038 including:

6039 ~~[(i)]~~ (A) registration and ownership information pertaining to an alternative fuel
6040 vehicle;

6041 ~~[(ii)]~~ (B) information regarding the failure of an alternative fuel vehicle owner or lessee
6042 to pay a road usage charge or penalty imposed under this section within the time period
6043 described in Subsection (8)(a)(iii); and

6044 ~~[(iii)]~~ (C) the status of a request for a hold on the registration of an alternative fuel
6045 vehicle[-]; and

6046 (ii) the following information, in a format that does not allow the department to
6047 identify the vehicle owner, from each certificate of emissions inspection provided in
6048 accordance with Section [41-6a-1642](#):

6049 (A) the odometer reading; and

6050 (B) the date of the odometer reading.

6051 (b) If the department requests a hold on the registration in accordance with this section,
6052 the Division of Motor Vehicles may not renew the registration of a motor vehicle under Title
6053 41, Chapter 1a, Part 2, Registration, until the department withdraws the hold request.

6054 (10) The owner of an alternative fuel vehicle may apply for enrollment in the program
6055 or withdraw from the program according to the terms established by the department pursuant to
6056 rules made under Subsection (5).

6057 (11) If enrolled in the program, the owner or lessee of an alternative fuel vehicle shall:

6058 (a) report mileage driven as required by the department pursuant to Subsection (5);

6059 (b) pay the road usage fee for each payment period as set by the department and the
6060 commission pursuant to Subsections (5) and (6); and

6061 (c) comply with all other provisions of this section and other requirements of the
6062 program.

6063 (12) On or before October 1 of each year, the department shall submit an electronic
6064 report to a legislative committee designated by the Legislative Management Committee that:

6065 (a) describes the amount of revenue generated by the program during the preceding
6066 fiscal year; and

6067 (b) recommends strategies for expanding enrollment in the program.

6068 Section 60. Section **72-1-213.2** is enacted to read:

6069 **72-1-213.2. Reports on revenue from road usage charge program.**

6070 (1) As used in this section:

6071 (a) "Committees" means the Transportation Interim Committee and the Infrastructure
6072 and General Government Appropriations Subcommittee.

6073 (b) "Program" means the same as that term is defined in Section [72-1-213.1](#).

6074 (2) On or before October 1, 2020, the department shall submit to the committees a plan
6075 to enroll all vehicles registered in the state in the program by December 31, 2020.

6076 (3) Beginning in 2021, the committees shall receive and consider annually, on or
6077 before October 1, an electronic report from the department that:

- 6078 (a) provides the participation rate in the program;
- 6079 (b) states for the preceding fiscal year:
- 6080 (i) the amount of revenue collected from the program; and
- 6081 (ii) the department's cost to administer the program;
- 6082 (c) provides for the current fiscal year, an estimate of:
- 6083 (i) the revenue that will be collected from the program; and
- 6084 (ii) the department's cost to administer the program; and
- 6085 (d) recommends strategies to expand enrollment in the program to meet the deadline
- 6086 provided in Subsection (2).

6087 (4) In a year in which the revenue generated under the program, minus the cost to
6088 administer the program, equals or exceeds 25%, 50%, 75%, or 100% of the revenue collected
6089 under Section 59-13-601, the department shall include that information in the report required
6090 under Subsection (3).

6091 Section 61. Section **72-2-120** is amended to read:

6092 **72-2-120. Tollway Special Revenue Fund -- Revenue.**

6093 (1) There is created a special revenue fund within the Transportation Fund known as
6094 the "Tollway Special Revenue Fund."

6095 (2) The fund shall be funded from the following sources:

6096 (a) tolls collected by the department under Section 72-6-118;

6097 (b) funds received by the department through a tollway development agreement under
6098 Section 72-6-203;

6099 (c) appropriations made to the fund by the Legislature;

6100 (d) contributions from other public and private sources for deposit into the fund;

6101 (e) interest earnings on cash balances; and

6102 (f) money collected for repayments and interest on fund money.

6103 (3) The Division of Finance may create a subaccount for each tollway as defined in
6104 Section 72-6-118.

6105 (4) The commission may authorize the money deposited into the fund to be spent by

6106 the department [~~to establish and operate tollways and related facilities and state transportation~~
6107 ~~systems, including design, construction, reconstruction, operation, maintenance, enforcement,~~
6108 ~~impacts from tollways, and the acquisition of right-of-way] for any state transportation
6109 purpose.~~

6110 Section 62. Section **72-2-124** is amended to read:

6111 **72-2-124. Transportation Investment Fund of 2005.**

6112 (1) There is created a capital projects fund entitled the Transportation Investment Fund
6113 of 2005.

6114 (2) The fund consists of money generated from the following sources:

6115 (a) any voluntary contributions received for the maintenance, construction,
6116 reconstruction, or renovation of state and federal highways;

6117 (b) appropriations made to the fund by the Legislature;

6118 (c) registration fees designated under Section [41-1a-1201](#);

6119 (d) the sales and use tax revenues deposited into the fund in accordance with [~~Section~~
6120 ~~59-12-103; and~~] Sections [59-12-103](#) and [59-13-601](#);

6121 (e) the additional special fuel tax revenues deposited into the fund in accordance with
6122 Section [59-13-323](#); and

6123 [~~(e)~~] (f) revenues transferred to the fund in accordance with Section [72-2-106](#).

6124 (3) (a) The fund shall earn interest.

6125 (b) All interest earned on fund money shall be deposited into the fund.

6126 (4) (a) Except as provided in Subsection (4)(b), the executive director may only use
6127 fund money to pay:

6128 (i) the costs of maintenance, construction, reconstruction, or renovation to state and
6129 federal highways prioritized by the Transportation Commission through the prioritization
6130 process for new transportation capacity projects adopted under Section [72-1-304](#);

6131 (ii) the costs of maintenance, construction, reconstruction, or renovation to the highway
6132 projects described in Subsections [63B-18-401](#)(2), (3), and (4);

6133 (iii) principal, interest, and issuance costs of bonds authorized by Section [63B-18-401](#)

6134 minus the costs paid from the County of the First Class Highway Projects Fund in accordance
6135 with Subsection 72-2-121(4)(f);

6136 (iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt
6137 Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified
6138 by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the
6139 debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;

6140 (v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101
6141 for projects prioritized in accordance with Section 72-2-125;

6142 (vi) all highway general obligation bonds that are intended to be paid from revenues in
6143 the Centennial Highway Fund created by Section 72-2-118;

6144 [~~(vii) for fiscal year 2015-16 only, to transfer \$25,000,000 to the County of the First~~
6145 ~~Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described~~
6146 ~~in Section 72-2-121; and]~~

6147 [~~(viii)] (vii) if a political subdivision provides a contribution equal to or greater than
6148 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or
6149 paved nonmotorized transportation for projects that:~~

6150 (A) mitigate traffic congestion on the state highway system;

6151 (B) are part of an active transportation plan approved by the department; and

6152 (C) are prioritized by the commission through the prioritization process for new
6153 transportation capacity projects adopted under Section 72-1-304[-]; and

6154 (viii) for a fiscal year beginning on or after July 1, 2020, to annually transfer an equal
6155 portion of \$5,000,000 to each county with a population of less than 14,000, as determined by
6156 the lieutenant governor in accordance with Subsection 17-50-502(2), for expenses related to the
6157 improvement of class B roads located within the county.

6158 (b) The executive director may use fund money to exchange for an equal or greater
6159 amount of federal transportation funds to be used as provided in Subsection (4)(a).

6160 (5) (a) Except as provided in Subsection (5)(b), the executive director may not use fund
6161 money, including fund money from the Transit Transportation Investment Fund, within the

6162 boundaries of a municipality that is required to adopt a moderate income housing plan element
6163 as part of the municipality's general plan as described in Subsection 10-9a-401(3), if the
6164 municipality has failed to adopt a moderate income housing plan element as part of the
6165 municipality's general plan or has failed to implement the requirements of the moderate income
6166 housing plan as determined by the results of the Department of Workforce Service's review of
6167 the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

6168 (b) Within the boundaries of a municipality that is required under Subsection
6169 10-9a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate
6170 income housing plan element as part of the municipality's general plan or has failed to
6171 implement the requirements of the moderate income housing plan as determined by the results
6172 of the Department of Workforce Service's review of the annual moderate income housing
6173 report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

6174 (i) may use fund money in accordance with Subsection (4)(a) for a limited-access
6175 facility;

6176 (ii) may not use fund money for the construction, reconstruction, or renovation of an
6177 interchange on a limited-access facility;

6178 (iii) may use Transit Transportation Investment Fund money for a multi-community
6179 fixed guideway public transportation project; and

6180 (iv) may not use Transit Transportation Investment Fund money for the construction,
6181 reconstruction, or renovation of a station that is part of a fixed guideway public transportation
6182 project.

6183 (6) (a) Except as provided in Subsection (6)(b), the executive director may not use fund
6184 money, including fund money from the Transit Transportation Investment Fund, within the
6185 boundaries of the unincorporated area of a county, if the county is required to adopt a moderate
6186 income housing plan element as part of the county's general plan as described in Subsection
6187 17-27a-401(3) and if the county has failed to adopt a moderate income housing plan element as
6188 part of the county's general plan or has failed to implement the requirements of the moderate
6189 income housing plan as determined by the results of the Department of Workforce Service's

6190 review of the annual moderate income housing report described in Subsection
6191 35A-8-803(1)(a)(vii).

6192 (b) Within the boundaries of the unincorporated area of a county where the county is
6193 required under Subsection 17-27a-401(3) to plan for moderate income housing growth but has
6194 failed to adopt a moderate income housing plan element as part of the county's general plan or
6195 has failed to implement the requirements of the moderate income housing plan as determined
6196 by the results of the Department of Workforce Service's review of the annual moderate income
6197 housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

6198 (i) may use fund money in accordance with Subsection (4)(a) for a limited-access
6199 facility;

6200 (ii) may not use fund money for the construction, reconstruction, or renovation of an
6201 interchange on a limited-access facility;

6202 (iii) may use Transit Transportation Investment Fund money for a multi-community
6203 fixed guideway public transportation project; and

6204 (iv) may not use Transit Transportation Investment Fund money for the construction,
6205 reconstruction, or renovation of a station that is part of a fixed guideway public transportation
6206 project.

6207 (7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued
6208 in any fiscal year, the department and the commission shall appear before the Executive
6209 Appropriations Committee of the Legislature and present the amount of bond proceeds that the
6210 department needs to provide funding for the projects identified in Subsections 63B-18-401(2),
6211 (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

6212 (b) The Executive Appropriations Committee of the Legislature shall review and
6213 comment on the amount of bond proceeds needed to fund the projects.

6214 (8) The Division of Finance shall, from money deposited into the fund, transfer the
6215 amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by
6216 Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or
6217 sinking fund.

6218 (9) (a) There is created in the Transportation Investment Fund of 2005 the Transit
6219 Transportation Investment Fund.

6220 (b) The fund shall be funded by:

6221 (i) contributions deposited into the fund in accordance with Section 59-12-103;

6222 (ii) appropriations into the account by the Legislature;

6223 (iii) private contributions; and

6224 (iv) donations or grants from public or private entities.

6225 (c) (i) The fund shall earn interest.

6226 (ii) All interest earned on fund money shall be deposited into the fund.

6227 (d) Subject to Subsection (9)(e), the Legislature may appropriate money from the fund
6228 for public transit capital development of new capacity projects to be used as prioritized by the
6229 commission.

6230 (e) (i) The Legislature may only appropriate money from the fund for a public transit
6231 capital development project or pedestrian or nonmotorized transportation project that provides
6232 connection to the public transit system if the public transit district or political subdivision
6233 provides funds of equal to or greater than 40% of the costs needed for the project.

6234 (ii) A public transit district or political subdivision may use money derived from a loan
6235 granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or
6236 part of the 40% requirement described in Subsection (9)(e)(i) if:

6237 (A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2,
6238 State Infrastructure Bank Fund; and

6239 (B) the proposed capital project has been prioritized by the commission pursuant to
6240 Section 72-1-303.

6241 Section 63. Section 72-6-118 is amended to read:

6242 **72-6-118. Definitions -- Establishment and operation of tollways -- Imposition**
6243 **and collection of tolls -- Amount of tolls -- Rulemaking.**

6244 (1) As used in this section:

6245 (a) (i) [~~High~~] Before January 1, 2025, "high occupancy toll lane" means a high

6246 occupancy vehicle lane designated under Section 41-6a-702 that may be used by an operator of
6247 a vehicle carrying less than the number of persons specified for the high occupancy vehicle
6248 lane if the operator of the vehicle pays a toll or fee.

6249 (ii) On or after January 1, 2025, "high occupancy toll lane" means a high occupancy
6250 vehicle lane designated under Section 41-6a-702 that may be used by an operator of a vehicle
6251 only if:

6252 (A) the vehicle is carrying three or more occupants; or

6253 (B) the operator pays a toll or fee.

6254 (b) "Toll" means any tax, fee, or charge assessed for the specific use of a tollway.

6255 (c) "Toll lane" means a designated new highway or additional lane capacity that is
6256 constructed, operated, or maintained for which a toll is charged for its use.

6257 (d) (i) "Tollway" means a highway, highway lane, bridge, path, tunnel, or right-of-way
6258 designed and used as a transportation route that is constructed, operated, or maintained through
6259 the use of toll revenues.

6260 (ii) "Tollway" includes a high occupancy toll lane and a toll lane.

6261 (e) "Tollway development agreement" has the same meaning as defined in Section
6262 72-6-202.

6263 (2) Subject to the provisions of Subsection (3), the department may:

6264 (a) establish, expand, and operate tollways and related facilities for the purpose of
6265 funding in whole or in part the acquisition of right-of-way and the design, construction,
6266 reconstruction, operation, enforcement, and maintenance of or impacts from a transportation
6267 route for use by the public;

6268 (b) enter into contracts, agreements, licenses, franchises, tollway development
6269 agreements, or other arrangements to implement this section;

6270 (c) impose and collect tolls on any tollway established under this section, including
6271 collection of past due payment of a toll or penalty;

6272 (d) grant exclusive or nonexclusive rights to a private entity to impose and collect tolls
6273 pursuant to the terms and conditions of a tollway development agreement;

- 6274 (e) use technology to automatically monitor a tollway and collect payment of a toll,
6275 including:
- 6276 (i) license plate reading technology; and
 - 6277 (ii) photographic or video recording technology; and
- 6278 (f) in accordance with Subsection (5), request that the Division of Motor Vehicles deny
6279 a request for registration of a motor vehicle if the motor vehicle owner has failed to pay a toll
6280 or penalty imposed for usage of a tollway involving the motor vehicle for which registration
6281 renewal has been requested.
- 6282 (3) (a) The department may establish or operate a tollway on an existing highway if
6283 approved by the commission in accordance with the terms of this section.
- 6284 (b) To establish a tollway on an existing highway, the department shall submit a
6285 proposal to the commission including:
- 6286 (i) a description of the tollway project;
 - 6287 (ii) projected traffic on the tollway;
 - 6288 (iii) the anticipated amount of the toll to be charged; and
 - 6289 (iv) projected toll revenue.
- 6290 (4) (a) For a tollway established under this section, the department may:
- 6291 (i) according to the terms of each tollway, impose the toll upon the owner of a motor
6292 vehicle using the tollway according to the terms of the tollway;
 - 6293 (ii) send correspondence to the owner of the motor vehicle to inform the owner of:
6294 (A) an unpaid toll and the amount of the toll to be paid to the department;
6295 (B) the penalty for failure to pay the toll timely; and
6296 (C) a hold being placed on the owner's registration for the motor vehicle if the toll and
6297 penalty are not paid timely, which would prevent the renewal of the motor vehicle's
6298 registration;
 - 6299 (iii) require that the owner of the motor vehicle pay the toll to the department within 30
6300 days of the date when the department sends written notice of the toll to the owner; and
6301 (iv) impose a penalty for failure to pay a toll timely.

6302 (b) The department shall mail the correspondence and notice described in Subsection
6303 (4)(a) to the owner of the motor vehicle according to the terms of a tollway.

6304 (5) (a) The Division of Motor Vehicles and the department shall share and provide
6305 access to information pertaining to a motor vehicle and tollway enforcement including:

6306 (i) registration and ownership information pertaining to a motor vehicle;

6307 (ii) information regarding the failure of a motor vehicle owner to timely pay a toll or
6308 penalty imposed under this section; and

6309 (iii) the status of a request for a hold on the registration of a motor vehicle.

6310 (b) If the department requests a hold on the registration in accordance with this section,
6311 the Division of Motor Vehicles may not renew the registration of a motor vehicle under Title
6312 41, Chapter 1a, Part 2, Registration, if the owner of the motor vehicle has failed to pay a toll or
6313 penalty imposed under this section for usage of a tollway involving the motor vehicle for which
6314 registration renewal has been requested until the department withdraws the hold request.

6315 (6) (a) Except as provided in Subsection (6)(b), in accordance with Title 63G, Chapter
6316 3, Utah Administrative Rulemaking Act, the commission shall:

6317 (i) set the amount of any toll imposed or collected on a tollway on a state highway; and

6318 (ii) for tolls established under Subsection (6)(b), set:

6319 (A) an increase in a toll rate or user fee above an increase specified in a tollway
6320 development agreement; or

6321 (B) an increase in a toll rate or user fee above a maximum toll rate specified in a
6322 tollway development agreement.

6323 (b) A toll or user fee and an increase to a toll or user fee imposed or collected on a
6324 tollway on a state highway that is the subject of a tollway development agreement shall be set
6325 in the tollway development agreement.

6326 (7) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
6327 the department shall make rules:

6328 (i) necessary to establish and operate tollways on state highways;

6329 (ii) that establish standards and specifications for automatic tolling systems and

6330 automatic tollway monitoring technology; and

6331 (iii) to set the amount of a penalty for failure to pay a toll under this section.

6332 (b) The rules shall:

6333 (i) include minimum criteria for having a tollway; and

6334 (ii) conform to regional and national standards for automatic tolling.

6335 (8) (a) The commission may provide funds for public or private tollway pilot projects
6336 or high occupancy toll lanes from General Fund money appropriated by the Legislature to the
6337 commission for that purpose.

6338 (b) The commission may determine priorities and funding levels for tollways
6339 designated under this section.

6340 (9) (a) Except as provided in Subsection (9)(b), all revenue generated from a tollway
6341 on a state highway shall be deposited into the Tollway Special Revenue Fund created in
6342 Section 72-2-120 and used for ~~[acquisition of right-of-way and the design, construction,~~
6343 ~~reconstruction, operation, maintenance, enforcement of state transportation systems and~~
6344 ~~facilities, including operating improvements to the tollway, and other facilities used exclusively~~
6345 ~~for the operation of a tollway facility within the corridor served by the tollway]~~ any state
6346 transportation purpose.

6347 (b) Revenue generated from a tollway that is the subject of a tollway development
6348 agreement shall be deposited into the Tollway Special Revenue Fund and used in accordance
6349 with Subsection (9)(a) unless:

6350 (i) the revenue is to a private entity through the tollway development agreement; or

6351 (ii) the revenue is identified for a different purpose under the tollway development
6352 agreement.

6353 (10) Data described in Subsection (2)(e) obtained for the purposes of this section:

6354 (a) in accordance with Section 63G-2-305, is a protected record under Title 63G,
6355 Chapter 2, Government Records Access and Management Act, if the photographic or video
6356 data is maintained by a governmental entity;

6357 (b) may not be used or shared for any purpose other than the purposes described in this

6358 section;

6359 (c) may only be preserved:

6360 (i) so long as necessary to collect the payment of a toll or penalty imposed in
6361 accordance with this section; or

6362 (ii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an
6363 equivalent federal warrant; and

6364 (d) may only be disclosed:

6365 (i) in accordance with the disclosure requirements for a protected record under Section
6366 63G-2-202; or

6367 (ii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an
6368 equivalent federal warrant.

6369 (11) (a) The department may not sell for any purpose photographic or video data
6370 captured under Subsection (2)(e)(ii).

6371 (b) The department may not share captured photographic or video data for a purpose
6372 not authorized under this section.

6373 ~~[(12) Before November 1, 2018, the Driver License Division, the Division of Motor~~
6374 ~~Vehicles, and the department shall jointly study and report findings and recommendations to~~
6375 ~~the Transportation Interim Committee regarding the use of Title 53, Chapter 3, Part 6, Drivers'~~
6376 ~~License Compact, and other methods to collect a toll or penalty under this section from:]~~

6377 ~~[(a) an owner of a motor vehicle registered outside this state; or]~~

6378 ~~[(b) a driver or lessee of a motor vehicle leased or rented for 30 days or less.]~~

6379 Section 64. Section **72-9-603** is amended to read:

6380 **72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned**
6381 **vehicle title restrictions -- Rules for maximum rates and certification.**

6382 (1) Except for a tow truck service that was ordered by a peace officer, or a person
6383 acting on behalf of a law enforcement agency, or a highway authority, after performing a tow
6384 truck service that is being done without the vehicle, vessel, or outboard motor owner's
6385 knowledge, the tow truck operator or the tow truck motor carrier shall:

6386 (a) immediately upon arriving at the place of storage or impound of the vehicle, vessel,
6387 or outboard motor:

6388 (i) send a report of the removal to the Motor Vehicle Division that complies with the
6389 requirements of Subsection 41-6a-1406(4)(b); and

6390 (ii) contact the law enforcement agency having jurisdiction over the area where the
6391 vehicle, vessel, or outboard motor was picked up and notify the agency of the:

6392 (A) location of the vehicle, vessel, or outboard motor;

6393 (B) date, time, and location from which the vehicle, vessel, or outboard motor was
6394 removed;

6395 (C) reasons for the removal of the vehicle, vessel, or outboard motor;

6396 (D) person who requested the removal of the vehicle, vessel, or outboard motor; and

6397 (E) description, including the identification number, license number, or other
6398 identification number issued by a state agency, of the vehicle, vessel, or outboard motor;

6399 (b) within two business days of performing the tow truck service under Subsection
6400 (1)(a), send a certified letter to the last-known address of each party described in Subsection
6401 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor obtained from the
6402 Motor Vehicle Division or, if the person has actual knowledge of the party's address, to the
6403 current address, notifying the party of the:

6404 (i) location of the vehicle, vessel, or outboard motor;

6405 (ii) date, time, and location from which the vehicle, vessel, or outboard motor was
6406 removed;

6407 (iii) reasons for the removal of the vehicle, vessel, or outboard motor;

6408 (iv) person who requested the removal of the vehicle, vessel, or outboard motor;

6409 (v) a description, including its identification number and license number or other
6410 identification number issued by a state agency; and

6411 (vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor; and

6412 (c) upon initial contact with the owner whose vehicle, vessel, or outboard motor was
6413 removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding

6414 Towing established by the department in Subsection (7)(e).

6415 (2) (a) Until the tow truck operator or tow truck motor carrier reports the removal as
6416 required under Subsection (1)(a), a tow truck operator, tow truck motor carrier, or impound
6417 yard may not:

6418 (i) collect any fee associated with the removal; or

6419 (ii) begin charging storage fees.

6420 (b) (i) Except as provided in Subsection (2)(c), a tow truck operator or tow truck motor
6421 carrier may not perform a tow truck service without the vehicle, vessel, or outboard motor
6422 owner's or a lien holder's knowledge at either of the following locations without signage that
6423 meets the requirements of Subsection (2)(b)(ii):

6424 (A) a mobile home park as defined in Section 57-16-3; or

6425 (B) a multifamily dwelling of more than eight units.

6426 (ii) Signage under Subsection (2)(b)(i) shall display:

6427 (A) where parking is subject to towing; and

6428 (B) (I) the Internet website address that provides access to towing database information
6429 in accordance with Section 41-6a-1406; or

6430 (II) one of the following:

6431 (Aa) the name and phone number of the tow truck operator or tow truck motor carrier
6432 that performs a tow truck service for the locations listed under Subsection (2)(b)(i); or

6433 (Bb) the name of the mobile home park or multifamily dwelling and the phone number
6434 of the mobile home park or multifamily dwelling manager or management office that
6435 authorized the vehicle, vessel, or outboard motor to be towed.

6436 (c) Signage is not required under Subsection (2)(b) for parking in a location:

6437 (i) that is prohibited by law; or

6438 (ii) if it is reasonably apparent that the location is not open to parking.

6439 (d) Nothing in Subsection (2)(b) restricts the ability of a mobile home park as defined
6440 in Section 57-16-3 or a multifamily dwelling from instituting and enforcing regulations on
6441 parking.

6442 (3) The party described in Subsection 41-6a-1406(5)(a) with an interest in a vehicle,
6443 vessel, or outboard motor lawfully removed is only responsible for paying:

6444 (a) the tow truck service and storage fees set in accordance with Subsection (7); ~~and~~

6445 (b) the administrative impound fee set in Section 41-6a-1406, if applicable~~[-];~~ and

6446 (c) the applicable sales and use tax.

6447 (4) (a) The fees under Subsection (3) are a possessory lien on the vehicle, vessel, or
6448 outboard motor and any nonlife essential items contained in the vehicle, vessel, or outboard
6449 motor that are owned by the owner of the vehicle, vessel, or outboard motor until paid.

6450 (b) The tow truck operator or tow truck motor carrier shall securely store the vehicle,
6451 vessel, or outboard motor and items described in Subsection (4)(a) in an approved state
6452 impound yard until a party described in Subsection 41-6a-1406(5)(a) with an interest in the
6453 vehicle, vessel, or outboard motor:

6454 (i) pays the ~~fees~~ amounts described in Subsection (3); and

6455 (ii) removes the vehicle, vessel, or outboard motor from the state impound yard.

6456 (5) (a) A vehicle, vessel, or outboard motor shall be considered abandoned if a party
6457 described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard
6458 motor does not, within 30 days after notice has been sent under Subsection (1)(b):

6459 (i) pay the ~~fees~~ amounts described in Subsection (3); and

6460 (ii) remove the vehicle, vessel, or outboard motor from the secure storage facility.

6461 (b) A person may not request a transfer of title to an abandoned vehicle, vessel, or
6462 outboard motor until at least 30 days after notice has been sent under Subsection (1)(b).

6463 (6) (a) A tow truck motor carrier or impound yard shall clearly and conspicuously post
6464 and disclose all its current fees, rates, and acceptable forms of payment for tow truck service
6465 and storage of a vehicle in accordance with rules established under Subsection (7).

6466 (b) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept
6467 payment by cash and debit or credit card for a tow truck service under Subsection (1) or any
6468 service rendered, performed, or supplied in connection with a tow truck service under
6469 Subsection (1).

6470 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6471 department shall:

6472 (a) subject to the restriction in Subsection (8), set maximum rates that:

6473 (i) a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel,
6474 or outboard motor that are transported in response to:

6475 (A) a peace officer dispatch call;

6476 (B) a motor vehicle division call; and

6477 (C) any other call or request where the owner of the vehicle, vessel, or outboard motor
6478 has not consented to the removal; and

6479 (ii) an impound yard may charge for the storage of a vehicle, vessel, or outboard motor
6480 stored as a result of one of the conditions listed under Subsection (7)(a)(i);

6481 (b) establish authorized towing certification requirements, not in conflict with federal
6482 law, related to incident safety, clean-up, and hazardous material handling;

6483 (c) specify the form and content of the posting and disclosure of fees and rates charged
6484 and acceptable forms of payment by a tow truck motor carrier or impound yard;

6485 (d) set a maximum rate for an administrative fee that a tow truck motor carrier may
6486 charge for reporting the removal as required under Subsection (1)(a)(i) and providing notice of
6487 the removal to each party described in Subsection 41-6a-1406(5)(a) with an interest in the
6488 vehicle, vessel, or outboard motor as required in Subsection (1)(b); and

6489 (e) establish a Utah Consumer Bill of Rights Regarding Towing form that contains
6490 specific information regarding:

6491 (i) a vehicle owner's rights and responsibilities if the owner's vehicle is towed;

6492 (ii) identifies the maximum rates that a tow truck motor carrier may charge for the tow
6493 truck service of a vehicle, vessel, or outboard motor that is transported in response to a call or
6494 request where the owner of the vehicle, vessel, or outboard motor has not consented to the
6495 removal; and

6496 (iii) identifies the maximum rates that an impound yard may charge for the storage of
6497 vehicle, vessel, or outboard motor that is transported in response to a call or request where the

6498 owner of the vehicle, vessel, or outboard motor has not consented to the removal.

6499 (8) An impound yard may not charge a fee for the storage of an impounded vehicle,
6500 vessel, or outboard motor if:

6501 (a) the vehicle, vessel, or outboard motor is being held as evidence; and

6502 (b) the vehicle, vessel, or outboard motor is not being released to a party described in
6503 Subsection 41-6a-1406(5)(a), even if the party satisfies the requirements to release the vehicle,
6504 vessel, or outboard motor under Section 41-6a-1406.

6505 (9) (a) (i) A tow truck motor carrier may charge a rate up to the maximum rate set by
6506 the department in rules made under Subsection (7).

6507 (ii) In addition to the maximum rates established under Subsection (7) [~~and when~~
6508 ~~receiving payment by credit card~~], a tow truck operator, a tow truck motor carrier, or an
6509 impound yard:

6510 (A) shall collect the sales and use tax due; and

6511 (B) when receiving payment by credit card, may charge a credit card processing fee of
6512 3% of the transaction total.

6513 (b) A tow truck motor carrier may not be required to maintain insurance coverage at a
6514 higher level than required in rules made pursuant to Subsection (7).

6515 (10) When a tow truck motor carrier or impound lot is in possession of a vehicle,
6516 vessel, or outboard motor as a result of a tow service that was performed without the consent of
6517 the owner, and that was not ordered by a peace officer or a person acting on behalf of a law
6518 enforcement agency, the tow truck motor carrier or impound yard shall make personnel
6519 available:

6520 (a) by phone 24 hours a day, seven days a week; and

6521 (b) to release the impounded vehicle, vessel, or outboard motor to the owner within
6522 one hour of when the owner calls the tow truck motor carrier or impound yard.

6523 Section 65. **Appropriations -- Operating and Capital Budgets.**

6524 Subsection 65 (a)(i). **Fiscal Year 2020 Appropriation -- Operating and Capital**
6525 **Budgets.**

6554	<u>General Fund, One-time</u>	<u>\$1,750,000</u>
6555	<u>The Legislature intends that, after satisfying all prior appropriations from the Underage</u>	
6556	<u>Drinking Prevention Program Restricted Account, the State Division of Finance transfer all</u>	
6557	<u>remaining balances in the Underage Drinking Prevention Program Restricted Account to the</u>	
6558	<u>General Fund at the close of fiscal year 2020 and close the account.</u>	
6559	Subsection 65 (b). Fiscal Year 2021 Appropriations -- Operating and Capital	
6560	Budgets.	
6561	<u>The following sums of money are appropriated for the fiscal year beginning July 1,</u>	
6562	<u>2020, and ending June 30, 2021. These are additions to amounts otherwise appropriated for</u>	
6563	<u>fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures</u>	
6564	<u>Act, the Legislature appropriates the following sums of money from the funds or accounts</u>	
6565	<u>indicated for the use and support of the government of the state of Utah.</u>	
6566	<u>ITEM 3</u>	
6567	<u>To State Board of Education -- Child Nutrition</u>	
6568	<u>From Education Fund</u>	<u>\$55,500,000</u>
6569	<u>From Dedicated Credits -- Liquor Tax</u>	<u>(\$39,275,700)</u>
6570	<u>Schedule of Programs:</u>	
6571	<u>Child Nutrition</u>	<u>\$16,224,300</u>
6572	<u>ITEM 4</u>	
6573	<u>To State Board of Education -- State Administrative Office</u>	
6574	<u>From Education Fund</u>	<u>\$2,850,000</u>
6575	<u>From Education Fund Restricted --</u>	
6576	<u>Underage Drinking Prevention Program Restricted Account</u>	<u>(\$1,751,000)</u>
6577	<u>Schedule of Programs:</u>	
6578	<u>Student Advocacy Services</u>	<u>\$1,099,000</u>
6579	<u>ITEM 5</u>	
6580	<u>To University of Utah -- Education and General</u>	
6581	<u>From General Fund</u>	<u>\$101,608,900</u>

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6582	<u>From Education Fund</u>	<u>(\$101,608,900)</u>
6583	<u>ITEM 6</u>	
6584	<u>To University of Utah -- School of Medicine</u>	
6585	<u>From General Fund</u>	<u>\$35,899,500</u>
6586	<u>From Education Fund</u>	<u>(\$35,899,500)</u>
6587	<u>ITEM 7</u>	
6588	<u>To University of Utah -- University Hospital</u>	
6589	<u>From General Fund</u>	<u>\$1,533,000</u>
6590	<u>From Education Fund</u>	<u>(\$1,533,000)</u>
6591	<u>ITEM 8</u>	
6592	<u>To University of Utah -- School of Dentistry</u>	
6593	<u>From General Fund</u>	<u>\$2,324,700</u>
6594	<u>From Education Fund</u>	<u>(\$2,324,700)</u>
6595	<u>ITEM 9</u>	
6596	<u>To Utah State University -- Education and General</u>	
6597	<u>From General Fund</u>	<u>\$73,521,400</u>
6598	<u>From Education Fund</u>	<u>(\$73,521,400)</u>
6599	<u>ITEM 10</u>	
6600	<u>To Utah State University -- USU-Eastern Education and General</u>	
6601	<u>From General Fund</u>	<u>\$12,503,400</u>
6602	<u>From Education Fund</u>	<u>(\$12,503,400)</u>
6603	<u>ITEM 11</u>	
6604	<u>To Weber State University -- Education and General</u>	
6605	<u>From General Fund</u>	<u>\$94,098,000</u>
6606	<u>From Education Fund</u>	<u>(\$94,098,000)</u>
6607	<u>ITEM 12</u>	
6608	<u>To Southern Utah University -- Education and General</u>	
6609	<u>From General Fund</u>	<u>\$47,444,900</u>

6610	<u>From Education Fund</u>	<u>(\$47,444,900)</u>
6611	<u>ITEM 13</u>	
6612	<u>To Utah Valley University -- Education and General</u>	
6613	<u>From General Fund</u>	<u>\$22,092,900</u>
6614	<u>From Education Fund</u>	<u>(\$22,092,900)</u>

6615 Section 66. **Effective date.**

6616 (1) The following sections take effect on April 1, 2020:

6617 (a) Section [15A-1-204](#);

6618 (b) Section [26-36b-208](#);

6619 (c) Section [59-1-1503](#);

6620 (d) Section [59-12-102](#);

6621 (e) Section [59-12-103](#);

6622 (f) Section [59-12-104](#);

6623 (g) Section [59-12-104.5](#);

6624 (h) Section [59-12-1201](#);

6625 (i) Section [59-13-323](#);

6626 (j) Section [63I-2-259](#);

6627 (k) Section [63M-4-702](#); and

6628 (l) Section [72-2-124](#).

6629 (2) Subsection 65(b) of this bill takes effect on July 1, 2020.

6630 (3) The following sections take effect on January 1, 2021:

6631 (a) Section [41-6a-1642](#); and

6632 (b) Section [72-1-213.2](#).

6633 Section 67. **Contingent retrospective operation.**

6634 If this bill is approved by less than two-thirds of all the members elected to each house,

6635 the following sections have retrospective operation for a taxable year beginning on or after

6636 January 1, 2020:

6637 (1) Section [35A-9-214](#);

- 6638 (2) Section 59-7-104;
- 6639 (3) Section 59-7-201;
- 6640 (4) Section 59-7-610;
- 6641 (5) Section 59-7-614.1;
- 6642 (6) Section 59-7-618;
- 6643 (7) Section 59-7-620;
- 6644 (8) Section 59-10-104;
- 6645 (9) Section 59-10-529.1;
- 6646 (10) Section 59-10-1005;
- 6647 (11) Section 59-10-1007;
- 6648 (12) Section 59-10-1017;
- 6649 (13) Section 59-10-1017.1;
- 6650 (14) Section 59-10-1018;
- 6651 (15) Section 59-10-1019;
- 6652 (16) Section 59-10-1022;
- 6653 (17) Section 59-10-1023;
- 6654 (18) Section 59-10-1028;
- 6655 (19) Section 59-10-1033;
- 6656 (20) Section 59-10-1035;
- 6657 (21) Section 59-10-1036;
- 6658 (22) Section 59-10-1041;
- 6659 (23) Section 59-10-1102.1;
- 6660 (24) Section 59-10-1105;
- 6661 (25) Section 59-10-1113;
- 6662 (26) Section 59-10-1114;
- 6663 (27) Section 59-10-1403.3; and
- 6664 (28) Section 59-13-202.