

**TAX RESTRUCTURING REVISIONS**

2019 SECOND SPECIAL SESSION

STATE OF UTAH

**Chief Sponsor: Lyle W. Hillyard**

House Sponsor: Francis D. Gibson

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**LONG TITLE**

**Committee Note:**

The Tax Restructuring and Equalization Task Force recommended this bill.

Membership: 10 legislators 4 non-legislators

Legislative Vote: 6 voting for 3 voting against 1 absent

**General Description:**

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

**Highlighted Provisions:**

This bill:

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

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

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

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

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

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

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



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

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

61 **Money Appropriated in this Bill:**

62           This bill appropriates in fiscal year 2020:

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

66           This bill appropriates in fiscal year 2021:

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

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

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides contingent retrospective operation.

**Utah Code Sections Affected:**

**AMENDS:**

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

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

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

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

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

167 ENACTS:

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

176 REPEALS:

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



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

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

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

183 -- **Approved codes -- Exemptions.**

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

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

189 (i) new construction is involved; and

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

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

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

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

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

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

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

201 (i) to the entire state; or

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

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

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

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

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

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

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

214 recognized construction code, the commission shall prepare a report described in Subsection  
215 (4).

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

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

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

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

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

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

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

233 (i) study the recommendations; and

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

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

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

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

245 Construction Code:

246 (i) on its own initiative;

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

248 (iii) upon the receipt of a request by one of the following that the commission

249 recommend legislative action related to the State Construction Code:

250 (A) a local regulator;

251 (B) a state regulator;

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

253 (D) the Construction Services Commission;

254 (E) the Electrician Licensing Board;

255 (F) the Plumbers Licensing Board; or

256 (G) a recognized construction-related association.

257 (c) If the Business and Labor Interim Committee decides to recommend legislative

258 action to the Legislature, the Business and Labor Interim Committee shall prepare legislation

259 for consideration by the Legislature in the next general session.

260 (6) (a) Notwithstanding the provisions of this section, the commission may, in

261 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend the State

262 Construction Code if the commission determines that waiting for legislative action in the next

263 general legislative session would:

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

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

266 (b) If the commission amends the State Construction Code in accordance with this

267 Subsection (6), the commission shall file with the division:

268 (i) the text of the amendment to the State Construction Code; and

269 (ii) an analysis that includes the specific reasons and justifications for the commission's

270 findings.

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

272 shall:

273 (i) publish the amendment to the State Construction Code in accordance with Section

274 [15A-1-205](#); and

275 (ii) prepare and submit, in accordance with Section [68-3-14](#), a written notice to the

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

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

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

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

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

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

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

295 (a) enforce a federal law or regulation;

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

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

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

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

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

307 (11) (a) Except as provided in Subsection (11)(b), a structure used solely in  
308 conjunction with agriculture use, and not for human occupancy, or a structure that is no more  
309 than 1,500 square feet and used solely for the type of sales described in Subsection  
310 [59-12-104](#)~~(20)~~(17), is exempt from the permit requirements of the State Construction Code.

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

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

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

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

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

322 **26-36b-208. Medicaid Expansion Fund.**

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

325 (2) The fund consists of:

326 (a) assessments collected under this chapter;

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

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

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

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

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

336 (g) ~~revenues~~ revenue collected from the sales tax described in Subsection

337 [59-12-103](#)~~(13)~~(12);

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

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

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

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

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

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

346 (i) the health coverage improvement program;

347 (ii) the enhancement waiver program;

348 (iii) a Medicaid waiver expansion; and

349 (iv) the outpatient upper payment limit supplemental payments under Section

350 26-36b-210.

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

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

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

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

356 **32B-2-301. State property -- Liquor Control Fund -- Money to be retained by**  
357 **department -- Department building process.**

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

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

360 and

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

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

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

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

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

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

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

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

373 (i) to purchase an alcoholic product;

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

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

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

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

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

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

385 (ii) package agency compensation; and

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

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

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

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

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

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

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

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

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

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

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

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

410 **32B-2-304. Liquor price -- School lunch program -- Remittance of markup.**

411 (1) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

460 ~~[(5)]~~ (4) This section does not prohibit the department from selling discontinued items  
461 at a discount.

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

463 **32B-2-305. Alcoholic Beverage Control Act Enforcement Fund.**

464 (1) As used in this section:

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

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

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

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

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

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

473 (ii) interest earned on the fund.

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

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

476 ~~the~~] The department shall deposit 1% of the total gross revenue from the sale of liquor with the  
477 state treasurer to be credited to the fund to be used by the Department of Public Safety as  
478 provided in Subsection (5).

479 (5) (a) The Department of Public Safety shall expend money from the fund to  
480 supplement appropriations by the Legislature so that the Department of Public Safety maintains  
481 a sufficient number of alcohol-related law enforcement officers such that beginning on July 1,  
482 2012, each year the enforcement ratio as of July 1 is equal to or less than the number specified  
483 in Section [32B-1-201](#).

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

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

487 **35A-8-308. Throughput Infrastructure Fund.**

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

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

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

491 (b) any voluntary contributions received;

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

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

495 (3) The state treasurer shall:

496 (a) invest the money in the fund by following the procedures and requirements of Title  
497 51, Chapter 7, State Money Management Act; and

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

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

500 **35A-8-309. Throughput Infrastructure Fund administered by impact board --**

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

502 (1) The impact board shall:

503 (a) make grants and loans from the Throughput Infrastructure Fund created in Section  
504 35A-8-308 for a throughput infrastructure project;

505 (b) use money transferred to the Throughput Infrastructure Fund [~~in accordance with~~  
506 ~~Subsection 59-12-103(12)] by statute to provide a loan or grant to finance the cost of~~

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

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

509 Cooperation Act;

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

512 (d) determine provisions for repayment of loans;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

542 [35A-1-109](#):

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

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

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

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

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

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

555 established by the impact board.

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

557 **35A-9-214. Intergenerational poverty report to State Tax Commission.**

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

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

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

562 (b) explains the eligibility requirements and process for claiming a tax credit under

563 Section [59-10-1114](#).

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

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

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

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

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

574 (i) the individual's name; and

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

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

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

579 **41-6a-409. Prohibition of flat response fee for motor vehicle accident.**

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

582 (2) A government entity:

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

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

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

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

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

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

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

594 (v) applicable sales and use taxes.

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

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

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

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

607 **41-6a-505. Sentencing requirements for driving under the influence of alcohol,**  
608 **drugs, or a combination of both violations.**

609 (1) As part of any sentence for a first conviction of Section [41-6a-502](#):

610 (a) the court shall:

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

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

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

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

- 617 (iv) order the individual to participate in an educational series if the court does not  
618 order substance abuse treatment as described under Subsection (1)(b);
- 619 (v) impose a fine of not less than \$700;
- 620 (vi) order probation for the individual in accordance with Section 41-6a-507, if there is  
621 admissible evidence that the individual had a blood alcohol level of .16 or higher;
- 622 (vii) (A) order the individual to pay the administrative impound fee described in  
623 Section 41-6a-1406; or
- 624 (B) if the administrative impound fee was paid by a party described in Subsection  
625 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
626 reimburse the party; or
- 627 (viii) (A) order the individual to pay the towing and storage fees described in Section  
628 72-9-603 and the applicable sales and use tax; or
- 629 (B) if the ~~[towing and storage fees]~~ amounts described in Subsection (1)(a)(viii)(A)  
630 were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual  
631 sentenced, order the individual sentenced to reimburse the party; and
- 632 (b) the court may:
- 633 (i) order the individual to obtain substance abuse treatment if the substance abuse  
634 treatment program determines that substance abuse treatment is appropriate;
- 635 (ii) order probation for the individual in accordance with Section 41-6a-507;
- 636 (iii) order the individual to participate in a 24-7 sobriety program as defined in Section  
637 41-6a-515.5 if the individual is 21 years of age or older; or
- 638 (iv) order a combination of Subsections (1)(b)(i) through (iii).
- 639 (2) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is  
640 within 10 years of the current conviction under Section 41-6a-502 or the commission of the  
641 offense upon which the current conviction is based:
- 642 (a) the court shall:
- 643 (i) (A) impose a jail sentence of not less than 240 hours; or
- 644 (B) impose a jail sentence of not less than 120 hours in addition to home confinement  
645 of not fewer than 720 consecutive hours through the use of electronic monitoring that includes  
646 a substance abuse testing instrument in accordance with Section 41-6a-506;
- 647 (ii) order the individual to participate in a screening;

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

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

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

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

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

656 (B) if the administrative impound fee was paid by a party described in Subsection  
657 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
658 reimburse the party; or

659 (viii) (A) order the individual to pay the towing and storage fees described in Section  
660 72-9-603; or

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

664 (b) the court may:

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

667 (ii) order the individual to participate in a 24-7 sobriety program as defined in Section  
668 41-6a-515.5 if the individual is 21 years of age or older; or

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

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

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

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

674 (c) supervised probation.

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

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

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

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

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

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

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

685 (b) one or more of the following:

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

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

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

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

693 **41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification**  
694 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

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

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

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

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

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

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

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

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

710 operator is employed.

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

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

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

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

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

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

720 (vi) the reason for removal or impoundment;

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

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

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

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

727 (ii) begin charging storage fees.

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

731 (i) the registered owner;

732 (ii) any lien holder; or

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

736 (b) The notice shall:

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

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

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

743           (B) the applicable sales and use tax;

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

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

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

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

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

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

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

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

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

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

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

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

772 (ii) \$147 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall  
773 be deposited in the Department of Public Safety Restricted Account created in Section  
774 [53-3-106](#);

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

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

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

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

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

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

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

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

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

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

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

803 period provided under Section [41-1a-1103](#).

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

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

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

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

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

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

820 (A) be reasonable and fair; and

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

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

823 **41-12a-806. Restricted account -- Creation -- Funding -- Interest -- Purposes.**

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

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

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

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

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

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

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

- 834 (4) The Legislature shall appropriate money from the account to:
- 835 (a) the department to fund the contract with the designated agent;
- 836 (b) the department to offset the costs to state and local law enforcement agencies of
- 837 using the information for the purposes authorized under this part;
- 838 (c) the Tax Commission to offset the costs to the Motor Vehicle Division for revoking
- 839 and reinstating vehicle registrations under Subsection 41-1a-110(2)(a)(ii); and
- 840 (d) the department to reimburse a person for the costs, including any applicable sales
- 841 and use tax, of towing and storing the person's vehicle if:
- 842 (i) the person's vehicle was impounded in accordance with Subsection 41-1a-1101(2);
- 843 (ii) the impounded vehicle had owner's or operator's security in effect for the vehicle at
- 844 the time of the impoundment;
- 845 (iii) the database indicated that owner's or operator's security was not in effect for the
- 846 impounded vehicle; and
- 847 (iv) the department determines that the person's vehicle was wrongfully impounded.
- 848 (5) The Legislature may appropriate not more than \$1,000,000 annually from the
- 849 account to the Peace Officer Standards and Training Division, created under Section 53-6-103,
- 850 for use in law enforcement training, including training on the use of the Uninsured Motorist
- 851 Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured
- 852 Motorist Identification Database Program.
- 853 (6) (a) By following the procedures in Title 63G, Chapter 4, Administrative Procedures
- 854 Act, the department shall hold a hearing to determine whether a person's vehicle was
- 855 wrongfully impounded under Subsection 41-1a-1101(2).
- 856 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 857 division shall make rules establishing procedures for a person to apply for a reimbursement
- 858 under Subsection (4)(d).
- 859 (c) A person is not eligible for a reimbursement under Subsection (4)(d) unless the
- 860 person applies for the reimbursement within six months from the date that the motor vehicle
- 861 was impounded.
- 862 Section 13. Section 53G-10-406 is amended to read:
- 863 **53G-10-406. Underage Drinking Prevention Program -- State board rules.**
- 864 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

910 [~~(8)~~] (7) The state board shall make rules that:

911 (a) beginning with the 2018-19 school year, require an LEA to offer the Underage  
912 Drinking Prevention Program each school year to each student in grade 7 or 8 and grade 9 or  
913 10; and

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

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

917 **59-1-1503. Nonrefundable credit -- Sales and use tax exemption -- Sales and use**  
918 **tax remittance.**

919 (1) A nonrefundable individual income tax credit is allowed as provided in Section  
920 59-10-1028 related to a capital gain on a transaction involving the exchange of one form of  
921 legal tender for another form of legal tender.

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

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

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

927 **59-7-104. Tax -- Minimum tax.**

928 (1) Each domestic and foreign corporation, except a corporation that is exempt under  
929 Section 59-7-102, shall pay an annual tax to the state based on the corporation's Utah taxable  
930 income for the taxable year for the privilege of exercising the corporation's corporate franchise,  
931 as defined in Section 59-7-101, or for the privilege of doing business, as defined in Section  
932 59-7-101, in the state.

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

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

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

936 **59-7-201. Tax -- Minimum tax.**

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

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

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

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

945 **59-7-610. Recycling market development zones tax credits.**

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

949 (a) a tax credit [~~of 5% of~~] equal to the product of the percentage listed in Subsection  
950 59-7-104(2) and the purchase price paid for machinery and equipment used directly in:

951 (i) commercial composting; or

952 (ii) manufacturing facilities or plant units that:

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

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

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

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

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

960 (ii) \$2,000.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1000 (5) Except as provided in Subsections (6) through (8), a taxpayer may carry forward, to  
1001 the next three taxable years, the amount of the tax credit that exceeds the taxpayer's income tax  
1002 liability for the taxable year.

1003 (6) A taxpayer may not claim or carry forward a tax credit described in Subsection  
1004 (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under  
1005 Section [63N-2-213](#).

1006 (7) A taxpayer may not claim or carry forward a tax credit described in Subsection  
1007 (1)(b) in a taxable year during which the taxpayer claims or carries forward a tax credit under  
1008 Section [63N-2-213](#).

1009 (8) A taxpayer may not claim or carry forward a tax credit under this section for a  
1010 taxable year during which the taxpayer claims the targeted business income tax credit under  
1011 Section [59-7-624](#).

1012 Section 18. Section [59-7-614.1](#) is amended to read:

1013 **59-7-614.1. Refundable tax credit for hand tools used in farming operations --**  
1014 **Procedures for refund -- Transfers from General Fund to Education Fund -- Rulemaking**  
1015 **authority.**

1016 (1) [~~For a taxable year beginning on or after January 1, 2004, a~~] A taxpayer may claim  
1017 a refundable tax credit:

1018 (a) as provided in this section;

1019 (b) against taxes otherwise due under this chapter; and

1020 (c) in an amount equal to the amount of tax the taxpayer pays:

1021 (i) on a purchase of a hand tool:

1022 (A) if the purchase is made on or after July 1, 2004;

1023 (B) if the hand tool is used or consumed primarily and directly in a farming operation

1024 in the state; and

1025 (C) if the unit purchase price of the hand tool is more than \$250; and

1026 (ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection

1027 (1)(c)(i).

1028 (2) A taxpayer:

1029 (a) shall retain the following to establish the amount of tax the resident or nonresident

1030 individual paid under Chapter 12, Sales and Use Tax Act, on the purchase described in

1031 Subsection (1)(c)(i):

1032 (i) a receipt;

1033 (ii) an invoice; or

1034 (iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and

1035 (b) may not carry forward or carry back a tax credit under this section.

1036 (3) (a) In accordance with any rules prescribed by the commission under Subsection

1037 (3)(b)~~[(i)]~~ the commission shall make a refund to a taxpayer that claims a tax credit under this

1038 section if the amount of the tax credit exceeds the taxpayer's tax liability under this chapter~~;~~

1039 ~~and~~].

1040 ~~[(ii) the Division of Finance shall transfer at least annually from the General Fund into~~

1041 ~~the Education Fund an amount equal to the amount of tax credit claimed under this section.]~~

1042 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1043 commission may make rules providing procedures for making~~[(i)]~~ a refund to a taxpayer as

1044 required by Subsection (3)(a)~~[(i)]~~~~or~~].

1045 ~~[(ii) transfers from the General Fund into the Education Fund as required by~~

1046 ~~Subsection (3)(a)(ii).]~~

1047 Section 19. Section **59-7-618** is amended to read:

1048 **59-7-618. Tax credit related to alternative fuel heavy duty vehicles.**

1049 (1) As used in this section:

1050 (a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air

1051 Conservation Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

1073 (a) in an amount equal to:

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

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

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

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

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

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

1082 within the state.

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

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

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

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

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

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

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

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

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

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

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

1113 acknowledging receipt of the proof.

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

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

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

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

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

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

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

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

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

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

1130 (c) once per vehicle.

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

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

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

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

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

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

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

1148 (1) As used in this section:

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

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

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

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

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

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

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

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

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

1163 (b) the total amount of contributions:

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

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

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

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

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

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

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

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

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

1175 this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1195 (1) As used in this section:

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

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

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

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

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

1206 Forms W-2; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1237 (1) Subject to other provisions of this section, a claimant, estate, or trust in a recycling  
1238 market development zone as defined in Section [63N-2-402](#) may claim the following  
1239 nonrefundable tax credits:

1240 (a) a tax credit [~~of 5% of~~] equal to the product of the percentage listed in Subsection  
1241 [59-10-104\(2\)](#) and the purchase price paid for machinery and equipment used directly in:

1242 (i) commercial composting; or

1243 (ii) manufacturing facilities or plant units that:

1244 (A) manufacture, process, compound, or produce recycled items of tangible personal  
1245 property for sale; or

1246 (B) reduce or reuse postconsumer waste material; and

1247 (b) a tax credit equal to the lesser of:

1248 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test  
1249 inventory, and utilities made by the claimant, estate, or trust for establishing and operating  
1250 recycling or composting technology in Utah; and

1251 (ii) \$2,000.

1252 (2) (a) To claim a tax credit described in Subsection (1), the claimant, estate, or trust  
1253 shall receive from the Governor's Office of Economic Development a written certification, on a  
1254 form approved by the commission, that includes:

1255 (i) a statement that the claimant, estate, or trust is operating within the boundaries of a  
1256 recycling market development zone;

1257 (ii) for claims of the tax credit described in Subsection (1)(a):

1258 (A) the type of the machinery and equipment that the claimant, estate, or trust  
1259 purchased;

1260 (B) the date that the claimant, estate, or trust purchased the machinery and equipment;

1261 (C) the purchase price for the machinery and equipment;

1262 (D) the total purchase price for all machinery and equipment for which the claimant,  
1263 estate, or trust is claiming a tax credit;

1264 (E) the amount of the claimant's, estate's, or trust's tax credit; and

1265 (F) a statement that the machinery and equipment are integral to the composting or  
1266 recycling process; and

1267 (iii) for claims of the tax credit described in Subsection (1)(b):

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

1274 (F) the amount of the claimant's, estate's, or trust's tax credit.

1275 (b) (i) The Governor's Office of Economic Development shall provide a claimant,

1276 estate, or trust seeking to claim a tax credit under Subsection (1) with a copy of the written

1277 certification.

1278 (ii) The claimant, estate, or trust shall retain a copy of the written certification for the

1279 same period of time that a person is required to keep books and records under Section

1280 [59-1-1406](#).

1281 (c) The Governor's Office of Economic Development shall submit to the commission

1282 an electronic list that includes:

1283 (i) the name and identifying information of each claimant, estate, or trust to which the

1284 office issues a written certification; and

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

1286 certification.

1287 (3) A claimant, estate, or trust may not claim a tax credit under Subsection (1)(a),

1288 Subsection (1)(b), or both that exceeds 40% of the claimant's, estate's, or trust's state income

1289 tax liability as the tax liability is calculated:

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

1291 payments;

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

1293 year; and

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

1295 (4) The commission shall make rules governing what information a claimant, estate, or

1296 trust shall file with the commission to verify the entitlement to and amount of a tax credit.

1297 (5) Except as provided in Subsections (6) through (8), a claimant, estate, or trust may

1298 carry forward, to the next three taxable years, the amount of the tax credit that exceeds the

1299 taxpayer's income tax liability for the taxable year.

1300 (6) A claimant, estate, or trust may not claim or carry forward a tax credit described in  
1301 Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries  
1302 forward a tax credit under Section 63N-2-213.

1303 (7) A claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b)  
1304 in a taxable year during which the claimant, estate, or trust claims or carries forward a tax  
1305 credit under Section 63N-2-213.

1306 (8) A claimant, estate, or trust may not claim or carry forward a tax credit available  
1307 under this section for a taxable year during which the claimant, estate, or trust claims the  
1308 targeted business income tax credit under Section 59-10-1112.

1309 Section 25. Section 59-10-1017 is amended to read:

1310 **59-10-1017. Utah Educational Savings Plan tax credit.**

1311 (1) As used in this section:

1312 (a) "Account owner" means the same as that term is defined in Section 53B-8a-102.

1313 (b) "Grantor trust" means the same as that term is defined in Section 53B-8a-102.5.

1314 (c) "Higher education costs" means the same as that term is defined in Section  
1315 53B-8a-102.5.

1316 (d) "Joint filing status" means:

1317 (i) spouses who file a single return jointly under this chapter for a taxable year; or

1318 (ii) a surviving spouse, as defined in Section (2)(a), Internal Revenue Code, who files a  
1319 single federal individual income tax return for the taxable year.

1320 ~~(d)~~ (e) "Maximum amount of a qualified investment for the taxable year" means, for  
1321 a taxable year, the product of ~~5%~~ the percentage listed in Subsection 59-10-104(2) and:

1322 (i) subject to Subsection (1)~~(d)~~~~(e)~~(iii), for a claimant, estate, or trust that is an account  
1323 owner, if that claimant, estate, or trust is other than ~~[husband and wife]~~ spouse account owners  
1324 who file a single return jointly, the maximum amount of a qualified investment:

1325 (A) listed in Subsection 53B-8a-106(1)(e)(ii); and

1326 (B) increased or kept for that taxable year in accordance with Subsections  
1327 53B-8a-106(1)(f) and (g);

1328 (ii) subject to Subsection (1)~~(d)~~~~(e)~~(iii), for claimants who are ~~[husband and wife]~~  
1329 spouse account owners who file a single return jointly, the maximum amount of a qualified

- 1330 investment:
- 1331 (A) listed in Subsection [53B-8a-106\(1\)\(e\)\(iii\)](#); and
- 1332 (B) increased or kept for that taxable year in accordance with Subsections
- 1333 [53B-8a-106\(1\)\(f\)](#) and (g); or
- 1334 (iii) for a grantor trust:
- 1335 (A) if the owner of the grantor trust has a single filing status or head of household
- 1336 filing status as defined in Section [59-10-1018](#), the amount described in Subsection
- 1337 (1)~~(f)~~(e)(i); or
- 1338 (B) if the owner of the grantor trust has a joint filing status as defined in Section
- 1339 [59-10-1018](#), the amount described in Subsection (1)~~(f)~~(e)(ii).
- 1340 ~~(e)~~ (f) "Owner of the grantor trust" means the same as that term is defined in Section
- 1341 [53B-8a-102.5](#).
- 1342 ~~(f)~~ (g) "Qualified investment" means the same as that term is defined in Section
- 1343 [53B-8a-102.5](#).
- 1344 (2) Except as provided in Section [59-10-1002.2](#) and subject to the other provisions of
- 1345 this section, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax
- 1346 credit equal to the product of:
- 1347 (a) the amount of a qualified investment made:
- 1348 (i) during the taxable year; and
- 1349 (ii) into an account owned by the claimant, estate, or trust; and
- 1350 (b) ~~5%~~ the percentage listed in Subsection [59-10-104\(2\)](#).
- 1351 (3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may
- 1352 make a qualified investment described in Subsection (2).
- 1353 (4) A claimant, estate, or trust that is an account owner may not claim a tax credit
- 1354 under this section with respect to any portion of a qualified investment described in Subsection
- 1355 (2) that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal
- 1356 income tax return.
- 1357 (5) A tax credit under this section may not exceed the maximum amount of a qualified
- 1358 investment for the taxable year.
- 1359 (6) A claimant, estate, or trust that is an account owner may not carry forward or carry
- 1360 back the tax credit under this section.

1361 (7) A claimant, estate, or trust may claim a tax credit under this section in addition to  
1362 the tax credit described in Section 59-10-1017.1.

1363 Section 26. Section 59-10-1017.1 is amended to read:

1364 **59-10-1017.1. Student Prosperity Savings Program tax credit.**

1365 (1) As used in this section, "qualified donation" means an amount donated, in  
1366 accordance with Section 53B-8a-203, to the Student Prosperity Savings Program created in  
1367 Section 53B-8a-202.

1368 (2) A claimant, estate, or trust may claim a nonrefundable tax credit for a qualified  
1369 donation.

1370 (3) The tax credit equals the product of:

1371 (a) the qualified donation; and

1372 (b) [5%] the percentage listed in Subsection 59-10-104(2).

1373 (4) A claimant, estate, or trust may not claim a tax credit under this section with  
1374 respect to any portion of a qualified donation that a claimant, estate, or trust deducts on a  
1375 federal income tax return.

1376 (5) A claimant, estate, or trust may not carry forward or carry back the portion of the  
1377 tax credit allowed by this section that exceeds the claimant's, estate's, or trust's tax liability for  
1378 the taxable year in which the claimant, estate, or trust claims the tax credit.

1379 (6) A claimant, estate, or trust may claim a tax credit under this section in addition to  
1380 the tax credit described in Section 59-10-1017.

1381 Section 27. Section 59-10-1018 is amended to read:

1382 **59-10-1018. Definitions -- Nonrefundable taxpayer tax credits.**

1383 (1) As used in this section:

1384 (a) "Head of household filing status" means a head of household, as defined in Section  
1385 2(b), Internal Revenue Code, who files a single federal individual income tax return for the  
1386 taxable year.

1387 (b) "Joint filing status" means [~~+~~(~~+~~)] spouses who file a single return jointly under this  
1388 chapter for a taxable year [~~+~~~~or~~].

1389 [~~(ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a~~  
1390 ~~single federal individual income tax return for the taxable year.~~]

1391 (c) "Qualifying dependent" means an individual with respect to whom the claimant is

1392 allowed to claim a tax credit under Section 24, Internal Revenue Code, on the claimant's  
1393 federal individual income tax return for the taxable year.

1394 (d) "Qualifying widower filing status" means a surviving spouse, as defined in Section  
1395 (2)(a), Internal Revenue Code, who files a single federal individual income tax return for the  
1396 taxable year.

1397 ~~[(d)]~~ (e) "Single filing status" means:

1398 (i) a single individual who files a single federal individual income tax return for the  
1399 taxable year; or

1400 (ii) a married individual who:

1401 (A) does not file a single federal individual income tax return jointly with that married  
1402 individual's spouse for the taxable year; and

1403 (B) files a single federal individual income tax return for the taxable year.

1404 ~~[(e)]~~ (f) "State or local income tax" means the lesser of:

1405 (i) the amount of state or local income tax that the claimant:

1406 (A) pays for the taxable year; and

1407 (B) reports on the claimant's federal individual income tax return for the taxable year,  
1408 regardless of whether the claimant is allowed an itemized deduction on the claimant's federal  
1409 individual income tax return for the taxable year for the full amount of state or local income tax  
1410 paid; and

1411 (ii) \$10,000.

1412 ~~[(f)]~~ (g) (i) "Utah itemized deduction" means the amount the claimant deducts as  
1413 allowed as an itemized deduction on the claimant's federal individual income tax return for that  
1414 taxable year minus any amount of state or local income tax for the taxable year.

1415 (ii) "Utah itemized deduction" does not include any amount of qualified business  
1416 income that the claimant subtracts as allowed by Section 199A, Internal Revenue Code, on the  
1417 claimant's federal income tax return for that taxable year.

1418 ~~[(g)]~~ (h) "Utah personal exemption" means, subject to Subsection (6), ~~[\$565]~~ \$2,500  
1419 multiplied by ~~[the number of the claimant's qualifying dependents.]:~~

1420 (i) for a claimant who has a joint filing status and no qualifying dependents, one; or

1421 (ii) for a claimant who has qualifying dependents, the number of the claimant's  
1422 qualifying dependents.

1423 (2) Except as provided in Section 59-10-1002.2, and subject to Subsections (3) through  
1424 (5), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part  
1425 equal to the sum of:

1426 (a) (i) for a claimant that deducts the standard deduction on the claimant's federal  
1427 individual income tax return for the taxable year, 6% of the amount the claimant deducts as  
1428 allowed as the standard deduction on the claimant's federal individual income tax return for  
1429 that taxable year; or

1430 (ii) for a claimant that itemizes deductions on the claimant's federal individual income  
1431 tax return for the taxable year, 6% of the amount of the claimant's Utah itemized deduction;  
1432 and

1433 (b) 6% of the claimant's Utah personal exemption.

1434 (3) A claimant may not carry forward or carry back a tax credit under this section.

1435 (4) The tax credit allowed by Subsection (2) shall be reduced by \$.013 for each dollar  
1436 by which a claimant's state taxable income exceeds:

1437 (a) for a claimant who has a single filing status, [~~\$12,000~~] \$14,879;

1438 (b) for a claimant who has a head of household filing status, [~~\$18,000~~] \$22,318; or

1439 (c) for a claimant who has a joint filing status[~~-\$24,000~~] or a qualifying widower filing  
1440 status, \$29,758.

1441 (5) (a) For a taxable year beginning on or after January 1, [~~2009~~] 2021, the commission  
1442 shall increase or decrease annually the following dollar amounts by a percentage equal to the  
1443 percentage difference between the consumer price index for the preceding calendar year and  
1444 the consumer price index for calendar year [~~2007~~] 2019:

1445 (i) the dollar amount listed in Subsection (4)(a); and

1446 (ii) the dollar amount listed in Subsection (4)(b).

1447 (b) After the commission increases or decreases the dollar amounts listed in Subsection  
1448 (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the  
1449 nearest whole dollar.

1450 (c) After the commission rounds the dollar amounts as required by Subsection (5)(b),  
1451 the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that  
1452 the dollar amount listed in Subsection (4)(c) is equal to the product of:

1453 (i) the dollar amount listed in Subsection (4)(a); and

1454 (ii) two.

1455 (d) For purposes of Subsection (5)(a), the commission shall calculate the consumer  
1456 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

1457 (6) (a) For a taxable year beginning on or after January 1, [~~2019~~] 2021, the commission  
1458 shall increase annually the Utah personal exemption amount listed in Subsection (1)[~~(g)~~](h) by  
1459 a percentage equal to the percentage by which the consumer price index for the preceding  
1460 calendar year exceeds the consumer price index for calendar year [~~2017~~] 2019.

1461 (b) After the commission increases the Utah personal exemption amount as described  
1462 in Subsection (6)(a), the commission shall round the Utah personal exemption amount to the  
1463 nearest whole dollar.

1464 (c) For purposes of Subsection (6)(a), the commission shall calculate the consumer  
1465 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

1466 Section 28. Section **59-10-1019** is amended to read:

1467 **59-10-1019. Definitions -- Nonrefundable retirement tax credit.**

1468 (1) As used in this section:

1469 (a) "Eligible over age 65 [~~or older~~] retiree" means a claimant, regardless of whether  
1470 that claimant is retired, who [~~:(i) is 65 years of age or older; and (ii)] was born on or before  
1471 December 31, 1952.~~

1472 [~~(b) (i) "Eligible retirement income" means income received by an eligible under age  
1473 65 retiree as a pension or annuity if that pension or annuity is:]~~

1474 [~~(A) paid to the eligible under age 65 retiree or the surviving spouse of an eligible  
1475 under age 65 retiree; and]~~

1476 [~~(B) (I) paid from an annuity contract purchased by an employer under a plan that  
1477 meets the requirements of Section 404(a)(2), Internal Revenue Code;]~~

1478 [~~(H) purchased by an employee under a plan that meets the requirements of Section  
1479 408, Internal Revenue Code; or]~~

1480 [~~(III) paid by:]~~

1481 [~~(Aa) the United States;]~~

1482 [~~(Bb) a state or a political subdivision of a state; or]~~

1483 [~~(Cc) the District of Columbia.]~~

1484 [~~(ii) "Eligible retirement income" does not include amounts received by the spouse of a~~

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

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

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

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

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

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

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

1496 (c) "Joint filing status" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1593 and

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

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

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

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

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

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

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

1607 (1) As used in this section:

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

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

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

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

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

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

1671 claim on a return for a taxable year is:

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

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

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

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

1678 (a) the claimant's employer; or

1679 (b) another person's employer.

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

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

1682 **59-10-1028. Nonrefundable tax credit for capital gain transactions on the**

1683 **exchange of one form of legal tender for another form of legal tender.**

1684 (1) As used in this section:

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

1686 (i) short-term capital gain; or

1687 (ii) long-term capital gain.

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

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

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

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

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

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

1702 ~~after January 1, 2012,~~] a claimant, estate, or trust may claim a nonrefundable tax credit equal to  
1703 the product of:

1704 (a) to the extent a net capital gain is included in taxable income, the amount of the  
1705 claimant's, estate's, or trust's net capital gain on capital gain transactions from exchanges made  
1706 on or after January 1, 2012, for a taxable year, of one form of legal tender for another form of  
1707 legal tender; and

1708 (b) ~~[5%]~~ the percentage listed in Subsection 59-10-104(2).

1709 (3) A claimant, estate, or trust may not carry forward or carry back a tax credit under  
1710 this section.

1711 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1712 commission may make rules to implement this section.

1713 Section 32. Section **59-10-1033** is amended to read:

1714 **59-10-1033. Tax credit related to alternative fuel heavy duty vehicles.**

1715 (1) As used in this section:

1716 (a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air  
1717 Conservation Act.

1718 (b) "Director" means the director of the Division of Air Quality appointed under  
1719 Section 19-2-107.

1720 (c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to  
1721 vehicle classifications established by the Federal Highway Administration.

1722 (d) "Natural gas" includes compressed natural gas and liquified natural gas.

1723 (e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

1724 (i) has never been titled or registered and has been driven less than 7,500 miles; and

1725 (ii) is fueled by natural gas, has a 100% electric drivetrain, or has a hydrogen-electric  
1726 drivetrain.

1727 (f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

1728 (g) "Qualified taxpayer" means a claimant, estate, or trust that:

1729 (i) purchases a qualified heavy duty vehicle; and

1730 (ii) receives a tax credit certificate from the director.

1731 (h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and  
1732 owned by a single claimant, estate, or trust.

1733 (i) "Tax credit certificate" means a certificate issued by the director certifying that a  
1734 claimant, estate, or trust is entitled to a tax credit as provided in this section and stating the  
1735 amount of the tax credit.

1736 (2) A qualified taxpayer may claim a nonrefundable tax credit against tax otherwise  
1737 due under this chapter:

1738 (a) in an amount equal to:

1739 (i) \$25,000, if the qualified purchase of a natural gas heavy duty vehicle occurs during  
1740 calendar year 2015 or calendar year 2016;

1741 (ii) \$25,000, if the qualified purchase occurs during calendar year 2017;

1742 (iii) \$20,000, if the qualified purchase occurs during calendar year 2018;

1743 (iv) \$18,000, if the qualified purchase occurs during calendar year 2019; and

1744 (v) \$15,000, if the qualified purchase occurs during calendar year 2020; and

1745 (b) if the qualified taxpayer certifies under oath that over 50% of the miles that the  
1746 heavy duty vehicle that is the subject of the qualified purchase will travel annually will be  
1747 within the state.

1748 (3) (a) Except as provided in Subsection (3)(b), a claimant, estate, or trust may not  
1749 submit an application for, and the director may not issue to the claimant, estate, or trust, a tax  
1750 credit certificate under this section in any taxable year for a qualified purchase if the director  
1751 has already issued tax credit certificates to the claimant, estate, or trust for 10 qualified  
1752 purchases in the same taxable year.

1753 (b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of  
1754 tax credits under Subsection (5) has not been claimed, a claimant, estate, or trust may submit  
1755 an application for, and the director may issue to the claimant, estate, or trust, one or more tax  
1756 credit certificates for up to eight additional qualified purchases, even if the director has already  
1757 issued to that claimant, estate, or trust tax credit certificates for the maximum number of  
1758 qualified purchases allowed under Subsection (3)(a).

1759 (4) (a) Subject to Subsection (4)(b), the director shall reserve 25% of all tax credits  
1760 available under this section for qualified taxpayers with a small fleet.

1761 (b) Subsection (4)(a) does not prevent a claimant, estate, or trust from submitting an  
1762 application for, or the director from issuing, a tax credit certificate if, before October 1,  
1763 qualified taxpayers with a small fleet have not reserved under Subsection (5)(b) tax credits for

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1813 (1) As used in this section:

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

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

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

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

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

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

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

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

1826 of:

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

1828 (b) the total amount of contributions:

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

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

1832 (4) A contributor may not claim a tax credit under this section:

1833 (a) for an amount of excess contribution to an account that is returned to the  
1834 contributor; or

1835 (b) with respect to an amount the contributor deducts on a federal income tax return.

1836 (5) A tax credit under this section may not be carried forward or carried back.

1837 Section 34. Section **59-10-1041** is enacted to read:

1838 **59-10-1041. Nonrefundable tax credit for social security benefits.**

1839 (1) As used in this section:

1840 (a) "Head of household filing status" means the same as that term is defined in Section  
1841 [59-10-1018](#).

1842 (b) "Joint filing status" means:

1843 (i) spouses who file a single return jointly under this chapter for a taxable year; or

1844 (ii) a surviving spouse, as defined in Section (2)(a), Internal Revenue Code, who files a  
1845 single federal individual income tax return for the taxable year.

1846 (c) "Married filing separately status" means a married individual who:

1847 (i) does not file a single federal individual income tax return jointly with that married  
1848 individual's spouse for the taxable year; and

1849 (ii) files a single federal individual income tax return for the taxable year.

1850 (d) "Modified adjusted gross income" means the sum of a claimant's:

1851 (i) adjusted gross income for the taxable year for which a tax credit is claimed under  
1852 this section;

1853 (ii) any interest income that is not included in adjusted gross income for the taxable  
1854 year described in Subsection (1)(d)(i); and

1855 (iii) any addition to adjusted gross income required by Section [59-10-114](#) for the  
1856 taxable year described in Subsection (1)(d)(i).

1857 (e) "Single filing status" means a single individual who files a single federal individual  
1858 income tax return for the taxable year.

1859 (f) "Social security benefit" means an amount received by a claimant as a monthly  
1860 benefit in accordance with the Social Security Act, 42 U.S.C. Sec. 401 et seq.

1861 (2) Except as provided in Section 59-10-1002.2 and Subsections (3) and (4), a claimant  
1862 may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the  
1863 product of:

1864 (a) the percentage listed in Subsection 59-10-104(2); and

1865 (b) the claimant's social security benefit that is included in adjusted gross income on  
1866 the claimant's federal income tax return for the taxable year.

1867 (3) A claimant may not:

1868 (a) carry forward or carry back a tax credit under this section; or

1869 (b) claim a tax credit under this section if a tax credit is claimed under Section  
1870 59-10-1019 on the same return.

1871 (4) The tax credit allowed by Subsection (2) claimed on a return filed under this part  
1872 shall be reduced by \$.025 for each dollar by which modified adjusted gross income for  
1873 purposes of the return exceeds:

1874 (a) for a return that has a married filing separately status, \$24,000;

1875 (b) for a return that has a single filing status, \$30,000;

1876 (c) for a return that has a head of household filing status, \$48,000; or

1877 (d) for a return that has a joint filing status, \$48,000.

1878 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1879 commission may make rules governing the calculation and method for claiming a tax credit  
1880 described in this section.

1881 Section 35. Section **59-10-1102.1** is enacted to read:

1882 **59-10-1102.1. Apportionment of tax credit.**

1883 (1) A part-year resident individual who claims the tax credit described in Section  
1884 59-10-1113 may only claim an apportioned amount of the tax credit equal to the product of:

1885 (a) the state income tax percentage for the part-year resident individual; and

1886 (b) the amount of the tax credit that the part-year resident individual would have been  
1887 allowed to claim but for the apportionment requirement of this section.

1888 (2) A nonresident individual or a part-year resident individual who claims the tax credit  
1889 described in Section 59-10-1114 may only claim an apportioned amount of the tax credit equal  
1890 to the product of:

1891 (a) the state income tax percentage for the nonresident individual or the state income  
1892 tax percentage for the part-year resident individual; and

1893 (b) the amount of the tax credit that the nonresident individual or the part-year resident  
1894 individual would have been allowed to claim but for the apportionment requirement of this  
1895 section.

1896 Section 36. Section **59-10-1105** is amended to read:

1897 **59-10-1105. Tax credit for hand tools used in farming operations -- Procedures**  
1898 **for refund -- Transfers from General Fund to Education Fund -- Rulemaking authority.**

1899 (1) [~~For a taxable year beginning on or after January 1, 2004, a~~ A claimant, estate, or  
1900 trust may claim a refundable tax credit:

1901 (a) as provided in this section;

1902 (b) against taxes otherwise due under this chapter; and

1903 (c) in an amount equal to the amount of tax the claimant, estate, or trust pays:

1904 (i) on a purchase of a hand tool:

1905 (A) if the purchase is made on or after July 1, 2004;

1906 (B) if the hand tool is used or consumed primarily and directly in a farming operation  
1907 in the state; and

1908 (C) if the unit purchase price of the hand tool is more than \$250; and

1909 (ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection  
1910 (1)(c)(i).

1911 (2) A claimant, estate, or trust:

1912 (a) shall retain the following to establish the amount of tax the claimant, estate, or trust  
1913 paid under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection

1914 (1)(c)(i):

1915 (i) a receipt;

1916 (ii) an invoice; or

1917 (iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and

1918 (b) may not carry forward or carry back a tax credit under this section.

1919 (3) (a) In accordance with any rules prescribed by the commission under Subsection  
1920 (3)(b)~~[(i)]~~, the commission shall make a refund to a claimant, estate, or trust that claims a tax  
1921 credit under this section if the amount of the tax credit exceeds the claimant's, estate's, or trust's  
1922 tax liability under this chapter~~;~~ ~~and~~.

1923 ~~[(ii) the Division of Finance shall transfer at least annually from the General Fund into~~  
1924 ~~the Education Fund an amount equal to the aggregate amount of all tax credits claimed under~~  
1925 ~~this section.]~~

1926 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1927 commission may make rules providing procedures for making~~[(i)]~~ a refund to a claimant,  
1928 estate, or trust as required by Subsection (3)(a)~~[(i); or]~~.

1929 ~~[(ii) transfers from the General Fund into the Education Fund as required by~~  
1930 ~~Subsection (3)(a)(ii).]~~

1931 Section 37. Section **59-10-1113** is enacted to read:

1932 **59-10-1113. Refundable grocery tax credit.**

1933 (1) As used in this section:

1934 (a) "Federal poverty level" means the poverty guidelines established by the Secretary of  
1935 the United States Department of Health and Human Services under 42 U.S.C. Sec. 9909(2).

1936 (b) "Modified adjusted gross income" means the sum of a claimant's:

1937 (i) adjusted gross income for the taxable year for which a tax credit is claimed under  
1938 this section;

1939 (ii) any interest income that is not included in adjusted gross income for the taxable  
1940 year described in Subsection (1)(b)(i); and

1941 (iii) any addition to adjusted gross income required by Section [59-10-114](#) for the  
1942 taxable year described in Subsection (1)(b)(i).

1943 (c) "Phaseout amount" means an amount equal to 0.0035% of the amount calculated  
1944 under Subsection (2).

1945 (d) "Qualifying dependent" means the same as that term is defined in Section  
1946 [59-10-1018](#).

1947 (e) "Qualifying household member" means:

1948 (i) the qualifying individual;

1949 (ii) the qualifying individual's spouse, if the qualifying individual:

- 1950 (A) files a single return jointly under this chapter with the qualifying individual's  
1951 spouse for a taxable year; or
- 1952 (B) is a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files  
1953 a single federal individual income tax return for a taxable year; and
- 1954 (iii) a qualifying dependent.
- 1955 (f) "Qualifying individual" means a resident individual who is not a qualifying  
1956 dependent.
- 1957 (2) Subject to Section [59-10-1102.1](#) and the provisions of this section, a qualifying  
1958 individual may claim a refundable grocery tax credit equal to the sum of:
- 1959 (a) \$125 multiplied by the number of qualifying household members, up to four; and  
1960 (b) \$50 multiplied by the number of qualifying household members that exceeds four.
- 1961 (3) (a) If a qualifying household member was incarcerated for any part of the taxable  
1962 year for which the qualifying individual claims the grocery tax credit, the qualifying  
1963 individual's credit for the qualifying household member is reduced by an amount proportionate  
1964 to the time the qualifying household member was incarcerated during the taxable year.
- 1965 (b) For purposes of calculating the proportionate amount under Subsection (3)(a), the  
1966 qualifying household member who was incarcerated is considered:
- 1967 (i) one of the qualifying household members described in Subsection (2)(a); or  
1968 (ii) if four other qualifying household members were incarcerated for part of the  
1969 taxable year and each considered one of the four qualifying household members described in  
1970 Subsection (2)(a), one of the qualifying household members described in Subsection (2)(b).
- 1971 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1972 commission may make rules for calculating the proportionate amount described in this  
1973 subsection.
- 1974 (4) The tax credit described in this section is reduced by the phaseout amount for each  
1975 dollar by which the claimant's modified adjusted gross income exceeds the lesser of:
- 1976 (a) 175% of the federal poverty level for the claimant's household size; or  
1977 (b) 175% of the federal poverty level for a household with five individuals.
- 1978 (5) (a) Except as provided in Subsection (5)(b), to claim the tax credit described in this  
1979 section, a qualifying individual shall file a return under this chapter.
- 1980 (b) A qualifying individual who is not required to file a return under this chapter for the

1981 taxable year in which the qualifying individual claims a credit under this section, may claim the  
1982 tax credit described in this section by filing a form prescribed by the commission.

1983 Section 38. Section **59-10-1114** is enacted to read:

1984 **59-10-1114. Refundable state earned income tax credit.**

1985 (1) As used in this section:

1986 (a) "Department" means the Department of Workforce Services created in Section  
1987 35A-1-103.

1988 (b) "Federal earned income tax credit" means the federal earned income tax credit  
1989 described in Section 32, Internal Revenue Code.

1990 (c) "Qualifying claimant" means a resident individual or nonresident individual who:

1991 (i) is identified by the department as experiencing intergenerational poverty in  
1992 accordance with Section 35A-9-214; and

1993 (ii) claimed the federal earned income tax credit for the previous taxable year.

1994 (2) Except as provided in Section 59-10-1102.1, a qualifying claimant may claim a  
1995 refundable earned income tax credit equal to 10% of the amount of the federal earned income  
1996 tax credit that the qualifying claimant was entitled to claim on a federal income tax return in  
1997 the previous taxable year.

1998 (3) (a) The commission shall use the electronic report described in Section 35A-9-214  
1999 to verify that a qualifying claimant is identified as experiencing intergenerational poverty.

2000 (b) The commission may not use the electronic report described in Section 35A-9-214  
2001 for any other purpose.

2002 Section 39. Section **59-10-1403.3** is amended to read:

2003 **59-10-1403.3. Refund of amounts paid or withheld for a pass-through entity.**

2004 (1) As used in this section:

2005 (a) "Committee" means the Revenue and Taxation Interim Committee.

2006 (b) "Qualifying excess withholding" means an amount that:

2007 (i) is paid or withheld:

2008 (A) by a pass-through entity that has a different taxable year than the pass-through  
2009 entity that requests a refund under this section; and

2010 (B) on behalf of the pass-through entity that requests the refund, if the pass-through  
2011 entity that requests the refund also is a pass-through entity taxpayer; and

2012 (ii) is equal to the difference between:

2013 (A) the amount paid or withheld for the taxable year on behalf of the pass-through  
2014 entity that requests the refund; and

2015 (B) the product of ~~[5%]~~ the percentage listed in Subsection 59-10-104(2) and the  
2016 income, described in Subsection 59-10-1403.2(1)(a)(i), of the pass-through entity that requests  
2017 the refund.

2018 (2) ~~[For a taxable year ending on or after July 1, 2017, a]~~ A pass-through entity may  
2019 claim a refund of qualifying excess withholding, if the amount of the qualifying excess  
2020 withholding is equal to or greater than \$250,000.

2021 (3) A pass-through entity that requests a refund of qualifying excess withholding under  
2022 this section shall:

2023 (a) apply to the commission for a refund on or, subject to Subsection (4), after the day  
2024 on which the pass-through entity files the pass-through entity's income tax return; and

2025 (b) provide any information that the commission may require to determine that the  
2026 pass-through entity is eligible to receive the refund.

2027 (4) A pass-through entity shall claim a refund of qualifying excess withholding under  
2028 this section within 30 days after the earlier of the day on which:

2029 (a) the pass-through entity files an income tax return; or

2030 (b) the pass-through entity's income tax return is due, including any extension of due  
2031 date authorized in statute.

2032 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2033 commission may make rules establishing the information that a pass-through entity shall  
2034 provide to the commission to obtain a refund of qualifying excess withholding under this  
2035 section.

2036 ~~[(6)(a) On or before November 30, 2018, the committee shall review the \$250,000  
2037 threshold described in Subsection (2) for the purpose of assessing whether the threshold  
2038 amount should be maintained, increased, or decreased.]~~

2039 ~~[(b) To assist the committee in conducting the review described in Subsection (6)(a),  
2040 the commission shall provide the committee with:]~~

2041 ~~[(i) the total number of refund requests made under this section;]~~

2042 ~~[(ii) the total costs of any refunds issued under this section;]~~

2043 ~~[(iii) the costs of any audits conducted on refund requests made under this section; and]~~  
2044 ~~[(iv) an estimation of:]~~  
2045 ~~[(A) the number of refund requests the commission expects to receive if the Legislature~~  
2046 ~~increases the threshold;]~~  
2047 ~~[(B) the number of refund requests the commission expects to receive if the Legislature~~  
2048 ~~decreases the threshold; and]~~  
2049 ~~[(C) the costs of any audits the commission would conduct if the Legislature increases~~  
2050 ~~or decreases the threshold.]~~

2051 Section 40. Section **59-12-102** is amended to read:

2052 **59-12-102. Definitions.**

2053 As used in this chapter:

2054 (1) "800 service" means a telecommunications service that:

2055 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

2056 (b) is typically marketed:

2057 (i) under the name 800 toll-free calling;

2058 (ii) under the name 855 toll-free calling;

2059 (iii) under the name 866 toll-free calling;

2060 (iv) under the name 877 toll-free calling;

2061 (v) under the name 888 toll-free calling; or

2062 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the

2063 Federal Communications Commission.

2064 (2) (a) "900 service" means an inbound toll telecommunications service that:

2065 (i) a subscriber purchases;

2066 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to  
2067 the subscriber's:

2068 (A) prerecorded announcement; or

2069 (B) live service; and

2070 (iii) is typically marketed:

2071 (A) under the name 900 service; or

2072 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal

2073 Communications Commission.

- 2074 (b) "900 service" does not include a charge for:
- 2075 (i) a collection service a seller of a telecommunications service provides to a
- 2076 subscriber; or
- 2077 (ii) the following a subscriber sells to the subscriber's customer:
- 2078 (A) a product; or
- 2079 (B) a service.
- 2080 (3) (a) "Admission or user fees" includes season passes.
- 2081 (b) "Admission or user fees" does not include annual membership dues to private
- 2082 organizations.
- 2083 (4) "Affiliate" or "affiliated person" means a person that, with respect to another
- 2084 person:
- 2085 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
- 2086 person; or
- 2087 (b) is related to the other person because a third person, or a group of third persons who
- 2088 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,
- 2089 whether direct or indirect, in the related persons.
- 2090 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 2091 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 2092 Agreement after November 12, 2002.
- 2093 (6) "Agreement combined tax rate" means the sum of the tax rates:
- 2094 (a) listed under Subsection (7); and
- 2095 (b) that are imposed within a local taxing jurisdiction.
- 2096 (7) "Agreement sales and use tax" means a tax imposed under:
- 2097 (a) Subsection [59-12-103\(2\)\(a\)\(i\)\(A\)](#);
- 2098 (b) Subsection [59-12-103\(2\)\(b\)\(i\)](#);
- 2099 (c) Subsection [59-12-103\(2\)\(c\)\(i\)](#);
- 2100 (d) Subsection [59-12-103\(2\)\(d\)\(i\)\(A\)\(I\)](#);
- 2101 (e) Section [59-12-204](#);
- 2102 (f) Section [59-12-401](#);
- 2103 (g) Section [59-12-402](#);
- 2104 (h) Section [59-12-402.1](#);

- 2105 (i) Section 59-12-703;
- 2106 (j) Section 59-12-802;
- 2107 (k) Section 59-12-804;
- 2108 (l) Section 59-12-1102;
- 2109 (m) Section 59-12-1302;
- 2110 (n) Section 59-12-1402;
- 2111 (o) Section 59-12-1802;
- 2112 (p) Section 59-12-2003;
- 2113 (q) Section 59-12-2103;
- 2114 (r) Section 59-12-2213;
- 2115 (s) Section 59-12-2214;
- 2116 (t) Section 59-12-2215;
- 2117 (u) Section 59-12-2216;
- 2118 (v) Section 59-12-2217;
- 2119 (w) Section 59-12-2218;
- 2120 (x) Section 59-12-2219; or
- 2121 (y) Section 59-12-2220.
- 2122 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 2123 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 2124 (a) except for:
- 2125 (i) an airline as defined in Section 59-2-102; or
- 2126 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 2127 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 2128 state, of an airline; and
- 2129 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 2130 whether the business entity performs the following in this state:
- 2131 (i) check, diagnose, overhaul, and repair:
- 2132 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 2133 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 2134 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 2135 engine;

2136 (iii) perform at least the following maintenance on a fixed wing turbine powered  
2137 aircraft:

- 2138 (A) an inspection;
- 2139 (B) a repair, including a structural repair or modification;
- 2140 (C) changing landing gear; and
- 2141 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 2142 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and  
2143 completely apply new paint to the fixed wing turbine powered aircraft; and
- 2144 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that  
2145 results in a change in the fixed wing turbine powered aircraft's certification requirements by the  
2146 authority that certifies the fixed wing turbine powered aircraft.

2147 (10) "Alcoholic beverage" means a beverage that:

- 2148 (a) is suitable for human consumption; and
- 2149 (b) contains .5% or more alcohol by volume.

2150 (11) "Alternative energy" means:

- 2151 (a) biomass energy;
- 2152 (b) geothermal energy;
- 2153 (c) hydroelectric energy;
- 2154 (d) solar energy;
- 2155 (e) wind energy; or
- 2156 (f) energy that is derived from:
  - 2157 (i) coal-to-liquids;
  - 2158 (ii) nuclear fuel;
  - 2159 (iii) oil-impregnated diatomaceous earth;
  - 2160 (iv) oil sands;
  - 2161 (v) oil shale;
  - 2162 (vi) petroleum coke; or
  - 2163 (vii) waste heat from:
    - 2164 (A) an industrial facility; or
    - 2165 (B) a power station in which an electric generator is driven through a process in which  
2166 water is heated, turns into steam, and spins a steam turbine.

2167 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production  
2168 facility" means a facility that:

- 2169 (i) uses alternative energy to produce electricity; and  
2170 (ii) has a production capacity of two megawatts or greater.

2171 (b) A facility is an alternative energy electricity production facility regardless of  
2172 whether the facility is:

- 2173 (i) connected to an electric grid; or  
2174 (ii) located on the premises of an electricity consumer.

2175 (13) (a) "Ancillary service" means a service associated with, or incidental to, the  
2176 provision of telecommunications service.

- 2177 (b) "Ancillary service" includes:  
2178 (i) a conference bridging service;  
2179 (ii) a detailed communications billing service;  
2180 (iii) directory assistance;  
2181 (iv) a vertical service; or  
2182 (v) a voice mail service.

2183 (14) "Area agency on aging" means the same as that term is defined in Section  
2184 [62A-3-101](#).

2185 ~~[(15) "Assisted amusement device" means an amusement device, skill device, or ride  
2186 device that is started and stopped by an individual:]~~

2187 ~~[(a) who is not the purchaser or renter of the right to use or operate the amusement  
2188 device, skill device, or ride device; and]~~

2189 ~~[(b) at the direction of the seller of the right to use the amusement device, skill device,  
2190 or ride device.]~~

2191 ~~[(16)]~~ (15) "Assisted cleaning or washing of tangible personal property" means  
2192 cleaning or washing of tangible personal property if the cleaning or washing labor is primarily  
2193 performed by an individual:

2194 (a) who is not the purchaser of the cleaning or washing of the tangible personal  
2195 property; and

2196 (b) at the direction of the seller of the cleaning or washing of the tangible personal  
2197 property.

2198            [~~(17)~~] (16) "Authorized carrier" means:

2199            (a) in the case of vehicles operated over public highways, the holder of credentials

2200 indicating that the vehicle is or will be operated pursuant to both the International Registration

2201 Plan and the International Fuel Tax Agreement;

2202            (b) in the case of aircraft, the holder of a Federal Aviation Administration operating

2203 certificate or air carrier's operating certificate; or

2204            (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling

2205 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling

2206 stock in more than one state.

2207            [~~(18)~~] (17) (a) Except as provided in Subsection [~~(18)~~] (17)(b), "biomass energy"

2208 means any of the following that is used as the primary source of energy to produce fuel or

2209 electricity:

2210            (i) material from a plant or tree; or

2211            (ii) other organic matter that is available on a renewable basis, including:

2212            (A) slash and brush from forests and woodlands;

2213            (B) animal waste;

2214            (C) waste vegetable oil;

2215            (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of

2216 wastewater residuals, or through the conversion of a waste material through a nonincineration,

2217 thermal conversion process;

2218            (E) aquatic plants; and

2219            (F) agricultural products.

2220            (b) "Biomass energy" does not include:

2221            (i) black liquor; or

2222            (ii) treated woods.

2223            [~~(19)~~] (18) (a) "Bundled transaction" means the sale of two or more items of tangible

2224 personal property, products, or services if the tangible personal property, products, or services

2225 are:

2226            (i) distinct and identifiable; and

2227            (ii) sold for one nonitemized price.

2228            (b) "Bundled transaction" does not include:

- 2229 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on  
2230 the basis of the selection by the purchaser of the items of tangible personal property included in  
2231 the transaction;
- 2232 (ii) the sale of real property;
- 2233 (iii) the sale of services to real property;
- 2234 (iv) the retail sale of tangible personal property and a service if:
- 2235 (A) the tangible personal property:
- 2236 (I) is essential to the use of the service; and
- 2237 (II) is provided exclusively in connection with the service; and
- 2238 (B) the service is the true object of the transaction;
- 2239 (v) the retail sale of two services if:
- 2240 (A) one service is provided that is essential to the use or receipt of a second service;
- 2241 (B) the first service is provided exclusively in connection with the second service; and
- 2242 (C) the second service is the true object of the transaction;
- 2243 (vi) a transaction that includes tangible personal property or a product subject to  
2244 taxation under this chapter and tangible personal property or a product that is not subject to  
2245 taxation under this chapter if the:
- 2246 (A) seller's purchase price of the tangible personal property or product subject to  
2247 taxation under this chapter is de minimis; or
- 2248 (B) seller's sales price of the tangible personal property or product subject to taxation  
2249 under this chapter is de minimis; and
- 2250 (vii) the retail sale of tangible personal property that is not subject to taxation under  
2251 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 2252 (A) that retail sale includes:
- 2253 (I) food and food ingredients;
- 2254 (II) a drug;
- 2255 (III) durable medical equipment;
- 2256 (IV) mobility enhancing equipment;
- 2257 (V) an over-the-counter drug;
- 2258 (VI) a prosthetic device; or
- 2259 (VII) a medical supply; and

- 2260 (B) subject to Subsection [~~(19)~~] (18)(f):
- 2261 (I) the seller's purchase price of the tangible personal property subject to taxation under
- 2262 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 2263 (II) the seller's sales price of the tangible personal property subject to taxation under
- 2264 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 2265 (c) (i) For purposes of Subsection [~~(19)~~] (18)(a)(i), tangible personal property, a
- 2266 product, or a service that is distinct and identifiable does not include:
- 2267 (A) packaging that:
- 2268 (I) accompanies the sale of the tangible personal property, product, or service; and
- 2269 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
- 2270 service;
- 2271 (B) tangible personal property, a product, or a service provided free of charge with the
- 2272 purchase of another item of tangible personal property, a product, or a service; or
- 2273 (C) an item of tangible personal property, a product, or a service included in the
- 2274 definition of "purchase price."
- 2275 (ii) For purposes of Subsection [~~(19)~~] (18)(c)(i)(B), an item of tangible personal
- 2276 property, a product, or a service is provided free of charge with the purchase of another item of
- 2277 tangible personal property, a product, or a service if the sales price of the purchased item of
- 2278 tangible personal property, product, or service does not vary depending on the inclusion of the
- 2279 tangible personal property, product, or service provided free of charge.
- 2280 (d) (i) For purposes of Subsection [~~(19)~~] (18)(a)(ii), property sold for one nonitemized
- 2281 price does not include a price that is separately identified by tangible personal property,
- 2282 product, or service on the following, regardless of whether the following is in paper format or
- 2283 electronic format:
- 2284 (A) a binding sales document; or
- 2285 (B) another supporting sales-related document that is available to a purchaser.
- 2286 (ii) For purposes of Subsection [~~(19)~~] (18)(d)(i), a binding sales document or another
- 2287 supporting sales-related document that is available to a purchaser includes:
- 2288 (A) a bill of sale;
- 2289 (B) a contract;
- 2290 (C) an invoice;

- 2291 (D) a lease agreement;
- 2292 (E) a periodic notice of rates and services;
- 2293 (F) a price list;
- 2294 (G) a rate card;
- 2295 (H) a receipt; or
- 2296 (I) a service agreement.
- 2297 (e) (i) For purposes of Subsection [~~(19)~~] (18)(b)(vi), the sales price of tangible personal
- 2298 property or a product subject to taxation under this chapter is de minimis if:
- 2299 (A) the seller's purchase price of the tangible personal property or product is 10% or
- 2300 less of the seller's total purchase price of the bundled transaction; or
- 2301 (B) the seller's sales price of the tangible personal property or product is 10% or less of
- 2302 the seller's total sales price of the bundled transaction.
- 2303 (ii) For purposes of Subsection [~~(19)~~] (18)(b)(vi), a seller:
- 2304 (A) shall use the seller's purchase price or the seller's sales price to determine if the
- 2305 purchase price or sales price of the tangible personal property or product subject to taxation
- 2306 under this chapter is de minimis; and
- 2307 (B) may not use a combination of the seller's purchase price and the seller's sales price
- 2308 to determine if the purchase price or sales price of the tangible personal property or product
- 2309 subject to taxation under this chapter is de minimis.
- 2310 (iii) For purposes of Subsection [~~(19)~~] (18)(b)(vi), a seller shall use the full term of a
- 2311 service contract to determine if the sales price of tangible personal property or a product is de
- 2312 minimis.
- 2313 (f) For purposes of Subsection [~~(19)~~] (18)(b)(vii)(B), a seller may not use a
- 2314 combination of the seller's purchase price and the seller's sales price to determine if tangible
- 2315 personal property subject to taxation under this chapter is 50% or less of the seller's total
- 2316 purchase price or sales price of that retail sale.
- 2317 [~~(20)~~] (19) "Certified automated system" means software certified by the governing
- 2318 board of the agreement that:
- 2319 (a) calculates the agreement sales and use tax imposed within a local taxing
- 2320 jurisdiction:
- 2321 (i) on a transaction; and

2322 (ii) in the states that are members of the agreement;

2323 (b) determines the amount of agreement sales and use tax to remit to a state that is a

2324 member of the agreement; and

2325 (c) maintains a record of the transaction described in Subsection [~~(20)~~] (19)(a)(i).

2326 [~~(21)~~] (20) "Certified service provider" means an agent certified:

2327 (a) by the governing board of the agreement; and

2328 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax,

2329 as outlined in the contract between the governing board of the agreement and the certified

2330 service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the

2331 seller's own purchases.

2332 [~~(22)~~] (21) (a) Subject to Subsection [~~(22)~~] (21)(b), "clothing" means all human

2333 wearing apparel suitable for general use.

2334 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2335 commission shall make rules:

2336 (i) listing the items that constitute "clothing"; and

2337 (ii) that are consistent with the list of items that constitute "clothing" under the

2338 agreement.

2339 [~~(23)~~] (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic

2340 fuel.

2341 [~~(24)~~] (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or

2342 other fuels that does not constitute industrial use under Subsection (57) or residential use under

2343 Subsection [~~(111)~~] (115).

2344 [~~(25)~~] (24) (a) "Common carrier" means a person engaged in or transacting the

2345 business of transporting passengers, freight, merchandise, or other property for hire within this

2346 state.

2347 (b) (i) "Common carrier" does not include a person that, at the time the person is

2348 traveling to or from that person's place of employment, transports a passenger to or from the

2349 passenger's place of employment.

2350 (ii) For purposes of Subsection [~~(25)~~] (24)(b)(i), in accordance with Title 63G, Chapter

2351 3, Utah Administrative Rulemaking Act, the commission may make rules defining what

2352 constitutes a person's place of employment.

2353 (c) "Common carrier" does not include a person that provides transportation network  
2354 services, as defined in Section [13-51-102](#).

2355 ~~[(26)]~~ [\(25\)](#) "Component part" includes:

2356 (a) poultry, dairy, and other livestock feed, and their components;

2357 (b) baling ties and twine used in the baling of hay and straw;

2358 (c) fuel used for providing temperature control of orchards and commercial  
2359 greenhouses doing a majority of their business in wholesale sales, and for providing power for  
2360 off-highway type farm machinery; and

2361 (d) feed, seeds, and seedlings.

2362 ~~[(27)]~~ [\(26\)](#) "Computer" means an electronic device that accepts information:

2363 (a) (i) in digital form; or

2364 (ii) in a form similar to digital form; and

2365 (b) manipulates that information for a result based on a sequence of instructions.

2366 ~~[(28)]~~ [\(27\)](#) "Computer software" means a set of coded instructions designed to cause:

2367 (a) a computer to perform a task; or

2368 (b) automatic data processing equipment to perform a task.

2369 ~~[(29)]~~ [\(28\)](#) "Computer software maintenance contract" means a contract that obligates a  
2370 seller of computer software to provide a customer with:

2371 (a) future updates or upgrades to computer software;

2372 (b) support services with respect to computer software; or

2373 (c) a combination of Subsections ~~[(29)]~~ [\(28\)](#)(a) and (b).

2374 ~~[(30)]~~ [\(29\)](#) (a) "Conference bridging service" means an ancillary service that links two  
2375 or more participants of an audio conference call or video conference call.

2376 (b) "Conference bridging service" may include providing a telephone number as part of  
2377 the ancillary service described in Subsection ~~[(30)]~~ [\(29\)](#)(a).

2378 (c) "Conference bridging service" does not include a telecommunications service used  
2379 to reach the ancillary service described in Subsection ~~[(30)]~~ [\(29\)](#)(a).

2380 ~~[(31)]~~ [\(30\)](#) "Construction materials" means any tangible personal property that will be  
2381 converted into real property.

2382 ~~[(32)]~~ [\(31\)](#) "Delivered electronically" means delivered to a purchaser by means other  
2383 than tangible storage media.

2384           (32) "Dating referral services" means services that are primarily intended to introduce  
2385 or match adults for social or romantic activities, including computer dating or video dating  
2386 services.

2387           (33) (a) "Delivery charge" means a charge:

2388           (i) by a seller of:

2389           (A) tangible personal property;

2390           (B) a product transferred electronically; or

2391           (C) a service; and

2392           (ii) for preparation and delivery of the tangible personal property, product transferred  
2393 electronically, or services described in Subsection (33)(a)(i) to a location designated by the  
2394 purchaser.

2395           (b) "Delivery charge" includes a charge for the following:

2396           (i) transportation;

2397           (ii) shipping;

2398           (iii) postage;

2399           (iv) handling;

2400           (v) crating; or

2401           (vi) packing.

2402           (34) "Detailed telecommunications billing service" means an ancillary service of  
2403 separately stating information pertaining to individual calls on a customer's billing statement.

2404           (35) "Dietary supplement" means a product, other than tobacco, that:

2405           (a) is intended to supplement the diet;

2406           (b) contains one or more of the following dietary ingredients:

2407           (i) a vitamin;

2408           (ii) a mineral;

2409           (iii) an herb or other botanical;

2410           (iv) an amino acid;

2411           (v) a dietary substance for use by humans to supplement the diet by increasing the total  
2412 dietary intake; or

2413           (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient  
2414 described in Subsections (35)(b)(i) through (v);

- 2415 (c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:
- 2416 (A) tablet form;
- 2417 (B) capsule form;
- 2418 (C) powder form;
- 2419 (D) softgel form;
- 2420 (E) gelcap form; or
- 2421 (F) liquid form; or
- 2422 (ii) if the product is not intended for ingestion in a form described in Subsections
- 2423 (35)(c)(i)(A) through (F), is not represented:
- 2424 (A) as conventional food; and
- 2425 (B) for use as a sole item of:
- 2426 (I) a meal; or
- 2427 (II) the diet; and
- 2428 (d) is required to be labeled as a dietary supplement:
- 2429 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 2430 (ii) as required by 21 C.F.R. Sec. 101.36.
- 2431 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 2432 musical, spoken, or other sounds.
- 2433 (b) "Digital audio work" includes a ringtone.
- 2434 (37) "Digital audio-visual work" means a series of related images which, when shown
- 2435 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 2436 (38) "Digital book" means a work that is generally recognized in the ordinary and usual
- 2437 sense as a book.
- 2438 (39) (a) "Direct mail" means printed material delivered or distributed by United States
- 2439 mail or other delivery service:
- 2440 (i) to:
- 2441 (A) a mass audience; or
- 2442 (B) addressees on a mailing list provided:
- 2443 (I) by a purchaser of the mailing list; or
- 2444 (II) at the discretion of the purchaser of the mailing list; and
- 2445 (ii) if the cost of the printed material is not billed directly to the recipients.

2446 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a  
2447 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

2448 (c) "Direct mail" does not include multiple items of printed material delivered to a  
2449 single address.

2450 (40) "Directory assistance" means an ancillary service of providing:

2451 (a) address information; or

2452 (b) telephone number information.

2453 (41) (a) "Disposable home medical equipment or supplies" means medical equipment  
2454 or supplies that:

2455 (i) cannot withstand repeated use; and

2456 (ii) are purchased by, for, or on behalf of a person other than:

2457 (A) a health care facility as defined in Section 26-21-2;

2458 (B) a health care provider as defined in Section 78B-3-403;

2459 (C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or

2460 (D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).

2461 (b) "Disposable home medical equipment or supplies" does not include:

2462 (i) a drug;

2463 (ii) durable medical equipment;

2464 (iii) a hearing aid;

2465 (iv) a hearing aid accessory;

2466 (v) mobility enhancing equipment; or

2467 (vi) tangible personal property used to correct impaired vision, including:

2468 (A) eyeglasses; or

2469 (B) contact lenses.

2470 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2471 commission may by rule define what constitutes medical equipment or supplies.

2472 (42) "Drilling equipment manufacturer" means a facility:

2473 (a) located in the state;

2474 (b) with respect to which 51% or more of the manufacturing activities of the facility  
2475 consist of manufacturing component parts of drilling equipment;

2476 (c) that uses pressure of 800,000 or more pounds per square inch as part of the

2477 manufacturing process; and

2478 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the

2479 manufacturing process.

2480 (43) (a) "Drug" means a compound, substance, or preparation, or a component of a

2481 compound, substance, or preparation that is:

2482 (i) recognized in:

2483 (A) the official United States Pharmacopoeia;

2484 (B) the official Homeopathic Pharmacopoeia of the United States;

2485 (C) the official National Formulary; or

2486 (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);

2487 (ii) intended for use in the:

2488 (A) diagnosis of disease;

2489 (B) cure of disease;

2490 (C) mitigation of disease;

2491 (D) treatment of disease; or

2492 (E) prevention of disease; or

2493 (iii) intended to affect:

2494 (A) the structure of the body; or

2495 (B) any function of the body.

2496 (b) "Drug" does not include:

2497 (i) food and food ingredients;

2498 (ii) a dietary supplement;

2499 (iii) an alcoholic beverage; or

2500 (iv) a prosthetic device.

2501 (44) (a) Except as provided in Subsection (44)(c), "durable medical equipment" means

2502 equipment that:

2503 (i) can withstand repeated use;

2504 (ii) is primarily and customarily used to serve a medical purpose;

2505 (iii) generally is not useful to a person in the absence of illness or injury; and

2506 (iv) is not worn in or on the body.

2507 (b) "Durable medical equipment" includes parts used in the repair or replacement of the

- 2508 equipment described in Subsection (44)(a).
- 2509 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 2510 (45) "Electronic" means:
- 2511 (a) relating to technology; and
- 2512 (b) having:
- 2513 (i) electrical capabilities;
- 2514 (ii) digital capabilities;
- 2515 (iii) magnetic capabilities;
- 2516 (iv) wireless capabilities;
- 2517 (v) optical capabilities;
- 2518 (vi) electromagnetic capabilities; or
- 2519 (vii) capabilities similar to Subsections (45)(b)(i) through (vi).
- 2520 (46) "Electronic financial payment service" means an establishment:
- 2521 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 2522 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 2523 federal Executive Office of the President, Office of Management and Budget; and
- 2524 (b) that performs electronic financial payment services.
- 2525 (47) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 2526 (48) "Fixed guideway" means a public transit facility that uses and occupies:
- 2527 (a) rail for the use of public transit; or
- 2528 (b) a separate right-of-way for the use of public transit.
- 2529 (49) "Fixed wing turbine powered aircraft" means an aircraft that:
- 2530 (a) is powered by turbine engines;
- 2531 (b) operates on jet fuel; and
- 2532 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 2533 (50) "Fixed wireless service" means a telecommunications service that provides radio
- 2534 communication between fixed points.
- 2535 (51) (a) "Food and food ingredients" means substances:
- 2536 (i) regardless of whether the substances are in:
- 2537 (A) liquid form;
- 2538 (B) concentrated form;

- 2539 (C) solid form;
- 2540 (D) frozen form;
- 2541 (E) dried form; or
- 2542 (F) dehydrated form; and
- 2543 (ii) that are:
- 2544 (A) sold for:
- 2545 (I) ingestion by humans; or
- 2546 (II) chewing by humans; and
- 2547 (B) consumed for the substance's:
- 2548 (I) taste; or
- 2549 (II) nutritional value.
- 2550 (b) "Food and food ingredients" includes an item described in Subsection [~~(95)~~]
- 2551 (99)(b)(iii).
- 2552 (c) "Food and food ingredients" does not include:
- 2553 (i) an alcoholic beverage;
- 2554 (ii) tobacco; or
- 2555 (iii) prepared food.
- 2556 (52) (a) "Fundraising sales" means sales:
- 2557 (i) (A) made by a school; or
- 2558 (B) made by a school student;
- 2559 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 2560 materials, or provide transportation; and
- 2561 (iii) that are part of an officially sanctioned school activity.
- 2562 (b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity"
- 2563 means a school activity:
- 2564 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 2565 district governing the authorization and supervision of fundraising activities;
- 2566 (ii) that does not directly or indirectly compensate an individual teacher or other
- 2567 educational personnel by direct payment, commissions, or payment in kind; and
- 2568 (iii) the net or gross revenues from which are deposited in a dedicated account
- 2569 controlled by the school or school district.

2570 (53) "Geothermal energy" means energy contained in heat that continuously flows  
2571 outward from the earth that is used as the sole source of energy to produce electricity.

2572 (54) "Governing board of the agreement" means the governing board of the agreement  
2573 that is:

- 2574 (a) authorized to administer the agreement; and
- 2575 (b) established in accordance with the agreement.

2576 (55) (a) [~~For purposes of Subsection 59-12-104(41), "governmental]~~ "Governmental  
2577 entity" means:

2578 (i) the executive branch of the state, including all departments, institutions, boards,  
2579 divisions, bureaus, offices, commissions, and committees;

2580 (ii) the judicial branch of the state, including the courts, the Judicial Council, the  
2581 Administrative Office of the Courts, and similar administrative units in the judicial branch;

2582 (iii) the legislative branch of the state, including the House of Representatives, the  
2583 Senate, the Legislative Printing Office, the Office of Legislative Research and General  
2584 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal  
2585 Analyst;

2586 (iv) the National Guard;

2587 (v) an independent entity as defined in Section 63E-1-102; or

2588 (vi) a political subdivision as defined in Section 17B-1-102.

2589 (b) "Governmental entity" does not include the state systems of public and higher  
2590 education, including:

2591 (i) a school;

2592 (ii) the State Board of Education;

2593 (iii) the State Board of Regents; or

2594 (iv) an institution of higher education described in Section 53B-1-102.

2595 (56) "Hydroelectric energy" means water used as the sole source of energy to produce  
2596 electricity.

2597 (57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or  
2598 other fuels:

2599 (a) in mining or extraction of minerals;

2600 (b) in agricultural operations to produce an agricultural product up to the time of

2601 harvest or placing the agricultural product into a storage facility, including:

2602 (i) commercial greenhouses;

2603 (ii) irrigation pumps;

2604 (iii) farm machinery;

2605 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered

2606 under Title 41, Chapter 1a, Part 2, Registration; and

2607 (v) other farming activities;

2608 (c) in manufacturing tangible personal property at an establishment described in:

2609 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of

2610 the federal Executive Office of the President, Office of Management and Budget; or

2611 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North

2612 American Industry Classification System of the federal Executive Office of the President,

2613 Office of Management and Budget;

2614 (d) by a scrap recycler if:

2615 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process

2616 one or more of the following items into prepared grades of processed materials for use in new

2617 products:

2618 (A) iron;

2619 (B) steel;

2620 (C) nonferrous metal;

2621 (D) paper;

2622 (E) glass;

2623 (F) plastic;

2624 (G) textile; or

2625 (H) rubber; and

2626 (ii) the new products under Subsection (57)(d)(i) would otherwise be made with

2627 nonrecycled materials; or

2628 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a

2629 cogeneration facility as defined in Section 54-2-1.

2630 [~~(58)(a) Except as provided in Subsection (58)(b), "installation charge" means a~~

2631 ~~charge for installing.~~]

2632 ~~[(i) tangible personal property; or]~~  
2633 ~~[(ii) a product transferred electronically.]~~  
2634 ~~[(b) "Installation charge" does not include a charge for:]~~  
2635 ~~[(i) repairs or renovations of:]~~  
2636 ~~[(A) tangible personal property; or]~~  
2637 ~~[(B) a product transferred electronically; or]~~  
2638 ~~[(ii) attaching tangible personal property or a product transferred electronically:]~~  
2639 ~~[(A) to other tangible personal property; and]~~  
2640 ~~[(B) as part of a manufacturing or fabrication process.]~~  
2641 (58) (a) "Installation charge" means a charge:  
2642 (i) by a seller of:  
2643 (A) tangible personal property; or  
2644 (B) a product transferred electronically; and  
2645 (ii) for installing the tangible personal property or the product transferred electronically  
2646 described in Subsection (58)(a)(i).  
2647 (b) "Installation charge" does not include a charge for:  
2648 (i) permanently attaching tangible personal property to real property; or  
2649 (ii) converting tangible personal property to real property.  
2650 (59) "Institution of higher education" means an institution of higher education listed in  
2651 Section [53B-2-101](#).  
2652 (60) (a) "Lease" or "rental" means a transfer of possession or control of tangible  
2653 personal property or a product transferred electronically for:  
2654 (i) (A) a fixed term; or  
2655 (B) an indeterminate term; and  
2656 (ii) consideration.  
2657 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the  
2658 amount of consideration may be increased or decreased by reference to the amount realized  
2659 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue  
2660 Code.  
2661 (c) "Lease" or "rental" does not include:  
2662 (i) a transfer of possession or control of property under a security agreement or

- 2663 deferred payment plan that requires the transfer of title upon completion of the required  
2664 payments;
- 2665 (ii) a transfer of possession or control of property under an agreement that requires the  
2666 transfer of title:
- 2667 (A) upon completion of required payments; and  
2668 (B) if the payment of an option price does not exceed the greater of:
- 2669 (I) \$100; or  
2670 (II) 1% of the total required payments; or
- 2671 (iii) providing tangible personal property along with an operator for a fixed period of  
2672 time or an indeterminate period of time if the operator is necessary for equipment to perform as  
2673 designed.
- 2674 (d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to  
2675 perform as designed if the operator's duties exceed the:
- 2676 (i) set-up of tangible personal property;  
2677 (ii) maintenance of tangible personal property; or  
2678 (iii) inspection of tangible personal property.
- 2679 (61) "Life science establishment" means an establishment in this state that is classified  
2680 under the following NAICS codes of the 2007 North American Industry Classification System  
2681 of the federal Executive Office of the President, Office of Management and Budget:
- 2682 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;  
2683 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus  
2684 Manufacturing; or  
2685 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 2686 (62) "Life science research and development facility" means a facility owned, leased,  
2687 or rented by a life science establishment if research and development is performed in 51% or  
2688 more of the total area of the facility.
- 2689 (63) "Load and leave" means delivery to a purchaser by use of a tangible storage media  
2690 if the tangible storage media is not physically transferred to the purchaser.
- 2691 (64) "Local taxing jurisdiction" means a:
- 2692 (a) county that is authorized to impose an agreement sales and use tax;  
2693 (b) city that is authorized to impose an agreement sales and use tax; or

2694 (c) town that is authorized to impose an agreement sales and use tax.  
2695 (65) "Manufactured home" means the same as that term is defined in Section  
2696 15A-1-302.  
2697 (66) "Manufacturing facility" means:  
2698 (a) an establishment described in:  
2699 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of  
2700 the federal Executive Office of the President, Office of Management and Budget; or  
2701 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North  
2702 American Industry Classification System of the federal Executive Office of the President,  
2703 Office of Management and Budget;  
2704 (b) a scrap recycler if:  
2705 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
2706 one or more of the following items into prepared grades of processed materials for use in new  
2707 products:  
2708 (A) iron;  
2709 (B) steel;  
2710 (C) nonferrous metal;  
2711 (D) paper;  
2712 (E) glass;  
2713 (F) plastic;  
2714 (G) textile; or  
2715 (H) rubber; and  
2716 (ii) the new products under Subsection (66)(b)(i) would otherwise be made with  
2717 nonrecycled materials; or  
2718 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is  
2719 placed in service on or after May 1, 2006.  
2720 (67) (a) "Marketplace" means a physical or electronic place, platform, or forum where  
2721 tangible personal property, a product transferred electronically, or a service is offered for sale.  
2722 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a  
2723 dedicated sales software application.  
2724 (68) (a) "Marketplace facilitator" means a person, including an affiliate of the person,

2725 that enters into a contract, an agreement, or otherwise with sellers, for consideration, to  
2726 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or  
2727 controls and that directly or indirectly:

2728 (i) does any of the following:

2729 (A) lists, makes available, or advertises tangible personal property, a product  
2730 transferred electronically, or a service for sale by a marketplace seller on a marketplace that the  
2731 person owns, operates, or controls;

2732 (B) facilitates the sale of a marketplace seller's tangible personal property, product  
2733 transferred electronically, or service by transmitting or otherwise communicating an offer or  
2734 acceptance of a retail sale between the marketplace seller and a purchaser using the  
2735 marketplace;

2736 (C) owns, rents, licenses, makes available, or operates any electronic or physical  
2737 infrastructure or any property, process, method, copyright, trademark, or patent that connects a  
2738 marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal  
2739 property, a product transferred electronically, or a service;

2740 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible  
2741 personal property, a product transferred electronically, or a service, regardless of ownership or  
2742 control of the tangible personal property, the product transferred electronically, or the service  
2743 that is the subject of the retail sale;

2744 (E) provides software development or research and development activities related to  
2745 any activity described in this Subsection (68)(a)(i), if the software development or research and  
2746 development activity is directly related to the person's marketplace;

2747 (F) provides or offers fulfillment or storage services for a marketplace seller;

2748 (G) sets prices for the sale of tangible personal property, a product transferred  
2749 electronically, or a service by a marketplace seller;

2750 (H) provides or offers customer service to a marketplace seller or a marketplace seller's  
2751 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal  
2752 property, a product transferred electronically, or a service sold by a marketplace seller on the  
2753 person's marketplace; or

2754 (I) brands or otherwise identifies sales as those of the person; and

2755 (ii) does any of the following:

2756 (A) collects the sales price or purchase price of a retail sale of tangible personal  
2757 property, a product transferred electronically, or a service;

2758 (B) provides payment processing services for a retail sale of tangible personal property,  
2759 a product transferred electronically, or a service;

2760 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing  
2761 fee, a fee for inserting or making available tangible personal property, a product transferred  
2762 electronically, or a service on the person's marketplace, or other consideration for the  
2763 facilitation of a retail sale of tangible personal property, a product transferred electronically, or  
2764 a service, regardless of ownership or control of the tangible personal property, the product  
2765 transferred electronically, or the service that is the subject of the retail sale;

2766 (D) through terms and conditions, an agreement, or another arrangement with a third  
2767 person, collects payment from a purchase for a retail sale of tangible personal property, a  
2768 product transferred electronically, or a service and transmits that payment to the marketplace  
2769 seller, regardless of whether the third person receives compensation or other consideration in  
2770 exchange for the service; or

2771 (E) provides a virtual currency for a purchaser to use to purchase tangible personal  
2772 property, a product transferred electronically, or service offered for sale.

2773 (b) "Marketplace facilitator" does not include a person that only provides payment  
2774 processing services.

2775 (69) "Marketplace seller" means a seller that makes one or more retail sales through a  
2776 marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the  
2777 seller is required to be registered to collect and remit the tax under this part.

2778 (70) "Member of the immediate family of the producer" means a person who is related  
2779 to a producer described in Subsection [59-12-104](#)~~(20)~~(17)(a) as a:

2780 (a) child or stepchild, regardless of whether the child or stepchild is:

2781 (i) an adopted child or adopted stepchild; or

2782 (ii) a foster child or foster stepchild;

2783 (b) grandchild or stepgrandchild;

2784 (c) grandparent or stepgrandparent;

2785 (d) nephew or stepnephew;

2786 (e) niece or stepniece;

- 2787 (f) parent or stepparent;  
2788 (g) sibling or stepsibling;  
2789 (h) spouse;  
2790 (i) person who is the spouse of a person described in Subsections (70)(a) through (g);

2791 or

- 2792 (j) person similar to a person described in Subsections (70)(a) through (i) as  
2793 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
2794 Administrative Rulemaking Act.

2795 (71) (a) "Menstrual products" means:

2796 (i) tampons;

2797 (ii) panty liners;

2798 (iii) menstrual cups;

2799 (iv) sanitary napkins; or

2800 (v) other similar tangible personal property designed for hygiene in connection with the  
2801 human menstrual cycle.

2802 (b) "Menstrual products" does not include:

2803 (i) soaps or cleaning solutions;

2804 (ii) shampoo;

2805 (iii) toothpaste;

2806 (iv) mouthwash;

2807 (v) antiperspirants; or

2808 (vi) suntan lotions or screens.

2809 [~~(71)~~] (72) "Mobile home" means the same as that term is defined in Section  
2810 15A-1-302.

2811 [~~(72)~~] (73) "Mobile telecommunications service" means the same as that term is  
2812 defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2813 [~~(73)~~] (74) (a) "Mobile wireless service" means a telecommunications service,  
2814 regardless of the technology used, if:

- 2815 (i) the origination point of the conveyance, routing, or transmission is not fixed;  
2816 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or  
2817 (iii) the origination point described in Subsection [~~(73)~~] (74)(a)(i) and the termination

2818 point described in Subsection [~~(73)~~] (74)(a)(ii) are not fixed.

2819 (b) "Mobile wireless service" includes a telecommunications service that is provided  
2820 by a commercial mobile radio service provider.

2821 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2822 commission may by rule define "commercial mobile radio service provider."

2823 [~~(74)~~] (75) (a) [~~Except as provided in Subsection (74)(c), "mobility"~~] "Mobility  
2824 enhancing equipment" means equipment that is:

2825 (i) primarily and customarily used to provide or increase the ability to move from one  
2826 place to another;

2827 (ii) appropriate for use in a:

2828 (A) home; or

2829 (B) motor vehicle; and

2830 (iii) not generally used by persons with normal mobility.

2831 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of  
2832 the equipment described in Subsection [~~(74)~~] (75)(a).

2833 (c) "Mobility enhancing equipment" does not include:

2834 (i) a motor vehicle;

2835 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor  
2836 vehicle manufacturer;

2837 (iii) durable medical equipment; or

2838 (iv) a prosthetic device.

2839 [~~(75)~~] (76) "Model 1 seller" means a seller registered under the agreement that has  
2840 selected a certified service provider as the seller's agent to perform the seller's sales and use tax  
2841 functions for agreement sales and use taxes, as outlined in the contract between the governing  
2842 board of the agreement and the certified service provider, other than the seller's obligation  
2843 under Section [59-12-124](#) to remit a tax on the seller's own purchases.

2844 [~~(76)~~] (77) "Model 2 seller" means a seller registered under the agreement that:

2845 (a) except as provided in Subsection [~~(76)~~] (77)(b), has selected a certified automated  
2846 system to perform the seller's sales tax functions for agreement sales and use taxes; and

2847 (b) retains responsibility for remitting all of the sales tax:

2848 (i) collected by the seller; and

- 2849 (ii) to the appropriate local taxing jurisdiction.
- 2850 ~~[(77)]~~ (78) (a) Subject to Subsection ~~[(77)]~~ (78)(b), "model 3 seller" means a seller
- 2851 registered under the agreement that has:
- 2852 (i) sales in at least five states that are members of the agreement;
- 2853 (ii) total annual sales ~~[revenues]~~ revenue of at least \$500,000,000;
- 2854 (iii) a proprietary system that calculates the amount of tax:
- 2855 (A) for an agreement sales and use tax; and
- 2856 (B) due to each local taxing jurisdiction; and
- 2857 (iv) entered into a performance agreement with the governing board of the agreement.
- 2858 (b) ~~[For purposes of Subsection (77)(a), "model]~~ "Model 3 seller" includes an affiliated
- 2859 group of sellers using the same proprietary system.
- 2860 ~~[(78)]~~ (79) "Model 4 seller" means a seller that is registered under the agreement and is
- 2861 not a model 1 seller, model 2 seller, or model 3 seller.
- 2862 ~~[(79)]~~ (80) "Modular home" means a modular unit as defined in Section [15A-1-302](#).
- 2863 ~~[(80)]~~ (81) "Motor vehicle" means the same as that term is defined in Section
- 2864 [41-1a-102](#).
- 2865 ~~[(81)]~~ (82) "Oil sands" means impregnated bituminous sands that:
- 2866 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
- 2867 other hydrocarbons, or otherwise treated;
- 2868 (b) yield mixtures of liquid hydrocarbon; and
- 2869 (c) require further processing other than mechanical blending before becoming finished
- 2870 petroleum products.
- 2871 ~~[(82)]~~ (83) "Oil shale" means a group of fine black to dark brown shales containing
- 2872 kerogen material that yields petroleum upon heating and distillation.
- 2873 ~~[(83)]~~ (84) "Optional computer software maintenance contract" means a computer
- 2874 software maintenance contract that a customer is not obligated to purchase as a condition to the
- 2875 retail sale of computer software.
- 2876 ~~[(84)]~~ (85) (a) "Other fuels" means products that burn independently to produce heat or
- 2877 energy.
- 2878 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
- 2879 personal property.

- 2880            ~~[(85)]~~ (86) (a) "Paging service" means a telecommunications service that provides  
2881 transmission of a coded radio signal for the purpose of activating a specific pager.
- 2882            (b) For purposes of Subsection ~~[(85)]~~ (86)(a), the transmission of a coded radio signal  
2883 includes a transmission by message or sound.
- 2884            (87) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).
- 2885            ~~[(86)]~~ (88) "Pawnbroker" means the same as that term is defined in Section  
2886 [13-32a-102](#).
- 2887            ~~[(87)] "Pawn transaction" means the same as that term is defined in Section~~  
2888 ~~[13-32a-102](#).~~
- 2889            ~~[(88)]~~ (89) (a) "Permanently attached to real property" means that for tangible personal  
2890 property attached to real property:
- 2891            (i) the attachment of the tangible personal property to the real property:  
2892            (A) is essential to the use of the tangible personal property; and  
2893            (B) suggests that the tangible personal property will remain attached to the real  
2894 property in the same place over the useful life of the tangible personal property; or  
2895            (ii) if the tangible personal property is detached from the real property, the detachment  
2896 would:  
2897            (A) cause substantial damage to the tangible personal property; or  
2898            (B) require substantial alteration or repair of the real property to which the tangible  
2899 personal property is attached.
- 2900            (b) "Permanently attached to real property" includes:  
2901            (i) the attachment of an accessory to the tangible personal property if the accessory is:  
2902            (A) essential to the operation of the tangible personal property; and  
2903            (B) attached only to facilitate the operation of the tangible personal property;  
2904            (ii) a temporary detachment of tangible personal property from real property for a  
2905 repair or renovation if the repair or renovation is performed where the tangible personal  
2906 property and real property are located; or  
2907            (iii) property attached to oil, gas, or water pipelines, except for the property listed in  
2908 Subsection ~~[(88)]~~ (89)(c)(iii) or (iv).
- 2909            (c) "Permanently attached to real property" does not include:  
2910            (i) the attachment of portable or movable tangible personal property to real property if

- 2911 that portable or movable tangible personal property is attached to real property only for:
- 2912 (A) convenience;
- 2913 (B) stability; or
- 2914 (C) for an obvious temporary purpose;
- 2915 (ii) the detachment of tangible personal property from real property except for the
- 2916 detachment described in Subsection ~~[(88)]~~ (89)(b)(ii);
- 2917 (iii) an attachment of the following tangible personal property to real property if the
- 2918 attachment to real property is only through a line that supplies water, electricity, gas,
- 2919 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 2920 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 2921 (A) a computer;
- 2922 (B) a telephone;
- 2923 (C) a television; or
- 2924 (D) tangible personal property similar to Subsections ~~[(88)]~~ (89)(c)(iii)(A) through (C)
- 2925 as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 2926 Administrative Rulemaking Act; or
- 2927 (iv) an item listed in Subsection ~~[(129)]~~ (135)(c).
- 2928 ~~[(89)]~~ (90) "Person" includes any individual, firm, partnership, joint venture,
- 2929 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
- 2930 city, municipality, district, or other local governmental entity of the state, or any group or
- 2931 combination acting as a unit.
- 2932 (91) (a) "Personal transportation service" means the transportation of one or more
- 2933 individuals by motor vehicle.
- 2934 (b) "Personal transportation" includes taxicab service, limousine service, driver service,
- 2935 shuttle service, scenic or sightseeing transportation, and a prearranged ride as defined in
- 2936 Section 13-51-102.
- 2937 (c) "Personal transportation service" does not include:
- 2938 (i) services provided by or through a governmental entity;
- 2939 (ii) transportation by ambulance as defined in Section 26-8a-102;
- 2940 (iii) transportation provided in connection with a funeral; or
- 2941 (iv) transportation by a low-speed vehicle, as defined in Section 41-6a-102, within a

2942 county of the first class, as classified in Section [17-50-501](#).

2943 (92) (a) "Pet boarding or care" means the furnishing of:

2944 (i) boarding for a pet; or

2945 (ii) daytime care for a pet at a location other than the pet owner's residence where the  
2946 pet is dropped off and picked up.

2947 (b) "Pet boarding or care" does not include a service described in Subsection (92)(a):

2948 (i) by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, in  
2949 conjunction with a veterinary medical service; or

2950 (ii) for a working animal, livestock, or a laboratory animal.

2951 (93) (a) "Pet grooming" means:

2952 (i) cleaning, maintaining, or enhancing the physical appearance of a pet; or

2953 (ii) furnishing other hygienic care for a pet.

2954 (b) "Pet grooming" does not include a service described in Subsection (93)(a):

2955 (i) by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, in  
2956 conjunction with a veterinary medical service; or

2957 (ii) for a working animal, livestock, or a laboratory animal.

2958 ~~[(90)]~~ (94) "Place of primary use":

2959 (a) for telecommunications service other than mobile telecommunications service,  
2960 means the street address representative of where the customer's use of the telecommunications  
2961 service primarily occurs, which shall be:

2962 (i) the residential street address of the customer; or

2963 (ii) the primary business street address of the customer; or

2964 (b) for mobile telecommunications service, means the same as that term is defined in  
2965 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2966 ~~[(91)]~~ (95) (a) "Postpaid calling service" means a telecommunications service a person  
2967 obtains by making a payment on a call-by-call basis:

2968 (i) through the use of a:

2969 (A) bank card;

2970 (B) credit card;

2971 (C) debit card; or

2972 (D) travel card; or

2973 (ii) by a charge made to a telephone number that is not associated with the origination  
2974 or termination of the telecommunications service.

2975 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling  
2976 service, that would be a prepaid wireless calling service if the service were exclusively a  
2977 telecommunications service.

2978 ~~[(92)]~~ (96) "Postproduction" means an activity related to the finishing or duplication of  
2979 a medium described in Subsection 59-12-104~~[(54)]~~(47)(a).

2980 ~~[(93)]~~ (97) "Prepaid calling service" means a telecommunications service:

2981 (a) that allows a purchaser access to telecommunications service that is exclusively  
2982 telecommunications service;

2983 (b) that:

2984 (i) is paid for in advance; and

2985 (ii) enables the origination of a call using an:

2986 (A) access number; or

2987 (B) authorization code;

2988 (c) that is dialed:

2989 (i) manually; or

2990 (ii) electronically; and

2991 (d) sold in predetermined units or dollars that decline:

2992 (i) by a known amount; and

2993 (ii) with use.

2994 ~~[(94)]~~ (98) "Prepaid wireless calling service" means a telecommunications service:

2995 (a) that provides the right to utilize:

2996 (i) mobile wireless service; and

2997 (ii) other service that is not a telecommunications service, including:

2998 (A) the download of a product transferred electronically;

2999 (B) a content service; or

3000 (C) an ancillary service;

3001 (b) that:

3002 (i) is paid for in advance; and

3003 (ii) enables the origination of a call using an:

- 3004 (A) access number; or
- 3005 (B) authorization code;
- 3006 (c) that is dialed:
- 3007 (i) manually; or
- 3008 (ii) electronically; and
- 3009 (d) sold in predetermined units or dollars that decline:
- 3010 (i) by a known amount; and
- 3011 (ii) with use.
- 3012 [~~95~~] (99) (a) "Prepared food" means:
- 3013 (i) food:
- 3014 (A) sold in a heated state; or
- 3015 (B) heated by a seller;
- 3016 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 3017 item; or
- 3018 (iii) except as provided in Subsection [~~95~~] (99)(c), food sold with an eating utensil
- 3019 provided by the seller, including a:
- 3020 (A) plate;
- 3021 (B) knife;
- 3022 (C) fork;
- 3023 (D) spoon;
- 3024 (E) glass;
- 3025 (F) cup;
- 3026 (G) napkin; or
- 3027 (H) straw.
- 3028 (b) "Prepared food" does not include:
- 3029 (i) food that a seller only:
- 3030 (A) cuts;
- 3031 (B) repackages; or
- 3032 (C) pasteurizes; or
- 3033 (ii) (A) the following:
- 3034 (I) raw egg;

- 3035 (II) raw fish;
- 3036 (III) raw meat;
- 3037 (IV) raw poultry; or
- 3038 (V) a food containing an item described in Subsections [~~(95)~~] (99)(b)(ii)(A)(I) through
- 3039 (IV); and
- 3040 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 3041 Food and Drug Administration's Food Code that a consumer cook the items described in
- 3042 Subsection [~~(95)~~] (99)(b)(ii)(A) to prevent food borne illness; or
- 3043 (iii) the following if sold without eating utensils provided by the seller:
- 3044 (A) food and food ingredients sold by a seller if the seller's proper primary
- 3045 classification under the 2002 North American Industry Classification System of the federal
- 3046 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 3047 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 3048 Manufacturing;
- 3049 (B) food and food ingredients sold in an unheated state:
- 3050 (I) by weight or volume; and
- 3051 (II) as a single item; or
- 3052 (C) a bakery item, including:
- 3053 (I) a bagel;
- 3054 (II) a bar;
- 3055 (III) a biscuit;
- 3056 (IV) bread;
- 3057 (V) a bun;
- 3058 (VI) a cake;
- 3059 (VII) a cookie;
- 3060 (VIII) a croissant;
- 3061 (IX) a danish;
- 3062 (X) a donut;
- 3063 (XI) a muffin;
- 3064 (XII) a pastry;
- 3065 (XIII) a pie;

3066 (XIV) a roll;  
3067 (XV) a tart;  
3068 (XVI) a torte; or  
3069 (XVII) a tortilla.  
3070 (c) An eating utensil provided by the seller does not include the following used to  
3071 transport the food:  
3072 (i) a container; or  
3073 (ii) packaging.  
3074 [(96)] (100) "Prescription" means an order, formula, or recipe that is issued:  
3075 (a) (i) orally;  
3076 (ii) in writing;  
3077 (iii) electronically; or  
3078 (iv) by any other manner of transmission; and  
3079 (b) by a licensed practitioner authorized by the laws of a state.  
3080 [(97)] (101) (a) [~~Except as provided in Subsection (97)(b)(ii) or (iii), "prewritten~~  
3081 "Prewritten computer software" means computer software that is not designed and developed:  
3082 (i) by the author or other creator of the computer software; and  
3083 (ii) to the specifications of a specific purchaser.  
3084 (b) "Prewritten computer software" includes:  
3085 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer  
3086 software is not designed and developed:  
3087 (A) by the author or other creator of the computer software; and  
3088 (B) to the specifications of a specific purchaser;  
3089 (ii) computer software designed and developed by the author or other creator of the  
3090 computer software to the specifications of a specific purchaser if the computer software is sold  
3091 to a person other than the purchaser; or  
3092 (iii) except as provided in Subsection [(97)] (101)(c), prewritten computer software or  
3093 a prewritten portion of prewritten computer software:  
3094 (A) that is modified or enhanced to any degree; and  
3095 (B) if the modification or enhancement described in Subsection [(97)] (101)(b)(iii)(A)  
3096 is designed and developed to the specifications of a specific purchaser.

3097 (c) "Prewritten computer software" does not include a modification or enhancement  
3098 described in Subsection ~~[(97)]~~ (101)(b)(iii) if the charges for the modification or enhancement  
3099 are:

3100 (i) reasonable; and

3101 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the  
3102 invoice or other statement of price provided to the purchaser at the time of sale or later, as  
3103 demonstrated by:

3104 (A) the books and records the seller keeps at the time of the transaction in the regular  
3105 course of business, including books and records the seller keeps at the time of the transaction in  
3106 the regular course of business for nontax purposes;

3107 (B) a preponderance of the facts and circumstances at the time of the transaction; and

3108 (C) the understanding of all of the parties to the transaction.

3109 ~~[(98)]~~ (102) (a) "Private communications service" means a telecommunications  
3110 service:

3111 (i) that entitles a customer to exclusive or priority use of one or more communications  
3112 channels between or among termination points; and

3113 (ii) regardless of the manner in which the one or more communications channels are  
3114 connected.

3115 (b) "Private communications service" includes the following provided in connection  
3116 with the use of one or more communications channels:

3117 (i) an extension line;

3118 (ii) a station;

3119 (iii) switching capacity; or

3120 (iv) another associated service that is provided in connection with the use of one or  
3121 more communications channels as defined in Section 59-12-215.

3122 ~~[(99)]~~ (103) (a) ~~[Except as provided in Subsection (99)(b), "product]~~ "Product  
3123 transferred electronically" means a product transferred electronically that would be subject to a  
3124 tax under this chapter if that product was transferred in a manner other than electronically.

3125 (b) "Product transferred electronically" does not include:

3126 (i) an ancillary service;

3127 (ii) computer software; or

- 3128 (iii) a telecommunications service.
- 3129 [~~(100)~~] (104) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 3130 (i) artificially replace a missing portion of the body;
- 3131 (ii) prevent or correct a physical deformity or physical malfunction; or
- 3132 (iii) support a weak or deformed portion of the body.
- 3133 (b) "Prosthetic device" includes:
- 3134 (i) parts used in the repairs or renovation of a prosthetic device;
- 3135 (ii) replacement parts for a prosthetic device;
- 3136 (iii) a dental prosthesis; or
- 3137 (iv) a hearing aid.
- 3138 (c) "Prosthetic device" does not include:
- 3139 (i) corrective eyeglasses; or
- 3140 (ii) contact lenses.
- 3141 [~~(101)~~] (105) (a) "Protective equipment" means an item:
- 3142 (i) for human wear; and
- 3143 (ii) that is:
- 3144 (A) designed as protection:
- 3145 (I) to the wearer against injury or disease; or
- 3146 (II) against damage or injury of other persons or property; and
- 3147 (B) not suitable for general use.
- 3148 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3149 commission shall make rules:
- 3150 (i) listing the items that constitute "protective equipment"; and
- 3151 (ii) that are consistent with the list of items that constitute "protective equipment"
- 3152 under the agreement.
- 3153 [~~(102)~~] (106) (a) For purposes of Subsection 59-12-104[~~(41)~~](36), "publication" means
- 3154 any written or printed matter, other than a photocopy:
- 3155 (i) regardless of:
- 3156 (A) characteristics;
- 3157 (B) copyright;
- 3158 (C) form;

3159 (D) format;

3160 (E) method of reproduction; or

3161 (F) source; and

3162 (ii) made available in printed or electronic format.

3163 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3164 commission may by rule define the term "photocopy."

3165 ~~[(103)]~~ (107) (a) "Purchase price" and "sales price" mean the total amount of

3166 consideration:

3167 (i) valued in money; and

3168 (ii) for which tangible personal property, a product transferred electronically, or

3169 services are:

3170 (A) sold;

3171 (B) leased; or

3172 (C) rented.

3173 (b) "Purchase price" and "sales price" include:

3174 (i) the seller's cost of the tangible personal property, a product transferred

3175 electronically, or services sold;

3176 (ii) expenses of the seller, including:

3177 (A) the cost of materials used;

3178 (B) a labor cost;

3179 (C) a service cost;

3180 (D) interest;

3181 (E) a loss;

3182 (F) the cost of transportation to the seller; or

3183 (G) a tax imposed on the seller;

3184 (iii) a delivery charge; or

3185 (iv) an installation charge;

3186 ~~[(iii)]~~ (v) a charge by the seller for any service necessary to complete the sale; or

3187 ~~[(iv)]~~ (vi) consideration a seller receives from a person other than the purchaser if:

3188 (A) (I) the seller actually receives consideration from a person other than the purchaser;

3189 and

3190 (II) the consideration described in Subsection [~~(103)~~] (107)(b)[~~(iv)~~](vi)(A)(I) is directly  
3191 related to a price reduction or discount on the sale;

3192 (B) the seller has an obligation to pass the price reduction or discount through to the  
3193 purchaser;

3194 (C) the amount of the consideration attributable to the sale is fixed and determinable by  
3195 the seller at the time of the sale to the purchaser; and

3196 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the  
3197 seller to claim a price reduction or discount; and

3198 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,  
3199 coupon, or other documentation with the understanding that the person other than the seller  
3200 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

3201 (II) the purchaser identifies that purchaser to the seller as a member of a group or  
3202 organization allowed a price reduction or discount, except that a preferred customer card that is  
3203 available to any patron of a seller does not constitute membership in a group or organization  
3204 allowed a price reduction or discount; or

3205 (III) the price reduction or discount is identified as a third party price reduction or  
3206 discount on the:

3207 (Aa) invoice the purchaser receives; or

3208 (Bb) certificate, coupon, or other documentation the purchaser presents.

3209 (c) "Purchase price" and "sales price" do not include:

3210 (i) a discount:

3211 (A) in a form including:

3212 (I) cash;

3213 (II) term; or

3214 (III) coupon;

3215 (B) that is allowed by a seller;

3216 (C) taken by a purchaser on a sale; and

3217 (D) that is not reimbursed by a third party; or

3218 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately  
3219 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of  
3220 sale or later, as demonstrated by the books and records the seller keeps at the time of the

3221 transaction in the regular course of business, including books and records the seller keeps at the  
 3222 time of the transaction in the regular course of business for nontax purposes, by a  
 3223 preponderance of the facts and circumstances at the time of the transaction, and by the  
 3224 understanding of all of the parties to the transaction:

3225 (A) the following from credit extended on the sale of tangible personal property or  
 3226 services:

3227 (I) a carrying charge;

3228 (II) a financing charge; or

3229 (III) an interest charge;

3230 [~~(B)~~] a delivery charge;

3231 [~~(C)~~] an installation charge;

3232 [~~(D)~~] (B) a manufacturer rebate on a motor vehicle; or

3233 [~~(E)~~] (C) a tax or fee legally imposed directly on the consumer.

3234 [~~(104)~~] (108) "Purchaser" means a person to whom:

3235 (a) a sale of tangible personal property is made;

3236 (b) a product is transferred electronically; or

3237 (c) a service is furnished.

3238 [~~(105)~~] (109) "Qualifying [~~enterprise~~] data center" means [~~an establishment that will:~~

3239 (a) ~~own and operate~~] a data center facility that [~~will house~~]:

3240 (a) houses a group of networked server computers in one physical location in order to

3241 [~~centralize the dissemination, management, and storage of~~] disseminate, manage, and store data  
 3242 and information;

3243 (b) [~~be~~] is located in the state;

3244 (c) [~~be~~] is a new operation constructed on or after July 1, 2016;

3245 (d) [~~consist~~] consists of one or more buildings that total 150,000 or more square feet;

3246 (e) [~~be~~] is owned or leased by:

3247 (i) the [~~establishment~~] operator of the data center facility; or

3248 (ii) a person under common ownership, as defined in Section 59-7-101, of the

3249 [~~establishment~~] operator of the data center facility; and

3250 (f) [~~be~~] is located on one or more parcels of land that are owned or leased by:

3251 (i) the [~~establishment~~] operator of the data center facility; or

3252 (ii) a person under common ownership, as defined in Section 59-7-101, of the  
3253 [establishment] operator of the data center facility.

3254 [~~(106)~~] (110) "Regularly rented" means:

3255 (a) rented to a guest for value three or more times during a calendar year; or

3256 (b) advertised or held out to the public as a place that is regularly rented to guests for  
3257 value.

3258 [~~(107)~~] (111) "Rental" means the same as that term is defined in Subsection (60).

3259 [~~(108)~~] (112) (a) [~~Except as provided in Subsection (108)(b), "repairs"~~] "Repairs or  
3260 renovations of tangible personal property" means:

3261 (i) a repair or renovation of tangible personal property that is not permanently attached  
3262 to real property; or

3263 (ii) attaching tangible personal property or a product transferred electronically to other  
3264 tangible personal property or detaching tangible personal property or a product transferred  
3265 electronically from other tangible personal property if:

3266 (A) the other tangible personal property to which the tangible personal property or  
3267 product transferred electronically is attached or from which the tangible personal property or  
3268 product transferred electronically is detached is not permanently attached to real property; and

3269 (B) the attachment of tangible personal property or a product transferred electronically  
3270 to other tangible personal property or detachment of tangible personal property or a product  
3271 transferred electronically from other tangible personal property is made in conjunction with a  
3272 repair or replacement of tangible personal property or a product transferred electronically.

3273 (b) "Repairs or renovations of tangible personal property" does not include:

3274 (i) attaching prewritten computer software to other tangible personal property if the  
3275 other tangible personal property to which the prewritten computer software is attached is not  
3276 permanently attached to real property; or

3277 (ii) detaching prewritten computer software from other tangible personal property if the  
3278 other tangible personal property from which the prewritten computer software is detached is  
3279 not permanently attached to real property.

3280 [~~(109)~~] (113) "Research and development" means the process of inquiry or  
3281 experimentation aimed at the discovery of facts, devices, technologies, or applications and the  
3282 process of preparing those devices, technologies, or applications for marketing.

3283            [~~(H0)~~] (114) (a) "Residential telecommunications services" means a  
3284 telecommunications service or an ancillary service that is provided to an individual for personal  
3285 use:

3286            (i) at a residential address; or

3287            (ii) at an institution, including a nursing home or a school, if the telecommunications  
3288 service or ancillary service is provided to and paid for by the individual residing at the  
3289 institution rather than the institution.

3290            (b) For purposes of Subsection [~~(H0)~~] (114)(a)(i), a residential address includes an:

3291            (i) apartment; or

3292            (ii) other individual dwelling unit.

3293            [~~(H1)~~] (115) "Residential use" means the use in or around a home, apartment building,  
3294 sleeping quarters, and similar facilities or accommodations.

3295            [~~(H2)~~] (116) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose  
3296 other than:

3297            (a) resale;

3298            (b) sublease; or

3299            (c) subrent.

3300            [~~(H3)~~] (117) (a) "Retailer" means any person, unless prohibited by the Constitution of  
3301 the United States or federal law, that is engaged in a regularly organized business in tangible  
3302 personal property or any other taxable transaction under Subsection [59-12-103\(1\)](#), and who is  
3303 selling to the user or consumer and not for resale.

3304            (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
3305 engaged in the business of selling to users or consumers within the state.

3306            [~~(H4)~~] (118) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
3307 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
3308 Subsection [59-12-103\(1\)](#), for consideration.

3309            (b) "Sale" includes:

3310            (i) installment and credit sales;

3311            (ii) any closed transaction constituting a sale;

3312            (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
3313 chapter;

3314 (iv) any transaction if the possession of property is transferred but the seller retains the  
3315 title as security for the payment of the price; and

3316 (v) any transaction under which right to possession, operation, or use of any article of  
3317 tangible personal property is granted under a lease or contract and the transfer of possession  
3318 would be taxable if an outright sale were made.

3319 [~~(H5)~~] (119) "Sale at retail" means the same as that term is defined in Subsection  
3320 [~~(H2)~~] (116).

3321 [~~(H6)~~] (120) "Sale-leaseback transaction" means a transaction by which title to  
3322 tangible personal property or a product transferred electronically that is subject to a tax under  
3323 this chapter is transferred:

3324 (a) by a purchaser-lessee;

3325 (b) to a lessor;

3326 (c) for consideration; and

3327 (d) if:

3328 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase  
3329 of the tangible personal property or product transferred electronically;

3330 (ii) the sale of the tangible personal property or product transferred electronically to the  
3331 lessor is intended as a form of financing:

3332 (A) for the tangible personal property or product transferred electronically; and

3333 (B) to the purchaser-lessee; and

3334 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee  
3335 is required to:

3336 (A) capitalize the tangible personal property or product transferred electronically for  
3337 financial reporting purposes; and

3338 (B) account for the lease payments as payments made under a financing arrangement.

3339 [~~(H7)~~] (121) "Sales price" means the same as that term is defined in Subsection  
3340 [~~(H3)~~] (107).

3341 [~~(H8)~~] (122) (a) "Sales relating to schools" means the following sales by, amounts  
3342 paid to, or amounts charged by a school:

3343 (i) sales that are directly related to the school's educational functions or activities  
3344 including:

- 3345 (A) the sale of:
- 3346 (I) textbooks;
- 3347 (II) textbook fees;
- 3348 (III) laboratory fees;
- 3349 (IV) laboratory supplies; or
- 3350 (V) safety equipment;
- 3351 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 3352 that:
- 3353 (I) a student is specifically required to wear as a condition of participation in a
- 3354 school-related event or school-related activity; and
- 3355 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 3356 place of ordinary clothing;
- 3357 (C) sales of the following if the net or gross revenues generated by the sales are
- 3358 deposited into a school district fund or school fund dedicated to school meals:
- 3359 (I) food and food ingredients; or
- 3360 (II) prepared food; or
- 3361 (D) transportation charges for official school activities; or
- 3362 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 3363 event or school-related activity.
- 3364 (b) "Sales relating to schools" does not include:
- 3365 (i) bookstore sales of items that are not educational materials or supplies;
- 3366 (ii) except as provided in Subsection [~~(118)~~] (122)(a)(i)(B):
- 3367 (A) clothing;
- 3368 (B) clothing accessories or equipment;
- 3369 (C) protective equipment; or
- 3370 (D) sports or recreational equipment; or
- 3371 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 3372 event or school-related activity if the amounts paid or charged are passed through to a person:
- 3373 (A) other than a:
- 3374 (I) school;
- 3375 (II) nonprofit organization authorized by a school board or a governing body of a

- 3376 private school to organize and direct a competitive secondary school activity; or  
 3377 (III) nonprofit association authorized by a school board or a governing body of a  
 3378 private school to organize and direct a competitive secondary school activity; and  
 3379 (B) that is required to collect sales and use taxes under this chapter.  
 3380 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
 3381 commission may make rules defining the term "passed through."  
 3382 ~~[(119)]~~ (123) For purposes of this section and Section 59-12-104, "school" means:  
 3383 (a) an elementary school or a secondary school that:  
 3384 (i) is a:  
 3385 (A) public school; or  
 3386 (B) private school; and  
 3387 (ii) provides instruction for one or more grades kindergarten through 12; or  
 3388 (b) a public school district.  
 3389 (124) "Security system monitoring" means the service of monitoring signals from an  
 3390 alarm system, as defined in Section 58-55-102, regardless of whether the monitoring is  
 3391 performed electronically or by an individual.  
 3392 ~~[(120)]~~ (125) (a) "Seller" means a person that makes a sale, lease, or rental of:  
 3393 (i) tangible personal property;  
 3394 (ii) a product transferred electronically; or  
 3395 (iii) a service.  
 3396 (b) "Seller" includes a marketplace facilitator.  
 3397 (126) "Seller-hosted prewritten computer software" means prewritten computer  
 3398 software that is accessed through the Internet or a seller-hosted server, regardless of whether:  
 3399 (a) the access is permanent; or  
 3400 (b) any downloading occurs.  
 3401 ~~[(121)]~~ (127) (a) "Semiconductor fabricating, processing, research, or development  
 3402 materials" means tangible personal property or a product transferred electronically if the  
 3403 tangible personal property or product transferred electronically is:  
 3404 (i) used primarily in the process of:  
 3405 (A) (I) manufacturing a semiconductor;  
 3406 (II) fabricating a semiconductor; or

- 3407 (III) research or development of a:
- 3408 (Aa) semiconductor; or
- 3409 (Bb) semiconductor manufacturing process; or
- 3410 (B) maintaining an environment suitable for a semiconductor; or
- 3411 (ii) consumed primarily in the process of:
- 3412 (A) (I) manufacturing a semiconductor;
- 3413 (II) fabricating a semiconductor; or
- 3414 (III) research or development of a:
- 3415 (Aa) semiconductor; or
- 3416 (Bb) semiconductor manufacturing process; or
- 3417 (B) maintaining an environment suitable for a semiconductor.
- 3418 (b) "Semiconductor fabricating, processing, research, or development materials"
- 3419 includes:
- 3420 (i) parts used in the repairs or renovations of tangible personal property or a product
- 3421 transferred electronically described in Subsection ~~[(121)]~~ (127)(a); or
- 3422 (ii) a chemical, catalyst, or other material used to:
- 3423 (A) produce or induce in a semiconductor a:
- 3424 (I) chemical change; or
- 3425 (II) physical change;
- 3426 (B) remove impurities from a semiconductor; or
- 3427 (C) improve the marketable condition of a semiconductor.
- 3428 ~~[(122)]~~ (128) "Senior citizen center" means a facility having the primary purpose of
- 3429 providing services to the aged as defined in Section 62A-3-101.
- 3430 ~~[(123)]~~ (129) (a) ~~[Subject to Subsections (123)(b) and (c), "short-term"]~~ "Short-term
- 3431 lodging consumable" means tangible personal property that:
- 3432 (i) a business that provides accommodations and services described in Subsection
- 3433 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
- 3434 to a purchaser;
- 3435 (ii) is intended to be consumed by the purchaser; and
- 3436 (iii) is:
- 3437 (A) included in the purchase price of the accommodations and services; and

3438 (B) not separately stated on an invoice, bill of sale, or other similar document provided  
3439 to the purchaser.

3440 (b) "Short-term lodging consumable" includes:

3441 (i) a beverage;

3442 (ii) a brush or comb;

3443 (iii) a cosmetic;

3444 (iv) a hair care product;

3445 (v) lotion;

3446 (vi) a magazine;

3447 (vii) makeup;

3448 (viii) a meal;

3449 (ix) mouthwash;

3450 (x) nail polish remover;

3451 (xi) a newspaper;

3452 (xii) a notepad;

3453 (xiii) a pen;

3454 (xiv) a pencil;

3455 (xv) a razor;

3456 (xvi) saline solution;

3457 (xvii) a sewing kit;

3458 (xviii) shaving cream;

3459 (xix) a shoe shine kit;

3460 (xx) a shower cap;

3461 (xxi) a snack item;

3462 (xxii) soap;

3463 (xxiii) toilet paper;

3464 (xxiv) a toothbrush;

3465 (xxv) toothpaste; or

3466 (xxvi) an item similar to Subsections [~~(123)~~] (129)(b)(i) through (xxv) as the  
3467 commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah  
3468 Administrative Rulemaking Act.

- 3469 (c) "Short-term lodging consumable" does not include:
- 3470 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 3471 property to be reused; or
- 3472 (ii) a product transferred electronically.
- 3473 [(124)] (130) "Simplified electronic return" means the electronic return:
- 3474 (a) described in Section 318(C) of the agreement; and
- 3475 (b) approved by the governing board of the agreement.
- 3476 [(125)] (131) "Solar energy" means the sun used as the sole source of energy for
- 3477 producing electricity.
- 3478 [(126)] (132) (a) "Sports or recreational equipment" means an item:
- 3479 (i) designed for human use; and
- 3480 (ii) that is:
- 3481 (A) worn in conjunction with:
- 3482 (I) an athletic activity; or
- 3483 (II) a recreational activity; and
- 3484 (B) not suitable for general use.
- 3485 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3486 commission shall make rules:
- 3487 (i) listing the items that constitute "sports or recreational equipment"; and
- 3488 (ii) that are consistent with the list of items that constitute "sports or recreational
- 3489 equipment" under the agreement.
- 3490 [(127)] (133) "State" means the state of Utah, its departments, and agencies.
- 3491 [(128)] (134) "Storage" means any keeping or retention of tangible personal property or
- 3492 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
- 3493 except sale in the regular course of business.
- 3494 [(129)] (135) (a) [~~Except as provided in Subsection (129)(d) or (e), "tangible]~~
- 3495 "Tangible personal property" means personal property that:
- 3496 (i) may be:
- 3497 (A) seen;
- 3498 (B) weighed;
- 3499 (C) measured;

- 3500 (D) felt; or
- 3501 (E) touched; or
- 3502 (ii) is in any manner perceptible to the senses.
- 3503 (b) "Tangible personal property" includes:
- 3504 (i) electricity;
- 3505 (ii) water;
- 3506 (iii) gas;
- 3507 (iv) steam; or
- 3508 (v) prewritten computer software, regardless of the manner in which the prewritten
- 3509 computer software is transferred.
- 3510 (c) "Tangible personal property" includes the following regardless of whether the item
- 3511 is attached to real property:
- 3512 (i) a dishwasher;
- 3513 (ii) a dryer;
- 3514 (iii) a freezer;
- 3515 (iv) a microwave;
- 3516 (v) a refrigerator;
- 3517 (vi) a stove;
- 3518 (vii) a washer; or
- 3519 (viii) an item similar to Subsections [~~(129)~~] (135)(c)(i) through (vii) as determined by
- 3520 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 3521 Rulemaking Act.
- 3522 (d) "Tangible personal property" does not include a product that is transferred
- 3523 electronically.
- 3524 (e) "Tangible personal property" does not include the following if attached to real
- 3525 property, regardless of whether the attachment to real property is only through a line that
- 3526 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
- 3527 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 3528 Rulemaking Act:
- 3529 (i) a hot water heater;
- 3530 (ii) a water filtration system; or

3531 (iii) a water softener system.

3532 [~~(130)~~] (136) (a) "Telecommunications enabling or facilitating equipment, machinery,  
3533 or software" means an item listed in Subsection [~~(130)~~] (136)(b) if that item is purchased or  
3534 leased primarily to enable or facilitate one or more of the following to function:

3535 (i) telecommunications switching or routing equipment, machinery, or software; or

3536 (ii) telecommunications transmission equipment, machinery, or software.

3537 (b) The following apply to Subsection [~~(130)~~] (136)(a):

3538 (i) a pole;

3539 (ii) software;

3540 (iii) a supplementary power supply;

3541 (iv) temperature or environmental equipment or machinery;

3542 (v) test equipment;

3543 (vi) a tower; or

3544 (vii) equipment, machinery, or software that functions similarly to an item listed in  
3545 Subsections [~~(130)~~] (136)(b)(i) through (vi) as determined by the commission by rule made in  
3546 accordance with Subsection [~~(130)~~] (136)(c).

3547 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3548 commission may by rule define what constitutes equipment, machinery, or software that  
3549 functions similarly to an item listed in Subsections [~~(130)~~] (136)(b)(i) through (vi).

3550 [~~(131)~~] (137) "Telecommunications equipment, machinery, or software required for  
3551 911 service" means equipment, machinery, or software that is required to comply with 47  
3552 C.F.R. Sec. 20.18.

3553 [~~(132)~~] (138) "Telecommunications maintenance or repair equipment, machinery, or  
3554 software" means equipment, machinery, or software purchased or leased primarily to maintain  
3555 or repair one or more of the following, regardless of whether the equipment, machinery, or  
3556 software is purchased or leased as a spare part or as an upgrade or modification to one or more  
3557 of the following:

3558 (a) telecommunications enabling or facilitating equipment, machinery, or software;

3559 (b) telecommunications switching or routing equipment, machinery, or software; or

3560 (c) telecommunications transmission equipment, machinery, or software.

3561 [~~(133)~~] (139) (a) "Telecommunications service" means the electronic conveyance,

3562 routing, or transmission of audio, data, video, voice, or any other information or signal to a  
3563 point, or among or between points.

3564 (b) "Telecommunications service" includes:

3565 (i) an electronic conveyance, routing, or transmission with respect to which a computer  
3566 processing application is used to act:

3567 (A) on the code, form, or protocol of the content;

3568 (B) for the purpose of electronic conveyance, routing, or transmission; and

3569 (C) regardless of whether the service:

3570 (I) is referred to as voice over Internet protocol service; or

3571 (II) is classified by the Federal Communications Commission as enhanced or value  
3572 added;

3573 (ii) an 800 service;

3574 (iii) a 900 service;

3575 (iv) a fixed wireless service;

3576 (v) a mobile wireless service;

3577 (vi) a postpaid calling service;

3578 (vii) a prepaid calling service;

3579 (viii) a prepaid wireless calling service; or

3580 (ix) a private communications service.

3581 (c) "Telecommunications service" does not include:

3582 (i) advertising, including directory advertising;

3583 (ii) an ancillary service;

3584 (iii) a billing and collection service provided to a third party;

3585 (iv) a data processing and information service if:

3586 (A) the data processing and information service allows data to be:

3587 (I) (Aa) acquired;

3588 (Bb) generated;

3589 (Cc) processed;

3590 (Dd) retrieved; or

3591 (Ee) stored; and

3592 (II) delivered by an electronic transmission to a purchaser; and

- 3593 (B) the purchaser's primary purpose for the underlying transaction is the processed data  
3594 or information;
- 3595 (v) installation or maintenance of the following on a customer's premises:
- 3596 (A) equipment; or  
3597 (B) wiring;
- 3598 (vi) Internet access service;  
3599 (vii) a paging service;  
3600 (viii) a product transferred electronically, including:
- 3601 (A) music;  
3602 (B) reading material;  
3603 (C) a ring tone;  
3604 (D) software; or  
3605 (E) video;
- 3606 (ix) a radio and television audio and video programming service:
- 3607 (A) regardless of the medium; and  
3608 (B) including:
- 3609 (I) furnishing conveyance, routing, or transmission of a television audio and video  
3610 programming service by a programming service provider;
- 3611 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or  
3612 (III) audio and video programming services delivered by a commercial mobile radio  
3613 service provider as defined in 47 C.F.R. Sec. 20.3;
- 3614 (x) a value-added nonvoice data service; or  
3615 (xi) tangible personal property.
- 3616 [~~(134)~~] (140) (a) "Telecommunications service provider" means a person that:  
3617 (i) owns, controls, operates, or manages a telecommunications service; and  
3618 (ii) engages in an activity described in Subsection [~~(134)~~] (140)(a)(i) for the shared use  
3619 with or resale to any person of the telecommunications service.
- 3620 (b) A person described in Subsection [~~(134)~~] (140)(a) is a telecommunications service  
3621 provider whether or not the Public Service Commission of Utah regulates:
- 3622 (i) that person; or  
3623 (ii) the telecommunications service that the person owns, controls, operates, or

3624 manages.

3625            [~~(135)~~] (141) (a) "Telecommunications switching or routing equipment, machinery, or  
3626 software" means an item listed in Subsection [~~(135)~~] (141)(b) if that item is purchased or  
3627 leased primarily for switching or routing:

- 3628            (i) an ancillary service;
- 3629            (ii) data communications;
- 3630            (iii) voice communications; or
- 3631            (iv) telecommunications service.

3632            (b) The following apply to Subsection [~~(135)~~] (141)(a):

- 3633            (i) a bridge;
- 3634            (ii) a computer;
- 3635            (iii) a cross connect;
- 3636            (iv) a modem;
- 3637            (v) a multiplexer;
- 3638            (vi) plug in circuitry;
- 3639            (vii) a router;
- 3640            (viii) software;
- 3641            (ix) a switch; or

3642            (x) equipment, machinery, or software that functions similarly to an item listed in  
3643 Subsections [~~(135)~~] (141)(b)(i) through (ix) as determined by the commission by rule made in  
3644 accordance with Subsection [~~(135)~~] (141)(c).

3645            (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3646 commission may by rule define what constitutes equipment, machinery, or software that  
3647 functions similarly to an item listed in Subsections [~~(135)~~] (141)(b)(i) through (ix).

3648            [~~(136)~~] (142) (a) "Telecommunications transmission equipment, machinery, or  
3649 software" means an item listed in Subsection [~~(136)~~] (142)(b) if that item is purchased or  
3650 leased primarily for sending, receiving, or transporting:

- 3651            (i) an ancillary service;
- 3652            (ii) data communications;
- 3653            (iii) voice communications; or
- 3654            (iv) telecommunications service.

- 3655 (b) The following apply to Subsection [~~(136)~~] (142)(a):
- 3656 (i) an amplifier;
- 3657 (ii) a cable;
- 3658 (iii) a closure;
- 3659 (iv) a conduit;
- 3660 (v) a controller;
- 3661 (vi) a duplexer;
- 3662 (vii) a filter;
- 3663 (viii) an input device;
- 3664 (ix) an input/output device;
- 3665 (x) an insulator;
- 3666 (xi) microwave machinery or equipment;
- 3667 (xii) an oscillator;
- 3668 (xiii) an output device;
- 3669 (xiv) a pedestal;
- 3670 (xv) a power converter;
- 3671 (xvi) a power supply;
- 3672 (xvii) a radio channel;
- 3673 (xviii) a radio receiver;
- 3674 (xix) a radio transmitter;
- 3675 (xx) a repeater;
- 3676 (xxi) software;
- 3677 (xxii) a terminal;
- 3678 (xxiii) a timing unit;
- 3679 (xxiv) a transformer;
- 3680 (xxv) a wire; or
- 3681 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 3682 Subsections [~~(136)~~] (142)(b)(i) through (xxv) as determined by the commission by rule made in
- 3683 accordance with Subsection [~~(136)~~] (142)(c).
- 3684 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3685 commission may by rule define what constitutes equipment, machinery, or software that

3686 functions similarly to an item listed in Subsections ~~[(136)]~~ (142)(b)(i) through (xxv).

3687 ~~[(137) (a) "Textbook for a higher education course" means a textbook or other printed~~  
3688 ~~material that is required for a course:]~~

3689 ~~[(i) offered by an institution of higher education; and]~~

3690 ~~[(ii) that the purchaser of the textbook or other printed material attends or will attend.]~~

3691 ~~[(b) "Textbook for a higher education course" includes a textbook in electronic~~  
3692 ~~format.]~~

3693 ~~[(138)]~~ (143) "Tobacco" means:

3694 (a) a cigarette;

3695 (b) a cigar;

3696 (c) chewing tobacco;

3697 (d) pipe tobacco; or

3698 (e) any other item that contains tobacco.

3699 ~~[(139)]~~ (144) "Unassisted amusement device" means an amusement device, skill

3700 device, or ride device that is started ~~[and]~~ or stopped by the purchaser or renter of the right to  
3701 use or operate the amusement device, skill device, or ride device.

3702 ~~[(140)]~~ (145) (a) "Use" means the exercise of any right or power over tangible personal  
3703 property, a product transferred electronically, or a service under Subsection 59-12-103(1),  
3704 incident to the ownership or the leasing of that tangible personal property, product transferred  
3705 electronically, or service.

3706 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
3707 property, a product transferred electronically, or a service in the regular course of business and  
3708 held for resale.

3709 ~~[(141)]~~ (146) "Value-added nonvoice data service" means a service:

3710 (a) that otherwise meets the definition of a telecommunications service except that a  
3711 computer processing application is used to act primarily for a purpose other than conveyance,  
3712 routing, or transmission; and

3713 (b) with respect to which a computer processing application is used to act on data or  
3714 information:

3715 (i) code;

3716 (ii) content;

- 3717 (iii) form; or
- 3718 (iv) protocol.
- 3719 ~~[(142)]~~ (147) (a) Subject to Subsection ~~[(142)]~~ (147)(b), "vehicle" means the following
- 3720 that are required to be titled, registered, or titled and registered:
- 3721 (i) an aircraft as defined in Section 72-10-102;
- 3722 (ii) a vehicle as defined in Section 41-1a-102;
- 3723 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 3724 (iv) a vessel as defined in Section 41-1a-102.
- 3725 (b) For purposes of Subsection 59-12-104~~[(33)]~~(30) only, "vehicle" includes:
- 3726 (i) a vehicle described in Subsection ~~[(142)]~~ (147)(a); or
- 3727 (ii) (A) a locomotive;
- 3728 (B) a freight car;
- 3729 (C) railroad work equipment; or
- 3730 (D) other railroad rolling stock.
- 3731 ~~[(143)]~~ (148) "Vehicle dealer" means a person engaged in the business of buying,
- 3732 selling, or exchanging a vehicle ~~[as defined in Subsection (142)]~~.
- 3733 ~~[(144)]~~ (149) (a) "Vertical service" means an ancillary service that:
- 3734 (i) is offered in connection with one or more telecommunications services; and
- 3735 (ii) offers an advanced calling feature that allows a customer to:
- 3736 (A) identify a caller; and
- 3737 (B) manage multiple calls and call connections.
- 3738 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 3739 conference bridging service.
- 3740 ~~[(145)]~~ (150) (a) "Voice mail service" means an ancillary service that enables a
- 3741 customer to receive, send, or store a recorded message.
- 3742 (b) "Voice mail service" does not include a vertical service that a customer is required
- 3743 to have in order to utilize a voice mail service.
- 3744 ~~[(146)]~~ (151) (a) ~~[Except as provided in Subsection (146)(b), "waste]~~ "Waste energy
- 3745 facility" means a facility that generates electricity:
- 3746 (i) using as the primary source of energy waste materials that would be placed in a
- 3747 landfill or refuse pit if it were not used to generate electricity, including:

- 3748 (A) tires;
- 3749 (B) waste coal;
- 3750 (C) oil shale; or
- 3751 (D) municipal solid waste; and
- 3752 (ii) in amounts greater than actually required for the operation of the facility.
- 3753 (b) "Waste energy facility" does not include a facility that incinerates:
- 3754 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- 3755 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
- 3756 [~~(147)~~] (152) "Watercraft" means a vessel as defined in Section [73-18-2](#).
- 3757 [~~(148)~~] (153) "Wind energy" means wind used as the sole source of energy to produce
- 3758 electricity.
- 3759 [~~(149)~~] (154) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
- 3760 geographic location by the United States Postal Service.
- 3761 Section 41. Section **59-12-103** is amended to read:
- 3762 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
- 3763 **tax revenue.**
- 3764 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
- 3765 sales price for amounts paid or charged for the following transactions:
- 3766 (a) retail sales of tangible personal property made within the state;
- 3767 (b) amounts paid for:
- 3768 (i) telecommunications service, other than mobile telecommunications service or a 900
- 3769 service, that originates and terminates within the boundaries of this state;
- 3770 (ii) mobile telecommunications service that originates and terminates within the
- 3771 boundaries of one state only to the extent permitted by the Mobile Telecommunications
- 3772 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; [~~or~~]
- 3773 (iii) a 900 service; or
- 3774 [~~(iii)~~] (iv) an ancillary service associated with a:
- 3775 (A) telecommunications service described in Subsection (1)(b)(i); [~~or~~]
- 3776 (B) mobile telecommunications service described in Subsection (1)(b)(ii); or
- 3777 (C) 900 service;
- 3778 (c) sales of the following for commercial use:

- 3779 (i) gas;
- 3780 (ii) electricity;
- 3781 (iii) heat;
- 3782 (iv) coal;
- 3783 (v) fuel oil; or
- 3784 (vi) other fuels;
- 3785 (d) sales of the following for residential use:
- 3786 (i) gas;
- 3787 (ii) electricity;
- 3788 (iii) heat;
- 3789 (iv) coal;
- 3790 (v) fuel oil; or
- 3791 (vi) other fuels;
- 3792 (e) sales of prepared food;
- 3793 (f) except as provided in Section [59-12-104](#), amounts paid or charged as admission or
- 3794 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 3795 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 3796 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 3797 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 3798 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 3799 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 3800 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 3801 exhibition, cultural, or athletic activity;
- 3802 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 3803 property, unless Section [59-12-104](#) provides for an exemption from sales and use tax for:
- 3804 (i) the tangible personal property; and
- 3805 (ii) parts used in the repairs or renovations of the tangible personal property described
- 3806 in Subsection (1)(g)(i), regardless of whether:
- 3807 (A) any parts are actually used in the repairs or renovations of that tangible personal
- 3808 property; or
- 3809 (B) the particular parts used in the repairs or renovations of that tangible personal

3810 property are exempt from a tax under this chapter;

3811 (h) [~~except as provided in Subsection 59-12-104(7);~~] amounts paid or charged for  
3812 [~~assisted~~] cleaning or washing of tangible personal property;

3813 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court  
3814 accommodations and services that are regularly rented for less than 30 consecutive days;

3815 (j) amounts paid or charged for laundry or dry cleaning services;

3816 (k) amounts paid or charged for leases or rentals of tangible personal property if within  
3817 this state the tangible personal property is:

3818 (i) stored;

3819 (ii) used; or

3820 (iii) otherwise consumed;

3821 (l) amounts paid or charged for tangible personal property if within this state the  
3822 tangible personal property is:

3823 (i) stored;

3824 (ii) used; or

3825 (iii) consumed; [~~and~~]

3826 (m) amounts paid or charged for a sale:

3827 (i) (A) of a product transferred electronically; or

3828 (B) of a repair or renovation of a product transferred electronically; and

3829 (ii) regardless of whether the sale provides:

3830 (A) a right of permanent use of the product; or

3831 (B) a right to use the product that is less than a permanent use, including a right:

3832 (I) for a definite or specified length of time; and

3833 (II) that terminates upon the occurrence of a condition[-];

3834 (n) amounts paid or charged for access to digital audio-visual works, digital audio

3835 works, digital books, or gaming services, including the streaming of or subscription for access

3836 to digital audio-visual works, digital audio works, digital books, or gaming services regardless

3837 of:

3838 (i) the delivery method; or

3839 (ii) whether the amount paid or charged for access provides a right to:

3840 (A) single-use access to the digital audio-visual works, digital audio works, digital

3841 books, or gaming services; or

3842 (B) access the digital audio-visual works, digital audio works, digital books, or gaming  
3843 services through a subscription, including a right that terminates upon the occurrence of a  
3844 condition;

3845 (o) amounts paid or charged for the storage, use, or other consumption of:

3846 (i) prewritten computer software delivered electronically or by load and leave; or

3847 (ii) seller-hosted prewritten computer software; and

3848 (p) amounts paid or charged for the following services:

3849 (i) security system monitoring;

3850 (ii) personal transportation that originates in the state and terminates in the state;

3851 (iii) parking or garaging a motor vehicle if charged by a person who is engaged in the  
3852 business of providing parking or garaging of one or more motor vehicles at a location that:

3853 (A) is primarily used for parking or garaging one or more motor vehicles; and

3854 (B) is not residential property;

3855 (iv) tow truck service as defined in Section [72-9-102](#), including any related fees;

3856 (v) pet boarding or care;

3857 (vi) pet grooming;

3858 (vii) dating referral services; and

3859 (viii) identity theft protection.

3860 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax  
3861 are imposed on a transaction described in Subsection (1) equal to the sum of:

3862 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

3863 [~~(A) (I) through March 31, 2019, 4.70%; and~~]

3864 [~~(H)~~] (A) [~~beginning on April 1, 2019,~~] 4.70% plus the rate specified in Subsection  
3865 (13)(a); and

3866 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales  
3867 and Use Tax Act, if the location of the transaction as determined under Sections [59-12-211](#)  
3868 through [59-12-215](#) is in a county in which the state imposes the tax under Part 18, Additional  
3869 State Sales and Use Tax Act; and

3870 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales  
3871 and Use Tax Act, if the location of the transaction as determined under Sections [59-12-211](#)

3872 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state  
3873 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3874 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
3875 transaction under this chapter other than this part.

3876 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax are  
3877 imposed on a transaction described in Subsection (1)(d) equal to the sum of:

3878 (i) a state tax imposed on the transaction at a tax rate of 2%; and

3879 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
3880 transaction under this chapter other than this part.

3881 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax are  
3882 imposed on amounts paid or charged for food and food ingredients equal to the sum of:

3883 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at  
3884 a tax rate of [~~1.75%~~] 4.85%; and

3885 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
3886 amounts paid or charged for food and food ingredients under this chapter other than this part.

3887 (d) (i) For a bundled transaction that is attributable to food and food ingredients and  
3888 tangible personal property other than food and food ingredients, a state tax and a local tax is  
3889 imposed on the entire bundled transaction equal to the sum of:

3890 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

3891 (I) the tax rate described in Subsection (2)(a)(i)(A); and

3892 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State  
3893 Sales and Use Tax Act, if the location of the transaction as determined under Sections

3894 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,  
3895 Additional State Sales and Use Tax Act; and

3896 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State  
3897 Sales and Use Tax Act, if the location of the transaction as determined under Sections

3898 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which  
3899 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3900 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates  
3901 described in Subsection (2)(a)(ii).

3902 (ii) If an optional computer software maintenance contract is a bundled transaction that

3903 consists of taxable and nontaxable products that are not separately itemized on an invoice or  
3904 similar billing document, the purchase of the optional computer software maintenance contract  
3905 is 40% taxable under this chapter and 60% nontaxable under this chapter.

3906 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled  
3907 transaction described in Subsection (2)(d)(i) or (ii):

3908 (A) if the sales price of the bundled transaction is attributable to tangible personal  
3909 property, a product, or a service that is subject to taxation under this chapter and tangible  
3910 personal property, a product, or service that is not subject to taxation under this chapter, the  
3911 entire bundled transaction is subject to taxation under this chapter unless:

3912 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
3913 personal property, product, or service that is not subject to taxation under this chapter from the  
3914 books and records the seller keeps in the seller's regular course of business; or

3915 (II) state or federal law provides otherwise; or

3916 (B) if the sales price of a bundled transaction is attributable to two or more items of  
3917 tangible personal property, products, or services that are subject to taxation under this chapter  
3918 at different rates, the entire bundled transaction is subject to taxation under this chapter at the  
3919 higher tax rate unless:

3920 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
3921 personal property, product, or service that is subject to taxation under this chapter at the lower  
3922 tax rate from the books and records the seller keeps in the seller's regular course of business; or

3923 (II) state or federal law provides otherwise.

3924 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the  
3925 seller's regular course of business includes books and records the seller keeps in the regular  
3926 course of business for nontax purposes.

3927 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)  
3928 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a  
3929 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental  
3930 of tangible personal property, other property, a product, or a service that is not subject to  
3931 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless  
3932 the seller, at the time of the transaction:

3933 (A) separately states the portion of the transaction that is not subject to taxation under

3934 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

3935 (B) is able to identify by reasonable and verifiable standards, from the books and  
3936 records the seller keeps in the seller's regular course of business, the portion of the transaction  
3937 that is not subject to taxation under this chapter.

3938 (ii) A purchaser and a seller may correct the taxability of a transaction if:

3939 (A) after the transaction occurs, the purchaser and the seller discover that the portion of  
3940 the transaction that is not subject to taxation under this chapter was not separately stated on an  
3941 invoice, bill of sale, or similar document provided to the purchaser because of an error or  
3942 ignorance of the law; and

3943 (B) the seller is able to identify by reasonable and verifiable standards, from the books  
3944 and records the seller keeps in the seller's regular course of business, the portion of the  
3945 transaction that is not subject to taxation under this chapter.

3946 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps  
3947 in the seller's regular course of business includes books and records the seller keeps in the  
3948 regular course of business for nontax purposes.

3949 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible  
3950 personal property, products, or services that are subject to taxation under this chapter at  
3951 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate  
3952 unless the seller, at the time of the transaction:

3953 (A) separately states the items subject to taxation under this chapter at each of the  
3954 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

3955 (B) is able to identify by reasonable and verifiable standards the tangible personal  
3956 property, product, or service that is subject to taxation under this chapter at the lower tax rate  
3957 from the books and records the seller keeps in the seller's regular course of business.

3958 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the  
3959 seller's regular course of business includes books and records the seller keeps in the regular  
3960 course of business for nontax purposes.

3961 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax  
3962 rate imposed under the following shall take effect on the first day of a calendar quarter:

3963 (i) Subsection (2)(a)(i)(A);

3964 (ii) Subsection (2)(b)(i);

- 3965 (iii) Subsection (2)(c)(i); or  
3966 (iv) Subsection (2)(d)(i)(A)(I).
- 3967 (h) (i) A tax rate increase takes effect on the first day of the first billing period that  
3968 begins on or after the effective date of the tax rate increase if the billing period for the  
3969 transaction begins before the effective date of a tax rate increase imposed under:
- 3970 (A) Subsection (2)(a)(i)(A);  
3971 (B) Subsection (2)(b)(i);  
3972 (C) Subsection (2)(c)(i); or  
3973 (D) Subsection (2)(d)(i)(A)(I).
- 3974 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing  
3975 statement for the billing period is rendered on or after the effective date of the repeal of the tax  
3976 or the tax rate decrease imposed under:
- 3977 (A) Subsection (2)(a)(i)(A);  
3978 (B) Subsection (2)(b)(i);  
3979 (C) Subsection (2)(c)(i); or  
3980 (D) Subsection (2)(d)(i)(A)(I).
- 3981 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is  
3982 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or  
3983 change in a tax rate takes effect:
- 3984 (A) on the first day of a calendar quarter; and  
3985 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 3986 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:
- 3987 (A) Subsection (2)(a)(i)(A);  
3988 (B) Subsection (2)(b)(i);  
3989 (C) Subsection (2)(c)(i); or  
3990 (D) Subsection (2)(d)(i)(A)(I).
- 3991 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
3992 the commission may by rule define the term "catalogue sale."
- 3993 (3) (a) The following state taxes shall be deposited into the General Fund:
- 3994 (i) the tax imposed by Subsection (2)(a)(i)(A);  
3995 (ii) the tax imposed by Subsection (2)(b)(i);

3996 (iii) the tax imposed by Subsection (2)(c)(i); or  
3997 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).  
3998 (b) The following local taxes shall be distributed to a county, city, or town as provided  
3999 in this chapter:  
4000 (i) the tax imposed by Subsection (2)(a)(ii);  
4001 (ii) the tax imposed by Subsection (2)(b)(ii);  
4002 (iii) the tax imposed by Subsection (2)(c)(ii); and  
4003 (iv) the tax imposed by Subsection (2)(d)(i)(B).  
4004 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
4005 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)  
4006 through (g):  
4007 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:  
4008 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and  
4009 (B) for the fiscal year; or  
4010 (ii) \$17,500,000.  
4011 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount  
4012 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the  
4013 Department of Natural Resources to:  
4014 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to  
4015 protect sensitive plant and animal species; or  
4016 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
4017 act, to political subdivisions of the state to implement the measures described in Subsections  
4018 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.  
4019 (ii) Money transferred to the Department of Natural Resources under Subsection  
4020 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other  
4021 person to list or attempt to have listed a species as threatened or endangered under the  
4022 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.  
4023 (iii) At the end of each fiscal year:  
4024 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
4025 Conservation and Development Fund created in Section 73-10-24;  
4026 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

4027 Program Subaccount created in Section 73-10c-5; and

4028 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

4029 Program Subaccount created in Section 73-10c-5.

4030 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in

4031 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund

4032 created in Section 4-18-106.

4033 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described

4034 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water

4035 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of

4036 water rights.

4037 (ii) At the end of each fiscal year:

4038 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources

4039 Conservation and Development Fund created in Section 73-10-24;

4040 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

4041 Program Subaccount created in Section 73-10c-5; and

4042 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

4043 Program Subaccount created in Section 73-10c-5.

4044 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described

4045 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and

4046 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

4047 (ii) In addition to the uses allowed of the Water Resources Conservation and

4048 Development Fund under Section 73-10-24, the Water Resources Conservation and

4049 Development Fund may also be used to:

4050 (A) conduct hydrologic and geotechnical investigations by the Division of Water

4051 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of

4052 quantifying surface and ground water resources and describing the hydrologic systems of an

4053 area in sufficient detail so as to enable local and state resource managers to plan for and

4054 accommodate growth in water use without jeopardizing the resource;

4055 (B) fund state required dam safety improvements; and

4056 (C) protect the state's interest in interstate water compact allocations, including the

4057 hiring of technical and legal staff.

4058 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
4059 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount  
4060 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

4061 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
4062 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount  
4063 created in Section 73-10c-5 for use by the Division of Drinking Water to:

4064 (i) provide for the installation and repair of collection, treatment, storage, and  
4065 distribution facilities for any public water system, as defined in Section 19-4-102;

4066 (ii) develop underground sources of water, including springs and wells; and

4067 (iii) develop surface water sources.

4068 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
4069 2006, the difference between the following amounts shall be expended as provided in this  
4070 Subsection (5), if that difference is greater than \$1:

4071 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the  
4072 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

4073 (ii) \$17,500,000.

4074 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

4075 (A) transferred each fiscal year to the Department of Natural Resources as dedicated  
4076 credits; and

4077 (B) expended by the Department of Natural Resources for watershed rehabilitation or  
4078 restoration.

4079 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
4080 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund  
4081 created in Section 73-10-24.

4082 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the  
4083 remaining difference described in Subsection (5)(a) shall be:

4084 (A) transferred each fiscal year to the Division of Water Resources as dedicated  
4085 credits; and

4086 (B) expended by the Division of Water Resources for cloud-seeding projects  
4087 authorized by Title 73, Chapter 15, Modification of Weather.

4088 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described

4089 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund  
4090 created in Section 73-10-24.

4091 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the  
4092 remaining difference described in Subsection (5)(a) shall be deposited into the Water  
4093 Resources Conservation and Development Fund created in Section 73-10-24 for use by the  
4094 Division of Water Resources for:

4095 (i) preconstruction costs:

4096 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
4097 26, Bear River Development Act; and

4098 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project  
4099 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

4100 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,  
4101 Chapter 26, Bear River Development Act;

4102 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project  
4103 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

4104 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and  
4105 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

4106 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to  
4107 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be  
4108 transferred each year as dedicated credits to the Division of Water Rights to cover the costs  
4109 incurred for employing additional technical staff for the administration of water rights.

4110 (f) At the end of each fiscal year, any unexpended dedicated credits described in  
4111 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development  
4112 Fund created in Section 73-10-24.

4113 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the  
4114 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection  
4115 (1) for the fiscal year shall be deposited as follows:

4116 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)  
4117 shall be deposited into the Transportation Investment Fund of 2005 created by Section  
4118 72-2-124;

4119 (b) for fiscal year 2017-18 only:

4120 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the  
4121 Transportation Investment Fund of 2005 created by Section 72-2-124; and

4122 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the  
4123 Water Infrastructure Restricted Account created by Section 73-10g-103;

4124 (c) for fiscal year 2018-19 only:

4125 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the  
4126 Transportation Investment Fund of 2005 created by Section 72-2-124; and

4127 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the  
4128 Water Infrastructure Restricted Account created by Section 73-10g-103;

4129 (d) for fiscal year 2019-20 only:

4130 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the  
4131 Transportation Investment Fund of 2005 created by Section 72-2-124; and

4132 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the  
4133 Water Infrastructure Restricted Account created by Section 73-10g-103;

4134 (e) for fiscal year 2020-21 only:

4135 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the  
4136 Transportation Investment Fund of 2005 created by Section 72-2-124; and

4137 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the  
4138 Water Infrastructure Restricted Account created by Section 73-10g-103; and

4139 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described  
4140 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account  
4141 created by Section 73-10g-103.

4142 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in  
4143 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,  
4144 [~~2012~~] 2020, the Division of Finance shall deposit into the Transportation Investment Fund of  
4145 2005 created by Section 72-2-124:

4146 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of  
4147 the [revenues] revenue collected from the following taxes, which represents a portion of the  
4148 approximately 17% of sales and use tax [revenues] revenue generated annually by the sales and  
4149 use tax on vehicles and vehicle-related products:

4150 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

4151 (B) the tax imposed by Subsection (2)(b)(i);  
4152 (C) the tax imposed by Subsection (2)(c)(i); and  
4153 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus  
4154 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the  
4155 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through  
4156 (D) that exceeds the amount collected from the sales and use taxes described in Subsections  
4157 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

4158 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of  
4159 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total  
4160 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)  
4161 generated in the current fiscal year than the total percentage of sales and use taxes deposited in  
4162 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection  
4163 (7)(a) equal to the product of:

4164 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the  
4165 previous fiscal year; and

4166 (B) the total sales and use tax revenue generated by the taxes described in Subsections  
4167 (7)(a)(i)(A) through (D) in the current fiscal year.

4168 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under  
4169 Subsection (7)(a) would exceed [~~17%~~] 15.9% of the [~~revenues~~] revenue collected from the  
4170 sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year,  
4171 the Division of Finance shall deposit [~~17%~~] 15.9% of the [~~revenues~~] revenue collected from the  
4172 sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year  
4173 under Subsection (7)(a).

4174 (iii) In all subsequent fiscal years after a year in which [~~17%~~] 15.9% of the [~~revenues~~]  
4175 revenue collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through  
4176 (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit  
4177 [~~17%~~] 15.9% of the [~~revenues~~] revenue collected from the sales and use taxes described in  
4178 Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

4179 [~~(8)(a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited~~  
4180 ~~under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall~~  
4181 ~~deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into~~

4182 the Transportation Investment Fund of 2005 created by Section ~~72-2-124.~~]

4183       ~~[(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under~~  
4184 ~~Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit~~  
4185 ~~\$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the~~  
4186 ~~Transportation Investment Fund of 2005 created by Section 72-2-124.]~~

4187       ~~[(c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under~~  
4188 ~~Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning on or~~  
4189 ~~after July 1, 2018, the commission shall annually deposit into the Transportation Investment~~  
4190 ~~Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a)~~  
4191 ~~in an amount equal to 3.68% of the revenues collected from the following taxes:]~~

4192             ~~[(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;]~~

4193             ~~[(B) the tax imposed by Subsection (2)(b)(i);]~~

4194             ~~[(C) the tax imposed by Subsection (2)(c)(i), and]~~

4195             ~~[(D) the tax imposed by Subsection (2)(d)(i)(A)(I).]~~

4196       ~~[(ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually~~  
4197 ~~reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i)~~  
4198 ~~by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year~~  
4199 ~~by the portion of the tax imposed on motor and special fuel that is sold, used, or received for~~  
4200 ~~sale or use in this state that exceeds 29.4 cents per gallon.]~~

4201             ~~[(iii) (8) The commission shall deposit annually ~~[deposit the amount described in~~~~  
4202 ~~Subsection (8)(c)(ii)] an amount equal to 50% of the growth in the amount of revenue collected~~  
4203 ~~in the current fiscal year from the tax imposed under Subsection (2)(c)(i) that exceeds the~~  
4204 ~~amount collected from the tax imposed under Subsection (2)(c)(i) in the 2020-2021 fiscal year~~  
4205 ~~into the Transit and Transportation Investment Fund created in Section 72-2-124.~~

4206       (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
4207 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund  
4208 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

4209       (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),  
4210 in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17  
4211 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund  
4212 of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on

4213 the transactions described in Subsection (1).

4214 (b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in  
4215 addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance  
4216 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the  
4217 amount of revenue described as follows:

4218 (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%  
4219 tax rate on the transactions described in Subsection (1);

4220 (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05%  
4221 tax rate on the transactions described in Subsection (1);

4222 (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%  
4223 tax rate on the transactions described in Subsection (1);

4224 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a  
4225 .05% tax rate on the transactions described in Subsection (1); and

4226 (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%  
4227 tax rate on the transactions described in Subsection (1).

4228 (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not  
4229 deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts  
4230 paid or charged for food and food ingredients, except for tax revenue generated by a bundled  
4231 transaction attributable to food and food ingredients and tangible personal property other than  
4232 food and food ingredients described in Subsection (2)(d).

4233 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the  
4234 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that  
4235 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of  
4236 Finance shall, for two consecutive fiscal years, [~~annually~~] deposit annually \$1,900,000 of the  
4237 revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation  
4238 Fund, created in Section 63N-2-512.

4239 [~~(12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the~~  
4240 ~~Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed~~  
4241 ~~under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section~~  
4242 ~~35A-8-308.~~]

4243 [~~(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division~~

4244 of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under  
4245 Subsection (3)(a) into the Throughput Infrastructure Fund created by Section ~~35A-8-308.~~]

4246 [~~(13)~~] (12) (a) The rate specified in this subsection is 0.15%.

4247 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall [~~:(i) on or before~~  
4248 ~~September 30, 2019, transfer the amount of revenue collected from the rate described in~~  
4249 ~~Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the~~  
4250 ~~transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the~~  
4251 ~~Medicaid Expansion Fund created in Section 26-36b-208; and (ii)] for a fiscal year beginning  
4252 on or after July 1, 2019, [annually] transfer annually the amount of revenue collected from the  
4253 rate described in Subsection [~~(13)~~] (12)(a) on the transactions that are subject to the sales and  
4254 use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section  
4255 26-36b-208.~~

4256 Section 42. Section **59-12-104** is amended to read:

4257 **59-12-104. Exemptions.**

4258 Exemptions from the taxes imposed by this chapter, other than a tax imposed under  
4259 Section 59-12-130, are as follows:

4260 (1) (a) sales of aviation fuel [~~, motor fuel, and special~~] or diesel fuel subject to a [~~Utah~~]  
4261 state excise tax under Chapter 13, Motor and Special Fuel Tax Act; or

4262 (b) sales of motor fuel or special fuel that are subject to Section 59-12-130;

4263 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political  
4264 subdivisions; however, this exemption does not apply to sales of:

4265 (a) construction materials except:

4266 (i) construction materials purchased by or on behalf of institutions of the public  
4267 education system as defined in Utah Constitution, Article X, Section 2, provided the  
4268 construction materials are clearly identified and segregated and installed or converted to real  
4269 property which is owned by institutions of the public education system; and

4270 (ii) construction materials purchased by the state, its institutions, or its political  
4271 subdivisions which are installed or converted to real property by employees of the state, its  
4272 institutions, or its political subdivisions; or

4273 (b) tangible personal property in connection with the construction, operation,  
4274 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities

4275 providing additional project capacity, as defined in Section [11-13-103](#);

4276 ~~[(3)(a) sales of an item described in Subsection (3)(b) from a vending machine if:]~~

4277 ~~[(i) the proceeds of each sale do not exceed \$1; and]~~

4278 ~~[(ii) the seller or operator of the vending machine reports an amount equal to 150% of~~

4279 ~~the cost of the item described in Subsection (3)(b) as goods consumed; and]~~

4280 ~~[(b) Subsection (3)(a) applies to:]~~

4281 ~~[(i) food and food ingredients; or]~~

4282 ~~[(ii) prepared food;]~~

4283 ~~[(4)]~~ (3) (a) sales of the following to a commercial airline carrier for in-flight

4284 consumption:

4285 (i) alcoholic beverages;

4286 (ii) food and food ingredients; or

4287 (iii) prepared food;

4288 (b) sales of tangible personal property or a product transferred electronically:

4289 (i) to a passenger;

4290 (ii) by a commercial airline carrier; and

4291 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or

4292 (c) services related to Subsection ~~[(4)]~~ (3)(a) or (b);

4293 ~~[(5)(a)(i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts~~

4294 ~~and equipment:]~~

4295 ~~[(A)(I) by an establishment described in NAICS Code 336411 or 336412 of the 2002~~

4296 ~~North American Industry Classification System of the federal Executive Office of the~~

4297 ~~President, Office of Management and Budget; and]~~

4298 ~~[(H) for:]~~

4299 ~~[(Aa) installation in an aircraft, including services relating to the installation of parts or~~

4300 ~~equipment in the aircraft;]~~

4301 ~~[(Bb) renovation of an aircraft; or]~~

4302 ~~[(Cc) repair of an aircraft; or]~~

4303 ~~[(B) for installation in an aircraft operated by a common carrier in interstate or foreign~~

4304 ~~commerce; or]~~

4305 ~~[(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an~~

4306 aircraft operated by a common carrier in interstate or foreign commerce; and]  
4307        ~~[(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~  
4308 ~~a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a~~  
4309 ~~refund:]~~

4310        ~~[(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;]~~  
4311        ~~[(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;]~~  
4312        ~~[(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for~~  
4313 ~~the sale prior to filing for the refund;]~~

4314        ~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~  
4315        ~~[(v) in accordance with Section 59-1-1410; and]~~  
4316        ~~[(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,~~  
4317 ~~if the person files for the refund on or before September 30, 2011;]~~

4318        (4) sales of parts and equipment for installation in an aircraft operated by a common  
4319 carrier in interstate or foreign commerce;

4320        ~~[(6)] (5) sales of commercials, motion picture films, prerecorded audio program tapes~~  
4321 ~~or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture~~  
4322 ~~exhibitor, distributor, or commercial television or radio broadcaster;~~

4323        ~~[(7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of~~  
4324 ~~cleaning or washing of tangible personal property if the cleaning or washing of the tangible~~  
4325 ~~personal property is not assisted cleaning or washing of tangible personal property;]~~

4326        ~~[(b) if a seller that sells at the same business location assisted cleaning or washing of~~  
4327 ~~tangible personal property and cleaning or washing of tangible personal property that is not~~  
4328 ~~assisted cleaning or washing of tangible personal property, the exemption described in~~  
4329 ~~Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning~~  
4330 ~~or washing of the tangible personal property; and]~~

4331        ~~[(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,~~  
4332 ~~Utah Administrative Rulemaking Act, the commission may make rules:]~~

4333        ~~[(i) governing the circumstances under which sales are at the same business location;~~  
4334 ~~and]~~

4335        ~~[(ii) establishing the procedures and requirements for a seller to separately account for~~  
4336 ~~sales of assisted cleaning or washing of tangible personal property;]~~

4337            ~~[(8)]~~ (6) sales made to or by religious or charitable institutions in the conduct of their  
 4338 regular religious or charitable functions and activities, if the requirements of Section  
 4339 [59-12-104.1](#) are fulfilled;

4340            ~~[(9)]~~ (7) sales of a vehicle of a type required to be registered under the motor vehicle  
 4341 laws of this state if the vehicle is:

4342            (a) not registered in this state; and

4343            (b) (i) not used in this state; or

4344            (ii) used in this state:

4345            (A) if the vehicle is not used to conduct business, for a time period that does not  
 4346 exceed the longer of:

4347            (I) 30 days in any calendar year; or

4348            (II) the time period necessary to transport the vehicle to the borders of this state; or

4349            (B) if the vehicle is used to conduct business, for the time period necessary to transport  
 4350 the vehicle to the borders of this state;

4351            ~~[(10)(a)]~~ (8) amounts paid for ~~[an item described in Subsection (10)(b) if]:~~

4352            (a) menstrual products; or

4353            (b) a drug, syringe, or stoma supply if:

4354            (i) the item is intended for human use; and

4355            (ii) (A) a prescription was issued for the item; or

4356            (B) the item was purchased by a hospital or other medical facility; ~~[and]~~

4357            ~~[(b) (i) Subsection (10)(a) applies to:]~~

4358            ~~[(A) a drug;]~~

4359            ~~[(B) a syringe; or]~~

4360            ~~[(C) a stoma supply; and]~~

4361            ~~[(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~  
 4362 ~~the commission may by rule define the terms:]~~

4363            ~~[(A) "syringe"; or]~~

4364            ~~[(B) "stoma supply";]~~

4365            ~~[(11)]~~ (9) purchases or leases exempt under Section [19-12-201](#);

4366            ~~[(12)]~~ (10) (a) sales of an item described in Subsection ~~[(12)]~~ (10)(c) served by:

4367            (i) the following if the item described in Subsection ~~[(12)]~~ (10)(c) is not available to

4368 the general public:

4369 (A) a church; or

4370 (B) a charitable institution; or

4371 (ii) an institution of higher education if:

4372 (A) the item described in Subsection [~~(12)~~] (10)(c) is not available to the general

4373 public; or

4374 (B) the item described in Subsection [~~(12)~~] (10)(c) is prepaid as part of a student meal

4375 plan offered by the institution of higher education; or

4376 (b) sales of an item described in Subsection [~~(12)~~] (10)(c) provided for a patient by:

4377 (i) a medical facility; or

4378 (ii) a nursing facility; and

4379 (c) Subsections [~~(12)~~] (10)(a) and (b) apply to:

4380 (i) food and food ingredients;

4381 (ii) prepared food; or

4382 (iii) alcoholic beverages;

4383 [~~(13)~~] (11) (a) except as provided in Subsection [~~(13)~~] (11)(b), the sale of tangible

4384 personal property or a product transferred electronically by a person:

4385 (i) regardless of the number of transactions involving the sale of that tangible personal

4386 property or product transferred electronically by that person; and

4387 (ii) not regularly engaged in the business of selling that type of tangible personal

4388 property or product transferred electronically;

4389 (b) this Subsection [~~(13)~~] (11) does not apply if:

4390 (i) the sale is one of a series of sales of a character to indicate that the person is

4391 regularly engaged in the business of selling that type of tangible personal property or product

4392 transferred electronically;

4393 (ii) the person holds that person out as regularly engaged in the business of selling that

4394 type of tangible personal property or product transferred electronically;

4395 (iii) the person sells an item of tangible personal property or product transferred

4396 electronically that the person purchased as a sale that is exempt under Subsection [~~(25)~~] (22);

4397 or

4398 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of

4399 this state in which case the tax is based upon:

4400 (A) the bill of sale or other written evidence of value of the vehicle or vessel being  
4401 sold; or

4402 (B) in the absence of a bill of sale or other written evidence of value, the fair market  
4403 value of the vehicle or vessel being sold at the time of the sale as determined by the  
4404 commission; and

4405 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
4406 commission shall make rules establishing the circumstances under which:

4407 (i) a person is regularly engaged in the business of selling a type of tangible personal  
4408 property or product transferred electronically;

4409 (ii) a sale of tangible personal property or a product transferred electronically is one of  
4410 a series of sales of a character to indicate that a person is regularly engaged in the business of  
4411 selling that type of tangible personal property or product transferred electronically; or

4412 (iii) a person holds that person out as regularly engaged in the business of selling a type  
4413 of tangible personal property or product transferred electronically;

4414 [~~(14)~~] (12) amounts paid or charged for a purchase or lease of machinery, equipment,  
4415 normal operating repair or replacement parts, or materials, except for office equipment or  
4416 office supplies, by:

4417 (a) a manufacturing facility that:

4418 (i) is located in the state; and

4419 (ii) uses or consumes the machinery, equipment, normal operating repair or  
4420 replacement parts, or materials:

4421 (A) in the manufacturing process to manufacture an item sold as tangible personal  
4422 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,  
4423 Utah Administrative Rulemaking Act; or

4424 (B) for a scrap recycler, to process an item sold as tangible personal property, as the  
4425 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah  
4426 Administrative Rulemaking Act;

4427 (b) an establishment, as the commission defines that term in accordance with Title  
4428 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

4429 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS

4430 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal  
4431 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the  
4432 2002 North American Industry Classification System of the federal Executive Office of the  
4433 President, Office of Management and Budget;

4434 (ii) is located in the state; and

4435 (iii) uses or consumes the machinery, equipment, normal operating repair or  
4436 replacement parts, or materials in:

4437 (A) the production process to produce an item sold as tangible personal property, as the  
4438 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah  
4439 Administrative Rulemaking Act;

4440 (B) research and development, as the commission may define that phrase in accordance  
4441 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

4442 (C) transporting, storing, or managing tailings, overburden, or similar waste materials  
4443 produced from mining;

4444 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in  
4445 mining; or

4446 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

4447 (c) an establishment, as the commission defines that term in accordance with Title 63G,  
4448 Chapter 3, Utah Administrative Rulemaking Act, that:

4449 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North  
4450 American Industry Classification System of the federal Executive Office of the President,  
4451 Office of Management and Budget;

4452 (ii) is located in the state; and

4453 (iii) uses or consumes the machinery, equipment, normal operating repair or  
4454 replacement parts, or materials in the operation of the web search portal;

4455 [~~15~~] (13) (a) sales of the following if the requirements of Subsection [~~15~~] (13)(b)  
4456 are met:

4457 (i) tooling;

4458 (ii) special tooling;

4459 (iii) support equipment;

4460 (iv) special test equipment; or

- 4461 (v) parts used in the repairs or renovations of tooling or equipment described in  
4462 Subsections ~~[(15)]~~ (13)(a)(i) through (iv); and
- 4463 (b) sales of tooling, equipment, or parts described in Subsection ~~[(15)]~~ (13)(a) are  
4464 exempt if:
- 4465 (i) the tooling, equipment, or parts are used or consumed exclusively in the  
4466 performance of any aerospace or electronics industry contract with the United States  
4467 government or any subcontract under that contract; and
- 4468 (ii) under the terms of the contract or subcontract described in Subsection ~~[(15)]~~  
4469 (13)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as  
4470 evidenced by:
- 4471 (A) a government identification tag placed on the tooling, equipment, or parts; or  
4472 (B) listing on a government-approved property record if placing a government  
4473 identification tag on the tooling, equipment, or parts is impractical;
- 4474 ~~[(16) sales of newspapers or newspaper subscriptions;]~~
- 4475 ~~[(17)]~~ (14) (a) except as provided in Subsection ~~[(17)]~~ (14)(b), tangible personal  
4476 property or a product transferred electronically traded in as full or part payment of the purchase  
4477 price, except that for purposes of calculating sales or use tax upon vehicles not sold by a  
4478 vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:
- 4479 (i) the bill of sale or other written evidence of value of the vehicle being sold and the  
4480 vehicle being traded in; or
- 4481 (ii) in the absence of a bill of sale or other written evidence of value, the then existing  
4482 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the  
4483 commission; and
- 4484 (b) Subsection ~~[(17)]~~ (14)(a) does not apply to the following items of tangible personal  
4485 property or products transferred electronically traded in as full or part payment of the purchase  
4486 price:
- 4487 (i) money;
- 4488 (ii) electricity;
- 4489 (iii) water;
- 4490 (iv) gas; or
- 4491 (v) steam;

4492           ~~[(18)]~~ (15) (a) (i) except as provided in Subsection ~~[(18)]~~ (15)(b), sales of tangible  
4493 personal property or a product transferred electronically used or consumed primarily and  
4494 directly in farming operations, regardless of whether the tangible personal property or product  
4495 transferred electronically:

4496           (A) becomes part of real estate; or

4497           (B) is installed by a<sup>+</sup> farmer, contractor, or subcontractor; or

4498           ~~[(1) farmer;]~~

4499           ~~[(11) contractor; or]~~

4500           ~~[(111) subcontractor; or]~~

4501           (ii) sales of parts used in the repairs or renovations of tangible personal property or a  
4502 product transferred electronically if the tangible personal property or product transferred  
4503 electronically is exempt under Subsection ~~[(18)]~~ (15)(a)(i); and

4504           (b) amounts paid or charged for the following are subject to the taxes imposed by this  
4505 chapter:

4506           (i) (A) subject to Subsection ~~[(18)]~~ (15)(b)(i)(B), machinery, equipment, materials, or  
4507 supplies if used in a manner that is incidental to farming; and

4508           (B) tangible personal property that is considered to be used in a manner that is  
4509 incidental to farming includes:

4510           (I) hand tools; or

4511           (II) maintenance and janitorial equipment and supplies;

4512           (ii) (A) subject to Subsection ~~[(18)]~~ (15)(b)(ii)(B), tangible personal property or a  
4513 product transferred electronically if the tangible personal property or product transferred  
4514 electronically is used in an activity other than farming; and

4515           (B) tangible personal property or a product transferred electronically that is considered  
4516 to be used in an activity other than farming includes:

4517           (I) office equipment and supplies; or

4518           (II) equipment and supplies used in:

4519           (Aa) the sale or distribution of farm products;

4520           (Bb) research; or

4521           (Cc) transportation; or

4522           (iii) a vehicle required to be registered by the laws of this state during the period

4523 ending two years after the date of the vehicle's purchase;

4524       ~~[(19)]~~ (16) sales of hay;

4525       ~~[(20)]~~ (17) exclusive sale during the harvest season of seasonal crops, seedling plants,

4526 or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or

4527 garden, farm, or other agricultural produce is sold by:

4528       (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other

4529 agricultural produce;

4530       (b) an employee of the producer described in Subsection ~~[(20)]~~ (17)(a); or

4531       (c) a member of the immediate family of the producer described in Subsection ~~[(20)]~~

4532 (17)(a);

4533       ~~[(21)]~~ (18) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is

4534 issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

4535       ~~[(22)]~~ (19) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,

4536 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,

4537 wholesaler, or retailer for use in packaging tangible personal property to be sold by that

4538 manufacturer, processor, wholesaler, or retailer;

4539       ~~[(23)]~~ (20) a product stored in the state for resale;

4540       ~~[(24)]~~ (21) (a) purchases of a product if:

4541       (i) the product is:

4542       (A) purchased outside of this state;

4543       (B) brought into this state:

4544       (I) at any time after the purchase described in Subsection ~~[(24)]~~ (21)(a)(i)(A); and

4545       (II) by a nonresident person who is not living or working in this state at the time of the

4546 purchase;

4547       (C) used for the personal use or enjoyment of the nonresident person described in

4548 Subsection ~~[(24)]~~ (21)(a)(i)(B)(II) while that nonresident person is within the state; and

4549       (D) not used in conducting business in this state; and

4550       (ii) for:

4551       (A) a product other than a boat described in Subsection ~~[(24)]~~ (21)(a)(ii)(B), the first

4552 use of the product for a purpose for which the product is designed occurs outside of this state;

4553       (B) a boat, the boat is registered outside of this state; or

4554 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
4555 outside of this state;

4556 (b) the exemption provided for in Subsection [~~(24)~~] (21)(a) does not apply to:

4557 (i) a lease or rental of a product; or

4558 (ii) a sale of a vehicle exempt under Subsection [~~(33)~~] (30); and

4559 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
4560 purposes of Subsection [~~(24)~~] (21)(a), the commission may by rule define what constitutes the  
4561 following:

4562 (i) conducting business in this state if that phrase has the same meaning in this  
4563 Subsection [~~(24)~~] (21) as in Subsection [~~(63)~~] (55);

4564 (ii) the first use of a product if that phrase has the same meaning in this Subsection  
4565 [~~(24)~~] (21) as in Subsection [~~(63)~~] (55); or

4566 (iii) a purpose for which a product is designed if that phrase has the same meaning in  
4567 this Subsection [~~(24)~~] (21) as in Subsection [~~(63)~~] (55);

4568 [~~(25)~~] (22) a product purchased for resale in the regular course of business, either in its  
4569 original form or as an ingredient or component part of a manufactured or compounded product;

4570 [~~(26)~~] (23) a product upon which a sales or use tax was paid to some other state, or one  
4571 of its subdivisions, except that the state shall be paid any difference between the tax paid and  
4572 the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is  
4573 allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and  
4574 Use Tax Act;

4575 [~~(27)~~] (24) any sale of a service described in Subsections [59-12-103\(1\)\(b\)](#), (c), and (d)  
4576 to a person for use in compounding a service taxable under the subsections;

4577 [~~(28)~~] (25) purchases made in accordance with the special supplemental nutrition  
4578 program for women, infants, and children established in 42 U.S.C. Sec. 1786;

4579 [~~(29)~~] (26) sales or leases of rolls, rollers, refractory brick, electric motors, or other  
4580 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code  
4581 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of  
4582 the President, Office of Management and Budget;

4583 [~~(30)~~] (27) sales of a boat of a type required to be registered under Title 73, Chapter 18,  
4584 State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard

4585 motor is:

4586 (a) not registered in this state; and

4587 (b) (i) not used in this state; or

4588 (ii) used in this state:

4589 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a

4590 time period that does not exceed the longer of:

4591 (I) 30 days in any calendar year; or

4592 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to

4593 the borders of this state; or

4594 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time

4595 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this

4596 state;

4597 ~~[(31)]~~ (28) sales of aircraft manufactured in Utah;

4598 ~~[(32)]~~ (29) amounts paid for the purchase of telecommunications service for purposes

4599 of providing telecommunications service;

4600 ~~[(33)]~~ (30) sales, leases, or uses of the following:

4601 (a) a vehicle by an authorized carrier; or

4602 (b) tangible personal property that is installed on a vehicle:

4603 (i) sold or leased to or used by an authorized carrier; and

4604 (ii) before the vehicle is placed in service for the first time;

4605 ~~[(34)]~~ (31) (a) 45% of the sales price of any new manufactured home; and

4606 (b) 100% of the sales price of any used manufactured home;

4607 ~~[(35)]~~ (32) sales relating to schools and fundraising sales;

4608 ~~[(36)]~~ (33) sales or rentals of durable medical equipment if:

4609 (a) a person presents a prescription for the durable medical equipment; and

4610 (b) the durable medical equipment is used for home use only;

4611 ~~[(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in~~

4612 ~~Section 72-11-102; and]~~

4613 ~~[(b) the commission shall by rule determine the method for calculating sales exempt~~

4614 ~~under Subsection (37)(a) that are not separately metered and accounted for in utility billings;]~~

4615 ~~[(38)]~~ (34) sales to a ski resort of:

4616 (a) snowmaking equipment;

4617 (b) ski slope grooming equipment;

4618 (c) passenger ropeways as defined in Section 72-11-102; or

4619 (d) parts used in the repairs or renovations of equipment or passenger ropeways

4620 described in Subsections ~~[(38)]~~ (34)(a) through (c);

4621 ~~[(39)]~~ (35) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for

4622 industrial use;

4623 ~~[(40)(a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for~~

4624 ~~amusement, entertainment, or recreation an unassisted amusement device as defined in Section~~

4625 ~~59-12-102;]~~

4626 ~~[(b) if a seller that sells or rents at the same business location the right to use or operate~~

4627 ~~for amusement, entertainment, or recreation one or more unassisted amusement devices and~~

4628 ~~one or more assisted amusement devices, the exemption described in Subsection (40)(a)~~

4629 ~~applies if the seller separately accounts for the sales or rentals of the right to use or operate for~~

4630 ~~amusement, entertainment, or recreation for the assisted amusement devices; and]~~

4631 ~~[(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,~~

4632 ~~Utah Administrative Rulemaking Act, the commission may make rules:]~~

4633 ~~[(i) governing the circumstances under which sales are at the same business location;~~

4634 ~~and]~~

4635 ~~[(ii) establishing the procedures and requirements for a seller to separately account for~~

4636 ~~the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for~~

4637 ~~assisted amusement devices;]~~

4638 ~~[(41)]~~ (36) (a) sales of photocopies by:

4639 (i) a governmental entity; or

4640 (ii) an entity within the state system of public education, including:

4641 (A) a school; or

4642 (B) the State Board of Education; or

4643 (b) sales of publications by a governmental entity;

4644 ~~[(42) amounts paid for admission to an athletic event at an institution of higher~~

4645 ~~education that is subject to the provisions of Title IX of the Education Amendments of 1972,~~

4646 ~~20 U.S.C. Sec. 1681 et seq.;]~~

- 4647            ~~[(43)]~~ (37) (a) sales made to or by:
- 4648            (i) an area agency on aging; or
- 4649            (ii) a senior citizen center owned by a county, city, or town; or
- 4650            (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 4651            ~~[(44)]~~ (38) sales or leases of semiconductor fabricating, processing, research, or
- 4652 development materials regardless of whether the semiconductor fabricating, processing,
- 4653 research, or development materials:
- 4654            (a) actually come into contact with a semiconductor; or
- 4655            (b) ultimately become incorporated into real property;
- 4656            ~~[(45)]~~ (39) an amount paid by or charged to a purchaser for accommodations and
- 4657 services described in Subsection [59-12-103\(1\)\(i\)](#) to the extent the amount is exempt under
- 4658 Section [59-12-104.2](#);
- 4659            ~~[(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary~~
- 4660 ~~sports event registration certificate in accordance with Section [41-3-306](#) for the event period~~
- 4661 ~~specified on the temporary sports event registration certificate;]~~
- 4662            ~~[(47)]~~ (40) (a) sales or uses of electricity, if the sales or uses are made under a retail
- 4663 tariff adopted by the Public Service Commission only for purchase of electricity produced from
- 4664 a new alternative energy source built after January 1, 2016, as designated in the tariff by the
- 4665 Public Service Commission; and
- 4666            (b) for a residential use customer only, the exemption under Subsection ~~[(47)]~~ (40)(a)
- 4667 applies only to the portion of the tariff rate a customer pays under the tariff described in
- 4668 Subsection ~~[(47)]~~ (40)(a) that exceeds the tariff rate under the tariff described in Subsection
- 4669 ~~[(47)]~~ (40)(a) that the customer would have paid absent the tariff;
- 4670            ~~[(48)]~~ (41) sales or rentals of mobility enhancing equipment if a person presents a
- 4671 prescription for the mobility enhancing equipment;
- 4672            ~~[(49)]~~ (42) sales of water in a:
- 4673            (a) pipe;
- 4674            (b) conduit;
- 4675            (c) ditch; or
- 4676            (d) reservoir;
- 4677            ~~[(50)]~~ (43) sales of currency or coins that constitute legal tender of a state, the United

- 4678 States, or a foreign nation;
- 4679 ~~[(51)]~~ (44) (a) sales of an item described in Subsection ~~[(51)]~~ (44)(b) if the item:
- 4680 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
- 4681 (ii) has a gold, silver, or platinum content of 50% or more; and
- 4682 (b) Subsection ~~[(51)]~~ (44)(a) applies to a gold, silver, or platinum:
- 4683 (i) ingot;
- 4684 (ii) bar;
- 4685 (iii) medallion; or
- 4686 (iv) decorative coin;
- 4687 ~~[(52)]~~ (45) amounts paid on a sale-leaseback transaction;
- 4688 ~~[(53)]~~ (46) sales of a prosthetic device:
- 4689 (a) for use on or in a human; and
- 4690 (b) (i) for which a prescription is required; or
- 4691 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 4692 ~~[(54)]~~ (47) (a) except as provided in Subsection ~~[(54)]~~ (47)(b), purchases, leases, or
- 4693 rentals of machinery or equipment by an establishment described in Subsection ~~[(54)]~~ (47)(c) if
- 4694 the machinery or equipment is primarily used in the production or postproduction of the
- 4695 following media for commercial distribution:
- 4696 (i) a motion picture;
- 4697 (ii) a television program;
- 4698 (iii) a movie made for television;
- 4699 (iv) a music video;
- 4700 (v) a commercial;
- 4701 (vi) a documentary; or
- 4702 (vii) a medium similar to Subsections ~~[(54)]~~ (47)(a)(i) through (vi) as determined by
- 4703 the commission by administrative rule made in accordance with Subsection ~~[(54)]~~ (47)(d); or
- 4704 (b) purchases, leases, or rentals of machinery or equipment by an establishment
- 4705 described in Subsection ~~[(54)]~~ (47)(c) that is used for the production or postproduction of the
- 4706 following are subject to the taxes imposed by this chapter:
- 4707 (i) a live musical performance;
- 4708 (ii) a live news program; or

- 4709 (iii) a live sporting event;
- 4710 (c) the following establishments listed in the 1997 North American Industry
- 4711 Classification System of the federal Executive Office of the President, Office of Management
- 4712 and Budget, apply to Subsections [~~54~~] (47)(a) and (b):
- 4713 (i) NAICS Code 512110; or
- 4714 (ii) NAICS Code 51219; and
- 4715 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 4716 commission may by rule:
- 4717 (i) prescribe what constitutes a medium similar to Subsections [~~54~~] (47)(a)(i) through
- 4718 (vi); or
- 4719 (ii) define:
- 4720 (A) "commercial distribution";
- 4721 (B) "live musical performance";
- 4722 (C) "live news program"; or
- 4723 (D) "live sporting event";
- 4724 [~~55~~] (48) (a) leases of seven or more years or purchases made on or after July 1,
- 4725 2004, but on or before June 30, 2027, of tangible personal property that:
- 4726 (i) is leased or purchased for or by a facility that:
- 4727 (A) is an alternative energy electricity production facility;
- 4728 (B) is located in the state; and
- 4729 (C) (I) becomes operational on or after July 1, 2004; or
- 4730 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 4731 2004, as a result of the use of the tangible personal property;
- 4732 (ii) has an economic life of five or more years; and
- 4733 (iii) is used to make the facility or the increase in capacity of the facility described in
- 4734 Subsection [~~55~~] (48)(a)(i) operational up to the point of interconnection with an existing
- 4735 transmission grid including:
- 4736 (A) a wind turbine;
- 4737 (B) generating equipment;
- 4738 (C) a control and monitoring system;
- 4739 (D) a power line;

- 4740 (E) substation equipment;
- 4741 (F) lighting;
- 4742 (G) fencing;
- 4743 (H) pipes; or
- 4744 (I) other equipment used for locating a power line or pole; and
- 4745 (b) this Subsection [~~(55)~~] (48) does not apply to:
- 4746 (i) tangible personal property used in construction of:
- 4747 (A) a new alternative energy electricity production facility; or
- 4748 (B) the increase in the capacity of an alternative energy electricity production facility;
- 4749 (ii) contracted services required for construction and routine maintenance activities;
- 4750 and
- 4751 (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 4752 of the facility described in Subsection [~~(55)~~] (48)(a)(i)(C)(II), tangible personal property used
- 4753 or acquired after:
- 4754 (A) the alternative energy electricity production facility described in Subsection [~~(55)~~]
- 4755 (48)(a)(i) is operational as described in Subsection [~~(55)~~] (48)(a)(iii); or
- 4756 (B) the increased capacity described in Subsection [~~(55)~~] (48)(a)(i) is operational as
- 4757 described in Subsection [~~(55)~~] (48)(a)(iii);
- 4758 [~~(56)~~] (49) (a) leases of seven or more years or purchases made on or after July 1,
- 4759 2004, but on or before June 30, 2027, of tangible personal property that:
- 4760 (i) is leased or purchased for or by a facility that:
- 4761 (A) is a waste energy production facility;
- 4762 (B) is located in the state; and
- 4763 (C) (I) becomes operational on or after July 1, 2004; or
- 4764 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 4765 2004, as a result of the use of the tangible personal property;
- 4766 (ii) has an economic life of five or more years; and
- 4767 (iii) is used to make the facility or the increase in capacity of the facility described in
- 4768 Subsection [~~(56)~~] (49)(a)(i) operational up to the point of interconnection with an existing
- 4769 transmission grid including:
- 4770 (A) generating equipment;

- 4771 (B) a control and monitoring system;
- 4772 (C) a power line;
- 4773 (D) substation equipment;
- 4774 (E) lighting;
- 4775 (F) fencing;
- 4776 (G) pipes; or
- 4777 (H) other equipment used for locating a power line or pole; and
- 4778 (b) this Subsection [~~(56)~~] (49) does not apply to:
- 4779 (i) tangible personal property used in construction of:
- 4780 (A) a new waste energy facility; or
- 4781 (B) the increase in the capacity of a waste energy facility;
- 4782 (ii) contracted services required for construction and routine maintenance activities;
- 4783 and
- 4784 (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 4785 described in Subsection [~~(56)~~] (49)(a)(i)(C)(II), tangible personal property used or acquired
- 4786 after:
- 4787 (A) the waste energy facility described in Subsection [~~(56)~~] (49)(a)(i) is operational as
- 4788 described in Subsection [~~(56)~~] (49)(a)(iii); or
- 4789 (B) the increased capacity described in Subsection [~~(56)~~] (49)(a)(i) is operational as
- 4790 described in Subsection [~~(56)~~] (49)(a)(iii);
- 4791 [~~(57)~~] (50) (a) leases of five or more years or purchases made on or after July 1, 2004,
- 4792 but on or before June 30, 2027, of tangible personal property that:
- 4793 (i) is leased or purchased for or by a facility that:
- 4794 (A) is located in the state;
- 4795 (B) produces fuel from alternative energy, including:
- 4796 (I) methanol; or
- 4797 (II) ethanol; and
- 4798 (C) (I) becomes operational on or after July 1, 2004; or
- 4799 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
- 4800 a result of the installation of the tangible personal property;
- 4801 (ii) has an economic life of five or more years; and

4802 (iii) is installed on the facility described in Subsection ~~[(57)]~~ (50)(a)(i);  
4803 (b) this Subsection ~~[(57)]~~ (50) does not apply to:  
4804 (i) tangible personal property used in construction of:  
4805 (A) a new facility described in Subsection ~~[(57)]~~ (50)(a)(i); or  
4806 (B) the increase in capacity of the facility described in Subsection ~~[(57)]~~ (50)(a)(i); or  
4807 (ii) contracted services required for construction and routine maintenance activities;  
4808 and  
4809 (iii) unless the tangible personal property is used or acquired for an increase in capacity  
4810 described in Subsection ~~[(57)]~~ (50)(a)(i)(C)(II), tangible personal property used or acquired  
4811 after:  
4812 (A) the facility described in Subsection ~~[(57)]~~ (50)(a)(i) is operational; or  
4813 (B) the increased capacity described in Subsection ~~[(57)]~~ (50)(a)(i) is operational;  
4814 ~~[(58)]~~ (51) (a) subject to Subsection ~~[(58)(b) or (c)]~~ (51)(b), sales of tangible personal  
4815 property or a product transferred electronically to a person within this state if that tangible  
4816 personal property or product transferred electronically is subsequently shipped outside the state  
4817 and incorporated pursuant to contract into and becomes a part of real property located outside  
4818 of this state; and  
4819 (b) the exemption under Subsection ~~[(58)]~~ (51)(a) is not allowed to the extent that the  
4820 other state or political entity to which the tangible personal property is shipped imposes a sales,  
4821 use, gross receipts, or other similar transaction excise tax on the transaction against which the  
4822 other state or political entity allows a credit for sales and use taxes imposed by this chapter;  
4823 [and]  
4824 ~~[(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~  
4825 ~~a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a~~  
4826 ~~refund:]~~  
4827 ~~[(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;]~~  
4828 ~~[(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on~~  
4829 ~~which the sale is made;]~~  
4830 ~~[(iii) if the person did not claim the exemption allowed by this Subsection (58) for the~~  
4831 ~~sale prior to filing for the refund;]~~  
4832 ~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~

4833 ~~[(v) in accordance with Section 59-1-1410; and]~~  
4834 ~~[(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410;~~  
4835 ~~if the person files for the refund on or before June 30, 2011;]~~  
4836 ~~[(59) purchases;]~~  
4837 ~~[(a) of one or more of the following items in printed or electronic format:]~~  
4838 ~~[(i) a list containing information that includes one or more:]~~  
4839 ~~[(A) names; or]~~  
4840 ~~[(B) addresses; or]~~  
4841 ~~[(ii) a database containing information that includes one or more:]~~  
4842 ~~[(A) names; or]~~  
4843 ~~[(B) addresses; and]~~  
4844 ~~[(b) used to send direct mail;]~~  
4845 ~~[(60)] (52) redemptions or repurchases of a product by a person if that product was:~~  
4846 ~~(a) delivered to a pawnbroker as part of a pawn transaction; and~~  
4847 ~~(b) redeemed or repurchased within the time period established in a written agreement~~  
4848 ~~between the person and the pawnbroker for redeeming or repurchasing the product;~~  
4849 ~~[(61)] (53) (a) purchases or leases of an item described in Subsection [(61)] (53)(b) if~~  
4850 ~~the item:~~  
4851 ~~(i) is purchased or leased by, or on behalf of, a telecommunications service provider;~~  
4852 ~~and~~  
4853 ~~(ii) has a useful economic life of one or more years; and~~  
4854 ~~(b) the following apply to Subsection [(61)] (53)(a):~~  
4855 ~~(i) telecommunications enabling or facilitating equipment, machinery, or software;~~  
4856 ~~(ii) telecommunications equipment, machinery, or software required for 911 service;~~  
4857 ~~(iii) telecommunications maintenance or repair equipment, machinery, or software;~~  
4858 ~~(iv) telecommunications switching or routing equipment, machinery, or software; or~~  
4859 ~~(v) telecommunications transmission equipment, machinery, or software;~~  
4860 ~~[(62)] (54) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of~~  
4861 ~~tangible personal property or a product transferred electronically that are used in the research~~  
4862 ~~and development of alternative energy technology; and~~  
4863 ~~(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the~~

4864 commission may, for purposes of Subsection [~~(62)~~] (54)(a), make rules defining what  
4865 constitutes purchases of tangible personal property or a product transferred electronically that  
4866 are used in the research and development of alternative energy technology;

4867 [~~(63)~~] (55) (a) purchases of tangible personal property or a product transferred  
4868 electronically if:

4869 (i) the tangible personal property or product transferred electronically is:

4870 (A) purchased outside of this state;

4871 (B) brought into this state at any time after the purchase described in Subsection [~~(63)~~]

4872 (55)(a)(i)(A); and

4873 (C) used in conducting business in this state; and

4874 (ii) for:

4875 (A) tangible personal property or a product transferred electronically other than the  
4876 tangible personal property described in Subsection [~~(63)~~] (55)(a)(ii)(B), the first use of the  
4877 property for a purpose for which the property is designed occurs outside of this state; or

4878 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
4879 outside of this state;

4880 (b) the exemption provided for in Subsection [~~(63)~~] (55)(a) does not apply to:

4881 (i) a lease or rental of tangible personal property or a product transferred electronically;

4882 or

4883 (ii) a sale of a vehicle exempt under Subsection [~~(33)~~] (30); and

4884 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
4885 purposes of Subsection [~~(63)~~] (55)(a), the commission may by rule define what constitutes the  
4886 following:

4887 (i) conducting business in this state if that phrase has the same meaning in this

4888 Subsection [~~(63)~~] (55) as in Subsection [~~(24)~~] (21);

4889 (ii) the first use of tangible personal property or a product transferred electronically if  
4890 that phrase has the same meaning in this Subsection [~~(63)~~] (55) as in Subsection [~~(24)~~] (21); or

4891 (iii) a purpose for which tangible personal property or a product transferred  
4892 electronically is designed if that phrase has the same meaning in this Subsection [~~(63)~~] (55) as  
4893 in Subsection [~~(24)~~] (21);

4894 [~~(64)~~] (56) sales of disposable home medical equipment or supplies if:

- 4895 (a) a person presents a prescription for the disposable home medical equipment or  
 4896 supplies;
- 4897 (b) the disposable home medical equipment or supplies are used exclusively by the  
 4898 person to whom the prescription described in Subsection ~~[(64)]~~ (56)(a) is issued; and
- 4899 (c) the disposable home medical equipment and supplies are listed as eligible for  
 4900 payment under:
- 4901 (i) Title XVIII, federal Social Security Act; or
- 4902 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- 4903 ~~[(65) sales:]~~
- 4904 ~~[(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit~~  
 4905 ~~District Act; or]~~
- 4906 ~~[(b) of tangible personal property to a subcontractor of a public transit district, if the~~  
 4907 ~~tangible personal property is:]~~
- 4908 ~~[(i) clearly identified; and]~~
- 4909 ~~[(ii) installed or converted to real property owned by the public transit district;]~~
- 4910 ~~[(66)]~~ (57) sales of construction materials:
- 4911 (a) purchased on or after July 1, 2010;
- 4912 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 4913 (i) located within a county of the first class; and
- 4914 (ii) that has a United States customs office on its premises; and
- 4915 (c) if the construction materials are:
- 4916 (i) clearly identified;
- 4917 (ii) segregated; and
- 4918 (iii) installed or converted to real property:
- 4919 (A) owned or operated by the international airport described in Subsection ~~[(66)]~~  
 4920 ~~(57)(b); and~~
- 4921 (B) located at the international airport described in Subsection ~~[(66)]~~ (57)(b);
- 4922 ~~[(67)]~~ (58) sales of construction materials:
- 4923 (a) purchased on or after July 1, 2008;
- 4924 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 4925 (i) located within a county of the second class; and

4926 (ii) that is owned or operated by a city in which an airline as defined in Section  
4927 59-2-102 is headquartered; and

4928 (c) if the construction materials are:

4929 (i) clearly identified;

4930 (ii) segregated; and

4931 (iii) installed or converted to real property:

4932 (A) owned or operated by the new airport described in Subsection [(67)] (58)(b);

4933 (B) located at the new airport described in Subsection [(67)] (58)(b); and

4934 (C) as part of the construction of the new airport described in Subsection [(67)]  
4935 (58)(b);

4936 [~~(68) sales of fuel to a common carrier that is a railroad for use in a locomotive~~  
4937 ~~engine;~~]

4938 [(69)] (59) purchases and sales described in Section 63H-4-111;

4939 [(70)] (60) (a) sales of tangible personal property to an aircraft maintenance, repair, and  
4940 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of  
4941 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration  
4942 lists a state or country other than this state as the location of registry of the fixed wing turbine  
4943 powered aircraft; or

4944 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul  
4945 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of  
4946 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration  
4947 lists a state or country other than this state as the location of registry of the fixed wing turbine  
4948 powered aircraft;

4949 [~~(71) subject to Section 59-12-104.4, sales of a textbook for a higher education~~  
4950 ~~course;~~]

4951 [(a) to a person admitted to an institution of higher education; and]

4952 [(b) by a seller, other than a bookstore owned by an institution of higher education, if  
4953 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a  
4954 textbook for a higher education course;]

4955 [(72)] (61) a license fee or tax a municipality imposes in accordance with Subsection  
4956 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced

4957 level of municipal services;

4958           ~~[(73)]~~ (62) amounts paid or charged for construction materials used in the construction

4959 of a new or expanding life science research and development facility in the state, if the

4960 construction materials are:

4961           (a) clearly identified;

4962           (b) segregated; and

4963           (c) installed or converted to real property;

4964           ~~[(74)]~~ (63) amounts paid or charged for:

4965           (a) a purchase or lease of machinery and equipment that:

4966           (i) are used in performing qualified research:

4967           (A) as defined in Section 41(d), Internal Revenue Code; and

4968           (B) in the state; and

4969           (ii) have an economic life of three or more years; and

4970           (b) normal operating repair or replacement parts:

4971           (i) for the machinery and equipment described in Subsection ~~[(74)]~~ (63)(a); and

4972           (ii) that have an economic life of three or more years;

4973           ~~[(75)]~~ (64) a sale or lease of tangible personal property used in the preparation of

4974 prepared food if:

4975           (a) for a sale:

4976           (i) the ownership of the seller and the ownership of the purchaser are identical; and

4977           (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that

4978 tangible personal property prior to making the sale; or

4979           (b) for a lease:

4980           (i) the ownership of the lessor and the ownership of the lessee are identical; and

4981           (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible

4982 personal property prior to making the lease;

4983           ~~[(76)]~~ (65) (a) purchases of machinery or equipment if:

4984           (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,

4985 Gambling, and Recreation Industries, of the 2012 North American Industry Classification

4986 System of the federal Executive Office of the President, Office of Management and Budget;

4987           (ii) the machinery or equipment:

4988 (A) has an economic life of three or more years; and  
4989 (B) is used by one or more persons who pay admission or user fees described in  
4990 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and  
4991 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:  
4992 (A) amounts paid or charged as admission or user fees described in Subsection  
4993 59-12-103(1)(f); and  
4994 (B) subject to taxation under this chapter; and  
4995 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
4996 commission may make rules for verifying that 51% of a purchaser's sales revenue for the  
4997 previous calendar quarter is:  
4998 (i) amounts paid or charged as admission or user fees described in Subsection  
4999 59-12-103(1)(f); and  
5000 (ii) subject to taxation under this chapter;  
5001 ~~[(77)]~~ (66) purchases of a short-term lodging consumable by a business that provides  
5002 accommodations and services described in Subsection 59-12-103(1)(i);  
5003 ~~[(78) amounts paid or charged to access a database;]~~  
5004 ~~[(a) if the primary purpose for accessing the database is to view or retrieve information~~  
5005 ~~from the database; and]~~  
5006 ~~[(b) not including amounts paid or charged for a:]~~  
5007 ~~[(i) digital audiowork;]~~  
5008 ~~[(ii) digital audio-visual work; or]~~  
5009 ~~[(iii) digital book;]~~  
5010 ~~[(79)]~~ (67) amounts paid or charged for a purchase or lease made by an electronic  
5011 financial payment service, of:  
5012 (a) machinery and equipment that:  
5013 (i) are used in the operation of the electronic financial payment service; and  
5014 (ii) have an economic life of three or more years; and  
5015 (b) normal operating repair or replacement parts that:  
5016 (i) are used in the operation of the electronic financial payment service; and  
5017 (ii) have an economic life of three or more years;  
5018 ~~[(80)]~~ (68) ~~[beginning on April 1, 2013;]~~ sales of a fuel cell as defined in Section

5019 54-15-102;

5020 [(81)] (69) amounts paid or charged for a purchase or lease of tangible personal  
5021 property or a product transferred electronically if the tangible personal property or product  
5022 transferred electronically:

5023 (a) is stored, used, or consumed in the state; and

5024 (b) is temporarily brought into the state from another state:

5025 (i) during a disaster period as defined in Section 53-2a-1202;

5026 (ii) by an out-of-state business as defined in Section 53-2a-1202;

5027 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

5028 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

5029 [(82)] (70) sales of goods and services at a morale, welfare, and recreation facility, as  
5030 defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and  
5031 Recreation Program;

5032 [(83)] (71) amounts paid or charged for a purchase or lease of molten magnesium;

5033 [(84)] (72) amounts paid or charged for a purchase or lease made by a qualifying  
5034 [~~enterprise~~] data center or an occupant of a qualifying data center of machinery, equipment, or  
5035 normal operating repair or replacement parts, if the machinery, equipment, or normal operating  
5036 repair or replacement parts:

5037 (a) are used in [~~the operation of the establishment; and~~];

5038 (i) the operation of the qualifying data center; or

5039 (ii) the occupant's operations in the qualifying data center; and

5040 (b) have an economic life of one or more years;

5041 [(85) ~~sales of cleaning or washing of a vehicle, except for cleaning or washing of a~~  
5042 ~~vehicle that includes cleaning or washing of the interior of the vehicle;~~]

5043 [(86)] (73) amounts paid or charged for a purchase or lease of machinery, equipment,  
5044 normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or  
5045 supplies used or consumed:

5046 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined  
5047 in Section 63M-4-701 located in the state;

5048 (b) if the machinery, equipment, normal operating repair or replacement parts,  
5049 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

5050 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is  
5051 added to gasoline or diesel fuel;

5052 (ii) research and development;

5053 (iii) transporting, storing, or managing raw materials, work in process, finished  
5054 products, and waste materials produced from refining gasoline or diesel fuel, or adding  
5055 blendstock to gasoline or diesel fuel;

5056 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in  
5057 refining; or

5058 (v) preventing, controlling, or reducing pollutants from refining; and

5059 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office  
5060 of Energy Development under Subsection 63M-4-702(2);

5061 [~~(87)~~] (74) amounts paid to or charged by a proprietor for accommodations and  
5062 services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA  
5063 accommodations tax imposed under Section 63H-1-205;

5064 [~~(88)~~] (75) amounts paid or charged for a purchase or lease of machinery, equipment,  
5065 normal operating repair or replacement parts, or materials, except for office equipment or  
5066 office supplies, by an establishment, as the commission defines that term in accordance with  
5067 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

5068 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North  
5069 American Industry Classification System of the federal Executive Office of the President,  
5070 Office of Management and Budget;

5071 (b) is located in this state; and

5072 (c) uses the machinery, equipment, normal operating repair or replacement parts, or  
5073 materials in the operation of the establishment; [~~and~~]

5074 [~~(89)~~] (76) amounts paid or charged for an item exempt under Section 59-12-104.10[-];  
5075 and

5076 (77) if paid for through a machine that accepts only cash for payment and if the  
5077 machine is the only method by which to pay:

5078 (a) sales of cleaning or washing of tangible personal property if the cleaning or  
5079 washing of the tangible personal property is not assisted cleaning or washing of tangible  
5080 personal property;

5081 (b) sales of food and food ingredients or prepared food from a vending machine if:  
5082 (i) the proceeds of each sale do not exceed \$1; and  
5083 (ii) the seller or operator of the vending machine reports an amount equal to 150% of  
5084 the cost of the food and food ingredients or prepared food as goods consumed;  
5085 (c) sales or rentals of the right to use or operate an unassisted amusement device for  
5086 amusement, entertainment, or recreation; and  
5087 (78) amounts paid or charged for tangible personal property that:  
5088 (a) is not electricity, machinery, equipment, vehicles, parts, office equipment, or office  
5089 supplies; and  
5090 (b) is consumed as part of a service described in Subsection 59-12-103(1)(g), (h), or  
5091 (i).  
5092 Section 43. Section **59-12-104.5** is amended to read:  
5093 **59-12-104.5. Revenue and Taxation Interim Committee review of sales and use**  
5094 **taxes.**  
5095 The Revenue and Taxation Interim Committee shall:  
5096 (1) review Subsection ~~59-12-104(28)~~(25) before October 1 of the year after the year  
5097 in which Congress permits a state to participate in the special supplemental nutrition program  
5098 under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on  
5099 purchases of food under that program; and  
5100 (2) review Subsection ~~59-12-104(21)~~(18) before October 1 of the year after the year  
5101 in which Congress permits a state to participate in the SNAP as defined in Section **35A-1-102**,  
5102 even if state or local sales taxes are collected within the state on purchases of food under that  
5103 program.  
5104 Section 44. Section **59-12-130** is enacted to read:  
5105 **59-12-130. Sales tax on motor fuel and special fuel.**  
5106 (1) As used in this section:  
5107 (a) "Diesel fuel" means the same as that term is defined in Section 59-13-102.  
5108 (b) "Distributor" means the same as that term is defined in Section 59-13-102.  
5109 (c) "Motor fuel" means the same as that term is defined in Section 59-13-102.  
5110 (d) "Motor fuel or special fuel tax" means the taxes imposed under Chapter 13, Motor  
5111 and Special Fuel Tax Act.

5112 (e) (i) Except as provided in Subsection (1)(e)(ii), "special fuel" means the same as that  
5113 term is defined in Section 59-13-102.

5114 (ii) "Special fuel" does not include diesel fuel, propane, or electricity.

5115 (f) (i) "Supplier" means a person that:

5116 (A) imports or acquires immediately upon importation into this state special fuel;

5117 (B) produces, refines, manufactures, or blends special fuel in this state;

5118 (C) otherwise acquires for distribution or sale in this state, special fuel with respect to  
5119 which there has been no previous taxable sale or use; or

5120 (D) is in a two party exchange where the receiving party is deemed to be the supplier.

5121 (ii) "Supplier" includes a wholesaler that exercises the payment option described in  
5122 Section 59-13-321.

5123 (g) "Two party exchange" means a transaction in which special fuel is transferred  
5124 between licensed suppliers pursuant to an exchange agreement.

5125 (2) (a) Beginning on April 1, 2020, and subject to the other provisions of this  
5126 Subsection (2), a sales tax is imposed on motor fuel and special fuel at an amount equal to the  
5127 product of:

5128 (i) the rate described in Subsection 59-12-103(2)(a)(i)(A);

5129 (ii) the average daily rack price, calculated in accordance with Subsection (3) or (4);

5130 and

5131 (iii) (A) the number of gallons of motor fuel or special fuel other than liquified natural  
5132 gas, compressed natural gas, or hydrogen;

5133 (B) the number of diesel gallon equivalent for liquified natural gas; or

5134 (C) the number of gasoline gallon equivalent for compressed natural gas or hydrogen.

5135 (b) (i) The distributor shall pay the tax on motor fuel.

5136 (ii) The supplier shall pay the tax on special fuel.

5137 (c) (i) Except as provided in Subsection (2)(c)(iii), the provisions of Chapter 13, Part 2,  
5138 Motor Fuel, apply to the sales tax imposed by this section on motor fuel.

5139 (ii) Except as provided in Subsection (2)(c)(iii), the provisions of Chapter 13, Part 3,  
5140 Special Fuel, apply to the sales tax imposed by this section on special fuel.

5141 (iii) (A) The sales tax rate on motor fuel and special fuel is as provided in this  
5142 Subsection (2).

5143 (B) The treasurer shall deposit the revenue collected from the sales tax imposed under  
5144 this section into the Transportation Investment Fund of 2005 created in Section [72-2-124](#).

5145 (C) The commission shall pay any refunds from the Transportation Investment Fund of  
5146 2005 created in Section [72-2-124](#).

5147 (3) (a) The commission shall determine annually the average daily rack price for motor  
5148 fuel by:

5149 (i) calculating the previous fiscal year statewide average rack price of a gallon of  
5150 regular unleaded motor fuel, excluding federal and state excise taxes, for the 12 months ending  
5151 on the previous June 30 as published by an oil pricing service; and

5152 (ii) rounding to the nearest one-hundredth of a cent.

5153 (b) (i) Subject to the requirement in Subsection (3)(b)(ii), the statewide average rack  
5154 price of a gallon of motor fuel determined under Subsection (3)(b)(ii) may not be less than  
5155 \$1.78 per gallon.

5156 (ii) The commission shall, on January 1, annually adjust the minimum statewide  
5157 average rack price of a gallon of motor fuel described in Subsection (3)(b)(i) by taking the  
5158 minimum statewide average rack price of a gallon of motor fuel for the previous calendar year  
5159 and adding an amount equal to the greater of:

5160 (A) an amount calculated by multiplying the minimum statewide average rack price of  
5161 a gallon of motor fuel for the previous calendar year by the actual percent change during the  
5162 previous fiscal year in the Consumer Price Index; and

5163 (B) 0.

5164 (iii) The statewide average rack price of a gallon of motor fuel may not exceed \$2.43  
5165 per gallon.

5166 (iv) The minimum statewide average rack price of a gallon of motor fuel described and  
5167 adjusted under Subsection (3)(b) may not exceed the maximum statewide average rack price of  
5168 a gallon of motor fuel under Subsection (3)(b)(iii).

5169 (c) (i) The commission shall annually:

5170 (A) determine the average daily rack price of a gallon of motor fuel in accordance with  
5171 this Subsection (3);

5172 (B) publish the average daily rack price calculated in accordance with this Subsection  
5173 (3); and

5174 (C) post or otherwise make public the average daily rack price no later than 60 days  
5175 prior to the annual effective date under Subsection (3)(c)(ii).

5176 (ii) The average daily rack price described in Subsection (2) and calculated in  
5177 accordance with this Subsection (3) shall take effect:

5178 (A) for the 2020 calendar year, on April 1; and

5179 (B) beginning with the 2021 calendar year, on January 1 of each year.

5180 (4) The average daily rack price for special fuels is the product of:

5181 (a) the average daily rack price calculated in accordance with Subsection (3); and

5182 (b) the percentage calculated by dividing the rate calculated in accordance with

5183 Subsection [59-13-301](#)(12) by the rate calculated in accordance with Subsections

5184 [59-13-201](#)(1)(b)(ii), (c), and (d).

5185 Section 45. Section **59-12-1201** is amended to read:

5186 **59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration,**  
5187 **collection, and enforcement of tax -- Administrative charge -- Deposits.**

5188 (1) (a) Except as provided in Subsection (3), there is imposed a tax of [~~2.5%~~] 4% on all  
5189 short-term leases and rentals of motor vehicles not exceeding 30 days.

5190 (b) The tax imposed in this section is in addition to all other state, county, or municipal  
5191 fees and taxes imposed on rentals of motor vehicles.

5192 (2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax  
5193 imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

5194 (b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall  
5195 take effect on the first day of the first billing period:

5196 (A) that begins after the effective date of the tax rate increase; and

5197 (B) if the billing period for the transaction begins before the effective date of a tax rate  
5198 increase imposed under Subsection (1).

5199 (ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax  
5200 rate decrease shall take effect on the first day of the last billing period:

5201 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;

5202 and

5203 (B) if the billing period for the transaction begins before the effective date of the repeal  
5204 of the tax or the tax rate decrease imposed under Subsection (1).

5205 (3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:  
5206 (a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;  
5207 (b) the motor vehicle is rented as a personal household goods moving van; or  
5208 (c) the lease or rental of the motor vehicle is made for the purpose of temporarily  
5209 replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an  
5210 insurance agreement.

5211 (4) (a) (i) The tax authorized under this section shall be administered, collected, and  
5212 enforced in accordance with:

5213 (A) the same procedures used to administer, collect, and enforce the tax under Part 1,  
5214 Tax Collection; and

5215 (B) Chapter 1, General Taxation Policies.

5216 (ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to  
5217 Subsections 59-12-103(4) through (10) or Section 59-12-107.1 or 59-12-123.

5218 (b) The commission shall retain and deposit an administrative charge in accordance  
5219 with Section 59-1-306 from the ~~revenues~~ revenue the commission collects from a tax under  
5220 this part.

5221 (c) Except as provided under Subsection (4)(b), all revenue received by the  
5222 commission under this section shall be deposited daily with the state treasurer and credited  
5223 monthly to the Marda Dillree Corridor Preservation Fund under Section 72-2-117.

5224 Section 46. Section 59-13-202 is amended to read:

5225 **59-13-202. Refund of tax for agricultural uses on individual income and**  
5226 **corporate franchise and income tax returns -- Application for permit for refund --**  
5227 **Division of Finance to pay claims -- Rules permitted to enforce part -- Penalties --**  
5228 **Revenue and Taxation Interim Committee study.**

5229 (1) As used in this section:

5230 (a) (i) Except as provided in Subsection (1)(a)(ii), "claimant" means a resident or  
5231 nonresident person.

5232 (ii) "Claimant" does not include an estate or trust.

5233 (b) "Estate" means a nonresident estate or a resident estate.

5234 (c) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or  
5235 trust may claim:

5236 (i) as provided by statute; and  
5237 (ii) regardless of whether, for the taxable year for which the claimant, estate, or trust  
5238 claims the tax credit, the claimant, estate, or trust has a tax liability under:  
5239 (A) Chapter 7, Corporate Franchise and Income Taxes; or  
5240 (B) Chapter 10, Individual Income Tax Act.  
5241 (d) "Trust" means a nonresident trust or a resident trust.  
5242 (2) Any claimant, estate, or trust that purchases and uses any motor fuel within the state  
5243 for the purpose of operating or propelling stationary farm engines and self-propelled farm  
5244 machinery used for nonhighway agricultural uses, and that has paid the tax on the motor fuel as  
5245 provided by this part, is entitled to a refund of the tax subject to the conditions and limitations  
5246 provided under this part.  
5247 (3) (a) A claimant, estate, or trust desiring a nonhighway agricultural use refund under  
5248 this part shall claim the refund as a refundable tax credit on the tax return the claimant, estate,  
5249 or trust files under:  
5250 (i) Chapter 7, Corporate Franchise and Income Taxes; or  
5251 (ii) Chapter 10, Individual Income Tax Act.  
5252 (b) A claimant, estate, or trust not subject to filing a tax return described in Subsection  
5253 (3)(a) shall obtain a permit and file claims on a calendar year basis.  
5254 (c) Any claimant, estate, or trust claiming a refundable tax credit under this section is  
5255 required to furnish any or all of the information outlined in this section upon request of the  
5256 commission.  
5257 (d) A refundable tax credit under this section is allowed only on purchases on which  
5258 tax is paid during the taxable year covered by the tax return.  
5259 (4) In order to obtain a permit for a refund of motor fuel tax paid, an application shall  
5260 be filed containing:  
5261 (a) the name of the claimant, estate, or trust;  
5262 (b) the claimant's, estate's, or trust's address;  
5263 (c) location and number of acres owned and operated, location and number of acres  
5264 rented and operated, the latter of which shall be verified by a signed statement from the legal  
5265 owner;  
5266 (d) number of acres planted to each crop, type of soil, and whether irrigated or dry; and

5267 (e) make, size, and type of fuel used and power rating of each piece of equipment using  
5268 fuel. If the claimant, estate, or trust is an operator of self-propelled or tractor-pulled farm  
5269 machinery with which the claimant, estate, or trust works for hire doing custom jobs for other  
5270 farmers, the application shall include information the commission requires and shall all be  
5271 contained in, and be considered part of, the original application. The claimant, estate, or trust  
5272 shall also file with the application a certificate from the county assessor showing each piece of  
5273 equipment using fuel. This original application and all information contained in it constitutes a  
5274 permanent file with the commission in the name of the claimant, estate, or trust.

5275 (5) A claimant, estate, or trust claiming the right to a refund of motor fuel tax paid shall  
5276 file a claim with the commission by April 15 of each year for the refund for the previous  
5277 calendar year. The claim shall state the name and address of the claimant, estate, or trust, the  
5278 number of gallons of motor fuel purchased for nonhighway agricultural uses, and the amount  
5279 paid for the motor fuel. The claimant, estate, or trust shall retain the original invoice to support  
5280 the claim. No more than one claim for a tax refund may be filed annually by each user of  
5281 motor fuel purchased for nonhighway agricultural uses.

5282 (6) Upon commission approval of the claim for a refund, the Division of Finance shall  
5283 pay the amount found due to the claimant, estate, or trust. The total amount of claims for  
5284 refunds shall be paid from motor fuel taxes.

5285 (7) The commission may refuse to accept as evidence of purchase or payment any  
5286 instruments that show alteration or that fail to indicate the quantity of the purchase, the price of  
5287 the motor fuel, a statement that the motor fuel is purchased for purposes other than  
5288 transportation, and the date of purchase and delivery. If the commission is not satisfied with  
5289 the evidence submitted in connection with the claim, the commission may reject the claim or  
5290 require additional evidence.

5291 (8) A claimant, estate, or trust aggrieved by the decision of the commission with  
5292 respect to a refundable tax credit or refund may file a request for agency action, requesting a  
5293 hearing before the commission.

5294 (9) A claimant, estate, or trust that makes any false claim, report, or statement, as  
5295 claimant, estate, trust, agent, or creditor, with intent to defraud or secure a refund to which the  
5296 claimant, estate, or trust is not entitled, is subject to the criminal penalties provided under  
5297 Section [59-1-401](#), and the commission shall initiate the filing of a complaint for alleged

5298 violations of this part. In addition to these penalties, the claimant, estate, or trust may not  
5299 receive any refund as a claimant, estate, or trust or as a creditor of a claimant, estate, or trust for  
5300 refund for a period of five years.

5301 ~~[(10)(a) In accordance with any rules prescribed by the commission under Subsection~~  
5302 ~~(10)(b), the Division of Finance shall transfer at least annually from the Transportation Fund~~  
5303 ~~into the Education Fund an amount equal to the amount of the refund claimed under this~~  
5304 ~~section.]~~

5305 ~~[(b)]~~ (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
5306 Act, the commission may make rules providing procedures for:

5307 (i) making a refund to a claimant, estate, or trust as required by Subsection (3)(a)(i); or

5308 ~~[(ii) making a transfer from the Transportation Fund into the Education Fund as~~  
5309 ~~required by Subsection (10)(a); or]~~

5310 ~~[(iii)]~~ (ii) enforcing this part.

5311 (11) (a) On or before November 30, 2017, and every three years after 2017, the  
5312 Revenue and Taxation Interim Committee shall review the tax credit provided by this section  
5313 and make recommendations concerning whether the tax credit should be continued, modified,  
5314 or repealed.

5315 (b) In conducting the review required by Subsection (11)(a), the Revenue and Taxation  
5316 Interim Committee shall:

5317 (i) schedule time on at least one committee agenda to conduct the review;

5318 (ii) invite state agencies, individuals, and organizations concerned with the credit under  
5319 review to provide testimony;

5320 (iii) ensure that the recommendations described in this section include an evaluation of:

5321 (A) the cost of the tax credit to the state;

5322 (B) the purpose and effectiveness of the tax credit; and

5323 (C) the extent to which the state benefits from the tax credit; and

5324 (iv) undertake other review efforts as determined by the chairs of the Revenue and  
5325 Taxation Interim Committee.

5326 Section 47. Section **59-13-323** is enacted to read:

5327 **59-13-323. Additional special fuel tax on diesel fuel.**

5328 (1) A supplier shall pay an additional special fuel tax on diesel fuel that is subject to

5329 the special fuel tax imposed under Section 59-13-301 in an amount equal to:

5330 (a) beginning on April 1, 2020, and ending on December 31, 2021, six cents per gallon;

5331 and

5332 (b) beginning on January 1, 2022, 10 cents per gallon.

5333 (2) (a) The commission shall deposit daily the revenue that the commission collects  
5334 under this section with the state treasurer.

5335 (b) Notwithstanding Section 59-13-301, the state treasurer shall credit the revenue  
5336 deposited in accordance with Subsection (2)(a) to the Transportation Investment Fund of 2005  
5337 created in Section 72-2-124.

5338 (3) (a) A person entitled to a refund of a special fuel tax under this part may receive a  
5339 refund of the additional special fuel tax due under this section for the same gallons that the  
5340 person is entitled to a refund of a special fuel tax.

5341 (b) Notwithstanding Section 59-13-318, the total amount of claims for refunds under  
5342 Subsection (3)(a) shall be paid from the Transportation Investment Fund of 2005.

5343 (4) Beginning in 2021, the commission shall submit annually on or before October 1,  
5344 an electronic report to a legislative committee designated by the Legislative Management  
5345 Committee that:

5346 (a) states the amount of revenue collected from the tax imposed under Section  
5347 59-13-323 during the preceding fiscal year; and

5348 (b) provides an estimate of the revenue that will be collected from the tax imposed  
5349 under Section 59-13-323 during the current fiscal year.

5350 Section 48. Section **63I-2-241** is enacted to read:

5351 **63I-2-241. Repeal dates -- Title 41.**

5352 Subsection 41-6a-702(5), which allows a vehicle with a clean fuel vehicle decal to  
5353 travel in a lane designated for the use of high occupancy vehicles regardless of the number of  
5354 occupants, is repealed September 30, 2025.

5355 Section 49. Section **63I-2-259** is amended to read:

5356 **63I-2-259. Repeal dates -- Title 59.**

5357 [~~(1) Section 59-1-102 is repealed on May 14, 2019.~~]

5358 [~~(2)~~] (1) In Section 59-2-926, the language that states "applicable" and "or  
5359 53F-2-301.5" is repealed July 1, 2023.

5360 [~~(3)~~ Subsection ~~59-2-1007~~(15) is repealed on December 31, 2018.]

5361 (2) Subsections 59-12-102(61) and (62), which define "life science establishment" and  
5362 "life science research and development facility," are repealed January 1, 2027.

5363 (3) Subsection 59-12-104(62), which provides a sales and use tax exemption related to  
5364 amounts paid or charged for construction materials used in the construction of a life science  
5365 research and development facility, is repealed January 1, 2027.

5366 Section 50. Section **63I-2-272** is amended to read:

5367 **63I-2-272. Repeal dates -- Title 72.**

5368 (1) Subsections 72-1-213(2) and (3)(a)(i), related to the Road Usage Charge Advisory  
5369 Committee, are repealed January 1, 2022.

5370 [~~(2)~~ On July 1, 2018:]

5371 [(a) in Subsection ~~72-2-108~~(2), the language that states "and except as provided in  
5372 Subsection (10)" is repealed; and]

5373 [(b) in Subsection ~~72-2-108~~(4)(c)(ii)(A), the language that states ", excluding any  
5374 amounts appropriated as additional support for class B and class C roads under Subsection  
5375 (10)," is repealed.]

5376 [~~(3)~~ (2) Section 72-3-113 is repealed January 1, 2020.

5377 (3) Section 72-6-121 is repealed September 30, 2025.

5378 Section 51. Section **63M-4-702** is amended to read:

5379 **63M-4-702. Refiner gasoline standard reporting -- Office of Energy Development**  
5380 **certification of sales and use tax exemption eligibility.**

5381 (1) (a) Beginning on July 1, 2021, a refiner that seeks to be eligible for a sales and use  
5382 tax exemption under Subsection 59-12-104~~[(86)]~~(73) shall annually report to the office  
5383 whether the refiner's facility that is located within the state will have an average gasoline sulfur  
5384 level of 10 parts per million (ppm) or less using the formulas prescribed in 40 C.F.R. Sec.  
5385 80.1603, excluding the offset for credit use and transfer as prescribed in 40 C.F.R. Sec.  
5386 80.1616.

5387 (b) Fuels for which a final destination outside Utah can be demonstrated or that are not  
5388 subject to the standards and requirements of 40 C.F.R. Sec. 80.1603 as specified in 40 C.F.R.  
5389 Sec. 80.1601 are not subject to the reporting provisions under Subsection (1)(a).

5390 (2) (a) Beginning on July 1, 2021, the office shall annually certify that the refiner is

- 5391 eligible for the sales and use tax exemption under Subsection 59-12-104[(86)](73):
- 5392 (i) on a form provided by the State Tax Commission that shall be retained by the
- 5393 refiner claiming the sales and use tax exemption under Subsection 59-12-104[(86)](73);
- 5394 (ii) if the refiner's refinery that is located within the state had an average sulfur level of
- 5395 10 parts per million (ppm) or less as reported under Subsection (1) in the previous calendar
- 5396 year; and
- 5397 (iii) before a taxpayer is allowed the sales and use tax exemption under Subsection
- 5398 59-12-104[(86)](73).
- 5399 (b) The certification provided by the office under Subsection (2)(a) shall be renewed
- 5400 annually.
- 5401 (c) The office:
- 5402 (i) shall accept a copy of a report submitted by a refiner to the Environmental
- 5403 Protection Agency under 40 C.F.R. Sec. 80.1652 as sufficient evidence of the refiner's average
- 5404 gasoline sulfur level; or
- 5405 (ii) may establish another reporting mechanism through rules made under Subsection
- 5406 (3).
- 5407 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 5408 office may make rules to implement this section.
- 5409 Section 52. Section 72-1-201 is amended to read:
- 5410 **72-1-201. Creation of Department of Transportation -- Functions, powers, duties,**
- 5411 **rights, and responsibilities.**
- 5412 (1) There is created the Department of Transportation which shall:
- 5413 (a) have the general responsibility for planning, research, design, construction,
- 5414 maintenance, security, and safety of state transportation systems;
- 5415 (b) provide administration for state transportation systems and programs;
- 5416 (c) implement the transportation policies of the state;
- 5417 (d) plan, develop, construct, and maintain state transportation systems that are safe,
- 5418 reliable, environmentally sensitive, and serve the needs of the traveling public, commerce, and
- 5419 industry;
- 5420 (e) establish standards and procedures regarding the technical details of administration
- 5421 of the state transportation systems as established by statute and administrative rule;

5422 (f) advise the governor and the Legislature about state transportation systems needs;

5423 (g) coordinate with utility companies for the reasonable, efficient, and cost-effective  
5424 installation, maintenance, operation, relocation, and upgrade of utilities within state highway  
5425 rights-of-way;

5426 (h) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
5427 make rules for the administration of the department, state transportation systems, and  
5428 programs;

5429 (i) jointly with the commission annually report to the Transportation Interim  
5430 Committee, by November 30 of each year, as to the operation, maintenance, condition,  
5431 mobility, and safety needs for state transportation systems;

5432 (j) ensure that any training or certification required of a public official or public  
5433 employee, as those terms are defined in Section [63G-22-102](#), complies with Title 63G, Chapter  
5434 22, State Training and Certification Requirements, if the training or certification is required:

5435 (i) under this title;

5436 (ii) by the department; or

5437 (iii) by an agency or division within the department; [~~and~~]

5438 (k) study and make recommendations to the Legislature on potential managed lane use  
5439 and implementation on selected transportation systems within the state[-]; and

5440 (l) implement one or more strategies to manage congestion on state highways and  
5441 generate highway user fees, including the use of one or more high occupancy toll lanes as  
5442 defined in Section [72-6-118](#) and implementation of the technology described in Subsection  
5443 [72-6-118\(2\)\(e\)](#).

5444 (2) (a) The department shall exercise reasonable care in designing, constructing, and  
5445 maintaining a state highway in a reasonably safe condition for travel.

5446 (b) Nothing in this section shall be construed as:

5447 (i) creating a private right of action; or

5448 (ii) expanding or changing the department's common law duty as described in  
5449 Subsection (2)(a) for liability purposes.

5450 Section 53. Section **72-1-213.1** is amended to read:

5451 **72-1-213.1. Road usage charge program.**

5452 (1) As used in this section:

- 5453 (a) "Account manager" means an entity under contract with the department to  
5454 administer and manage the road usage charge program.
- 5455 (b) "Alternative fuel vehicle" means the same as that term is defined in Section  
5456 [41-1a-102](#).
- 5457 (c) "Payment period" means the interval during which an owner is required to report  
5458 mileage and pay the appropriate road usage charge according to the terms of the program.
- 5459 (d) "Program" means the road usage charge program established and described in this  
5460 section.
- 5461 (2) There is established a road usage charge program as described in this section.
- 5462 (3) (a) The department shall implement and oversee the administration of the program,  
5463 which shall begin on January 1, 2020.
- 5464 (b) To implement and administer the program, the department may contract with an  
5465 account manager.
- 5466 (4) (a) The owner or lessee of an alternative fuel vehicle may apply for enrollment of  
5467 the alternative fuel vehicle in the program.
- 5468 (b) If an application for enrollment into the program is approved by the department, the  
5469 owner or lessee of an alternative fuel vehicle may participate in the program in lieu of paying  
5470 the fee described in Subsection [41-1a-1206](#)(1)(h) or (2)(b).
- 5471 (5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
5472 and consistent with this section, the department:
- 5473 (i) shall make rules to establish:
- 5474 (A) processes and terms for enrollment into and withdrawal or removal from the  
5475 program;
- 5476 (B) payment periods and other payment methods and procedures for the program;
- 5477 (C) standards for mileage reporting mechanisms for an owner or lessee of an  
5478 alternative fuel vehicle to report mileage as part of participation in the program;
- 5479 (D) standards for program functions for mileage recording, payment processing,  
5480 account management, and other similar aspects of the program;
- 5481 (E) contractual terms between an owner or lessee of an alternative fuel vehicle owner  
5482 and an account manager for participation in the program;
- 5483 (F) contractual terms between the department and an account manager, including

5484 authority for an account manager to enforce the terms of the program;

5485 (G) procedures to provide security and protection of personal information and data  
5486 connected to the program, and penalties for account managers for violating privacy protection  
5487 rules;

5488 (H) penalty procedures for a program participant's failure to pay a road usage charge or  
5489 tampering with a device necessary for the program; and

5490 (I) department oversight of an account manager, including privacy protection of  
5491 personal information and access and auditing capability of financial and other records related to  
5492 administration of the program; and

5493 (ii) may make rules to establish:

5494 (A) an enrollment cap for certain alternative fuel vehicle types to participate in the  
5495 program;

5496 (B) a process for collection of an unpaid road usage charge or penalty; or

5497 (C) integration of the program with other similar programs, such as tolling.

5498 (b) The department shall make recommendations to and consult with the commission  
5499 regarding road usage mileage rates for each type of alternative fuel vehicle.

5500 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and  
5501 consistent with this section, the commission shall, after consultation with the department, make  
5502 rules to establish the road usage charge mileage rate for each type of alternative fuel vehicle.

5503 (7) (a) Revenue generated by the road usage charge program and relevant penalties  
5504 shall be deposited into the Transportation Fund.

5505 (b) The department may use revenue generated by the program to cover the costs of  
5506 administering the program.

5507 (8) (a) The department may:

5508 (i) (A) impose a penalty for failure to timely pay a road usage charge according to the  
5509 terms of the program or tampering with a device necessary for the program; and

5510 (B) request that the Division of Motor Vehicles place a hold on the registration of the  
5511 owner's or lessee's alternative fuel vehicle for failure to pay a road usage charge according to  
5512 the terms of the program;

5513 (ii) send correspondence to the owner of an alternative fuel vehicle to inform the owner  
5514 or lessee of:

- 5515 (A) the road usage charge program, implementation, and procedures;
- 5516 (B) an unpaid road usage charge and the amount of the road usage charge to be paid to  
5517 the department;
- 5518 (C) the penalty for failure to pay a road usage charge within the time period described  
5519 in Subsection (8)(a)(iii); and
- 5520 (D) a hold being placed on the owner's or lessee's registration for the alternative fuel  
5521 vehicle, if the road usage charge and penalty are not paid within the time period described in  
5522 Subsection (8)(a)(iii), which would prevent the renewal of the alternative fuel vehicle's  
5523 registration; and
- 5524 (iii) require that the owner or lessee of the alternative fuel vehicle pay the road usage  
5525 charge to the department within 30 days of the date when the department sends written notice  
5526 of the road usage charge to the owner or lessee.
- 5527 (b) The department shall send the correspondence and notice described in Subsection  
5528 (8)(a) to the owner of the alternative fuel vehicle according to the terms of the program.
- 5529 (9) (a) The Division of Motor Vehicles and the department shall share and provide  
5530 access to information pertaining to an alternative fuel vehicle and participation in the program  
5531 including:
- 5532 (i) registration and ownership information pertaining to an alternative fuel vehicle;
- 5533 (ii) information regarding the failure of an alternative fuel vehicle owner or lessee to  
5534 pay a road usage charge or penalty imposed under this section within the time period described  
5535 in Subsection (8)(a)(iii); and
- 5536 (iii) the status of a request for a hold on the registration of an alternative fuel vehicle.
- 5537 (b) If the department requests a hold on the registration in accordance with this section,  
5538 the Division of Motor Vehicles may not renew the registration of a motor vehicle under Title  
5539 41, Chapter 1a, Part 2, Registration, until the department withdraws the hold request.
- 5540 (10) The owner of an alternative fuel vehicle may apply for enrollment in the program  
5541 or withdraw from the program according to the terms established by the department pursuant to  
5542 rules made under Subsection (5).
- 5543 (11) If enrolled in the program, the owner or lessee of an alternative fuel vehicle shall:
- 5544 (a) report mileage driven as required by the department pursuant to Subsection (5);
- 5545 (b) pay the road usage fee for each payment period as set by the department and the

5546 commission pursuant to Subsections (5) and (6); and

5547 (c) comply with all other provisions of this section and other requirements of the  
5548 program.

5549 (12) On or before October 1 of each year, the department shall submit an electronic  
5550 report to a legislative committee designated by the Legislative Management Committee that:

5551 (a) describes the amount of revenue generated by the program during the preceding  
5552 fiscal year; and

5553 (b) recommends strategies for expanding enrollment in the program.

5554 Section 54. Section **72-2-120** is amended to read:

5555 **72-2-120. Tollway Special Revenue Fund -- Revenue.**

5556 (1) There is created a special revenue fund within the Transportation Fund known as  
5557 the "Tollway Special Revenue Fund."

5558 (2) The fund shall be funded from the following sources:

5559 (a) tolls collected by the department under Section [72-6-118](#);

5560 (b) funds received by the department through a tollway development agreement under  
5561 Section [72-6-203](#);

5562 (c) appropriations made to the fund by the Legislature;

5563 (d) contributions from other public and private sources for deposit into the fund;

5564 (e) interest earnings on cash balances; and

5565 (f) money collected for repayments and interest on fund money.

5566 (3) The Division of Finance may create a subaccount for each tollway as defined in  
5567 Section [72-6-118](#).

5568 (4) The commission may authorize the money deposited into the fund to be spent by  
5569 the department [~~to establish and operate tollways and related facilities and state transportation~~  
5570 ~~systems, including design, construction, reconstruction, operation, maintenance, enforcement,~~  
5571 ~~impacts from tollways, and the acquisition of right-of-way] for any state transportation  
5572 purpose.~~

5573 Section 55. Section **72-2-124** is amended to read:

5574 **72-2-124. Transportation Investment Fund of 2005.**

5575 (1) There is created a capital projects fund entitled the Transportation Investment Fund  
5576 of 2005.

- 5577 (2) The fund consists of money generated from the following sources:
- 5578 (a) any voluntary contributions received for the maintenance, construction,
- 5579 reconstruction, or renovation of state and federal highways;
- 5580 (b) appropriations made to the fund by the Legislature;
- 5581 (c) registration fees designated under Section [41-1a-1201](#);
- 5582 (d) the sales and use tax revenues deposited into the fund in accordance with [~~Section~~
- 5583 ~~59-12-103~~; and] Sections [59-12-103](#) and [59-12-130](#);
- 5584 (e) the additional special fuel tax revenues deposited into the fund in accordance with
- 5585 Section [59-13-323](#); and
- 5586 ~~[(e)]~~ (f) revenues transferred to the fund in accordance with Section [72-2-106](#).
- 5587 (3) (a) The fund shall earn interest.
- 5588 (b) All interest earned on fund money shall be deposited into the fund.
- 5589 (4) (a) Except as provided in Subsection (4)(b), the executive director may only use
- 5590 fund money to pay:
- 5591 (i) the costs of maintenance, construction, reconstruction, or renovation to state and
- 5592 federal highways prioritized by the Transportation Commission through the prioritization
- 5593 process for new transportation capacity projects adopted under Section [72-1-304](#);
- 5594 (ii) the costs of maintenance, construction, reconstruction, or renovation to the highway
- 5595 projects described in Subsections [63B-18-401](#)(2), (3), and (4);
- 5596 (iii) principal, interest, and issuance costs of bonds authorized by Section [63B-18-401](#)
- 5597 minus the costs paid from the County of the First Class Highway Projects Fund in accordance
- 5598 with Subsection [72-2-121](#)(4)(f);
- 5599 (iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt
- 5600 Lake County Revenue Bond Sinking Fund created by Section [72-2-121.3](#) the amount certified
- 5601 by Salt Lake County in accordance with Subsection [72-2-121.3](#)(4)(c) as necessary to pay the
- 5602 debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;
- 5603 (v) principal, interest, and issuance costs of bonds authorized by Section [63B-16-101](#)
- 5604 for projects prioritized in accordance with Section [72-2-125](#);
- 5605 (vi) all highway general obligation bonds that are intended to be paid from revenues in
- 5606 the Centennial Highway Fund created by Section [72-2-118](#);
- 5607 (vii) for fiscal year 2015-16 only, to transfer \$25,000,000 to the County of the First

5608 Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described  
5609 in Section 72-2-121; and

5610 (viii) if a political subdivision provides a contribution equal to or greater than 40% of  
5611 the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved  
5612 nonmotorized transportation for projects that:

5613 (A) mitigate traffic congestion on the state highway system;

5614 (B) are part of an active transportation plan approved by the department; and

5615 (C) are prioritized by the commission through the prioritization process for new  
5616 transportation capacity projects adopted under Section 72-1-304.

5617 (b) The executive director may use fund money to exchange for an equal or greater  
5618 amount of federal transportation funds to be used as provided in Subsection (4)(a).

5619 (5) (a) Except as provided in Subsection (5)(b), the executive director may not use fund  
5620 money, including fund money from the Transit Transportation Investment Fund, within the  
5621 boundaries of a municipality that is required to adopt a moderate income housing plan element  
5622 as part of the municipality's general plan as described in Subsection 10-9a-401(3), if the  
5623 municipality has failed to adopt a moderate income housing plan element as part of the  
5624 municipality's general plan or has failed to implement the requirements of the moderate income  
5625 housing plan as determined by the results of the Department of Workforce Service's review of  
5626 the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

5627 (b) Within the boundaries of a municipality that is required under Subsection  
5628 10-9a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate  
5629 income housing plan element as part of the municipality's general plan or has failed to  
5630 implement the requirements of the moderate income housing plan as determined by the results  
5631 of the Department of Workforce Service's review of the annual moderate income housing  
5632 report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

5633 (i) may use fund money in accordance with Subsection (4)(a) for a limited-access  
5634 facility;

5635 (ii) may not use fund money for the construction, reconstruction, or renovation of an  
5636 interchange on a limited-access facility;

5637 (iii) may use Transit Transportation Investment Fund money for a multi-community  
5638 fixed guideway public transportation project; and

5639 (iv) may not use Transit Transportation Investment Fund money for the construction,  
5640 reconstruction, or renovation of a station that is part of a fixed guideway public transportation  
5641 project.

5642 (6) (a) Except as provided in Subsection (6)(b), the executive director may not use fund  
5643 money, including fund money from the Transit Transportation Investment Fund, within the  
5644 boundaries of the unincorporated area of a county, if the county is required to adopt a moderate  
5645 income housing plan element as part of the county's general plan as described in Subsection  
5646 17-27a-401(3) and if the county has failed to adopt a moderate income housing plan element as  
5647 part of the county's general plan or has failed to implement the requirements of the moderate  
5648 income housing plan as determined by the results of the Department of Workforce Service's  
5649 review of the annual moderate income housing report described in Subsection  
5650 35A-8-803(1)(a)(vii).

5651 (b) Within the boundaries of the unincorporated area of a county where the county is  
5652 required under Subsection 17-27a-401(3) to plan for moderate income housing growth but has  
5653 failed to adopt a moderate income housing plan element as part of the county's general plan or  
5654 has failed to implement the requirements of the moderate income housing plan as determined  
5655 by the results of the Department of Workforce Service's review of the annual moderate income  
5656 housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

5657 (i) may use fund money in accordance with Subsection (4)(a) for a limited-access  
5658 facility;

5659 (ii) may not use fund money for the construction, reconstruction, or renovation of an  
5660 interchange on a limited-access facility;

5661 (iii) may use Transit Transportation Investment Fund money for a multi-community  
5662 fixed guideway public transportation project; and

5663 (iv) may not use Transit Transportation Investment Fund money for the construction,  
5664 reconstruction, or renovation of a station that is part of a fixed guideway public transportation  
5665 project.

5666 (7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued  
5667 in any fiscal year, the department and the commission shall appear before the Executive  
5668 Appropriations Committee of the Legislature and present the amount of bond proceeds that the  
5669 department needs to provide funding for the projects identified in Subsections 63B-18-401(2),

5670 (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

5671 (b) The Executive Appropriations Committee of the Legislature shall review and  
5672 comment on the amount of bond proceeds needed to fund the projects.

5673 (8) The Division of Finance shall, from money deposited into the fund, transfer the  
5674 amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by  
5675 Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or  
5676 sinking fund.

5677 (9) (a) There is created in the Transportation Investment Fund of 2005 the Transit  
5678 Transportation Investment Fund.

5679 (b) The fund shall be funded by:

5680 (i) contributions deposited into the fund in accordance with Section 59-12-103;

5681 (ii) appropriations into the account by the Legislature;

5682 (iii) private contributions; and

5683 (iv) donations or grants from public or private entities.

5684 (c) (i) The fund shall earn interest.

5685 (ii) All interest earned on fund money shall be deposited into the fund.

5686 (d) Subject to Subsection (9)(e), the Legislature may appropriate money from the fund  
5687 for public transit capital development of new capacity projects to be used as prioritized by the  
5688 commission.

5689 (e) (i) The Legislature may only appropriate money from the fund for a public transit  
5690 capital development project or pedestrian or nonmotorized transportation project that provides  
5691 connection to the public transit system if the public transit district or political subdivision  
5692 provides funds of equal to or greater than 40% of the costs needed for the project.

5693 (ii) A public transit district or political subdivision may use money derived from a loan  
5694 granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or  
5695 part of the 40% requirement described in Subsection (9)(e)(i) if:

5696 (A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2,  
5697 State Infrastructure Bank Fund; and

5698 (B) the proposed capital project has been prioritized by the commission pursuant to  
5699 Section 72-1-303.

5700 Section 56. Section 72-6-118 is amended to read:

5701           **72-6-118. Definitions -- Establishment and operation of tollways -- Imposition**  
5702 **and collection of tolls -- Amount of tolls -- Rulemaking.**

5703           (1) As used in this section:

5704           (a) (i) [~~High~~] Before January 1, 2025, "high occupancy toll lane" means a high  
5705 occupancy vehicle lane designated under Section 41-6a-702 that may be used by an operator of  
5706 a vehicle carrying less than the number of persons specified for the high occupancy vehicle  
5707 lane if the operator of the vehicle pays a toll or fee.

5708           (ii) On or after January 1, 2025, "high occupancy toll lane" means a high occupancy  
5709 vehicle lane designated under Section 41-6a-702 that may be used by an operator of a vehicle  
5710 only if:

5711           (A) the vehicle is carrying three or more occupants; or

5712           (B) the operator pays a toll or fee.

5713           (b) "Toll" means any tax, fee, or charge assessed for the specific use of a tollway.

5714           (c) "Toll lane" means a designated new highway or additional lane capacity that is  
5715 constructed, operated, or maintained for which a toll is charged for its use.

5716           (d) (i) "Tollway" means a highway, highway lane, bridge, path, tunnel, or right-of-way  
5717 designed and used as a transportation route that is constructed, operated, or maintained through  
5718 the use of toll revenues.

5719           (ii) "Tollway" includes a high occupancy toll lane and a toll lane.

5720           (e) "Tollway development agreement" has the same meaning as defined in Section  
5721 [72-6-202](#).

5722           (2) Subject to the provisions of Subsection (3), the department may:

5723           (a) establish, expand, and operate tollways and related facilities for the purpose of  
5724 funding in whole or in part the acquisition of right-of-way and the design, construction,  
5725 reconstruction, operation, enforcement, and maintenance of or impacts from a transportation  
5726 route for use by the public;

5727           (b) enter into contracts, agreements, licenses, franchises, tollway development  
5728 agreements, or other arrangements to implement this section;

5729           (c) impose and collect tolls on any tollway established under this section, including  
5730 collection of past due payment of a toll or penalty;

5731           (d) grant exclusive or nonexclusive rights to a private entity to impose and collect tolls

5732 pursuant to the terms and conditions of a tollway development agreement;

5733 (e) use technology to automatically monitor a tollway and collect payment of a toll,

5734 including:

5735 (i) license plate reading technology; and

5736 (ii) photographic or video recording technology; and

5737 (f) in accordance with Subsection (5), request that the Division of Motor Vehicles deny

5738 a request for registration of a motor vehicle if the motor vehicle owner has failed to pay a toll

5739 or penalty imposed for usage of a tollway involving the motor vehicle for which registration

5740 renewal has been requested.

5741 (3) (a) The department may establish or operate a tollway on an existing highway if

5742 approved by the commission in accordance with the terms of this section.

5743 (b) To establish a tollway on an existing highway, the department shall submit a

5744 proposal to the commission including:

5745 (i) a description of the tollway project;

5746 (ii) projected traffic on the tollway;

5747 (iii) the anticipated amount of the toll to be charged; and

5748 (iv) projected toll revenue.

5749 (4) (a) For a tollway established under this section, the department may:

5750 (i) according to the terms of each tollway, impose the toll upon the owner of a motor

5751 vehicle using the tollway according to the terms of the tollway;

5752 (ii) send correspondence to the owner of the motor vehicle to inform the owner of:

5753 (A) an unpaid toll and the amount of the toll to be paid to the department;

5754 (B) the penalty for failure to pay the toll timely; and

5755 (C) a hold being placed on the owner's registration for the motor vehicle if the toll and

5756 penalty are not paid timely, which would prevent the renewal of the motor vehicle's

5757 registration;

5758 (iii) require that the owner of the motor vehicle pay the toll to the department within 30

5759 days of the date when the department sends written notice of the toll to the owner; and

5760 (iv) impose a penalty for failure to pay a toll timely.

5761 (b) The department shall mail the correspondence and notice described in Subsection

5762 (4)(a) to the owner of the motor vehicle according to the terms of a tollway.

5763 (5) (a) The Division of Motor Vehicles and the department shall share and provide  
5764 access to information pertaining to a motor vehicle and tollway enforcement including:

5765 (i) registration and ownership information pertaining to a motor vehicle;

5766 (ii) information regarding the failure of a motor vehicle owner to timely pay a toll or  
5767 penalty imposed under this section; and

5768 (iii) the status of a request for a hold on the registration of a motor vehicle.

5769 (b) If the department requests a hold on the registration in accordance with this section,  
5770 the Division of Motor Vehicles may not renew the registration of a motor vehicle under Title  
5771 41, Chapter 1a, Part 2, Registration, if the owner of the motor vehicle has failed to pay a toll or  
5772 penalty imposed under this section for usage of a tollway involving the motor vehicle for which  
5773 registration renewal has been requested until the department withdraws the hold request.

5774 (6) (a) Except as provided in Subsection (6)(b), in accordance with Title 63G, Chapter  
5775 3, Utah Administrative Rulemaking Act, the commission shall:

5776 (i) set the amount of any toll imposed or collected on a tollway on a state highway; and

5777 (ii) for tolls established under Subsection (6)(b), set:

5778 (A) an increase in a toll rate or user fee above an increase specified in a tollway  
5779 development agreement; or

5780 (B) an increase in a toll rate or user fee above a maximum toll rate specified in a  
5781 tollway development agreement.

5782 (b) A toll or user fee and an increase to a toll or user fee imposed or collected on a  
5783 tollway on a state highway that is the subject of a tollway development agreement shall be set  
5784 in the tollway development agreement.

5785 (7) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
5786 the department shall make rules:

5787 (i) necessary to establish and operate tollways on state highways;

5788 (ii) that establish standards and specifications for automatic tolling systems and  
5789 automatic tollway monitoring technology; and

5790 (iii) to set the amount of a penalty for failure to pay a toll under this section.

5791 (b) The rules shall:

5792 (i) include minimum criteria for having a tollway; and

5793 (ii) conform to regional and national standards for automatic tolling.

5794 (8) (a) The commission may provide funds for public or private tollway pilot projects  
5795 or high occupancy toll lanes from General Fund money appropriated by the Legislature to the  
5796 commission for that purpose.

5797 (b) The commission may determine priorities and funding levels for tollways  
5798 designated under this section.

5799 (9) (a) Except as provided in Subsection (9)(b), all revenue generated from a tollway  
5800 on a state highway shall be deposited into the Tollway Special Revenue Fund created in  
5801 Section 72-2-120 and used for [~~acquisition of right-of-way and the design, construction,~~  
5802 ~~reconstruction, operation, maintenance, enforcement of state transportation systems and~~  
5803 ~~facilities, including operating improvements to the tollway, and other facilities used exclusively~~  
5804 ~~for the operation of a tollway facility within the corridor served by the tollway]~~ any state  
5805 transportation purpose.

5806 (b) Revenue generated from a tollway that is the subject of a tollway development  
5807 agreement shall be deposited into the Tollway Special Revenue Fund and used in accordance  
5808 with Subsection (9)(a) unless:

5809 (i) the revenue is to a private entity through the tollway development agreement; or  
5810 (ii) the revenue is identified for a different purpose under the tollway development  
5811 agreement.

5812 (10) Data described in Subsection (2)(e) obtained for the purposes of this section:

5813 (a) in accordance with Section 63G-2-305, is a protected record under Title 63G,  
5814 Chapter 2, Government Records Access and Management Act, if the photographic or video  
5815 data is maintained by a governmental entity;

5816 (b) may not be used or shared for any purpose other than the purposes described in this  
5817 section;

5818 (c) may only be preserved:

5819 (i) so long as necessary to collect the payment of a toll or penalty imposed in  
5820 accordance with this section; or

5821 (ii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an  
5822 equivalent federal warrant; and

5823 (d) may only be disclosed:

5824 (i) in accordance with the disclosure requirements for a protected record under Section

5825 [63G-2-202](#); or

5826 (ii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an  
5827 equivalent federal warrant.

5828 (11) (a) The department may not sell for any purpose photographic or video data  
5829 captured under Subsection (2)(e)(ii).

5830 (b) The department may not share captured photographic or video data for a purpose  
5831 not authorized under this section.

5832 ~~[(12) Before November 1, 2018, the Driver License Division, the Division of Motor  
5833 Vehicles, and the department shall jointly study and report findings and recommendations to  
5834 the Transportation Interim Committee regarding the use of Title 53, Chapter 3, Part 6, Drivers'  
5835 License Compact, and other methods to collect a toll or penalty under this section from:]~~

5836 ~~[(a) an owner of a motor vehicle registered outside this state; or]~~

5837 ~~[(b) a driver or lessee of a motor vehicle leased or rented for 30 days or less.]~~

5838 Section 57. Section **72-9-603** is amended to read:

5839 **72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned**  
5840 **vehicle title restrictions -- Rules for maximum rates and certification.**

5841 (1) Except for a tow truck service that was ordered by a peace officer, or a person  
5842 acting on behalf of a law enforcement agency, or a highway authority, after performing a tow  
5843 truck service that is being done without the vehicle, vessel, or outboard motor owner's  
5844 knowledge, the tow truck operator or the tow truck motor carrier shall:

5845 (a) immediately upon arriving at the place of storage or impound of the vehicle, vessel,  
5846 or outboard motor:

5847 (i) send a report of the removal to the Motor Vehicle Division that complies with the  
5848 requirements of Subsection [41-6a-1406\(4\)\(b\)](#); and

5849 (ii) contact the law enforcement agency having jurisdiction over the area where the  
5850 vehicle, vessel, or outboard motor was picked up and notify the agency of the:

5851 (A) location of the vehicle, vessel, or outboard motor;

5852 (B) date, time, and location from which the vehicle, vessel, or outboard motor was  
5853 removed;

5854 (C) reasons for the removal of the vehicle, vessel, or outboard motor;

5855 (D) person who requested the removal of the vehicle, vessel, or outboard motor; and

5856 (E) description, including the identification number, license number, or other  
5857 identification number issued by a state agency, of the vehicle, vessel, or outboard motor;

5858 (b) within two business days of performing the tow truck service under Subsection  
5859 (1)(a), send a certified letter to the last-known address of each party described in Subsection  
5860 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor obtained from the  
5861 Motor Vehicle Division or, if the person has actual knowledge of the party's address, to the  
5862 current address, notifying the party of the:

5863 (i) location of the vehicle, vessel, or outboard motor;

5864 (ii) date, time, and location from which the vehicle, vessel, or outboard motor was  
5865 removed;

5866 (iii) reasons for the removal of the vehicle, vessel, or outboard motor;

5867 (iv) person who requested the removal of the vehicle, vessel, or outboard motor;

5868 (v) a description, including its identification number and license number or other  
5869 identification number issued by a state agency; and

5870 (vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor; and

5871 (c) upon initial contact with the owner whose vehicle, vessel, or outboard motor was  
5872 removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding  
5873 Towing established by the department in Subsection (7)(e).

5874 (2) (a) Until the tow truck operator or tow truck motor carrier reports the removal as  
5875 required under Subsection (1)(a), a tow truck operator, tow truck motor carrier, or impound  
5876 yard may not:

5877 (i) collect any fee associated with the removal; or

5878 (ii) begin charging storage fees.

5879 (b) (i) Except as provided in Subsection (2)(c), a tow truck operator or tow truck motor  
5880 carrier may not perform a tow truck service without the vehicle, vessel, or outboard motor  
5881 owner's or a lien holder's knowledge at either of the following locations without signage that  
5882 meets the requirements of Subsection (2)(b)(ii):

5883 (A) a mobile home park as defined in Section 57-16-3; or

5884 (B) a multifamily dwelling of more than eight units.

5885 (ii) Signage under Subsection (2)(b)(i) shall display:

5886 (A) where parking is subject to towing; and

5887 (B) (I) the Internet website address that provides access to towing database information  
5888 in accordance with Section 41-6a-1406; or

5889 (II) one of the following:

5890 (Aa) the name and phone number of the tow truck operator or tow truck motor carrier  
5891 that performs a tow truck service for the locations listed under Subsection (2)(b)(i); or

5892 (Bb) the name of the mobile home park or multifamily dwelling and the phone number  
5893 of the mobile home park or multifamily dwelling manager or management office that  
5894 authorized the vehicle, vessel, or outboard motor to be towed.

5895 (c) Signage is not required under Subsection (2)(b) for parking in a location:

5896 (i) that is prohibited by law; or

5897 (ii) if it is reasonably apparent that the location is not open to parking.

5898 (d) Nothing in Subsection (2)(b) restricts the ability of a mobile home park as defined  
5899 in Section 57-16-3 or a multifamily dwelling from instituting and enforcing regulations on  
5900 parking.

5901 (3) The party described in Subsection 41-6a-1406(5)(a) with an interest in a vehicle,  
5902 vessel, or outboard motor lawfully removed is only responsible for paying:

5903 (a) the tow truck service and storage fees set in accordance with Subsection (7); ~~and~~

5904 (b) the administrative impound fee set in Section 41-6a-1406, if applicable[-]; and

5905 (c) the applicable sales and use tax.

5906 (4) (a) The fees under Subsection (3) are a possessory lien on the vehicle, vessel, or  
5907 outboard motor and any nonlife essential items contained in the vehicle, vessel, or outboard  
5908 motor that are owned by the owner of the vehicle, vessel, or outboard motor until paid.

5909 (b) The tow truck operator or tow truck motor carrier shall securely store the vehicle,  
5910 vessel, or outboard motor and items described in Subsection (4)(a) in an approved state  
5911 impound yard until a party described in Subsection 41-6a-1406(5)(a) with an interest in the  
5912 vehicle, vessel, or outboard motor:

5913 (i) pays the ~~fees~~ amounts described in Subsection (3); and

5914 (ii) removes the vehicle, vessel, or outboard motor from the state impound yard.

5915 (5) (a) A vehicle, vessel, or outboard motor shall be considered abandoned if a party  
5916 described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard  
5917 motor does not, within 30 days after notice has been sent under Subsection (1)(b):

- 5918 (i) pay the [~~fees~~] amounts described in Subsection (3); and
- 5919 (ii) remove the vehicle, vessel, or outboard motor from the secure storage facility.
- 5920 (b) A person may not request a transfer of title to an abandoned vehicle, vessel, or
- 5921 outboard motor until at least 30 days after notice has been sent under Subsection (1)(b).
- 5922 (6) (a) A tow truck motor carrier or impound yard shall clearly and conspicuously post
- 5923 and disclose all its current fees, rates, and acceptable forms of payment for tow truck service
- 5924 and storage of a vehicle in accordance with rules established under Subsection (7).
- 5925 (b) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept
- 5926 payment by cash and debit or credit card for a tow truck service under Subsection (1) or any
- 5927 service rendered, performed, or supplied in connection with a tow truck service under
- 5928 Subsection (1).
- 5929 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 5930 department shall:
- 5931 (a) subject to the restriction in Subsection (8), set maximum rates that:
- 5932 (i) a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel,
- 5933 or outboard motor that are transported in response to:
- 5934 (A) a peace officer dispatch call;
- 5935 (B) a motor vehicle division call; and
- 5936 (C) any other call or request where the owner of the vehicle, vessel, or outboard motor
- 5937 has not consented to the removal; and
- 5938 (ii) an impound yard may charge for the storage of a vehicle, vessel, or outboard motor
- 5939 stored as a result of one of the conditions listed under Subsection (7)(a)(i);
- 5940 (b) establish authorized towing certification requirements, not in conflict with federal
- 5941 law, related to incident safety, clean-up, and hazardous material handling;
- 5942 (c) specify the form and content of the posting and disclosure of fees and rates charged
- 5943 and acceptable forms of payment by a tow truck motor carrier or impound yard;
- 5944 (d) set a maximum rate for an administrative fee that a tow truck motor carrier may
- 5945 charge for reporting the removal as required under Subsection (1)(a)(i) and providing notice of
- 5946 the removal to each party described in Subsection [41-6a-1406\(5\)\(a\)](#) with an interest in the
- 5947 vehicle, vessel, or outboard motor as required in Subsection (1)(b); and
- 5948 (e) establish a Utah Consumer Bill of Rights Regarding Towing form that contains

5949 specific information regarding:

5950 (i) a vehicle owner's rights and responsibilities if the owner's vehicle is towed;

5951 (ii) identifies the maximum rates that a tow truck motor carrier may charge for the tow  
5952 truck service of a vehicle, vessel, or outboard motor that is transported in response to a call or  
5953 request where the owner of the vehicle, vessel, or outboard motor has not consented to the  
5954 removal; and

5955 (iii) identifies the maximum rates that an impound yard may charge for the storage of  
5956 vehicle, vessel, or outboard motor that is transported in response to a call or request where the  
5957 owner of the vehicle, vessel, or outboard motor has not consented to the removal.

5958 (8) An impound yard may not charge a fee for the storage of an impounded vehicle,  
5959 vessel, or outboard motor if:

5960 (a) the vehicle, vessel, or outboard motor is being held as evidence; and

5961 (b) the vehicle, vessel, or outboard motor is not being released to a party described in  
5962 Subsection 41-6a-1406(5)(a), even if the party satisfies the requirements to release the vehicle,  
5963 vessel, or outboard motor under Section 41-6a-1406.

5964 (9) (a) (i) A tow truck motor carrier may charge a rate up to the maximum rate set by  
5965 the department in rules made under Subsection (7).

5966 (ii) In addition to the maximum rates established under Subsection (7) [~~and when~~  
5967 ~~receiving payment by credit card~~], a tow truck operator, a tow truck motor carrier, or an  
5968 impound yard:

5969 (A) shall collect the sales and use tax due; and

5970 (B) when receiving payment by credit card, may charge a credit card processing fee of  
5971 3% of the transaction total.

5972 (b) A tow truck motor carrier may not be required to maintain insurance coverage at a  
5973 higher level than required in rules made pursuant to Subsection (7).

5974 (10) When a tow truck motor carrier or impound lot is in possession of a vehicle,  
5975 vessel, or outboard motor as a result of a tow service that was performed without the consent of  
5976 the owner, and that was not ordered by a peace officer or a person acting on behalf of a law  
5977 enforcement agency, the tow truck motor carrier or impound yard shall make personnel  
5978 available:

5979 (a) by phone 24 hours a day, seven days a week; and

5980 (b) to release the impounded vehicle, vessel, or outboard motor to the owner within  
5981 one hour of when the owner calls the tow truck motor carrier or impound yard.

5982 Section 58. **Repealer.**

5983 This bill repeals:

5984 Section **53F-9-304, Underage Drinking Prevention Program Restricted Account.**

5985 Section **59-12-104.4, Seller recordkeeping for purposes of higher education**  
5986 **textbook exemption -- Rulemaking authority.**

5987 Section 59. **Appropriations.**

5988 Subsection 59 (a). **Fiscal Year 2020 Appropriation -- Transfers to Unrestricted**  
5989 **Funds.**

5990 The following sums of money are appropriated for the fiscal year beginning July 1,  
5991 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for  
5992 fiscal year 2020.

5993 The Legislature authorizes the State Division of Finance to transfer the following  
5994 amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as  
5995 indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the  
5996 General Fund, Education Fund, or Uniform School Fund must be authorized by an  
5997 appropriation.

5998 ITEM 1

5999 To General Fund, One-time

6000 From Education Fund Restricted --

6001 Underage Drinking Prevention Program Restricted Account \$1,750,000

6002 Schedule of Programs:

6003 General Fund, One-time \$1,750,000

6004 The Legislature intends that, after satisfying all prior appropriations from the Underage  
6005 Drinking Prevention Program Restricted Account, the State Division of Finance transfer all  
6006 remaining balances in the Underage Drinking Prevention Program Restricted Account to the  
6007 General Fund at the close of fiscal year 2020 and close the account.

6008 Subsection 59 (b). **Fiscal Year 2021 Appropriations -- Operating and Capital**  
6009 **Budgets.**

6010 The following sums of money are appropriated for the fiscal year beginning July 1,

6011	<u>2020, and ending June 30, 2021. These are additions to amounts otherwise appropriated for</u>	
6012	<u>fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures</u>	
6013	<u>Act, the Legislature appropriates the following sums of money from the funds or accounts</u>	
6014	<u>indicated for the use and support of the government of the state of Utah.</u>	
6015	<u>ITEM 2</u>	
6016	<u>To State Board of Education -- Child Nutrition</u>	
6017	<u>From Education Fund</u>	<u>\$55,500,000</u>
6018	<u>From Dedicated Credits -- Liquor Tax</u>	<u>(\$55,500,000)</u>
6019	<u>ITEM 3</u>	
6020	<u>To State Board of Education -- State Administrative Office</u>	
6021	<u>From Education Fund</u>	<u>\$2,850,000</u>
6022	<u>From Education Fund Restricted --</u>	
6023	<u>Underage Drinking Prevention Program Restricted Account</u>	<u>(\$2,850,000)</u>
6024	<u>ITEM 4</u>	
6025	<u>To University of Utah -- Education and General</u>	
6026	<u>From General Fund</u>	<u>\$101,608,900</u>
6027	<u>From Education Fund</u>	<u>(\$101,608,900)</u>
6028	<u>ITEM 5</u>	
6029	<u>To University of Utah -- School of Medicine</u>	
6030	<u>From General Fund</u>	<u>\$35,899,500</u>
6031	<u>From Education Fund</u>	<u>(\$35,899,500)</u>
6032	<u>ITEM 6</u>	
6033	<u>To University of Utah -- University Hospital</u>	
6034	<u>From General Fund</u>	<u>\$1,533,000</u>
6035	<u>From Education Fund</u>	<u>(\$1,533,000)</u>
6036	<u>ITEM 7</u>	
6037	<u>To University of Utah -- School of Dentistry</u>	
6038	<u>From General Fund</u>	<u>\$2,324,700</u>
6039	<u>From Education Fund</u>	<u>(\$2,324,700)</u>
6040	<u>ITEM 8</u>	
6041	<u>To Utah State University -- Education and General</u>	

6042	<u>From General Fund</u>	<u>\$73,521,400</u>
6043	<u>From Education Fund</u>	<u>(\$73,521,400)</u>
6044	<u>ITEM 9</u>	
6045	<u>To Utah State University -- USU-Eastern Education and General</u>	
6046	<u>From General Fund</u>	<u>\$12,503,400</u>
6047	<u>From Education Fund</u>	<u>(\$12,503,400)</u>
6048	<u>ITEM 10</u>	
6049	<u>To Weber State University -- Education and General</u>	
6050	<u>From General Fund</u>	<u>\$94,098,000</u>
6051	<u>From Education Fund</u>	<u>(\$94,098,000)</u>
6052	<u>ITEM 11</u>	
6053	<u>To Southern Utah University -- Education and General</u>	
6054	<u>From General Fund</u>	<u>\$47,444,900</u>
6055	<u>From Education Fund</u>	<u>(\$47,444,900)</u>
6056	<u>ITEM 12</u>	
6057	<u>To Utah Valley University -- Education and General</u>	
6058	<u>From General Fund</u>	<u>\$123,845,700</u>
6059	<u>From Education Fund</u>	<u>(\$123,845,700)</u>
6060	<u>ITEM 13</u>	
6061	<u>To Snow College -- Education and General</u>	
6062	<u>From General Fund</u>	<u>\$25,910,100</u>
6063	<u>From Education Fund</u>	<u>(\$25,910,100)</u>
6064	<u>ITEM 14</u>	
6065	<u>To Dixie State University -- Education and General</u>	
6066	<u>From General Fund</u>	<u>\$14,810,400</u>
6067	<u>From Education Fund</u>	<u>(\$14,810,400)</u>
6068	<u>ITEM 15</u>	
6069	<u>To Utah Department of Transportation -- Joint Highway Committee</u>	
6070	<u>From Transportation Fund</u>	<u>\$5,000,000</u>
6071	<u>Schedule of Programs:</u>	
6072	<u>Non-urban Road Improvements</u>	<u>\$5,000,000</u>

6073 The Legislature intends that the Utah Department of Transportation allocate the  
6074 appropriation under this item for improvement of class B roads in counties with populations of  
6075 less than 12,000.

6076 Section 60. **Effective date.**

6077 (1) Except as provided in Subsections (2) through (5), if approved by two-thirds of all  
6078 the members elected to each house, this bill takes effect on January 1, 2020.

6079 (2) If approved by two-thirds of all the members elected to each house, the actions  
6080 affecting the following sections take effect for a taxable year beginning on or after January 1,  
6081 2020:

6082 (a) Section [35A-9-214](#);

6083 (b) Section [59-7-104](#);

6084 (c) Section [59-7-201](#);

6085 (d) Section [59-7-610](#);

6086 (e) Section [59-7-614.1](#);

6087 (f) Section [59-7-618](#);

6088 (g) Section [59-7-620](#);

6089 (h) Section [59-10-104](#);

6090 (i) Section [59-10-529.1](#)

6091 (j) Section [59-10-1005](#);

6092 (k) Section [59-10-1007](#);

6093 (l) Section [59-10-1017](#);

6094 (m) Section [59-10-1017.1](#);

6095 (n) Section [59-10-1018](#);

6096 (o) Section [59-10-1019](#);

6097 (p) Section [59-10-1022](#);

6098 (q) Section [59-10-1023](#);

6099 (r) Section [59-10-1028](#);

6100 (s) Section [59-10-1033](#);

6101 (t) Section [59-10-1035](#);

6102 (u) Section [59-10-1041](#);

6103 (v) Section [59-10-1102.1](#);

- 6104 (w) Section 59-10-1105;
- 6105 (x) Section 59-10-1113;
- 6106 (y) Section 59-10-1114;
- 6107 (z) Section 59-10-1403.3; and
- 6108 (aa) Section 59-13-202.
- 6109 (3) The actions affecting the following sections take effect on April 1, 2020:
- 6110 (a) Section 15A-1-204;
- 6111 (b) Section 26-36b-208;
- 6112 (c) Section 59-1-1503;
- 6113 (d) Section 59-12-102;
- 6114 (e) Section 59-12-103;
- 6115 (f) Section 59-12-104;
- 6116 (g) Section 59-12-104.5;
- 6117 (h) Section 59-12-1201;
- 6118 (i) Section 59-13-323;
- 6119 (j) Section 63M-4-702; and
- 6120 (k) Section 72-2-124.
- 6121 (4) If approved by two-thirds of all the members elected to each house, Subsection
- 6122 59(a) of this bill takes effect upon approval by the governor, or the day following the
- 6123 constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's
- 6124 signature, or in the case of veto, the date of veto override.
- 6125 (5) Subsection 59(b) of this bill takes effect on July 1, 2020.
- 6126 **Section 61. Contingent retrospective operation.**
- 6127 If this bill is approved by less than two-thirds of all the members elected to each house,
- 6128 the actions affecting the following sections have retrospective operation for a taxable year
- 6129 beginning on or after January 1, 2020:
- 6130 (1) Section 35A-9-214;
- 6131 (2) Section 59-7-104;
- 6132 (3) Section 59-7-201;
- 6133 (4) Section 59-7-610;
- 6134 (5) Section 59-7-614.1;

- 6135            (6) Section 59-7-618;
- 6136            (7) Section 59-7-620;
- 6137            (8) Section 59-10-104;
- 6138            (9) Section 59-10-529.1
- 6139            (10) Section 59-10-1005;
- 6140            (11) Section 59-10-1007;
- 6141            (12) Section 59-10-1017;
- 6142            (13) Section 59-10-1017.1;
- 6143            (14) Section 59-10-1018;
- 6144            (15) Section 59-10-1019;
- 6145            (16) Section 59-10-1022;
- 6146            (17) Section 59-10-1023;
- 6147            (18) Section 59-10-1028;
- 6148            (19) Section 59-10-1033;
- 6149            (20) Section 59-10-1035;
- 6150            (21) Section 59-10-1041;
- 6151            (22) Section 59-10-1102.1;
- 6152            (23) Section 59-10-1105;
- 6153            (24) Section 59-10-1113;
- 6154            (25) Section 59-10-1114;
- 6155            (26) Section 59-10-1403.3; and
- 6156            (27) Section 59-13-202.