

Senator Lyle W. Hillyard proposes the following substitute bill:

TAX RESTRUCTURING REVISIONS

2019 SECOND SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Francis D. Gibson

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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



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

57 ▶ makes technical and conforming changes.

58 **Money Appropriated in this Bill:**

59 This bill appropriates in fiscal year 2020:

60 ▶ To the General Fund, as a one-time appropriation:

61 • From the Education Fund Restricted -- Underage Drinking Prevention Program
62 Restricted Account, One-time, \$1,750,000.

63 This bill appropriates in fiscal year 2021:

64 ▶ To State Board of Education -- Child Nutrition, as a one-time appropriation:

65 • From Education Fund, \$55,500,000.

66 • From Dedicated Credits -- Liquor Tax, (\$55,500,000).

67 ▶ To State Board of Education -- State Administrative Office, as an ongoing
68 appropriation:

69 • From Education Fund, \$2,850,000.

70 • From Education Fund Restricted -- Underage Drinking Prevention Program
71 Restricted Account, (\$2,850,000).

72 ▶ To University of Utah -- Education and General, as an ongoing appropriation:

73 • From General Fund, \$101,608,900.

74 • From Education Fund, (\$101,608,900).

75 ▶ To University of Utah -- School of Medicine, as an ongoing appropriation:

76 • From General Fund, \$35,899,500.

77 • From Education Fund, (\$35,899,500).

78 ▶ To University of Utah -- University Hospital, as an ongoing appropriation:

79 • From General Fund, \$1,413,500.

80 • From Education Fund, (\$1,413,500).

81 ▶ To University of Utah -- School of Dentistry, as an ongoing appropriation:

82 • From General Fund, \$2,324,700.

83 • From Education Fund, (\$2,324,700).

84 ▶ To Utah State University -- Education and General, as an ongoing appropriation:

85 • From General Fund, \$73,237,800.

86 • From Education Fund, (\$73,237,800).

87 ▶ To Utah State University -- USU-Eastern Education and General, as an ongoing

88 appropriation:

89 • From General Fund, \$12,503,400.

90 • From Education Fund, (\$12,503,400).

91 ▶ To Weber State University -- Education and General, as an ongoing appropriation:

92 • From General Fund, \$91,115,900.

93 • From Education Fund, (\$91,115,900).

94 ▶ To Southern Utah University -- Education and General, as an ongoing

95 appropriation:

96 • From General Fund, \$48,726,900.

97 • From Education Fund, (\$48,726,900).

98 ▶ To Utah Valley University -- Education and General, as an ongoing appropriation:

99 • From General Fund, \$117,745,200.

100 • From Education Fund, (\$117,745,200).

101 ▶ To Snow College -- Education and General, as an ongoing appropriation:

102 • From General Fund, \$24,831,900.

103 • From Education Fund, (\$24,831,900).

104 ▶ To Dixie State University -- Education and General, as an ongoing appropriation:

105 • From General Fund, \$14,810,400.

106 • From Education Fund, (\$14,810,400).

107 ▶ To Utah Department of Transportation -- Transportation Investment Program, as an

108 ongoing appropriation:

109 • From Transportation Investment Fund of 2005, \$5,000,000.

110 **Other Special Clauses:**

111 This bill provides a special effective date.

112 This bill provides contingent retrospective operation.

113 **Utah Code Sections Affected:**

114 AMENDS:

115 **15A-1-204**, as last amended by Laws of Utah 2017, Chapter 18

116 **26-36b-208**, as last amended by Laws of Utah 2019, Chapters 1 and 393

117 **32B-2-301**, as last amended by Laws of Utah 2018, Chapter 329

118 **32B-2-304**, as last amended by Laws of Utah 2019, Chapter 403

119 [32B-2-305](#), as last amended by Laws of Utah 2013, Chapter 400
120 [35A-8-308](#), as last amended by Laws of Utah 2017, Chapters 181 and 421
121 [35A-8-309](#), as last amended by Laws of Utah 2019, Chapter 493
122 [41-6a-409](#), as last amended by Laws of Utah 2017, Chapter 142
123 [41-6a-505](#), as last amended by Laws of Utah 2019, Chapter 136
124 [41-6a-1406](#), as last amended by Laws of Utah 2019, Chapter 373
125 [41-12a-806](#), as last amended by Laws of Utah 2019, Chapter 55
126 [53G-10-406](#), as last amended by Laws of Utah 2019, Chapter 293
127 [59-1-1503](#), as last amended by Laws of Utah 2012, Chapter 399
128 [59-7-104](#), as last amended by Laws of Utah 2019, Chapter 418
129 [59-7-201](#), as last amended by Laws of Utah 2018, Chapter 456
130 [59-7-610](#), as last amended by Laws of Utah 2019, Chapter 247
131 [59-7-614.1](#), as last amended by Laws of Utah 2016, Chapter 375
132 [59-7-618](#), as last amended by Laws of Utah 2017, Chapter 265
133 [59-7-620](#), as last amended by Laws of Utah 2017, Chapter 222
134 [59-10-104](#), as last amended by Laws of Utah 2018, Chapter 456
135 [59-10-529.1](#), as enacted by Laws of Utah 2015, Chapter 369
136 [59-10-1005](#), as last amended by Laws of Utah 2017, Chapter 148
137 [59-10-1007](#), as last amended by Laws of Utah 2019, Chapter 247
138 [59-10-1017](#), as last amended by Laws of Utah 2017, Chapter 389
139 [59-10-1017.1](#), as enacted by Laws of Utah 2017, Chapter 389
140 [59-10-1018](#), as last amended by Laws of Utah 2018, Second Special Session, Chapter 3
141 [59-10-1019](#), as renumbered and amended by Laws of Utah 2008, Chapter 389
142 [59-10-1022](#), as enacted by Laws of Utah 2008, Chapter 389
143 [59-10-1023](#), as enacted by Laws of Utah 2008, Chapter 389
144 [59-10-1028](#), as last amended by Laws of Utah 2012, Chapter 399
145 [59-10-1033](#), as last amended by Laws of Utah 2017, Chapter 265
146 [59-10-1035](#), as last amended by Laws of Utah 2017, Chapter 222
147 [59-10-1036](#), as enacted by Laws of Utah 2016, Chapter 55
148 [59-10-1105](#), as last amended by Laws of Utah 2016, Chapter 375
149 [59-10-1403.3](#), as enacted by Laws of Utah 2017, Chapter 270

- 150 **59-12-102**, as last amended by Laws of Utah 2019, Chapters 325, 481, and 486
- 151 **59-12-103**, as last amended by Laws of Utah 2019, Chapters 1, 136, and 479
- 152 **59-12-104**, as last amended by Laws of Utah 2019, Chapters 136 and 486
- 153 **59-12-104.5**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 154 **59-12-1201**, as last amended by Laws of Utah 2016, Chapters 184 and 291
- 155 **59-13-202**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 156 **63I-2-253**, as last amended by Laws of Utah 2019, Chapters 41, 129, 136, 223, 324,
- 157 325, and 444
- 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 **59-13-323**, Utah Code Annotated 1953
- 174 **59-13-601**, Utah Code Annotated 1953
- 175 **63I-2-241**, Utah Code Annotated 1953

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

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

179 **15A-1-204. Adoption of State Construction Code -- Amendments by commission**

180 **-- Approved codes -- Exemptions.**

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

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

186 (i) new construction is involved; and

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

188 (A) the repair, renovation, remodeling, alteration, enlargement, rehabilitation,

189 conservation, or reconstruction of the building; or

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

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

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

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

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

198 (i) to the entire state; or

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

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

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

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

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

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

210 (3) (a) Except as provided in Subsection (3)(b), for each update of a nationally
211 recognized construction code, the commission shall prepare a report described in Subsection

212 (4).

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

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

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

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

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

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

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

230 (i) study the recommendations; and

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

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

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

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

- 243 (i) on its own initiative;
- 244 (ii) upon the recommendation of the division; or
- 245 (iii) upon the receipt of a request by one of the following that the commission
246 recommend legislative action related to the State Construction Code:
- 247 (A) a local regulator;
- 248 (B) a state regulator;
- 249 (C) a state agency involved with the construction and design of a building;
- 250 (D) the Construction Services Commission;
- 251 (E) the Electrician Licensing Board;
- 252 (F) the Plumbers Licensing Board; or
- 253 (G) a recognized construction-related association.
- 254 (c) If the Business and Labor Interim Committee decides to recommend legislative
255 action to the Legislature, the Business and Labor Interim Committee shall prepare legislation
256 for consideration by the Legislature in the next general session.
- 257 (6) (a) Notwithstanding the provisions of this section, the commission may, in
258 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend the State
259 Construction Code if the commission determines that waiting for legislative action in the next
260 general legislative session would:
- 261 (i) cause an imminent peril to the public health, safety, or welfare; or
- 262 (ii) place a person in violation of federal or other state law.
- 263 (b) If the commission amends the State Construction Code in accordance with this
264 Subsection (6), the commission shall file with the division:
- 265 (i) the text of the amendment to the State Construction Code; and
- 266 (ii) an analysis that includes the specific reasons and justifications for the commission's
267 findings.
- 268 (c) If the State Construction Code is amended under this Subsection (6), the division
269 shall:
- 270 (i) publish the amendment to the State Construction Code in accordance with Section
271 [15A-1-205](#); and
- 272 (ii) prepare and submit, in accordance with Section [68-3-14](#), a written notice to the
273 Business and Labor Interim Committee containing the amendment to the State Construction

274 Code, including a copy of the commission's analysis described in Subsection (6)(b)(ii).

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

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

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

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

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

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

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

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

292 (a) enforce a federal law or regulation;

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

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

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

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

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

304 (11) (a) Except as provided in Subsection (11)(b), a structure used solely in

305 conjunction with agriculture use, and not for human occupancy, or a structure that is no more
306 than 1,500 square feet and used solely for the type of sales described in Subsection
307 ~~59-12-104(20)~~(17), is exempt from the permit requirements of the State Construction Code.

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

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

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

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

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

319 **26-36b-208. Medicaid Expansion Fund.**

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

322 (2) The fund consists of:

323 (a) assessments collected under this chapter;

324 (b) intergovernmental transfers under Section ~~26-36b-206~~;

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

327 (d) savings attributable to the enhancement waiver program as determined by the
328 department;

329 (e) savings attributable to the Medicaid waiver expansion as determined by the
330 department;

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

333 (g) ~~[revenues]~~ revenue collected from the sales tax described in Subsection
334 ~~59-12-103(13)~~(12);

335 (h) gifts, grants, donations, or any other conveyance of money that may be made to the

336 fund from private sources;

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

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

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

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

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

343 (i) the health coverage improvement program;

344 (ii) the enhancement waiver program;

345 (iii) a Medicaid waiver expansion; and

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

347 [26-36b-210](#).

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

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

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

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

353 **32B-2-301. State property -- Liquor Control Fund -- Money to be retained by**
354 **department -- Department building process.**

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

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

357 and

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

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

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

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

363 (ii) money received from the markup described in Section [32B-2-304](#).

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

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

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

370 (i) to purchase an alcoholic product;

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

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

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

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

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

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

382 (ii) package agency compensation; and

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

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

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

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

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

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

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

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

397 (c) Money deposited in a qualified depository is entitled to the same priority of

398 payment as other public funds of the state.

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

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

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

407 **32B-2-304. Liquor price -- School lunch program -- Remittance of markup.**

408 (1) For purposes of this section:

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

410 (A) the cost of the product; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

457 ~~[(5)]~~ (4) This section does not prohibit the department from selling discontinued items
458 at a discount.

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

460 **32B-2-305. Alcoholic Beverage Control Act Enforcement Fund.**

461 (1) As used in this section:

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

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

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

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

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

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

470 (ii) interest earned on the fund.

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

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

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

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

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

484 **35A-8-308. Throughput Infrastructure Fund.**

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

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

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

488 (b) any voluntary contributions received;

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

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

491 Section 35A-8-309.

492 (3) The state treasurer shall:

493 (a) invest the money in the fund by following the procedures and requirements of Title
494 51, Chapter 7, State Money Management Act; and

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

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

497 **35A-8-309. Throughput Infrastructure Fund administered by impact board --**
498 **Uses -- Review by board -- Annual report -- First project.**

499 (1) The impact board shall:

500 (a) make grants and loans from the Throughput Infrastructure Fund created in Section
501 35A-8-308 for a throughput infrastructure project;

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

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

509 (d) determine provisions for repayment of loans;

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

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

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

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

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

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

521 (i) review the proposed uses of the Throughput Infrastructure Fund for a loan or grant

522 before approving the loan or grant and may condition its approval on whatever assurances the
523 impact board considers necessary to ensure that proceeds of the loan or grant will be used in
524 accordance with this section;

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

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

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

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

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

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

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

538 (7) The board shall include in the annual written report described in Section
539 [35A-1-109](#):

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

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

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

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

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

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

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

554 **35A-9-214. Intergenerational poverty report to State Tax Commission.**

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

556 (2) On or before January 31 of each year, the department shall provide a notice to each

557 individual the department identifies as experiencing intergenerational poverty that:

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

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

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

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

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

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

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

571 (i) the individual's name; and

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

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

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

576 **41-6a-409. Prohibition of flat response fee for motor vehicle accident.**

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

579 (2) A government entity:

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

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

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

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

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

590 (iv) towing costs[-]; and

591 (v) applicable sales and use taxes.

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

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

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

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

604 **41-6a-505. Sentencing requirements for driving under the influence of alcohol,**
605 **drugs, or a combination of both violations.**

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

607 (a) the court shall:

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

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

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

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

614 (iv) order the individual to participate in an educational series if the court does not

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

646 screening under Subsection (2)(a)(ii);
647 (iv) order the individual to participate in an educational series if the court does not
648 order substance abuse treatment as described under Subsection (2)(b);
649 (v) impose a fine of not less than \$800;
650 (vi) order probation for the individual in accordance with Section 41-6a-507;
651 (vii) (A) order the individual to pay the administrative impound fee described in
652 Section 41-6a-1406; or
653 (B) if the administrative impound fee was paid by a party described in Subsection
654 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
655 reimburse the party; or
656 (viii) (A) order the individual to pay the towing and storage fees described in Section
657 72-9-603; or
658 (B) if the ~~[towing and storage fees]~~ amounts described in Subsection (2)(a)(viii)(A)
659 were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual
660 sentenced, order the individual sentenced to reimburse the party; and
661 (b) the court may:
662 (i) order the individual to obtain substance abuse treatment if the substance abuse
663 treatment program determines that substance abuse treatment is appropriate;
664 (ii) order the individual to participate in a 24-7 sobriety program as defined in Section
665 41-6a-515.5 if the individual is 21 years of age or older; or
666 (iii) order a combination of Subsections (2)(b)(i) and (ii).
667 (3) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison
668 sentence and places the defendant on probation, the court shall impose:
669 (a) a fine of not less than \$1,500;
670 (b) a jail sentence of not less than 1,500 hours; and
671 (c) supervised probation.
672 (4) For Subsection (3) or Subsection 41-6a-503(2)(b), the court:
673 (a) shall impose an order requiring the individual to obtain a screening and assessment
674 for alcohol and substance abuse, and treatment as appropriate; and
675 (b) may impose an order requiring the individual to participate in a 24-7 sobriety
676 program as defined in Section 41-6a-515.5 if the individual is 21 years of age or older.

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

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

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

682 (b) one or more of the following:

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

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

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

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

690 **41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification**
691 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

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

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

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

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

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

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

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

706 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck
707 operator is employed.

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

- 710 (i) the operator's name, if known;
- 711 (ii) a description of the vehicle, vessel, or outboard motor;
- 712 (iii) the vehicle identification number or vessel or outboard motor identification
713 number;
- 714 (iv) the license number, temporary permit number, or other identification number
715 issued by a state agency;
- 716 (v) the date, time, and place of impoundment;
- 717 (vi) the reason for removal or impoundment;
- 718 (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or
719 outboard motor; and
- 720 (viii) the place where the vehicle, vessel, or outboard motor is stored.

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

- 723 (i) collect any fee associated with the removal; and
- 724 (ii) begin charging storage fees.

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

- 728 (i) the registered owner;
- 729 (ii) any lien holder; or
- 730 (iii) a dealer, as defined in Section [41-1a-102](#), if the vehicle, vessel, or outboard motor
731 is currently operating under a temporary permit issued by the dealer, as described in Section
732 [41-3-302](#).

733 (b) The notice shall:

- 734 (i) state the date, time, and place of removal, the name, if applicable, of the person
735 operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal,
736 and the place where the vehicle, vessel, or outboard motor is stored;
- 737 (ii) state that the registered owner is responsible for payment of:
738 (A) towing, impound, and storage fees charged against the vehicle, vessel, or outboard

739 motor; and

740 (B) the applicable sales and use tax;

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

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

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

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

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

756 (b) (a) The vehicle, vessel, or outboard motor shall be released after a party described
757 in Subsection (5)(a):

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

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

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

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

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

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

769 (ii) \$147 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall

770 be deposited in the Department of Public Safety Restricted Account created in Section
771 [53-3-106](#);

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

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

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

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

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

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

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

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

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

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

799 (b) The date of impoundment is considered the date of seizure for computing the time
800 period provided under Section [41-1a-1103](#).

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

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

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

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

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

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

817 (A) be reasonable and fair; and

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

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

820 **41-12a-806. Restricted account -- Creation -- Funding -- Interest -- Purposes.**

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

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

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

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

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

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

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

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

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

863 Council created in this section.

864 (b) "Program" means the Underage Drinking Prevention Program created in this
865 section.

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

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

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

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

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

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

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

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

- 883 (a) the executive director of the Department of Alcoholic Beverage Control or the
884 executive director's designee;
 - 885 (b) the executive director of the Department of Health or the executive director's
886 designee;
 - 887 (c) the director of the Division of Substance Abuse and Mental Health or the director's
888 designee;
 - 889 (d) the director of the Division of Child and Family Services or the director's designee;
 - 890 (e) the director of the Division of Juvenile Justice Services or the director's designee;
 - 891 (f) the state superintendent or the state superintendent's designee; and
 - 892 (g) two members of the state board, appointed by the chair of the state board.
- 893 (6) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state

894 board shall qualify one or more providers to provide the program to an LEA.

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

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

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

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

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

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

907 ~~[(8)]~~ (7) The state board shall make rules that:

908 (a) beginning with the 2018-19 school year, require an LEA to offer the Underage
909 Drinking Prevention Program each school year to each student in grade 7 or 8 and grade 9 or
910 10; and

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

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

914 **59-1-1503. Nonrefundable credit -- Sales and use tax exemption -- Sales and use**
915 **tax remittance.**

916 (1) A nonrefundable individual income tax credit is allowed as provided in Section
917 **59-10-1028** related to a capital gain on a transaction involving the exchange of one form of
918 legal tender for another form of legal tender.

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

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

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

924 **59-7-104. Tax -- Minimum tax.**

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

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

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

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

933 **59-7-201. Tax -- Minimum tax.**

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

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

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

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

942 **59-7-610. Recycling market development zones tax credits.**

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

946 (a) a tax credit [~~of 5% of~~] equal to the product of the percentage listed in Subsection
947 [59-7-104\(2\)](#) and the purchase price paid for machinery and equipment used directly in:

948 (i) commercial composting; or

949 (ii) manufacturing facilities or plant units that:

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

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

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

954 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test
955 inventory, and utilities made by the taxpayer for establishing and operating recycling or

956 composting technology in Utah; and

957 (ii) \$2,000.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

986 (i) the name and identifying information of each taxpayer to which the office issues a

987 written certification; and

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

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

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

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

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

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

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

1000 (6) A taxpayer may not claim or carry forward a tax credit described in Subsection
1001 (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under
1002 Section 63N-2-213.

1003 (7) A taxpayer may not claim or carry forward a tax credit described in Subsection
1004 (1)(b) in a taxable year during which the taxpayer claims or carries forward a tax credit under
1005 Section 63N-2-213.

1006 (8) A taxpayer may not claim or carry forward a tax credit under this section for a
1007 taxable year during which the taxpayer claims the targeted business income tax credit under
1008 Section 59-7-624.

1009 Section 18. Section 59-7-614.1 is amended to read:

1010 **59-7-614.1. Refundable tax credit for hand tools used in farming operations --**
1011 **Procedures for refund -- Transfers from General Fund to Education Fund -- Rulemaking**
1012 **authority.**

1013 (1) [~~For a taxable year beginning on or after January 1, 2004, a~~] A taxpayer may claim
1014 a refundable tax credit:

1015 (a) as provided in this section;

1016 (b) against taxes otherwise due under this chapter; and

1017 (c) in an amount equal to the amount of tax the taxpayer pays:

- 1018 (i) on a purchase of a hand tool:
- 1019 (A) if the purchase is made on or after July 1, 2004;
- 1020 (B) if the hand tool is used or consumed primarily and directly in a farming operation
- 1021 in the state; and
- 1022 (C) if the unit purchase price of the hand tool is more than \$250; and
- 1023 (ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection
- 1024 (1)(c)(i).

- 1025 (2) A taxpayer:
- 1026 (a) shall retain the following to establish the amount of tax the resident or nonresident
- 1027 individual paid under Chapter 12, Sales and Use Tax Act, on the purchase described in
- 1028 Subsection (1)(c)(i):

- 1029 (i) a receipt;
- 1030 (ii) an invoice; or
- 1031 (iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and
- 1032 (b) may not carry forward or carry back a tax credit under this section.

- 1033 (3) (a) In accordance with any rules prescribed by the commission under Subsection
- 1034 (3)(b)~~[(i)]~~ the commission shall make a refund to a taxpayer that claims a tax credit under this
- 1035 section if the amount of the tax credit exceeds the taxpayer's tax liability under this chapter~~;~~
- 1036 ~~and~~].

1037 ~~[(ii) the Division of Finance shall transfer at least annually from the General Fund into~~

1038 ~~the Education Fund an amount equal to the amount of tax credit claimed under this section.]~~

- 1039 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1040 commission may make rules providing procedures for making~~[(i)]~~ a refund to a taxpayer as
- 1041 required by Subsection (3)(a)~~[(i); or]~~.

1042 ~~[(ii) transfers from the General Fund into the Education Fund as required by~~

1043 ~~Subsection (3)(a)(ii).]~~

1044 Section 19. Section **59-7-618** is amended to read:

1045 **59-7-618. Tax credit related to alternative fuel heavy duty vehicles.**

- 1046 (1) As used in this section:
- 1047 (a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air
- 1048 Conservation Act.

1049 (b) "Director" means the director of the Division of Air Quality appointed under
1050 Section 19-2-107.

1051 (c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to
1052 vehicle classifications established by the Federal Highway Administration.

1053 (d) "Natural gas" includes compressed natural gas and liquified natural gas.

1054 (e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

1055 (i) has never been titled or registered and has been driven less than 7,500 miles; and

1056 (ii) is fueled by natural gas, has a 100% electric drivetrain, or has a hydrogen-electric
1057 drivetrain.

1058 (f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

1059 (g) "Qualified taxpayer" means a taxpayer that:

1060 (i) purchases a qualified heavy duty vehicle; and

1061 (ii) receives a tax credit certificate from the director.

1062 (h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and
1063 owned by a single taxpayer.

1064 (i) "Tax credit certificate" means a certificate issued by the director certifying that a
1065 taxpayer is entitled to a tax credit as provided in this section and stating the amount of the tax
1066 credit.

1067 (2) A qualified taxpayer may claim a nonrefundable tax credit against tax otherwise
1068 due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required
1069 to Pay Corporate Franchise or Income Tax Act:

1070 (a) in an amount equal to:

1071 (i) \$25,000, if the qualified purchase of a natural gas heavy duty vehicle occurs during
1072 calendar year 2015 or calendar year 2016;

1073 (ii) \$25,000, if the qualified purchase occurs during calendar year 2017;

1074 (iii) \$20,000, if the qualified purchase occurs during calendar year 2018;

1075 (iv) \$18,000, if the qualified purchase occurs during calendar year 2019; and

1076 (v) \$15,000, if the qualified purchase occurs during calendar year 2020; and

1077 (b) if the qualified taxpayer certifies under oath that over 50% of the miles that the
1078 heavy duty vehicle that is the subject of the qualified purchase will travel annually will be
1079 within the state.

1080 (3) (a) Except as provided in Subsection (3)(b), a taxpayer may not submit an
1081 application for, and the director may not issue to the taxpayer, a tax credit certificate under this
1082 section in any taxable year for a qualified purchase if the director has already issued tax credit
1083 certificates to the taxpayer for 10 qualified purchases in the same taxable year.

1084 (b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of
1085 tax credits under Subsection (5) has not been claimed, a taxpayer may submit an application
1086 for, and the director may issue to the taxpayer, one or more tax credit certificates for up to eight
1087 additional qualified purchases, even if the director has already issued to that taxpayer tax credit
1088 certificates for the maximum number of qualified purchases allowed under Subsection (3)(a).

1089 (4) (a) Subject to Subsection (4)(b), the director shall reserve 25% of all tax credits
1090 available under this section for qualified taxpayers with a small fleet.

1091 (b) Subsection (4)(a) does not prevent a taxpayer from submitting an application for, or
1092 the director from issuing, a tax credit certificate if, before October 1, qualified taxpayers with a
1093 small fleet have not reserved under Subsection (5)(b) tax credits for the full amount reserved
1094 under Subsection (4)(a).

1095 (5) (a) The aggregate annual total amount of tax credits represented by tax credit
1096 certificates that the director issues under this section and Section [59-10-1033](#) may not exceed
1097 \$500,000.

1098 (b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative
1099 Rulemaking Act, make rules to establish a process under which a taxpayer may reserve a
1100 potential tax credit under this section for a limited time to allow the taxpayer to make a
1101 qualified purchase with the assurance that the aggregate limit under Subsection (5)(a) will not
1102 be met before the taxpayer is able to submit an application for a tax credit certificate.

1103 (6) (a) (i) A taxpayer wishing to claim a tax credit under this section shall, using forms
1104 the board requires by rule:

1105 (A) submit to the director an application for a tax credit;

1106 (B) provide the director proof of a qualified purchase; and

1107 (C) submit to the director the certification under oath required under Subsection (2)(b).

1108 (ii) Upon receiving the application, proof, and certification required under Subsection
1109 (6)(a)(i), the director shall provide the taxpayer a written statement from the director
1110 acknowledging receipt of the proof.

1111 (b) If the director determines that a taxpayer qualifies for a tax credit under this section,
1112 the director shall:

1113 (i) determine the amount of tax credit the taxpayer is allowed under this section; and

1114 (ii) provide the taxpayer with a written tax credit certificate:

1115 (A) stating that the taxpayer has qualified for a tax credit; and

1116 (B) showing the amount of tax credit for which the taxpayer has qualified under this
1117 section.

1118 (c) A qualified taxpayer shall retain the tax credit certificate.

1119 (d) The director shall at least annually submit to the commission a list of all qualified
1120 taxpayers to which the director has issued a tax credit certificate and the amount of each tax
1121 credit represented by the tax credit certificates.

1122 (7) The tax credit under this section is allowed only:

1123 (a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain
1124 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year
1125 by the qualified taxpayer;

1126 (b) for the taxable year in which the qualified purchase occurs; and

1127 (c) once per vehicle.

1128 (8) A qualified taxpayer may not assign a tax credit or a tax credit certificate under this
1129 section to another person.

1130 (9) If the qualified taxpayer receives a tax credit certificate under this section that
1131 allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this
1132 chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay
1133 Corporate Franchise or Income Tax Act, for a taxable year, the qualified taxpayer may carry
1134 forward the amount of the tax credit that exceeds the tax liability for a period that does not
1135 exceed the next five taxable years.

1136 ~~[(10)(a) In accordance with any rules prescribed by the commission under Subsection~~
1137 ~~(10)(b), the Division of Finance shall transfer at least annually from the General Fund into the~~
1138 ~~Education Fund the aggregate amount of all tax credits claimed under this section.]~~

1139 ~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
1140 ~~the commission may make rules for making a transfer from the General Fund into the~~
1141 ~~Education Fund as required by Subsection (10)(a).]~~

1142 Section 20. Section **59-7-620** is amended to read:

1143 **59-7-620. Nonrefundable tax credit for contribution to state Achieving a Better**
1144 **Life Experience Program account.**

1145 (1) As used in this section:

1146 (a) "Account" means an account in a qualified ABLE program where the designated
1147 beneficiary of the account is a resident of this state.

1148 (b) "Contributor" means a corporation that:

1149 (i) makes a contribution to an account; and

1150 (ii) receives a statement from the qualified ABLE program itemizing the contribution.

1151 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.
1152 529A.

1153 (d) "Qualified ABLE program" means the same as that term is defined in Section
1154 [35A-12-102](#).

1155 (2) A contributor to an account may claim a nonrefundable tax credit as provided in
1156 this section.

1157 (3) Subject to the other provisions of this section, the tax credit is equal to the product
1158 of:

1159 (a) ~~5%~~ the percentage listed in Subsection [59-7-104\(2\)](#); and

1160 (b) the total amount of contributions:

1161 (i) the contributor makes for the taxable year; and

1162 (ii) for which the contributor receives a statement from the qualified ABLE program
1163 itemizing the contributions.

1164 (4) A contributor may not claim a tax credit under this section:

1165 (a) for an amount of excess contribution to an account that is returned to the
1166 contributor; or

1167 (b) with respect to an amount the contributor deducts on a federal income tax return.

1168 (5) A tax credit under this section may not be carried forward or carried back.

1169 Section 21. Section **59-10-104** is amended to read:

1170 **59-10-104. Tax basis -- Tax rate -- Exemption.**

1171 (1) A tax is imposed on the state taxable income of a resident individual as provided in
1172 this section.

1173 (2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the
1174 product of:

1175 (a) the resident individual's state taxable income for that taxable year; and

1176 (b) ~~[4.95%]~~ 4.66%.

1177 (3) This section does not apply to a resident individual exempt from taxation under
1178 Section 59-10-104.1.

1179 Section 22. Section **59-10-529.1** is amended to read:

1180 **59-10-529.1. Time period for commission to issue a refund.**

1181 (1) Except as provided in Subsection (2), the commission may not issue a refund
1182 before March 1.

1183 (2) The commission may issue a refund before March 1 if, before March 1, the
1184 commission determines that:

1185 (a) (i) an employer has filed the one or more forms in accordance with Subsection
1186 59-10-406(8) the employer is required to file with respect to an individual; and

1187 (ii) for a refund of a tax credit described in Section 59-10-1114, the Department of
1188 Workforce Services has submitted the electronic report required by Section 35A-9-214; and

1189 (b) the individual has filed a return in accordance with this chapter.

1190 Section 23. Section **59-10-1005** is amended to read:

1191 **59-10-1005. Tax credit for at-home parent.**

1192 (1) As used in this section:

1193 (a) "At-home parent" means a parent:

1194 (i) who provides full-time care at the parent's residence for one or more of the parent's
1195 own qualifying children;

1196 (ii) who claims ~~[the qualifying child as a dependent on the parent's individual income~~
1197 ~~tax return for the taxable year for which the parent claims the credit]~~ a tax credit with respect to
1198 the qualifying child under Section 24, Internal Revenue Code, on the parent's federal individual
1199 income tax return for the taxable year; and

1200 (iii) if the sum of the following amounts are \$3,000 or less for the taxable year for
1201 which the parent claims the credit:

1202 (A) the total wages, tips, and other compensation listed on all of the parent's federal
1203 Forms W-2; and

1204 (B) the gross income listed on the parent's federal Form 1040 Schedule C, Profit or
1205 Loss From Business.

1206 (b) "Parent" means an individual who:

1207 (i) is the biological mother or father of a qualifying child;

1208 (ii) is the stepfather or stepmother of a qualifying child;

1209 (iii) (A) legally adopts a qualifying child; or

1210 (B) has a qualifying child placed in the individual's home:

1211 (I) by a child-placing agency, as defined in Section 62A-2-101; and

1212 (II) for the purpose of legally adopting the child;

1213 (iv) is a foster parent of a qualifying child; or

1214 (v) is a legal guardian of a qualifying child.

1215 (c) "Qualifying child" means a child who is no more than 12 months of age on the last
1216 day of the taxable year for which the tax credit is claimed.

1217 (2) [~~For a taxable year beginning on or after January 1, 2000, a~~] A claimant may claim
1218 on the claimant's individual income tax return a nonrefundable tax credit of \$100 for each
1219 qualifying child if:

1220 (a) the claimant or another claimant filing a joint individual income tax return with the
1221 claimant is an at-home parent; and

1222 (b) the adjusted gross income of all of the claimants filing the individual income tax
1223 return is less than or equal to \$50,000.

1224 (3) A claimant may not carry forward or carry back a tax credit authorized by this
1225 section.

1226 [~~(4)(a) In accordance with any rules prescribed by the commission under Subsection~~
1227 ~~(4)(b), the Division of Finance shall transfer at least annually from the General Fund into the~~
1228 ~~Education Fund the aggregate amount of all tax credits claimed under this section.]~~

1229 [~~(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
1230 ~~the commission may make rules for making a transfer from the General Fund into the~~
1231 ~~Education Fund as required by Subsection (4)(a).]~~

1232 Section 24. Section 59-10-1007 is amended to read:

1233 **59-10-1007. Recycling market development zones tax credits.**

1234 (1) Subject to other provisions of this section, a claimant, estate, or trust in a recycling

1235 market development zone as defined in Section [63N-2-402](#) may claim the following
1236 nonrefundable tax credits:

1237 (a) a tax credit [~~of 5% of~~] equal to the product of the percentage listed in Subsection
1238 [59-10-104\(2\)](#) and the purchase price paid for machinery and equipment used directly in:

1239 (i) commercial composting; or
1240 (ii) manufacturing facilities or plant units that:

1241 (A) manufacture, process, compound, or produce recycled items of tangible personal
1242 property for sale; or
1243 (B) reduce or reuse postconsumer waste material; and
1244 (b) a tax credit equal to the lesser of:

1245 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test
1246 inventory, and utilities made by the claimant, estate, or trust for establishing and operating
1247 recycling or composting technology in Utah; and
1248 (ii) \$2,000.

1249 (2) (a) To claim a tax credit described in Subsection (1), the claimant, estate, or trust
1250 shall receive from the Governor's Office of Economic Development a written certification, on a
1251 form approved by the commission, that includes:

1252 (i) a statement that the claimant, estate, or trust is operating within the boundaries of a
1253 recycling market development zone;
1254 (ii) for claims of the tax credit described in Subsection (1)(a):

1255 (A) the type of the machinery and equipment that the claimant, estate, or trust
1256 purchased;
1257 (B) the date that the claimant, estate, or trust purchased the machinery and equipment;
1258 (C) the purchase price for the machinery and equipment;
1259 (D) the total purchase price for all machinery and equipment for which the claimant,
1260 estate, or trust is claiming a tax credit;
1261 (E) the amount of the claimant's, estate's, or trust's tax credit; and
1262 (F) a statement that the machinery and equipment are integral to the composting or
1263 recycling process; and
1264 (iii) for claims of the tax credit described in Subsection (1)(b):
1265 (A) the type of net expenditure that the claimant, estate, or trust made to a third party;

1266 (B) the date that the claimant, estate, or trust made the payment to a third party;

1267 (C) the amount that the claimant, estate, or trust paid to each third party;

1268 (D) the total amount that the claimant, estate, or trust paid to all third parties;

1269 (E) a statement that the net expenditures support the establishment and operation of

1270 recycling or composting technology in Utah; and

1271 (F) the amount of the claimant's, estate's, or trust's tax credit.

1272 (b) (i) The Governor's Office of Economic Development shall provide a claimant,

1273 estate, or trust seeking to claim a tax credit under Subsection (1) with a copy of the written

1274 certification.

1275 (ii) The claimant, estate, or trust shall retain a copy of the written certification for the

1276 same period of time that a person is required to keep books and records under Section

1277 [59-1-1406](#).

1278 (c) The Governor's Office of Economic Development shall submit to the commission

1279 an electronic list that includes:

1280 (i) the name and identifying information of each claimant, estate, or trust to which the

1281 office issues a written certification; and

1282 (ii) for each claimant, estate, or trust, the amount of each tax credit listed on the written

1283 certification.

1284 (3) A claimant, estate, or trust may not claim a tax credit under Subsection (1)(a),

1285 Subsection (1)(b), or both that exceeds 40% of the claimant's, estate's, or trust's state income

1286 tax liability as the tax liability is calculated:

1287 (a) for the taxable year in which the claimant, estate, or trust made the purchases or

1288 payments;

1289 (b) before any other tax credits the claimant, estate, or trust may claim for the taxable

1290 year; and

1291 (c) before the claimant, estate, or trust claiming a tax credit authorized by this section.

1292 (4) The commission shall make rules governing what information a claimant, estate, or

1293 trust shall file with the commission to verify the entitlement to and amount of a tax credit.

1294 (5) Except as provided in Subsections (6) through (8), a claimant, estate, or trust may

1295 carry forward, to the next three taxable years, the amount of the tax credit that exceeds the

1296 taxpayer's income tax liability for the taxable year.

1297 (6) A claimant, estate, or trust may not claim or carry forward a tax credit described in
1298 Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries
1299 forward a tax credit under Section 63N-2-213.

1300 (7) A claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b)
1301 in a taxable year during which the claimant, estate, or trust claims or carries forward a tax
1302 credit under Section 63N-2-213.

1303 (8) A claimant, estate, or trust may not claim or carry forward a tax credit available
1304 under this section for a taxable year during which the claimant, estate, or trust claims the
1305 targeted business income tax credit under Section 59-10-1112.

1306 Section 25. Section 59-10-1017 is amended to read:

1307 **59-10-1017. Utah Educational Savings Plan tax credit.**

1308 (1) As used in this section:

1309 (a) "Account owner" means the same as that term is defined in Section 53B-8a-102.

1310 (b) "Grantor trust" means the same as that term is defined in Section 53B-8a-102.5.

1311 (c) "Higher education costs" means the same as that term is defined in Section
1312 53B-8a-102.5.

1313 (d) "Joint filing status" means:

1314 (i) spouses who file one return jointly under this chapter for a taxable year; or

1315 (ii) a surviving spouse, as defined in Section (2)(a), Internal Revenue Code, who files a
1316 single federal individual income tax return for the taxable year.

1317 ~~(d)~~ (e) "Maximum amount of a qualified investment for the taxable year" means, for
1318 a taxable year, the product of ~~5%~~ the percentage listed in Subsection 59-10-104(2) and:

1319 (i) subject to Subsection (1)~~(d)~~(e)(iii), for a claimant, estate, or trust that is an account
1320 owner, if that claimant, estate, or trust is other than ~~[husband and wife]~~ spouse account owners
1321 who file ~~[a single]~~ one return jointly, the maximum amount of a qualified investment:

1322 (A) listed in Subsection 53B-8a-106(1)(e)(ii); and

1323 (B) increased or kept for that taxable year in accordance with Subsections
1324 53B-8a-106(1)(f) and (g);

1325 (ii) subject to Subsection (1)~~(d)~~(e)(iii), for claimants who are ~~[husband and wife]~~
1326 spouse account owners who file ~~[a single]~~ one return jointly, the maximum amount of a
1327 qualified investment:

- 1328 (A) listed in Subsection [53B-8a-106\(1\)\(e\)\(iii\)](#); and
- 1329 (B) increased or kept for that taxable year in accordance with Subsections
- 1330 [53B-8a-106\(1\)\(f\)](#) and [\(g\)](#); or
- 1331 (iii) for a grantor trust:
- 1332 (A) if the owner of the grantor trust has a single filing status or head of household
- 1333 filing status as defined in Section [59-10-1018](#), the amount described in Subsection
- 1334 ~~(1)(d)~~[\(e\)\(i\)](#); or
- 1335 (B) if the owner of the grantor trust has a joint filing status as defined in Section
- 1336 [59-10-1018](#), the amount described in Subsection ~~(1)(d)~~[\(e\)\(ii\)](#).
- 1337 ~~(e)~~ [\(f\)](#) "Owner of the grantor trust" means the same as that term is defined in Section
- 1338 [53B-8a-102.5](#).
- 1339 ~~(f)~~ [\(g\)](#) "Qualified investment" means the same as that term is defined in Section
- 1340 [53B-8a-102.5](#).
- 1341 (2) Except as provided in Section [59-10-1002.2](#) and subject to the other provisions of
- 1342 this section, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax
- 1343 credit equal to the product of:
- 1344 (a) the amount of a qualified investment made:
- 1345 (i) during the taxable year; and
- 1346 (ii) into an account owned by the claimant, estate, or trust; and
- 1347 (b) ~~5%~~ [the percentage listed in Subsection 59-10-104\(2\)](#).
- 1348 (3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may
- 1349 make a qualified investment described in Subsection (2).
- 1350 (4) A claimant, estate, or trust that is an account owner may not claim a tax credit
- 1351 under this section with respect to any portion of a qualified investment described in Subsection
- 1352 (2) that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal
- 1353 income tax return.
- 1354 (5) A tax credit under this section may not exceed the maximum amount of a qualified
- 1355 investment for the taxable year.
- 1356 (6) A claimant, estate, or trust that is an account owner may not carry forward or carry
- 1357 back the tax credit under this section.
- 1358 (7) A claimant, estate, or trust may claim a tax credit under this section in addition to

1359 the tax credit described in Section [59-10-1017.1](#).

1360 Section 26. Section **59-10-1017.1** is amended to read:

1361 **59-10-1017.1. Student Prosperity Savings Program tax credit.**

1362 (1) As used in this section, "qualified donation" means an amount donated, in
1363 accordance with Section [53B-8a-203](#), to the Student Prosperity Savings Program created in
1364 Section [53B-8a-202](#).

1365 (2) A claimant, estate, or trust may claim a nonrefundable tax credit for a qualified
1366 donation.

1367 (3) The tax credit equals the product of:

1368 (a) the qualified donation; and

1369 (b) ~~[5%]~~ the percentage listed in Subsection [59-10-104\(2\)](#).

1370 (4) A claimant, estate, or trust may not claim a tax credit under this section with
1371 respect to any portion of a qualified donation that a claimant, estate, or trust deducts on a
1372 federal income tax return.

1373 (5) A claimant, estate, or trust may not carry forward or carry back the portion of the
1374 tax credit allowed by this section that exceeds the claimant's, estate's, or trust's tax liability for
1375 the taxable year in which the claimant, estate, or trust claims the tax credit.

1376 (6) A claimant, estate, or trust may claim a tax credit under this section in addition to
1377 the tax credit described in Section [59-10-1017](#).

1378 Section 27. Section **59-10-1018** is amended to read:

1379 **59-10-1018. Definitions -- Nonrefundable taxpayer tax credits.**

1380 (1) As used in this section:

1381 (a) "Head of household filing status" means a head of household, as defined in Section
1382 2(b), Internal Revenue Code, who files ~~[a single]~~ one federal individual income tax return for
1383 the taxable year.

1384 (b) "Joint filing status" means ~~[(i)]~~ spouses who file ~~[a single]~~ one return jointly under
1385 this chapter for a taxable year ~~[-or]~~.

1386 ~~[(ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a~~
1387 ~~single federal individual income tax return for the taxable year.]~~

1388 (c) "Qualifying dependent" means an individual with respect to whom the claimant is
1389 allowed to claim a tax credit under Section 24, Internal Revenue Code, on the claimant's

1390 federal individual income tax return for the taxable year.

1391 (d) "Qualifying widower filing status" means a surviving spouse, as defined in Section
1392 (2)(a), Internal Revenue Code, who files a single federal individual income tax return for the
1393 taxable year.

1394 ~~[(d)]~~ (e) "Single filing status" means:

1395 (i) a single individual who files a single federal individual income tax return for the
1396 taxable year; or

1397 (ii) a married individual who:

1398 (A) does not file a single federal individual income tax return jointly with that married
1399 individual's spouse for the taxable year; and

1400 (B) files a single federal individual income tax return for the taxable year.

1401 ~~[(e)]~~ (f) "State or local income tax" means the lesser of:

1402 (i) the amount of state or local income tax that the claimant:

1403 (A) pays for the taxable year; and

1404 (B) reports on the claimant's federal individual income tax return for the taxable year,
1405 regardless of whether the claimant is allowed an itemized deduction on the claimant's federal
1406 individual income tax return for the taxable year for the full amount of state or local income tax
1407 paid; and

1408 (ii) \$10,000.

1409 ~~[(f)]~~ (g) (i) "Utah itemized deduction" means the amount the claimant deducts as
1410 allowed as an itemized deduction on the claimant's federal individual income tax return for that
1411 taxable year minus any amount of state or local income tax for the taxable year.

1412 (ii) "Utah itemized deduction" does not include any amount of qualified business
1413 income that the claimant subtracts as allowed by Section 199A, Internal Revenue Code, on the
1414 claimant's federal income tax return for that taxable year.

1415 ~~[(g)]~~ (h) "Utah personal exemption" means, subject to Subsection (6), ~~[\$565]~~ \$2,500
1416 multiplied by ~~[the number of the claimant's qualifying dependents.];~~

1417 (i) for a claimant who has a joint filing status and no qualifying dependents, one; or

1418 (ii) for a claimant who has qualifying dependents, the number of the claimant's
1419 qualifying dependents.

1420 (2) Except as provided in Section 59-10-1002.2, and subject to Subsections (3) through

1421 (5), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part
1422 equal to the sum of:

1423 (a) (i) for a claimant that deducts the standard deduction on the claimant's federal
1424 individual income tax return for the taxable year, 6% of the amount the claimant deducts as
1425 allowed as the standard deduction on the claimant's federal individual income tax return for
1426 that taxable year; or

1427 (ii) for a claimant that itemizes deductions on the claimant's federal individual income
1428 tax return for the taxable year, 6% of the amount of the claimant's Utah itemized deduction;
1429 and

1430 (b) 6% of the claimant's Utah personal exemption.

1431 (3) A claimant may not carry forward or carry back a tax credit under this section.

1432 (4) The tax credit allowed by Subsection (2) shall be reduced by \$.013 for each dollar
1433 by which a claimant's state taxable income exceeds:

1434 (a) for a claimant who has a single filing status, [~~\$12,000~~] \$14,879;

1435 (b) for a claimant who has a head of household filing status, [~~\$18,000~~] \$22,318; or

1436 (c) for a claimant who has a joint filing status[~~-, \$24,000~~] or a qualifying widower filing
1437 status, \$29,758.

1438 (5) (a) For a taxable year beginning on or after January 1, [~~2009~~] 2021, the commission
1439 shall increase or decrease annually the following dollar amounts by a percentage equal to the
1440 percentage difference between the consumer price index for the preceding calendar year and
1441 the consumer price index for calendar year [~~2007~~] 2019:

1442 (i) the dollar amount listed in Subsection (4)(a); and

1443 (ii) the dollar amount listed in Subsection (4)(b).

1444 (b) After the commission increases or decreases the dollar amounts listed in Subsection
1445 (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the
1446 nearest whole dollar.

1447 (c) After the commission rounds the dollar amounts as required by Subsection (5)(b),
1448 the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that
1449 the dollar amount listed in Subsection (4)(c) is equal to the product of:

1450 (i) the dollar amount listed in Subsection (4)(a); and

1451 (ii) two.

1452 (d) For purposes of Subsection (5)(a), the commission shall calculate the consumer
1453 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

1454 (6) (a) For a taxable year beginning on or after January 1, ~~[2019]~~ 2021, the commission
1455 shall increase annually the Utah personal exemption amount listed in Subsection (1)~~(g)~~(h) by
1456 a percentage equal to the percentage by which the consumer price index for the preceding
1457 calendar year exceeds the consumer price index for calendar year ~~[2017]~~ 2019.

1458 (b) After the commission increases the Utah personal exemption amount as described
1459 in Subsection (6)(a), the commission shall round the Utah personal exemption amount to the
1460 nearest whole dollar.

1461 (c) For purposes of Subsection (6)(a), the commission shall calculate the consumer
1462 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

1463 Section 28. Section **59-10-1019** is amended to read:

1464 **59-10-1019. Definitions -- Nonrefundable retirement tax credit.**

1465 (1) As used in this section:

1466 (a) "Eligible over age 65 ~~[or older]~~ retiree" means a claimant, regardless of whether
1467 that claimant is retired, who ~~[(i) is 65 years of age or older; and (ii)]~~ was born on or before
1468 December 31, 1952.

1469 ~~[(b) (i) "Eligible retirement income" means income received by an eligible under age
1470 65 retiree as a pension or annuity if that pension or annuity is:]~~

1471 ~~[(A) paid to the eligible under age 65 retiree or the surviving spouse of an eligible
1472 under age 65 retiree; and]~~

1473 ~~[(B) (i) paid from an annuity contract purchased by an employer under a plan that
1474 meets the requirements of Section 404(a)(2), Internal Revenue Code;]~~

1475 ~~[(H) purchased by an employee under a plan that meets the requirements of Section
1476 408, Internal Revenue Code; or]~~

1477 ~~[(H) paid by:]~~

1478 ~~[(Aa) the United States;]~~

1479 ~~[(Bb) a state or a political subdivision of a state; or]~~

1480 ~~[(Cc) the District of Columbia.]~~

1481 ~~[(ii) "Eligible retirement income" does not include amounts received by the spouse of a
1482 living eligible under age 65 retiree because of the eligible under age 65 retiree's having been~~

1483 employed in a community property state.]

1484 [~~(c)~~ "Eligible under age 65 retiree" means a claimant, regardless of whether that
1485 claimant is retired, who:]

1486 [(i) is younger than 65 years of age;]

1487 [(ii) was born on or before December 31, 1952; and]

1488 [(iii) has eligible retirement income for the taxable year for which a tax credit is
1489 claimed under this section.]

1490 [~~(d)~~] (b) "Head of household filing status" [is as] means the same as that term is
1491 defined in Section 59-10-1018.

1492 [~~(e)~~ "Joint filing status" is as defined in Section 59-10-1018.]

1493 (c) "Joint filing status" means:

1494 (i) spouses who file one return jointly under this chapter for a taxable year; or

1495 (ii) a surviving spouse, as defined in Section (2)(a), Internal Revenue Code, who files a
1496 single federal individual income tax return for the taxable year.

1497 [~~(f)~~] (d) "Married filing separately status" means a married individual who:

1498 (i) does not file a single federal individual income tax return jointly with that married
1499 individual's spouse for the taxable year; and

1500 (ii) files a single federal individual income tax return for the taxable year.

1501 [~~(g)~~] (e) "Modified adjusted gross income" means the sum of an eligible over age 65
1502 [~~or older retiree's or eligible under age 65 retiree's~~] retiree's:

1503 (i) adjusted gross income for the taxable year for which a tax credit is claimed under
1504 this section;

1505 (ii) any interest income that is not included in adjusted gross income for the taxable
1506 year described in Subsection (1)[~~(g)~~](e)(i); and

1507 (iii) any addition to adjusted gross income required by Section 59-10-114 for the
1508 taxable year described in Subsection (1)[~~(g)~~](e)(i).

1509 [~~(h)~~] (f) "Single filing status" means a single individual who files a single federal
1510 individual income tax return for the taxable year.

1511 (2) Except as provided in Section 59-10-1002.2 [~~and subject to Subsections (3) through~~
1512 ~~(5): (a)] and Subsections (3) and (4), each eligible over age 65 [~~or older~~] retiree may claim a
1513 nonrefundable tax credit of \$450 against taxes otherwise due under this part[; ~~or~~].~~

1514 ~~[(b) each eligible under age 65 retiree may claim a nonrefundable tax credit against~~
1515 ~~taxes otherwise due under this part in an amount equal to the lesser of:]~~

1516 ~~[(i) \$288; or]~~

1517 ~~[(ii) the product of:]~~

1518 ~~[(A) the eligible under age 65 retiree's eligible retirement income for the taxable year~~
1519 ~~for which the eligible under age 65 retiree claims a tax credit under this section; and]~~

1520 ~~[(B) 6%.]~~

1521 ~~[(3) A tax credit under this section may not be carried forward or carried back.]~~

1522 (3) An eligible over age 65 retiree may not:

1523 (a) carry forward or carry back a tax credit under this section; or

1524 (b) claim a tax credit under this section if a tax credit is claimed under Section

1525 59-10-1041 on the same return.

1526 (4) The ~~[sum of the tax credits]~~ tax credit allowed by Subsection (2) claimed on ~~[one]~~ a
1527 return filed under this part shall be reduced by \$.025 for each dollar by which modified
1528 adjusted gross income for purposes of the return exceeds:

1529 (a) for a federal individual income tax return that is allowed a married filing separately
1530 status, \$16,000;

1531 (b) for a federal individual income tax return that is allowed a single filing status,
1532 \$25,000;

1533 (c) for a federal individual income tax return that is allowed a head of household filing
1534 status, \$32,000; or

1535 (d) for a return under this chapter that is allowed a joint filing status, \$32,000.

1536 ~~[(5) For purposes of determining the ownership of items of retirement income under~~
1537 ~~this section, common law doctrine shall be applied in all cases even though some items of~~
1538 ~~retirement income may have originated from service or investments in a community property~~
1539 ~~state.]~~

1540 Section 29. Section **59-10-1022** is amended to read:

1541 **59-10-1022. Nonrefundable tax credit for capital gain transactions.**

1542 (1) As used in this section:

1543 (a) (i) "Capital gain transaction" means a transaction that results in a:

1544 (A) short-term capital gain; or

- 1545 (B) long-term capital gain.
- 1546 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1547 commission may by rule define the term "transaction."
- 1548 (b) "Commercial domicile" means the principal place from which the trade or business
1549 of a Utah small business corporation is directed or managed.
- 1550 (c) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.
- 1551 (d) "Qualifying stock" means stock that is:
- 1552 (i) (A) common; or
- 1553 (B) preferred;
- 1554 (ii) as defined by the commission by rule made in accordance with Title 63G, Chapter
1555 3, Utah Administrative Rulemaking Act, originally issued to:
- 1556 (A) a claimant, estate, or trust; or
- 1557 (B) a partnership if the claimant, estate, or trust that claims a tax credit under this
1558 section:
- 1559 (I) was a partner on the day on which the stock was issued; and
- 1560 (II) remains a partner until the last day of the taxable year for which the claimant,
1561 estate, or trust claims a tax credit under this section; and
- 1562 (iii) issued:
- 1563 (A) by a Utah small business corporation;
- 1564 (B) on or after January 1, 2008; and
- 1565 (C) for:
- 1566 (I) money; or
- 1567 (II) other property, except for stock or securities.
- 1568 (e) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.
- 1569 (f) (i) "Utah small business corporation" means a corporation that:
- 1570 (A) except as provided in Subsection (1)(f)(ii), is a small business corporation as
1571 defined in Section 1244(c)(3), Internal Revenue Code;
- 1572 (B) except as provided in Subsection (1)(f)(iii), meets the requirements of Section
1573 1244(c)(1)(C), Internal Revenue Code; and
- 1574 (C) has its commercial domicile in this state.
- 1575 (ii) The dollar amount listed in Section 1244(c)(3)(A) is considered to be \$2,500,000.

1576 (iii) The phrase "the date the loss on such stock was sustained" in Sections
1577 1244(c)(1)(C) and 1244(c)(2), Internal Revenue Code, is considered to be "the last day of the
1578 taxable year for which the claimant, estate, or trust claims a tax credit under this section."

1579 (2) For taxable years beginning on or after January 1, 2008, a claimant, estate, or trust
1580 that meets the requirements of Subsection (3) may claim a nonrefundable tax credit equal to the
1581 product of:

1582 (a) the total amount of the claimant's, estate's, or trust's short-term capital gain or
1583 long-term capital gain on a capital gain transaction that occurs on or after January 1, 2008; and

1584 (b) [5%] the percentage listed in Subsection [59-10-104\(2\)](#).

1585 (3) For purposes of Subsection (2), a claimant, estate, or trust may claim the
1586 nonrefundable tax credit allowed by Subsection (2) if:

1587 (a) 70% or more of the gross proceeds of the capital gain transaction are expended:

1588 (i) to purchase qualifying stock in a Utah small business corporation; and

1589 (ii) within a 12-month period after the day on which the capital gain transaction occurs;

1590 and

1591 (b) prior to the purchase of the qualifying stock described in Subsection (3)(a)(i), the
1592 claimant, estate, or trust did not have an ownership interest in the Utah small business
1593 corporation that issued the qualifying stock.

1594 (4) A claimant, estate, or trust may not carry forward or carry back a tax credit under
1595 this section.

1596 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1597 commission may make rules:

1598 (a) defining the term "gross proceeds"; and

1599 (b) prescribing the circumstances under which a claimant, estate, or trust has an
1600 ownership interest in a Utah small business corporation.

1601 Section 30. Section **59-10-1023** is amended to read:

1602 **59-10-1023. Nonrefundable tax credit for amounts paid under a health benefit**
1603 **plan.**

1604 (1) As used in this section:

1605 (a) "Claimant with dependents" means a claimant:

1606 (i) regardless of the claimant's filing status for purposes of filing a federal individual

1607 income tax return for the taxable year; and

1608 (ii) who claims [~~one or more dependents under Section 151~~] a tax credit under Section
1609 24, Internal Revenue Code, [~~as allowed~~] on the claimant's federal individual income tax return
1610 for the taxable year.

1611 (b) "Eligible insured individual" means:

1612 (i) the claimant who is insured under a health benefit plan;

1613 (ii) the spouse of the claimant described in Subsection (1)(b)(i) if:

1614 (A) the claimant files [~~a single~~] one return jointly under this chapter with the claimant's
1615 spouse for the taxable year; and

1616 (B) the spouse is insured under the health benefit plan described in Subsection
1617 (1)(b)(i); or

1618 (iii) a dependent of the claimant described in Subsection (1)(b)(i) if:

1619 (A) the claimant claims the dependent under Section 151, Internal Revenue Code, as
1620 allowed on the claimant's federal individual income tax return for the taxable year; and

1621 (B) the dependent is insured under the health benefit plan described in Subsection
1622 (1)(b)(i).

1623 (c) "Excluded expenses" means an amount a claimant pays for insurance offered under
1624 a health benefit plan for a taxable year if:

1625 (i) the claimant claims a tax credit for that amount under Section 35, Internal Revenue
1626 Code:

1627 (A) on the claimant's federal individual income tax return for the taxable year; and

1628 (B) with respect to an eligible insured individual;

1629 (ii) the claimant deducts that amount under Section 162 or 213, Internal Revenue
1630 Code:

1631 (A) on the claimant's federal individual income tax return for the taxable year; and

1632 (B) with respect to an eligible insured individual; or

1633 (iii) the claimant excludes that amount from gross income under Section 106 or 125,
1634 Internal Revenue Code, with respect to an eligible insured individual.

1635 (d) (i) "Health benefit plan" is as defined in Section [31A-1-301](#).

1636 (ii) "Health benefit plan" does not include equivalent self-insurance as defined by the
1637 Insurance Department by rule made in accordance with Title 63G, Chapter 3, Utah

1638 Administrative Rulemaking Act.

1639 (e) "Joint claimant with no dependents" means ~~[a husband and wife]~~ spouses who:

1640 (i) file ~~[a single]~~ one return jointly under this chapter for the taxable year; and

1641 (ii) do not claim a dependent under Section 151, Internal Revenue Code, on the

1642 ~~[husband's and wife's]~~ spouses' federal individual income tax return for the taxable year.

1643 (f) "Single claimant with no dependents" means:

1644 (i) a single individual who:

1645 (A) files a single federal individual income tax return for the taxable year; and

1646 (B) does not claim a dependent under Section 151, Internal Revenue Code, on the
1647 single individual's federal individual income tax return for the taxable year;

1648 (ii) a head of household:

1649 (A) as defined in Section 2(b), Internal Revenue Code, who files a single federal
1650 individual income tax return for the taxable year; and

1651 (B) who does not claim a dependent under Section 151, Internal Revenue Code, on the
1652 head of household's federal individual income tax return for the taxable year; or

1653 (iii) a married individual who:

1654 (A) does not file a single federal individual income tax return jointly with that married
1655 individual's spouse for the taxable year; and

1656 (B) does not claim a dependent under Section 151, Internal Revenue Code, on that
1657 married individual's federal individual income tax return for the taxable year.

1658 (2) Subject to Subsection (3), and except as provided in Subsection (4), ~~[for taxable~~
1659 ~~years beginning on or after January 1, 2009,]~~ a claimant may claim a nonrefundable tax credit
1660 equal to the product of:

1661 (a) the difference between:

1662 (i) the total amount the claimant pays during the taxable year for:

1663 (A) insurance offered under a health benefit plan; and

1664 (B) an eligible insured individual; and

1665 (ii) excluded expenses; and

1666 (b) ~~[5%]~~ the percentage listed in Subsection 59-10-104(2).

1667 (3) The maximum amount of a tax credit described in Subsection (2) a claimant may
1668 claim on a return for a taxable year is:

- 1669 (a) for a single claimant with no dependents, \$300;
- 1670 (b) for a joint claimant with no dependents, \$600; or
- 1671 (c) for a claimant with dependents, \$900.
- 1672 (4) A claimant may not claim a tax credit under this section if the claimant is eligible to
- 1673 participate in insurance offered under a health benefit plan maintained and funded in whole or
- 1674 in part by:
- 1675 (a) the claimant's employer; or
- 1676 (b) another person's employer.
- 1677 (5) A claimant may not carry forward or carry back a tax credit under this section.
- 1678 Section 31. Section **59-10-1028** is amended to read:
- 1679 **59-10-1028. Nonrefundable tax credit for capital gain transactions on the**
- 1680 **exchange of one form of legal tender for another form of legal tender.**
- 1681 (1) As used in this section:
- 1682 (a) "Capital gain transaction" means a transaction that results in a:
- 1683 (i) short-term capital gain; or
- 1684 (ii) long-term capital gain.
- 1685 (b) "Long-term capital gain" [~~is as defined~~] means the same as that term is defined in
- 1686 Section 1222, Internal Revenue Code.
- 1687 (c) "Long-term capital loss" [~~is as defined~~] means the same as that term is defined in
- 1688 Section 1222, Internal Revenue Code.
- 1689 (d) "Net capital gain" means the amount by which the sum of long-term capital gains
- 1690 and short-term capital gains on a claimant's, estate's, or trust's transactions from exchanges
- 1691 made for a taxable year of one form of legal tender for another form of legal tender exceeds the
- 1692 sum of long-term capital losses and short-term capital losses on those transactions for that
- 1693 taxable year.
- 1694 (e) "Short-term capital loss" [~~is as defined~~] means the same as that term is defined in
- 1695 Section 1222, Internal Revenue Code.
- 1696 (f) "Short-term capital gain" [~~is as defined~~] means the same as that term is defined in
- 1697 Section 1222, Internal Revenue Code.
- 1698 (2) Except as provided in Section **59-10-1002.2**, [~~for taxable years beginning on or~~
- 1699 ~~after January 1, 2012,~~] a claimant, estate, or trust may claim a nonrefundable tax credit equal to

1700 the product of:

1701 (a) to the extent a net capital gain is included in taxable income, the amount of the
1702 claimant's, estate's, or trust's net capital gain on capital gain transactions from exchanges made
1703 on or after January 1, 2012, for a taxable year, of one form of legal tender for another form of
1704 legal tender; and

1705 (b) [5%] the percentage listed in Subsection 59-10-104(2).

1706 (3) A claimant, estate, or trust may not carry forward or carry back a tax credit under
1707 this section.

1708 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1709 commission may make rules to implement this section.

1710 Section 32. Section **59-10-1033** is amended to read:

1711 **59-10-1033. Tax credit related to alternative fuel heavy duty vehicles.**

1712 (1) As used in this section:

1713 (a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air
1714 Conservation Act.

1715 (b) "Director" means the director of the Division of Air Quality appointed under
1716 Section 19-2-107.

1717 (c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to
1718 vehicle classifications established by the Federal Highway Administration.

1719 (d) "Natural gas" includes compressed natural gas and liquified natural gas.

1720 (e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

1721 (i) has never been titled or registered and has been driven less than 7,500 miles; and

1722 (ii) is fueled by natural gas, has a 100% electric drivetrain, or has a hydrogen-electric
1723 drivetrain.

1724 (f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

1725 (g) "Qualified taxpayer" means a claimant, estate, or trust that:

1726 (i) purchases a qualified heavy duty vehicle; and

1727 (ii) receives a tax credit certificate from the director.

1728 (h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and
1729 owned by a single claimant, estate, or trust.

1730 (i) "Tax credit certificate" means a certificate issued by the director certifying that a

1731 claimant, estate, or trust is entitled to a tax credit as provided in this section and stating the
1732 amount of the tax credit.

1733 (2) A qualified taxpayer may claim a nonrefundable tax credit against tax otherwise
1734 due under this chapter:

1735 (a) in an amount equal to:

1736 (i) \$25,000, if the qualified purchase of a natural gas heavy duty vehicle occurs during
1737 calendar year 2015 or calendar year 2016;

1738 (ii) \$25,000, if the qualified purchase occurs during calendar year 2017;

1739 (iii) \$20,000, if the qualified purchase occurs during calendar year 2018;

1740 (iv) \$18,000, if the qualified purchase occurs during calendar year 2019; and

1741 (v) \$15,000, if the qualified purchase occurs during calendar year 2020; and

1742 (b) if the qualified taxpayer certifies under oath that over 50% of the miles that the
1743 heavy duty vehicle that is the subject of the qualified purchase will travel annually will be
1744 within the state.

1745 (3) (a) Except as provided in Subsection (3)(b), a claimant, estate, or trust may not
1746 submit an application for, and the director may not issue to the claimant, estate, or trust, a tax
1747 credit certificate under this section in any taxable year for a qualified purchase if the director
1748 has already issued tax credit certificates to the claimant, estate, or trust for 10 qualified
1749 purchases in the same taxable year.

1750 (b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of
1751 tax credits under Subsection (5) has not been claimed, a claimant, estate, or trust may submit
1752 an application for, and the director may issue to the claimant, estate, or trust, one or more tax
1753 credit certificates for up to eight additional qualified purchases, even if the director has already
1754 issued to that claimant, estate, or trust tax credit certificates for the maximum number of
1755 qualified purchases allowed under Subsection (3)(a).

1756 (4) (a) Subject to Subsection (4)(b), the director shall reserve 25% of all tax credits
1757 available under this section for qualified taxpayers with a small fleet.

1758 (b) Subsection (4)(a) does not prevent a claimant, estate, or trust from submitting an
1759 application for, or the director from issuing, a tax credit certificate if, before October 1,
1760 qualified taxpayers with a small fleet have not reserved under Subsection (5)(b) tax credits for
1761 the full amount reserved under Subsection (4)(a).

1762 (5) (a) The aggregate annual total amount of tax credits represented by tax credit
1763 certificates that the director issues under this section and Section 59-7-618 may not exceed
1764 \$500,000.

1765 (b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative
1766 Rulemaking Act, make rules to establish a process under which a claimant, estate, or trust may
1767 reserve a potential tax credit under this section for a limited time to allow the claimant, estate,
1768 or trust to make a qualified purchase with the assurance that the aggregate limit under
1769 Subsection (5)(a) will not be met before the claimant, estate, or trust is able to submit an
1770 application for a tax credit certificate.

1771 (6) (a) (i) A claimant, estate, or trust wishing to claim a tax credit under this section
1772 shall, using forms the board requires by rule:

1773 (A) submit to the director an application for a tax credit;

1774 (B) provide the director proof of a qualified purchase; and

1775 (C) submit to the director the certification under oath required under Subsection (2)(b).

1776 (ii) Upon receiving the application, proof, and certification required under Subsection
1777 (6)(a)(i), the director shall provide the claimant, estate, or trust a written statement from the
1778 director acknowledging receipt of the proof.

1779 (b) If the director determines that a claimant, estate, or trust qualifies for a tax credit
1780 under this section, the director shall:

1781 (i) determine the amount of tax credit the claimant, estate, or trust is allowed under this
1782 section; and

1783 (ii) provide the claimant, estate, or trust with a written tax credit certificate:

1784 (A) stating that the claimant, estate, or trust has qualified for a tax credit; and

1785 (B) showing the amount of tax credit for which the claimant, estate, or trust has
1786 qualified under this section.

1787 (c) A qualified taxpayer shall retain the tax credit certificate.

1788 (d) The director shall at least annually submit to the commission a list of all qualified
1789 taxpayers to which the director has issued a tax credit certificate and the amount of each tax
1790 credit represented by the tax credit certificates.

1791 (7) The tax credit under this section is allowed only:

1792 (a) against a tax owed under this chapter in the taxable year by the qualified taxpayer;

1793 (b) for the taxable year in which the qualified purchase occurs; and

1794 (c) once per vehicle.

1795 (8) A qualified taxpayer may not assign a tax credit or a tax credit certificate under this
1796 section to another person.

1797 (9) If the qualified taxpayer receives a tax credit certificate under this section that
1798 allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this
1799 chapter for a taxable year, the qualified taxpayer may carry forward the amount of the tax credit
1800 that exceeds the tax liability for a period that does not exceed the next five taxable years.

1801 ~~[(10)(a) In accordance with any rules prescribed by the commission under Subsection~~
1802 ~~(10)(b), the Division of Finance shall transfer at least annually from the General Fund into the~~
1803 ~~Education Fund the aggregate amount of all tax credits claimed under this section.]~~

1804 ~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
1805 ~~the commission may make rules for making a transfer from the General Fund into the~~
1806 ~~Education Fund as required by Subsection (10)(a):]~~

1807 Section 33. Section **59-10-1035** is amended to read:

1808 **59-10-1035. Nonrefundable tax credit for contribution to state Achieving a Better**
1809 **Life Experience Program account.**

1810 (1) As used in this section:

1811 (a) "Account" means an account in a qualified ABLE program where the designated
1812 beneficiary of the account is a resident of this state.

1813 (b) "Contributor" means a claimant, estate, or trust that:

1814 (i) makes a contribution to an account; and

1815 (ii) receives a statement from the qualified ABLE program itemizing the contribution.

1816 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.
1817 529A.

1818 (d) "Qualified ABLE program" means the same as that term is defined in Section
1819 [35A-12-102](#).

1820 (2) A contributor to an account may claim a nonrefundable tax credit as provided in
1821 this section.

1822 (3) Subject to the other provisions of this section, the tax credit is equal to the product
1823 of:

- 1824 (a) [5%] the percentage listed in Subsection 59-10-104(2); and
- 1825 (b) the total amount of contributions:
- 1826 (i) the contributor makes for the taxable year; and
- 1827 (ii) for which the contributor receives a statement from the qualified ABLE program
- 1828 itemizing the contributions.
- 1829 (4) A contributor may not claim a tax credit under this section:
- 1830 (a) for an amount of excess contribution to an account that is returned to the
- 1831 contributor; or
- 1832 (b) with respect to an amount the contributor deducts on a federal income tax return.
- 1833 (5) A tax credit under this section may not be carried forward or carried back.
- 1834 Section 34. Section **59-10-1036** is amended to read:
- 1835 **59-10-1036. Nonrefundable tax credit for military survivor benefits.**
- 1836 (1) As used in this section:
- 1837 (a) "Dependent child" means the same as that term is defined in 10 U.S.C. Sec. 1447.
- 1838 (b) "Reserve components" means the same as that term is described in 10 U.S.C. Sec.
- 1839 10101.
- 1840 (c) "Surviving spouse" means the same as that term is defined in 10 U.S.C. Sec. 1447.
- 1841 (d) "Survivor benefits" means the amount paid by the federal government in
- 1842 accordance with 10 U.S.C. Secs. 1447 through 1455.
- 1843 (2) A surviving spouse or dependent child may claim a nonrefundable tax credit for
- 1844 survivor benefits if the benefits are paid due to:
- 1845 (a) the death of a member of the armed forces or reserve components while on active
- 1846 duty; or
- 1847 (b) the death of a member of the reserve components that results from a
- 1848 service-connected cause while performing inactive duty training.
- 1849 (3) The tax credit described in Subsection (2) is equal to the product of:
- 1850 (a) the amount of survivor benefits that the surviving spouse or dependent child
- 1851 received during the taxable year; and
- 1852 (b) [5%] the percentage listed in Subsection 59-10-104(2).
- 1853 (4) The tax credit described in Subsection (2):
- 1854 (a) may not be carried forward or carried back; and

1855 (b) applies to a taxable year beginning on or after January 1, 2017.

1856 Section 35. Section **59-10-1041** is enacted to read:

1857 **59-10-1041. Nonrefundable tax credit for social security benefits.**

1858 (1) As used in this section:

1859 (a) "Head of household filing status" means the same as that term is defined in Section
1860 59-10-1018.

1861 (b) "Joint filing status" means:

1862 (i) spouses who file one return jointly under this chapter for a taxable year; or

1863 (ii) a surviving spouse, as defined in Section (2)(a), Internal Revenue Code, who files a
1864 single federal individual income tax return for the taxable year.

1865 (c) "Married filing separately status" means a married individual who:

1866 (i) does not file a single federal individual income tax return jointly with that married
1867 individual's spouse for the taxable year; and

1868 (ii) files a single federal individual income tax return for the taxable year.

1869 (d) "Modified adjusted gross income" means the sum of a claimant's:

1870 (i) adjusted gross income for the taxable year for which a tax credit is claimed under
1871 this section;

1872 (ii) any interest income that is not included in adjusted gross income for the taxable
1873 year described in Subsection (1)(d)(i); and

1874 (iii) any addition to adjusted gross income required by Section 59-10-114 for the
1875 taxable year described in Subsection (1)(d)(i).

1876 (e) "Single filing status" means a single individual who files a single federal individual
1877 income tax return for the taxable year.

1878 (f) "Social security benefit" means an amount received by a claimant as a monthly
1879 benefit in accordance with the Social Security Act, 42 U.S.C. Sec. 401 et seq.

1880 (2) Except as provided in Section 59-10-1002.2 and Subsections (3) and (4), a claimant
1881 may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the
1882 product of:

1883 (a) the percentage listed in Subsection 59-10-104(2); and

1884 (b) the claimant's social security benefit that is included in adjusted gross income on
1885 the claimant's federal income tax return for the taxable year.

- 1886 (3) A claimant may not:
1887 (a) carry forward or carry back a tax credit under this section; or
1888 (b) claim a tax credit under this section if a tax credit is claimed under Section
1889 59-10-1019 on the same return.
1890 (4) The tax credit allowed by Subsection (2) claimed on a return filed under this part
1891 shall be reduced by \$.025 for each dollar by which modified adjusted gross income for
1892 purposes of the return exceeds:
1893 (a) for a return that has a married filing separately status, \$24,000;
1894 (b) for a return that has a single filing status, \$30,000;
1895 (c) for a return that has a head of household filing status, \$48,000; or
1896 (d) for a return that has a joint filing status, \$48,000.
1897 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1898 commission may make rules governing the calculation and method for claiming a tax credit
1899 described in this section.
1900 Section 36. Section **59-10-1102.1** is enacted to read:
1901 **59-10-1102.1. Apportionment of tax credit.**
1902 (1) A part-year resident individual who claims the tax credit described in Section
1903 59-10-1113 may only claim an apportioned amount of the tax credit equal to the product of:
1904 (a) the state income tax percentage for the part-year resident individual; and
1905 (b) the amount of the tax credit that the part-year resident individual would have been
1906 allowed to claim but for the apportionment requirement of this section.
1907 (2) A nonresident individual or a part-year resident individual who claims the tax credit
1908 described in Section 59-10-1114 may only claim an apportioned amount of the tax credit equal
1909 to the product of:
1910 (a) the state income tax percentage for the nonresident individual or the state income
1911 tax percentage for the part-year resident individual; and
1912 (b) the amount of the tax credit that the nonresident individual or the part-year resident
1913 individual would have been allowed to claim but for the apportionment requirement of this
1914 section.
1915 Section 37. Section **59-10-1105** is amended to read:
1916 **59-10-1105. Tax credit for hand tools used in farming operations -- Procedures**

1917 **for refund -- Transfers from General Fund to Education Fund -- Rulemaking authority.**

1918 (1) ~~[For a taxable year beginning on or after January 1, 2004, a]~~ A claimant, estate, or
1919 trust may claim a refundable tax credit:

1920 (a) as provided in this section;

1921 (b) against taxes otherwise due under this chapter; and

1922 (c) in an amount equal to the amount of tax the claimant, estate, or trust pays:

1923 (i) on a purchase of a hand tool:

1924 (A) if the purchase is made on or after July 1, 2004;

1925 (B) if the hand tool is used or consumed primarily and directly in a farming operation
1926 in the state; and

1927 (C) if the unit purchase price of the hand tool is more than \$250; and

1928 (ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection

1929 (1)(c)(i).

1930 (2) A claimant, estate, or trust:

1931 (a) shall retain the following to establish the amount of tax the claimant, estate, or trust
1932 paid under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection

1933 (1)(c)(i):

1934 (i) a receipt;

1935 (ii) an invoice; or

1936 (iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and

1937 (b) may not carry forward or carry back a tax credit under this section.

1938 (3) (a) In accordance with any rules prescribed by the commission under Subsection

1939 (3)(b)~~[(i)]~~, the commission shall make a refund to a claimant, estate, or trust that claims a tax
1940 credit under this section if the amount of the tax credit exceeds the claimant's, estate's, or trust's
1941 tax liability under this chapter~~[-and]~~.

1942 ~~[(ii) the Division of Finance shall transfer at least annually from the General Fund into
1943 the Education Fund an amount equal to the aggregate amount of all tax credits claimed under
1944 this section.]~~

1945 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1946 commission may make rules providing procedures for making~~[(i)]~~ a refund to a claimant,
1947 estate, or trust as required by Subsection (3)(a)~~[(i)]~~~~[-or]~~.

1948 ~~[(ii) transfers from the General Fund into the Education Fund as required by~~
1949 ~~Subsection (3)(a)(ii).]~~
1950 Section 38. Section **59-10-1113** is enacted to read:
1951 **59-10-1113. Refundable grocery tax credit.**
1952 (1) As used in this section:
1953 (a) "Federal poverty level" means the poverty guidelines established by the Secretary of
1954 the United States Department of Health and Human Services under 42 U.S.C. Sec. 9909(2).
1955 (b) "Modified adjusted gross income" means the sum of a claimant's:
1956 (i) adjusted gross income for the taxable year for which a tax credit is claimed under
1957 this section;
1958 (ii) any interest income that is not included in adjusted gross income for the taxable
1959 year described in Subsection (1)(b)(i); and
1960 (iii) any addition to adjusted gross income required by Section [59-10-114](#) for the
1961 taxable year described in Subsection (1)(b)(i).
1962 (c) "Phaseout amount" means an amount equal to 0.0035% of the amount calculated
1963 under Subsection (2).
1964 (d) "Qualifying dependent" means the same as that term is defined in Section
1965 [59-10-1018](#).
1966 (e) "Qualifying household member" means:
1967 (i) the qualifying individual;
1968 (ii) the qualifying individual's spouse, if the qualifying individual:
1969 (A) files one return jointly under this chapter with the qualifying individual's spouse
1970 for a taxable year; or
1971 (B) is a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files
1972 a single federal individual income tax return for a taxable year; and
1973 (iii) a qualifying dependent.
1974 (f) "Qualifying individual" means a resident individual who is not a qualifying
1975 dependent.
1976 (2) Subject to Section [59-10-1102.1](#) and the provisions of this section, a qualifying
1977 individual may claim a refundable grocery tax credit equal to the sum of:
1978 (a) \$125 multiplied by the number of qualifying household members, up to four; and

1979 (b) \$50 multiplied by the number of qualifying household members that exceeds four.

1980 (3) (a) If a qualifying household member was incarcerated for any part of the taxable
1981 year for which the qualifying individual claims the grocery tax credit, the qualifying
1982 individual's credit for the qualifying household member is reduced by an amount proportionate
1983 to the time the qualifying household member was incarcerated during the taxable year.

1984 (b) For purposes of calculating the proportionate amount under Subsection (3)(a), the
1985 qualifying household member who was incarcerated is considered:

1986 (i) one of the qualifying household members described in Subsection (2)(a); or

1987 (ii) if four other qualifying household members were incarcerated for part of the
1988 taxable year and each considered one of the four qualifying household members described in
1989 Subsection (2)(a), one of the qualifying household members described in Subsection (2)(b).

1990 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1991 commission may make rules for calculating the proportionate amount described in this
1992 subsection.

1993 (4) The tax credit described in this section is reduced by the phaseout amount for each
1994 dollar by which the claimant's modified adjusted gross income exceeds the lesser of:

1995 (a) 175% of the federal poverty level for the claimant's household size; or

1996 (b) 175% of the federal poverty level for a household with five individuals.

1997 (5) (a) Except as provided in Subsection (5)(b), to claim the tax credit described in this
1998 section, a qualifying individual shall file a return under this chapter.

1999 (b) A qualifying individual who is not required to file a return under this chapter for the
2000 taxable year in which the qualifying individual claims a credit under this section, may claim the
2001 tax credit described in this section by filing a form prescribed by the commission.

2002 Section 39. Section **59-10-1114** is enacted to read:

2003 **59-10-1114. Refundable state earned income tax credit.**

2004 (1) As used in this section:

2005 (a) "Department" means the Department of Workforce Services created in Section
2006 [35A-1-103](#).

2007 (b) "Federal earned income tax credit" means the federal earned income tax credit
2008 described in Section 32, Internal Revenue Code.

2009 (c) "Qualifying claimant" means a resident individual or nonresident individual who:

2010 (i) is identified by the department as experiencing intergenerational poverty in
2011 accordance with Section 35A-9-214; and

2012 (ii) claimed the federal earned income tax credit for the previous taxable year.

2013 (2) Except as provided in Section 59-10-1102.1, a qualifying claimant may claim a
2014 refundable earned income tax credit equal to 10% of the amount of the federal earned income
2015 tax credit that the qualifying claimant was entitled to claim on a federal income tax return in
2016 the previous taxable year.

2017 (3) (a) The commission shall use the electronic report described in Section 35A-9-214
2018 to verify that a qualifying claimant is identified as experiencing intergenerational poverty.

2019 (b) The commission may not use the electronic report described in Section 35A-9-214
2020 for any other purpose.

2021 Section 40. Section **59-10-1403.3** is amended to read:

2022 **59-10-1403.3. Refund of amounts paid or withheld for a pass-through entity.**

2023 (1) As used in this section:

2024 (a) "Committee" means the Revenue and Taxation Interim Committee.

2025 (b) "Qualifying excess withholding" means an amount that:

2026 (i) is paid or withheld:

2027 (A) by a pass-through entity that has a different taxable year than the pass-through
2028 entity that requests a refund under this section; and

2029 (B) on behalf of the pass-through entity that requests the refund, if the pass-through
2030 entity that requests the refund also is a pass-through entity taxpayer; and

2031 (ii) is equal to the difference between:

2032 (A) the amount paid or withheld for the taxable year on behalf of the pass-through
2033 entity that requests the refund; and

2034 (B) the product of [5%] the percentage listed in Subsection 59-10-104(2) and the
2035 income, described in Subsection 59-10-1403.2(1)(a)(i), of the pass-through entity that requests
2036 the refund.

2037 (2) [~~For a taxable year ending on or after July 1, 2017, a~~] A pass-through entity may
2038 claim a refund of qualifying excess withholding, if the amount of the qualifying excess
2039 withholding is equal to or greater than \$250,000.

2040 (3) A pass-through entity that requests a refund of qualifying excess withholding under

2041 this section shall:

2042 (a) apply to the commission for a refund on or, subject to Subsection (4), after the day
2043 on which the pass-through entity files the pass-through entity's income tax return; and

2044 (b) provide any information that the commission may require to determine that the
2045 pass-through entity is eligible to receive the refund.

2046 (4) A pass-through entity shall claim a refund of qualifying excess withholding under
2047 this section within 30 days after the earlier of the day on which:

2048 (a) the pass-through entity files an income tax return; or

2049 (b) the pass-through entity's income tax return is due, including any extension of due
2050 date authorized in statute.

2051 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2052 commission may make rules establishing the information that a pass-through entity shall
2053 provide to the commission to obtain a refund of qualifying excess withholding under this
2054 section.

2055 ~~[(6)(a) On or before November 30, 2018, the committee shall review the \$250,000
2056 threshold described in Subsection (2) for the purpose of assessing whether the threshold
2057 amount should be maintained, increased, or decreased.]~~

2058 ~~[(b) To assist the committee in conducting the review described in Subsection (6)(a),
2059 the commission shall provide the committee with:]~~

2060 ~~[(i) the total number of refund requests made under this section;]~~

2061 ~~[(ii) the total costs of any refunds issued under this section;]~~

2062 ~~[(iii) the costs of any audits conducted on refund requests made under this section; and]~~

2063 ~~[(iv) an estimation of:]~~

2064 ~~[(A) the number of refund requests the commission expects to receive if the Legislature
2065 increases the threshold;]~~

2066 ~~[(B) the number of refund requests the commission expects to receive if the Legislature
2067 decreases the threshold; and]~~

2068 ~~[(C) the costs of any audits the commission would conduct if the Legislature increases
2069 or decreases the threshold.]~~

2070 Section 41. Section **59-12-102** is amended to read:

2071 **59-12-102. Definitions.**

- 2072 As used in this chapter:
- 2073 (1) "800 service" means a telecommunications service that:
- 2074 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and
- 2075 (b) is typically marketed:
- 2076 (i) under the name 800 toll-free calling;
- 2077 (ii) under the name 855 toll-free calling;
- 2078 (iii) under the name 866 toll-free calling;
- 2079 (iv) under the name 877 toll-free calling;
- 2080 (v) under the name 888 toll-free calling; or
- 2081 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
- 2082 Federal Communications Commission.
- 2083 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 2084 (i) a subscriber purchases;
- 2085 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 2086 the subscriber's:
- 2087 (A) prerecorded announcement; or
- 2088 (B) live service; and
- 2089 (iii) is typically marketed:
- 2090 (A) under the name 900 service; or
- 2091 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 2092 Communications Commission.
- 2093 (b) "900 service" does not include a charge for:
- 2094 (i) a collection service a seller of a telecommunications service provides to a
- 2095 subscriber; or
- 2096 (ii) the following a subscriber sells to the subscriber's customer:
- 2097 (A) a product; or
- 2098 (B) a service.
- 2099 (3) (a) "Admission or user fees" includes season passes.
- 2100 (b) "Admission or user fees" does not include annual membership dues to private
- 2101 organizations.
- 2102 (4) "Affiliate" or "affiliated person" means a person that, with respect to another

2103 person:

2104 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
2105 person; or

2106 (b) is related to the other person because a third person, or a group of third persons who
2107 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,
2108 whether direct or indirect, in the related persons.

2109 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
2110 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
2111 Agreement after November 12, 2002.

2112 (6) "Agreement combined tax rate" means the sum of the tax rates:

2113 (a) listed under Subsection (7); and

2114 (b) that are imposed within a local taxing jurisdiction.

2115 (7) "Agreement sales and use tax" means a tax imposed under:

2116 (a) Subsection 59-12-103(2)(a)(i)(A);

2117 (b) Subsection 59-12-103(2)(b)(i);

2118 (c) Subsection 59-12-103(2)(c)(i);

2119 (d) Subsection 59-12-103(2)(d)(i)(A)(I);

2120 (e) Section 59-12-204;

2121 (f) Section 59-12-401;

2122 (g) Section 59-12-402;

2123 (h) Section 59-12-402.1;

2124 (i) Section 59-12-703;

2125 (j) Section 59-12-802;

2126 (k) Section 59-12-804;

2127 (l) Section 59-12-1102;

2128 (m) Section 59-12-1302;

2129 (n) Section 59-12-1402;

2130 (o) Section 59-12-1802;

2131 (p) Section 59-12-2003;

2132 (q) Section 59-12-2103;

2133 (r) Section 59-12-2213;

- 2134 (s) Section 59-12-2214;
- 2135 (t) Section 59-12-2215;
- 2136 (u) Section 59-12-2216;
- 2137 (v) Section 59-12-2217;
- 2138 (w) Section 59-12-2218;
- 2139 (x) Section 59-12-2219; or
- 2140 (y) Section 59-12-2220.
- 2141 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 2142 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 2143 (a) except for:
- 2144 (i) an airline as defined in Section 59-2-102; or
- 2145 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 2146 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 2147 state, of an airline; and
- 2148 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 2149 whether the business entity performs the following in this state:
- 2150 (i) check, diagnose, overhaul, and repair:
- 2151 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 2152 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 2153 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 2154 engine;
- 2155 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 2156 aircraft:
- 2157 (A) an inspection;
- 2158 (B) a repair, including a structural repair or modification;
- 2159 (C) changing landing gear; and
- 2160 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 2161 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 2162 completely apply new paint to the fixed wing turbine powered aircraft; and
- 2163 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 2164 results in a change in the fixed wing turbine powered aircraft's certification requirements by the

2165 authority that certifies the fixed wing turbine powered aircraft.

2166 (10) "Alcoholic beverage" means a beverage that:

2167 (a) is suitable for human consumption; and

2168 (b) contains .5% or more alcohol by volume.

2169 (11) "Alternative energy" means:

2170 (a) biomass energy;

2171 (b) geothermal energy;

2172 (c) hydroelectric energy;

2173 (d) solar energy;

2174 (e) wind energy; or

2175 (f) energy that is derived from:

2176 (i) coal-to-liquids;

2177 (ii) nuclear fuel;

2178 (iii) oil-impregnated diatomaceous earth;

2179 (iv) oil sands;

2180 (v) oil shale;

2181 (vi) petroleum coke; or

2182 (vii) waste heat from:

2183 (A) an industrial facility; or

2184 (B) a power station in which an electric generator is driven through a process in which

2185 water is heated, turns into steam, and spins a steam turbine.

2186 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production

2187 facility" means a facility that:

2188 (i) uses alternative energy to produce electricity; and

2189 (ii) has a production capacity of two megawatts or greater.

2190 (b) A facility is an alternative energy electricity production facility regardless of

2191 whether the facility is:

2192 (i) connected to an electric grid; or

2193 (ii) located on the premises of an electricity consumer.

2194 (13) (a) "Ancillary service" means a service associated with, or incidental to, the

2195 provision of telecommunications service.

2196 (b) "Ancillary service" includes:
2197 (i) a conference bridging service;
2198 (ii) a detailed communications billing service;
2199 (iii) directory assistance;
2200 (iv) a vertical service; or
2201 (v) a voice mail service.
2202 (14) "Area agency on aging" means the same as that term is defined in Section
2203 [62A-3-101](#).
2204 [~~(15)~~ (15) "Assisted amusement device" means an amusement device, skill device, or ride
2205 device that is started and stopped by an individual:]
2206 [~~(a)~~ who is not the purchaser or renter of the right to use or operate the amusement
2207 device, skill device, or ride device; and]
2208 [~~(b)~~ at the direction of the seller of the right to use the amusement device, skill device,
2209 or ride device.]
2210 [~~(16)~~ (15) "Assisted cleaning or washing of tangible personal property" means
2211 cleaning or washing of tangible personal property if the cleaning or washing labor is primarily
2212 performed by an individual:
2213 (a) who is not the purchaser of the cleaning or washing of the tangible personal
2214 property; and
2215 (b) at the direction of the seller of the cleaning or washing of the tangible personal
2216 property.
2217 [~~(17)~~ (16) "Authorized carrier" means:
2218 (a) in the case of vehicles operated over public highways, the holder of credentials
2219 indicating that the vehicle is or will be operated pursuant to both the International Registration
2220 Plan and the International Fuel Tax Agreement;
2221 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
2222 certificate or air carrier's operating certificate; or
2223 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
2224 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
2225 stock in more than one state.
2226 [~~(18)~~ (17) (a) Except as provided in Subsection [~~(18)~~ (17)](b), "biomass energy"

2227 means any of the following that is used as the primary source of energy to produce fuel or
2228 electricity:

2229 (i) material from a plant or tree; or

2230 (ii) other organic matter that is available on a renewable basis, including:

2231 (A) slash and brush from forests and woodlands;

2232 (B) animal waste;

2233 (C) waste vegetable oil;

2234 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
2235 wastewater residuals, or through the conversion of a waste material through a nonincineration,
2236 thermal conversion process;

2237 (E) aquatic plants; and

2238 (F) agricultural products.

2239 (b) "Biomass energy" does not include:

2240 (i) black liquor; or

2241 (ii) treated woods.

2242 ~~[(19)]~~ (18) (a) "Bundled transaction" means the sale of two or more items of tangible
2243 personal property, products, or services if the tangible personal property, products, or services
2244 are:

2245 (i) distinct and identifiable; and

2246 (ii) sold for one nonitemized price.

2247 (b) "Bundled transaction" does not include:

2248 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
2249 the basis of the selection by the purchaser of the items of tangible personal property included in
2250 the transaction;

2251 (ii) the sale of real property;

2252 (iii) the sale of services to real property;

2253 (iv) the retail sale of tangible personal property and a service if:

2254 (A) the tangible personal property:

2255 (I) is essential to the use of the service; and

2256 (II) is provided exclusively in connection with the service; and

2257 (B) the service is the true object of the transaction;

- 2258 (v) the retail sale of two services if:
- 2259 (A) one service is provided that is essential to the use or receipt of a second service;
- 2260 (B) the first service is provided exclusively in connection with the second service; and
- 2261 (C) the second service is the true object of the transaction;
- 2262 (vi) a transaction that includes tangible personal property or a product subject to
- 2263 taxation under this chapter and tangible personal property or a product that is not subject to
- 2264 taxation under this chapter if the:
- 2265 (A) seller's purchase price of the tangible personal property or product subject to
- 2266 taxation under this chapter is de minimis; or
- 2267 (B) seller's sales price of the tangible personal property or product subject to taxation
- 2268 under this chapter is de minimis; and
- 2269 (vii) the retail sale of tangible personal property that is not subject to taxation under
- 2270 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 2271 (A) that retail sale includes:
- 2272 (I) food and food ingredients;
- 2273 (II) a drug;
- 2274 (III) durable medical equipment;
- 2275 (IV) mobility enhancing equipment;
- 2276 (V) an over-the-counter drug;
- 2277 (VI) a prosthetic device; or
- 2278 (VII) a medical supply; and
- 2279 (B) subject to Subsection [~~(19)~~] (18)(f):
- 2280 (I) the seller's purchase price of the tangible personal property subject to taxation under
- 2281 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 2282 (II) the seller's sales price of the tangible personal property subject to taxation under
- 2283 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 2284 (c) (i) For purposes of Subsection [~~(19)~~] (18)(a)(i), tangible personal property, a
- 2285 product, or a service that is distinct and identifiable does not include:
- 2286 (A) packaging that:
- 2287 (I) accompanies the sale of the tangible personal property, product, or service; and
- 2288 (II) is incidental or immaterial to the sale of the tangible personal property, product, or

2289 service;

2290 (B) tangible personal property, a product, or a service provided free of charge with the
2291 purchase of another item of tangible personal property, a product, or a service; or

2292 (C) an item of tangible personal property, a product, or a service included in the
2293 definition of "purchase price."

2294 (ii) For purposes of Subsection [~~(19)~~] (18)(c)(i)(B), an item of tangible personal
2295 property, a product, or a service is provided free of charge with the purchase of another item of
2296 tangible personal property, a product, or a service if the sales price of the purchased item of
2297 tangible personal property, product, or service does not vary depending on the inclusion of the
2298 tangible personal property, product, or service provided free of charge.

2299 (d) (i) For purposes of Subsection [~~(19)~~] (18)(a)(ii), property sold for one nonitemized
2300 price does not include a price that is separately identified by tangible personal property,
2301 product, or service on the following, regardless of whether the following is in paper format or
2302 electronic format:

2303 (A) a binding sales document; or

2304 (B) another supporting sales-related document that is available to a purchaser.

2305 (ii) For purposes of Subsection [~~(19)~~] (18)(d)(i), a binding sales document or another
2306 supporting sales-related document that is available to a purchaser includes:

2307 (A) a bill of sale;

2308 (B) a contract;

2309 (C) an invoice;

2310 (D) a lease agreement;

2311 (E) a periodic notice of rates and services;

2312 (F) a price list;

2313 (G) a rate card;

2314 (H) a receipt; or

2315 (I) a service agreement.

2316 (e) (i) For purposes of Subsection [~~(19)~~] (18)(b)(vi), the sales price of tangible personal
2317 property or a product subject to taxation under this chapter is de minimis if:

2318 (A) the seller's purchase price of the tangible personal property or product is 10% or
2319 less of the seller's total purchase price of the bundled transaction; or

2320 (B) the seller's sales price of the tangible personal property or product is 10% or less of
2321 the seller's total sales price of the bundled transaction.

2322 (ii) For purposes of Subsection [~~(19)~~] (18)(b)(vi), a seller:

2323 (A) shall use the seller's purchase price or the seller's sales price to determine if the
2324 purchase price or sales price of the tangible personal property or product subject to taxation
2325 under this chapter is de minimis; and

2326 (B) may not use a combination of the seller's purchase price and the seller's sales price
2327 to determine if the purchase price or sales price of the tangible personal property or product
2328 subject to taxation under this chapter is de minimis.

2329 (iii) For purposes of Subsection [~~(19)~~] (18)(b)(vi), a seller shall use the full term of a
2330 service contract to determine if the sales price of tangible personal property or a product is de
2331 minimis.

2332 (f) For purposes of Subsection [~~(19)~~] (18)(b)(vii)(B), a seller may not use a
2333 combination of the seller's purchase price and the seller's sales price to determine if tangible
2334 personal property subject to taxation under this chapter is 50% or less of the seller's total
2335 purchase price or sales price of that retail sale.

2336 [~~(20)~~] (19) "Certified automated system" means software certified by the governing
2337 board of the agreement that:

2338 (a) calculates the agreement sales and use tax imposed within a local taxing
2339 jurisdiction:

2340 (i) on a transaction; and

2341 (ii) in the states that are members of the agreement;

2342 (b) determines the amount of agreement sales and use tax to remit to a state that is a
2343 member of the agreement; and

2344 (c) maintains a record of the transaction described in Subsection [~~(20)~~] (19)(a)(i).

2345 [~~(21)~~] (20) "Certified service provider" means an agent certified:

2346 (a) by the governing board of the agreement; and

2347 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax,
2348 as outlined in the contract between the governing board of the agreement and the certified
2349 service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the
2350 seller's own purchases.

2351 ~~[(22)]~~ (21) (a) Subject to Subsection ~~[(22)]~~ (21)(b), "clothing" means all human
2352 wearing apparel suitable for general use.

2353 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2354 commission shall make rules:

2355 (i) listing the items that constitute "clothing"; and

2356 (ii) that are consistent with the list of items that constitute "clothing" under the
2357 agreement.

2358 ~~[(23)]~~ (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic
2359 fuel.

2360 ~~[(24)]~~ (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or
2361 other fuels that does not constitute industrial use under Subsection (57) or residential use under
2362 Subsection ~~[(111)]~~ (115).

2363 ~~[(25)]~~ (24) (a) "Common carrier" means a person engaged in or transacting the
2364 business of transporting passengers, freight, merchandise, or other property for hire within this
2365 state.

2366 (b) (i) "Common carrier" does not include a person that, at the time the person is
2367 traveling to or from that person's place of employment, transports a passenger to or from the
2368 passenger's place of employment.

2369 (ii) For purposes of Subsection ~~[(25)]~~ (24)(b)(i), in accordance with Title 63G, Chapter
2370 3, Utah Administrative Rulemaking Act, the commission may make rules defining what
2371 constitutes a person's place of employment.

2372 (c) "Common carrier" does not include a person that provides transportation network
2373 services, as defined in Section [13-51-102](#).

2374 ~~[(26)]~~ (25) "Component part" includes:

2375 (a) poultry, dairy, and other livestock feed, and their components;

2376 (b) baling ties and twine used in the baling of hay and straw;

2377 (c) fuel used for providing temperature control of orchards and commercial
2378 greenhouses doing a majority of their business in wholesale sales, and for providing power for
2379 off-highway type farm machinery; and

2380 (d) feed, seeds, and seedlings.

2381 ~~[(27)]~~ (26) "Computer" means an electronic device that accepts information:

- 2382 (a) (i) in digital form; or
2383 (ii) in a form similar to digital form; and
2384 (b) manipulates that information for a result based on a sequence of instructions.
2385 [~~(28)~~] (27) "Computer software" means a set of coded instructions designed to cause:
2386 (a) a computer to perform a task; or
2387 (b) automatic data processing equipment to perform a task.
2388 [~~(29)~~] (28) "Computer software maintenance contract" means a contract that obligates a
2389 seller of computer software to provide a customer with:
2390 (a) future updates or upgrades to computer software;
2391 (b) support services with respect to computer software; or
2392 (c) a combination of Subsections [~~(29)~~] (28)(a) and (b).
2393 [~~(30)~~] (29) (a) "Conference bridging service" means an ancillary service that links two
2394 or more participants of an audio conference call or video conference call.
2395 (b) "Conference bridging service" may include providing a telephone number as part of
2396 the ancillary service described in Subsection [~~(30)~~] (29)(a).
2397 (c) "Conference bridging service" does not include a telecommunications service used
2398 to reach the ancillary service described in Subsection [~~(30)~~] (29)(a).
2399 [~~(31)~~] (30) "Construction materials" means any tangible personal property that will be
2400 converted into real property.
2401 [~~(32)~~] (31) "Delivered electronically" means delivered to a purchaser by means other
2402 than tangible storage media.
2403 (32) "Dating referral services" means services that are primarily intended to introduce
2404 or match adults for social or romantic activities, including computer dating or video dating
2405 services.
2406 (33) (a) "Delivery charge" means a charge:
2407 (i) by a seller of:
2408 (A) tangible personal property;
2409 (B) a product transferred electronically; or
2410 (C) a service; and
2411 (ii) for preparation and delivery of the tangible personal property, product transferred
2412 electronically, or services described in Subsection (33)(a)(i) to a location designated by the

- 2413 purchaser.
- 2414 (b) "Delivery charge" includes a charge for the following:
- 2415 (i) transportation;
- 2416 (ii) shipping;
- 2417 (iii) postage;
- 2418 (iv) handling;
- 2419 (v) crating; or
- 2420 (vi) packing.
- 2421 (34) "Detailed telecommunications billing service" means an ancillary service of
- 2422 separately stating information pertaining to individual calls on a customer's billing statement.
- 2423 (35) "Dietary supplement" means a product, other than tobacco, that:
- 2424 (a) is intended to supplement the diet;
- 2425 (b) contains one or more of the following dietary ingredients:
- 2426 (i) a vitamin;
- 2427 (ii) a mineral;
- 2428 (iii) an herb or other botanical;
- 2429 (iv) an amino acid;
- 2430 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 2431 dietary intake; or
- 2432 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 2433 described in Subsections (35)(b)(i) through (v);
- 2434 (c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:
- 2435 (A) tablet form;
- 2436 (B) capsule form;
- 2437 (C) powder form;
- 2438 (D) softgel form;
- 2439 (E) gelcap form; or
- 2440 (F) liquid form; or
- 2441 (ii) if the product is not intended for ingestion in a form described in Subsections
- 2442 (35)(c)(i)(A) through (F), is not represented:
- 2443 (A) as conventional food; and

- 2444 (B) for use as a sole item of:
- 2445 (I) a meal; or
- 2446 (II) the diet; and
- 2447 (d) is required to be labeled as a dietary supplement:
- 2448 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 2449 (ii) as required by 21 C.F.R. Sec. 101.36.
- 2450 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 2451 musical, spoken, or other sounds.
- 2452 (b) "Digital audio work" includes a ringtone.
- 2453 (37) "Digital audio-visual work" means a series of related images which, when shown
- 2454 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 2455 (38) "Digital book" means a work that is generally recognized in the ordinary and usual
- 2456 sense as a book.
- 2457 (39) (a) "Direct mail" means printed material delivered or distributed by United States
- 2458 mail or other delivery service:
- 2459 (i) to:
- 2460 (A) a mass audience; or
- 2461 (B) addressees on a mailing list provided:
- 2462 (I) by a purchaser of the mailing list; or
- 2463 (II) at the discretion of the purchaser of the mailing list; and
- 2464 (ii) if the cost of the printed material is not billed directly to the recipients.
- 2465 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 2466 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 2467 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 2468 single address.
- 2469 (40) "Directory assistance" means an ancillary service of providing:
- 2470 (a) address information; or
- 2471 (b) telephone number information.
- 2472 (41) (a) "Disposable home medical equipment or supplies" means medical equipment
- 2473 or supplies that:
- 2474 (i) cannot withstand repeated use; and

- 2475 (ii) are purchased by, for, or on behalf of a person other than:
- 2476 (A) a health care facility as defined in Section 26-21-2;
- 2477 (B) a health care provider as defined in Section 78B-3-403;
- 2478 (C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or
- 2479 (D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).
- 2480 (b) "Disposable home medical equipment or supplies" does not include:
- 2481 (i) a drug;
- 2482 (ii) durable medical equipment;
- 2483 (iii) a hearing aid;
- 2484 (iv) a hearing aid accessory;
- 2485 (v) mobility enhancing equipment; or
- 2486 (vi) tangible personal property used to correct impaired vision, including:
- 2487 (A) eyeglasses; or
- 2488 (B) contact lenses.
- 2489 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2490 commission may by rule define what constitutes medical equipment or supplies.
- 2491 (42) "Drilling equipment manufacturer" means a facility:
- 2492 (a) located in the state;
- 2493 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 2494 consist of manufacturing component parts of drilling equipment;
- 2495 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 2496 manufacturing process; and
- 2497 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 2498 manufacturing process.
- 2499 (43) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 2500 compound, substance, or preparation that is:
- 2501 (i) recognized in:
- 2502 (A) the official United States Pharmacopoeia;
- 2503 (B) the official Homeopathic Pharmacopoeia of the United States;
- 2504 (C) the official National Formulary; or
- 2505 (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);

- 2506 (ii) intended for use in the:
- 2507 (A) diagnosis of disease;
- 2508 (B) cure of disease;
- 2509 (C) mitigation of disease;
- 2510 (D) treatment of disease; or
- 2511 (E) prevention of disease; or
- 2512 (iii) intended to affect:
- 2513 (A) the structure of the body; or
- 2514 (B) any function of the body.
- 2515 (b) "Drug" does not include:
- 2516 (i) food and food ingredients;
- 2517 (ii) a dietary supplement;
- 2518 (iii) an alcoholic beverage; or
- 2519 (iv) a prosthetic device.
- 2520 (44) (a) Except as provided in Subsection (44)(c), "durable medical equipment" means
- 2521 equipment that:
- 2522 (i) can withstand repeated use;
- 2523 (ii) is primarily and customarily used to serve a medical purpose;
- 2524 (iii) generally is not useful to a person in the absence of illness or injury; and
- 2525 (iv) is not worn in or on the body.
- 2526 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 2527 equipment described in Subsection (44)(a).
- 2528 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 2529 (45) "Electronic" means:
- 2530 (a) relating to technology; and
- 2531 (b) having:
- 2532 (i) electrical capabilities;
- 2533 (ii) digital capabilities;
- 2534 (iii) magnetic capabilities;
- 2535 (iv) wireless capabilities;
- 2536 (v) optical capabilities;

- 2537 (vi) electromagnetic capabilities; or
- 2538 (vii) capabilities similar to Subsections (45)(b)(i) through (vi).
- 2539 (46) "Electronic financial payment service" means an establishment:
- 2540 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 2541 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 2542 federal Executive Office of the President, Office of Management and Budget; and
- 2543 (b) that performs electronic financial payment services.
- 2544 (47) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 2545 (48) "Fixed guideway" means a public transit facility that uses and occupies:
- 2546 (a) rail for the use of public transit; or
- 2547 (b) a separate right-of-way for the use of public transit.
- 2548 (49) "Fixed wing turbine powered aircraft" means an aircraft that:
- 2549 (a) is powered by turbine engines;
- 2550 (b) operates on jet fuel; and
- 2551 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 2552 (50) "Fixed wireless service" means a telecommunications service that provides radio
- 2553 communication between fixed points.
- 2554 (51) (a) "Food and food ingredients" means substances:
- 2555 (i) regardless of whether the substances are in:
- 2556 (A) liquid form;
- 2557 (B) concentrated form;
- 2558 (C) solid form;
- 2559 (D) frozen form;
- 2560 (E) dried form; or
- 2561 (F) dehydrated form; and
- 2562 (ii) that are:
- 2563 (A) sold for:
- 2564 (I) ingestion by humans; or
- 2565 (II) chewing by humans; and
- 2566 (B) consumed for the substance's:
- 2567 (I) taste; or

- 2568 (II) nutritional value.
- 2569 (b) "Food and food ingredients" includes an item described in Subsection [(95)]
- 2570 (99)(b)(iii).
- 2571 (c) "Food and food ingredients" does not include:
- 2572 (i) an alcoholic beverage;
- 2573 (ii) tobacco; or
- 2574 (iii) prepared food.
- 2575 (52) (a) "Fundraising sales" means sales:
- 2576 (i) (A) made by a school; or
- 2577 (B) made by a school student;
- 2578 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 2579 materials, or provide transportation; and
- 2580 (iii) that are part of an officially sanctioned school activity.
- 2581 (b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity"
- 2582 means a school activity:
- 2583 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 2584 district governing the authorization and supervision of fundraising activities;
- 2585 (ii) that does not directly or indirectly compensate an individual teacher or other
- 2586 educational personnel by direct payment, commissions, or payment in kind; and
- 2587 (iii) the net or gross revenues from which are deposited in a dedicated account
- 2588 controlled by the school or school district.
- 2589 (53) "Geothermal energy" means energy contained in heat that continuously flows
- 2590 outward from the earth that is used as the sole source of energy to produce electricity.
- 2591 (54) "Governing board of the agreement" means the governing board of the agreement
- 2592 that is:
- 2593 (a) authorized to administer the agreement; and
- 2594 (b) established in accordance with the agreement.
- 2595 (55) (a) [~~For purposes of Subsection 59-12-104(41), "governmental"~~] "Governmental
- 2596 entity" means:
- 2597 (i) the executive branch of the state, including all departments, institutions, boards,
- 2598 divisions, bureaus, offices, commissions, and committees;

- 2599 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
2600 Administrative Office of the Courts, and similar administrative units in the judicial branch;
- 2601 (iii) the legislative branch of the state, including the House of Representatives, the
2602 Senate, the Legislative Printing Office, the Office of Legislative Research and General
2603 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
2604 Analyst;
- 2605 (iv) the National Guard;
- 2606 (v) an independent entity as defined in Section [63E-1-102](#); or
- 2607 (vi) a political subdivision as defined in Section [17B-1-102](#).
- 2608 (b) "Governmental entity" does not include the state systems of public and higher
2609 education, including:
- 2610 (i) a school;
- 2611 (ii) the State Board of Education;
- 2612 (iii) the State Board of Regents; or
- 2613 (iv) an institution of higher education described in Section [53B-1-102](#).
- 2614 (56) "Hydroelectric energy" means water used as the sole source of energy to produce
2615 electricity.
- 2616 (57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
2617 other fuels:
- 2618 (a) in mining or extraction of minerals;
- 2619 (b) in agricultural operations to produce an agricultural product up to the time of
2620 harvest or placing the agricultural product into a storage facility, including:
- 2621 (i) commercial greenhouses;
- 2622 (ii) irrigation pumps;
- 2623 (iii) farm machinery;
- 2624 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered
2625 under Title 41, Chapter 1a, Part 2, Registration; and
- 2626 (v) other farming activities;
- 2627 (c) in manufacturing tangible personal property at an establishment described in:
- 2628 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
2629 the federal Executive Office of the President, Office of Management and Budget; or

2630 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
2631 American Industry Classification System of the federal Executive Office of the President,
2632 Office of Management and Budget;

2633 (d) by a scrap recycler if:

2634 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
2635 one or more of the following items into prepared grades of processed materials for use in new
2636 products:

2637 (A) iron;

2638 (B) steel;

2639 (C) nonferrous metal;

2640 (D) paper;

2641 (E) glass;

2642 (F) plastic;

2643 (G) textile; or

2644 (H) rubber; and

2645 (ii) the new products under Subsection (57)(d)(i) would otherwise be made with
2646 nonrecycled materials; or

2647 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
2648 cogeneration facility as defined in Section 54-2-1.

2649 [~~(58) (a) Except as provided in Subsection (58)(b), "installation charge" means a~~
2650 ~~charge for installing:]~~

2651 [~~(i) tangible personal property; or]~~

2652 [~~(ii) a product transferred electronically.]~~

2653 [~~(b) "Installation charge" does not include a charge for:]~~

2654 [~~(i) repairs or renovations of:]~~

2655 [~~(A) tangible personal property; or]~~

2656 [~~(B) a product transferred electronically; or]~~

2657 [~~(ii) attaching tangible personal property or a product transferred electronically:]~~

2658 [~~(A) to other tangible personal property; and]~~

2659 [~~(B) as part of a manufacturing or fabrication process.]~~

2660 (58) (a) "Installation charge" means a charge:

- 2661 (i) by a seller of:
2662 (A) tangible personal property; or
2663 (B) a product transferred electronically; and
2664 (ii) for installing the tangible personal property or the product transferred electronically
2665 described in Subsection (58)(a)(i).
- 2666 (b) "Installation charge" does not include a charge for:
2667 (i) installing tangible personal property if the tangible personal property is permanently
2668 attached to real property;
2669 (ii) converting tangible personal property to real property.
- 2670 (59) "Institution of higher education" means an institution of higher education listed in
2671 Section [53B-2-101](#).
- 2672 (60) (a) "Lease" or "rental" means a transfer of possession or control of tangible
2673 personal property or a product transferred electronically for:
2674 (i) (A) a fixed term; or
2675 (B) an indeterminate term; and
2676 (ii) consideration.
- 2677 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
2678 amount of consideration may be increased or decreased by reference to the amount realized
2679 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
2680 Code.
- 2681 (c) "Lease" or "rental" does not include:
2682 (i) a transfer of possession or control of property under a security agreement or
2683 deferred payment plan that requires the transfer of title upon completion of the required
2684 payments;
2685 (ii) a transfer of possession or control of property under an agreement that requires the
2686 transfer of title:
2687 (A) upon completion of required payments; and
2688 (B) if the payment of an option price does not exceed the greater of:
2689 (I) \$100; or
2690 (II) 1% of the total required payments; or
2691 (iii) providing tangible personal property along with an operator for a fixed period of

2692 time or an indeterminate period of time if the operator is necessary for equipment to perform as
2693 designed.

2694 (d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to
2695 perform as designed if the operator's duties exceed the:

- 2696 (i) set-up of tangible personal property;
- 2697 (ii) maintenance of tangible personal property; or
- 2698 (iii) inspection of tangible personal property.

2699 (61) "Life science establishment" means an establishment in this state that is classified
2700 under the following NAICS codes of the 2007 North American Industry Classification System
2701 of the federal Executive Office of the President, Office of Management and Budget:

- 2702 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 2703 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
2704 Manufacturing; or
- 2705 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

2706 (62) "Life science research and development facility" means a facility owned, leased,
2707 or rented by a life science establishment if research and development is performed in 51% or
2708 more of the total area of the facility.

2709 (63) "Load and leave" means delivery to a purchaser by use of a tangible storage media
2710 if the tangible storage media is not physically transferred to the purchaser.

2711 (64) "Local taxing jurisdiction" means a:

- 2712 (a) county that is authorized to impose an agreement sales and use tax;
- 2713 (b) city that is authorized to impose an agreement sales and use tax; or
- 2714 (c) town that is authorized to impose an agreement sales and use tax.

2715 (65) "Manufactured home" means the same as that term is defined in Section
2716 [15A-1-302](#).

2717 (66) "Manufacturing facility" means:

- 2718 (a) an establishment described in:
 - 2719 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
2720 the federal Executive Office of the President, Office of Management and Budget; or
 - 2721 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
2722 American Industry Classification System of the federal Executive Office of the President,

2723 Office of Management and Budget;

2724 (b) a scrap recycler if:

2725 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process

2726 one or more of the following items into prepared grades of processed materials for use in new

2727 products:

2728 (A) iron;

2729 (B) steel;

2730 (C) nonferrous metal;

2731 (D) paper;

2732 (E) glass;

2733 (F) plastic;

2734 (G) textile; or

2735 (H) rubber; and

2736 (ii) the new products under Subsection (66)(b)(i) would otherwise be made with

2737 nonrecycled materials; or

2738 (c) a cogeneration facility as defined in Section [54-2-1](#) if the cogeneration facility is

2739 placed in service on or after May 1, 2006.

2740 (67) (a) "Marketplace" means a physical or electronic place, platform, or forum where

2741 tangible personal property, a product transferred electronically, or a service is offered for sale.

2742 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a

2743 dedicated sales software application.

2744 (68) (a) "Marketplace facilitator" means a person, including an affiliate of the person,

2745 that enters into a contract, an agreement, or otherwise with sellers, for consideration, to

2746 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or

2747 controls and that directly or indirectly:

2748 (i) does any of the following:

2749 (A) lists, makes available, or advertises tangible personal property, a product

2750 transferred electronically, or a service for sale by a marketplace seller on a marketplace that the

2751 person owns, operates, or controls;

2752 (B) facilitates the sale of a marketplace seller's tangible personal property, product

2753 transferred electronically, or service by transmitting or otherwise communicating an offer or

2754 acceptance of a retail sale between the marketplace seller and a purchaser using the
2755 marketplace;

2756 (C) owns, rents, licenses, makes available, or operates any electronic or physical
2757 infrastructure or any property, process, method, copyright, trademark, or patent that connects a
2758 marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal
2759 property, a product transferred electronically, or a service;

2760 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible
2761 personal property, a product transferred electronically, or a service, regardless of ownership or
2762 control of the tangible personal property, the product transferred electronically, or the service
2763 that is the subject of the retail sale;

2764 (E) provides software development or research and development activities related to
2765 any activity described in this Subsection (68)(a)(i), if the software development or research and
2766 development activity is directly related to the person's marketplace;

2767 (F) provides or offers fulfillment or storage services for a marketplace seller;

2768 (G) sets prices for the sale of tangible personal property, a product transferred
2769 electronically, or a service by a marketplace seller;

2770 (H) provides or offers customer service to a marketplace seller or a marketplace seller's
2771 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal
2772 property, a product transferred electronically, or a service sold by a marketplace seller on the
2773 person's marketplace; or

2774 (I) brands or otherwise identifies sales as those of the person; and

2775 (ii) does any of the following:

2776 (A) collects the sales price or purchase price of a retail sale of tangible personal
2777 property, a product transferred electronically, or a service;

2778 (B) provides payment processing services for a retail sale of tangible personal property,
2779 a product transferred electronically, or a service;

2780 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing
2781 fee, a fee for inserting or making available tangible personal property, a product transferred
2782 electronically, or a service on the person's marketplace, or other consideration for the
2783 facilitation of a retail sale of tangible personal property, a product transferred electronically, or
2784 a service, regardless of ownership or control of the tangible personal property, the product

2785 transferred electronically, or the service that is the subject of the retail sale;

2786 (D) through terms and conditions, an agreement, or another arrangement with a third
2787 person, collects payment from a purchase for a retail sale of tangible personal property, a
2788 product transferred electronically, or a service and transmits that payment to the marketplace
2789 seller, regardless of whether the third person receives compensation or other consideration in
2790 exchange for the service; or

2791 (E) provides a virtual currency for a purchaser to use to purchase tangible personal
2792 property, a product transferred electronically, or service offered for sale.

2793 (b) "Marketplace facilitator" does not include a person that only provides payment
2794 processing services.

2795 (69) "Marketplace seller" means a seller that makes one or more retail sales through a
2796 marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the
2797 seller is required to be registered to collect and remit the tax under this part.

2798 (70) "Member of the immediate family of the producer" means a person who is related
2799 to a producer described in Subsection [59-12-104](#)~~(20)~~(17)(a) as a:

2800 (a) child or stepchild, regardless of whether the child or stepchild is:

2801 (i) an adopted child or adopted stepchild; or

2802 (ii) a foster child or foster stepchild;

2803 (b) grandchild or stepgrandchild;

2804 (c) grandparent or stepgrandparent;

2805 (d) nephew or stepnephew;

2806 (e) niece or stepniece;

2807 (f) parent or stepparent;

2808 (g) sibling or stepsibling;

2809 (h) spouse;

2810 (i) person who is the spouse of a person described in Subsections (70)(a) through (g);

2811 or

2812 (j) person similar to a person described in Subsections (70)(a) through (i) as

2813 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
2814 Administrative Rulemaking Act.

2815 (71) (a) "Menstrual products" means:

2816 (i) tampons;
2817 (ii) panty liners;
2818 (iii) menstrual cups;
2819 (iv) sanitary napkins; or
2820 (v) other similar tangible personal property designed for hygiene in connection with the
2821 human menstrual cycle.

2822 (b) "Menstrual products" does not include:

2823 (i) soaps or cleaning solutions;

2824 (ii) shampoo;

2825 (iii) toothpaste;

2826 (iv) mouthwash;

2827 (v) antiperspirants; or

2828 (vi) suntan lotions or screens.

2829 ~~[(71)]~~ (72) "Mobile home" means the same as that term is defined in Section
2830 15A-1-302.

2831 ~~[(72)]~~ (73) "Mobile telecommunications service" means the same as that term is
2832 defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2833 ~~[(73)]~~ (74) (a) "Mobile wireless service" means a telecommunications service,
2834 regardless of the technology used, if:

2835 (i) the origination point of the conveyance, routing, or transmission is not fixed;

2836 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

2837 (iii) the origination point described in Subsection ~~[(73)]~~ (74)(a)(i) and the termination
2838 point described in Subsection ~~[(73)]~~ (74)(a)(ii) are not fixed.

2839 (b) "Mobile wireless service" includes a telecommunications service that is provided
2840 by a commercial mobile radio service provider.

2841 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2842 commission may by rule define "commercial mobile radio service provider."

2843 ~~[(74)]~~ (75) (a) ~~[Except as provided in Subsection (74)(c), "mobility]~~ "Mobility
2844 enhancing equipment" means equipment that is:

2845 (i) primarily and customarily used to provide or increase the ability to move from one
2846 place to another;

- 2847 (ii) appropriate for use in a:
- 2848 (A) home; or
- 2849 (B) motor vehicle; and
- 2850 (iii) not generally used by persons with normal mobility.
- 2851 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
- 2852 the equipment described in Subsection [~~(74)~~] (75)(a).
- 2853 (c) "Mobility enhancing equipment" does not include:
- 2854 (i) a motor vehicle;
- 2855 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
- 2856 vehicle manufacturer;
- 2857 (iii) durable medical equipment; or
- 2858 (iv) a prosthetic device.
- 2859 [~~(75)~~] (76) "Model 1 seller" means a seller registered under the agreement that has
- 2860 selected a certified service provider as the seller's agent to perform the seller's sales and use tax
- 2861 functions for agreement sales and use taxes, as outlined in the contract between the governing
- 2862 board of the agreement and the certified service provider, other than the seller's obligation
- 2863 under Section 59-12-124 to remit a tax on the seller's own purchases.
- 2864 [~~(76)~~] (77) "Model 2 seller" means a seller registered under the agreement that:
- 2865 (a) except as provided in Subsection [~~(76)~~] (77)(b), has selected a certified automated
- 2866 system to perform the seller's sales tax functions for agreement sales and use taxes; and
- 2867 (b) retains responsibility for remitting all of the sales tax:
- 2868 (i) collected by the seller; and
- 2869 (ii) to the appropriate local taxing jurisdiction.
- 2870 [~~(77)~~] (78) (a) Subject to Subsection [~~(77)~~] (78)(b), "model 3 seller" means a seller
- 2871 registered under the agreement that has:
- 2872 (i) sales in at least five states that are members of the agreement;
- 2873 (ii) total annual sales [~~revenues~~] revenue of at least \$500,000,000;
- 2874 (iii) a proprietary system that calculates the amount of tax:
- 2875 (A) for an agreement sales and use tax; and
- 2876 (B) due to each local taxing jurisdiction; and
- 2877 (iv) entered into a performance agreement with the governing board of the agreement.

2878 (b) [~~For purposes of Subsection (77)(a), "model~~] Model 3 seller includes an affiliated
2879 group of sellers using the same proprietary system.

2880 [~~(78)~~] (79) "Model 4 seller" means a seller that is registered under the agreement and is
2881 not a model 1 seller, model 2 seller, or model 3 seller.

2882 [~~(79)~~] (80) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

2883 [~~(80)~~] (81) "Motor vehicle" means the same as that term is defined in Section
2884 [41-1a-102](#).

2885 [~~(81)~~] (82) "Oil sands" means impregnated bituminous sands that:

2886 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
2887 other hydrocarbons, or otherwise treated;

2888 (b) yield mixtures of liquid hydrocarbon; and

2889 (c) require further processing other than mechanical blending before becoming finished
2890 petroleum products.

2891 [~~(82)~~] (83) "Oil shale" means a group of fine black to dark brown shales containing
2892 kerogen material that yields petroleum upon heating and distillation.

2893 [~~(83)~~] (84) "Optional computer software maintenance contract" means a computer
2894 software maintenance contract that a customer is not obligated to purchase as a condition to the
2895 retail sale of computer software.

2896 [~~(84)~~] (85) (a) "Other fuels" means products that burn independently to produce heat or
2897 energy.

2898 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
2899 personal property.

2900 [~~(85)~~] (86) (a) "Paging service" means a telecommunications service that provides
2901 transmission of a coded radio signal for the purpose of activating a specific pager.

2902 (b) For purposes of Subsection [~~(85)~~] (86)(a), the transmission of a coded radio signal
2903 includes a transmission by message or sound.

2904 (87) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).

2905 [~~(86)~~] (88) "Pawnbroker" means the same as that term is defined in Section
2906 [13-32a-102](#).

2907 [~~(87)~~ "Pawn transaction" means the same as that term is defined in Section
2908 [13-32a-102](#).]

2909 [~~(88)~~] (89) (a) "Permanently attached to real property" means that for tangible personal
2910 property attached to real property:

2911 (i) the attachment of the tangible personal property to the real property:

2912 (A) is essential to the use of the tangible personal property; and

2913 (B) suggests that the tangible personal property will remain attached to the real
2914 property in the same place over the useful life of the tangible personal property; or

2915 (ii) if the tangible personal property is detached from the real property, the detachment
2916 would:

2917 (A) cause substantial damage to the tangible personal property; or

2918 (B) require substantial alteration or repair of the real property to which the tangible
2919 personal property is attached.

2920 (b) "Permanently attached to real property" includes:

2921 (i) the attachment of an accessory to the tangible personal property if the accessory is:

2922 (A) essential to the operation of the tangible personal property; and

2923 (B) attached only to facilitate the operation of the tangible personal property;

2924 (ii) a temporary detachment of tangible personal property from real property for a
2925 repair or renovation if the repair or renovation is performed where the tangible personal
2926 property and real property are located; or

2927 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
2928 Subsection [~~(88)~~] (89)(c)(iii) or (iv).

2929 (c) "Permanently attached to real property" does not include:

2930 (i) the attachment of portable or movable tangible personal property to real property if
2931 that portable or movable tangible personal property is attached to real property only for:

2932 (A) convenience;

2933 (B) stability; or

2934 (C) for an obvious temporary purpose;

2935 (ii) the detachment of tangible personal property from real property except for the
2936 detachment described in Subsection [~~(88)~~] (89)(b)(ii);

2937 (iii) an attachment of the following tangible personal property to real property if the
2938 attachment to real property is only through a line that supplies water, electricity, gas,
2939 telecommunications, cable, or supplies a similar item as determined by the commission by rule

- 2940 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 2941 (A) a computer;
- 2942 (B) a telephone;
- 2943 (C) a television; or
- 2944 (D) tangible personal property similar to Subsections [~~(88)~~] (89)(c)(iii)(A) through (C)
- 2945 as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 2946 Administrative Rulemaking Act; or
- 2947 (iv) an item listed in Subsection [~~(129)~~] (135)(c).
- 2948 [~~(89)~~] (90) "Person" includes any individual, firm, partnership, joint venture,
- 2949 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
- 2950 city, municipality, district, or other local governmental entity of the state, or any group or
- 2951 combination acting as a unit.
- 2952 (91) (a) "Personal transportation service" means the transportation of one or more
- 2953 individuals by motor vehicle.
- 2954 (b) "Personal transportation" includes taxicab service, limousine service, driver service,
- 2955 shuttle service, scenic or sightseeing transportation, and a prearranged ride as defined in
- 2956 Section [13-51-102](#).
- 2957 (c) "Personal transportation service" does not include:
- 2958 (i) services provided by or through a governmental entity;
- 2959 (ii) transportation by ambulance as defined in Section [26-8a-102](#);
- 2960 (iii) transportation provided in connection with a funeral; or
- 2961 (iv) transportation by a low-speed vehicle, as defined in Section [41-6a-102](#), within a
- 2962 county of the first class, as classified in Section [17-50-501](#).
- 2963 (92) (a) "Pet boarding or care" means the furnishing of:
- 2964 (i) boarding for a pet; or
- 2965 (ii) daytime care for a pet at a location other than the pet owner's residence where the
- 2966 pet is dropped off and picked up.
- 2967 (b) "Pet boarding or care" does not include a service described in Subsection (92)(a):
- 2968 (i) by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, in
- 2969 conjunction with a veterinary medical service; or
- 2970 (ii) for a working animal, livestock, or a laboratory animal.

- 2971 (93) (a) "Pet grooming" means:
- 2972 (i) cleaning, maintaining, or enhancing the physical appearance of a pet; or
- 2973 (ii) furnishing other hygienic care for a pet.
- 2974 (b) "Pet grooming" does not include a service described in Subsection (93)(a):
- 2975 (i) by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, in
- 2976 conjunction with a veterinary medical service; or
- 2977 (ii) for a working animal, livestock, or a laboratory animal.
- 2978 [~~90~~] (94) "Place of primary use":
- 2979 (a) for telecommunications service other than mobile telecommunications service,
- 2980 means the street address representative of where the customer's use of the telecommunications
- 2981 service primarily occurs, which shall be:
- 2982 (i) the residential street address of the customer; or
- 2983 (ii) the primary business street address of the customer; or
- 2984 (b) for mobile telecommunications service, means the same as that term is defined in
- 2985 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 2986 [~~91~~] (95) (a) "Postpaid calling service" means a telecommunications service a person
- 2987 obtains by making a payment on a call-by-call basis:
- 2988 (i) through the use of a:
- 2989 (A) bank card;
- 2990 (B) credit card;
- 2991 (C) debit card; or
- 2992 (D) travel card; or
- 2993 (ii) by a charge made to a telephone number that is not associated with the origination
- 2994 or termination of the telecommunications service.
- 2995 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
- 2996 service, that would be a prepaid wireless calling service if the service were exclusively a
- 2997 telecommunications service.
- 2998 [~~92~~] (96) "Postproduction" means an activity related to the finishing or duplication of
- 2999 a medium described in Subsection 59-12-104[~~(54)~~](47)(a).
- 3000 [~~93~~] (97) "Prepaid calling service" means a telecommunications service:
- 3001 (a) that allows a purchaser access to telecommunications service that is exclusively

- 3002 telecommunications service;
- 3003 (b) that:
- 3004 (i) is paid for in advance; and
- 3005 (ii) enables the origination of a call using an:
- 3006 (A) access number; or
- 3007 (B) authorization code;
- 3008 (c) that is dialed:
- 3009 (i) manually; or
- 3010 (ii) electronically; and
- 3011 (d) sold in predetermined units or dollars that decline:
- 3012 (i) by a known amount; and
- 3013 (ii) with use.
- 3014 [~~94~~] (98) "Prepaid wireless calling service" means a telecommunications service:
- 3015 (a) that provides the right to utilize:
- 3016 (i) mobile wireless service; and
- 3017 (ii) other service that is not a telecommunications service, including:
- 3018 (A) the download of a product transferred electronically;
- 3019 (B) a content service; or
- 3020 (C) an ancillary service;
- 3021 (b) that:
- 3022 (i) is paid for in advance; and
- 3023 (ii) enables the origination of a call using an:
- 3024 (A) access number; or
- 3025 (B) authorization code;
- 3026 (c) that is dialed:
- 3027 (i) manually; or
- 3028 (ii) electronically; and
- 3029 (d) sold in predetermined units or dollars that decline:
- 3030 (i) by a known amount; and
- 3031 (ii) with use.
- 3032 [~~95~~] (99) (a) "Prepared food" means:

- 3033 (i) food:
- 3034 (A) sold in a heated state; or
- 3035 (B) heated by a seller;
- 3036 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 3037 item; or
- 3038 (iii) except as provided in Subsection [~~(95)~~] (99)(c), food sold with an eating utensil
- 3039 provided by the seller, including a:
- 3040 (A) plate;
- 3041 (B) knife;
- 3042 (C) fork;
- 3043 (D) spoon;
- 3044 (E) glass;
- 3045 (F) cup;
- 3046 (G) napkin; or
- 3047 (H) straw.
- 3048 (b) "Prepared food" does not include:
- 3049 (i) food that a seller only:
- 3050 (A) cuts;
- 3051 (B) repackages; or
- 3052 (C) pasteurizes; or
- 3053 (ii) (A) the following:
- 3054 (I) raw egg;
- 3055 (II) raw fish;
- 3056 (III) raw meat;
- 3057 (IV) raw poultry; or
- 3058 (V) a food containing an item described in Subsections [~~(95)~~] (99)(b)(ii)(A)(I) through
- 3059 (IV); and
- 3060 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 3061 Food and Drug Administration's Food Code that a consumer cook the items described in
- 3062 Subsection [~~(95)~~] (99)(b)(ii)(A) to prevent food borne illness; or
- 3063 (iii) the following if sold without eating utensils provided by the seller:

3064 (A) food and food ingredients sold by a seller if the seller's proper primary
3065 classification under the 2002 North American Industry Classification System of the federal
3066 Executive Office of the President, Office of Management and Budget, is manufacturing in
3067 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
3068 Manufacturing;

3069 (B) food and food ingredients sold in an unheated state:

3070 (I) by weight or volume; and

3071 (II) as a single item; or

3072 (C) a bakery item, including:

3073 (I) a bagel;

3074 (II) a bar;

3075 (III) a biscuit;

3076 (IV) bread;

3077 (V) a bun;

3078 (VI) a cake;

3079 (VII) a cookie;

3080 (VIII) a croissant;

3081 (IX) a danish;

3082 (X) a donut;

3083 (XI) a muffin;

3084 (XII) a pastry;

3085 (XIII) a pie;

3086 (XIV) a roll;

3087 (XV) a tart;

3088 (XVI) a torte; or

3089 (XVII) a tortilla.

3090 (c) An eating utensil provided by the seller does not include the following used to
3091 transport the food:

3092 (i) a container; or

3093 (ii) packaging.

3094 [~~96~~] (100) "Prescription" means an order, formula, or recipe that is issued:

- 3095 (a) (i) orally;
- 3096 (ii) in writing;
- 3097 (iii) electronically; or
- 3098 (iv) by any other manner of transmission; and
- 3099 (b) by a licensed practitioner authorized by the laws of a state.
- 3100 [~~(97)~~] (101) (a) [~~Except as provided in Subsection (97)(b)(ii) or (iii), "prewritten]~~
- 3101 "Prewritten computer software" means computer software that is not designed and developed:
- 3102 (i) by the author or other creator of the computer software; and
- 3103 (ii) to the specifications of a specific purchaser.
- 3104 (b) "Prewritten computer software" includes:
- 3105 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 3106 software is not designed and developed:
- 3107 (A) by the author or other creator of the computer software; and
- 3108 (B) to the specifications of a specific purchaser;
- 3109 (ii) computer software designed and developed by the author or other creator of the
- 3110 computer software to the specifications of a specific purchaser if the computer software is sold
- 3111 to a person other than the purchaser; or
- 3112 (iii) except as provided in Subsection [~~(97)~~] (101)(c), prewritten computer software or
- 3113 a prewritten portion of prewritten computer software:
- 3114 (A) that is modified or enhanced to any degree; and
- 3115 (B) if the modification or enhancement described in Subsection [~~(97)~~] (101)(b)(iii)(A)
- 3116 is designed and developed to the specifications of a specific purchaser.
- 3117 (c) "Prewritten computer software" does not include a modification or enhancement
- 3118 described in Subsection [~~(97)~~] (101)(b)(iii) if the charges for the modification or enhancement
- 3119 are:
- 3120 (i) reasonable; and
- 3121 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
- 3122 invoice or other statement of price provided to the purchaser at the time of sale or later, as
- 3123 demonstrated by:
- 3124 (A) the books and records the seller keeps at the time of the transaction in the regular
- 3125 course of business, including books and records the seller keeps at the time of the transaction in

3126 the regular course of business for nontax purposes;

3127 (B) a preponderance of the facts and circumstances at the time of the transaction; and

3128 (C) the understanding of all of the parties to the transaction.

3129 ~~[(98)]~~ (102) (a) "Private communications service" means a telecommunications

3130 service:

3131 (i) that entitles a customer to exclusive or priority use of one or more communications
3132 channels between or among termination points; and

3133 (ii) regardless of the manner in which the one or more communications channels are
3134 connected.

3135 (b) "Private communications service" includes the following provided in connection
3136 with the use of one or more communications channels:

3137 (i) an extension line;

3138 (ii) a station;

3139 (iii) switching capacity; or

3140 (iv) another associated service that is provided in connection with the use of one or
3141 more communications channels as defined in Section 59-12-215.

3142 ~~[(99)]~~ (103) (a) ~~[Except as provided in Subsection (99)(b), "product]~~ "Product
3143 transferred electronically" means a product transferred electronically that would be subject to a
3144 tax under this chapter if that product was transferred in a manner other than electronically.

3145 (b) "Product transferred electronically" does not include:

3146 (i) an ancillary service;

3147 (ii) computer software; or

3148 (iii) a telecommunications service.

3149 ~~[(100)]~~ (104) (a) "Prosthetic device" means a device that is worn on or in the body to:

3150 (i) artificially replace a missing portion of the body;

3151 (ii) prevent or correct a physical deformity or physical malfunction; or

3152 (iii) support a weak or deformed portion of the body.

3153 (b) "Prosthetic device" includes:

3154 (i) parts used in the repairs or renovation of a prosthetic device;

3155 (ii) replacement parts for a prosthetic device;

3156 (iii) a dental prosthesis; or

- 3157 (iv) a hearing aid.
- 3158 (c) "Prosthetic device" does not include:
- 3159 (i) corrective eyeglasses; or
- 3160 (ii) contact lenses.
- 3161 [~~(101)~~] (105) (a) "Protective equipment" means an item:
- 3162 (i) for human wear; and
- 3163 (ii) that is:
- 3164 (A) designed as protection:
- 3165 (I) to the wearer against injury or disease; or
- 3166 (II) against damage or injury of other persons or property; and
- 3167 (B) not suitable for general use.
- 3168 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3169 commission shall make rules:
- 3170 (i) listing the items that constitute "protective equipment"; and
- 3171 (ii) that are consistent with the list of items that constitute "protective equipment"
- 3172 under the agreement.
- 3173 [~~(102)~~] (106) (a) For purposes of Subsection 59-12-104[~~(41)~~](36), "publication" means
- 3174 any written or printed matter, other than a photocopy:
- 3175 (i) regardless of:
- 3176 (A) characteristics;
- 3177 (B) copyright;
- 3178 (C) form;
- 3179 (D) format;
- 3180 (E) method of reproduction; or
- 3181 (F) source; and
- 3182 (ii) made available in printed or electronic format.
- 3183 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3184 commission may by rule define the term "photocopy."
- 3185 [~~(103)~~] (107) (a) "Purchase price" and "sales price" mean the total amount of
- 3186 consideration:
- 3187 (i) valued in money; and

- 3188 (ii) for which tangible personal property, a product transferred electronically, or
3189 services are:
- 3190 (A) sold;
 - 3191 (B) leased; or
 - 3192 (C) rented.
- 3193 (b) "Purchase price" and "sales price" include:
- 3194 (i) the seller's cost of the tangible personal property, a product transferred
3195 electronically, or services sold;
 - 3196 (ii) expenses of the seller, including:
 - 3197 (A) the cost of materials used;
 - 3198 (B) a labor cost;
 - 3199 (C) a service cost;
 - 3200 (D) interest;
 - 3201 (E) a loss;
 - 3202 (F) the cost of transportation to the seller; or
 - 3203 (G) a tax imposed on the seller;
 - 3204 (iii) a delivery charge; or
 - 3205 (iv) an installation charge;
 - 3206 ~~[(iii)]~~ (v) a charge by the seller for any service necessary to complete the sale; or
 - 3207 ~~[(iv)]~~ (vi) consideration a seller receives from a person other than the purchaser if:
 - 3208 (A) (I) the seller actually receives consideration from a person other than the purchaser;
 - 3209 and
 - 3210 (II) the consideration described in Subsection ~~[(103)]~~ (107)(b)~~[(iv)]~~(vi)(A)(I) is directly
3211 related to a price reduction or discount on the sale;
 - 3212 (B) the seller has an obligation to pass the price reduction or discount through to the
3213 purchaser;
 - 3214 (C) the amount of the consideration attributable to the sale is fixed and determinable by
3215 the seller at the time of the sale to the purchaser; and
 - 3216 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
3217 seller to claim a price reduction or discount; and
 - 3218 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,

3219 coupon, or other documentation with the understanding that the person other than the seller
3220 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

3221 (II) the purchaser identifies that purchaser to the seller as a member of a group or
3222 organization allowed a price reduction or discount, except that a preferred customer card that is
3223 available to any patron of a seller does not constitute membership in a group or organization
3224 allowed a price reduction or discount; or

3225 (III) the price reduction or discount is identified as a third party price reduction or
3226 discount on the:

3227 (Aa) invoice the purchaser receives; or

3228 (Bb) certificate, coupon, or other documentation the purchaser presents.

3229 (c) "Purchase price" and "sales price" do not include:

3230 (i) a discount:

3231 (A) in a form including:

3232 (I) cash;

3233 (II) term; or

3234 (III) coupon;

3235 (B) that is allowed by a seller;

3236 (C) taken by a purchaser on a sale; and

3237 (D) that is not reimbursed by a third party; or

3238 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately

3239 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of

3240 sale or later, as demonstrated by the books and records the seller keeps at the time of the

3241 transaction in the regular course of business, including books and records the seller keeps at the

3242 time of the transaction in the regular course of business for nontax purposes, by a

3243 preponderance of the facts and circumstances at the time of the transaction, and by the

3244 understanding of all of the parties to the transaction:

3245 (A) the following from credit extended on the sale of tangible personal property or
3246 services:

3247 (I) a carrying charge;

3248 (II) a financing charge; or

3249 (III) an interest charge;

- 3250 [~~(B)~~] a delivery charge;
- 3251 [~~(C)~~] an installation charge;
- 3252 [~~(D)~~] (B) a manufacturer rebate on a motor vehicle; or
- 3253 [~~(E)~~] (C) a tax or fee legally imposed directly on the consumer.
- 3254 [~~(104)~~] (108) "Purchaser" means a person to whom:
- 3255 (a) a sale of tangible personal property is made;
- 3256 (b) a product is transferred electronically; or
- 3257 (c) a service is furnished.
- 3258 [~~(105)~~] (109) "Qualifying [~~enterprise~~] data center" means [~~an establishment that will:~~
- 3259 ~~(a) own and operate~~] a data center facility that [~~will house~~]:
- 3260 (a) houses a group of networked server computers in one physical location in order to
- 3261 [~~centralize the dissemination, management, and storage of~~] disseminate, manage, and store data
- 3262 and information;
- 3263 (b) [~~be~~] is located in the state;
- 3264 (c) [~~be~~] is a new operation constructed on or after July 1, 2016;
- 3265 (d) [~~consist~~] consists of one or more buildings that total 150,000 or more square feet;
- 3266 (e) [~~be~~] is owned or leased by:
- 3267 (i) the [~~establishment~~] operator of the data center facility; or
- 3268 (ii) a person under common ownership, as defined in Section 59-7-101, of the
- 3269 [~~establishment~~] operator of the data center facility; and
- 3270 (f) [~~be~~] is located on one or more parcels of land that are owned or leased by:
- 3271 (i) the [~~establishment~~] operator of the data center facility; or
- 3272 (ii) a person under common ownership, as defined in Section 59-7-101, of the
- 3273 [~~establishment~~] operator of the data center facility.
- 3274 [~~(106)~~] (110) "Regularly rented" means:
- 3275 (a) rented to a guest for value three or more times during a calendar year; or
- 3276 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 3277 value.
- 3278 [~~(107)~~] (111) "Rental" means the same as that term is defined in Subsection (60).
- 3279 [~~(108)~~] (112) (a) [~~Except as provided in Subsection (108)(b), "repairs"~~] "Repairs or
- 3280 renovations of tangible personal property" means:

3281 (i) a repair or renovation of tangible personal property that is not permanently attached
3282 to real property; or

3283 (ii) attaching tangible personal property or a product transferred electronically to other
3284 tangible personal property or detaching tangible personal property or a product transferred
3285 electronically from other tangible personal property if:

3286 (A) the other tangible personal property to which the tangible personal property or
3287 product transferred electronically is attached or from which the tangible personal property or
3288 product transferred electronically is detached is not permanently attached to real property; and

3289 (B) the attachment of tangible personal property or a product transferred electronically
3290 to other tangible personal property or detachment of tangible personal property or a product
3291 transferred electronically from other tangible personal property is made in conjunction with a
3292 repair or replacement of tangible personal property or a product transferred electronically.

3293 (b) "Repairs or renovations of tangible personal property" does not include:

3294 (i) attaching prewritten computer software to other tangible personal property if the
3295 other tangible personal property to which the prewritten computer software is attached is not
3296 permanently attached to real property; or

3297 (ii) detaching prewritten computer software from other tangible personal property if the
3298 other tangible personal property from which the prewritten computer software is detached is
3299 not permanently attached to real property.

3300 [~~(109)~~] (113) "Research and development" means the process of inquiry or
3301 experimentation aimed at the discovery of facts, devices, technologies, or applications and the
3302 process of preparing those devices, technologies, or applications for marketing.

3303 [~~(110)~~] (114) (a) "Residential telecommunications services" means a
3304 telecommunications service or an ancillary service that is provided to an individual for personal
3305 use:

3306 (i) at a residential address; or

3307 (ii) at an institution, including a nursing home or a school, if the telecommunications
3308 service or ancillary service is provided to and paid for by the individual residing at the
3309 institution rather than the institution.

3310 (b) For purposes of Subsection [~~(110)~~] (114)(a)(i), a residential address includes an:

3311 (i) apartment; or

3312 (ii) other individual dwelling unit.

3313 [~~(111)~~] (115) "Residential use" means the use in or around a home, apartment building,
3314 sleeping quarters, and similar facilities or accommodations.

3315 [~~(112)~~] (116) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
3316 other than:

3317 (a) resale;

3318 (b) sublease; or

3319 (c) subrent.

3320 [~~(113)~~] (117) (a) "Retailer" means any person, unless prohibited by the Constitution of
3321 the United States or federal law, that is engaged in a regularly organized business in tangible
3322 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is
3323 selling to the user or consumer and not for resale.

3324 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
3325 engaged in the business of selling to users or consumers within the state.

3326 [~~(114)~~] (118) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
3327 otherwise, in any manner, of tangible personal property or any other taxable transaction under
3328 Subsection 59-12-103(1), for consideration.

3329 (b) "Sale" includes:

3330 (i) installment and credit sales;

3331 (ii) any closed transaction constituting a sale;

3332 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
3333 chapter;

3334 (iv) any transaction if the possession of property is transferred but the seller retains the
3335 title as security for the payment of the price; and

3336 (v) any transaction under which right to possession, operation, or use of any article of
3337 tangible personal property is granted under a lease or contract and the transfer of possession
3338 would be taxable if an outright sale were made.

3339 [~~(115)~~] (119) "Sale at retail" means the same as that term is defined in Subsection
3340 [~~(112)~~] (116).

3341 [~~(116)~~] (120) "Sale-leaseback transaction" means a transaction by which title to
3342 tangible personal property or a product transferred electronically that is subject to a tax under

3343 this chapter is transferred:

3344 (a) by a purchaser-lessee;

3345 (b) to a lessor;

3346 (c) for consideration; and

3347 (d) if:

3348 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase

3349 of the tangible personal property or product transferred electronically;

3350 (ii) the sale of the tangible personal property or product transferred electronically to the

3351 lessor is intended as a form of financing:

3352 (A) for the tangible personal property or product transferred electronically; and

3353 (B) to the purchaser-lessee; and

3354 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee

3355 is required to:

3356 (A) capitalize the tangible personal property or product transferred electronically for

3357 financial reporting purposes; and

3358 (B) account for the lease payments as payments made under a financing arrangement.

3359 [~~(117)~~] (121) "Sales price" means the same as that term is defined in Subsection

3360 [~~(103)~~] (107).

3361 [~~(118)~~] (122) (a) "Sales relating to schools" means the following sales by, amounts

3362 paid to, or amounts charged by a school:

3363 (i) sales that are directly related to the school's educational functions or activities

3364 including:

3365 (A) the sale of:

3366 (I) textbooks;

3367 (II) textbook fees;

3368 (III) laboratory fees;

3369 (IV) laboratory supplies; or

3370 (V) safety equipment;

3371 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

3372 that:

3373 (I) a student is specifically required to wear as a condition of participation in a

3374 school-related event or school-related activity; and
3375 (II) is not readily adaptable to general or continued usage to the extent that it takes the
3376 place of ordinary clothing;
3377 (C) sales of the following if the net or gross revenues generated by the sales are
3378 deposited into a school district fund or school fund dedicated to school meals:
3379 (I) food and food ingredients; or
3380 (II) prepared food; or
3381 (D) transportation charges for official school activities; or
3382 (ii) amounts paid to or amounts charged by a school for admission to a school-related
3383 event or school-related activity.
3384 (b) "Sales relating to schools" does not include:
3385 (i) bookstore sales of items that are not educational materials or supplies;
3386 (ii) except as provided in Subsection [~~(118)~~] (122)(a)(i)(B):
3387 (A) clothing;
3388 (B) clothing accessories or equipment;
3389 (C) protective equipment; or
3390 (D) sports or recreational equipment; or
3391 (iii) amounts paid to or amounts charged by a school for admission to a school-related
3392 event or school-related activity if the amounts paid or charged are passed through to a person:
3393 (A) other than a:
3394 (I) school;
3395 (II) nonprofit organization authorized by a school board or a governing body of a
3396 private school to organize and direct a competitive secondary school activity; or
3397 (III) nonprofit association authorized by a school board or a governing body of a
3398 private school to organize and direct a competitive secondary school activity; and
3399 (B) that is required to collect sales and use taxes under this chapter.
3400 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3401 commission may make rules defining the term "passed through."
3402 [~~(119)~~] (123) For purposes of this section and Section [59-12-104](#), "school" means:
3403 (a) an elementary school or a secondary school that:
3404 (i) is a:

- 3405 (A) public school; or
- 3406 (B) private school; and
- 3407 (ii) provides instruction for one or more grades kindergarten through 12; or
- 3408 (b) a public school district.
- 3409 (124) "Security system monitoring" means the service of monitoring signals from an
- 3410 alarm system, as defined in Section 58-55-102, regardless of whether the monitoring is
- 3411 performed electronically or by an individual.
- 3412 [~~(120)~~] (125) (a) "Seller" means a person that makes a sale, lease, or rental of:
- 3413 (i) tangible personal property;
- 3414 (ii) a product transferred electronically; or
- 3415 (iii) a service.
- 3416 (b) "Seller" includes a marketplace facilitator.
- 3417 (126) "Seller-hosted prewritten computer software" means prewritten computer
- 3418 software that is accessed through the Internet or a seller-hosted server, regardless of whether:
- 3419 (a) the access is permanent; or
- 3420 (b) any downloading occurs.
- 3421 [~~(121)~~] (127) (a) "Semiconductor fabricating, processing, research, or development
- 3422 materials" means tangible personal property or a product transferred electronically if the
- 3423 tangible personal property or product transferred electronically is:
- 3424 (i) used primarily in the process of:
- 3425 (A) (I) manufacturing a semiconductor;
- 3426 (II) fabricating a semiconductor; or
- 3427 (III) research or development of a:
- 3428 (Aa) semiconductor; or
- 3429 (Bb) semiconductor manufacturing process; or
- 3430 (B) maintaining an environment suitable for a semiconductor; or
- 3431 (ii) consumed primarily in the process of:
- 3432 (A) (I) manufacturing a semiconductor;
- 3433 (II) fabricating a semiconductor; or
- 3434 (III) research or development of a:
- 3435 (Aa) semiconductor; or

- 3436 (Bb) semiconductor manufacturing process; or
- 3437 (B) maintaining an environment suitable for a semiconductor.
- 3438 (b) "Semiconductor fabricating, processing, research, or development materials"
- 3439 includes:
- 3440 (i) parts used in the repairs or renovations of tangible personal property or a product
- 3441 transferred electronically described in Subsection ~~[(121)]~~ (127)(a); or
- 3442 (ii) a chemical, catalyst, or other material used to:
- 3443 (A) produce or induce in a semiconductor a:
- 3444 (I) chemical change; or
- 3445 (II) physical change;
- 3446 (B) remove impurities from a semiconductor; or
- 3447 (C) improve the marketable condition of a semiconductor.
- 3448 ~~[(122)]~~ (128) "Senior citizen center" means a facility having the primary purpose of
- 3449 providing services to the aged as defined in Section 62A-3-101.
- 3450 ~~[(123)]~~ (129) (a) ~~[Subject to Subsections (123)(b) and (c), "short-term"]~~ "Short-term
- 3451 lodging consumable" means tangible personal property that:
- 3452 (i) a business that provides accommodations and services described in Subsection
- 3453 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
- 3454 to a purchaser;
- 3455 (ii) is intended to be consumed by the purchaser; and
- 3456 (iii) is:
- 3457 (A) included in the purchase price of the accommodations and services; and
- 3458 (B) not separately stated on an invoice, bill of sale, or other similar document provided
- 3459 to the purchaser.
- 3460 (b) "Short-term lodging consumable" includes:
- 3461 (i) a beverage;
- 3462 (ii) a brush or comb;
- 3463 (iii) a cosmetic;
- 3464 (iv) a hair care product;
- 3465 (v) lotion;
- 3466 (vi) a magazine;

- 3467 (vii) makeup;
- 3468 (viii) a meal;
- 3469 (ix) mouthwash;
- 3470 (x) nail polish remover;
- 3471 (xi) a newspaper;
- 3472 (xii) a notepad;
- 3473 (xiii) a pen;
- 3474 (xiv) a pencil;
- 3475 (xv) a razor;
- 3476 (xvi) saline solution;
- 3477 (xvii) a sewing kit;
- 3478 (xviii) shaving cream;
- 3479 (xix) a shoe shine kit;
- 3480 (xx) a shower cap;
- 3481 (xxi) a snack item;
- 3482 (xxii) soap;
- 3483 (xxiii) toilet paper;
- 3484 (xxiv) a toothbrush;
- 3485 (xxv) toothpaste; or
- 3486 (xxvi) an item similar to Subsections [~~(123)~~] (129)(b)(i) through (xxv) as the
- 3487 commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah
- 3488 Administrative Rulemaking Act.
- 3489 (c) "Short-term lodging consumable" does not include:
- 3490 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 3491 property to be reused; or
- 3492 (ii) a product transferred electronically.
- 3493 [~~(124)~~] (130) "Simplified electronic return" means the electronic return:
- 3494 (a) described in Section 318(C) of the agreement; and
- 3495 (b) approved by the governing board of the agreement.
- 3496 [~~(125)~~] (131) "Solar energy" means the sun used as the sole source of energy for
- 3497 producing electricity.

- 3498 [~~(126)~~] (132) (a) "Sports or recreational equipment" means an item:
- 3499 (i) designed for human use; and
- 3500 (ii) that is:
- 3501 (A) worn in conjunction with:
- 3502 (I) an athletic activity; or
- 3503 (II) a recreational activity; and
- 3504 (B) not suitable for general use.
- 3505 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3506 commission shall make rules:
- 3507 (i) listing the items that constitute "sports or recreational equipment"; and
- 3508 (ii) that are consistent with the list of items that constitute "sports or recreational
- 3509 equipment" under the agreement.
- 3510 [~~(127)~~] (133) "State" means the state of Utah, its departments, and agencies.
- 3511 [~~(128)~~] (134) "Storage" means any keeping or retention of tangible personal property or
- 3512 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
- 3513 except sale in the regular course of business.
- 3514 [~~(129)~~] (135) (a) [~~Except as provided in Subsection (129)(d) or (e), "tangible]~~
- 3515 "Tangible personal property" means personal property that:
- 3516 (i) may be:
- 3517 (A) seen;
- 3518 (B) weighed;
- 3519 (C) measured;
- 3520 (D) felt; or
- 3521 (E) touched; or
- 3522 (ii) is in any manner perceptible to the senses.
- 3523 (b) "Tangible personal property" includes:
- 3524 (i) electricity;
- 3525 (ii) water;
- 3526 (iii) gas;
- 3527 (iv) steam; or
- 3528 (v) prewritten computer software, regardless of the manner in which the prewritten

3529 computer software is transferred.

3530 (c) "Tangible personal property" includes the following regardless of whether the item
3531 is attached to real property:

3532 (i) a dishwasher;

3533 (ii) a dryer;

3534 (iii) a freezer;

3535 (iv) a microwave;

3536 (v) a refrigerator;

3537 (vi) a stove;

3538 (vii) a washer; or

3539 (viii) an item similar to Subsections [~~(129)~~] (135)(c)(i) through (vii) as determined by
3540 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3541 Rulemaking Act.

3542 (d) "Tangible personal property" does not include a product that is transferred
3543 electronically.

3544 (e) "Tangible personal property" does not include the following if attached to real
3545 property, regardless of whether the attachment to real property is only through a line that
3546 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
3547 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3548 Rulemaking Act:

3549 (i) a hot water heater;

3550 (ii) a water filtration system; or

3551 (iii) a water softener system.

3552 [~~(130)~~] (136) (a) "Telecommunications enabling or facilitating equipment, machinery,
3553 or software" means an item listed in Subsection [~~(130)~~] (136)(b) if that item is purchased or
3554 leased primarily to enable or facilitate one or more of the following to function:

3555 (i) telecommunications switching or routing equipment, machinery, or software; or

3556 (ii) telecommunications transmission equipment, machinery, or software.

3557 (b) The following apply to Subsection [~~(130)~~] (136)(a):

3558 (i) a pole;

3559 (ii) software;

3560 (iii) a supplementary power supply;
3561 (iv) temperature or environmental equipment or machinery;
3562 (v) test equipment;
3563 (vi) a tower; or
3564 (vii) equipment, machinery, or software that functions similarly to an item listed in
3565 Subsections [~~(130)~~] (136)(b)(i) through (vi) as determined by the commission by rule made in
3566 accordance with Subsection [~~(130)~~] (136)(c).

3567 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3568 commission may by rule define what constitutes equipment, machinery, or software that
3569 functions similarly to an item listed in Subsections [~~(130)~~] (136)(b)(i) through (vi).

3570 [~~(131)~~] (137) "Telecommunications equipment, machinery, or software required for
3571 911 service" means equipment, machinery, or software that is required to comply with 47
3572 C.F.R. Sec. 20.18.

3573 [~~(132)~~] (138) "Telecommunications maintenance or repair equipment, machinery, or
3574 software" means equipment, machinery, or software purchased or leased primarily to maintain
3575 or repair one or more of the following, regardless of whether the equipment, machinery, or
3576 software is purchased or leased as a spare part or as an upgrade or modification to one or more
3577 of the following:

- 3578 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 3579 (b) telecommunications switching or routing equipment, machinery, or software; or
- 3580 (c) telecommunications transmission equipment, machinery, or software.

3581 [~~(133)~~] (139) (a) "Telecommunications service" means the electronic conveyance,
3582 routing, or transmission of audio, data, video, voice, or any other information or signal to a
3583 point, or among or between points.

3584 (b) "Telecommunications service" includes:

3585 (i) an electronic conveyance, routing, or transmission with respect to which a computer
3586 processing application is used to act:

- 3587 (A) on the code, form, or protocol of the content;
- 3588 (B) for the purpose of electronic conveyance, routing, or transmission; and
- 3589 (C) regardless of whether the service:
 - 3590 (I) is referred to as voice over Internet protocol service; or

- 3591 (II) is classified by the Federal Communications Commission as enhanced or value
3592 added;
- 3593 (ii) an 800 service;
3594 (iii) a 900 service;
3595 (iv) a fixed wireless service;
3596 (v) a mobile wireless service;
3597 (vi) a postpaid calling service;
3598 (vii) a prepaid calling service;
3599 (viii) a prepaid wireless calling service; or
3600 (ix) a private communications service.
- 3601 (c) "Telecommunications service" does not include:
3602 (i) advertising, including directory advertising;
3603 (ii) an ancillary service;
3604 (iii) a billing and collection service provided to a third party;
3605 (iv) a data processing and information service if:
3606 (A) the data processing and information service allows data to be:
3607 (I) (Aa) acquired;
3608 (Bb) generated;
3609 (Cc) processed;
3610 (Dd) retrieved; or
3611 (Ee) stored; and
3612 (II) delivered by an electronic transmission to a purchaser; and
3613 (B) the purchaser's primary purpose for the underlying transaction is the processed data
3614 or information;
- 3615 (v) installation or maintenance of the following on a customer's premises:
3616 (A) equipment; or
3617 (B) wiring;
3618 (vi) Internet access service;
3619 (vii) a paging service;
3620 (viii) a product transferred electronically, including:
3621 (A) music;

- 3622 (B) reading material;
- 3623 (C) a ring tone;
- 3624 (D) software; or
- 3625 (E) video;
- 3626 (ix) a radio and television audio and video programming service:
- 3627 (A) regardless of the medium; and
- 3628 (B) including:
 - 3629 (I) furnishing conveyance, routing, or transmission of a television audio and video
 - 3630 programming service by a programming service provider;
 - 3631 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
 - 3632 (III) audio and video programming services delivered by a commercial mobile radio
 - 3633 service provider as defined in 47 C.F.R. Sec. 20.3;
 - 3634 (x) a value-added nonvoice data service; or
 - 3635 (xi) tangible personal property.
- 3636 [~~(134)~~] (140) (a) "Telecommunications service provider" means a person that:
 - 3637 (i) owns, controls, operates, or manages a telecommunications service; and
 - 3638 (ii) engages in an activity described in Subsection [~~(134)~~] (140)(a)(i) for the shared use
 - 3639 with or resale to any person of the telecommunications service.
- 3640 (b) A person described in Subsection [~~(134)~~] (140)(a) is a telecommunications service
- 3641 provider whether or not the Public Service Commission of Utah regulates:
 - 3642 (i) that person; or
 - 3643 (ii) the telecommunications service that the person owns, controls, operates, or
 - 3644 manages.
- 3645 [~~(135)~~] (141) (a) "Telecommunications switching or routing equipment, machinery, or
- 3646 software" means an item listed in Subsection [~~(135)~~] (141)(b) if that item is purchased or
- 3647 leased primarily for switching or routing:
 - 3648 (i) an ancillary service;
 - 3649 (ii) data communications;
 - 3650 (iii) voice communications; or
 - 3651 (iv) telecommunications service.
- 3652 (b) The following apply to Subsection [~~(135)~~] (141)(a):

- 3653 (i) a bridge;
- 3654 (ii) a computer;
- 3655 (iii) a cross connect;
- 3656 (iv) a modem;
- 3657 (v) a multiplexer;
- 3658 (vi) plug in circuitry;
- 3659 (vii) a router;
- 3660 (viii) software;
- 3661 (ix) a switch; or
- 3662 (x) equipment, machinery, or software that functions similarly to an item listed in
- 3663 Subsections [~~(135)~~] (141)(b)(i) through (ix) as determined by the commission by rule made in
- 3664 accordance with Subsection [~~(135)~~] (141)(c).
- 3665 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3666 commission may by rule define what constitutes equipment, machinery, or software that
- 3667 functions similarly to an item listed in Subsections [~~(135)~~] (141)(b)(i) through (ix).
- 3668 [~~(136)~~] (142) (a) "Telecommunications transmission equipment, machinery, or
- 3669 software" means an item listed in Subsection [~~(136)~~] (142)(b) if that item is purchased or
- 3670 leased primarily for sending, receiving, or transporting:
- 3671 (i) an ancillary service;
- 3672 (ii) data communications;
- 3673 (iii) voice communications; or
- 3674 (iv) telecommunications service.
- 3675 (b) The following apply to Subsection [~~(136)~~] (142)(a):
- 3676 (i) an amplifier;
- 3677 (ii) a cable;
- 3678 (iii) a closure;
- 3679 (iv) a conduit;
- 3680 (v) a controller;
- 3681 (vi) a duplexer;
- 3682 (vii) a filter;
- 3683 (viii) an input device;

- 3684 (ix) an input/output device;
- 3685 (x) an insulator;
- 3686 (xi) microwave machinery or equipment;
- 3687 (xii) an oscillator;
- 3688 (xiii) an output device;
- 3689 (xiv) a pedestal;
- 3690 (xv) a power converter;
- 3691 (xvi) a power supply;
- 3692 (xvii) a radio channel;
- 3693 (xviii) a radio receiver;
- 3694 (xix) a radio transmitter;
- 3695 (xx) a repeater;
- 3696 (xxi) software;
- 3697 (xxii) a terminal;
- 3698 (xxiii) a timing unit;
- 3699 (xxiv) a transformer;
- 3700 (xxv) a wire; or
- 3701 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 3702 Subsections ~~[(136)]~~ (142)(b)(i) through (xxv) as determined by the commission by rule made in
- 3703 accordance with Subsection ~~[(136)]~~ (142)(c).
- 3704 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3705 commission may by rule define what constitutes equipment, machinery, or software that
- 3706 functions similarly to an item listed in Subsections ~~[(136)]~~ (142)(b)(i) through (xxv).
- 3707 ~~[(137) (a) "Textbook for a higher education course" means a textbook or other printed~~
- 3708 ~~material that is required for a course:]~~
- 3709 ~~[(i) offered by an institution of higher education; and]~~
- 3710 ~~[(ii) that the purchaser of the textbook or other printed material attends or will attend.]~~
- 3711 ~~[(b) "Textbook for a higher education course" includes a textbook in electronic~~
- 3712 ~~format.]~~
- 3713 ~~[(138)]~~ (143) "Tobacco" means:
- 3714 (a) a cigarette;

- 3715 (b) a cigar;
- 3716 (c) chewing tobacco;
- 3717 (d) pipe tobacco; or
- 3718 (e) any other item that contains tobacco.
- 3719 ~~[(139)]~~ (144) "Unassisted amusement device" means an amusement device, skill
- 3720 device, or ride device that is started ~~[and]~~ or stopped by the purchaser or renter of the right to
- 3721 use or operate the amusement device, skill device, or ride device.
- 3722 ~~[(140)]~~ (145) (a) "Use" means the exercise of any right or power over tangible personal
- 3723 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
- 3724 incident to the ownership or the leasing of that tangible personal property, product transferred
- 3725 electronically, or service.
- 3726 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
- 3727 property, a product transferred electronically, or a service in the regular course of business and
- 3728 held for resale.
- 3729 ~~[(141)]~~ (146) "Value-added nonvoice data service" means a service:
- 3730 (a) that otherwise meets the definition of a telecommunications service except that a
- 3731 computer processing application is used to act primarily for a purpose other than conveyance,
- 3732 routing, or transmission; and
- 3733 (b) with respect to which a computer processing application is used to act on data or
- 3734 information:
- 3735 (i) code;
- 3736 (ii) content;
- 3737 (iii) form; or
- 3738 (iv) protocol.
- 3739 ~~[(142)]~~ (147) (a) Subject to Subsection ~~[(142)]~~ (147)(b), "vehicle" means the following
- 3740 that are required to be titled, registered, or titled and registered:
- 3741 (i) an aircraft as defined in Section 72-10-102;
- 3742 (ii) a vehicle as defined in Section 41-1a-102;
- 3743 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 3744 (iv) a vessel as defined in Section 41-1a-102.
- 3745 (b) For purposes of Subsection 59-12-104~~[(33)]~~(30) only, "vehicle" includes:

- 3746 (i) a vehicle described in Subsection [~~(142)~~] (147)(a); or
3747 (ii) (A) a locomotive;
3748 (B) a freight car;
3749 (C) railroad work equipment; or
3750 (D) other railroad rolling stock.
3751 [~~(143)~~] (148) "Vehicle dealer" means a person engaged in the business of buying,
3752 selling, or exchanging a vehicle [~~as defined in Subsection (142)~~].
3753 [~~(144)~~] (149) (a) "Vertical service" means an ancillary service that:
3754 (i) is offered in connection with one or more telecommunications services; and
3755 (ii) offers an advanced calling feature that allows a customer to:
3756 (A) identify a caller; and
3757 (B) manage multiple calls and call connections.
3758 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
3759 conference bridging service.
3760 [~~(145)~~] (150) (a) "Voice mail service" means an ancillary service that enables a
3761 customer to receive, send, or store a recorded message.
3762 (b) "Voice mail service" does not include a vertical service that a customer is required
3763 to have in order to utilize a voice mail service.
3764 [~~(146)~~] (151) (a) [~~Except as provided in Subsection (146)(b), "waste"~~] "Waste energy
3765 facility" means a facility that generates electricity:
3766 (i) using as the primary source of energy waste materials that would be placed in a
3767 landfill or refuse pit if it were not used to generate electricity, including:
3768 (A) tires;
3769 (B) waste coal;
3770 (C) oil shale; or
3771 (D) municipal solid waste; and
3772 (ii) in amounts greater than actually required for the operation of the facility.
3773 (b) "Waste energy facility" does not include a facility that incinerates:
3774 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
3775 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
3776 [~~(147)~~] (152) "Watercraft" means a vessel as defined in Section 73-18-2.

3777 [~~(148)~~] (153) "Wind energy" means wind used as the sole source of energy to produce
3778 electricity.

3779 [~~(149)~~] (154) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
3780 geographic location by the United States Postal Service.

3781 Section 42. Section **59-12-103** is amended to read:

3782 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
3783 **tax revenue.**

3784 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
3785 sales price for amounts paid or charged for the following transactions:

3786 (a) retail sales of tangible personal property made within the state;

3787 (b) amounts paid for:

3788 (i) telecommunications service, other than mobile telecommunications service or a 900
3789 service, that originates and terminates within the boundaries of this state;

3790 (ii) mobile telecommunications service that originates and terminates within the
3791 boundaries of one state only to the extent permitted by the Mobile Telecommunications
3792 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; [~~or~~]

3793 (iii) a 900 service; or

3794 [~~(iii)~~] (iv) an ancillary service associated with a:

3795 (A) telecommunications service described in Subsection (1)(b)(i); [~~or~~]

3796 (B) mobile telecommunications service described in Subsection (1)(b)(ii); or

3797 (C) 900 service;

3798 (c) sales of the following for commercial use:

3799 (i) gas;

3800 (ii) electricity;

3801 (iii) heat;

3802 (iv) coal;

3803 (v) fuel oil; or

3804 (vi) other fuels;

3805 (d) sales of the following for residential use:

3806 (i) gas;

3807 (ii) electricity;

- 3808 (iii) heat;
- 3809 (iv) coal;
- 3810 (v) fuel oil; or
- 3811 (vi) other fuels;
- 3812 (e) sales of prepared food;
- 3813 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 3814 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 3815 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 3816 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 3817 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 3818 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 3819 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 3820 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 3821 exhibition, cultural, or athletic activity;
- 3822 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 3823 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 3824 (i) the tangible personal property; and
- 3825 (ii) parts used in the repairs or renovations of the tangible personal property described
- 3826 in Subsection (1)(g)(i), regardless of whether:
- 3827 (A) any parts are actually used in the repairs or renovations of that tangible personal
- 3828 property; or
- 3829 (B) the particular parts used in the repairs or renovations of that tangible personal
- 3830 property are exempt from a tax under this chapter;
- 3831 (h) ~~[except as provided in Subsection 59-12-104(7),]~~ amounts paid or charged for
- 3832 ~~[assisted]~~ cleaning or washing of tangible personal property;
- 3833 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 3834 accommodations and services that are regularly rented for less than 30 consecutive days;
- 3835 (j) amounts paid or charged for laundry or dry cleaning services;
- 3836 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 3837 this state the tangible personal property is:
- 3838 (i) stored;

- 3839 (ii) used; or
- 3840 (iii) otherwise consumed;
- 3841 (l) amounts paid or charged for tangible personal property if within this state the
- 3842 tangible personal property is:
- 3843 (i) stored;
- 3844 (ii) used; or
- 3845 (iii) consumed; [~~and~~]
- 3846 (m) amounts paid or charged for a sale:
- 3847 (i) (A) of a product transferred electronically; or
- 3848 (B) of a repair or renovation of a product transferred electronically; and
- 3849 (ii) regardless of whether the sale provides:
- 3850 (A) a right of permanent use of the product; or
- 3851 (B) a right to use the product that is less than a permanent use, including a right:
- 3852 (I) for a definite or specified length of time; and
- 3853 (II) that terminates upon the occurrence of a condition[-];
- 3854 (n) amounts paid or charged for access to digital audio-visual works, digital audio
- 3855 works, digital books, or gaming services, including the streaming of or subscription for access
- 3856 to digital audio-visual works, digital audio works, digital books, or gaming services regardless
- 3857 of:
- 3858 (i) the delivery method; or
- 3859 (ii) whether the amount paid or charged for access provides a right to:
- 3860 (A) single-use access to the digital audio-visual works, digital audio works, digital
- 3861 books, or gaming services; or
- 3862 (B) access the digital audio-visual works, digital audio works, digital books, or gaming
- 3863 services through a subscription, including a right that terminates upon the occurrence of a
- 3864 condition;
- 3865 (o) amounts paid or charged for the storage, use, or other consumption of:
- 3866 (i) prewritten computer software delivered electronically or by load and leave; or
- 3867 (ii) seller-hosted prewritten computer software; and
- 3868 (p) amounts paid or charged for the following services:
- 3869 (i) security system monitoring;

3870 (ii) personal transportation that originates in the state and terminates in the state;

3871 (iii) parking or garaging a motor vehicle at a location that:

3872 (A) is designed and used for parking or garaging one or more motor vehicles,

3873 regardless of whether the location is sometimes used for other purposes; and

3874 (B) is not residential property;

3875 (iv) tow truck service as defined in Section [72-9-102](#), including any related fees;

3876 (v) pet boarding or care;

3877 (vi) pet grooming;

3878 (vii) dating referral services; and

3879 (viii) identity theft protection.

3880 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
3881 are imposed on a transaction described in Subsection (1) equal to the sum of:

3882 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

3883 [~~(A) (I) through March 31, 2019, 4.70%; and~~]

3884 [~~(H)~~] (A) [~~beginning on April 1, 2019,~~] 4.70% plus the rate specified in Subsection
3885 (13)(a); and

3886 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
3887 and Use Tax Act, if the location of the transaction as determined under Sections [59-12-211](#)
3888 through [59-12-215](#) is in a county in which the state imposes the tax under Part 18, Additional
3889 State Sales and Use Tax Act; and

3890 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
3891 and Use Tax Act, if the location of the transaction as determined under Sections [59-12-211](#)
3892 through [59-12-215](#) is in a city, town, or the unincorporated area of a county in which the state
3893 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3894 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3895 transaction under this chapter other than this part.

3896 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax are
3897 imposed on a transaction described in Subsection (1)(d) equal to the sum of:

3898 (i) a state tax imposed on the transaction at a tax rate of 2%; and

3899 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3900 transaction under this chapter other than this part.

3901 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax are
3902 imposed on amounts paid or charged for food and food ingredients equal to the sum of:

3903 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
3904 a tax rate of [~~1.75%~~] 4.85%; and

3905 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3906 amounts paid or charged for food and food ingredients under this chapter other than this part.

3907 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
3908 tangible personal property other than food and food ingredients, a state tax and a local tax is
3909 imposed on the entire bundled transaction equal to the sum of:

3910 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

3911 (I) the tax rate described in Subsection (2)(a)(i)(A); and

3912 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
3913 Sales and Use Tax Act, if the location of the transaction as determined under Sections
3914 [59-12-211](#) through [59-12-215](#) is in a county in which the state imposes the tax under Part 18,
3915 Additional State Sales and Use Tax Act; and

3916 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
3917 Sales and Use Tax Act, if the location of the transaction as determined under Sections
3918 [59-12-211](#) through [59-12-215](#) is in a city, town, or the unincorporated area of a county in which
3919 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3920 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
3921 described in Subsection (2)(a)(ii).

3922 (ii) If an optional computer software maintenance contract is a bundled transaction that
3923 consists of taxable and nontaxable products that are not separately itemized on an invoice or
3924 similar billing document, the purchase of the optional computer software maintenance contract
3925 is 40% taxable under this chapter and 60% nontaxable under this chapter.

3926 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
3927 transaction described in Subsection (2)(d)(i) or (ii):

3928 (A) if the sales price of the bundled transaction is attributable to tangible personal
3929 property, a product, or a service that is subject to taxation under this chapter and tangible
3930 personal property, a product, or service that is not subject to taxation under this chapter, the
3931 entire bundled transaction is subject to taxation under this chapter unless:

3932 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3933 personal property, product, or service that is not subject to taxation under this chapter from the
3934 books and records the seller keeps in the seller's regular course of business; or

3935 (II) state or federal law provides otherwise; or

3936 (B) if the sales price of a bundled transaction is attributable to two or more items of
3937 tangible personal property, products, or services that are subject to taxation under this chapter
3938 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
3939 higher tax rate unless:

3940 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3941 personal property, product, or service that is subject to taxation under this chapter at the lower
3942 tax rate from the books and records the seller keeps in the seller's regular course of business; or

3943 (II) state or federal law provides otherwise.

3944 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
3945 seller's regular course of business includes books and records the seller keeps in the regular
3946 course of business for nontax purposes.

3947 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
3948 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
3949 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
3950 of tangible personal property, other property, a product, or a service that is not subject to
3951 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
3952 the seller, at the time of the transaction:

3953 (A) separately states the portion of the transaction that is not subject to taxation under
3954 this chapter 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, from the books and
3956 records the seller keeps in the seller's regular course of business, the portion of the transaction
3957 that is not subject to taxation under this chapter.

3958 (ii) A purchaser and a seller may correct the taxability of a transaction if:

3959 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
3960 the transaction that is not subject to taxation under this chapter was not separately stated on an
3961 invoice, bill of sale, or similar document provided to the purchaser because of an error or
3962 ignorance of the law; and

3963 (B) the seller is able to identify by reasonable and verifiable standards, from the books
3964 and records the seller keeps in the seller's regular course of business, the portion of the
3965 transaction that is not subject to taxation under this chapter.

3966 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
3967 in the seller's regular course of business includes books and records the seller keeps in the
3968 regular course of business for nontax purposes.

3969 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
3970 personal property, products, or services that are subject to taxation under this chapter at
3971 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
3972 unless the seller, at the time of the transaction:

3973 (A) separately states the items subject to taxation under this chapter at each of the
3974 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

3975 (B) is able to identify by reasonable and verifiable standards the tangible personal
3976 property, product, or service that is subject to taxation under this chapter at the lower tax rate
3977 from the books and records the seller keeps in the seller's regular course of business.

3978 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
3979 seller's regular course of business includes books and records the seller keeps in the regular
3980 course of business for nontax purposes.

3981 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
3982 rate imposed under the following shall take effect on the first day of a calendar quarter:

3983 (i) Subsection (2)(a)(i)(A);

3984 (ii) Subsection (2)(b)(i);

3985 (iii) Subsection (2)(c)(i); or

3986 (iv) Subsection (2)(d)(i)(A)(I).

3987 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
3988 begins on or after the effective date of the tax rate increase if the billing period for the
3989 transaction begins before the effective date of a tax rate increase imposed under:

3990 (A) Subsection (2)(a)(i)(A);

3991 (B) Subsection (2)(b)(i);

3992 (C) Subsection (2)(c)(i); or

3993 (D) Subsection (2)(d)(i)(A)(I).

3994 (ii) The repeal of a tax or a tax rate decrease applies to a billing
3995 statement for the billing period is rendered on or after the effective date of the repeal of the tax
3996 or the tax rate decrease imposed under:

3997 (A) Subsection (2)(a)(i)(A);

3998 (B) Subsection (2)(b)(i);

3999 (C) Subsection (2)(c)(i); or

4000 (D) Subsection (2)(d)(i)(A)(I).

4001 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
4002 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
4003 change in a tax rate takes effect:

4004 (A) on the first day of a calendar quarter; and

4005 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

4006 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

4007 (A) Subsection (2)(a)(i)(A);

4008 (B) Subsection (2)(b)(i);

4009 (C) Subsection (2)(c)(i); or

4010 (D) Subsection (2)(d)(i)(A)(I).

4011 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
4012 the commission may by rule define the term "catalogue sale."

4013 (3) (a) The following state taxes shall be deposited into the General Fund:

4014 (i) the tax imposed by Subsection (2)(a)(i)(A);

4015 (ii) the tax imposed by Subsection (2)(b)(i);

4016 (iii) the tax imposed by Subsection (2)(c)(i); or

4017 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

4018 (b) The following local taxes shall be distributed to a county, city, or town as provided
4019 in this chapter:

4020 (i) the tax imposed by Subsection (2)(a)(ii);

4021 (ii) the tax imposed by Subsection (2)(b)(ii);

4022 (iii) the tax imposed by Subsection (2)(c)(ii); and

4023 (iv) the tax imposed by Subsection (2)(d)(i)(B).

4024 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,

4025 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
4026 through (g):

4027 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

4028 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

4029 (B) for the fiscal year; or

4030 (ii) \$17,500,000.

4031 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount

4032 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the

4033 Department of Natural Resources to:

4034 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to

4035 protect sensitive plant and animal species; or

4036 (B) award grants, up to the amount authorized by the Legislature in an appropriations

4037 act, to political subdivisions of the state to implement the measures described in Subsections

4038 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

4039 (ii) Money transferred to the Department of Natural Resources under Subsection

4040 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other

4041 person to list or attempt to have listed a species as threatened or endangered under the

4042 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

4043 (iii) At the end of each fiscal year:

4044 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources

4045 Conservation and Development Fund created in Section 73-10-24;

4046 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

4047 Program Subaccount created in Section 73-10c-5; and

4048 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

4049 Program Subaccount created in Section 73-10c-5.

4050 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in

4051 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund

4052 created in Section 4-18-106.

4053 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described

4054 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water

4055 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of

4056 water rights.

4057 (ii) At the end of each fiscal year:

4058 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
4059 Conservation and Development Fund created in Section 73-10-24;

4060 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
4061 Program Subaccount created in Section 73-10c-5; and

4062 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
4063 Program Subaccount created in Section 73-10c-5.

4064 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
4065 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
4066 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

4067 (ii) In addition to the uses allowed of the Water Resources Conservation and
4068 Development Fund under Section 73-10-24, the Water Resources Conservation and
4069 Development Fund may also be used to:

4070 (A) conduct hydrologic and geotechnical investigations by the Division of Water
4071 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
4072 quantifying surface and ground water resources and describing the hydrologic systems of an
4073 area in sufficient detail so as to enable local and state resource managers to plan for and
4074 accommodate growth in water use without jeopardizing the resource;

4075 (B) fund state required dam safety improvements; and

4076 (C) protect the state's interest in interstate water compact allocations, including the
4077 hiring of technical and legal staff.

4078 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
4079 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
4080 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

4081 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
4082 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
4083 created in Section 73-10c-5 for use by the Division of Drinking Water to:

4084 (i) provide for the installation and repair of collection, treatment, storage, and
4085 distribution facilities for any public water system, as defined in Section 19-4-102;

4086 (ii) develop underground sources of water, including springs and wells; and

4087 (iii) develop surface water sources.

4088 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
4089 2006, the difference between the following amounts shall be expended as provided in this
4090 Subsection (5), if that difference is greater than \$1:

4091 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
4092 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

4093 (ii) \$17,500,000.

4094 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

4095 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
4096 credits; and

4097 (B) expended by the Department of Natural Resources for watershed rehabilitation or
4098 restoration.

4099 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
4100 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
4101 created in Section 73-10-24.

4102 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
4103 remaining difference described in Subsection (5)(a) shall be:

4104 (A) transferred each fiscal year to the Division of Water Resources as dedicated
4105 credits; and

4106 (B) expended by the Division of Water Resources for cloud-seeding projects
4107 authorized by Title 73, Chapter 15, Modification of Weather.

4108 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
4109 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
4110 created in Section 73-10-24.

4111 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
4112 remaining difference described in Subsection (5)(a) shall be deposited into the Water
4113 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
4114 Division of Water Resources for:

4115 (i) preconstruction costs:

4116 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
4117 26, Bear River Development Act; and

4118 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
4119 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

4120 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
4121 Chapter 26, Bear River Development Act;

4122 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
4123 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

4124 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
4125 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

4126 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
4127 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be
4128 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
4129 incurred for employing additional technical staff for the administration of water rights.

4130 (f) At the end of each fiscal year, any unexpended dedicated credits described in
4131 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
4132 Fund created in Section 73-10-24.

4133 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
4134 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
4135 (1) for the fiscal year shall be deposited as follows:

4136 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)
4137 shall be deposited into the Transportation Investment Fund of 2005 created by Section
4138 72-2-124;

4139 (b) for fiscal year 2017-18 only:

4140 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the
4141 Transportation Investment Fund of 2005 created by Section 72-2-124; and

4142 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the
4143 Water Infrastructure Restricted Account created by Section 73-10g-103;

4144 (c) for fiscal year 2018-19 only:

4145 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the
4146 Transportation Investment Fund of 2005 created by Section 72-2-124; and

4147 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the
4148 Water Infrastructure Restricted Account created by Section 73-10g-103;

4149 (d) for fiscal year 2019-20 only:

4150 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the
4151 Transportation Investment Fund of 2005 created by Section 72-2-124; and

4152 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the
4153 Water Infrastructure Restricted Account created by Section 73-10g-103;

4154 (e) for fiscal year 2020-21 only:

4155 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
4156 Transportation Investment Fund of 2005 created by Section 72-2-124; and

4157 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
4158 Water Infrastructure Restricted Account created by Section 73-10g-103; and

4159 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
4160 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
4161 created by Section 73-10g-103.

4162 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
4163 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
4164 [~~2012~~] 2020, the Division of Finance shall deposit into the Transportation Investment Fund of
4165 2005 created by Section 72-2-124:

4166 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
4167 the [~~revenues~~] revenue collected from the following taxes, which represents a portion of the
4168 approximately 17% of sales and use tax [~~revenues~~] revenue generated annually by the sales and
4169 use tax on vehicles and vehicle-related products:

4170 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

4171 (B) the tax imposed by Subsection (2)(b)(i);

4172 (C) the tax imposed by Subsection (2)(c)(i); and

4173 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

4174 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
4175 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
4176 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
4177 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

4178 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
4179 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total

4180 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
4181 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
4182 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
4183 (7)(a) equal to the product of:

4184 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
4185 previous fiscal year; and

4186 (B) the total sales and use tax revenue generated by the taxes described in Subsections
4187 (7)(a)(i)(A) through (D) in the current fiscal year.

4188 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
4189 Subsection (7)(a) would exceed ~~[17%]~~ 15.9% of the ~~[revenues]~~ revenue collected from the
4190 sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year,
4191 the Division of Finance shall deposit ~~[17%]~~ 15.9% of the ~~[revenues]~~ revenue collected from the
4192 sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year
4193 under Subsection (7)(a).

4194 (iii) In all subsequent fiscal years after a year in which ~~[17%]~~ 15.9% of the ~~[revenues]~~
4195 revenue collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through
4196 (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit
4197 ~~[17%]~~ 15.9% of the ~~[revenues]~~ revenue collected from the sales and use taxes described in
4198 Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

4199 ~~[(8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited
4200 under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall
4201 deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into
4202 the Transportation Investment Fund of 2005 created by Section 72-2-124.]~~

4203 ~~[(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
4204 Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit
4205 \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the
4206 Transportation Investment Fund of 2005 created by Section 72-2-124.]~~

4207 ~~[(c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under
4208 Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning on or
4209 after July 1, 2018, the commission shall annually deposit into the Transportation Investment
4210 Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a)~~

4211 in an amount equal to 3.68% of the revenues collected from the following taxes:]

4212 [(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;]

4213 [(B) the tax imposed by Subsection (2)(b)(i);]

4214 [(C) the tax imposed by Subsection (2)(c)(i), and]

4215 [(D) the tax imposed by Subsection (2)(d)(i)(A)(I).]

4216 [(ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually
4217 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i)
4218 by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year
4219 by the portion of the tax imposed on motor and special fuel that is sold, used, or received for
4220 sale or use in this state that exceeds 29.4 cents per gallon.]

4221 [(iii)] (8) The commission shall deposit annually [~~deposit the amount described in~~
4222 Subsection (8)(c)(ii)] an amount equal to 50% of the growth in the amount of revenue collected
4223 in the current fiscal year from the tax imposed under Subsection (2)(c)(i) that exceeds the
4224 amount collected from the tax imposed under Subsection (2)(c)(i) in the 2020-2021 fiscal year
4225 into the Transit [~~and~~] Transportation Investment Fund created in Section 72-2-124.

4226 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
4227 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
4228 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

4229 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),
4230 in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17
4231 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund
4232 of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on
4233 the transactions described in Subsection (1).

4234 (b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in
4235 addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance
4236 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
4237 amount of revenue described as follows:

4238 (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%
4239 tax rate on the transactions described in Subsection (1);

4240 (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05%
4241 tax rate on the transactions described in Subsection (1);

4242 (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%
4243 tax rate on the transactions described in Subsection (1);

4244 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
4245 .05% tax rate on the transactions described in Subsection (1); and

4246 (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%
4247 tax rate on the transactions described in Subsection (1).

4248 (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not
4249 deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts
4250 paid or charged for food and food ingredients, except for tax revenue generated by a bundled
4251 transaction attributable to food and food ingredients and tangible personal property other than
4252 food and food ingredients described in Subsection (2)(d).

4253 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
4254 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
4255 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
4256 Finance shall, for two consecutive fiscal years, [~~annually~~] deposit annually \$1,900,000 of the
4257 revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation
4258 Fund, created in Section 63N-2-512.

4259 [~~(12)(a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the~~
4260 ~~Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed~~
4261 ~~under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section~~
4262 ~~35A-8-308;]~~

4263 [~~(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division~~
4264 ~~of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under~~
4265 ~~Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308;]~~

4266 [(13)] (12) (a) The rate specified in this subsection is 0.15%.

4267 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall[~~:(i) on or before~~
4268 ~~September 30, 2019, transfer the amount of revenue collected from the rate described in~~
4269 ~~Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the~~
4270 ~~transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the~~
4271 ~~Medicaid Expansion Fund created in Section 26-36b-208; and (ii)] for a fiscal year beginning
4272 on or after July 1, 2019, [~~annually~~] transfer annually the amount of revenue collected from the~~

4273 rate described in Subsection ~~[(13)]~~ (12)(a) on the transactions that are subject to the sales and
 4274 use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section
 4275 26-36b-208.

4276 Section 43. Section **59-12-104** is amended to read:

4277 **59-12-104. Exemptions.**

4278 ~~[Exemptions from the taxes imposed by this chapter are as follows]~~ The purchase price
 4279 of the following are exempt from the taxes imposed by this chapter:

4280 (1) (a) sales of aviation fuel~~[- motor fuel, and special]~~ or diesel fuel subject to a ~~[Utah]~~
 4281 state excise tax under Chapter 13, Motor and Special Fuel Tax Act; or

4282 (b) sales of motor fuel or nondiesel special fuel, as defined in Section 59-13-601, that
 4283 are subject to a sales tax under Chapter 13, Part 6, Sales Tax on Motor Fuel and Special Fuel,
 4284 Other than Diesel Fuel;

4285 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
 4286 subdivisions; however, this exemption does not apply to sales of:

4287 (a) construction materials except:

4288 (i) construction materials purchased by or on behalf of institutions of the public
 4289 education system as defined in Utah Constitution, Article X, Section 2, provided the
 4290 construction materials are clearly identified and segregated and installed or converted to real
 4291 property which is owned by institutions of the public education system; and

4292 (ii) construction materials purchased by the state, its institutions, or its political
 4293 subdivisions which are installed or converted to real property by employees of the state, its
 4294 institutions, or its political subdivisions; or

4295 (b) tangible personal property in connection with the construction, operation,
 4296 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
 4297 providing additional project capacity, as defined in Section 11-13-103;

4298 ~~[(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:]~~

4299 ~~[(i) the proceeds of each sale do not exceed \$1; and]~~

4300 ~~[(ii) the seller or operator of the vending machine reports an amount equal to 150% of~~
 4301 ~~the cost of the item described in Subsection (3)(b) as goods consumed; and]~~

4302 ~~[(b) Subsection (3)(a) applies to:]~~

4303 ~~[(i) food and food ingredients; or]~~

4304 ~~[(ii) prepared food;]~~
4305 ~~[(4)] (3) (a) sales of the following to a commercial airline carrier for in-flight~~
4306 ~~consumption:~~
4307 ~~(i) alcoholic beverages;~~
4308 ~~(ii) food and food ingredients; or~~
4309 ~~(iii) prepared food;~~
4310 ~~(b) sales of tangible personal property or a product transferred electronically:~~
4311 ~~(i) to a passenger;~~
4312 ~~(ii) by a commercial airline carrier; and~~
4313 ~~(iii) during a flight for in-flight consumption or in-flight use by the passenger; or~~
4314 ~~(c) services related to Subsection [(4)] (3)(a) or (b);~~
4315 ~~[(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts~~
4316 ~~and equipment:]~~
4317 ~~[(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002~~
4318 ~~North American Industry Classification System of the federal Executive Office of the~~
4319 ~~President, Office of Management and Budget; and]~~
4320 ~~[(H) for:]~~
4321 ~~[(Aa) installation in an aircraft, including services relating to the installation of parts or~~
4322 ~~equipment in the aircraft;]~~
4323 ~~[(Bb) renovation of an aircraft; or]~~
4324 ~~[(Cc) repair of an aircraft; or]~~
4325 ~~[(B) for installation in an aircraft operated by a common carrier in interstate or foreign~~
4326 ~~commerce; or]~~
4327 ~~[(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an~~
4328 ~~aircraft operated by a common carrier in interstate or foreign commerce; and]~~
4329 ~~[(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~
4330 ~~a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a~~
4331 ~~refund:]~~
4332 ~~[(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;]~~
4333 ~~[(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;]~~
4334 ~~[(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for~~

4335 ~~the sale prior to filing for the refund;]~~
4336 ~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~
4337 ~~[(v) in accordance with Section 59-1-1410; and]~~
4338 ~~[(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410;~~
4339 ~~if the person files for the refund on or before September 30, 2011;]~~
4340 (4) sales of parts and equipment for installation in an aircraft operated by a common
4341 carrier in interstate or foreign commerce;
4342 ~~[(6)] (5) sales of commercials, motion picture films, prerecorded audio program tapes~~
4343 ~~or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture~~
4344 ~~exhibitor, distributor, or commercial television or radio broadcaster;~~
4345 ~~[(7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of~~
4346 ~~cleaning or washing of tangible personal property if the cleaning or washing of the tangible~~
4347 ~~personal property is not assisted cleaning or washing of tangible personal property;]~~
4348 ~~[(b) if a seller that sells at the same business location assisted cleaning or washing of~~
4349 ~~tangible personal property and cleaning or washing of tangible personal property that is not~~
4350 ~~assisted cleaning or washing of tangible personal property, the exemption described in~~
4351 ~~Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning~~
4352 ~~or washing of the tangible personal property; and]~~
4353 ~~[(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,~~
4354 ~~Utah Administrative Rulemaking Act, the commission may make rules:]~~
4355 ~~[(i) governing the circumstances under which sales are at the same business location;~~
4356 ~~and]~~
4357 ~~[(ii) establishing the procedures and requirements for a seller to separately account for~~
4358 ~~sales of assisted cleaning or washing of tangible personal property;]~~
4359 ~~[(8)] (6) sales made to or by religious or charitable institutions in the conduct of their~~
4360 ~~regular religious or charitable functions and activities, if the requirements of Section~~
4361 ~~59-12-104.1 are fulfilled;~~
4362 ~~[(9)] (7) sales of a vehicle of a type required to be registered under the motor vehicle~~
4363 ~~laws of this state if the vehicle is:~~
4364 ~~(a) not registered in this state; and~~
4365 ~~(b) (i) not used in this state; or~~

4366 (ii) used in this state:
4367 (A) if the vehicle is not used to conduct business, for a time period that does not
4368 exceed the longer of:
4369 (I) 30 days in any calendar year; or
4370 (II) the time period necessary to transport the vehicle to the borders of this state; or
4371 (B) if the vehicle is used to conduct business, for the time period necessary to transport
4372 the vehicle to the borders of this state;
4373 ~~[(10)(a)]~~ (8) amounts paid for ~~[an item described in Subsection (10)(b) if]:~~
4374 (a) menstrual products; or
4375 (b) a drug, syringe, or stoma supply if:
4376 (i) the item is intended for human use; and
4377 (ii) (A) a prescription was issued for the item; or
4378 (B) the item was purchased by a hospital or other medical facility; ~~[and]~~
4379 ~~[(b) (i) Subsection (10)(a) applies to:]~~
4380 ~~[(A) a drug;]~~
4381 ~~[(B) a syringe; or]~~
4382 ~~[(C) a stoma supply; and]~~
4383 ~~[(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
4384 ~~the commission may by rule define the terms:]~~
4385 ~~[(A) "syringe"; or]~~
4386 ~~[(B) "stoma supply";]~~
4387 ~~[(11)]~~ (9) purchases or leases exempt under Section [19-12-201](#);
4388 ~~[(12)]~~ (10) (a) sales of an item described in Subsection ~~[(12)]~~ (10)(c) served by:
4389 (i) the following if the item described in Subsection ~~[(12)]~~ (10)(c) is not available to
4390 the general public:
4391 (A) a church; or
4392 (B) a charitable institution; or
4393 (ii) an institution of higher education if:
4394 (A) the item described in Subsection ~~[(12)]~~ (10)(c) is not available to the general
4395 public; or
4396 (B) the item described in Subsection ~~[(12)]~~ (10)(c) is prepaid as part of a student meal

4397 plan offered by the institution of higher education; or
4398 (b) sales of an item described in Subsection [~~(12)~~] (10)(c) provided for a patient by:
4399 (i) a medical facility; or
4400 (ii) a nursing facility; and
4401 (c) Subsections [~~(12)~~] (10)(a) and (b) apply to:
4402 (i) food and food ingredients;
4403 (ii) prepared food; or
4404 (iii) alcoholic beverages;
4405 [~~(13)~~] (11) (a) except as provided in Subsection [~~(13)~~] (11)(b), the sale of tangible
4406 personal property or a product transferred electronically by a person:
4407 (i) regardless of the number of transactions involving the sale of that tangible personal
4408 property or product transferred electronically by that person; and
4409 (ii) not regularly engaged in the business of selling that type of tangible personal
4410 property or product transferred electronically;
4411 (b) this Subsection [~~(13)~~] (11) does not apply if:
4412 (i) the sale is one of a series of sales of a character to indicate that the person is
4413 regularly engaged in the business of selling that type of tangible personal property or product
4414 transferred electronically;
4415 (ii) the person holds that person out as regularly engaged in the business of selling that
4416 type of tangible personal property or product transferred electronically;
4417 (iii) the person sells an item of tangible personal property or product transferred
4418 electronically that the person purchased as a sale that is exempt under Subsection [~~(25)~~] (22);
4419 or
4420 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
4421 this state in which case the tax is based upon:
4422 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
4423 sold; or
4424 (B) in the absence of a bill of sale or other written evidence of value, the fair market
4425 value of the vehicle or vessel being sold at the time of the sale as determined by the
4426 commission; and
4427 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

4428 commission shall make rules establishing the circumstances under which:

4429 (i) a person is regularly engaged in the business of selling a type of tangible personal
4430 property or product transferred electronically;

4431 (ii) a sale of tangible personal property or a product transferred electronically is one of
4432 a series of sales of a character to indicate that a person is regularly engaged in the business of
4433 selling that type of tangible personal property or product transferred electronically; or

4434 (iii) a person holds that person out as regularly engaged in the business of selling a type
4435 of tangible personal property or product transferred electronically;

4436 [~~(14)~~] (12) amounts paid or charged for a purchase or lease of machinery, equipment,
4437 normal operating repair or replacement parts, or materials, except for office equipment or
4438 office supplies, by:

4439 (a) a manufacturing facility that:

4440 (i) is located in the state; and

4441 (ii) uses or consumes the machinery, equipment, normal operating repair or
4442 replacement parts, or materials:

4443 (A) in the manufacturing process to manufacture an item sold as tangible personal
4444 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
4445 Utah Administrative Rulemaking Act; or

4446 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
4447 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
4448 Administrative Rulemaking Act;

4449 (b) an establishment, as the commission defines that term in accordance with Title
4450 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

4451 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
4452 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
4453 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
4454 2002 North American Industry Classification System of the federal Executive Office of the
4455 President, Office of Management and Budget;

4456 (ii) is located in the state; and

4457 (iii) uses or consumes the machinery, equipment, normal operating repair or
4458 replacement parts, or materials in:

4459 (A) the production process to produce an item sold as tangible personal property, as the
4460 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
4461 Administrative Rulemaking Act;

4462 (B) research and development, as the commission may define that phrase in accordance
4463 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

4464 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
4465 produced from mining;

4466 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
4467 mining; or

4468 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

4469 (c) an establishment, as the commission defines that term in accordance with Title 63G,
4470 Chapter 3, Utah Administrative Rulemaking Act, that:

4471 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
4472 American Industry Classification System of the federal Executive Office of the President,
4473 Office of Management and Budget;

4474 (ii) is located in the state; and

4475 (iii) uses or consumes the machinery, equipment, normal operating repair or
4476 replacement parts, or materials in the operation of the web search portal;

4477 ~~[(15)]~~ (13) (a) sales of the following if the requirements of Subsection ~~[(15)]~~ (13)(b)
4478 are met:

4479 (i) tooling;

4480 (ii) special tooling;

4481 (iii) support equipment;

4482 (iv) special test equipment; or

4483 (v) parts used in the repairs or renovations of tooling or equipment described in
4484 Subsections ~~[(15)]~~ (13)(a)(i) through (iv); and

4485 (b) sales of tooling, equipment, or parts described in Subsection ~~[(15)]~~ (13)(a) are
4486 exempt if:

4487 (i) the tooling, equipment, or parts are used or consumed exclusively in the
4488 performance of any aerospace or electronics industry contract with the United States
4489 government or any subcontract under that contract; and

4490 (ii) under the terms of the contract or subcontract described in Subsection [~~(15)~~]
4491 (13)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as
4492 evidenced by:

4493 (A) a government identification tag placed on the tooling, equipment, or parts; or

4494 (B) listing on a government-approved property record if placing a government
4495 identification tag on the tooling, equipment, or parts is impractical;

4496 [~~(16) sales of newspapers or newspaper subscriptions;~~]

4497 [~~(17)~~] (14) (a) except as provided in Subsection [~~(17)~~] (14)(b), tangible personal
4498 property or a product transferred electronically traded in as full or part payment of the purchase
4499 price, except that for purposes of calculating sales or use tax upon vehicles not sold by a
4500 vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

4501 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
4502 vehicle being traded in; or

4503 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
4504 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
4505 commission; and

4506 (b) Subsection [~~(17)~~] (14)(a) does not apply to the following items of tangible personal
4507 property or products transferred electronically traded in as full or part payment of the purchase
4508 price:

4509 (i) money;

4510 (ii) electricity;

4511 (iii) water;

4512 (iv) gas; or

4513 (v) steam;

4514 [~~(18)~~] (15) (a) (i) except as provided in Subsection [~~(18)~~] (15)(b), sales of tangible
4515 personal property or a product transferred electronically used or consumed primarily and
4516 directly in farming operations, regardless of whether the tangible personal property or product
4517 transferred electronically:

4518 (A) becomes part of real estate; or

4519 (B) is installed by a[?] farmer, contractor, or subcontractor; or

4520 [~~(1)~~ farmer];

4521 ~~[(H) contractor; or]~~
4522 ~~[(HH) subcontractor; or]~~
4523 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
4524 product transferred electronically if the tangible personal property or product transferred
4525 electronically is exempt under Subsection ~~[(+8)]~~ (15)(a)(i); and
4526 (b) amounts paid or charged for the following are subject to the taxes imposed by this
4527 chapter:
4528 (i) (A) subject to Subsection ~~[(+8)]~~ (15)(b)(i)(B), machinery, equipment, materials, or
4529 supplies if used in a manner that is incidental to farming; and
4530 (B) tangible personal property that is considered to be used in a manner that is
4531 incidental to farming includes:
4532 (I) hand tools; or
4533 (II) maintenance and janitorial equipment and supplies;
4534 (ii) (A) subject to Subsection ~~[(+8)]~~ (15)(b)(ii)(B), tangible personal property or a
4535 product transferred electronically if the tangible personal property or product transferred
4536 electronically is used in an activity other than farming; and
4537 (B) tangible personal property or a product transferred electronically that is considered
4538 to be used in an activity other than farming includes:
4539 (I) office equipment and supplies; or
4540 (II) equipment and supplies used in:
4541 (Aa) the sale or distribution of farm products;
4542 (Bb) research; or
4543 (Cc) transportation; or
4544 (iii) a vehicle required to be registered by the laws of this state during the period
4545 ending two years after the date of the vehicle's purchase;
4546 ~~[(+9)]~~ (16) sales of hay;
4547 ~~[(+20)]~~ (17) exclusive sale during the harvest season of seasonal crops, seedling plants,
4548 or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
4549 garden, farm, or other agricultural produce is sold by:
4550 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
4551 agricultural produce;

4552 (b) an employee of the producer described in Subsection [~~(20)~~] (17)(a); or
4553 (c) a member of the immediate family of the producer described in Subsection [~~(20)~~]
4554 (17)(a);
4555 [~~(21)~~] (18) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is
4556 issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

4557 [~~(22)~~] (19) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
4558 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
4559 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
4560 manufacturer, processor, wholesaler, or retailer;

4561 [~~(23)~~] (20) a product stored in the state for resale;
4562 [~~(24)~~] (21) (a) purchases of a product if:
4563 (i) the product is:
4564 (A) purchased outside of this state;
4565 (B) brought into this state:
4566 (I) at any time after the purchase described in Subsection [~~(24)~~] (21)(a)(i)(A); and
4567 (II) by a nonresident person who is not living or working in this state at the time of the
4568 purchase;

4569 (C) used for the personal use or enjoyment of the nonresident person described in
4570 Subsection [~~(24)~~] (21)(a)(i)(B)(II) while that nonresident person is within the state; and
4571 (D) not used in conducting business in this state; and
4572 (ii) for:
4573 (A) a product other than a boat described in Subsection [~~(24)~~] (21)(a)(ii)(B), the first
4574 use of the product for a purpose for which the product is designed occurs outside of this state;
4575 (B) a boat, the boat is registered outside of this state; or
4576 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
4577 outside of this state;

4578 (b) the exemption provided for in Subsection [~~(24)~~] (21)(a) does not apply to:
4579 (i) a lease or rental of a product; or
4580 (ii) a sale of a vehicle exempt under Subsection [~~(33)~~] (30); and
4581 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
4582 purposes of Subsection [~~(24)~~] (21)(a), the commission may by rule define what constitutes the

4583 following:

4584 (i) conducting business in this state if that phrase has the same meaning in this

4585 Subsection [~~(24)~~] (21) as in Subsection [~~(63)~~] (55);

4586 (ii) the first use of a product if that phrase has the same meaning in this Subsection

4587 [~~(24)~~] (21) as in Subsection [~~(63)~~] (55); or

4588 (iii) a purpose for which a product is designed if that phrase has the same meaning in

4589 this Subsection [~~(24)~~] (21) as in Subsection [~~(63)~~] (55);

4590 [~~(25)~~] (22) a product purchased for resale in the regular course of business, either in its

4591 original form or as an ingredient or component part of a manufactured or compounded product;

4592 [~~(26)~~] (23) a product upon which a sales or use tax was paid to some other state, or one

4593 of its subdivisions, except that the state shall be paid any difference between the tax paid and

4594 the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is

4595 allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and

4596 Use Tax Act;

4597 [~~(27)~~] (24) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d)

4598 to a person for use in compounding a service taxable under the subsections;

4599 [~~(28)~~] (25) purchases made in accordance with the special supplemental nutrition

4600 program for women, infants, and children established in 42 U.S.C. Sec. 1786;

4601 [~~(29)~~] (26) sales or leases of rolls, rollers, refractory brick, electric motors, or other

4602 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code

4603 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of

4604 the President, Office of Management and Budget;

4605 [~~(30)~~] (27) sales of a boat of a type required to be registered under Title 73, Chapter 18,

4606 State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard

4607 motor is:

4608 (a) not registered in this state; and

4609 (b) (i) not used in this state; or

4610 (ii) used in this state:

4611 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a

4612 time period that does not exceed the longer of:

4613 (I) 30 days in any calendar year; or

4614 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
4615 the borders of this state; or

4616 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
4617 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
4618 state;

4619 ~~[(31)]~~ (28) sales of aircraft manufactured in Utah;

4620 ~~[(32)]~~ (29) amounts paid for the purchase of telecommunications service for purposes
4621 of providing telecommunications service;

4622 ~~[(33)]~~ (30) sales, leases, or uses of the following:

4623 (a) a vehicle by an authorized carrier; or

4624 (b) tangible personal property that is installed on a vehicle:

4625 (i) sold or leased to or used by an authorized carrier; and

4626 (ii) before the vehicle is placed in service for the first time;

4627 ~~[(34)]~~ (31) (a) 45% of the sales price of any new manufactured home; and

4628 (b) 100% of the sales price of any used manufactured home;

4629 ~~[(35)]~~ (32) sales relating to schools and fundraising sales;

4630 ~~[(36)]~~ (33) sales or rentals of durable medical equipment if:

4631 (a) a person presents a prescription for the durable medical equipment; and

4632 (b) the durable medical equipment is used for home use only;

4633 ~~[(37)] (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in~~
4634 ~~Section 72-11-102; and]~~

4635 ~~[(b) the commission shall by rule determine the method for calculating sales exempt~~
4636 ~~under Subsection (37)(a) that are not separately metered and accounted for in utility billings;]~~

4637 ~~[(38)]~~ (34) sales to a ski resort of:

4638 (a) snowmaking equipment;

4639 (b) ski slope grooming equipment;

4640 (c) passenger ropeways as defined in Section 72-11-102; or

4641 (d) parts used in the repairs or renovations of equipment or passenger ropeways
4642 described in Subsections ~~[(38)]~~ (34)(a) through (c);

4643 ~~[(39)]~~ (35) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for
4644 industrial use;

4645 ~~[(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for~~
4646 ~~amusement, entertainment, or recreation an unassisted amusement device as defined in Section~~
4647 ~~59-12-102;]~~

4648 ~~[(b) if a seller that sells or rents at the same business location the right to use or operate~~
4649 ~~for amusement, entertainment, or recreation one or more unassisted amusement devices and~~
4650 ~~one or more assisted amusement devices, the exemption described in Subsection (40)(a)~~
4651 ~~applies if the seller separately accounts for the sales or rentals of the right to use or operate for~~
4652 ~~amusement, entertainment, or recreation for the assisted amusement devices; and]~~

4653 ~~[(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,~~
4654 ~~Utah Administrative Rulemaking Act, the commission may make rules:]~~

4655 ~~[(i) governing the circumstances under which sales are at the same business location;~~
4656 ~~and]~~

4657 ~~[(ii) establishing the procedures and requirements for a seller to separately account for~~
4658 ~~the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for~~
4659 ~~assisted amusement devices;]~~

4660 ~~[(41)] (36) (a) sales of photocopies by:~~

4661 ~~(i) a governmental entity; or~~

4662 ~~(ii) an entity within the state system of public education, including:~~

4663 ~~(A) a school; or~~

4664 ~~(B) the State Board of Education; or~~

4665 ~~(b) sales of publications by a governmental entity;~~

4666 ~~[(42) amounts paid for admission to an athletic event at an institution of higher~~
4667 ~~education that is subject to the provisions of Title IX of the Education Amendments of 1972,~~
4668 ~~20 U.S.C. Sec. 1681 et seq.;]~~

4669 ~~[(43)] (37) (a) sales made to or by:~~

4670 ~~(i) an area agency on aging; or~~

4671 ~~(ii) a senior citizen center owned by a county, city, or town; or~~

4672 ~~(b) sales made by a senior citizen center that contracts with an area agency on aging;~~

4673 ~~[(44)] (38) sales or leases of semiconductor fabricating, processing, research, or~~
4674 ~~development materials regardless of whether the semiconductor fabricating, processing,~~
4675 ~~research, or development materials:~~

4676 (a) actually come into contact with a semiconductor; or
4677 (b) ultimately become incorporated into real property;
4678 ~~[(45)]~~ (39) an amount paid by or charged to a purchaser for accommodations and
4679 services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under
4680 Section 59-12-104.2;
4681 ~~[(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary~~
4682 ~~sports event registration certificate in accordance with Section 41-3-306 for the event period~~
4683 ~~specified on the temporary sports event registration certificate;]~~
4684 ~~[(47)]~~ (40) (a) sales or uses of electricity, if the sales or uses are made under a retail
4685 tariff adopted by the Public Service Commission only for purchase of electricity produced from
4686 a new alternative energy source built after January 1, 2016, as designated in the tariff by the
4687 Public Service Commission; and
4688 (b) for a residential use customer only, the exemption under Subsection ~~[(47)]~~ (40)(a)
4689 applies only to the portion of the tariff rate a customer pays under the tariff described in
4690 Subsection ~~[(47)]~~ (40)(a) that exceeds the tariff rate under the tariff described in Subsection
4691 ~~[(47)]~~ (40)(a) that the customer would have paid absent the tariff;
4692 ~~[(48)]~~ (41) sales or rentals of mobility enhancing equipment if a person presents a
4693 prescription for the mobility enhancing equipment;
4694 ~~[(49)]~~ (42) sales of water in a:
4695 (a) pipe;
4696 (b) conduit;
4697 (c) ditch; or
4698 (d) reservoir;
4699 ~~[(50)]~~ (43) sales of currency or coins that constitute legal tender of a state, the United
4700 States, or a foreign nation;
4701 ~~[(51)]~~ (44) (a) sales of an item described in Subsection ~~[(51)]~~ (44)(b) if the item:
4702 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
4703 (ii) has a gold, silver, or platinum content of 50% or more; and
4704 (b) Subsection ~~[(51)]~~ (44)(a) applies to a gold, silver, or platinum:
4705 (i) ingot;
4706 (ii) bar;

- 4707 (iii) medallion; or
- 4708 (iv) decorative coin;
- 4709 [~~(52)~~] (45) amounts paid on a sale-leaseback transaction;
- 4710 [~~(53)~~] (46) sales of a prosthetic device:
- 4711 (a) for use on or in a human; and
- 4712 (b) (i) for which a prescription is required; or
- 4713 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 4714 [~~(54)~~] (47) (a) except as provided in Subsection [~~(54)~~] (47)(b), purchases, leases, or
- 4715 rentals of machinery or equipment by an establishment described in Subsection [~~(54)~~] (47)(c) if
- 4716 the machinery or equipment is primarily used in the production or postproduction of the
- 4717 following media for commercial distribution:
- 4718 (i) a motion picture;
- 4719 (ii) a television program;
- 4720 (iii) a movie made for television;
- 4721 (iv) a music video;
- 4722 (v) a commercial;
- 4723 (vi) a documentary; or
- 4724 (vii) a medium similar to Subsections [~~(54)~~] (47)(a)(i) through (vi) as determined by
- 4725 the commission by administrative rule made in accordance with Subsection [~~(54)~~] (47)(d); or
- 4726 (b) purchases, leases, or rentals of machinery or equipment by an establishment
- 4727 described in Subsection [~~(54)~~] (47)(c) that is used for the production or postproduction of the
- 4728 following are subject to the taxes imposed by this chapter:
- 4729 (i) a live musical performance;
- 4730 (ii) a live news program; or
- 4731 (iii) a live sporting event;
- 4732 (c) the following establishments listed in the 1997 North American Industry
- 4733 Classification System of the federal Executive Office of the President, Office of Management
- 4734 and Budget, apply to Subsections [~~(54)~~] (47)(a) and (b):
- 4735 (i) NAICS Code 512110; or
- 4736 (ii) NAICS Code 51219; and
- 4737 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

4738 commission may by rule:

4739 (i) prescribe what constitutes a medium similar to Subsections [~~(54)~~] (47)(a)(i) through
4740 (vi); or

4741 (ii) define:

4742 (A) "commercial distribution";

4743 (B) "live musical performance";

4744 (C) "live news program"; or

4745 (D) "live sporting event";

4746 [~~(55)~~] (48) (a) leases of seven or more years or purchases made on or after July 1,
4747 2004, but on or before June 30, 2027, of tangible personal property that:

4748 (i) is leased or purchased for or by a facility that:

4749 (A) is an alternative energy electricity production facility;

4750 (B) is located in the state; and

4751 (C) (I) becomes operational on or after July 1, 2004; or

4752 (II) has its generation capacity increased by one or more megawatts on or after July 1,
4753 2004, as a result of the use of the tangible personal property;

4754 (ii) has an economic life of five or more years; and

4755 (iii) is used to make the facility or the increase in capacity of the facility described in
4756 Subsection [~~(55)~~] (48)(a)(i) operational up to the point of interconnection with an existing
4757 transmission grid including:

4758 (A) a wind turbine;

4759 (B) generating equipment;

4760 (C) a control and monitoring system;

4761 (D) a power line;

4762 (E) substation equipment;

4763 (F) lighting;

4764 (G) fencing;

4765 (H) pipes; or

4766 (I) other equipment used for locating a power line or pole; and

4767 (b) this Subsection [~~(55)~~] (48) does not apply to:

4768 (i) tangible personal property used in construction of:

- 4769 (A) a new alternative energy electricity production facility; or
4770 (B) the increase in the capacity of an alternative energy electricity production facility;
4771 (ii) contracted services required for construction and routine maintenance activities;
4772 and
4773 (iii) unless the tangible personal property is used or acquired for an increase in capacity
4774 of the facility described in Subsection [~~(55)~~] (48)(a)(i)(C)(II), tangible personal property used
4775 or acquired after:
- 4776 (A) the alternative energy electricity production facility described in Subsection [~~(55)~~]
4777 (48)(a)(i) is operational as described in Subsection [~~(55)~~] (48)(a)(iii); or
4778 (B) the increased capacity described in Subsection [~~(55)~~] (48)(a)(i) is operational as
4779 described in Subsection [~~(55)~~] (48)(a)(iii);
- 4780 [~~(56)~~] (49) (a) leases of seven or more years or purchases made on or after July 1,
4781 2004, but on or before June 30, 2027, of tangible personal property that:
- 4782 (i) is leased or purchased for or by a facility that:
- 4783 (A) is a waste energy production facility;
4784 (B) is located in the state; and
4785 (C) (I) becomes operational on or after July 1, 2004; or
4786 (II) has its generation capacity increased by one or more megawatts on or after July 1,
4787 2004, as a result of the use of the tangible personal property;
- 4788 (ii) has an economic life of five or more years; and
4789 (iii) is used to make the facility or the increase in capacity of the facility described in
4790 Subsection [~~(56)~~] (49)(a)(i) operational up to the point of interconnection with an existing
4791 transmission grid including:
- 4792 (A) generating equipment;
4793 (B) a control and monitoring system;
4794 (C) a power line;
4795 (D) substation equipment;
4796 (E) lighting;
4797 (F) fencing;
4798 (G) pipes; or
4799 (H) other equipment used for locating a power line or pole; and

4800 (b) this Subsection [~~(56)~~] (49) does not apply to:

4801 (i) tangible personal property used in construction of:

4802 (A) a new waste energy facility; or

4803 (B) the increase in the capacity of a waste energy facility;

4804 (ii) contracted services required for construction and routine maintenance activities;

4805 and

4806 (iii) unless the tangible personal property is used or acquired for an increase in capacity

4807 described in Subsection [~~(56)~~] (49)(a)(i)(C)(II), tangible personal property used or acquired

4808 after:

4809 (A) the waste energy facility described in Subsection [~~(56)~~] (49)(a)(i) is operational as

4810 described in Subsection [~~(56)~~] (49)(a)(iii); or

4811 (B) the increased capacity described in Subsection [~~(56)~~] (49)(a)(i) is operational as

4812 described in Subsection [~~(56)~~] (49)(a)(iii);

4813 [~~(57)~~] (50) (a) leases of five or more years or purchases made on or after July 1, 2004,

4814 but on or before June 30, 2027, of tangible personal property that:

4815 (i) is leased or purchased for or by a facility that:

4816 (A) is located in the state;

4817 (B) produces fuel from alternative energy, including:

4818 (I) methanol; or

4819 (II) ethanol; and

4820 (C) (I) becomes operational on or after July 1, 2004; or

4821 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as

4822 a result of the installation of the tangible personal property;

4823 (ii) has an economic life of five or more years; and

4824 (iii) is installed on the facility described in Subsection [~~(57)~~] (50)(a)(i);

4825 (b) this Subsection [~~(57)~~] (50) does not apply to:

4826 (i) tangible personal property used in construction of:

4827 (A) a new facility described in Subsection [~~(57)~~] (50)(a)(i); or

4828 (B) the increase in capacity of the facility described in Subsection [~~(57)~~] (50)(a)(i); or

4829 (ii) contracted services required for construction and routine maintenance activities;

4830 and

4831 (iii) unless the tangible personal property is used or acquired for an increase in capacity
4832 described in Subsection ~~[(57)]~~ (50)(a)(i)(C)(II), tangible personal property used or acquired
4833 after:

4834 (A) the facility described in Subsection ~~[(57)]~~ (50)(a)(i) is operational; or

4835 (B) the increased capacity described in Subsection ~~[(57)]~~ (50)(a)(i) is operational;

4836 ~~[(58)]~~ (51) (a) subject to Subsection ~~[(58)(b) or (c)]~~ (51)(b), sales of tangible personal
4837 property or a product transferred electronically to a person within this state if that tangible
4838 personal property or product transferred electronically is subsequently shipped outside the state
4839 and incorporated pursuant to contract into and becomes a part of real property located outside
4840 of this state; and

4841 (b) the exemption under Subsection ~~[(58)]~~ (51)(a) is not allowed to the extent that the
4842 other state or political entity to which the tangible personal property is shipped imposes a sales,
4843 use, gross receipts, or other similar transaction excise tax on the transaction against which the
4844 other state or political entity allows a credit for sales and use taxes imposed by this chapter;
4845 [and]

4846 ~~[(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
4847 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
4848 refund:]~~

4849 ~~[(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;]~~

4850 ~~[(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
4851 which the sale is made;]~~

4852 ~~[(iii) if the person did not claim the exemption allowed by this Subsection (58) for the
4853 sale prior to filing for the refund;]~~

4854 ~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~

4855 ~~[(v) in accordance with Section 59-1-1410; and]~~

4856 ~~[(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,
4857 if the person files for the refund on or before June 30, 2011;]~~

4858 ~~[(59) purchases:]~~

4859 ~~[(a) of one or more of the following items in printed or electronic format:]~~

4860 ~~[(i) a list containing information that includes one or more:]~~

4861 ~~[(A) names; or]~~

4862 ~~[(B) addresses; or]~~
4863 ~~[(ii) a database containing information that includes one or more:]~~
4864 ~~[(A) names; or]~~
4865 ~~[(B) addresses; and]~~
4866 ~~[(b) used to send direct mail;]~~
4867 ~~[(60)]~~ (52) redemptions or repurchases of a product by a person if that product was:
4868 (a) delivered to a pawnbroker as part of a pawn transaction; and
4869 (b) redeemed or repurchased within the time period established in a written agreement
4870 between the person and the pawnbroker for redeeming or repurchasing the product;
4871 ~~[(61)]~~ (53) (a) purchases or leases of an item described in Subsection ~~[(61)]~~ (53)(b) if
4872 the item:
4873 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
4874 and
4875 (ii) has a useful economic life of one or more years; and
4876 (b) the following apply to Subsection ~~[(61)]~~ (53)(a):
4877 (i) telecommunications enabling or facilitating equipment, machinery, or software;
4878 (ii) telecommunications equipment, machinery, or software required for 911 service;
4879 (iii) telecommunications maintenance or repair equipment, machinery, or software;
4880 (iv) telecommunications switching or routing equipment, machinery, or software; or
4881 (v) telecommunications transmission equipment, machinery, or software;
4882 ~~[(62)]~~ (54) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of
4883 tangible personal property or a product transferred electronically that are used in the research
4884 and development of alternative energy technology; and
4885 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4886 commission may, for purposes of Subsection ~~[(62)]~~ (54)(a), make rules defining what
4887 constitutes purchases of tangible personal property or a product transferred electronically that
4888 are used in the research and development of alternative energy technology;
4889 ~~[(63)]~~ (55) (a) purchases of tangible personal property or a product transferred
4890 electronically if:
4891 (i) the tangible personal property or product transferred electronically is:
4892 (A) purchased outside of this state;

4893 (B) brought into this state at any time after the purchase described in Subsection [~~(63)~~
4894 (55)(a)(i)(A); and

4895 (C) used in conducting business in this state; and

4896 (ii) for:

4897 (A) tangible personal property or a product transferred electronically other than the
4898 tangible personal property described in Subsection [~~(63)~~] (55)(a)(ii)(B), the first use of the
4899 property for a purpose for which the property is designed occurs outside of this state; or

4900 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
4901 outside of this state;

4902 (b) the exemption provided for in Subsection [~~(63)~~] (55)(a) does not apply to:

4903 (i) a lease or rental of tangible personal property or a product transferred electronically;

4904 or

4905 (ii) a sale of a vehicle exempt under Subsection [~~(33)~~] (30); and

4906 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
4907 purposes of Subsection [~~(63)~~] (55)(a), the commission may by rule define what constitutes the
4908 following:

4909 (i) conducting business in this state if that phrase has the same meaning in this
4910 Subsection [~~(63)~~] (55) as in Subsection [~~(24)~~] (21);

4911 (ii) the first use of tangible personal property or a product transferred electronically if
4912 that phrase has the same meaning in this Subsection [~~(63)~~] (55) as in Subsection [~~(24)~~] (21); or

4913 (iii) a purpose for which tangible personal property or a product transferred
4914 electronically is designed if that phrase has the same meaning in this Subsection [~~(63)~~] (55) as
4915 in Subsection [~~(24)~~] (21);

4916 [~~(64)~~] (56) sales of disposable home medical equipment or supplies if:

4917 (a) a person presents a prescription for the disposable home medical equipment or
4918 supplies;

4919 (b) the disposable home medical equipment or supplies are used exclusively by the
4920 person to whom the prescription described in Subsection [~~(64)~~] (56)(a) is issued; and

4921 (c) the disposable home medical equipment and supplies are listed as eligible for
4922 payment under:

4923 (i) Title XVIII, federal Social Security Act; or

- 4924 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
4925 [~~(65)~~ sales:]
4926 [~~(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
4927 District Act; or]~~
4928 [~~(b) of tangible personal property to a subcontractor of a public transit district, if the
4929 tangible personal property is:]~~
4930 [~~(i) clearly identified; and]~~
4931 [~~(ii) installed or converted to real property owned by the public transit district;]~~
4932 [~~(66)~~] (57) sales of construction materials:
4933 (a) purchased on or after July 1, 2010;
4934 (b) purchased by, on behalf of, or for the benefit of an international airport:
4935 (i) located within a county of the first class; and
4936 (ii) that has a United States customs office on its premises; and
4937 (c) if the construction materials are:
4938 (i) clearly identified;
4939 (ii) segregated; and
4940 (iii) installed or converted to real property:
4941 (A) owned or operated by the international airport described in Subsection [~~(66)~~]
4942 (57)(b); and
4943 (B) located at the international airport described in Subsection [~~(66)~~] (57)(b);
4944 [~~(67)~~] (58) sales of construction materials:
4945 (a) purchased on or after July 1, 2008;
4946 (b) purchased by, on behalf of, or for the benefit of a new airport:
4947 (i) located within a county of the second class; and
4948 (ii) that is owned or operated by a city in which an airline as defined in Section
4949 [59-2-102](#) is headquartered; and
4950 (c) if the construction materials are:
4951 (i) clearly identified;
4952 (ii) segregated; and
4953 (iii) installed or converted to real property:
4954 (A) owned or operated by the new airport described in Subsection [~~(67)~~] (58)(b);

4955 (B) located at the new airport described in Subsection ~~[(67)]~~ (58)(b); and
4956 (C) as part of the construction of the new airport described in Subsection ~~[(67)]~~
4957 (58)(b);
4958 ~~[(68) sales of fuel to a common carrier that is a railroad for use in a locomotive~~
4959 ~~engine;]~~
4960 ~~[(69)]~~ (59) purchases and sales described in Section 63H-4-111;
4961 ~~[(70)]~~ (60) (a) sales of tangible personal property to an aircraft maintenance, repair, and
4962 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
4963 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
4964 lists a state or country other than this state as the location of registry of the fixed wing turbine
4965 powered aircraft; or
4966 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
4967 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
4968 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
4969 lists a state or country other than this state as the location of registry of the fixed wing turbine
4970 powered aircraft;
4971 ~~[(71) subject to Section 59-12-104.4, sales of a textbook for a higher education~~
4972 ~~course;]~~
4973 ~~[(a) to a person admitted to an institution of higher education; and]~~
4974 ~~[(b) by a seller, other than a bookstore owned by an institution of higher education, if~~
4975 ~~51% or more of that seller's sales revenue for the previous calendar quarter are sales of a~~
4976 ~~textbook for a higher education course;]~~
4977 ~~[(72)]~~ (61) a license fee or tax a municipality imposes in accordance with Subsection
4978 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
4979 level of municipal services;
4980 ~~[(73)]~~ (62) amounts paid or charged for construction materials used in the construction
4981 of a new or expanding life science research and development facility in the state, if the
4982 construction materials are:
4983 (a) clearly identified;
4984 (b) segregated; and
4985 (c) installed or converted to real property;

- 4986 [~~(74)~~] (63) amounts paid or charged for:
- 4987 (a) a purchase or lease of machinery and equipment that:
- 4988 (i) are used in performing qualified research:
- 4989 (A) as defined in Section 41(d), Internal Revenue Code; and
- 4990 (B) in the state; and
- 4991 (ii) have an economic life of three or more years; and
- 4992 (b) normal operating repair or replacement parts:
- 4993 (i) for the machinery and equipment described in Subsection [~~(74)~~] (63)(a); and
- 4994 (ii) that have an economic life of three or more years;
- 4995 [~~(75)~~] (64) a sale or lease of tangible personal property used in the preparation of
- 4996 prepared food if:
- 4997 (a) for a sale:
- 4998 (i) the ownership of the seller and the ownership of the purchaser are identical; and
- 4999 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
- 5000 tangible personal property prior to making the sale; or
- 5001 (b) for a lease:
- 5002 (i) the ownership of the lessor and the ownership of the lessee are identical; and
- 5003 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
- 5004 personal property prior to making the lease;
- 5005 [~~(76)~~] (65) (a) purchases of machinery or equipment if:
- 5006 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
- 5007 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
- 5008 System of the federal Executive Office of the President, Office of Management and Budget;
- 5009 (ii) the machinery or equipment:
- 5010 (A) has an economic life of three or more years; and
- 5011 (B) is used by one or more persons who pay admission or user fees described in
- 5012 Subsection [59-12-103\(1\)\(f\)](#) to the purchaser of the machinery and equipment; and
- 5013 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- 5014 (A) amounts paid or charged as admission or user fees described in Subsection
- 5015 [59-12-103\(1\)\(f\)](#); and
- 5016 (B) subject to taxation under this chapter; and

5017 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5018 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
5019 previous calendar quarter is:

5020 (i) amounts paid or charged as admission or user fees described in Subsection

5021 [59-12-103\(1\)\(f\)](#); and

5022 (ii) subject to taxation under this chapter;

5023 ~~[(77)]~~ [\(66\)](#) purchases of a short-term lodging consumable by a business that provides
5024 accommodations and services described in Subsection [59-12-103\(1\)\(i\)](#);

5025 ~~[(78) amounts paid or charged to access a database:]~~

5026 ~~[(a) if the primary purpose for accessing the database is to view or retrieve information
5027 from the database; and]~~

5028 ~~[(b) not including amounts paid or charged for a:]~~

5029 ~~[(i) digital audiowork;]~~

5030 ~~[(ii) digital audio-visual work; or]~~

5031 ~~[(iii) digital book;]~~

5032 ~~[(79)]~~ [\(67\)](#) amounts paid or charged for a purchase or lease made by an electronic
5033 financial payment service, of:

5034 (a) machinery and equipment that:

5035 (i) are used in the operation of the electronic financial payment service; and

5036 (ii) have an economic life of three or more years; and

5037 (b) normal operating repair or replacement parts that:

5038 (i) are used in the operation of the electronic financial payment service; and

5039 (ii) have an economic life of three or more years;

5040 ~~[(80)]~~ [\(68\)](#) ~~[beginning on April 1, 2013;]~~ sales of a fuel cell as defined in Section
5041 [54-15-102](#);

5042 ~~[(81)]~~ [\(69\)](#) amounts paid or charged for a purchase or lease of tangible personal
5043 property or a product transferred electronically if the tangible personal property or product
5044 transferred electronically:

5045 (a) is stored, used, or consumed in the state; and

5046 (b) is temporarily brought into the state from another state:

5047 (i) during a disaster period as defined in Section [53-2a-1202](#);

- 5048 (ii) by an out-of-state business as defined in Section [53-2a-1202](#);
- 5049 (iii) for a declared state disaster or emergency as defined in Section [53-2a-1202](#); and
- 5050 (iv) for disaster- or emergency-related work as defined in Section [53-2a-1202](#);
- 5051 ~~[(82)]~~ [\(70\)](#) sales of goods and services at a morale, welfare, and recreation facility, as
- 5052 defined in Section [39-9-102](#), made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
- 5053 Recreation Program;
- 5054 ~~[(83)]~~ [\(71\)](#) amounts paid or charged for a purchase or lease of molten magnesium;
- 5055 ~~[(84)]~~ [\(72\)](#) amounts paid or charged for a purchase or lease made by a qualifying
- 5056 ~~[enterprise]~~ data center or an occupant of a qualifying data center of machinery, equipment, or
- 5057 normal operating repair or replacement parts, if the machinery, equipment, or normal operating
- 5058 repair or replacement parts:
 - 5059 (a) are used in ~~[the operation of the establishment; and]~~;
 - 5060 (i) the operation of the qualifying data center; or
 - 5061 (ii) the occupant's operations in the qualifying data center; and
 - 5062 (b) have an economic life of one or more years;
 - 5063 ~~[(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a~~
 - 5064 ~~vehicle that includes cleaning or washing of the interior of the vehicle;]~~
 - 5065 ~~[(86)]~~ [\(73\)](#) amounts paid or charged for a purchase or lease of machinery, equipment,
 - 5066 normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or
 - 5067 supplies used or consumed:
 - 5068 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
 - 5069 in Section [63M-4-701](#) located in the state;
 - 5070 (b) if the machinery, equipment, normal operating repair or replacement parts,
 - 5071 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:
 - 5072 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
 - 5073 added to gasoline or diesel fuel;
 - 5074 (ii) research and development;
 - 5075 (iii) transporting, storing, or managing raw materials, work in process, finished
 - 5076 products, and waste materials produced from refining gasoline or diesel fuel, or adding
 - 5077 blendstock to gasoline or diesel fuel;
 - 5078 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in

5079 refining; or

5080 (v) preventing, controlling, or reducing pollutants from refining; and

5081 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office
5082 of Energy Development under Subsection 63M-4-702(2);

5083 ~~[(87)]~~ (74) amounts paid to or charged by a proprietor for accommodations and
5084 services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA
5085 accommodations tax imposed under Section 63H-1-205;

5086 ~~[(88)]~~ (75) amounts paid or charged for a purchase or lease of machinery, equipment,
5087 normal operating repair or replacement parts, or materials, except for office equipment or
5088 office supplies, by an establishment, as the commission defines that term in accordance with
5089 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

5090 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
5091 American Industry Classification System of the federal Executive Office of the President,
5092 Office of Management and Budget;

5093 (b) is located in this state; and

5094 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
5095 materials in the operation of the establishment; ~~[and]~~

5096 ~~[(89)]~~ (76) amounts paid or charged for an item exempt under Section 59-12-104.10[-];
5097 and

5098 (77) if paid for through a machine that accepts only cash for payment and if the
5099 machine is the only method by which to pay:

5100 (a) sales of cleaning or washing of tangible personal property if the cleaning or
5101 washing of the tangible personal property is not assisted cleaning or washing of tangible
5102 personal property;

5103 (b) sales of food and food ingredients or prepared food from a vending machine if:

5104 (i) the proceeds of each sale do not exceed \$1; and

5105 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
5106 the cost of the food and food ingredients or prepared food as goods consumed;

5107 (c) sales or rentals of the right to use or operate an unassisted amusement device for
5108 amusement, entertainment, or recreation; and

5109 (78) amounts paid or charged for tangible personal property that:

5110 (a) is not electricity, machinery, equipment, vehicles, parts, office equipment, or office
5111 supplies; and

5112 (b) is consumed as part of a service described in Subsection 59-12-103(1)(g), (h), or
5113 (i).

5114 Section 44. Section **59-12-104.5** is amended to read:

5115 **59-12-104.5. Revenue and Taxation Interim Committee review of sales and use**
5116 **taxes.**

5117 The Revenue and Taxation Interim Committee shall:

5118 (1) review Subsection ~~59-12-104(28)~~(25) before October 1 of the year after the year
5119 in which Congress permits a state to participate in the special supplemental nutrition program
5120 under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on
5121 purchases of food under that program; and

5122 (2) review Subsection ~~59-12-104(21)~~(18) before October 1 of the year after the year
5123 in which Congress permits a state to participate in the SNAP as defined in Section **35A-1-102**,
5124 even if state or local sales taxes are collected within the state on purchases of food under that
5125 program.

5126 Section 45. Section **59-12-1201** is amended to read:

5127 **59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration,**
5128 **collection, and enforcement of tax -- Administrative charge -- Deposits.**

5129 (1) (a) Except as provided in Subsection (3), there is imposed a tax of [~~2.5%~~] 4% on all
5130 short-term leases and rentals of motor vehicles not exceeding 30 days.

5131 (b) The tax imposed in this section is in addition to all other state, county, or municipal
5132 fees and taxes imposed on rentals of motor vehicles.

5133 (2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax
5134 imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

5135 (b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall
5136 take effect on the first day of the first billing period:

5137 (A) that begins after the effective date of the tax rate increase; and

5138 (B) if the billing period for the transaction begins before the effective date of a tax rate
5139 increase imposed under Subsection (1).

5140 (ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax

5141 rate decrease shall take effect on the first day of the last billing period:

5142 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;

5143 and

5144 (B) if the billing period for the transaction begins before the effective date of the repeal

5145 of the tax or the tax rate decrease imposed under Subsection (1).

5146 (3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

5147 (a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

5148 (b) the motor vehicle is rented as a personal household goods moving van; or

5149 (c) the lease or rental of the motor vehicle is made for the purpose of temporarily

5150 replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an

5151 insurance agreement.

5152 (4) (a) (i) The tax authorized under this section shall be administered, collected, and

5153 enforced in accordance with:

5154 (A) the same procedures used to administer, collect, and enforce the tax under Part 1,

5155 Tax Collection; and

5156 (B) Chapter 1, General Taxation Policies.

5157 (ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to

5158 Subsections 59-12-103(4) through (10) or Section 59-12-107.1 or 59-12-123.

5159 (b) The commission shall retain and deposit an administrative charge in accordance

5160 with Section 59-1-306 from the [revenues] revenue the commission collects from a tax under

5161 this part.

5162 (c) Except as provided under Subsection (4)(b), all revenue received by the

5163 commission under this section shall be deposited daily with the state treasurer and credited

5164 monthly to the Marda Dillree Corridor Preservation Fund under Section 72-2-117.

5165 Section 46. Section 59-13-202 is amended to read:

5166 **59-13-202. Refund of tax for agricultural uses on individual income and**

5167 **corporate franchise and income tax returns -- Application for permit for refund --**

5168 **Division of Finance to pay claims -- Rules permitted to enforce part -- Penalties --**

5169 **Revenue and Taxation Interim Committee study.**

5170 (1) As used in this section:

5171 (a) (i) Except as provided in Subsection (1)(a)(ii), "claimant" means a resident or

5172 nonresident person.

5173 (ii) "Claimant" does not include an estate or trust.

5174 (b) "Estate" means a nonresident estate or a resident estate.

5175 (c) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or
5176 trust may claim:

5177 (i) as provided by statute; and

5178 (ii) regardless of whether, for the taxable year for which the claimant, estate, or trust
5179 claims the tax credit, the claimant, estate, or trust has a tax liability under:

5180 (A) Chapter 7, Corporate Franchise and Income Taxes; or

5181 (B) Chapter 10, Individual Income Tax Act.

5182 (d) "Trust" means a nonresident trust or a resident trust.

5183 (2) Any claimant, estate, or trust that purchases and uses any motor fuel within the state
5184 for the purpose of operating or propelling stationary farm engines and self-propelled farm
5185 machinery used for nonhighway agricultural uses, and that has paid the tax on the motor fuel as
5186 provided by this part, is entitled to a refund of the tax subject to the conditions and limitations
5187 provided under this part.

5188 (3) (a) A claimant, estate, or trust desiring a nonhighway agricultural use refund under
5189 this part shall claim the refund as a refundable tax credit on the tax return the claimant, estate,
5190 or trust files under:

5191 (i) Chapter 7, Corporate Franchise and Income Taxes; or

5192 (ii) Chapter 10, Individual Income Tax Act.

5193 (b) A claimant, estate, or trust not subject to filing a tax return described in Subsection
5194 (3)(a) shall obtain a permit and file claims on a calendar year basis.

5195 (c) Any claimant, estate, or trust claiming a refundable tax credit under this section is
5196 required to furnish any or all of the information outlined in this section upon request of the
5197 commission.

5198 (d) A refundable tax credit under this section is allowed only on purchases on which
5199 tax is paid during the taxable year covered by the tax return.

5200 (4) In order to obtain a permit for a refund of motor fuel tax paid, an application shall
5201 be filed containing:

5202 (a) the name of the claimant, estate, or trust;

5203 (b) the claimant's, estate's, or trust's address;

5204 (c) location and number of acres owned and operated, location and number of acres
5205 rented and operated, the latter of which shall be verified by a signed statement from the legal
5206 owner;

5207 (d) number of acres planted to each crop, type of soil, and whether irrigated or dry; and

5208 (e) make, size, and type of fuel used and power rating of each piece of equipment using
5209 fuel. If the claimant, estate, or trust is an operator of self-propelled or tractor-pulled farm
5210 machinery with which the claimant, estate, or trust works for hire doing custom jobs for other
5211 farmers, the application shall include information the commission requires and shall all be
5212 contained in, and be considered part of, the original application. The claimant, estate, or trust
5213 shall also file with the application a certificate from the county assessor showing each piece of
5214 equipment using fuel. This original application and all information contained in it constitutes a
5215 permanent file with the commission in the name of the claimant, estate, or trust.

5216 (5) A claimant, estate, or trust claiming the right to a refund of motor fuel tax paid shall
5217 file a claim with the commission by April 15 of each year for the refund for the previous
5218 calendar year. The claim shall state the name and address of the claimant, estate, or trust, the
5219 number of gallons of motor fuel purchased for nonhighway agricultural uses, and the amount
5220 paid for the motor fuel. The claimant, estate, or trust shall retain the original invoice to support
5221 the claim. No more than one claim for a tax refund may be filed annually by each user of
5222 motor fuel purchased for nonhighway agricultural uses.

5223 (6) Upon commission approval of the claim for a refund, the Division of Finance shall
5224 pay the amount found due to the claimant, estate, or trust. The total amount of claims for
5225 refunds shall be paid from motor fuel taxes.

5226 (7) The commission may refuse to accept as evidence of purchase or payment any
5227 instruments that show alteration or that fail to indicate the quantity of the purchase, the price of
5228 the motor fuel, a statement that the motor fuel is purchased for purposes other than
5229 transportation, and the date of purchase and delivery. If the commission is not satisfied with
5230 the evidence submitted in connection with the claim, the commission may reject the claim or
5231 require additional evidence.

5232 (8) A claimant, estate, or trust aggrieved by the decision of the commission with
5233 respect to a refundable tax credit or refund may file a request for agency action, requesting a

5234 hearing before the commission.

5235 (9) A claimant, estate, or trust that makes any false claim, report, or statement, as
5236 claimant, estate, trust, agent, or creditor, with intent to defraud or secure a refund to which the
5237 claimant, estate, or trust is not entitled, is subject to the criminal penalties provided under
5238 Section [59-1-401](#), and the commission shall initiate the filing of a complaint for alleged
5239 violations of this part. In addition to these penalties, the claimant, estate, or trust may not
5240 receive any refund as a claimant, estate, or trust or as a creditor of a claimant, estate, or trust for
5241 refund for a period of five years.

5242 ~~[(10)(a) In accordance with any rules prescribed by the commission under Subsection~~
5243 ~~(10)(b), the Division of Finance shall transfer at least annually from the Transportation Fund~~
5244 ~~into the Education Fund an amount equal to the amount of the refund claimed under this~~
5245 ~~section.]~~

5246 ~~[(b)]~~ (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
5247 Act, the commission may make rules providing procedures for:

5248 (i) making a refund to a claimant, estate, or trust as required by Subsection (3)(a)(i); or

5249 ~~[(ii) making a transfer from the Transportation Fund into the Education Fund as~~
5250 ~~required by Subsection (10)(a); or]~~

5251 ~~[(iii)]~~ (ii) enforcing this part.

5252 (11) (a) On or before November 30, 2017, and every three years after 2017, the
5253 Revenue and Taxation Interim Committee shall review the tax credit provided by this section
5254 and make recommendations concerning whether the tax credit should be continued, modified,
5255 or repealed.

5256 (b) In conducting the review required by Subsection (11)(a), the Revenue and Taxation
5257 Interim Committee shall:

5258 (i) schedule time on at least one committee agenda to conduct the review;

5259 (ii) invite state agencies, individuals, and organizations concerned with the credit under
5260 review to provide testimony;

5261 (iii) ensure that the recommendations described in this section include an evaluation of:

5262 (A) the cost of the tax credit to the state;

5263 (B) the purpose and effectiveness of the tax credit; and

5264 (C) the extent to which the state benefits from the tax credit; and

5265 (iv) undertake other review efforts as determined by the chairs of the Revenue and
5266 Taxation Interim Committee.

5267 Section 47. Section **59-13-323** is enacted to read:

5268 **59-13-323. Additional special fuel tax on diesel fuel.**

5269 (1) A supplier shall pay an additional special fuel tax on diesel fuel that is subject to
5270 the special fuel tax imposed under Section 59-13-301 in an amount equal to:

5271 (a) beginning on April 1, 2020, and ending on December 31, 2021, six cents per gallon;
5272 and

5273 (b) beginning on January 1, 2022, 10 cents per gallon.

5274 (2) (a) The commission shall deposit daily the revenue that the commission collects
5275 under this section with the state treasurer.

5276 (b) Notwithstanding Section 59-13-301, the state treasurer shall credit the revenue
5277 deposited in accordance with Subsection (2)(a) to the Transportation Investment Fund of 2005
5278 created in Section 72-2-124.

5279 (3) (a) A person entitled to a refund of a special fuel tax under this part may receive a
5280 refund of the additional special fuel tax due under this section for the same gallons that the
5281 person is entitled to a refund of a special fuel tax.

5282 (b) Notwithstanding Section 59-13-318, the total amount of claims for refunds under
5283 Subsection (3)(a) shall be paid from the Transportation Investment Fund of 2005.

5284 (4) Beginning in 2021, the commission shall submit annually on or before October 1,
5285 an electronic report to a legislative committee designated by the Legislative Management
5286 Committee that:

5287 (a) states the amount of revenue collected from the tax imposed under Section
5288 59-13-323 during the preceding fiscal year; and

5289 (b) provides an estimate of the revenue that will be collected from the tax imposed
5290 under Section 59-13-323 during the current fiscal year.

5291 Section 48. Section **59-13-601** is enacted to read:

5292 **Part 6. Sales Tax on Motor Fuel and Special Fuel, Other than Diesel Fuel**

5293 **59-13-601. Sales tax on motor fuel and special fuel, other than diesel fuel.**

5294 (1) (a) As used in this part, "nondiesel special fuel" means special fuel, other than
5295 diesel fuel.

5296 (b) For purposes of this part, the definitions in Section [59-13-102](#) that contain the
5297 words special fuel in the definition shall be read as though the words special fuel were replaced
5298 with nondiesel special fuel.

5299 (2) (a) Beginning on April 1, 2020, and subject to the other provisions of this
5300 Subsection (2), a sales tax is imposed on motor fuel and nondiesel special fuel at an
5301 amount equal to the product of:

5302 (i) the rate described in Subsection [59-12-103\(2\)\(a\)\(i\)\(A\)](#);

5303 (ii) the average daily rack price, calculated in accordance with Subsection (3) or (4);

5304 and

5305 (iii) (A) the number of gallons of motor fuel;

5306 (B) the number of diesel gallon equivalent for liquified natural gas;

5307 (C) the number of gasoline gallon equivalent for compressed natural gas or hydrogen;

5308 or

5309 (D) the number of units sold of nondiesel special fuel that is not liquified natural gas,
5310 compressed natural gas, or hydrogen.

5311 (b) (i) The distributor shall pay the tax on motor fuel.

5312 (ii) The supplier shall pay the tax on nondiesel special fuel.

5313 (c) (i) Except as provided in Subsection (2)(c)(iii), the provisions of Part 2, Motor
5314 Fuel, apply to the sales tax imposed by this section on motor fuel.

5315 (ii) Except as provided in Subsection (2)(c)(iii), the provisions of Part 3, Special Fuel,
5316 apply to the sales tax imposed by this section on nondiesel special fuel.

5317 (iii) (A) The sales tax rate on motor fuel and nondiesel special fuel is as provided in
5318 this

5319 Subsection (2).

5320 (B) The treasurer shall deposit the revenue collected from the sales tax imposed under
5321 this section into the Transportation Investment Fund of 2005 created in Section
5322 [72-2-124](#).

5323 (C) The commission shall pay any refunds from the Transportation Investment Fund of
5324 2005 created in Section [72-2-124](#).

5325 (3) (a) The commission shall determine annually the average daily rack price for motor
5326 fuel by:

5327 (i) (A) calculating the previous fiscal year statewide average rack price of a gallon of
5328 regular unleaded motor fuel, excluding federal and state excise taxes, for the 12 months ending
5329 on the previous June 30 as published by an oil pricing service; and

5330 (ii) rounding to the nearest one-hundredth of a cent.

5331 (b) (i) Subject to the requirement in Subsection (3)(b)(ii), the statewide average rack
5332 price of a gallon of motor fuel determined under Subsection (3)(b)(ii) may not be less
5333 than \$1.78 per gallon.

5334 (ii) The commission shall, on January 1, annually adjust the minimum statewide
5335 average rack price of a gallon of motor fuel described in Subsection (3)(b)(i) by taking
5336 the minimum statewide average rack price of a gallon of motor fuel for the previous calendar
5337 year and adding an amount equal to the greater of:

5338 (A) an amount calculated by multiplying the minimum statewide average rack price of
5339 a gallon of motor fuel for the previous calendar year by the actual percent change
5340 during the previous fiscal year in the Consumer Price Index; and

5341 (B) 0.

5342 (iii) The statewide average rack price of a gallon of motor fuel may not exceed \$2.43
5343 per gallon.

5344 (iv) The minimum statewide average rack price of a gallon of motor fuel described and
5345 adjusted under Subsection (3)(b) may not exceed the maximum statewide average rack
5346 price of a gallon of motor fuel under Subsection (3)(b)(iii).

5347 (c) (i) The commission shall annually:

5348 (A) determine the average daily rack price of a gallon of motor fuel in accordance with
5349 this Subsection (3);

5350 (B) publish the average daily rack price calculated in accordance with this Subsection
5351 (3); and

5352 (C) post or otherwise make public the average daily rack price no later than 60 days
5353 prior to the annual effective date under Subsection (3)(c)(ii).

5354 (ii) The average daily rack price described in Subsection (2) and calculated in
5355 accordance with this Subsection (3) shall take effect:

5356 (A) for the 2020 calendar year, on April 1; and

5357 (B) beginning with the 2021 calendar year, on January 1 of each year.

5358 (4) The average daily rack price for nondiesel special fuel is the product of:
5359 (a) the average daily rack price calculated in accordance with Subsection (3); and
5360 (b) the percentage calculated by dividing the rate calculated in accordance with
5361 Subsection [59-13-301](#)(12) by the rate calculated in accordance with Subsection
5362 [59-13-201](#)(1)(b).

5363 Section 49. Section **63I-2-241** is enacted to read:

5364 **63I-2-241. Repeal dates -- Title 41.**

5365 Subsection [41-6a-702](#)(5), which allows a vehicle with a clean fuel vehicle decal to
5366 travel in a lane designated for the use of high occupancy vehicles regardless of the number of
5367 occupants, is repealed September 30, 2025.

5368 Section 50. Section **63I-2-253** is amended to read:

5369 **63I-2-253. Repeal dates -- Titles 53 through 53G.**

5370 (1) (a) Subsections [53B-2a-103](#)(2) and (4), regarding the composition of the UTech
5371 Board of Trustees and the transition to that composition, are repealed July 1, 2019.

5372 (b) When repealing Subsections [53B-2a-103](#)(2) and (4), the Office of Legislative
5373 Research and General Counsel shall, in addition to its authority under Subsection [36-12-12](#)(3),
5374 make necessary changes to subsection numbering and cross references.

5375 (2) (a) Subsection [53B-2a-108](#)(5), regarding exceptions to the composition of a
5376 technical college board of directors, is repealed July 1, 2022.

5377 (b) When repealing Subsection [53B-2a-108](#)(5), the Office of Legislative Research and
5378 General Counsel shall, in addition to its authority under Subsection [36-12-12](#)(3), make
5379 necessary changes to subsection numbering and cross references.

5380 (3) Section [53B-6-105.7](#) is repealed July 1, 2024.

5381 (4) (a) Subsection [53B-7-705](#)(6)(b)(ii)(A), the language that states "Except as provided
5382 in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

5383 (b) Subsection [53B-7-705](#)(6)(b)(ii)(B), regarding comparing a technical college's
5384 change in performance with the technical college's average performance, is repealed July 1,
5385 2021.

5386 (5) (a) Subsection [53B-7-707](#)(3)(a)(ii), the language that states "Except as provided in
5387 Subsection (3)(b)," is repealed July 1, 2021.

5388 (b) Subsection [53B-7-707](#)(3)(b), regarding performance data of a technical college

5389 during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

5390 (6) Section 53B-8-112 is repealed July 1, 2024.

5391 (7) Section 53B-8-114 is repealed July 1, 2024.

5392 (8) (a) The following sections, regarding the Regents' scholarship program, are

5393 repealed on July 1, 2023:

5394 (i) Section 53B-8-202;

5395 (ii) Section 53B-8-203;

5396 (iii) Section 53B-8-204; and

5397 (iv) Section 53B-8-205.

5398 (b) (i) Subsection 53B-8-201(2), regarding the Regents' scholarship program for
5399 students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.

5400 (ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and
5401 General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make
5402 necessary changes to subsection numbering and cross references.

5403 (9) Section 53B-10-101 is repealed on July 1, 2027.

5404 (10) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is
5405 repealed July 1, 2023.

5406 (11) Section 53E-3-519 regarding school counselor services is repealed July 1, 2020.

5407 (12) Section 53E-3-520 is repealed July 1, 2021.

5408 (13) Subsection 53E-5-306(3)(b)(ii)(B), related to improving school performance and
5409 continued funding relating to the School Recognition and Reward Program, is repealed July 1,
5410 2020.

5411 (14) Section 53E-5-307 is repealed July 1, 2020.

5412 (15) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's
5413 duties if contributions from the minimum basic tax rate are overestimated or underestimated,
5414 the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

5415 (16) Subsection 53F-2-301(1), relating to the years the section is not in effect, is
5416 repealed July 1, 2023.

5417 (17) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as
5418 applicable" is repealed July 1, 2023.

5419 (18) Section 53F-4-204 is repealed July 1, 2019.

5420 (19) In Subsection [53F-9-302\(3\)](#), the language that states "or [53F-2-301.5](#), as
5421 applicable" is repealed July 1, 2023.

5422 (20) Section [53F-9-304](#) is repealed July 1, 2020.

5423 [~~(20)~~] (21) In Subsection [53F-9-305\(3\)\(a\)](#), the language that states "or [53F-2-301.5](#), as
5424 applicable" is repealed July 1, 2023.

5425 [~~(21)~~] (22) In Subsection [53F-9-306\(3\)\(a\)](#), the language that states "or [53F-2-301.5](#), as
5426 applicable" is repealed July 1, 2023.

5427 [~~(22)~~] (23) In Subsection [53G-3-304\(1\)\(c\)\(i\)](#), the language that states "or [53F-2-301.5](#),
5428 as applicable" is repealed July 1, 2023.

5429 [~~(23)~~] (24) On July 1, 2023, when making changes in this section, the Office of
5430 Legislative Research and General Counsel shall, in addition to the office's authority under
5431 Subsection [36-12-12\(3\)](#), make corrections necessary to ensure that sections and subsections
5432 identified in this section are complete sentences and accurately reflect the office's perception of
5433 the Legislature's intent.

5434 Section 51. Section **63I-2-259** is amended to read:

5435 **63I-2-259. Repeal dates -- Title 59.**

5436 [~~(1) Section [59-1-102](#) is repealed on May 14, 2019.~~]

5437 [~~(2)~~] (1) In Section [59-2-926](#), the language that states "applicable" and "or
5438 [53F-2-301.5](#)" is repealed July 1, 2023.

5439 [~~(3) Subsection [59-2-1007\(15\)](#) is repealed on December 31, 2018.~~]

5440 (2) Subsections [59-12-102\(61\)](#) and [\(62\)](#), which define "life science establishment" and
5441 "life science research and development facility," are repealed January 1, 2027.

5442 (3) Subsection [59-12-104\(62\)](#), which provides a sales and use tax exemption related to
5443 amounts paid or charged for construction materials used in the construction of a life science
5444 research and development facility, is repealed January 1, 2027.

5445 (4) Section [59-12-104.4](#) is repealed April 1, 2020.

5446 Section 52. Section **63I-2-272** is amended to read:

5447 **63I-2-272. Repeal dates -- Title 72.**

5448 (1) Subsections [72-1-213\(2\)](#) and [\(3\)\(a\)\(i\)](#), related to the Road Usage Charge Advisory
5449 Committee, are repealed January 1, 2022.

5450 [~~(2) On July 1, 2018:~~]

5451 [~~(a) in Subsection 72-2-108(2), the language that states "and except as provided in~~
5452 ~~Subsection (10)" is repealed; and]~~

5453 [~~(b) in Subsection 72-2-108(4)(c)(ii)(A), the language that states ", excluding any~~
5454 ~~amounts appropriated as additional support for class B and class C roads under Subsection~~
5455 ~~(10)," is repealed.]~~

5456 [~~(3)~~] (2) Section 72-3-113 is repealed January 1, 2020.

5457 (3) Section 72-6-121 is repealed September 30, 2025.

5458 Section 53. Section 63M-4-702 is amended to read:

5459 **63M-4-702. Refiner gasoline standard reporting -- Office of Energy Development**
5460 **certification of sales and use tax exemption eligibility.**

5461 (1) (a) Beginning on July 1, 2021, a refiner that seeks to be eligible for a sales and use
5462 tax exemption under Subsection 59-12-104~~[(86)]~~(73) shall annually report to the office
5463 whether the refiner's facility that is located within the state will have an average gasoline sulfur
5464 level of 10 parts per million (ppm) or less using the formulas prescribed in 40 C.F.R. Sec.
5465 80.1603, excluding the offset for credit use and transfer as prescribed in 40 C.F.R. Sec.
5466 80.1616.

5467 (b) Fuels for which a final destination outside Utah can be demonstrated or that are not
5468 subject to the standards and requirements of 40 C.F.R. Sec. 80.1603 as specified in 40 C.F.R.
5469 Sec. 80.1601 are not subject to the reporting provisions under Subsection (1)(a).

5470 (2) (a) Beginning on July 1, 2021, the office shall annually certify that the refiner is
5471 eligible for the sales and use tax exemption under Subsection 59-12-104~~[(86)]~~(73):

5472 (i) on a form provided by the State Tax Commission that shall be retained by the
5473 refiner claiming the sales and use tax exemption under Subsection 59-12-104~~[(86)]~~(73);

5474 (ii) if the refiner's refinery that is located within the state had an average sulfur level of
5475 10 parts per million (ppm) or less as reported under Subsection (1) in the previous calendar
5476 year; and

5477 (iii) before a taxpayer is allowed the sales and use tax exemption under Subsection
5478 59-12-104~~[(86)]~~(73).

5479 (b) The certification provided by the office under Subsection (2)(a) shall be renewed
5480 annually.

5481 (c) The office:

5482 (i) shall accept a copy of a report submitted by a refiner to the Environmental
5483 Protection Agency under 40 C.F.R. Sec. 80.1652 as sufficient evidence of the refiner's average
5484 gasoline sulfur level; or

5485 (ii) may establish another reporting mechanism through rules made under Subsection
5486 (3).

5487 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5488 office may make rules to implement this section.

5489 Section 54. Section **72-1-201** is amended to read:

5490 **72-1-201. Creation of Department of Transportation -- Functions, powers, duties,**
5491 **rights, and responsibilities.**

5492 (1) There is created the Department of Transportation which shall:

5493 (a) have the general responsibility for planning, research, design, construction,
5494 maintenance, security, and safety of state transportation systems;

5495 (b) provide administration for state transportation systems and programs;

5496 (c) implement the transportation policies of the state;

5497 (d) plan, develop, construct, and maintain state transportation systems that are safe,
5498 reliable, environmentally sensitive, and serve the needs of the traveling public, commerce, and
5499 industry;

5500 (e) establish standards and procedures regarding the technical details of administration
5501 of the state transportation systems as established by statute and administrative rule;

5502 (f) advise the governor and the Legislature about state transportation systems needs;

5503 (g) coordinate with utility companies for the reasonable, efficient, and cost-effective
5504 installation, maintenance, operation, relocation, and upgrade of utilities within state highway
5505 rights-of-way;

5506 (h) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
5507 make rules for the administration of the department, state transportation systems, and
5508 programs;

5509 (i) jointly with the commission annually report to the Transportation Interim
5510 Committee, by November 30 of each year, as to the operation, maintenance, condition,
5511 mobility, and safety needs for state transportation systems;

5512 (j) ensure that any training or certification required of a public official or public

5513 employee, as those terms are defined in Section [63G-22-102](#), complies with Title 63G, Chapter
5514 22, State Training and Certification Requirements, if the training or certification is required:

5515 (i) under this title;

5516 (ii) by the department; or

5517 (iii) by an agency or division within the department; [~~and~~]

5518 (k) study and make recommendations to the Legislature on potential managed lane use
5519 and implementation on selected transportation systems within the state[-]; and

5520 (l) implement one or more strategies to manage congestion on state highways and
5521 generate highway user fees, including the use of one or more high occupancy toll lanes as
5522 defined in Section [72-6-118](#) and implementation of the technology described in Subsection
5523 [72-6-118\(2\)\(e\)](#).

5524 (2) (a) The department shall exercise reasonable care in designing, constructing, and
5525 maintaining a state highway in a reasonably safe condition for travel.

5526 (b) Nothing in this section shall be construed as:

5527 (i) creating a private right of action; or

5528 (ii) expanding or changing the department's common law duty as described in
5529 Subsection (2)(a) for liability purposes.

5530 Section 55. Section **72-1-213.1** is amended to read:

5531 **72-1-213.1. Road usage charge program.**

5532 (1) As used in this section:

5533 (a) "Account manager" means an entity under contract with the department to
5534 administer and manage the road usage charge program.

5535 (b) "Alternative fuel vehicle" means the same as that term is defined in Section
5536 [41-1a-102](#).

5537 (c) "Payment period" means the interval during which an owner is required to report
5538 mileage and pay the appropriate road usage charge according to the terms of the program.

5539 (d) "Program" means the road usage charge program established and described in this
5540 section.

5541 (2) There is established a road usage charge program as described in this section.

5542 (3) (a) The department shall implement and oversee the administration of the program,
5543 which shall begin on January 1, 2020.

5544 (b) To implement and administer the program, the department may contract with an
5545 account manager.

5546 (4) (a) The owner or lessee of an alternative fuel vehicle may apply for enrollment of
5547 the alternative fuel vehicle in the program.

5548 (b) If an application for enrollment into the program is approved by the department, the
5549 owner or lessee of an alternative fuel vehicle may participate in the program in lieu of paying
5550 the fee described in Subsection 41-1a-1206(1)(h) or (2)(b).

5551 (5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
5552 and consistent with this section, the department:

5553 (i) shall make rules to establish:

5554 (A) processes and terms for enrollment into and withdrawal or removal from the
5555 program;

5556 (B) payment periods and other payment methods and procedures for the program;

5557 (C) standards for mileage reporting mechanisms for an owner or lessee of an
5558 alternative fuel vehicle to report mileage as part of participation in the program;

5559 (D) standards for program functions for mileage recording, payment processing,
5560 account management, and other similar aspects of the program;

5561 (E) contractual terms between an owner or lessee of an alternative fuel vehicle owner
5562 and an account manager for participation in the program;

5563 (F) contractual terms between the department and an account manager, including
5564 authority for an account manager to enforce the terms of the program;

5565 (G) procedures to provide security and protection of personal information and data
5566 connected to the program, and penalties for account managers for violating privacy protection
5567 rules;

5568 (H) penalty procedures for a program participant's failure to pay a road usage charge or
5569 tampering with a device necessary for the program; and

5570 (I) department oversight of an account manager, including privacy protection of
5571 personal information and access and auditing capability of financial and other records related to
5572 administration of the program; and

5573 (ii) may make rules to establish:

5574 (A) an enrollment cap for certain alternative fuel vehicle types to participate in the

5575 program;

5576 (B) a process for collection of an unpaid road usage charge or penalty; or

5577 (C) integration of the program with other similar programs, such as tolling.

5578 (b) The department shall make recommendations to and consult with the commission

5579 regarding road usage mileage rates for each type of alternative fuel vehicle.

5580 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and

5581 consistent with this section, the commission shall, after consultation with the department, make

5582 rules to establish the road usage charge mileage rate for each type of alternative fuel vehicle.

5583 (7) (a) Revenue generated by the road usage charge program and relevant penalties

5584 shall be deposited into the Transportation Fund.

5585 (b) The department may use revenue generated by the program to cover the costs of

5586 administering the program.

5587 (8) (a) The department may:

5588 (i) (A) impose a penalty for failure to timely pay a road usage charge according to the

5589 terms of the program or tampering with a device necessary for the program; and

5590 (B) request that the Division of Motor Vehicles place a hold on the registration of the

5591 owner's or lessee's alternative fuel vehicle for failure to pay a road usage charge according to

5592 the terms of the program;

5593 (ii) send correspondence to the owner of an alternative fuel vehicle to inform the owner

5594 or lessee of:

5595 (A) the road usage charge program, implementation, and procedures;

5596 (B) an unpaid road usage charge and the amount of the road usage charge to be paid to

5597 the department;

5598 (C) the penalty for failure to pay a road usage charge within the time period described

5599 in Subsection (8)(a)(iii); and

5600 (D) a hold being placed on the owner's or lessee's registration for the alternative fuel

5601 vehicle, if the road usage charge and penalty are not paid within the time period described in

5602 Subsection (8)(a)(iii), which would prevent the renewal of the alternative fuel vehicle's

5603 registration; and

5604 (iii) require that the owner or lessee of the alternative fuel vehicle pay the road usage

5605 charge to the department within 30 days of the date when the department sends written notice

5606 of the road usage charge to the owner or lessee.

5607 (b) The department shall send the correspondence and notice described in Subsection
5608 (8)(a) to the owner of the alternative fuel vehicle according to the terms of the program.

5609 (9) (a) The Division of Motor Vehicles and the department shall share and provide
5610 access to information pertaining to an alternative fuel vehicle and participation in the program
5611 including:

5612 (i) registration and ownership information pertaining to an alternative fuel vehicle;

5613 (ii) information regarding the failure of an alternative fuel vehicle owner or lessee to
5614 pay a road usage charge or penalty imposed under this section within the time period described
5615 in Subsection (8)(a)(iii); and

5616 (iii) the status of a request for a hold on the registration of an alternative fuel vehicle.

5617 (b) If the department requests a hold on the registration in accordance with this section,
5618 the Division of Motor Vehicles may not renew the registration of a motor vehicle under Title
5619 41, Chapter 1a, Part 2, Registration, until the department withdraws the hold request.

5620 (10) The owner of an alternative fuel vehicle may apply for enrollment in the program
5621 or withdraw from the program according to the terms established by the department pursuant to
5622 rules made under Subsection (5).

5623 (11) If enrolled in the program, the owner or lessee of an alternative fuel vehicle shall:

5624 (a) report mileage driven as required by the department pursuant to Subsection (5);

5625 (b) pay the road usage fee for each payment period as set by the department and the
5626 commission pursuant to Subsections (5) and (6); and

5627 (c) comply with all other provisions of this section and other requirements of the
5628 program.

5629 (12) On or before October 1 of each year, the department shall submit an electronic
5630 report to a legislative committee designated by the Legislative Management Committee that:

5631 (a) describes the amount of revenue generated by the program during the preceding
5632 fiscal year; and

5633 (b) recommends strategies for expanding enrollment in the program.

5634 Section 56. Section **72-2-120** is amended to read:

5635 **72-2-120. Tollway Special Revenue Fund -- Revenue.**

5636 (1) There is created a special revenue fund within the Transportation Fund known as

5637 the "Tollway Special Revenue Fund."

5638 (2) The fund shall be funded from the following sources:

5639 (a) tolls collected by the department under Section [72-6-118](#);

5640 (b) funds received by the department through a tollway development agreement under

5641 Section [72-6-203](#);

5642 (c) appropriations made to the fund by the Legislature;

5643 (d) contributions from other public and private sources for deposit into the fund;

5644 (e) interest earnings on cash balances; and

5645 (f) money collected for repayments and interest on fund money.

5646 (3) The Division of Finance may create a subaccount for each tollway as defined in

5647 Section [72-6-118](#).

5648 (4) The commission may authorize the money deposited into the fund to be spent by
5649 the department [~~to establish and operate tollways and related facilities and state transportation~~
5650 ~~systems, including design, construction, reconstruction, operation, maintenance, enforcement,~~
5651 ~~impacts from tollways, and the acquisition of right-of-way]~~ for any state transportation
5652 purpose.

5653 Section 57. Section **72-2-124** is amended to read:

5654 **72-2-124. Transportation Investment Fund of 2005.**

5655 (1) There is created a capital projects fund entitled the Transportation Investment Fund
5656 of 2005.

5657 (2) The fund consists of money generated from the following sources:

5658 (a) any voluntary contributions received for the maintenance, construction,

5659 reconstruction, or renovation of state and federal highways;

5660 (b) appropriations made to the fund by the Legislature;

5661 (c) registration fees designated under Section [41-1a-1201](#);

5662 (d) the sales and use tax revenues deposited into the fund in accordance with [Section

5663 ~~59-12-103~~, and] Sections [59-12-103](#) and [59-13-601](#);

5664 (e) the additional special fuel tax revenues deposited into the fund in accordance with

5665 Section [59-13-323](#); and

5666 [~~(e)~~] (f) revenues transferred to the fund in accordance with Section [72-2-106](#).

5667 (3) (a) The fund shall earn interest.

5668 (b) All interest earned on fund money shall be deposited into the fund.
5669 (4) (a) Except as provided in Subsection (4)(b), the executive director may only use
5670 fund money to pay:
5671 (i) the costs of maintenance, construction, reconstruction, or renovation to state and
5672 federal highways prioritized by the Transportation Commission through the prioritization
5673 process for new transportation capacity projects adopted under Section 72-1-304;
5674 (ii) the costs of maintenance, construction, reconstruction, or renovation to the highway
5675 projects described in Subsections 63B-18-401(2), (3), and (4);
5676 (iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401
5677 minus the costs paid from the County of the First Class Highway Projects Fund in accordance
5678 with Subsection 72-2-121(4)(f);
5679 (iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt
5680 Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified
5681 by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the
5682 debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;
5683 (v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101
5684 for projects prioritized in accordance with Section 72-2-125;
5685 (vi) all highway general obligation bonds that are intended to be paid from revenues in
5686 the Centennial Highway Fund created by Section 72-2-118;
5687 [~~(vii) for fiscal year 2015-16 only, to transfer \$25,000,000 to the County of the First~~
5688 ~~Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described~~
5689 ~~in Section 72-2-121; and]~~
5690 [~~(viii)~~ (vii) if a political subdivision provides a contribution equal to or greater than
5691 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or
5692 paved nonmotorized transportation for projects that:
5693 (A) mitigate traffic congestion on the state highway system;
5694 (B) are part of an active transportation plan approved by the department; and
5695 (C) are prioritized by the commission through the prioritization process for new
5696 transportation capacity projects adopted under Section 72-1-304[-]; and
5697 (viii) subject to appropriation by the Legislature, to transfer money to counties with
5698 populations of less than 14,000, as determined by the lieutenant governor in accordance with

5699 Subsection 17-50-502(2), for improvement of class B roads located within the counties.

5700 (b) If the Legislature appropriates money for the purpose described in Subsection
5701 (1)(a)(viii), the executive director shall transfer to each county described in Subsection
5702 (1)(a)(viii) an equal portion of the money appropriated.

5703 [~~(b)~~] (c) The executive director may use fund money to exchange for an equal or
5704 greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

5705 (5) (a) Except as provided in Subsection (5)(b), the executive director may not use fund
5706 money, including fund money from the Transit Transportation Investment Fund, within the
5707 boundaries of a municipality that is required to adopt a moderate income housing plan element
5708 as part of the municipality's general plan as described in Subsection 10-9a-401(3), if the
5709 municipality has failed to adopt a moderate income housing plan element as part of the
5710 municipality's general plan or has failed to implement the requirements of the moderate income
5711 housing plan as determined by the results of the Department of Workforce Service's review of
5712 the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

5713 (b) Within the boundaries of a municipality that is required under Subsection
5714 10-9a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate
5715 income housing plan element as part of the municipality's general plan or has failed to
5716 implement the requirements of the moderate income housing plan as determined by the results
5717 of the Department of Workforce Service's review of the annual moderate income housing
5718 report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

5719 (i) may use fund money in accordance with Subsection (4)(a) for a limited-access
5720 facility;

5721 (ii) may not use fund money for the construction, reconstruction, or renovation of an
5722 interchange on a limited-access facility;

5723 (iii) may use Transit Transportation Investment Fund money for a multi-community
5724 fixed guideway public transportation project; and

5725 (iv) may not use Transit Transportation Investment Fund money for the construction,
5726 reconstruction, or renovation of a station that is part of a fixed guideway public transportation
5727 project.

5728 (6) (a) Except as provided in Subsection (6)(b), the executive director may not use fund
5729 money, including fund money from the Transit Transportation Investment Fund, within the

5730 boundaries of the unincorporated area of a county, if the county is required to adopt a moderate
5731 income housing plan element as part of the county's general plan as described in Subsection
5732 17-27a-401(3) and if the county has failed to adopt a moderate income housing plan element as
5733 part of the county's general plan or has failed to implement the requirements of the moderate
5734 income housing plan as determined by the results of the Department of Workforce Service's
5735 review of the annual moderate income housing report described in Subsection
5736 35A-8-803(1)(a)(vii).

5737 (b) Within the boundaries of the unincorporated area of a county where the county is
5738 required under Subsection 17-27a-401(3) to plan for moderate income housing growth but has
5739 failed to adopt a moderate income housing plan element as part of the county's general plan or
5740 has failed to implement the requirements of the moderate income housing plan as determined
5741 by the results of the Department of Workforce Service's review of the annual moderate income
5742 housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

5743 (i) may use fund money in accordance with Subsection (4)(a) for a limited-access
5744 facility;

5745 (ii) may not use fund money for the construction, reconstruction, or renovation of an
5746 interchange on a limited-access facility;

5747 (iii) may use Transit Transportation Investment Fund money for a multi-community
5748 fixed guideway public transportation project; and

5749 (iv) may not use Transit Transportation Investment Fund money for the construction,
5750 reconstruction, or renovation of a station that is part of a fixed guideway public transportation
5751 project.

5752 (7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued
5753 in any fiscal year, the department and the commission shall appear before the Executive
5754 Appropriations Committee of the Legislature and present the amount of bond proceeds that the
5755 department needs to provide funding for the projects identified in Subsections 63B-18-401(2),
5756 (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

5757 (b) The Executive Appropriations Committee of the Legislature shall review and
5758 comment on the amount of bond proceeds needed to fund the projects.

5759 (8) The Division of Finance shall, from money deposited into the fund, transfer the
5760 amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by

5761 Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or
5762 sinking fund.

5763 (9) (a) There is created in the Transportation Investment Fund of 2005 the Transit
5764 Transportation Investment Fund.

5765 (b) The fund shall be funded by:

5766 (i) contributions deposited into the fund in accordance with Section 59-12-103;

5767 (ii) appropriations into the account by the Legislature;

5768 (iii) private contributions; and

5769 (iv) donations or grants from public or private entities.

5770 (c) (i) The fund shall earn interest.

5771 (ii) All interest earned on fund money shall be deposited into the fund.

5772 (d) Subject to Subsection (9)(e), the Legislature may appropriate money from the fund
5773 for public transit capital development of new capacity projects to be used as prioritized by the
5774 commission.

5775 (e) (i) The Legislature may only appropriate money from the fund for a public transit
5776 capital development project or pedestrian or nonmotorized transportation project that provides
5777 connection to the public transit system if the public transit district or political subdivision
5778 provides funds of equal to or greater than 40% of the costs needed for the project.

5779 (ii) A public transit district or political subdivision may use money derived from a loan
5780 granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or
5781 part of the 40% requirement described in Subsection (9)(e)(i) if:

5782 (A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2,
5783 State Infrastructure Bank Fund; and

5784 (B) the proposed capital project has been prioritized by the commission pursuant to
5785 Section 72-1-303.

5786 Section 58. Section 72-6-118 is amended to read:

5787 **72-6-118. Definitions -- Establishment and operation of tollways -- Imposition**
5788 **and collection of tolls -- Amount of tolls -- Rulemaking.**

5789 (1) As used in this section:

5790 (a) (i) [~~High~~] Before January 1, 2025, "high occupancy toll lane" means a high

5791 occupancy vehicle lane designated under Section 41-6a-702 that may be used by an operator of

5792 a vehicle carrying less than the number of persons specified for the high occupancy vehicle
5793 lane if the operator of the vehicle pays a toll or fee.

5794 (ii) On or after January 1, 2025, "high occupancy toll lane" means a high occupancy
5795 vehicle lane designated under Section [41-6a-702](#) that may be used by an operator of a vehicle
5796 only if:

5797 (A) the vehicle is carrying three or more occupants; or

5798 (B) the operator pays a toll or fee.

5799 (b) "Toll" means any tax, fee, or charge assessed for the specific use of a tollway.

5800 (c) "Toll lane" means a designated new highway or additional lane capacity that is
5801 constructed, operated, or maintained for which a toll is charged for its use.

5802 (d) (i) "Tollway" means a highway, highway lane, bridge, path, tunnel, or right-of-way
5803 designed and used as a transportation route that is constructed, operated, or maintained through
5804 the use of toll revenues.

5805 (ii) "Tollway" includes a high occupancy toll lane and a toll lane.

5806 (e) "Tollway development agreement" has the same meaning as defined in Section
5807 [72-6-202](#).

5808 (2) Subject to the provisions of Subsection (3), the department may:

5809 (a) establish, expand, and operate tollways and related facilities for the purpose of
5810 funding in whole or in part the acquisition of right-of-way and the design, construction,
5811 reconstruction, operation, enforcement, and maintenance of or impacts from a transportation
5812 route for use by the public;

5813 (b) enter into contracts, agreements, licenses, franchises, tollway development
5814 agreements, or other arrangements to implement this section;

5815 (c) impose and collect tolls on any tollway established under this section, including
5816 collection of past due payment of a toll or penalty;

5817 (d) grant exclusive or nonexclusive rights to a private entity to impose and collect tolls
5818 pursuant to the terms and conditions of a tollway development agreement;

5819 (e) use technology to automatically monitor a tollway and collect payment of a toll,
5820 including:

5821 (i) license plate reading technology; and

5822 (ii) photographic or video recording technology; and

5823 (f) in accordance with Subsection (5), request that the Division of Motor Vehicles deny
5824 a request for registration of a motor vehicle if the motor vehicle owner has failed to pay a toll
5825 or penalty imposed for usage of a tollway involving the motor vehicle for which registration
5826 renewal has been requested.

5827 (3) (a) The department may establish or operate a tollway on an existing highway if
5828 approved by the commission in accordance with the terms of this section.

5829 (b) To establish a tollway on an existing highway, the department shall submit a
5830 proposal to the commission including:

5831 (i) a description of the tollway project;

5832 (ii) projected traffic on the tollway;

5833 (iii) the anticipated amount of the toll to be charged; and

5834 (iv) projected toll revenue.

5835 (4) (a) For a tollway established under this section, the department may:

5836 (i) according to the terms of each tollway, impose the toll upon the owner of a motor
5837 vehicle using the tollway according to the terms of the tollway;

5838 (ii) send correspondence to the owner of the motor vehicle to inform the owner of:

5839 (A) an unpaid toll and the amount of the toll to be paid to the department;

5840 (B) the penalty for failure to pay the toll timely; and

5841 (C) a hold being placed on the owner's registration for the motor vehicle if the toll and
5842 penalty are not paid timely, which would prevent the renewal of the motor vehicle's

5843 registration;

5844 (iii) require that the owner of the motor vehicle pay the toll to the department within 30
5845 days of the date when the department sends written notice of the toll to the owner; and

5846 (iv) impose a penalty for failure to pay a toll timely.

5847 (b) The department shall mail the correspondence and notice described in Subsection
5848 (4)(a) to the owner of the motor vehicle according to the terms of a tollway.

5849 (5) (a) The Division of Motor Vehicles and the department shall share and provide
5850 access to information pertaining to a motor vehicle and tollway enforcement including:

5851 (i) registration and ownership information pertaining to a motor vehicle;

5852 (ii) information regarding the failure of a motor vehicle owner to timely pay a toll or
5853 penalty imposed under this section; and

5854 (iii) the status of a request for a hold on the registration of a motor vehicle.
5855 (b) If the department requests a hold on the registration in accordance with this section,
5856 the Division of Motor Vehicles may not renew the registration of a motor vehicle under Title
5857 41, Chapter 1a, Part 2, Registration, if the owner of the motor vehicle has failed to pay a toll or
5858 penalty imposed under this section for usage of a tollway involving the motor vehicle for which
5859 registration renewal has been requested until the department withdraws the hold request.

5860 (6) (a) Except as provided in Subsection (6)(b), in accordance with Title 63G, Chapter
5861 3, Utah Administrative Rulemaking Act, the commission shall:

5862 (i) set the amount of any toll imposed or collected on a tollway on a state highway; and
5863 (ii) for tolls established under Subsection (6)(b), set:

5864 (A) an increase in a toll rate or user fee above an increase specified in a tollway
5865 development agreement; or
5866 (B) an increase in a toll rate or user fee above a maximum toll rate specified in a
5867 tollway development agreement.

5868 (b) A toll or user fee and an increase to a toll or user fee imposed or collected on a
5869 tollway on a state highway that is the subject of a tollway development agreement shall be set
5870 in the tollway development agreement.

5871 (7) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
5872 the department shall make rules:

5873 (i) necessary to establish and operate tollways on state highways;
5874 (ii) that establish standards and specifications for automatic tolling systems and
5875 automatic tollway monitoring technology; and
5876 (iii) to set the amount of a penalty for failure to pay a toll under this section.

5877 (b) The rules shall:

5878 (i) include minimum criteria for having a tollway; and
5879 (ii) conform to regional and national standards for automatic tolling.

5880 (8) (a) The commission may provide funds for public or private tollway pilot projects
5881 or high occupancy toll lanes from General Fund money appropriated by the Legislature to the
5882 commission for that purpose.

5883 (b) The commission may determine priorities and funding levels for tollways
5884 designated under this section.

5885 (9) (a) Except as provided in Subsection (9)(b), all revenue generated from a tollway
5886 on a state highway shall be deposited into the Tollway Special Revenue Fund created in
5887 Section 72-2-120 and used for [~~acquisition of right-of-way and the design, construction,
5888 reconstruction, operation, maintenance, enforcement of state transportation systems and
5889 facilities, including operating improvements to the tollway, and other facilities used exclusively
5890 for the operation of a tollway facility within the corridor served by the tollway]~~ any state
5891 transportation purpose.

5892 (b) Revenue generated from a tollway that is the subject of a tollway development
5893 agreement shall be deposited into the Tollway Special Revenue Fund and used in accordance
5894 with Subsection (9)(a) unless:

5895 (i) the revenue is to a private entity through the tollway development agreement; or
5896 (ii) the revenue is identified for a different purpose under the tollway development
5897 agreement.

5898 (10) Data described in Subsection (2)(e) obtained for the purposes of this section:

5899 (a) in accordance with Section 63G-2-305, is a protected record under Title 63G,
5900 Chapter 2, Government Records Access and Management Act, if the photographic or video
5901 data is maintained by a governmental entity;

5902 (b) may not be used or shared for any purpose other than the purposes described in this
5903 section;

5904 (c) may only be preserved:

5905 (i) so long as necessary to collect the payment of a toll or penalty imposed in
5906 accordance with this section; or

5907 (ii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an
5908 equivalent federal warrant; and

5909 (d) may only be disclosed:

5910 (i) in accordance with the disclosure requirements for a protected record under Section
5911 63G-2-202; or

5912 (ii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an
5913 equivalent federal warrant.

5914 (11) (a) The department may not sell for any purpose photographic or video data
5915 captured under Subsection (2)(e)(ii).

5916 (b) The department may not share captured photographic or video data for a purpose
5917 not authorized under this section.

5918 ~~[(12) Before November 1, 2018, the Driver License Division, the Division of Motor
5919 Vehicles, and the department shall jointly study and report findings and recommendations to
5920 the Transportation Interim Committee regarding the use of Title 53, Chapter 3, Part 6, Drivers'
5921 License Compact, and other methods to collect a toll or penalty under this section from:]~~

5922 ~~[(a) an owner of a motor vehicle registered outside this state; or]~~

5923 ~~[(b) a driver or lessee of a motor vehicle leased or rented for 30 days or less.]~~

5924 Section 59. Section **72-9-603** is amended to read:

5925 **72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned**
5926 **vehicle title restrictions -- Rules for maximum rates and certification.**

5927 (1) Except for a tow truck service that was ordered by a peace officer, or a person
5928 acting on behalf of a law enforcement agency, or a highway authority, after performing a tow
5929 truck service that is being done without the vehicle, vessel, or outboard motor owner's
5930 knowledge, the tow truck operator or the tow truck motor carrier shall:

5931 (a) immediately upon arriving at the place of storage or impound of the vehicle, vessel,
5932 or outboard motor:

5933 (i) send a report of the removal to the Motor Vehicle Division that complies with the
5934 requirements of Subsection [41-6a-1406\(4\)\(b\)](#); and

5935 (ii) contact the law enforcement agency having jurisdiction over the area where the
5936 vehicle, vessel, or outboard motor was picked up and notify the agency of the:

5937 (A) location of the vehicle, vessel, or outboard motor;

5938 (B) date, time, and location from which the vehicle, vessel, or outboard motor was
5939 removed;

5940 (C) reasons for the removal of the vehicle, vessel, or outboard motor;

5941 (D) person who requested the removal of the vehicle, vessel, or outboard motor; and

5942 (E) description, including the identification number, license number, or other
5943 identification number issued by a state agency, of the vehicle, vessel, or outboard motor;

5944 (b) within two business days of performing the tow truck service under Subsection
5945 (1)(a), send a certified letter to the last-known address of each party described in Subsection
5946 [41-6a-1406\(5\)\(a\)](#) with an interest in the vehicle, vessel, or outboard motor obtained from the

5947 Motor Vehicle Division or, if the person has actual knowledge of the party's address, to the
5948 current address, notifying the party of the:

- 5949 (i) location of the vehicle, vessel, or outboard motor;
5950 (ii) date, time, and location from which the vehicle, vessel, or outboard motor was
5951 removed;
5952 (iii) reasons for the removal of the vehicle, vessel, or outboard motor;
5953 (iv) person who requested the removal of the vehicle, vessel, or outboard motor;
5954 (v) a description, including its identification number and license number or other
5955 identification number issued by a state agency; and
5956 (vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor; and
5957 (c) upon initial contact with the owner whose vehicle, vessel, or outboard motor was
5958 removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding
5959 Towing established by the department in Subsection (7)(e).

5960 (2) (a) Until the tow truck operator or tow truck motor carrier reports the removal as
5961 required under Subsection (1)(a), a tow truck operator, tow truck motor carrier, or impound
5962 yard may not:

- 5963 (i) collect any fee associated with the removal; or
5964 (ii) begin charging storage fees.
- 5965 (b) (i) Except as provided in Subsection (2)(c), a tow truck operator or tow truck motor
5966 carrier may not perform a tow truck service without the vehicle, vessel, or outboard motor
5967 owner's or a lien holder's knowledge at either of the following locations without signage that
5968 meets the requirements of Subsection (2)(b)(ii):
- 5969 (A) a mobile home park as defined in Section 57-16-3; or
5970 (B) a multifamily dwelling of more than eight units.
- 5971 (ii) Signage under Subsection (2)(b)(i) shall display:
- 5972 (A) where parking is subject to towing; and
5973 (B) (I) the Internet website address that provides access to towing database information
5974 in accordance with Section 41-6a-1406; or
5975 (II) one of the following:
5976 (Aa) the name and phone number of the tow truck operator or tow truck motor carrier
5977 that performs a tow truck service for the locations listed under Subsection (2)(b)(i); or

5978 (Bb) the name of the mobile home park or multifamily dwelling and the phone number
5979 of the mobile home park or multifamily dwelling manager or management office that
5980 authorized the vehicle, vessel, or outboard motor to be towed.

5981 (c) Signage is not required under Subsection (2)(b) for parking in a location:

5982 (i) that is prohibited by law; or

5983 (ii) if it is reasonably apparent that the location is not open to parking.

5984 (d) Nothing in Subsection (2)(b) restricts the ability of a mobile home park as defined
5985 in Section 57-16-3 or a multifamily dwelling from instituting and enforcing regulations on
5986 parking.

5987 (3) The party described in Subsection 41-6a-1406(5)(a) with an interest in a vehicle,
5988 vessel, or outboard motor lawfully removed is only responsible for paying:

5989 (a) the tow truck service and storage fees set in accordance with Subsection (7); [~~and~~]

5990 (b) the administrative impound fee set in Section 41-6a-1406, if applicable[-]; and

5991 (c) the applicable sales and use tax.

5992 (4) (a) The fees under Subsection (3) are a possessory lien on the vehicle, vessel, or
5993 outboard motor and any nonlife essential items contained in the vehicle, vessel, or outboard
5994 motor that are owned by the owner of the vehicle, vessel, or outboard motor until paid.

5995 (b) The tow truck operator or tow truck motor carrier shall securely store the vehicle,
5996 vessel, or outboard motor and items described in Subsection (4)(a) in an approved state
5997 impound yard until a party described in Subsection 41-6a-1406(5)(a) with an interest in the
5998 vehicle, vessel, or outboard motor:

5999 (i) pays the [~~fees~~] amounts described in Subsection (3); and

6000 (ii) removes the vehicle, vessel, or outboard motor from the state impound yard.

6001 (5) (a) A vehicle, vessel, or outboard motor shall be considered abandoned if a party
6002 described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard
6003 motor does not, within 30 days after notice has been sent under Subsection (1)(b):

6004 (i) pay the [~~fees~~] amounts described in Subsection (3); and

6005 (ii) remove the vehicle, vessel, or outboard motor from the secure storage facility.

6006 (b) A person may not request a transfer of title to an abandoned vehicle, vessel, or
6007 outboard motor until at least 30 days after notice has been sent under Subsection (1)(b).

6008 (6) (a) A tow truck motor carrier or impound yard shall clearly and conspicuously post

6009 and disclose all its current fees, rates, and acceptable forms of payment for tow truck service
6010 and storage of a vehicle in accordance with rules established under Subsection (7).

6011 (b) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept
6012 payment by cash and debit or credit card for a tow truck service under Subsection (1) or any
6013 service rendered, performed, or supplied in connection with a tow truck service under
6014 Subsection (1).

6015 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6016 department shall:

6017 (a) subject to the restriction in Subsection (8), set maximum rates that:

6018 (i) a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel,
6019 or outboard motor that are transported in response to:

6020 (A) a peace officer dispatch call;

6021 (B) a motor vehicle division call; and

6022 (C) any other call or request where the owner of the vehicle, vessel, or outboard motor
6023 has not consented to the removal; and

6024 (ii) an impound yard may charge for the storage of a vehicle, vessel, or outboard motor
6025 stored as a result of one of the conditions listed under Subsection (7)(a)(i);

6026 (b) establish authorized towing certification requirements, not in conflict with federal
6027 law, related to incident safety, clean-up, and hazardous material handling;

6028 (c) specify the form and content of the posting and disclosure of fees and rates charged
6029 and acceptable forms of payment by a tow truck motor carrier or impound yard;

6030 (d) set a maximum rate for an administrative fee that a tow truck motor carrier may
6031 charge for reporting the removal as required under Subsection (1)(a)(i) and providing notice of
6032 the removal to each party described in Subsection 41-6a-1406(5)(a) with an interest in the
6033 vehicle, vessel, or outboard motor as required in Subsection (1)(b); and

6034 (e) establish a Utah Consumer Bill of Rights Regarding Towing form that contains
6035 specific information regarding:

6036 (i) a vehicle owner's rights and responsibilities if the owner's vehicle is towed;

6037 (ii) identifies the maximum rates that a tow truck motor carrier may charge for the tow
6038 truck service of a vehicle, vessel, or outboard motor that is transported in response to a call or
6039 request where the owner of the vehicle, vessel, or outboard motor has not consented to the

6040 removal; and

6041 (iii) identifies the maximum rates that an impound yard may charge for the storage of
6042 vehicle, vessel, or outboard motor that is transported in response to a call or request where the
6043 owner of the vehicle, vessel, or outboard motor has not consented to the removal.

6044 (8) An impound yard may not charge a fee for the storage of an impounded vehicle,
6045 vessel, or outboard motor if:

6046 (a) the vehicle, vessel, or outboard motor is being held as evidence; and

6047 (b) the vehicle, vessel, or outboard motor is not being released to a party described in
6048 Subsection 41-6a-1406(5)(a), even if the party satisfies the requirements to release the vehicle,
6049 vessel, or outboard motor under Section 41-6a-1406.

6050 (9) (a) (i) A tow truck motor carrier may charge a rate up to the maximum rate set by
6051 the department in rules made under Subsection (7).

6052 (ii) In addition to the maximum rates established under Subsection (7) [~~and when~~
6053 ~~receiving payment by credit card~~], a tow truck operator, a tow truck motor carrier, or an
6054 impound yard:

6055 (A) shall collect the sales and use tax due; and

6056 (B) when receiving payment by credit card, may charge a credit card processing fee of
6057 3% of the transaction total.

6058 (b) A tow truck motor carrier may not be required to maintain insurance coverage at a
6059 higher level than required in rules made pursuant to Subsection (7).

6060 (10) When a tow truck motor carrier or impound lot is in possession of a vehicle,
6061 vessel, or outboard motor as a result of a tow service that was performed without the consent of
6062 the owner, and that was not ordered by a peace officer or a person acting on behalf of a law
6063 enforcement agency, the tow truck motor carrier or impound yard shall make personnel
6064 available:

6065 (a) by phone 24 hours a day, seven days a week; and

6066 (b) to release the impounded vehicle, vessel, or outboard motor to the owner within
6067 one hour of when the owner calls the tow truck motor carrier or impound yard.

6068 Section 60. **Appropriations.**

6069 Subsection 60 (a). **Fiscal Year 2020 Appropriation -- Transfers to Unrestricted**
6070 **Funds.**

6071 The following sums of money are appropriated for the fiscal year beginning July 1,
 6072 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for
 6073 fiscal year 2020.

6074 The Legislature authorizes the State Division of Finance to transfer the following
 6075 amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as
 6076 indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the
 6077 General Fund, Education Fund, or Uniform School Fund must be authorized by an
 6078 appropriation.

6079 ITEM 1

6080 To General Fund, One-time

6081 From Education Fund Restricted --

6082 Underage Drinking Prevention Program Restricted Account \$1,750,000

6083 Schedule of Programs:

6084 General Fund, One-time \$1,750,000

6085 The Legislature intends that, after satisfying all prior appropriations from the Underage
 6086 Drinking Prevention Program Restricted Account, the State Division of Finance transfer all
 6087 remaining balances in the Underage Drinking Prevention Program Restricted Account to the
 6088 General Fund at the close of fiscal year 2020 and close the account.

6089 **Subsection 60 (b). Fiscal Year 2021 Appropriations -- Operating and Capital**
 6090 **Budgets.**

6091 The following sums of money are appropriated for the fiscal year beginning July 1,
 6092 2020, and ending June 30, 2021. These are additions to amounts otherwise appropriated for
 6093 fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
 6094 Act, the Legislature appropriates the following sums of money from the funds or accounts
 6095 indicated for the use and support of the government of the state of Utah.

6096 ITEM 2

6097 To State Board of Education -- Child Nutrition

6098 From Education Fund \$55,500,000

6099 From Dedicated Credits -- Liquor Tax (\$55,500,000)

6100 ITEM 3

6101 To State Board of Education -- State Administrative Office

6102	<u>From Education Fund</u>	<u>\$2,850,000</u>
6103	<u>From Education Fund Restricted --</u>	
6104	<u>Underage Drinking Prevention Program Restricted Account</u>	<u>(\$2,850,000)</u>
6105	<u>ITEM 4</u>	
6106	<u>To University of Utah -- Education and General</u>	
6107	<u>From General Fund</u>	<u>\$101,608,900</u>
6108	<u>From Education Fund</u>	<u>(\$101,608,900)</u>
6109	<u>ITEM 5</u>	
6110	<u>To University of Utah -- School of Medicine</u>	
6111	<u>From General Fund</u>	<u>\$35,899,500</u>
6112	<u>From Education Fund</u>	<u>(\$35,899,500)</u>
6113	<u>ITEM 6</u>	
6114	<u>To University of Utah -- University Hospital</u>	
6115	<u>From General Fund</u>	<u>\$1,533,000</u>
6116	<u>From Education Fund</u>	<u>(\$1,533,000)</u>
6117	<u>ITEM 7</u>	
6118	<u>To University of Utah -- School of Dentistry</u>	
6119	<u>From General Fund</u>	<u>\$2,324,700</u>
6120	<u>From Education Fund</u>	<u>(\$2,324,700)</u>
6121	<u>ITEM 8</u>	
6122	<u>To Utah State University -- Education and General</u>	
6123	<u>From General Fund</u>	<u>\$73,521,400</u>
6124	<u>From Education Fund</u>	<u>(\$73,521,400)</u>
6125	<u>ITEM 9</u>	
6126	<u>To Utah State University -- USU-Eastern Education and General</u>	
6127	<u>From General Fund</u>	<u>\$12,503,400</u>
6128	<u>From Education Fund</u>	<u>(\$12,503,400)</u>
6129	<u>ITEM 10</u>	
6130	<u>To Weber State University -- Education and General</u>	
6131	<u>From General Fund</u>	<u>\$94,098,000</u>
6132	<u>From Education Fund</u>	<u>(\$94,098,000)</u>

6133	<u>ITEM 11</u>	
6134	<u>To Southern Utah University -- Education and General</u>	
6135	<u>From General Fund</u>	<u>\$47,444,900</u>
6136	<u>From Education Fund</u>	<u>(\$47,444,900)</u>
6137	<u>ITEM 12</u>	
6138	<u>To Utah Valley University -- Education and General</u>	
6139	<u>From General Fund</u>	<u>\$123,845,700</u>
6140	<u>From Education Fund</u>	<u>(\$123,845,700)</u>
6141	<u>ITEM 13</u>	
6142	<u>To Snow College -- Education and General</u>	
6143	<u>From General Fund</u>	<u>\$25,910,100</u>
6144	<u>From Education Fund</u>	<u>(\$25,910,100)</u>
6145	<u>ITEM 14</u>	
6146	<u>To Dixie State University -- Education and General</u>	
6147	<u>From General Fund</u>	<u>\$14,810,400</u>
6148	<u>From Education Fund</u>	<u>(\$14,810,400)</u>
6149	<u>ITEM 15</u>	
6150	<u>To Utah Department of Transportation -- Transportation Investment Program</u>	
6151	<u>From Transportation Investment Fund of 2005</u>	<u>\$5,000,000</u>
6152	<u>Schedule of Programs:</u>	
6153	<u>Rural Class B Road Improvements</u>	<u>\$5,000,000</u>
6154	<u>The Legislature intends that the Utah Department of Transportation allocate the</u>	
6155	<u>appropriation under this item for the purpose described in Subsection 72-2-124(1)(a)(viii).</u>	
6156	Section 61. Effective date.	
6157	<u>(1) Except as provided in Subsections (2) through (5), if approved by two-thirds of all</u>	
6158	<u>the members elected to each house, this bill takes effect on January 1, 2020.</u>	
6159	<u>(2) If approved by two-thirds of all the members elected to each house, the actions</u>	
6160	<u>affecting the following sections take effect for a taxable year beginning on or after January 1,</u>	
6161	<u>2020:</u>	
6162	<u>(a) Section 35A-9-214;</u>	
6163	<u>(b) Section 59-7-104;</u>	

- 6164 (c) Section 59-7-201;
- 6165 (d) Section 59-7-610;
- 6166 (e) Section 59-7-614.1;
- 6167 (f) Section 59-7-618;
- 6168 (g) Section 59-7-620;
- 6169 (h) Section 59-10-104;
- 6170 (i) Section 59-10-529.1
- 6171 (j) Section 59-10-1005;
- 6172 (k) Section 59-10-1007;
- 6173 (l) Section 59-10-1017;
- 6174 (m) Section 59-10-1017.1;
- 6175 (n) Section 59-10-1018;
- 6176 (o) Section 59-10-1019;
- 6177 (p) Section 59-10-1022;
- 6178 (q) Section 59-10-1023;
- 6179 (r) Section 59-10-1028;
- 6180 (s) Section 59-10-1033;
- 6181 (t) Section 59-10-1035;
- 6182 (u) Section 59-10-1036;
- 6183 (v) Section 59-10-1041;
- 6184 (w) Section 59-10-1102.1;
- 6185 (x) Section 59-10-1105;
- 6186 (y) Section 59-10-1113;
- 6187 (z) Section 59-10-1114;
- 6188 (aa) Section 59-10-1403.3; and
- 6189 (bb) Section 59-13-202.
- 6190 (3) The actions affecting the following sections take effect on April 1, 2020:
- 6191 (a) Section 15A-1-204;
- 6192 (b) Section 26-36b-208;
- 6193 (c) Section 59-1-1503;
- 6194 (d) Section 59-12-102;

6195 (e) Section 59-12-103;

6196 (f) Section 59-12-104;

6197 (g) Section 59-12-104.5;

6198 (h) Section 59-12-1201;

6199 (i) Section 59-13-323;

6200 (j) Section 63I-2-259;

6201 (k) Section 63M-4-702; and

6202 (l) Section 72-2-124.

6203 (4) If approved by two-thirds of all the members elected to each house, Subsection
6204 60(a) of this bill takes effect upon approval by the governor, or the day following the
6205 constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's
6206 signature, or in the case of veto, the date of veto override.

6207 (5) Subsection 60(b) of this bill takes effect on July 1, 2020.

6208 Section 62. **Contingent retrospective operation.**

6209 If this bill is approved by less than two-thirds of all the members elected to each house,
6210 the actions affecting the following sections have retrospective operation for a taxable year
6211 beginning on or after January 1, 2020:

6212 (1) Section 35A-9-214;

6213 (2) Section 59-7-104;

6214 (3) Section 59-7-201;

6215 (4) Section 59-7-610;

6216 (5) Section 59-7-614.1;

6217 (6) Section 59-7-618;

6218 (7) Section 59-7-620;

6219 (8) Section 59-10-104;

6220 (9) Section 59-10-529.1;

6221 (10) Section 59-10-1005;

6222 (11) Section 59-10-1007;

6223 (12) Section 59-10-1017;

6224 (13) Section 59-10-1017.1;

6225 (14) Section 59-10-1018;

- 6226 (15) Section 59-10-1019;
- 6227 (16) Section 59-10-1022;
- 6228 (17) Section 59-10-1023;
- 6229 (18) Section 59-10-1028;
- 6230 (19) Section 59-10-1033;
- 6231 (20) Section 59-10-1035;
- 6232 (21) Section 59-10-1036;
- 6233 (22) Section 59-10-1041;
- 6234 (23) Section 59-10-1102.1;
- 6235 (24) Section 59-10-1105;
- 6236 (25) Section 59-10-1113;
- 6237 (26) Section 59-10-1114;
- 6238 (27) Section 59-10-1403.3; and
- 6239 (28) Section 59-13-202.