

Representative Jennifer Dailey-Provost 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;
- ▶ provides for apportionment of the state earned income tax credit;



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

57 specified amounts of revenue generated from the sales tax on motor fuel and special fuel other
58 than diesel;

- 59 ▶ addresses the requirements for using a high occupancy toll lane;
- 60 ▶ modifies the permissible uses for funds in the Tollway Special Revenue Fund;
- 61 ▶ provides funding from the Transportation Investment Fund of 2005 for
62 improvement of class B roads located in certain counties of the fourth, fifth, and
63 sixth class; and
- 64 ▶ makes technical and conforming changes.

65 **Money Appropriated in this Bill:**

66 This bill appropriates in fiscal year 2020:

- 67 ▶ To Department of Workforce Services -- Administration, as a one-time
68 appropriation:
 - 69 • From General Fund, \$500,000.
- 70 ▶ To the General Fund, as a one-time appropriation:
 - 71 • From the Education Fund Restricted -- Underage Drinking Prevention Program
72 Restricted Account, One-time, \$1,750,000.

73 This bill appropriates in fiscal year 2021:

- 74 ▶ To State Board of Education -- Child Nutrition, as an ongoing appropriation:
 - 75 • From Education Fund, \$55,500,000.
 - 76 • From Dedicated Credits -- Liquor Tax, (\$39,275,700).
- 77 ▶ To State Board of Education -- State Administrative Office, as an ongoing
78 appropriation:
 - 79 • From Education Fund, \$2,850,000.
 - 80 • From Education Fund Restricted -- Underage Drinking Prevention Program
81 Restricted Account, (\$1,751,000).
- 82 ▶ To University of Utah -- Education and General, as an ongoing appropriation:
 - 83 • From General Fund, \$101,608,900.
 - 84 • From Education Fund, (\$101,608,900).
- 85 ▶ To University of Utah -- School of Medicine, as an ongoing appropriation:
 - 86 • From General Fund, \$35,899,500.
 - 87 • From Education Fund, (\$35,899,500).

- 88 ▶ To University of Utah -- University Hospital, as an ongoing appropriation:
 - 89 • From General Fund, \$1,533,000.
 - 90 • From Education Fund, (\$1,533,000).
- 91 ▶ To University of Utah -- School of Dentistry, as an ongoing appropriation:
 - 92 • From General Fund, \$2,324,700.
 - 93 • From Education Fund, (\$2,324,700).
- 94 ▶ To Utah State University -- Education and General, as an ongoing appropriation:
 - 95 • From General Fund, \$73,521,400.
 - 96 • From Education Fund, (\$73,521,400).
- 97 ▶ To Utah State University -- USU-Eastern Education and General, as an ongoing
98 appropriation:
 - 99 • From General Fund, \$12,503,400.
 - 100 • From Education Fund, (\$12,503,400).
- 101 ▶ To Weber State University -- Education and General, as an ongoing appropriation:
 - 102 • From General Fund, \$94,098,000.
 - 103 • From Education Fund, (\$94,098,000).
- 104 ▶ To Southern Utah University -- Education and General, as an ongoing
105 appropriation:
 - 106 • From General Fund, \$47,444,900.
 - 107 • From Education Fund, (\$47,444,900).
- 108 ▶ To Utah Valley University -- Education and General, as an ongoing appropriation:
 - 109 • From General Fund, \$22,092,900.
 - 110 • From Education Fund, (\$22,092,900).

111 **Other Special Clauses:**

112 This bill provides a special effective date.

113 This bill provides contingent retrospective operation.

114 **Utah Code Sections Affected:**

115 AMENDS:

116 **15A-1-204**, as last amended by Laws of Utah 2017, Chapter 18

117 **26-36b-208**, as last amended by Laws of Utah 2019, Chapters 1 and 393

118 **32B-2-301**, as last amended by Laws of Utah 2018, Chapter 329

119 [32B-2-304](#), as last amended by Laws of Utah 2019, Chapter 403
120 [32B-2-305](#), as last amended by Laws of Utah 2013, Chapter 400
121 [35A-8-308](#), as last amended by Laws of Utah 2017, Chapters 181 and 421
122 [35A-8-309](#), as last amended by Laws of Utah 2019, Chapter 493
123 [41-6a-409](#), as last amended by Laws of Utah 2017, Chapter 142
124 [41-6a-505](#), as last amended by Laws of Utah 2019, Chapter 136
125 [41-6a-1406](#), as last amended by Laws of Utah 2019, Chapter 373
126 [41-6a-1642](#), as last amended by Laws of Utah 2019, Chapter 140
127 [41-12a-806](#), as last amended by Laws of Utah 2019, Chapter 55
128 [53B-8a-106](#), as last amended by Laws of Utah 2015, Chapter 94
129 [53G-10-406](#), as last amended by Laws of Utah 2019, Chapter 293
130 [59-1-1503](#), as last amended by Laws of Utah 2012, Chapter 399
131 [59-7-104](#), as last amended by Laws of Utah 2019, Chapter 418
132 [59-7-201](#), as last amended by Laws of Utah 2018, Chapter 456
133 [59-7-610](#), as last amended by Laws of Utah 2019, Chapter 247
134 [59-7-614.1](#), as last amended by Laws of Utah 2016, Chapter 375
135 [59-7-618](#), as last amended by Laws of Utah 2017, Chapter 265
136 [59-7-620](#), as last amended by Laws of Utah 2017, Chapter 222
137 [59-10-104](#), as last amended by Laws of Utah 2018, Chapter 456
138 [59-10-529.1](#), as enacted by Laws of Utah 2015, Chapter 369
139 [59-10-1005](#), as last amended by Laws of Utah 2017, Chapter 148
140 [59-10-1007](#), as last amended by Laws of Utah 2019, Chapter 247
141 [59-10-1017](#), as last amended by Laws of Utah 2017, Chapter 389
142 [59-10-1017.1](#), as enacted by Laws of Utah 2017, Chapter 389
143 [59-10-1018](#), as last amended by Laws of Utah 2018, Second Special Session, Chapter 3
144 [59-10-1019](#), as renumbered and amended by Laws of Utah 2008, Chapter 389
145 [59-10-1022](#), as enacted by Laws of Utah 2008, Chapter 389
146 [59-10-1023](#), as enacted by Laws of Utah 2008, Chapter 389
147 [59-10-1028](#), as last amended by Laws of Utah 2012, Chapter 399
148 [59-10-1033](#), as last amended by Laws of Utah 2017, Chapter 265
149 [59-10-1035](#), as last amended by Laws of Utah 2017, Chapter 222

- 150 **59-10-1036**, as enacted by Laws of Utah 2016, Chapter 55
- 151 **59-10-1105**, as last amended by Laws of Utah 2016, Chapter 375
- 152 **59-10-1403.3**, as enacted by Laws of Utah 2017, Chapter 270
- 153 **59-12-102**, as last amended by Laws of Utah 2019, Chapters 325, 481, and 486
- 154 **59-12-103**, as last amended by Laws of Utah 2019, Chapters 1, 136, and 479
- 155 **59-12-104**, as last amended by Laws of Utah 2019, Chapters 136 and 486
- 156 **59-12-104.5**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 157 **59-12-1201**, as last amended by Laws of Utah 2016, Chapters 184 and 291
- 158 **59-13-202**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
- 159 **63I-2-253**, as last amended by Laws of Utah 2019, Chapters 41, 129, 136, 223, 324,
- 160 325, and 444
- 161 **63I-2-259**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 162 **63I-2-272**, as last amended by Laws of Utah 2019, Chapters 136 and 246
- 163 **63M-4-702**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 164 **72-1-201**, as last amended by Laws of Utah 2019, Chapter 431
- 165 **72-1-213.1**, as enacted by Laws of Utah 2019, Chapter 479
- 166 **72-2-120**, as last amended by Laws of Utah 2018, Chapter 269
- 167 **72-2-124**, as last amended by Laws of Utah 2019, Chapters 327 and 479
- 168 **72-6-118**, as last amended by Laws of Utah 2018, Chapter 269
- 169 **72-9-603**, as last amended by Laws of Utah 2019, Chapter 373

170 ENACTS:

- 171 **35A-9-214**, Utah Code Annotated 1953
- 172 **59-10-1018.1**, Utah Code Annotated 1953
- 173 **59-10-1041**, Utah Code Annotated 1953
- 174 **59-10-1102.1**, Utah Code Annotated 1953
- 175 **59-10-1114**, Utah Code Annotated 1953
- 176 **59-13-323**, Utah Code Annotated 1953
- 177 **59-13-601**, Utah Code Annotated 1953
- 178 **63I-2-241**, Utah Code Annotated 1953
- 179 **72-1-213.2**, Utah Code Annotated 1953



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

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

183 **15A-1-204. Adoption of State Construction Code -- Amendments by commission**
184 **-- Approved codes -- Exemptions.**

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

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

190 (i) new construction is involved; and

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

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

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

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

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

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

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

202 (i) to the entire state; or

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

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

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

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

212 (i) adopting a new State Construction Code in its entirety; or
213 (ii) amending or repealing one or more provisions of the State Construction Code.

214 (3) (a) Except as provided in Subsection (3)(b), for each update of a nationally
215 recognized construction code, the commission shall prepare a report described in Subsection
216 (4).

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

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

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

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

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

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

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

234 (i) study the recommendations; and

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

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

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

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

247 (i) on its own initiative;

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

249 (iii) upon the receipt of a request by one of the following that the commission
250 recommend legislative action related to the State Construction Code:

251 (A) a local regulator;

252 (B) a state regulator;

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

254 (D) the Construction Services Commission;

255 (E) the Electrician Licensing Board;

256 (F) the Plumbers Licensing Board; or

257 (G) a recognized construction-related association.

258 (c) If the Business and Labor Interim Committee decides to recommend legislative
259 action to the Legislature, the Business and Labor Interim Committee shall prepare legislation
260 for consideration by the Legislature in the next general session.

261 (6) (a) Notwithstanding the provisions of this section, the commission may, in
262 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend the State
263 Construction Code if the commission determines that waiting for legislative action in the next
264 general legislative session would:

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

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

267 (b) If the commission amends the State Construction Code in accordance with this
268 Subsection (6), the commission shall file with the division:

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

270 (ii) an analysis that includes the specific reasons and justifications for the commission's
271 findings.

272 (c) If the State Construction Code is amended under this Subsection (6), the division
273 shall:

274 (i) publish the amendment to the State Construction Code in accordance with Section
275 15A-1-205; and

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

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

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

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

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

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

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

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

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

296 (a) enforce a federal law or regulation;

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

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

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

303 (ii) for which the state executive branch entity or political subdivision can demonstrate,
304 with substantial evidence, that the rule, ordinance, or requirement is necessary to protect an

305 individual from a condition likely to cause imminent injury or death.

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

308 (11) (a) Except as provided in Subsection (11)(b), a structure used solely in
309 conjunction with agriculture use, and not for human occupancy, or a structure that is no more
310 than 1,500 square feet and used solely for the type of sales described in Subsection
311 ~~59-12-104(20)~~(17), is exempt from the permit requirements of the State Construction Code.

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

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

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

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

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

323 **26-36b-208. Medicaid Expansion Fund.**

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

326 (2) The fund consists of:

327 (a) assessments collected under this chapter;

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

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

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

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

335 (f) savings attributable to the inclusion of psychotropic drugs on the preferred drug list

336 under Subsection 26-18-2.4(3) as determined by the department;

337 (g) [revenues] revenue collected from the sales tax described in Subsection

338 59-12-103[(13)](12);

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

340 fund from private sources;

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

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

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

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

345 (4) (a) A state agency administering the provisions of this chapter may use money from

346 the fund to pay the costs, not otherwise paid for with federal funds or other revenue sources, of:

347 (i) the health coverage improvement program;

348 (ii) the enhancement waiver program;

349 (iii) a Medicaid waiver expansion; and

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

351 26-36b-210.

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

353 (i) funds described in Subsection (2)(b) to pay the cost of private outpatient upper

354 payment limit supplemental payments; or

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

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

357 **32B-2-301. State property -- Liquor Control Fund -- Money to be retained by**

358 **department -- Department building process.**

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

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

361 and

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

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

364 (b) [~~Except as provided in Section 32B-2-304, the~~] The department shall deposit the

365 following into the Liquor Control Fund:

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

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

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

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

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

374 (i) to purchase an alcoholic product;

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

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

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

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

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

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

386 (ii) package agency compensation; and

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

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

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

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

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

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

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

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

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

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

406 (a) capital equipment purchases;

407 (b) salary increases for department employees;

408 (c) performance awards for department employees; or

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

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

411 **32B-2-304. Liquor price -- School lunch program -- Remittance of markup.**

412 (1) For purposes of this section:

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

414 (A) the cost of the product; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

458 ~~[(4) The department shall deposit 10% of the total gross revenue from sales of liquor~~
459 ~~with the state treasurer to be credited to the Uniform School Fund and used to support the~~

460 school lunch program administered by the State Board of Education under Section ~~53E-3-510~~;
461 ~~(5)~~ (4) This section does not prohibit the department from selling discontinued items
462 at a discount.

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

464 **32B-2-305. Alcoholic Beverage Control Act Enforcement Fund.**

465 (1) As used in this section:

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

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

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

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

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

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

474 (ii) interest earned on the fund.

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

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

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

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

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

488 **35A-8-308. Throughput Infrastructure Fund.**

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

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

- 491 (a) all amounts transferred to the fund [~~under Subsection 59-12-103(12)~~] by statute;
- 492 (b) any voluntary contributions received;
- 493 (c) appropriations made to the fund by the Legislature; and
- 494 (d) all amounts received from the repayment of loans made by the impact board under

495 Section 35A-8-309.

496 (3) The state treasurer shall:

497 (a) invest the money in the fund by following the procedures and requirements of Title
498 51, Chapter 7, State Money Management Act; and

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

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

501 **35A-8-309. Throughput Infrastructure Fund administered by impact board --**

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

503 (1) The impact board shall:

504 (a) make grants and loans from the Throughput Infrastructure Fund created in Section
505 35A-8-308 for a throughput infrastructure project;

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

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

513 (d) determine provisions for repayment of loans;

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

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

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

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

521 (4) To receive assistance under this section, a local political subdivision or an

522 interlocal agency shall submit a formal application containing the information that the impact
523 board requires.

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

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

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

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

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

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

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

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

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

542 (7) The board shall include in the annual written report described in Section
543 [35A-1-109](#):

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

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

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

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

552 (i) grant up to 2% of the money in the Throughput Infrastructure Fund to the interlocal

553 agency to pay or reimburse costs incurred by the interlocal agency preliminary to its acquisition
554 of the throughput infrastructure project; and

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

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

558 **35A-9-214. Intergenerational poverty report to State Tax Commission.**

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

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

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

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

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

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

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

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

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

576 (i) the individual's name; and

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

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

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

581 **41-6a-409. Prohibition of flat response fee for motor vehicle accident.**

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

584 (2) A government entity:

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

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

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

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

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

595 (iv) towing costs[-]; and

596 (v) applicable sales and use taxes.

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

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

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

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

609 **41-6a-505. Sentencing requirements for driving under the influence of alcohol,**
610 **drugs, or a combination of both violations.**

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

612 (a) the court shall:

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

614 (B) require the individual to work in a compensatory-service work program for not less

615 than 48 hours;

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

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

619 (iv) order the individual to participate in an educational series if the court does not
620 order substance abuse treatment as described under Subsection (1)(b);

621 (v) impose a fine of not less than \$700;

622 (vi) order probation for the individual in accordance with Section 41-6a-507, if there is
623 admissible evidence that the individual had a blood alcohol level of .16 or higher;

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

626 (B) if the administrative impound fee was paid by a party described in Subsection
627 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
628 reimburse the party; or

629 (viii) (A) order the individual to pay the towing and storage fees described in Section
630 72-9-603 and the applicable sales and use tax; or

631 (B) if the ~~[towing and storage fees]~~ amounts described in Subsection (1)(a)(viii)(A)
632 were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual
633 sentenced, order the individual sentenced to reimburse the party; and

634 (b) the court may:

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

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

638 (iii) order the individual to participate in a 24-7 sobriety program as defined in Section
639 41-6a-515.5 if the individual is 21 years of age or older; or

640 (iv) order a combination of Subsections (1)(b)(i) through (iii).

641 (2) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is
642 within 10 years of the current conviction under Section 41-6a-502 or the commission of the
643 offense upon which the current conviction is based:

644 (a) the court shall:

645 (i) (A) impose a jail sentence of not less than 240 hours; or

646 (B) impose a jail sentence of not less than 120 hours in addition to home confinement
647 of not fewer than 720 consecutive hours through the use of electronic monitoring that includes
648 a substance abuse testing instrument in accordance with Section 41-6a-506;

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

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

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

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

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

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

658 (B) if the administrative impound fee was paid by a party described in Subsection
659 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
660 reimburse the party; or

661 (viii) (A) order the individual to pay the towing and storage fees described in Section
662 72-9-603; or

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

666 (b) the court may:

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

669 (ii) order the individual to participate in a 24-7 sobriety program as defined in Section
670 41-6a-515.5 if the individual is 21 years of age or older; or

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

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

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

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

676 (c) supervised probation.

- 677 (4) For Subsection (3) or Subsection 41-6a-503(2)(b), the court:
678 (a) shall impose an order requiring the individual to obtain a screening and assessment
679 for alcohol and substance abuse, and treatment as appropriate; and
680 (b) may impose an order requiring the individual to participate in a 24-7 sobriety
681 program as defined in Section 41-6a-515.5 if the individual is 21 years of age or older.
- 682 (5) The requirements of Subsections (1)(a), (2)(a), (3), and (4) may not be suspended.
- 683 (6) If an individual is convicted of a violation of Section 41-6a-502 and there is
684 admissible evidence that the individual had a blood alcohol level of .16 or higher, the court
685 shall order the following, or describe on record why the order or orders are not appropriate:
686 (a) treatment as described under Subsection (1)(b), (2)(b), or (4); and
687 (b) one or more of the following:
688 (i) the installation of an ignition interlock system as a condition of probation for the
689 individual in accordance with Section 41-6a-518;
690 (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring
691 device as a condition of probation for the individual; or
692 (iii) the imposition of home confinement through the use of electronic monitoring in
693 accordance with Section 41-6a-506.
- 694 Section 11. Section 41-6a-1406 is amended to read:
695 **41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification**
696 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**
697 (1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under
698 Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace
699 officer or by an order of a person acting on behalf of a law enforcement agency or highway
700 authority, the removal or impoundment of the vehicle, vessel, or outboard motor shall be at the
701 expense of the owner.
702 (2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or
703 impounded to a state impound yard.
704 (3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be
705 removed by a tow truck motor carrier that meets standards established:
706 (a) under Title 72, Chapter 9, Motor Carrier Safety Act; and
707 (b) by the department under Subsection (10).

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

- 710 (i) the peace officer or agency by whom the peace officer is employed; and
- 711 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck
712 operator is employed.

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

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

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

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

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

- 733 (i) the registered owner;
- 734 (ii) any lien holder; or
- 735 (iii) a dealer, as defined in Section [41-1a-102](#), if the vehicle, vessel, or outboard motor
736 is currently operating under a temporary permit issued by the dealer, as described in Section
737 [41-3-302](#).

738 (b) The notice shall:

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

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

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

745 (B) the applicable sales and use tax;

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

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

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

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

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

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

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

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

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

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

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

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

774 (ii) \$147 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall
775 be deposited in the Department of Public Safety Restricted Account created in Section
776 53-3-106;

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

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

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

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

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

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

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

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

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

800 (7) (a) An impounded vehicle, vessel, or outboard motor not claimed by a party

801 described in Subsection (5)(a) within the time prescribed by Section 41-1a-1103 shall be sold
802 in accordance with that section and the proceeds, if any, shall be disposed of as provided under
803 Section 41-1a-1104.

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

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

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

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

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

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

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

822 (A) be reasonable and fair; and

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

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

825 **41-6a-1642. Emissions inspection -- County program.**

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

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

832 (i) as a condition of registration or renewal of registration; and
833 (ii) at other times as the county legislative body may require to enforce inspection
834 requirements for individual motor vehicles, except that the county legislative body may not
835 routinely require a certificate of emissions inspection, or waiver of the certificate, more often
836 than required under Subsection (9); and
837 (b) compliance with this section for a motor vehicle registered or principally operated
838 in the county and owned by or being used by a department, division, instrumentality, agency, or
839 employee of:
840 (i) the federal government;
841 (ii) the state and any of its agencies; or
842 (iii) a political subdivision of the state, including school districts.
843 (2) A vehicle owner subject to Subsection (1) shall obtain a motor vehicle emissions
844 inspection and maintenance program certificate of emissions inspection as described in
845 Subsection (1), but the program may not deny vehicle registration based solely on the presence
846 of a defeat device covered in the Volkswagen partial consent decrees or a United States
847 Environmental Protection Agency-approved vehicle modification in the following vehicles:
848 (a) a 2.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide
849 emissions are mitigated in the state pursuant to a partial consent decree, including:
850 (i) Volkswagen Jetta, model years 2009, 2010, 2011, 2012, 2013, 2014, and 2015;
851 (ii) Volkswagen Jetta Sportwagen, model years 2009, 2010, 2011, 2012, 2013, and
852 2014;
853 (iii) Volkswagen Golf, model years 2010, 2011, 2012, 2013, 2014, and 2015;
854 (iv) Volkswagen Golf Sportwagen, model year 2015;
855 (v) Volkswagen Passat, model years 2012, 2013, 2014, and 2015;
856 (vi) Volkswagen Beetle, model years 2013, 2014, and 2015;
857 (vii) Volkswagen Beetle Convertible, model years 2013, 2014, and 2015; and
858 (viii) Audi A3, model years 2010, 2011, 2012, 2013, and 2015; and
859 (b) a 3.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide
860 emissions are mitigated in the state to a settlement, including:
861 (i) Volkswagen Touareg, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and
862 2016;

863 (ii) Audi Q7, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

864 (iii) Audi A6 Quattro, model years 2014, 2015, and 2016;

865 (iv) Audi A7 Quattro, model years 2014, 2015, and 2016;

866 (v) Audi A8, model years 2014, 2015, and 2016;

867 (vi) Audi A8L, model years 2014, 2015, and 2016;

868 (vii) Audi Q5, model years 2014, 2015, and 2016; and

869 (viii) Porsche Cayenne Diesel, model years 2013, 2014, 2015, and 2016.

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

873 (i) emissions standards;

874 (ii) test procedures;

875 (iii) inspections stations;

876 (iv) repair requirements and dollar limits for correction of deficiencies; and

877 (v) subject to Subsection (3)(e), certificates of emissions inspections.

878 (b) In accordance with Subsection (3)(a), a county legislative body:

879 (i) shall make regulations or ordinances to attain or maintain ambient air quality
880 standards in the county, consistent with the state implementation plan and federal
881 requirements;

882 (ii) may allow for a phase-in of the program by geographical area; and

883 (iii) shall comply with the analyzer design and certification requirements contained in
884 the state implementation plan prepared under Title 19, Chapter 2, Air Conservation Act.

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

887 (i) is decentralized, to the extent the decentralized program will attain and maintain
888 ambient air quality standards and meet federal requirements;

889 (ii) is the most cost effective means to achieve and maintain the maximum benefit with
890 regard to ambient air quality standards and to meet federal air quality requirements as related to
891 vehicle emissions; and

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

894 (d) The provisions of Subsection (3)(c)(iii) apply only to the extent the phase-out:
895 (i) may be accomplished in accordance with applicable federal requirements; and
896 (ii) does not otherwise interfere with the attainment and maintenance of ambient air
897 quality standards.

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

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

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

902 (b) a motor vehicle that:

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

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

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

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

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

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

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

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

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

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

922 (g) a motorcycle as defined in Section 41-1a-102;

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

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

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

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

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

931 (b) model year of 1997 or older.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

955 (E) the total number of diesel-powered vehicles visually inspected as part of the pilot

956 program where tampering with emissions equipment was found, shown by model year; and

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

958 (ii) The legislative body of a county that participates in the pilot program described in

959 this Subsection (7) shall present the report described in Subsection (7)(c)(i) to the Natural

960 Resources, Agriculture, and Environment Interim Committee:

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

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

963 (d) After each report described in Subsection (7)(c), the Division of Air Quality created

964 in Section 19-1-105 shall provide to the Natural Resources, Agriculture, and Environment

965 Interim Committee and the legislative body of a county participating in the pilot program an

966 estimate of the tons of pollution emitted due to the failure rate of the diesel-powered motor

967 vehicles in the pilot program.

968 (8) (a) Subject to Subsection (8)(c), the legislative body of each county required under

969 federal law to utilize a motor vehicle emissions inspection and maintenance program or in

970 which an emissions inspection and maintenance program is necessary to attain or maintain any

971 national ambient air quality standard may require each college or university located in a county

972 subject to this section to require its students and employees who park a motor vehicle not

973 registered in a county subject to this section to provide proof of compliance with an emissions

974 inspection accepted by the county legislative body if the motor vehicle is parked on the college

975 or university campus or property.

976 (b) College or university parking areas that are metered or for which payment is

977 required per use are not subject to the requirements of this Subsection (8).

978 (c) The legislative body of a county shall make the reasons for implementing the

979 provisions of this Subsection (8) part of the record at the time that the county legislative body

980 takes its official action to implement the provisions of this Subsection (8).

981 (9) (a) An emissions inspection station shall issue a certificate of emissions inspection

982 for each motor vehicle that meets the inspection and maintenance program requirements

983 established in rules made under Subsection (3).

984 (b) The frequency of the emissions inspection shall be determined based on the age of

985 the vehicle as determined by model year and shall be required annually subject to the

986 provisions of Subsection (9)(c).

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

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

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

999 (iv) If a county legislative body establishes or changes the frequency of a vehicle
1000 emissions inspection and maintenance program under Subsection (9)(c)(iii), the establishment
1001 or change shall take effect on January 1 if the State Tax Commission receives notice meeting
1002 the requirements of Subsection (9)(c)(v) from the county before October 1.

1003 (v) The notice described in Subsection (9)(c)(iv) shall:

1004 (A) state that the county will establish or change the frequency of the vehicle emissions
1005 inspection and maintenance program under this section;

1006 (B) include a copy of the ordinance establishing or changing the frequency; and

1007 (C) if the county establishes or changes the frequency under this section, state how
1008 frequently the emissions testing will be required.

1009 (d) If an emissions inspection is only required every two years for a vehicle under
1010 Subsection(9)(c), the inspection shall be required for the vehicle in:

1011 (i) odd-numbered years for vehicles with odd-numbered model years; or

1012 (ii) in even-numbered years for vehicles with even-numbered model years.

1013 (10) (a) Except as provided in Subsections (9)(b), (c), and (d), the emissions inspection
1014 required under this section may be made no more than two months before the renewal of
1015 registration.

1016 (b) (i) If the title of a used motor vehicle is being transferred, the owner may use an
1017 emissions inspection certificate issued for the motor vehicle during the previous 11 months to

1018 satisfy the requirement under this section.

1019 (ii) If the transferor is a licensed and bonded used motor vehicle dealer, the owner may
1020 use an emissions inspection certificate issued for the motor vehicle in a licensed and bonded
1021 motor vehicle dealer's name during the previous 11 months to satisfy the requirement under
1022 this section.

1023 (c) If the title of a leased vehicle is being transferred to the lessee of the vehicle, the
1024 lessee may use an emissions inspection certificate issued during the previous 11 months to
1025 satisfy the requirement under this section.

1026 (d) If the motor vehicle is part of a fleet of 101 or more vehicles, the owner may not
1027 use an emissions inspection made more than 11 months before the renewal of registration to
1028 satisfy the requirement under this section.

1029 (e) If the application for renewal of registration is for a six-month registration period
1030 under Section 41-1a-215.5, the owner may use an emissions inspection certificate issued during
1031 the previous eight months to satisfy the requirement under this section.

1032 (11) (a) A county identified in Subsection (1) shall collect information about and
1033 monitor the program.

1034 (b) A county identified in Subsection (1) shall supply this information to an appropriate
1035 legislative committee, as designated by the Legislative Management Committee, at times
1036 determined by the designated committee to identify program needs, including funding needs.

1037 (12) If approved by the county legislative body, a county that had an established
1038 emissions inspection fee as of January 1, 2002, may increase the established fee that an
1039 emissions inspection station may charge by \$2.50 for each year that is exempted from
1040 emissions inspections under Subsection (9)(c) up to a \$7.50 increase.

1041 (13) (a) A county identified in Subsection (1) may impose a local emissions
1042 compliance fee on each motor vehicle registration within the county in accordance with the
1043 procedures and requirements of Section 41-1a-1223.

1044 (b) A county that imposes a local emissions compliance fee may use revenues
1045 generated from the fee for the establishment and enforcement of an emissions inspection and
1046 maintenance program in accordance with the requirements of this section.

1047 (c) A county that imposes a local emissions compliance fee may use revenues
1048 generated from the fee to promote programs to maintain a local, state, or national ambient air

1049 quality standard.

1050 Section 13. Section **41-12a-806** is amended to read:

1051 **41-12a-806. Restricted account -- Creation -- Funding -- Interest -- Purposes.**

1052 (1) There is created within the Transportation Fund a restricted account known as the
1053 "Uninsured Motorist Identification Restricted Account."

1054 (2) The account consists of money generated from the following revenue sources:

1055 (a) money received by the state under Section **41-1a-1218**, the uninsured motorist
1056 identification fee;

1057 (b) money received by the state under Section **41-1a-1220**, the registration
1058 reinstatement fee; and

1059 (c) appropriations made to the account by the Legislature.

1060 (3) (a) The account shall earn interest.

1061 (b) All interest earned on account money shall be deposited into the account.

1062 (4) The Legislature shall appropriate money from the account to:

1063 (a) the department to fund the contract with the designated agent;

1064 (b) the department to offset the costs to state and local law enforcement agencies of
1065 using the information for the purposes authorized under this part;

1066 (c) the Tax Commission to offset the costs to the Motor Vehicle Division for revoking
1067 and reinstating vehicle registrations under Subsection **41-1a-110(2)(a)(ii)**; and

1068 (d) the department to reimburse a person for the costs, including any applicable sales
1069 and use tax, of towing and storing the person's vehicle if:

1070 (i) the person's vehicle was impounded in accordance with Subsection **41-1a-1101(2)**;

1071 (ii) the impounded vehicle had owner's or operator's security in effect for the vehicle at
1072 the time of the impoundment;

1073 (iii) the database indicated that owner's or operator's security was not in effect for the
1074 impounded vehicle; and

1075 (iv) the department determines that the person's vehicle was wrongfully impounded.

1076 (5) The Legislature may appropriate not more than \$1,000,000 annually from the
1077 account to the Peace Officer Standards and Training Division, created under Section **53-6-103**,
1078 for use in law enforcement training, including training on the use of the Uninsured Motorist
1079 Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured

1080 Motorist Identification Database Program.

1081 (6) (a) By following the procedures in Title 63G, Chapter 4, Administrative Procedures
1082 Act, the department shall hold a hearing to determine whether a person's vehicle was
1083 wrongfully impounded under Subsection [41-1a-1101](#)(2).

1084 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1085 division shall make rules establishing procedures for a person to apply for a reimbursement
1086 under Subsection (4)(d).

1087 (c) A person is not eligible for a reimbursement under Subsection (4)(d) unless the
1088 person applies for the reimbursement within six months from the date that the motor vehicle
1089 was impounded.

1090 Section 14. Section **53B-8a-106** is amended to read:

1091 **53B-8a-106. Account agreements.**

1092 The plan may enter into account agreements with account owners on behalf of
1093 beneficiaries under the following terms and agreements:

1094 (1) (a) An account agreement may require an account owner to agree to invest a
1095 specific amount of money in the plan for a specific period of time for the benefit of a specific
1096 beneficiary, not to exceed an amount determined by the executive director.

1097 (b) Account agreements may be amended to provide for adjusted levels of payments
1098 based upon changed circumstances or changes in educational plans.

1099 (c) An account owner may make additional optional payments as long as the total
1100 payments for a specific beneficiary do not exceed the total estimated higher education costs as
1101 determined by the executive director.

1102 (d) Subject to Subsections (1)(f) and (g), the maximum amount of a qualified
1103 investment that a corporation that is an account owner may subtract from unadjusted income
1104 for a taxable year in accordance with Title 59, Chapter 7, Corporate Franchise and Income
1105 Taxes, is \$1,710 for each individual beneficiary for the taxable year beginning on or after
1106 January 1, 2010, but beginning on or before December 31, 2010.

1107 (e) Subject to Subsections (1)(f) and (g), the maximum amount of a qualified
1108 investment that may be used as the basis for claiming a tax credit in accordance with Section
1109 [59-10-1017](#), is:

1110 (i) subject to Subsection (1)(e)(iv), for a resident or nonresident estate or trust that is an

1111 account owner, \$1,710 for each individual beneficiary for the taxable year beginning on or after
1112 January 1, 2010, but beginning on or before December 31, 2010;

1113 (ii) subject to Subsection (1)(e)(iv), for a resident or nonresident individual that is an
1114 account owner, other than a husband and wife who are account owners and file a single return
1115 jointly under Title 59, Chapter 10, Individual Income Tax Act, \$1,710 for each individual
1116 beneficiary for the taxable year beginning on or after January 1, 2010, but beginning on or
1117 before December 31, 2010;

1118 (iii) subject to Subsection (1)(e)(iv), for a husband and wife who are account owners
1119 and file a single return jointly under Title 59, Chapter 10, Individual Income Tax Act, \$3,420
1120 for each individual beneficiary:

1121 (A) for the taxable year beginning on or after January 1, 2010, but beginning on or
1122 before December 31, 2010; and

1123 (B) regardless of whether the plan has entered into:

1124 (I) a separate account agreement with each spouse; or

1125 (II) a single account agreement with both spouses jointly; or

1126 (iv) for a grantor trust:

1127 (A) if the owner of the grantor trust has a single filing status or head of household
1128 filing status as defined in Section [~~59-10-1018~~] [59-10-1017](#), the amount described in
1129 Subsection (1)(e)(ii); or

1130 (B) if the owner of the grantor trust has a joint filing status as defined in Section
1131 [~~59-10-1018~~] [59-10-1017](#), the amount described in Subsection (1)(e)(iii).

1132 (f) (i) For taxable years beginning on or after January 1, 2011, the executive director
1133 shall annually increase the maximum amount of a qualified investment described in
1134 Subsections (1)(d) and (1)(e)(i) and (ii), by a percentage equal to the increase in the consumer
1135 price index for the preceding calendar year.

1136 (ii) After making an increase required by Subsection (1)(f)(i), the executive director
1137 shall:

1138 (A) round the maximum amount of the qualified investments described in Subsections
1139 (1)(d) and (1)(e)(i) and (ii) increased under Subsection (1)(f)(i) to the nearest 10 dollar
1140 increment; and

1141 (B) increase the maximum amount of the qualified investment described in Subsection

1142 (1)(e)(iii) so that the maximum amount of the qualified investment described in Subsection
1143 (1)(e)(iii) is equal to the product of:

1144 (I) the maximum amount of the qualified investment described in Subsection (1)(e)(ii)
1145 as rounded under Subsection (1)(f)(ii)(A); and

1146 (II) two.

1147 (iii) For purposes of Subsections (1)(f)(i) and (ii), the executive director shall calculate
1148 the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

1149 (g) For taxable years beginning on or after January 1, 2011, the executive director shall
1150 keep the previous year's maximum amount of a qualified investment described in Subsections
1151 (1)(d) and (1)(e)(i) and (ii) if the consumer price index for the preceding calendar year
1152 decreases.

1153 (2) (a) Beneficiaries designated in account agreements must be designated after birth
1154 and before age 19 for an account owner to:

1155 (i) subtract a qualified investment from income under Title 59, Chapter 7, Corporate
1156 Franchise and Income Taxes; or

1157 (ii) use a qualified investment as the basis for claiming a tax credit in accordance with
1158 Section 59-10-1017.

1159 (b) Account owners may designate a beneficiary age 19 or older, but investments for
1160 that beneficiary are not eligible to be:

1161 (i) subtracted from income under Title 59, Chapter 7, Corporate Franchise and Income
1162 Taxes; or

1163 (ii) used as the basis for claiming a tax credit in accordance with Section 59-10-1017.

1164 (3) Each account agreement shall state clearly that there are no guarantees regarding
1165 money in the plan as to the return of principal and that losses could occur.

1166 (4) Each account agreement shall provide that:

1167 (a) a contributor to, or designated beneficiary under, an account agreement may not
1168 direct the investment of any contributions or earnings on contributions;

1169 (b) any part of the money in any account may not be used as security for a loan; and

1170 (c) an account owner may not borrow from the plan.

1171 (5) The execution of an account agreement by the plan may not guarantee in any way
1172 that higher education costs will be equal to projections and estimates provided by the plan or

1173 that the beneficiary named in any account agreement will:

1174 (a) be admitted to an institution of higher education;

1175 (b) if admitted, be determined a resident for tuition purposes by the institution of
1176 higher education;

1177 (c) be allowed to continue attendance at the institution of higher education following
1178 admission; or

1179 (d) graduate from the institution of higher education.

1180 (6) A beneficiary may be changed as permitted by the rules and regulations of the
1181 board upon written request of the account owner prior to the date of admission of any
1182 beneficiary under an account agreement by an institution of higher education so long as the
1183 substitute beneficiary is eligible for participation.

1184 (7) An account agreement may be freely amended throughout the term of the account
1185 agreement in order to enable an account owner to increase or decrease the level of
1186 participation, change the designation of beneficiaries, and carry out similar matters as
1187 authorized by rule.

1188 (8) Each account agreement shall provide that:

1189 (a) the account agreement may be canceled upon the terms and conditions, and upon
1190 payment of the fees and costs set forth and contained in the board's rules and regulations; and

1191 (b) the executive director may amend the agreement unilaterally and retroactively, if
1192 necessary, to maintain the plan as a qualified tuition program under Section 529, Internal
1193 Revenue Code.

1194 Section 15. Section **53G-10-406** is amended to read:

1195 **53G-10-406. Underage Drinking Prevention Program -- State board rules.**

1196 (1) As used in this section:

1197 (a) "Advisory council" means the Underage Drinking Prevention Program Advisory
1198 Council created in this section.

1199 (b) "Program" means the Underage Drinking Prevention Program created in this
1200 section.

1201 (c) "School-based prevention program" means an evidence-based program intended for
1202 students aged 13 and older that:

1203 (i) is aimed at preventing underage consumption of alcohol;

1204 (ii) is delivered by methods that engage students in storytelling and visualization;
1205 (iii) addresses the behavioral risk factors associated with underage drinking; and
1206 (iv) provides practical tools to address the dangers of underage drinking.

1207 (2) There is created the Underage Drinking Prevention Program that consists of:

1208 (a) a school-based prevention program for students in grade 7 or 8; and
1209 (b) a school-based prevention program for students in grade 9 or 10 that increases
1210 awareness of the dangers of driving under the influence of alcohol.

1211 (3) (a) Beginning with the 2018-19 school year, an LEA shall offer the program each
1212 school year to each student in grade 7 or 8 and grade 9 or 10.

1213 (b) An LEA shall select from the providers qualified by the state board under
1214 Subsection (6) to offer the program.

1215 (4) The state board shall administer the program with input from the advisory council.

1216 (5) There is created the Underage Drinking Prevention Program Advisory Council
1217 comprised of the following members:

1218 (a) the executive director of the Department of Alcoholic Beverage Control or the
1219 executive director's designee;

1220 (b) the executive director of the Department of Health or the executive director's
1221 designee;

1222 (c) the director of the Division of Substance Abuse and Mental Health or the director's
1223 designee;

1224 (d) the director of the Division of Child and Family Services or the director's designee;

1225 (e) the director of the Division of Juvenile Justice Services or the director's designee;

1226 (f) the state superintendent or the state superintendent's designee; and

1227 (g) two members of the state board, appointed by the chair of the state board.

1228 (6) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state
1229 board shall qualify one or more providers to provide the program to an LEA.

1230 (b) In selecting a provider described in Subsection (6)(a), the state board shall consider:

1231 (i) whether the provider's program complies with the requirements described in this
1232 section;

1233 (ii) the extent to which the provider's underage drinking prevention program aligns
1234 with core standards for Utah public schools; and

1235 (iii) the provider's experience in providing a program that is effective at reducing
1236 underage drinking.

1237 ~~[(7) (a) The state board shall use money from the Underage Drinking Prevention~~
1238 ~~Program Restricted Account described in Section 53F-9-304 for the program.]~~

1239 ~~[(b) The state board may use money from the Underage Drinking Prevention Program~~
1240 ~~Restricted Account to fund up to .5 of a full-time equivalent position to administer the~~
1241 ~~program.]~~

1242 ~~[(8)]~~ (7) The state board shall make rules that:

1243 (a) beginning with the 2018-19 school year, require an LEA to offer the Underage
1244 Drinking Prevention Program each school year to each student in grade 7 or 8 and grade 9 or
1245 10; and

1246 (b) establish criteria for the state board to use in selecting a provider described in
1247 Subsection (6).

1248 Section 16. Section **59-1-1503** is amended to read:

1249 **59-1-1503. Nonrefundable credit -- Sales and use tax exemption -- Sales and use**
1250 **tax remittance.**

1251 (1) A nonrefundable individual income tax credit is allowed as provided in Section
1252 **59-10-1028** related to a capital gain on a transaction involving the exchange of one form of
1253 legal tender for another form of legal tender.

1254 (2) Sales of currency or coin are exempt from sales and use taxes as provided in
1255 Subsection **59-12-104**~~[(50)]~~(43).

1256 (3) The remittance of a sales and use tax on a transaction involving specie legal tender
1257 is as provided in Section **59-12-107**.

1258 Section 17. Section **59-7-104** is amended to read:

1259 **59-7-104. Tax -- Minimum tax.**

1260 (1) Each domestic and foreign corporation, except a corporation that is exempt under
1261 Section **59-7-102**, shall pay an annual tax to the state based on the corporation's Utah taxable
1262 income for the taxable year for the privilege of exercising the corporation's corporate franchise,
1263 as defined in Section **59-7-101**, or for the privilege of doing business, as defined in Section
1264 **59-7-101**, in the state.

1265 (2) The tax shall be ~~[4.95%]~~ 4.66% of a corporation's Utah taxable income.

1266 (3) The minimum tax a corporation shall pay under this chapter is \$100.

1267 Section 18. Section **59-7-201** is amended to read:

1268 **59-7-201. Tax -- Minimum tax.**

1269 (1) There is imposed upon each corporation, except a corporation that is exempt under
1270 Section **59-7-102**, a tax upon the corporation's Utah taxable income for the taxable year that is
1271 derived from sources within this state other than income for any period that the corporation is
1272 required to include in the corporation's tax base under Section **59-7-104**.

1273 (2) The tax imposed by Subsection (1) shall be [~~4.95%~~] 4.66% of a corporation's Utah
1274 taxable income.

1275 (3) In no case shall the tax be less than \$100.

1276 Section 19. Section **59-7-610** is amended to read:

1277 **59-7-610. Recycling market development zones tax credits.**

1278 (1) Subject to other provisions of this section, a taxpayer that is a business operating in
1279 a recycling market development zone as defined in Section **63N-2-402** may claim the following
1280 nonrefundable tax credits:

1281 (a) a tax credit [~~of 5% of~~] equal to the product of the percentage listed in Subsection
1282 **59-7-104**(2) and the purchase price paid for machinery and equipment used directly in:

1283 (i) commercial composting; or

1284 (ii) manufacturing facilities or plant units that:

1285 (A) manufacture, process, compound, or produce recycled items of tangible personal
1286 property for sale; or

1287 (B) reduce or reuse postconsumer waste material; and

1288 (b) a tax credit equal to the lesser of:

1289 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test
1290 inventory, and utilities made by the taxpayer for establishing and operating recycling or
1291 composting technology in Utah; and

1292 (ii) \$2,000.

1293 (2) (a) To claim a tax credit described in Subsection (1), the taxpayer shall receive
1294 from the Governor's Office of Economic Development a written certification, on a form
1295 approved by the commission, that includes:

1296 (i) a statement that the taxpayer is operating a business within the boundaries of a

- 1297 recycling market development zone;
- 1298 (ii) for claims of the tax credit described in Subsection (1)(a):
- 1299 (A) the type of the machinery and equipment that the taxpayer purchased;
- 1300 (B) the date that the taxpayer purchased the machinery and equipment;
- 1301 (C) the purchase price for the machinery and equipment;
- 1302 (D) the total purchase price for all machinery and equipment for which the taxpayer is
- 1303 claiming a tax credit;
- 1304 (E) a statement that the machinery and equipment are integral to the composting or
- 1305 recycling process; and
- 1306 (F) the amount of the taxpayer's tax credit; and
- 1307 (iii) for claims of the tax credit described in Subsection (1)(b):
- 1308 (A) the type of net expenditure that the taxpayer made to a third party;
- 1309 (B) the date that the taxpayer made the payment to a third party;
- 1310 (C) the amount that the taxpayer paid to each third party;
- 1311 (D) the total amount that the taxpayer paid to all third parties;
- 1312 (E) a statement that the net expenditures support the establishment and operation of
- 1313 recycling or composting technology in Utah; and
- 1314 (F) the amount of the taxpayer's tax credit.
- 1315 (b) (i) The Governor's Office of Economic Development shall provide a taxpayer
- 1316 seeking to claim a tax credit under Subsection (1) with a copy of the written certification.
- 1317 (ii) The taxpayer shall retain a copy of the written certification for the same period of
- 1318 time that a person is required to keep books and records under Section [59-1-1406](#).
- 1319 (c) The Governor's Office of Economic Development shall submit to the commission
- 1320 an electronic list that includes:
- 1321 (i) the name and identifying information of each taxpayer to which the office issues a
- 1322 written certification; and
- 1323 (ii) for each taxpayer, the amount of each tax credit listed on the written certification.
- 1324 (3) A taxpayer may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or
- 1325 both that exceeds 40% of the taxpayer's state income tax liability as the tax liability is
- 1326 calculated:
- 1327 (a) for the taxable year in which the taxpayer made the purchases or payments;

1328 (b) before any other tax credits the taxpayer may claim for the taxable year; and

1329 (c) before the taxpayer claiming a tax credit authorized by this section.

1330 (4) The commission shall make rules governing what information a taxpayer shall file
1331 with the commission to verify the entitlement to and amount of a tax credit.

1332 (5) Except as provided in Subsections (6) through (8), a taxpayer may carry forward, to
1333 the next three taxable years, the amount of the tax credit that exceeds the taxpayer's income tax
1334 liability for the taxable year.

1335 (6) A taxpayer may not claim or carry forward a tax credit described in Subsection
1336 (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under
1337 Section 63N-2-213.

1338 (7) A taxpayer may not claim or carry forward a tax credit described in Subsection
1339 (1)(b) in a taxable year during which the taxpayer claims or carries forward a tax credit under
1340 Section 63N-2-213.

1341 (8) A taxpayer may not claim or carry forward a tax credit under this section for a
1342 taxable year during which the taxpayer claims the targeted business income tax credit under
1343 Section 59-7-624.

1344 Section 20. Section 59-7-614.1 is amended to read:

1345 **59-7-614.1. Refundable tax credit for hand tools used in farming operations --**
1346 **Procedures for refund -- Transfers from General Fund to Education Fund -- Rulemaking**
1347 **authority.**

1348 (1) [~~For a taxable year beginning on or after January 1, 2004, a~~] A taxpayer may claim
1349 a refundable tax credit:

1350 (a) as provided in this section;

1351 (b) against taxes otherwise due under this chapter; and

1352 (c) in an amount equal to the amount of tax the taxpayer pays:

1353 (i) on a purchase of a hand tool:

1354 (A) if the purchase is made on or after July 1, 2004;

1355 (B) if the hand tool is used or consumed primarily and directly in a farming operation
1356 in the state; and

1357 (C) if the unit purchase price of the hand tool is more than \$250; and

1358 (ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection

- 1359 (1)(c)(i).
1360 (2) A taxpayer:
1361 (a) shall retain the following to establish the amount of tax the resident or nonresident
1362 individual paid under Chapter 12, Sales and Use Tax Act, on the purchase described in
1363 Subsection (1)(c)(i):
1364 (i) a receipt;
1365 (ii) an invoice; or
1366 (iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and
1367 (b) may not carry forward or carry back a tax credit under this section.
1368 (3) (a) In accordance with any rules prescribed by the commission under Subsection
1369 (3)(b)~~[(i)]~~ the commission shall make a refund to a taxpayer that claims a tax credit under this
1370 section if the amount of the tax credit exceeds the taxpayer's tax liability under this chapter~~;~~
1371 ~~and~~].
1372 ~~[(ii) the Division of Finance shall transfer at least annually from the General Fund into~~
1373 ~~the Education Fund an amount equal to the amount of tax credit claimed under this section.]~~
1374 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1375 commission may make rules providing procedures for making~~[(i)]~~ a refund to a taxpayer as
1376 required by Subsection (3)(a)~~[(i); or]~~.
1377 ~~[(ii) transfers from the General Fund into the Education Fund as required by~~
1378 ~~Subsection (3)(a)(ii).]~~
1379 Section 21. Section **59-7-618** is amended to read:
1380 **59-7-618. Tax credit related to alternative fuel heavy duty vehicles.**
1381 (1) As used in this section:
1382 (a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air
1383 Conservation Act.
1384 (b) "Director" means the director of the Division of Air Quality appointed under
1385 Section [19-2-107](#).
1386 (c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to
1387 vehicle classifications established by the Federal Highway Administration.
1388 (d) "Natural gas" includes compressed natural gas and liquified natural gas.
1389 (e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

1390 (i) has never been titled or registered and has been driven less than 7,500 miles; and
1391 (ii) is fueled by natural gas, has a 100% electric drivetrain, or has a hydrogen-electric
1392 drivetrain.

1393 (f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

1394 (g) "Qualified taxpayer" means a taxpayer that:

1395 (i) purchases a qualified heavy duty vehicle; and

1396 (ii) receives a tax credit certificate from the director.

1397 (h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and
1398 owned by a single taxpayer.

1399 (i) "Tax credit certificate" means a certificate issued by the director certifying that a
1400 taxpayer is entitled to a tax credit as provided in this section and stating the amount of the tax
1401 credit.

1402 (2) A qualified taxpayer may claim a nonrefundable tax credit against tax otherwise
1403 due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required
1404 to Pay Corporate Franchise or Income Tax Act:

1405 (a) in an amount equal to:

1406 (i) \$25,000, if the qualified purchase of a natural gas heavy duty vehicle occurs during
1407 calendar year 2015 or calendar year 2016;

1408 (ii) \$25,000, if the qualified purchase occurs during calendar year 2017;

1409 (iii) \$20,000, if the qualified purchase occurs during calendar year 2018;

1410 (iv) \$18,000, if the qualified purchase occurs during calendar year 2019; and

1411 (v) \$15,000, if the qualified purchase occurs during calendar year 2020; and

1412 (b) if the qualified taxpayer certifies under oath that over 50% of the miles that the
1413 heavy duty vehicle that is the subject of the qualified purchase will travel annually will be
1414 within the state.

1415 (3) (a) Except as provided in Subsection (3)(b), a taxpayer may not submit an
1416 application for, and the director may not issue to the taxpayer, a tax credit certificate under this
1417 section in any taxable year for a qualified purchase if the director has already issued tax credit
1418 certificates to the taxpayer for 10 qualified purchases in the same taxable year.

1419 (b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of
1420 tax credits under Subsection (5) has not been claimed, a taxpayer may submit an application

1421 for, and the director may issue to the taxpayer, one or more tax credit certificates for up to eight
1422 additional qualified purchases, even if the director has already issued to that taxpayer tax credit
1423 certificates for the maximum number of qualified purchases allowed under Subsection (3)(a).

1424 (4) (a) Subject to Subsection (4)(b), the director shall reserve 25% of all tax credits
1425 available under this section for qualified taxpayers with a small fleet.

1426 (b) Subsection (4)(a) does not prevent a taxpayer from submitting an application for, or
1427 the director from issuing, a tax credit certificate if, before October 1, qualified taxpayers with a
1428 small fleet have not reserved under Subsection (5)(b) tax credits for the full amount reserved
1429 under Subsection (4)(a).

1430 (5) (a) The aggregate annual total amount of tax credits represented by tax credit
1431 certificates that the director issues under this section and Section 59-10-1033 may not exceed
1432 \$500,000.

1433 (b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative
1434 Rulemaking Act, make rules to establish a process under which a taxpayer may reserve a
1435 potential tax credit under this section for a limited time to allow the taxpayer to make a
1436 qualified purchase with the assurance that the aggregate limit under Subsection (5)(a) will not
1437 be met before the taxpayer is able to submit an application for a tax credit certificate.

1438 (6) (a) (i) A taxpayer wishing to claim a tax credit under this section shall, using forms
1439 the board requires by rule:

1440 (A) submit to the director an application for a tax credit;

1441 (B) provide the director proof of a qualified purchase; and

1442 (C) submit to the director the certification under oath required under Subsection (2)(b).

1443 (ii) Upon receiving the application, proof, and certification required under Subsection
1444 (6)(a)(i), the director shall provide the taxpayer a written statement from the director
1445 acknowledging receipt of the proof.

1446 (b) If the director determines that a taxpayer qualifies for a tax credit under this section,
1447 the director shall:

1448 (i) determine the amount of tax credit the taxpayer is allowed under this section; and

1449 (ii) provide the taxpayer with a written tax credit certificate:

1450 (A) stating that the taxpayer has qualified for a tax credit; and

1451 (B) showing the amount of tax credit for which the taxpayer has qualified under this

1452 section.

1453 (c) A qualified taxpayer shall retain the tax credit certificate.

1454 (d) The director shall at least annually submit to the commission a list of all qualified
1455 taxpayers to which the director has issued a tax credit certificate and the amount of each tax
1456 credit represented by the tax credit certificates.

1457 (7) The tax credit under this section is allowed only:

1458 (a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain
1459 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year
1460 by the qualified taxpayer;

1461 (b) for the taxable year in which the qualified purchase occurs; and

1462 (c) once per vehicle.

1463 (8) A qualified taxpayer may not assign a tax credit or a tax credit certificate under this
1464 section to another person.

1465 (9) If the qualified taxpayer receives a tax credit certificate under this section that
1466 allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this
1467 chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay
1468 Corporate Franchise or Income Tax Act, for a taxable year, the qualified taxpayer may carry
1469 forward the amount of the tax credit that exceeds the tax liability for a period that does not
1470 exceed the next five taxable years.

1471 ~~[(10)(a) In accordance with any rules prescribed by the commission under Subsection~~
1472 ~~(10)(b), the Division of Finance shall transfer at least annually from the General Fund into the~~
1473 ~~Education Fund the aggregate amount of all tax credits claimed under this section.]~~

1474 ~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
1475 ~~the commission may make rules for making a transfer from the General Fund into the~~
1476 ~~Education Fund as required by Subsection (10)(a).]~~

1477 Section 22. Section **59-7-620** is amended to read:

1478 **59-7-620. Nonrefundable tax credit for contribution to state Achieving a Better**
1479 **Life Experience Program account.**

1480 (1) As used in this section:

1481 (a) "Account" means an account in a qualified ABLE program where the designated
1482 beneficiary of the account is a resident of this state.

- 1483 (b) "Contributor" means a corporation that:
1484 (i) makes a contribution to an account; and
1485 (ii) receives a statement from the qualified ABLE program itemizing the contribution.
1486 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.
1487 529A.
1488 (d) "Qualified ABLE program" means the same as that term is defined in Section
1489 35A-12-102.
- 1490 (2) A contributor to an account may claim a nonrefundable tax credit as provided in
1491 this section.
- 1492 (3) Subject to the other provisions of this section, the tax credit is equal to the product
1493 of:
1494 (a) ~~5%~~ the percentage listed in Subsection 59-7-104(2); and
1495 (b) the total amount of contributions:
1496 (i) the contributor makes for the taxable year; and
1497 (ii) for which the contributor receives a statement from the qualified ABLE program
1498 itemizing the contributions.
- 1499 (4) A contributor may not claim a tax credit under this section:
1500 (a) for an amount of excess contribution to an account that is returned to the
1501 contributor; or
1502 (b) with respect to an amount the contributor deducts on a federal income tax return.
- 1503 (5) A tax credit under this section may not be carried forward or carried back.
- 1504 Section 23. Section 59-10-104 is amended to read:
1505 **59-10-104. Tax basis -- Tax rate -- Exemption.**
1506 (1) A tax is imposed on the state taxable income of a resident individual as provided in
1507 this section.
1508 (2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the
1509 product of:
1510 (a) the resident individual's state taxable income for that taxable year; and
1511 (b) ~~4.95%~~ 4.66%.
1512 (3) This section does not apply to a resident individual exempt from taxation under
1513 Section 59-10-104.1.

1514 Section 24. Section **59-10-529.1** is amended to read:

1515 **59-10-529.1. Time period for commission to issue a refund.**

1516 (1) Except as provided in Subsection (2), the commission may not issue a refund
1517 before March 1.

1518 (2) The commission may issue a refund before March 1 if, before March 1, the
1519 commission determines that:

1520 (a) (i) an employer has filed the one or more forms in accordance with Subsection
1521 59-10-406(8) the employer is required to file with respect to an individual; and

1522 (ii) for a refund of a tax credit described in Section 59-10-1114, the Department of
1523 Workforce Services has submitted the electronic report required by Section 35A-9-214; and

1524 (b) the individual has filed a return in accordance with this chapter.

1525 Section 25. Section **59-10-1005** is amended to read:

1526 **59-10-1005. Tax credit for at-home parent.**

1527 (1) As used in this section:

1528 (a) "At-home parent" means a parent:

1529 (i) who provides full-time care at the parent's residence for one or more of the parent's
1530 own qualifying children;

1531 (ii) who claims [~~the qualifying child as a dependent on the parent's individual income~~
1532 ~~tax return for the taxable year for which the parent claims the credit]~~ a tax credit with respect to
1533 the qualifying child under Section 24, Internal Revenue Code, on the parent's federal individual
1534 income tax return for the taxable year; and

1535 (iii) if the sum of the following amounts are \$3,000 or less for the taxable year for
1536 which the parent claims the credit:

1537 (A) the total wages, tips, and other compensation listed on all of the parent's federal
1538 Forms W-2; and

1539 (B) the gross income listed on the parent's federal Form 1040 Schedule C, Profit or
1540 Loss From Business.

1541 (b) "Parent" means an individual who:

1542 (i) is the biological mother or father of a qualifying child;

1543 (ii) is the stepfather or stepmother of a qualifying child;

1544 (iii) (A) legally adopts a qualifying child; or

1545 (B) has a qualifying child placed in the individual's home:

1546 (I) by a child-placing agency, as defined in Section [62A-2-101](#); and

1547 (II) for the purpose of legally adopting the child;

1548 (iv) is a foster parent of a qualifying child; or

1549 (v) is a legal guardian of a qualifying child.

1550 (c) "Qualifying child" means a child who is no more than 12 months of age on the last
1551 day of the taxable year for which the tax credit is claimed.

1552 (2) [~~For a taxable year beginning on or after January 1, 2000, a~~] A claimant may claim
1553 on the claimant's individual income tax return a nonrefundable tax credit of \$100 for each
1554 qualifying child if:

1555 (a) the claimant or another claimant filing a joint individual income tax return with the
1556 claimant is an at-home parent; and

1557 (b) the adjusted gross income of all of the claimants filing the individual income tax
1558 return is less than or equal to \$50,000.

1559 (3) A claimant may not carry forward or carry back a tax credit authorized by this
1560 section.

1561 [~~(4) (a) In accordance with any rules prescribed by the commission under Subsection~~
1562 ~~(4)(b), the Division of Finance shall transfer at least annually from the General Fund into the~~
1563 ~~Education Fund the aggregate amount of all tax credits claimed under this section.]~~

1564 [~~(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
1565 ~~the commission may make rules for making a transfer from the General Fund into the~~
1566 ~~Education Fund as required by Subsection (4)(a).]~~

1567 Section 26. Section **59-10-1007** is amended to read:

1568 **59-10-1007. Recycling market development zones tax credits.**

1569 (1) Subject to other provisions of this section, a claimant, estate, or trust in a recycling
1570 market development zone as defined in Section [63N-2-402](#) may claim the following
1571 nonrefundable tax credits:

1572 (a) a tax credit [~~of 5% of~~] equal to the product of the percentage listed in Subsection
1573 [59-10-104\(2\)](#) and the purchase price paid for machinery and equipment used directly in:

1574 (i) commercial composting; or

1575 (ii) manufacturing facilities or plant units that:

1576 (A) manufacture, process, compound, or produce recycled items of tangible personal
1577 property for sale; or
1578 (B) reduce or reuse postconsumer waste material; and
1579 (b) a tax credit equal to the lesser of:
1580 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test
1581 inventory, and utilities made by the claimant, estate, or trust for establishing and operating
1582 recycling or composting technology in Utah; and
1583 (ii) \$2,000.
1584 (2) (a) To claim a tax credit described in Subsection (1), the claimant, estate, or trust
1585 shall receive from the Governor's Office of Economic Development a written certification, on a
1586 form approved by the commission, that includes:
1587 (i) a statement that the claimant, estate, or trust is operating within the boundaries of a
1588 recycling market development zone;
1589 (ii) for claims of the tax credit described in Subsection (1)(a):
1590 (A) the type of the machinery and equipment that the claimant, estate, or trust
1591 purchased;
1592 (B) the date that the claimant, estate, or trust purchased the machinery and equipment;
1593 (C) the purchase price for the machinery and equipment;
1594 (D) the total purchase price for all machinery and equipment for which the claimant,
1595 estate, or trust is claiming a tax credit;
1596 (E) the amount of the claimant's, estate's, or trust's tax credit; and
1597 (F) a statement that the machinery and equipment are integral to the composting or
1598 recycling process; and
1599 (iii) for claims of the tax credit described in Subsection (1)(b):
1600 (A) the type of net expenditure that the claimant, estate, or trust made to a third party;
1601 (B) the date that the claimant, estate, or trust made the payment to a third party;
1602 (C) the amount that the claimant, estate, or trust paid to each third party;
1603 (D) the total amount that the claimant, estate, or trust paid to all third parties;
1604 (E) a statement that the net expenditures support the establishment and operation of
1605 recycling or composting technology in Utah; and
1606 (F) the amount of the claimant's, estate's, or trust's tax credit.

1607 (b) (i) The Governor's Office of Economic Development shall provide a claimant,
1608 estate, or trust seeking to claim a tax credit under Subsection (1) with a copy of the written
1609 certification.

1610 (ii) The claimant, estate, or trust shall retain a copy of the written certification for the
1611 same period of time that a person is required to keep books and records under Section
1612 [59-1-1406](#).

1613 (c) The Governor's Office of Economic Development shall submit to the commission
1614 an electronic list that includes:

1615 (i) the name and identifying information of each claimant, estate, or trust to which the
1616 office issues a written certification; and

1617 (ii) for each claimant, estate, or trust, the amount of each tax credit listed on the written
1618 certification.

1619 (3) A claimant, estate, or trust may not claim a tax credit under Subsection (1)(a),
1620 Subsection (1)(b), or both that exceeds 40% of the claimant's, estate's, or trust's state income
1621 tax liability as the tax liability is calculated:

1622 (a) for the taxable year in which the claimant, estate, or trust made the purchases or
1623 payments;

1624 (b) before any other tax credits the claimant, estate, or trust may claim for the taxable
1625 year; and

1626 (c) before the claimant, estate, or trust claiming a tax credit authorized by this section.

1627 (4) The commission shall make rules governing what information a claimant, estate, or
1628 trust shall file with the commission to verify the entitlement to and amount of a tax credit.

1629 (5) Except as provided in Subsections (6) through (8), a claimant, estate, or trust may
1630 carry forward, to the next three taxable years, the amount of the tax credit that exceeds the
1631 taxpayer's income tax liability for the taxable year.

1632 (6) A claimant, estate, or trust may not claim or carry forward a tax credit described in
1633 Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries
1634 forward a tax credit under Section [63N-2-213](#).

1635 (7) A claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b)
1636 in a taxable year during which the claimant, estate, or trust claims or carries forward a tax
1637 credit under Section [63N-2-213](#).

1638 (8) A claimant, estate, or trust may not claim or carry forward a tax credit available
1639 under this section for a taxable year during which the claimant, estate, or trust claims the
1640 targeted business income tax credit under Section 59-10-1112.

1641 Section 27. Section 59-10-1017 is amended to read:

1642 **59-10-1017. Utah Educational Savings Plan tax credit.**

1643 (1) As used in this section:

1644 (a) "Account owner" means the same as that term is defined in Section 53B-8a-102.

1645 (b) "Grantor trust" means the same as that term is defined in Section 53B-8a-102.5.

1646 (c) "Higher education costs" means the same as that term is defined in Section
1647 53B-8a-102.5.

1648 (d) "Joint filing status" means:

1649 (i) spouses who file one return jointly under this chapter for a taxable year; or

1650 (ii) a surviving spouse, as defined in Section (2)(a), Internal Revenue Code, who files a
1651 single federal individual income tax return for the taxable year.

1652 ~~(d)~~ (e) "Maximum amount of a qualified investment for the taxable year" means, for
1653 a taxable year, the product of ~~[5%]~~ the percentage listed in Subsection 59-10-104(2) and:

1654 (i) subject to Subsection (1)~~(d)~~(e)(iii), for a claimant, estate, or trust that is an account
1655 owner, if that claimant, estate, or trust is other than ~~[husband and wife]~~ spouse account owners
1656 who file ~~[a single]~~ one return jointly, the maximum amount of a qualified investment:

1657 (A) listed in Subsection 53B-8a-106(1)(e)(ii); and

1658 (B) increased or kept for that taxable year in accordance with Subsections
1659 53B-8a-106(1)(f) and (g);

1660 (ii) subject to Subsection (1)~~(d)~~(e)(iii), for claimants who are ~~[husband and wife]~~
1661 spouse account owners who file ~~[a single]~~ one return jointly, the maximum amount of a
1662 qualified investment:

1663 (A) listed in Subsection 53B-8a-106(1)(e)(iii); and

1664 (B) increased or kept for that taxable year in accordance with Subsections
1665 53B-8a-106(1)(f) and (g); or

1666 (iii) for a grantor trust:

1667 (A) if the owner of the grantor trust has a single filing status or head of household
1668 filing status as defined in Section 59-10-1018, the amount described in Subsection

1669 (1)~~(f)~~(e)(i); or

1670 (B) if the owner of the grantor trust has a joint filing status as defined in Section

1671 59-10-1018, the amount described in Subsection (1)~~(f)~~(e)(ii).

1672 ~~(e)~~ (f) "Owner of the grantor trust" means the same as that term is defined in Section

1673 53B-8a-102.5.

1674 ~~(f)~~ (g) "Qualified investment" means the same as that term is defined in Section

1675 53B-8a-102.5.

1676 (2) Except as provided in Section 59-10-1002.2 and subject to the other provisions of
1677 this section, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax
1678 credit equal to the product of:

1679 (a) the amount of a qualified investment made:

1680 (i) during the taxable year; and

1681 (ii) into an account owned by the claimant, estate, or trust; and

1682 (b) ~~5%~~ the percentage listed in Subsection 59-10-104(2).

1683 (3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may
1684 make a qualified investment described in Subsection (2).

1685 (4) A claimant, estate, or trust that is an account owner may not claim a tax credit
1686 under this section with respect to any portion of a qualified investment described in Subsection
1687 (2) that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal
1688 income tax return.

1689 (5) A tax credit under this section may not exceed the maximum amount of a qualified
1690 investment for the taxable year.

1691 (6) A claimant, estate, or trust that is an account owner may not carry forward or carry
1692 back the tax credit under this section.

1693 (7) A claimant, estate, or trust may claim a tax credit under this section in addition to
1694 the tax credit described in Section 59-10-1017.1.

1695 Section 28. Section 59-10-1017.1 is amended to read:

1696 **59-10-1017.1. Student Prosperity Savings Program tax credit.**

1697 (1) As used in this section, "qualified donation" means an amount donated, in
1698 accordance with Section 53B-8a-203, to the Student Prosperity Savings Program created in
1699 Section 53B-8a-202.

1700 (2) A claimant, estate, or trust may claim a nonrefundable tax credit for a qualified
1701 donation.

1702 (3) The tax credit equals the product of:

1703 (a) the qualified donation; and

1704 (b) ~~[5%~~ the percentage listed in Subsection [59-10-104\(2\)](#).

1705 (4) A claimant, estate, or trust may not claim a tax credit under this section with
1706 respect to any portion of a qualified donation that a claimant, estate, or trust deducts on a
1707 federal income tax return.

1708 (5) A claimant, estate, or trust may not carry forward or carry back the portion of the
1709 tax credit allowed by this section that exceeds the claimant's, estate's, or trust's tax liability for
1710 the taxable year in which the claimant, estate, or trust claims the tax credit.

1711 (6) A claimant, estate, or trust may claim a tax credit under this section in addition to
1712 the tax credit described in Section [59-10-1017](#).

1713 Section 29. Section **59-10-1018** is amended to read:

1714 **59-10-1018. Definitions -- Nonrefundable taxpayer tax credits.**

1715 (1) As used in this section:

1716 (a) "Head of household filing status" means a head of household, as defined in Section
1717 2(b), Internal Revenue Code, who files ~~[a single]~~ one federal individual income tax return for
1718 the taxable year.

1719 (b) "Joint filing status" means ~~[(i)]~~ spouses who file ~~[a single]~~ one return jointly under
1720 this chapter for a taxable year ~~[-or]~~.

1721 ~~[(ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a
1722 single federal individual income tax return for the taxable year.]~~

1723 (c) "Qualifying dependent" means an individual with respect to whom the claimant is
1724 allowed to claim a tax credit under Section 24, Internal Revenue Code, on the claimant's
1725 federal individual income tax return for the taxable year.

1726 (d) "Qualifying widower filing status" means a surviving spouse, as defined in Section
1727 (2)(a), Internal Revenue Code, who files a single federal individual income tax return for the
1728 taxable year.

1729 ~~[(d)]~~ (e) "Single filing status" means:

1730 (i) a single individual who files a single federal individual income tax return for the

1731 taxable year; or

1732 (ii) a married individual who:

1733 (A) does not file a single federal individual income tax return jointly with that married

1734 individual's spouse for the taxable year; and

1735 (B) files a single federal individual income tax return for the taxable year.

1736 ~~[(e)]~~ (f) "State or local income tax" means the lesser of:

1737 (i) the amount of state or local income tax that the claimant:

1738 (A) pays for the taxable year; and

1739 (B) reports on the claimant's federal individual income tax return for the taxable year,

1740 regardless of whether the claimant is allowed an itemized deduction on the claimant's federal

1741 individual income tax return for the taxable year for the full amount of state or local income tax

1742 paid; and

1743 (ii) \$10,000.

1744 ~~[(f)]~~ (g) (i) "Utah itemized deduction" means the amount the claimant deducts as

1745 allowed as an itemized deduction on the claimant's federal individual income tax return for that

1746 taxable year minus any amount of state or local income tax for the taxable year.

1747 (ii) "Utah itemized deduction" does not include any amount of qualified business

1748 income that the claimant subtracts as allowed by Section 199A, Internal Revenue Code, on the

1749 claimant's federal income tax return for that taxable year.

1750 ~~[(g)]~~ (h) "Utah personal exemption" means, subject to Subsection (6), ~~[\$565]~~ \$2,500

1751 multiplied by ~~[the number of the claimant's qualifying dependents.]:~~

1752 (i) for a claimant who has a joint filing status and no qualifying dependents, one; or

1753 (ii) for a claimant who has qualifying dependents, the number of the claimant's

1754 qualifying dependents.

1755 (2) Except as provided in Section [59-10-1002.2](#), and subject to Subsections (3) through

1756 (5), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part

1757 equal to the sum of:

1758 (a) (i) for a claimant that deducts the standard deduction on the claimant's federal

1759 individual income tax return for the taxable year, 6% of the amount the claimant deducts as

1760 allowed as the standard deduction on the claimant's federal individual income tax return for

1761 that taxable year; or

1762 (ii) for a claimant that itemizes deductions on the claimant's federal individual income
1763 tax return for the taxable year, 6% of the amount of the claimant's Utah itemized deduction;
1764 and

1765 (b) 6% of the claimant's Utah personal exemption.

1766 (3) A claimant may not carry forward or carry back a tax credit under this section.

1767 (4) The tax credit allowed by Subsection (2) shall be reduced by \$.013 for each dollar
1768 by which a claimant's state taxable income exceeds:

1769 (a) for a claimant who has a single filing status, [~~\$12,000~~] \$14,879;

1770 (b) for a claimant who has a head of household filing status, [~~\$18,000~~] \$22,318; or

1771 (c) for a claimant who has a joint filing status[~~, \$24,000~~] or a qualifying widower filing
1772 status, \$29,758.

1773 (5) (a) For a taxable year beginning on or after January 1, [~~2009~~] 2021, the commission
1774 shall increase or decrease annually the following dollar amounts by a percentage equal to the
1775 percentage difference between the consumer price index for the preceding calendar year and
1776 the consumer price index for calendar year [~~2007~~] 2019:

1777 (i) the dollar amount listed in Subsection (4)(a); and

1778 (ii) the dollar amount listed in Subsection (4)(b).

1779 (b) After the commission increases or decreases the dollar amounts listed in Subsection
1780 (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the
1781 nearest whole dollar.

1782 (c) After the commission rounds the dollar amounts as required by Subsection (5)(b),
1783 the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that
1784 the dollar amount listed in Subsection (4)(c) is equal to the product of:

1785 (i) the dollar amount listed in Subsection (4)(a); and

1786 (ii) two.

1787 (d) For purposes of Subsection (5)(a), the commission shall calculate the consumer
1788 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

1789 (6) (a) For a taxable year beginning on or after January 1, [~~2019~~] 2021, the commission
1790 shall increase annually the Utah personal exemption amount listed in Subsection (1)[~~(g)~~](h) by
1791 a percentage equal to the percentage by which the consumer price index for the preceding
1792 calendar year exceeds the consumer price index for calendar year [~~2017~~] 2019.

1793 (b) After the commission increases the Utah personal exemption amount as described
1794 in Subsection (6)(a), the commission shall round the Utah personal exemption amount to the
1795 nearest whole dollar.

1796 (c) For purposes of Subsection (6)(a), the commission shall calculate the consumer
1797 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

1798 Section 30. Section **59-10-1018.1** is enacted to read:

1799 **59-10-1018.1. Taxpayer tax credit rebate.**

1800 (1) As used in this section:

1801 (a) "Head of household filing status" means the same as that term is defined in Section
1802 59-10-1018.

1803 (b) "Joint filing status" means the same as that term is defined in Section 59-10-1018.

1804 (c) "Qualifying dependent" means the same as that term is defined in Section

1805 59-10-1018.

1806 (d) "Qualifying filer" means a person who files a return under this chapter:

1807 (i) (A) for a taxable year beginning on or after January 1, 2018, and on or before
1808 December 31, 2018; and

1809 (B) on or before the deadline described in Section 59-10-516; or

1810 (ii) (A) for a taxable year beginning on or after January 1, 2019, and on or before
1811 December 31, 2019; and

1812 (B) on or before the deadline described in Section 59-10-514.

1813 (e) "Qualifying widower filing status" means the same as that term is defined in
1814 Section 59-10-1018.

1815 (f) "Single filing status" means the same as that term is defined in Section 59-10-1018.

1816 (g) "Utah personal exemption rebate" means \$1,285 multiplied by the number of the
1817 claimant's qualifying dependents.

1818 (2) Subject to the other provisions of this section, the commission shall provide a
1819 rebate to each qualifying filer equal to the lesser of:

1820 (a) the qualifying filer's tax liability for:

1821 (i) the taxable year beginning on or after January 1, 2018, and on or before December
1822 31, 2018; or

1823 (ii) if the claimant did not file a return under this chapter for the taxable year described

1824 in Subsection (2)(a), the taxable year beginning on or after January 1, 2019, and on or before
1825 December 31, 2019; and

1826 (b) 6% of the claimant's Utah personal exemption rebate.

1827 (3) The rebate described in Subsection (2) is reduced by \$.013 for each dollar by which
1828 the claimant's state taxable income exceeds:

1829 (a) for a claimant who has a single filing status, \$14,879;

1830 (b) for a claimant who has a head of household filing status, \$22,318; or

1831 (c) for a claimant who has a joint filing status or a qualifying widower filing status,
1832 \$29,758.

1833 (4) For each return filed under this chapter, no more than one qualifying filer may
1834 receive a rebate under this section.

1835 (5) The commission shall provide a qualifying filer who is a nonresident individual or
1836 a part-year resident individual an apportioned amount of the rebate described in this section
1837 equal to:

1838 (a) for a nonresident individual, the product of:

1839 (i) the state income tax percentage for the nonresident individual; and

1840 (ii) the amount of the rebate that the commission would have provided the nonresident
1841 individual but for the apportionment requirements described in this subsection; or

1842 (b) for a part-year resident individual, the product of:

1843 (i) the state income tax percentage for the part-year resident individual; and

1844 (ii) the amount of the rebate that the commission would have provided the part-year
1845 resident individual but for the apportionment requirements described in this subsection.

1846 (6) If the value of a qualifying filer's rebate under this section is less than \$25, the
1847 qualifying filer is not eligible to receive the rebate.

1848 (7) The commission shall comply with Subsection (2) on or before:

1849 (a) April 1, 2020; or

1850 (b) if the claimant did not file a return under this chapter for the taxable year beginning
1851 on or after January 1, 2018, and on or before December 31, 2018, July 1, 2020.

1852 Section 31. Section **59-10-1019** is amended to read:

1853 **59-10-1019. Definitions -- Nonrefundable retirement tax credit.**

1854 (1) As used in this section:

1855 (a) "Eligible over age 65 [~~or older~~] retiree" means a claimant, regardless of whether
1856 that claimant is retired, who [~~:(i) is 65 years of age or older, and (ii)~~] was born on or before
1857 December 31, 1952.

1858 [~~(b) (i) "Eligible retirement income" means income received by an eligible under age
1859 65 retiree as a pension or annuity if that pension or annuity is:]~~

1860 [~~(A) paid to the eligible under age 65 retiree or the surviving spouse of an eligible
1861 under age 65 retiree; and]~~

1862 [~~(B) (I) paid from an annuity contract purchased by an employer under a plan that
1863 meets the requirements of Section 404(a)(2), Internal Revenue Code;]~~

1864 [~~(H) purchased by an employee under a plan that meets the requirements of Section
1865 408, Internal Revenue Code; or]~~

1866 [~~(H) paid by:]~~

1867 [~~(Aa) the United States;]~~

1868 [~~(Bb) a state or a political subdivision of a state; or]~~

1869 [~~(Cc) the District of Columbia.]~~

1870 [~~(ii) "Eligible retirement income" does not include amounts received by the spouse of a
1871 living eligible under age 65 retiree because of the eligible under age 65 retiree's having been
1872 employed in a community property state.]~~

1873 [~~(c) "Eligible under age 65 retiree" means a claimant, regardless of whether that
1874 claimant is retired, who:]~~

1875 [~~(i) is younger than 65 years of age;]~~

1876 [~~(ii) was born on or before December 31, 1952; and]~~

1877 [~~(iii) has eligible retirement income for the taxable year for which a tax credit is
1878 claimed under this section.]~~

1879 [~~(d)~~] (b) "Head of household filing status" [~~is as~~] means the same as that term is
1880 defined in Section 59-10-1018.

1881 [~~(e) "Joint filing status" is as defined in Section 59-10-1018.]~~

1882 (c) "Joint filing status" means:

1883 (i) spouses who file one return jointly under this chapter for a taxable year; or

1884 (ii) a surviving spouse, as defined in Section (2)(a), Internal Revenue Code, who files a
1885 single federal individual income tax return for the taxable year.

1886 ~~[(f)]~~ (d) "Married filing separately status" means a married individual who:

1887 (i) does not file a single federal individual income tax return jointly with that married

1888 individual's spouse for the taxable year; and

1889 (ii) files a single federal individual income tax return for the taxable year.

1890 ~~[(g)]~~ (e) "Modified adjusted gross income" means the sum of an eligible over age 65

1891 ~~[or older retiree's or eligible under age 65 retiree's]~~ retiree's:

1892 (i) adjusted gross income for the taxable year for which a tax credit is claimed under

1893 this section;

1894 (ii) any interest income that is not included in adjusted gross income for the taxable

1895 year described in Subsection (1)~~[(g)]~~(e)(i); and

1896 (iii) any addition to adjusted gross income required by Section 59-10-114 for the

1897 taxable year described in Subsection (1)~~[(g)]~~(e)(i).

1898 ~~[(h)]~~ (f) "Single filing status" means a single individual who files a single federal

1899 individual income tax return for the taxable year.

1900 (2) Except as provided in Section 59-10-1002.2 ~~[and subject to Subsections (3) through~~

1901 ~~(5):-(a)]~~ and Subsections (3) and (4), each eligible over age 65 ~~[or older]~~ retiree may claim a

1902 nonrefundable tax credit of \$450 against taxes otherwise due under this part~~[-or]~~.

1903 ~~[(b) each eligible under age 65 retiree may claim a nonrefundable tax credit against~~

1904 ~~taxes otherwise due under this part in an amount equal to the lesser of:]~~

1905 ~~[(i) \$288; or]~~

1906 ~~[(ii) the product of:]~~

1907 ~~[(A) the eligible under age 65 retiree's eligible retirement income for the taxable year~~

1908 ~~for which the eligible under age 65 retiree claims a tax credit under this section; and]~~

1909 ~~[(B) 6%.]~~

1910 ~~[(3) A tax credit under this section may not be carried forward or carried back.]~~

1911 (3) An eligible over age 65 retiree may not:

1912 (a) carry forward or carry back a tax credit under this section; or

1913 (b) claim a tax credit under this section if a tax credit is claimed under Section

1914 59-10-1041 on the same return.

1915 (4) The ~~[sum of the tax credits]~~ tax credit allowed by Subsection (2) claimed on ~~[one]~~ a

1916 return filed under this part shall be reduced by \$.025 for each dollar by which modified

1917 adjusted gross income for purposes of the return exceeds:

1918 (a) for a federal individual income tax return that is allowed a married filing separately
1919 status, \$16,000;

1920 (b) for a federal individual income tax return that is allowed a single filing status,
1921 \$25,000;

1922 (c) for a federal individual income tax return that is allowed a head of household filing
1923 status, \$32,000; or

1924 (d) for a return under this chapter that is allowed a joint filing status, \$32,000.

1925 ~~[(5) For purposes of determining the ownership of items of retirement income under~~
1926 ~~this section, common law doctrine shall be applied in all cases even though some items of~~
1927 ~~retirement income may have originated from service or investments in a community property~~
1928 ~~state.]~~

1929 Section 32. Section **59-10-1022** is amended to read:

1930 **59-10-1022. Nonrefundable tax credit for capital gain transactions.**

1931 (1) As used in this section:

1932 (a) (i) "Capital gain transaction" means a transaction that results in a:

1933 (A) short-term capital gain; or

1934 (B) long-term capital gain.

1935 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1936 commission may by rule define the term "transaction."

1937 (b) "Commercial domicile" means the principal place from which the trade or business
1938 of a Utah small business corporation is directed or managed.

1939 (c) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.

1940 (d) "Qualifying stock" means stock that is:

1941 (i) (A) common; or

1942 (B) preferred;

1943 (ii) as defined by the commission by rule made in accordance with Title 63G, Chapter
1944 3, Utah Administrative Rulemaking Act, originally issued to:

1945 (A) a claimant, estate, or trust; or

1946 (B) a partnership if the claimant, estate, or trust that claims a tax credit under this
1947 section:

1948 (I) was a partner on the day on which the stock was issued; and
1949 (II) remains a partner until the last day of the taxable year for which the claimant,
1950 estate, or trust claims a tax credit under this section; and
1951 (iii) issued:
1952 (A) by a Utah small business corporation;
1953 (B) on or after January 1, 2008; and
1954 (C) for:
1955 (I) money; or
1956 (II) other property, except for stock or securities.
1957 (e) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.
1958 (f) (i) "Utah small business corporation" means a corporation that:
1959 (A) except as provided in Subsection (1)(f)(ii), is a small business corporation as
1960 defined in Section 1244(c)(3), Internal Revenue Code;
1961 (B) except as provided in Subsection (1)(f)(iii), meets the requirements of Section
1962 1244(c)(1)(C), Internal Revenue Code; and
1963 (C) has its commercial domicile in this state.
1964 (ii) The dollar amount listed in Section 1244(c)(3)(A) is considered to be \$2,500,000.
1965 (iii) The phrase "the date the loss on such stock was sustained" in Sections
1966 1244(c)(1)(C) and 1244(c)(2), Internal Revenue Code, is considered to be "the last day of the
1967 taxable year for which the claimant, estate, or trust claims a tax credit under this section."
1968 (2) For taxable years beginning on or after January 1, 2008, a claimant, estate, or trust
1969 that meets the requirements of Subsection (3) may claim a nonrefundable tax credit equal to the
1970 product of:
1971 (a) the total amount of the claimant's, estate's, or trust's short-term capital gain or
1972 long-term capital gain on a capital gain transaction that occurs on or after January 1, 2008; and
1973 (b) [5%] the percentage listed in Subsection [59-10-104\(2\)](#).
1974 (3) For purposes of Subsection (2), a claimant, estate, or trust may claim the
1975 nonrefundable tax credit allowed by Subsection (2) if:
1976 (a) 70% or more of the gross proceeds of the capital gain transaction are expended:
1977 (i) to purchase qualifying stock in a Utah small business corporation; and
1978 (ii) within a 12-month period after the day on which the capital gain transaction occurs;

1979 and

1980 (b) prior to the purchase of the qualifying stock described in Subsection (3)(a)(i), the
1981 claimant, estate, or trust did not have an ownership interest in the Utah small business
1982 corporation that issued the qualifying stock.

1983 (4) A claimant, estate, or trust may not carry forward or carry back a tax credit under
1984 this section.

1985 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1986 commission may make rules:

1987 (a) defining the term "gross proceeds"; and

1988 (b) prescribing the circumstances under which a claimant, estate, or trust has an
1989 ownership interest in a Utah small business corporation.

1990 Section 33. Section **59-10-1023** is amended to read:

1991 **59-10-1023. Nonrefundable tax credit for amounts paid under a health benefit**
1992 **plan.**

1993 (1) As used in this section:

1994 (a) "Claimant with dependents" means a claimant:

1995 (i) regardless of the claimant's filing status for purposes of filing a federal individual
1996 income tax return for the taxable year; and

1997 (ii) who claims [~~one or more dependents under Section 151~~] a tax credit under Section
1998 24, Internal Revenue Code, [~~as allowed~~] on the claimant's federal individual income tax return
1999 for the taxable year.

2000 (b) "Eligible insured individual" means:

2001 (i) the claimant who is insured under a health benefit plan;

2002 (ii) the spouse of the claimant described in Subsection (1)(b)(i) if:

2003 (A) the claimant files [~~a single~~] one return jointly under this chapter with the claimant's
2004 spouse for the taxable year; and

2005 (B) the spouse is insured under the health benefit plan described in Subsection
2006 (1)(b)(i); or

2007 (iii) a dependent of the claimant described in Subsection (1)(b)(i) if:

2008 (A) the claimant claims the dependent under Section 151, Internal Revenue Code, as
2009 allowed on the claimant's federal individual income tax return for the taxable year; and

2010 (B) the dependent is insured under the health benefit plan described in Subsection
2011 (1)(b)(i).

2012 (c) "Excluded expenses" means an amount a claimant pays for insurance offered under
2013 a health benefit plan for a taxable year if:

2014 (i) the claimant claims a tax credit for that amount under Section 35, Internal Revenue
2015 Code:

2016 (A) on the claimant's federal individual income tax return for the taxable year; and
2017 (B) with respect to an eligible insured individual;

2018 (ii) the claimant deducts that amount under Section 162 or 213, Internal Revenue
2019 Code:

2020 (A) on the claimant's federal individual income tax return for the taxable year; and
2021 (B) with respect to an eligible insured individual; or
2022 (iii) the claimant excludes that amount from gross income under Section 106 or 125,
2023 Internal Revenue Code, with respect to an eligible insured individual.

2024 (d) (i) "Health benefit plan" is as defined in Section [31A-1-301](#).
2025 (ii) "Health benefit plan" does not include equivalent self-insurance as defined by the
2026 Insurance Department by rule made in accordance with Title 63G, Chapter 3, Utah
2027 Administrative Rulemaking Act.

2028 (e) "Joint claimant with no dependents" means [~~a husband and wife~~] spouses who:
2029 (i) file [~~a single~~] one return jointly under this chapter for the taxable year; and
2030 (ii) do not claim a dependent under Section 151, Internal Revenue Code, on the
2031 [~~husband's and wife's~~] spouses' federal individual income tax return for the taxable year.

2032 (f) "Single claimant with no dependents" means:

2033 (i) a single individual who:

2034 (A) files a single federal individual income tax return for the taxable year; and
2035 (B) does not claim a dependent under Section 151, Internal Revenue Code, on the
2036 single individual's federal individual income tax return for the taxable year;

2037 (ii) a head of household:

2038 (A) as defined in Section 2(b), Internal Revenue Code, who files a single federal
2039 individual income tax return for the taxable year; and
2040 (B) who does not claim a dependent under Section 151, Internal Revenue Code, on the

- 2041 head of household's federal individual income tax return for the taxable year; or
- 2042 (iii) a married individual who:
- 2043 (A) does not file a single federal individual income tax return jointly with that married
- 2044 individual's spouse for the taxable year; and
- 2045 (B) does not claim a dependent under Section 151, Internal Revenue Code, on that
- 2046 married individual's federal individual income tax return for the taxable year.
- 2047 (2) Subject to Subsection (3), and except as provided in Subsection (4), [~~for taxable~~
- 2048 ~~years beginning on or after January 1, 2009,~~] a claimant may claim a nonrefundable tax credit
- 2049 equal to the product of:
- 2050 (a) the difference between:
- 2051 (i) the total amount the claimant pays during the taxable year for:
- 2052 (A) insurance offered under a health benefit plan; and
- 2053 (B) an eligible insured individual; and
- 2054 (ii) excluded expenses; and
- 2055 (b) [~~5%~~] the percentage listed in Subsection 59-10-104(2).
- 2056 (3) The maximum amount of a tax credit described in Subsection (2) a claimant may
- 2057 claim on a return for a taxable year is:
- 2058 (a) for a single claimant with no dependents, \$300;
- 2059 (b) for a joint claimant with no dependents, \$600; or
- 2060 (c) for a claimant with dependents, \$900.
- 2061 (4) A claimant may not claim a tax credit under this section if the claimant is eligible to
- 2062 participate in insurance offered under a health benefit plan maintained and funded in whole or
- 2063 in part by:
- 2064 (a) the claimant's employer; or
- 2065 (b) another person's employer.
- 2066 (5) A claimant may not carry forward or carry back a tax credit under this section.
- 2067 Section 34. Section **59-10-1028** is amended to read:
- 2068 **59-10-1028. Nonrefundable tax credit for capital gain transactions on the**
- 2069 **exchange of one form of legal tender for another form of legal tender.**
- 2070 (1) As used in this section:
- 2071 (a) "Capital gain transaction" means a transaction that results in a:

- 2072 (i) short-term capital gain; or
2073 (ii) long-term capital gain.
- 2074 (b) "Long-term capital gain" [~~is as defined~~] means the same as that term is defined in
2075 Section 1222, Internal Revenue Code.
- 2076 (c) "Long-term capital loss" [~~is as defined~~] means the same as that term is defined in
2077 Section 1222, Internal Revenue Code.
- 2078 (d) "Net capital gain" means the amount by which the sum of long-term capital gains
2079 and short-term capital gains on a claimant's, estate's, or trust's transactions from exchanges
2080 made for a taxable year of one form of legal tender for another form of legal tender exceeds the
2081 sum of long-term capital losses and short-term capital losses on those transactions for that
2082 taxable year.
- 2083 (e) "Short-term capital loss" [~~is as defined~~] means the same as that term is defined in
2084 Section 1222, Internal Revenue Code.
- 2085 (f) "Short-term capital gain" [~~is as defined~~] means the same as that term is defined in
2086 Section 1222, Internal Revenue Code.
- 2087 (2) Except as provided in Section [59-10-1002.2](#), [~~for taxable years beginning on or~~
2088 ~~after January 1, 2012,~~] a claimant, estate, or trust may claim a nonrefundable tax credit equal to
2089 the product of:
- 2090 (a) to the extent a net capital gain is included in taxable income, the amount of the
2091 claimant's, estate's, or trust's net capital gain on capital gain transactions from exchanges made
2092 on or after January 1, 2012, for a taxable year, of one form of legal tender for another form of
2093 legal tender; and
- 2094 (b) [~~5%~~] the percentage listed in Subsection [59-10-104\(2\)](#).
- 2095 (3) A claimant, estate, or trust may not carry forward or carry back a tax credit under
2096 this section.
- 2097 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2098 commission may make rules to implement this section.
- 2099 Section 35. Section **59-10-1033** is amended to read:
- 2100 **59-10-1033. Tax credit related to alternative fuel heavy duty vehicles.**
- 2101 (1) As used in this section:
- 2102 (a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air

2103 Conservation Act.

2104 (b) "Director" means the director of the Division of Air Quality appointed under
2105 Section 19-2-107.

2106 (c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to
2107 vehicle classifications established by the Federal Highway Administration.

2108 (d) "Natural gas" includes compressed natural gas and liquified natural gas.

2109 (e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

2110 (i) has never been titled or registered and has been driven less than 7,500 miles; and

2111 (ii) is fueled by natural gas, has a 100% electric drivetrain, or has a hydrogen-electric
2112 drivetrain.

2113 (f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

2114 (g) "Qualified taxpayer" means a claimant, estate, or trust that:

2115 (i) purchases a qualified heavy duty vehicle; and

2116 (ii) receives a tax credit certificate from the director.

2117 (h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and
2118 owned by a single claimant, estate, or trust.

2119 (i) "Tax credit certificate" means a certificate issued by the director certifying that a
2120 claimant, estate, or trust is entitled to a tax credit as provided in this section and stating the
2121 amount of the tax credit.

2122 (2) A qualified taxpayer may claim a nonrefundable tax credit against tax otherwise
2123 due under this chapter:

2124 (a) in an amount equal to:

2125 (i) \$25,000, if the qualified purchase of a natural gas heavy duty vehicle occurs during
2126 calendar year 2015 or calendar year 2016;

2127 (ii) \$25,000, if the qualified purchase occurs during calendar year 2017;

2128 (iii) \$20,000, if the qualified purchase occurs during calendar year 2018;

2129 (iv) \$18,000, if the qualified purchase occurs during calendar year 2019; and

2130 (v) \$15,000, if the qualified purchase occurs during calendar year 2020; and

2131 (b) if the qualified taxpayer certifies under oath that over 50% of the miles that the
2132 heavy duty vehicle that is the subject of the qualified purchase will travel annually will be
2133 within the state.

2134 (3) (a) Except as provided in Subsection (3)(b), a claimant, estate, or trust may not
2135 submit an application for, and the director may not issue to the claimant, estate, or trust, a tax
2136 credit certificate under this section in any taxable year for a qualified purchase if the director
2137 has already issued tax credit certificates to the claimant, estate, or trust for 10 qualified
2138 purchases in the same taxable year.

2139 (b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of
2140 tax credits under Subsection (5) has not been claimed, a claimant, estate, or trust may submit
2141 an application for, and the director may issue to the claimant, estate, or trust, one or more tax
2142 credit certificates for up to eight additional qualified purchases, even if the director has already
2143 issued to that claimant, estate, or trust tax credit certificates for the maximum number of
2144 qualified purchases allowed under Subsection (3)(a).

2145 (4) (a) Subject to Subsection (4)(b), the director shall reserve 25% of all tax credits
2146 available under this section for qualified taxpayers with a small fleet.

2147 (b) Subsection (4)(a) does not prevent a claimant, estate, or trust from submitting an
2148 application for, or the director from issuing, a tax credit certificate if, before October 1,
2149 qualified taxpayers with a small fleet have not reserved under Subsection (5)(b) tax credits for
2150 the full amount reserved under Subsection (4)(a).

2151 (5) (a) The aggregate annual total amount of tax credits represented by tax credit
2152 certificates that the director issues under this section and Section 59-7-618 may not exceed
2153 \$500,000.

2154 (b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative
2155 Rulemaking Act, make rules to establish a process under which a claimant, estate, or trust may
2156 reserve a potential tax credit under this section for a limited time to allow the claimant, estate,
2157 or trust to make a qualified purchase with the assurance that the aggregate limit under
2158 Subsection (5)(a) will not be met before the claimant, estate, or trust is able to submit an
2159 application for a tax credit certificate.

2160 (6) (a) (i) A claimant, estate, or trust wishing to claim a tax credit under this section
2161 shall, using forms the board requires by rule:

2162 (A) submit to the director an application for a tax credit;

2163 (B) provide the director proof of a qualified purchase; and

2164 (C) submit to the director the certification under oath required under Subsection (2)(b).

2165 (ii) Upon receiving the application, proof, and certification required under Subsection
2166 (6)(a)(i), the director shall provide the claimant, estate, or trust a written statement from the
2167 director acknowledging receipt of the proof.

2168 (b) If the director determines that a claimant, estate, or trust qualifies for a tax credit
2169 under this section, the director shall:

2170 (i) determine the amount of tax credit the claimant, estate, or trust is allowed under this
2171 section; and

2172 (ii) provide the claimant, estate, or trust with a written tax credit certificate:

2173 (A) stating that the claimant, estate, or trust has qualified for a tax credit; and

2174 (B) showing the amount of tax credit for which the claimant, estate, or trust has
2175 qualified under this section.

2176 (c) A qualified taxpayer shall retain the tax credit certificate.

2177 (d) The director shall at least annually submit to the commission a list of all qualified
2178 taxpayers to which the director has issued a tax credit certificate and the amount of each tax
2179 credit represented by the tax credit certificates.

2180 (7) The tax credit under this section is allowed only:

2181 (a) against a tax owed under this chapter in the taxable year by the qualified taxpayer;

2182 (b) for the taxable year in which the qualified purchase occurs; and

2183 (c) once per vehicle.

2184 (8) A qualified taxpayer may not assign a tax credit or a tax credit certificate under this
2185 section to another person.

2186 (9) If the qualified taxpayer receives a tax credit certificate under this section that
2187 allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this
2188 chapter for a taxable year, the qualified taxpayer may carry forward the amount of the tax credit
2189 that exceeds the tax liability for a period that does not exceed the next five taxable years.

2190 ~~[(10)(a) In accordance with any rules prescribed by the commission under Subsection~~
2191 ~~(10)(b), the Division of Finance shall transfer at least annually from the General Fund into the~~
2192 ~~Education Fund the aggregate amount of all tax credits claimed under this section.]~~

2193 ~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
2194 ~~the commission may make rules for making a transfer from the General Fund into the~~
2195 ~~Education Fund as required by Subsection (10)(a).]~~

2196 Section 36. Section **59-10-1035** is amended to read:

2197 **59-10-1035. Nonrefundable tax credit for contribution to state Achieving a Better**
2198 **Life Experience Program account.**

2199 (1) As used in this section:

2200 (a) "Account" means an account in a qualified ABLE program where the designated
2201 beneficiary of the account is a resident of this state.

2202 (b) "Contributor" means a claimant, estate, or trust that:

2203 (i) makes a contribution to an account; and

2204 (ii) receives a statement from the qualified ABLE program itemizing the contribution.

2205 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.
2206 529A.

2207 (d) "Qualified ABLE program" means the same as that term is defined in Section
2208 [35A-12-102](#).

2209 (2) A contributor to an account may claim a nonrefundable tax credit as provided in
2210 this section.

2211 (3) Subject to the other provisions of this section, the tax credit is equal to the product
2212 of:

2213 (a) [~~5%~~] the percentage listed in Subsection [59-10-104\(2\)](#); and

2214 (b) the total amount of contributions:

2215 (i) the contributor makes for the taxable year; and

2216 (ii) for which the contributor receives a statement from the qualified ABLE program
2217 itemizing the contributions.

2218 (4) A contributor may not claim a tax credit under this section:

2219 (a) for an amount of excess contribution to an account that is returned to the
2220 contributor; or

2221 (b) with respect to an amount the contributor deducts on a federal income tax return.

2222 (5) A tax credit under this section may not be carried forward or carried back.

2223 Section 37. Section **59-10-1036** is amended to read:

2224 **59-10-1036. Nonrefundable tax credit for military survivor benefits.**

2225 (1) As used in this section:

2226 (a) "Dependent child" means the same as that term is defined in 10 U.S.C. Sec. 1447.

2227 (b) "Reserve components" means the same as that term is described in 10 U.S.C. Sec.
2228 10101.

2229 (c) "Surviving spouse" means the same as that term is defined in 10 U.S.C. Sec. 1447.

2230 (d) "Survivor benefits" means the amount paid by the federal government in
2231 accordance with 10 U.S.C. Secs. 1447 through 1455.

2232 (2) A surviving spouse or dependent child may claim a nonrefundable tax credit for
2233 survivor benefits if the benefits are paid due to:

2234 (a) the death of a member of the armed forces or reserve components while on active
2235 duty; or

2236 (b) the death of a member of the reserve components that results from a
2237 service-connected cause while performing inactive duty training.

2238 (3) The tax credit described in Subsection (2) is equal to the product of:

2239 (a) the amount of survivor benefits that the surviving spouse or dependent child
2240 received during the taxable year; and

2241 (b) ~~5%~~ the percentage listed in Subsection 59-10-104(2).

2242 (4) The tax credit described in Subsection (2):

2243 (a) may not be carried forward or carried back; and

2244 (b) applies to a taxable year beginning on or after January 1, 2017.

2245 Section 38. Section **59-10-1041** is enacted to read:

2246 **59-10-1041. Nonrefundable tax credit for social security benefits.**

2247 (1) As used in this section:

2248 (a) "Head of household filing status" means the same as that term is defined in Section
2249 59-10-1018.

2250 (b) "Joint filing status" means:

2251 (i) spouses who file one return jointly under this chapter for a taxable year; or

2252 (ii) a surviving spouse, as defined in Section (2)(a), Internal Revenue Code, who files a
2253 single federal individual income tax return for the taxable year.

2254 (c) "Married filing separately status" means a married individual who:

2255 (i) does not file a single federal individual income tax return jointly with that married
2256 individual's spouse for the taxable year; and

2257 (ii) files a single federal individual income tax return for the taxable year.

2258 (d) "Modified adjusted gross income" means the sum of a claimant's:
2259 (i) adjusted gross income for the taxable year for which a tax credit is claimed under
2260 this section;
2261 (ii) any interest income that is not included in adjusted gross income for the taxable
2262 year described in Subsection (1)(d)(i); and
2263 (iii) any addition to adjusted gross income required by Section 59-10-114 for the
2264 taxable year described in Subsection (1)(d)(i).
2265 (e) "Single filing status" means a single individual who files a single federal individual
2266 income tax return for the taxable year.
2267 (f) "Social security benefit" means an amount received by a claimant as a monthly
2268 benefit in accordance with the Social Security Act, 42 U.S.C. Sec. 401 et seq.
2269 (2) Except as provided in Section 59-10-1002.2 and Subsections (3) and (4), a claimant
2270 may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the
2271 product of:
2272 (a) the percentage listed in Subsection 59-10-104(2); and
2273 (b) the claimant's social security benefit that is included in adjusted gross income on
2274 the claimant's federal income tax return for the taxable year.
2275 (3) A claimant may not:
2276 (a) carry forward or carry back a tax credit under this section; or
2277 (b) claim a tax credit under this section if a tax credit is claimed under Section
2278 59-10-1019 on the same return.
2279 (4) The tax credit allowed by Subsection (2) claimed on a return filed under this part
2280 shall be reduced by \$.025 for each dollar by which modified adjusted gross income for
2281 purposes of the return exceeds:
2282 (a) for a return that has a married filing separately status, \$24,000;
2283 (b) for a return that has a single filing status, \$30,000;
2284 (c) for a return that has a head of household filing status, \$48,000; or
2285 (d) for a return that has a joint filing status, \$48,000.
2286 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2287 commission may make rules governing the calculation and method for claiming a tax credit
2288 described in this section.

2289 Section 39. Section **59-10-1102.1** is enacted to read:

2290 **59-10-1102.1. Apportionment of tax credit.**

2291 A nonresident individual or a part-year resident individual who claims the tax credit
2292 described in Section [59-10-1114](#) may only claim an apportioned amount of the tax credit equal
2293 to the product of:

2294 (1) the state income tax percentage for the nonresident individual or the state income
2295 tax percentage for the part-year resident individual; and

2296 (2) the amount of the tax credit that the nonresident individual or the part-year resident
2297 individual would have been allowed to claim but for the apportionment requirement of this
2298 section.

2299 Section 40. Section **59-10-1105** is amended to read:

2300 **59-10-1105. Tax credit for hand tools used in farming operations -- Procedures**
2301 **for refund -- Transfers from General Fund to Education Fund -- Rulemaking authority.**

2302 (1) [~~For a taxable year beginning on or after January 1, 2004, a~~] A claimant, estate, or
2303 trust may claim a refundable tax credit:

2304 (a) as provided in this section;

2305 (b) against taxes otherwise due under this chapter; and

2306 (c) in an amount equal to the amount of tax the claimant, estate, or trust pays:

2307 (i) on a purchase of a hand tool:

2308 (A) if the purchase is made on or after July 1, 2004;

2309 (B) if the hand tool is used or consumed primarily and directly in a farming operation
2310 in the state; and

2311 (C) if the unit purchase price of the hand tool is more than \$250; and

2312 (ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection

2313 (1)(c)(i).

2314 (2) A claimant, estate, or trust:

2315 (a) shall retain the following to establish the amount of tax the claimant, estate, or trust
2316 paid under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection

2317 (1)(c)(i):

2318 (i) a receipt;

2319 (ii) an invoice; or

2320 (iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and

2321 (b) may not carry forward or carry back a tax credit under this section.

2322 (3) (a) In accordance with any rules prescribed by the commission under Subsection

2323 (3)(b)~~[(i)]~~, the commission shall make a refund to a claimant, estate, or trust that claims a tax
2324 credit under this section if the amount of the tax credit exceeds the claimant's, estate's, or trust's
2325 tax liability under this chapter~~[, and]~~.

2326 ~~[(ii) the Division of Finance shall transfer at least annually from the General Fund into
2327 the Education Fund an amount equal to the aggregate amount of all tax credits claimed under
2328 this section.]~~

2329 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2330 commission may make rules providing procedures for making~~[(i)]~~ a refund to a claimant,
2331 estate, or trust as required by Subsection (3)(a)~~[(i); or]~~.

2332 ~~[(ii) transfers from the General Fund into the Education Fund as required by
2333 Subsection (3)(a)(ii).]~~

2334 Section 41. Section **59-10-1114** is enacted to read:

2335 **59-10-1114. Refundable state earned income tax credit.**

2336 (1) As used in this section:

2337 (a) "Department" means the Department of Workforce Services created in Section
2338 [35A-1-103](#).

2339 (b) "Federal earned income tax credit" means the federal earned income tax credit
2340 described in Section 32, Internal Revenue Code.

2341 (c) "Qualifying claimant" means a resident individual or nonresident individual who:

2342 (i) is identified by the department as experiencing intergenerational poverty in
2343 accordance with Section [35A-9-214](#); and

2344 (ii) claimed the federal earned income tax credit for the previous taxable year.

2345 (2) Except as provided in Section [59-10-1102.1](#), a qualifying claimant may claim a
2346 refundable earned income tax credit equal to 10% of the amount of the federal earned income
2347 tax credit that the qualifying claimant was entitled to claim on a federal income tax return in
2348 the previous taxable year.

2349 (3) (a) The commission shall use the electronic report described in Section [35A-9-214](#)
2350 to verify that a qualifying claimant is identified as experiencing intergenerational poverty.

2351 (b) The commission may not use the electronic report described in Section [35A-9-214](#)
2352 for any other purpose.

2353 Section 42. Section **59-10-1403.3** is amended to read:

2354 **59-10-1403.3. Refund of amounts paid or withheld for a pass-through entity.**

2355 (1) As used in this section:

2356 (a) "Committee" means the Revenue and Taxation Interim Committee.

2357 (b) "Qualifying excess withholding" means an amount that:

2358 (i) is paid or withheld:

2359 (A) by a pass-through entity that has a different taxable year than the pass-through
2360 entity that requests a refund under this section; and

2361 (B) on behalf of the pass-through entity that requests the refund, if the pass-through
2362 entity that requests the refund also is a pass-through entity taxpayer; and

2363 (ii) is equal to the difference between:

2364 (A) the amount paid or withheld for the taxable year on behalf of the pass-through
2365 entity that requests the refund; and

2366 (B) the product of [~~5%~~] the percentage listed in Subsection [59-10-104\(2\)](#) and the
2367 income, described in Subsection [59-10-1403.2\(1\)\(a\)\(i\)](#), of the pass-through entity that requests
2368 the refund.

2369 (2) [~~For a taxable year ending on or after July 1, 2017, a~~] A pass-through entity may
2370 claim a refund of qualifying excess withholding, if the amount of the qualifying excess
2371 withholding is equal to or greater than \$250,000.

2372 (3) A pass-through entity that requests a refund of qualifying excess withholding under
2373 this section shall:

2374 (a) apply to the commission for a refund on or, subject to Subsection (4), after the day
2375 on which the pass-through entity files the pass-through entity's income tax return; and

2376 (b) provide any information that the commission may require to determine that the
2377 pass-through entity is eligible to receive the refund.

2378 (4) A pass-through entity shall claim a refund of qualifying excess withholding under
2379 this section within 30 days after the earlier of the day on which:

2380 (a) the pass-through entity files an income tax return; or

2381 (b) the pass-through entity's income tax return is due, including any extension of due

2382 date authorized in statute.

2383 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2384 commission may make rules establishing the information that a pass-through entity shall
2385 provide to the commission to obtain a refund of qualifying excess withholding under this
2386 section.

2387 ~~[(6)(a) On or before November 30, 2018, the committee shall review the \$250,000~~
2388 ~~threshold described in Subsection (2) for the purpose of assessing whether the threshold~~
2389 ~~amount should be maintained, increased, or decreased.]~~

2390 ~~[(b) To assist the committee in conducting the review described in Subsection (6)(a),~~
2391 ~~the commission shall provide the committee with:]~~

2392 ~~[(i) the total number of refund requests made under this section;]~~

2393 ~~[(ii) the total costs of any refunds issued under this section;]~~

2394 ~~[(iii) the costs of any audits conducted on refund requests made under this section; and]~~

2395 ~~[(iv) an estimation of:]~~

2396 ~~[(A) the number of refund requests the commission expects to receive if the Legislature~~
2397 ~~increases the threshold;]~~

2398 ~~[(B) the number of refund requests the commission expects to receive if the Legislature~~
2399 ~~decreases the threshold; and]~~

2400 ~~[(C) the costs of any audits the commission would conduct if the Legislature increases~~
2401 ~~or decreases the threshold.]~~

2402 Section 43. Section **59-12-102** is amended to read:

2403 **59-12-102. Definitions.**

2404 As used in this chapter:

2405 (1) "800 service" means a telecommunications service that:

2406 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

2407 (b) is typically marketed:

2408 (i) under the name 800 toll-free calling;

2409 (ii) under the name 855 toll-free calling;

2410 (iii) under the name 866 toll-free calling;

2411 (iv) under the name 877 toll-free calling;

2412 (v) under the name 888 toll-free calling; or

2413 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
2414 Federal Communications Commission.

2415 (2) (a) "900 service" means an inbound toll telecommunications service that:
2416 (i) a subscriber purchases;
2417 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
2418 the subscriber's:
2419 (A) prerecorded announcement; or
2420 (B) live service; and
2421 (iii) is typically marketed:
2422 (A) under the name 900 service; or
2423 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
2424 Communications Commission.

2425 (b) "900 service" does not include a charge for:
2426 (i) a collection service a seller of a telecommunications service provides to a
2427 subscriber; or
2428 (ii) the following a subscriber sells to the subscriber's customer:
2429 (A) a product; or
2430 (B) a service.

2431 (3) (a) "Admission or user fees" includes season passes.
2432 (b) "Admission or user fees" does not include annual membership dues to private
2433 organizations.

2434 (4) "Affiliate" or "affiliated person" means a person that, with respect to another
2435 person:
2436 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
2437 person; or
2438 (b) is related to the other person because a third person, or a group of third persons who
2439 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,
2440 whether direct or indirect, in the related persons.

2441 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
2442 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
2443 Agreement after November 12, 2002.

- 2444 (6) "Agreement combined tax rate" means the sum of the tax rates:
- 2445 (a) listed under Subsection (7); and
- 2446 (b) that are imposed within a local taxing jurisdiction.
- 2447 (7) "Agreement sales and use tax" means a tax imposed under:
- 2448 (a) Subsection [59-12-103\(2\)\(a\)\(i\)\(A\)](#);
- 2449 (b) Subsection [59-12-103\(2\)\(b\)\(i\)](#);
- 2450 (c) Subsection [59-12-103\(2\)\(c\)\(i\)](#);
- 2451 (d) Subsection [59-12-103\(2\)\(d\)\(i\)\(A\)\(I\)](#);
- 2452 (e) Section [59-12-204](#);
- 2453 (f) Section [59-12-401](#);
- 2454 (g) Section [59-12-402](#);
- 2455 (h) Section [59-12-402.1](#);
- 2456 (i) Section [59-12-703](#);
- 2457 (j) Section [59-12-802](#);
- 2458 (k) Section [59-12-804](#);
- 2459 (l) Section [59-12-1102](#);
- 2460 (m) Section [59-12-1302](#);
- 2461 (n) Section [59-12-1402](#);
- 2462 (o) Section [59-12-1802](#);
- 2463 (p) Section [59-12-2003](#);
- 2464 (q) Section [59-12-2103](#);
- 2465 (r) Section [59-12-2213](#);
- 2466 (s) Section [59-12-2214](#);
- 2467 (t) Section [59-12-2215](#);
- 2468 (u) Section [59-12-2216](#);
- 2469 (v) Section [59-12-2217](#);
- 2470 (w) Section [59-12-2218](#);
- 2471 (x) Section [59-12-2219](#); or
- 2472 (y) Section [59-12-2220](#).
- 2473 (8) "Aircraft" means the same as that term is defined in Section [72-10-102](#).
- 2474 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

- 2475 (a) except for:
- 2476 (i) an airline as defined in Section 59-2-102; or
- 2477 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 2478 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 2479 state, of an airline; and
- 2480 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 2481 whether the business entity performs the following in this state:
- 2482 (i) check, diagnose, overhaul, and repair:
- 2483 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 2484 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 2485 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 2486 engine;
- 2487 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 2488 aircraft:
- 2489 (A) an inspection;
- 2490 (B) a repair, including a structural repair or modification;
- 2491 (C) changing landing gear; and
- 2492 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 2493 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 2494 completely apply new paint to the fixed wing turbine powered aircraft; and
- 2495 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 2496 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 2497 authority that certifies the fixed wing turbine powered aircraft.
- 2498 (10) "Alcoholic beverage" means a beverage that:
- 2499 (a) is suitable for human consumption; and
- 2500 (b) contains .5% or more alcohol by volume.
- 2501 (11) "Alternative energy" means:
- 2502 (a) biomass energy;
- 2503 (b) geothermal energy;
- 2504 (c) hydroelectric energy;
- 2505 (d) solar energy;

- 2506 (e) wind energy; or
- 2507 (f) energy that is derived from:
 - 2508 (i) coal-to-liquids;
 - 2509 (ii) nuclear fuel;
 - 2510 (iii) oil-impregnated diatomaceous earth;
 - 2511 (iv) oil sands;
 - 2512 (v) oil shale;
 - 2513 (vi) petroleum coke; or
 - 2514 (vii) waste heat from:
 - 2515 (A) an industrial facility; or
 - 2516 (B) a power station in which an electric generator is driven through a process in which
 - 2517 water is heated, turns into steam, and spins a steam turbine.
- 2518 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production
- 2519 facility" means a facility that:
 - 2520 (i) uses alternative energy to produce electricity; and
 - 2521 (ii) has a production capacity of two megawatts or greater.
- 2522 (b) A facility is an alternative energy electricity production facility regardless of
- 2523 whether the facility is:
 - 2524 (i) connected to an electric grid; or
 - 2525 (ii) located on the premises of an electricity consumer.
- 2526 (13) (a) "Ancillary service" means a service associated with, or incidental to, the
- 2527 provision of telecommunications service.
 - 2528 (b) "Ancillary service" includes:
 - 2529 (i) a conference bridging service;
 - 2530 (ii) a detailed communications billing service;
 - 2531 (iii) directory assistance;
 - 2532 (iv) a vertical service; or
 - 2533 (v) a voice mail service.
- 2534 (14) "Area agency on aging" means the same as that term is defined in Section
- 2535 [62A-3-101](#).
- 2536 ~~[(15) "Assisted amusement device" means an amusement device, skill device, or ride~~

2537 ~~device that is started and stopped by an individual:]~~

2538 ~~[(a) who is not the purchaser or renter of the right to use or operate the amusement~~
2539 ~~device, skill device, or ride device; and]~~

2540 ~~[(b) at the direction of the seller of the right to use the amusement device, skill device,~~
2541 ~~or ride device.]~~

2542 ~~[(16)]~~ (15) "Assisted cleaning or washing of tangible personal property" means
2543 cleaning or washing of tangible personal property if the cleaning or washing labor is primarily
2544 performed by an individual:

2545 (a) who is not the purchaser of the cleaning or washing of the tangible personal
2546 property; and

2547 (b) at the direction of the seller of the cleaning or washing of the tangible personal
2548 property.

2549 ~~[(17)]~~ (16) "Authorized carrier" means:

2550 (a) in the case of vehicles operated over public highways, the holder of credentials
2551 indicating that the vehicle is or will be operated pursuant to both the International Registration
2552 Plan and the International Fuel Tax Agreement;

2553 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
2554 certificate or air carrier's operating certificate; or

2555 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
2556 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
2557 stock in more than one state.

2558 ~~[(18)]~~ (17) (a) Except as provided in Subsection ~~[(18)]~~ (17)(b), "biomass energy"
2559 means any of the following that is used as the primary source of energy to produce fuel or
2560 electricity:

2561 (i) material from a plant or tree; or

2562 (ii) other organic matter that is available on a renewable basis, including:

2563 (A) slash and brush from forests and woodlands;

2564 (B) animal waste;

2565 (C) waste vegetable oil;

2566 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
2567 wastewater residuals, or through the conversion of a waste material through a nonincineration,

2568 thermal conversion process;

2569 (E) aquatic plants; and

2570 (F) agricultural products.

2571 (b) "Biomass energy" does not include:

2572 (i) black liquor; or

2573 (ii) treated woods.

2574 [~~(19)~~] (18) (a) "Bundled transaction" means the sale of two or more items of tangible

2575 personal property, products, or services if the tangible personal property, products, or services

2576 are:

2577 (i) distinct and identifiable; and

2578 (ii) sold for one nonitemized price.

2579 (b) "Bundled transaction" does not include:

2580 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on

2581 the basis of the selection by the purchaser of the items of tangible personal property included in

2582 the transaction;

2583 (ii) the sale of real property;

2584 (iii) the sale of services to real property;

2585 (iv) the retail sale of tangible personal property and a service if:

2586 (A) the tangible personal property:

2587 (I) is essential to the use of the service; and

2588 (II) is provided exclusively in connection with the service; and

2589 (B) the service is the true object of the transaction;

2590 (v) the retail sale of two services if:

2591 (A) one service is provided that is essential to the use or receipt of a second service;

2592 (B) the first service is provided exclusively in connection with the second service; and

2593 (C) the second service is the true object of the transaction;

2594 (vi) a transaction that includes tangible personal property or a product subject to

2595 taxation under this chapter and tangible personal property or a product that is not subject to

2596 taxation under this chapter if the:

2597 (A) seller's purchase price of the tangible personal property or product subject to

2598 taxation under this chapter is de minimis; or

2599 (B) seller's sales price of the tangible personal property or product subject to taxation
2600 under this chapter is de minimis; and

2601 (vii) the retail sale of tangible personal property that is not subject to taxation under
2602 this chapter and tangible personal property that is subject to taxation under this chapter if:

2603 (A) that retail sale includes:

2604 (I) food and food ingredients;

2605 (II) a drug;

2606 (III) durable medical equipment;

2607 (IV) mobility enhancing equipment;

2608 (V) an over-the-counter drug;

2609 (VI) a prosthetic device; or

2610 (VII) a medical supply; and

2611 (B) subject to Subsection [~~(19)~~] (18)(f):

2612 (I) the seller's purchase price of the tangible personal property subject to taxation under
2613 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

2614 (II) the seller's sales price of the tangible personal property subject to taxation under
2615 this chapter is 50% or less of the seller's total sales price of that retail sale.

2616 (c) (i) For purposes of Subsection [~~(19)~~] (18)(a)(i), tangible personal property, a
2617 product, or a service that is distinct and identifiable does not include:

2618 (A) packaging that:

2619 (I) accompanies the sale of the tangible personal property, product, or service; and

2620 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
2621 service;

2622 (B) tangible personal property, a product, or a service provided free of charge with the
2623 purchase of another item of tangible personal property, a product, or a service; or

2624 (C) an item of tangible personal property, a product, or a service included in the
2625 definition of "purchase price."

2626 (ii) For purposes of Subsection [~~(19)~~] (18)(c)(i)(B), an item of tangible personal
2627 property, a product, or a service is provided free of charge with the purchase of another item of
2628 tangible personal property, a product, or a service if the sales price of the purchased item of
2629 tangible personal property, product, or service does not vary depending on the inclusion of the

2630 tangible personal property, product, or service provided free of charge.

2631 (d) (i) For purposes of Subsection [~~(19)~~] (18)(a)(ii), property sold for one nonitemized
2632 price does not include a price that is separately identified by tangible personal property,
2633 product, or service on the following, regardless of whether the following is in paper format or
2634 electronic format:

2635 (A) a binding sales document; or

2636 (B) another supporting sales-related document that is available to a purchaser.

2637 (ii) For purposes of Subsection [~~(19)~~] (18)(d)(i), a binding sales document or another
2638 supporting sales-related document that is available to a purchaser includes:

2639 (A) a bill of sale;

2640 (B) a contract;

2641 (C) an invoice;

2642 (D) a lease agreement;

2643 (E) a periodic notice of rates and services;

2644 (F) a price list;

2645 (G) a rate card;

2646 (H) a receipt; or

2647 (I) a service agreement.

2648 (e) (i) For purposes of Subsection [~~(19)~~] (18)(b)(vi), the sales price of tangible personal
2649 property or a product subject to taxation under this chapter is de minimis if:

2650 (A) the seller's purchase price of the tangible personal property or product is 10% or
2651 less of the seller's total purchase price of the bundled transaction; or

2652 (B) the seller's sales price of the tangible personal property or product is 10% or less of
2653 the seller's total sales price of the bundled transaction.

2654 (ii) For purposes of Subsection [~~(19)~~] (18)(b)(vi), a seller:

2655 (A) shall use the seller's purchase price or the seller's sales price to determine if the
2656 purchase price or sales price of the tangible personal property or product subject to taxation
2657 under this chapter is de minimis; and

2658 (B) may not use a combination of the seller's purchase price and the seller's sales price
2659 to determine if the purchase price or sales price of the tangible personal property or product
2660 subject to taxation under this chapter is de minimis.

2661 (iii) For purposes of Subsection [~~(19)~~] (18)(b)(vi), a seller shall use the full term of a
2662 service contract to determine if the sales price of tangible personal property or a product is de
2663 minimis.

2664 (f) For purposes of Subsection [~~(19)~~] (18)(b)(vii)(B), a seller may not use a
2665 combination of the seller's purchase price and the seller's sales price to determine if tangible
2666 personal property subject to taxation under this chapter is 50% or less of the seller's total
2667 purchase price or sales price of that retail sale.

2668 [~~(20)~~] (19) "Certified automated system" means software certified by the governing
2669 board of the agreement that:

2670 (a) calculates the agreement sales and use tax imposed within a local taxing
2671 jurisdiction:

2672 (i) on a transaction; and

2673 (ii) in the states that are members of the agreement;

2674 (b) determines the amount of agreement sales and use tax to remit to a state that is a
2675 member of the agreement; and

2676 (c) maintains a record of the transaction described in Subsection [~~(20)~~] (19)(a)(i).

2677 [~~(21)~~] (20) "Certified service provider" means an agent certified:

2678 (a) by the governing board of the agreement; and

2679 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax,
2680 as outlined in the contract between the governing board of the agreement and the certified
2681 service provider, other than the seller's obligation under Section [59-12-124](#) to remit a tax on the
2682 seller's own purchases.

2683 [~~(22)~~] (21) (a) Subject to Subsection [~~(22)~~] (21)(b), "clothing" means all human
2684 wearing apparel suitable for general use.

2685 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2686 commission shall make rules:

2687 (i) listing the items that constitute "clothing"; and

2688 (ii) that are consistent with the list of items that constitute "clothing" under the
2689 agreement.

2690 [~~(23)~~] (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic
2691 fuel.

2692 [~~(24)~~] (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or
2693 other fuels that does not constitute industrial use under Subsection (57) or residential use under
2694 Subsection [~~(111)~~] (115).

2695 [~~(25)~~] (24) (a) "Common carrier" means a person engaged in or transacting the
2696 business of transporting passengers, freight, merchandise, or other property for hire within this
2697 state.

2698 (b) (i) "Common carrier" does not include a person that, at the time the person is
2699 traveling to or from that person's place of employment, transports a passenger to or from the
2700 passenger's place of employment.

2701 (ii) For purposes of Subsection [~~(25)~~] (24)(b)(i), in accordance with Title 63G, Chapter
2702 3, Utah Administrative Rulemaking Act, the commission may make rules defining what
2703 constitutes a person's place of employment.

2704 (c) "Common carrier" does not include a person that provides transportation network
2705 services, as defined in Section [13-51-102](#).

2706 [~~(26)~~] (25) "Component part" includes:

2707 (a) poultry, dairy, and other livestock feed, and their components;

2708 (b) baling ties and twine used in the baling of hay and straw;

2709 (c) fuel used for providing temperature control of orchards and commercial
2710 greenhouses doing a majority of their business in wholesale sales, and for providing power for
2711 off-highway type farm machinery; and

2712 (d) feed, seeds, and seedlings.

2713 [~~(27)~~] (26) "Computer" means an electronic device that accepts information:

2714 (a) (i) in digital form; or

2715 (ii) in a form similar to digital form; and

2716 (b) manipulates that information for a result based on a sequence of instructions.

2717 [~~(28)~~] (27) "Computer software" means a set of coded instructions designed to cause:

2718 (a) a computer to perform a task; or

2719 (b) automatic data processing equipment to perform a task.

2720 [~~(29)~~] (28) "Computer software maintenance contract" means a contract that obligates a
2721 seller of computer software to provide a customer with:

2722 (a) future updates or upgrades to computer software;

- 2723 (b) support services with respect to computer software; or
2724 (c) a combination of Subsections [~~(29)~~] (28)(a) and (b).
2725 [~~(30)~~] (29) (a) "Conference bridging service" means an ancillary service that links two
2726 or more participants of an audio conference call or video conference call.
2727 (b) "Conference bridging service" may include providing a telephone number as part of
2728 the ancillary service described in Subsection [~~(30)~~] (29)(a).
2729 (c) "Conference bridging service" does not include a telecommunications service used
2730 to reach the ancillary service described in Subsection [~~(30)~~] (29)(a).
2731 [~~(31)~~] (30) "Construction materials" means any tangible personal property that will be
2732 converted into real property.
2733 [~~(32)~~] (31) "Delivered electronically" means delivered to a purchaser by means other
2734 than tangible storage media.
2735 (32) "Dating referral services" means services that are primarily intended to introduce
2736 or match adults for social or romantic activities, including computer dating or video dating
2737 services.
2738 (33) (a) "Delivery charge" means a charge:
2739 (i) by a seller of:
2740 (A) tangible personal property;
2741 (B) a product transferred electronically; or
2742 (C) a service; and
2743 (ii) for preparation and delivery of the tangible personal property, product transferred
2744 electronically, or services described in Subsection (33)(a)(i) to a location designated by the
2745 purchaser.
2746 (b) "Delivery charge" includes a charge for the following:
2747 (i) transportation;
2748 (ii) shipping;
2749 (iii) postage;
2750 (iv) handling;
2751 (v) crating; or
2752 (vi) packing.
2753 (34) "Detailed telecommunications billing service" means an ancillary service of

- 2754 separately stating information pertaining to individual calls on a customer's billing statement.
- 2755 (35) "Dietary supplement" means a product, other than tobacco, that:
- 2756 (a) is intended to supplement the diet;
- 2757 (b) contains one or more of the following dietary ingredients:
- 2758 (i) a vitamin;
- 2759 (ii) a mineral;
- 2760 (iii) an herb or other botanical;
- 2761 (iv) an amino acid;
- 2762 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 2763 dietary intake; or
- 2764 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 2765 described in Subsections (35)(b)(i) through (v);
- 2766 (c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:
- 2767 (A) tablet form;
- 2768 (B) capsule form;
- 2769 (C) powder form;
- 2770 (D) softgel form;
- 2771 (E) gelcap form; or
- 2772 (F) liquid form; or
- 2773 (ii) if the product is not intended for ingestion in a form described in Subsections
- 2774 (35)(c)(i)(A) through (F), is not represented:
- 2775 (A) as conventional food; and
- 2776 (B) for use as a sole item of:
- 2777 (I) a meal; or
- 2778 (II) the diet; and
- 2779 (d) is required to be labeled as a dietary supplement:
- 2780 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 2781 (ii) as required by 21 C.F.R. Sec. 101.36.
- 2782 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 2783 musical, spoken, or other sounds.
- 2784 (b) "Digital audio work" includes a ringtone.

2785 (37) "Digital audio-visual work" means a series of related images which, when shown
2786 in succession, imparts an impression of motion, together with accompanying sounds, if any.

2787 (38) "Digital book" means a work that is generally recognized in the ordinary and usual
2788 sense as a book.

2789 (39) (a) "Direct mail" means printed material delivered or distributed by United States
2790 mail or other delivery service:

2791 (i) to:

2792 (A) a mass audience; or

2793 (B) addressees on a mailing list provided:

2794 (I) by a purchaser of the mailing list; or

2795 (II) at the discretion of the purchaser of the mailing list; and

2796 (ii) if the cost of the printed material is not billed directly to the recipients.

2797 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
2798 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

2799 (c) "Direct mail" does not include multiple items of printed material delivered to a
2800 single address.

2801 (40) "Directory assistance" means an ancillary service of providing:

2802 (a) address information; or

2803 (b) telephone number information.

2804 (41) (a) "Disposable home medical equipment or supplies" means medical equipment
2805 or supplies that:

2806 (i) cannot withstand repeated use; and

2807 (ii) are purchased by, for, or on behalf of a person other than:

2808 (A) a health care facility as defined in Section [26-21-2](#);

2809 (B) a health care provider as defined in Section [78B-3-403](#);

2810 (C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or

2811 (D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).

2812 (b) "Disposable home medical equipment or supplies" does not include:

2813 (i) a drug;

2814 (ii) durable medical equipment;

2815 (iii) a hearing aid;

- 2816 (iv) a hearing aid accessory;
- 2817 (v) mobility enhancing equipment; or
- 2818 (vi) tangible personal property used to correct impaired vision, including:
- 2819 (A) eyeglasses; or
- 2820 (B) contact lenses.
- 2821 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2822 commission may by rule define what constitutes medical equipment or supplies.
- 2823 (42) "Drilling equipment manufacturer" means a facility:
- 2824 (a) located in the state;
- 2825 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 2826 consist of manufacturing component parts of drilling equipment;
- 2827 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 2828 manufacturing process; and
- 2829 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 2830 manufacturing process.
- 2831 (43) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 2832 compound, substance, or preparation that is:
- 2833 (i) recognized in:
- 2834 (A) the official United States Pharmacopoeia;
- 2835 (B) the official Homeopathic Pharmacopoeia of the United States;
- 2836 (C) the official National Formulary; or
- 2837 (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);
- 2838 (ii) intended for use in the:
- 2839 (A) diagnosis of disease;
- 2840 (B) cure of disease;
- 2841 (C) mitigation of disease;
- 2842 (D) treatment of disease; or
- 2843 (E) prevention of disease; or
- 2844 (iii) intended to affect:
- 2845 (A) the structure of the body; or
- 2846 (B) any function of the body.

- 2847 (b) "Drug" does not include:
- 2848 (i) food and food ingredients;
- 2849 (ii) a dietary supplement;
- 2850 (iii) an alcoholic beverage; or
- 2851 (iv) a prosthetic device.
- 2852 (44) (a) Except as provided in Subsection (44)(c), "durable medical equipment" means
- 2853 equipment that:
- 2854 (i) can withstand repeated use;
- 2855 (ii) is primarily and customarily used to serve a medical purpose;
- 2856 (iii) generally is not useful to a person in the absence of illness or injury; and
- 2857 (iv) is not worn in or on the body.
- 2858 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 2859 equipment described in Subsection (44)(a).
- 2860 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 2861 (45) "Electronic" means:
- 2862 (a) relating to technology; and
- 2863 (b) having:
- 2864 (i) electrical capabilities;
- 2865 (ii) digital capabilities;
- 2866 (iii) magnetic capabilities;
- 2867 (iv) wireless capabilities;
- 2868 (v) optical capabilities;
- 2869 (vi) electromagnetic capabilities; or
- 2870 (vii) capabilities similar to Subsections (45)(b)(i) through (vi).
- 2871 (46) "Electronic financial payment service" means an establishment:
- 2872 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 2873 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 2874 federal Executive Office of the President, Office of Management and Budget; and
- 2875 (b) that performs electronic financial payment services.
- 2876 (47) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 2877 (48) "Fixed guideway" means a public transit facility that uses and occupies:

- 2878 (a) rail for the use of public transit; or
- 2879 (b) a separate right-of-way for the use of public transit.
- 2880 (49) "Fixed wing turbine powered aircraft" means an aircraft that:
- 2881 (a) is powered by turbine engines;
- 2882 (b) operates on jet fuel; and
- 2883 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 2884 (50) "Fixed wireless service" means a telecommunications service that provides radio
- 2885 communication between fixed points.
- 2886 (51) (a) "Food and food ingredients" means substances:
- 2887 (i) regardless of whether the substances are in:
- 2888 (A) liquid form;
- 2889 (B) concentrated form;
- 2890 (C) solid form;
- 2891 (D) frozen form;
- 2892 (E) dried form; or
- 2893 (F) dehydrated form; and
- 2894 (ii) that are:
- 2895 (A) sold for:
- 2896 (I) ingestion by humans; or
- 2897 (II) chewing by humans; and
- 2898 (B) consumed for the substance's:
- 2899 (I) taste; or
- 2900 (II) nutritional value.
- 2901 (b) "Food and food ingredients" includes an item described in Subsection [~~(95)~~]
- 2902 (99)(b)(iii).
- 2903 (c) "Food and food ingredients" does not include:
- 2904 (i) an alcoholic beverage;
- 2905 (ii) tobacco; or
- 2906 (iii) prepared food.
- 2907 (52) (a) "Fundraising sales" means sales:
- 2908 (i) (A) made by a school; or

- 2909 (B) made by a school student;
- 2910 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 2911 materials, or provide transportation; and
- 2912 (iii) that are part of an officially sanctioned school activity.
- 2913 (b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity"
- 2914 means a school activity:
- 2915 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 2916 district governing the authorization and supervision of fundraising activities;
- 2917 (ii) that does not directly or indirectly compensate an individual teacher or other
- 2918 educational personnel by direct payment, commissions, or payment in kind; and
- 2919 (iii) the net or gross revenues from which are deposited in a dedicated account
- 2920 controlled by the school or school district.
- 2921 (53) "Geothermal energy" means energy contained in heat that continuously flows
- 2922 outward from the earth that is used as the sole source of energy to produce electricity.
- 2923 (54) "Governing board of the agreement" means the governing board of the agreement
- 2924 that is:
- 2925 (a) authorized to administer the agreement; and
- 2926 (b) established in accordance with the agreement.
- 2927 (55) (a) [~~For purposes of Subsection 59-12-104(41), "governmental]~~ "Governmental
- 2928 entity" means:
- 2929 (i) the executive branch of the state, including all departments, institutions, boards,
- 2930 divisions, bureaus, offices, commissions, and committees;
- 2931 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
- 2932 Administrative Office of the Courts, and similar administrative units in the judicial branch;
- 2933 (iii) the legislative branch of the state, including the House of Representatives, the
- 2934 Senate, the Legislative Printing Office, the Office of Legislative Research and General
- 2935 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
- 2936 Analyst;
- 2937 (iv) the National Guard;
- 2938 (v) an independent entity as defined in Section 63E-1-102; or
- 2939 (vi) a political subdivision as defined in Section 17B-1-102.

2940 (b) "Governmental entity" does not include the state systems of public and higher
2941 education, including:

2942 (i) a school;

2943 (ii) the State Board of Education;

2944 (iii) the State Board of Regents; or

2945 (iv) an institution of higher education described in Section [53B-1-102](#).

2946 (56) "Hydroelectric energy" means water used as the sole source of energy to produce
2947 electricity.

2948 (57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
2949 other fuels:

2950 (a) in mining or extraction of minerals;

2951 (b) in agricultural operations to produce an agricultural product up to the time of
2952 harvest or placing the agricultural product into a storage facility, including:

2953 (i) commercial greenhouses;

2954 (ii) irrigation pumps;

2955 (iii) farm machinery;

2956 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered
2957 under Title 41, Chapter 1a, Part 2, Registration; and

2958 (v) other farming activities;

2959 (c) in manufacturing tangible personal property at an establishment described in:

2960 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
2961 the federal Executive Office of the President, Office of Management and Budget; or

2962 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
2963 American Industry Classification System of the federal Executive Office of the President,
2964 Office of Management and Budget;

2965 (d) by a scrap recycler if:

2966 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
2967 one or more of the following items into prepared grades of processed materials for use in new
2968 products:

2969 (A) iron;

2970 (B) steel;

- 2971 (C) nonferrous metal;
- 2972 (D) paper;
- 2973 (E) glass;
- 2974 (F) plastic;
- 2975 (G) textile; or
- 2976 (H) rubber; and
- 2977 (ii) the new products under Subsection (57)(d)(i) would otherwise be made with
- 2978 nonrecycled materials; or
- 2979 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
- 2980 cogeneration facility as defined in Section 54-2-1.
- 2981 [~~(58) (a) Except as provided in Subsection (58)(b), "installation charge" means a~~
- 2982 ~~charge for installing:~~]
- 2983 [~~(i) tangible personal property; or]~~
- 2984 [~~(ii) a product transferred electronically.]~~
- 2985 [~~(b) "Installation charge" does not include a charge for:~~]
- 2986 [~~(i) repairs or renovations of:]~~
- 2987 [~~(A) tangible personal property; or]~~
- 2988 [~~(B) a product transferred electronically; or]~~
- 2989 [~~(ii) attaching tangible personal property or a product transferred electronically:]~~
- 2990 [~~(A) to other tangible personal property; and]~~
- 2991 [~~(B) as part of a manufacturing or fabrication process.]~~
- 2992 (58) (a) "Installation charge" means a charge:
- 2993 (i) by a seller of:
- 2994 (A) tangible personal property; or
- 2995 (B) a product transferred electronically; and
- 2996 (ii) for installing the tangible personal property or the product transferred electronically
- 2997 described in Subsection (58)(a)(i).
- 2998 (b) "Installation charge" does not include a charge for:
- 2999 (i) installing tangible personal property if the tangible personal property is permanently
- 3000 attached to real property;
- 3001 (ii) converting tangible personal property to real property.

3002 (59) "Institution of higher education" means an institution of higher education listed in
3003 Section 53B-2-101.

3004 (60) (a) "Lease" or "rental" means a transfer of possession or control of tangible
3005 personal property or a product transferred electronically for:

- 3006 (i) (A) a fixed term; or
- 3007 (B) an indeterminate term; and
- 3008 (ii) consideration.

3009 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
3010 amount of consideration may be increased or decreased by reference to the amount realized
3011 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
3012 Code.

3013 (c) "Lease" or "rental" does not include:

3014 (i) a transfer of possession or control of property under a security agreement or
3015 deferred payment plan that requires the transfer of title upon completion of the required
3016 payments;

3017 (ii) a transfer of possession or control of property under an agreement that requires the
3018 transfer of title:

3019 (A) upon completion of required payments; and

3020 (B) if the payment of an option price does not exceed the greater of:

3021 (I) \$100; or

3022 (II) 1% of the total required payments; or

3023 (iii) providing tangible personal property along with an operator for a fixed period of
3024 time or an indeterminate period of time if the operator is necessary for equipment to perform as
3025 designed.

3026 (d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to
3027 perform as designed if the operator's duties exceed the:

- 3028 (i) set-up of tangible personal property;
- 3029 (ii) maintenance of tangible personal property; or
- 3030 (iii) inspection of tangible personal property.

3031 (61) "Life science establishment" means an establishment in this state that is classified
3032 under the following NAICS codes of the 2007 North American Industry Classification System

3033 of the federal Executive Office of the President, Office of Management and Budget:

3034 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

3035 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

3036 Manufacturing; or

3037 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

3038 (62) "Life science research and development facility" means a facility owned, leased,

3039 or rented by a life science establishment if research and development is performed in 51% or

3040 more of the total area of the facility.

3041 (63) "Load and leave" means delivery to a purchaser by use of a tangible storage media

3042 if the tangible storage media is not physically transferred to the purchaser.

3043 (64) "Local taxing jurisdiction" means a:

3044 (a) county that is authorized to impose an agreement sales and use tax;

3045 (b) city that is authorized to impose an agreement sales and use tax; or

3046 (c) town that is authorized to impose an agreement sales and use tax.

3047 (65) "Manufactured home" means the same as that term is defined in Section

3048 [15A-1-302](#).

3049 (66) "Manufacturing facility" means:

3050 (a) an establishment described in:

3051 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
3052 the federal Executive Office of the President, Office of Management and Budget; or

3053 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
3054 American Industry Classification System of the federal Executive Office of the President,
3055 Office of Management and Budget;

3056 (b) a scrap recycler if:

3057 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
3058 one or more of the following items into prepared grades of processed materials for use in new
3059 products:

3060 (A) iron;

3061 (B) steel;

3062 (C) nonferrous metal;

3063 (D) paper;

3064 (E) glass;
3065 (F) plastic;
3066 (G) textile; or
3067 (H) rubber; and
3068 (ii) the new products under Subsection (66)(b)(i) would otherwise be made with
3069 nonrecycled materials; or
3070 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
3071 placed in service on or after May 1, 2006.
3072 (67) (a) "Marketplace" means a physical or electronic place, platform, or forum where
3073 tangible personal property, a product transferred electronically, or a service is offered for sale.
3074 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a
3075 dedicated sales software application.
3076 (68) (a) "Marketplace facilitator" means a person, including an affiliate of the person,
3077 that enters into a contract, an agreement, or otherwise with sellers, for consideration, to
3078 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or
3079 controls and that directly or indirectly:
3080 (i) does any of the following:
3081 (A) lists, makes available, or advertises tangible personal property, a product
3082 transferred electronically, or a service for sale by a marketplace seller on a marketplace that the
3083 person owns, operates, or controls;
3084 (B) facilitates the sale of a marketplace seller's tangible personal property, product
3085 transferred electronically, or service by transmitting or otherwise communicating an offer or
3086 acceptance of a retail sale between the marketplace seller and a purchaser using the
3087 marketplace;
3088 (C) owns, rents, licenses, makes available, or operates any electronic or physical
3089 infrastructure or any property, process, method, copyright, trademark, or patent that connects a
3090 marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal
3091 property, a product transferred electronically, or a service;
3092 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible
3093 personal property, a product transferred electronically, or a service, regardless of ownership or
3094 control of the tangible personal property, the product transferred electronically, or the service

3095 that is the subject of the retail sale;

3096 (E) provides software development or research and development activities related to
3097 any activity described in this Subsection (68)(a)(i), if the software development or research and
3098 development activity is directly related to the person's marketplace;

3099 (F) provides or offers fulfillment or storage services for a marketplace seller;

3100 (G) sets prices for the sale of tangible personal property, a product transferred
3101 electronically, or a service by a marketplace seller;

3102 (H) provides or offers customer service to a marketplace seller or a marketplace seller's
3103 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal
3104 property, a product transferred electronically, or a service sold by a marketplace seller on the
3105 person's marketplace; or

3106 (I) brands or otherwise identifies sales as those of the person; and

3107 (ii) does any of the following:

3108 (A) collects the sales price or purchase price of a retail sale of tangible personal
3109 property, a product transferred electronically, or a service;

3110 (B) provides payment processing services for a retail sale of tangible personal property,
3111 a product transferred electronically, or a service;

3112 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing
3113 fee, a fee for inserting or making available tangible personal property, a product transferred
3114 electronically, or a service on the person's marketplace, or other consideration for the
3115 facilitation of a retail sale of tangible personal property, a product transferred electronically, or
3116 a service, regardless of ownership or control of the tangible personal property, the product
3117 transferred electronically, or the service that is the subject of the retail sale;

3118 (D) through terms and conditions, an agreement, or another arrangement with a third
3119 person, collects payment from a purchase for a retail sale of tangible personal property, a
3120 product transferred electronically, or a service and transmits that payment to the marketplace
3121 seller, regardless of whether the third person receives compensation or other consideration in
3122 exchange for the service; or

3123 (E) provides a virtual currency for a purchaser to use to purchase tangible personal
3124 property, a product transferred electronically, or service offered for sale.

3125 (b) "Marketplace facilitator" does not include a person that only provides payment

3126 processing services.

3127 (69) "Marketplace seller" means a seller that makes one or more retail sales through a
3128 marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the
3129 seller is required to be registered to collect and remit the tax under this part.

3130 (70) "Member of the immediate family of the producer" means a person who is related
3131 to a producer described in Subsection ~~59-12-104(20)~~(17)(a) as a:

3132 (a) child or stepchild, regardless of whether the child or stepchild is:

3133 (i) an adopted child or adopted stepchild; or

3134 (ii) a foster child or foster stepchild;

3135 (b) grandchild or stepgrandchild;

3136 (c) grandparent or stepgrandparent;

3137 (d) nephew or stepnephew;

3138 (e) niece or stepniece;

3139 (f) parent or stepparent;

3140 (g) sibling or stepsibling;

3141 (h) spouse;

3142 (i) person who is the spouse of a person described in Subsections (70)(a) through (g);

3143 or

3144 (j) person similar to a person described in Subsections (70)(a) through (i) as
3145 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
3146 Administrative Rulemaking Act.

3147 (71) (a) "Menstrual products" means:

3148 (i) tampons;

3149 (ii) panty liners;

3150 (iii) menstrual cups;

3151 (iv) sanitary napkins; or

3152 (v) other similar tangible personal property designed for hygiene in connection with the
3153 human menstrual cycle.

3154 (b) "Menstrual products" does not include:

3155 (i) soaps or cleaning solutions;

3156 (ii) shampoo;

- 3157 (iii) toothpaste;
3158 (iv) mouthwash;
3159 (v) antiperspirants; or
3160 (vi) suntan lotions or screens.
- 3161 [~~(71)~~] (72) "Mobile home" means the same as that term is defined in Section
3162 15A-1-302.
- 3163 [~~(72)~~] (73) "Mobile telecommunications service" means the same as that term is
3164 defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 3165 [~~(73)~~] (74) (a) "Mobile wireless service" means a telecommunications service,
3166 regardless of the technology used, if:
- 3167 (i) the origination point of the conveyance, routing, or transmission is not fixed;
3168 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
3169 (iii) the origination point described in Subsection [~~(73)~~] (74)(a)(i) and the termination
3170 point described in Subsection [~~(73)~~] (74)(a)(ii) are not fixed.
- 3171 (b) "Mobile wireless service" includes a telecommunications service that is provided
3172 by a commercial mobile radio service provider.
- 3173 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3174 commission may by rule define "commercial mobile radio service provider."
- 3175 [~~(74)~~] (75) (a) [~~Except as provided in Subsection (74)(c), "mobility]~~ "Mobility
3176 enhancing equipment" means equipment that is:
- 3177 (i) primarily and customarily used to provide or increase the ability to move from one
3178 place to another;
- 3179 (ii) appropriate for use in a:
3180 (A) home; or
3181 (B) motor vehicle; and
3182 (iii) not generally used by persons with normal mobility.
- 3183 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
3184 the equipment described in Subsection [~~(74)~~] (75)(a).
- 3185 (c) "Mobility enhancing equipment" does not include:
3186 (i) a motor vehicle;
3187 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor

3188 vehicle manufacturer;

3189 (iii) durable medical equipment; or

3190 (iv) a prosthetic device.

3191 ~~[(75)]~~ (76) "Model 1 seller" means a seller registered under the agreement that has
3192 selected a certified service provider as the seller's agent to perform the seller's sales and use tax
3193 functions for agreement sales and use taxes, as outlined in the contract between the governing
3194 board of the agreement and the certified service provider, other than the seller's obligation
3195 under Section 59-12-124 to remit a tax on the seller's own purchases.

3196 ~~[(76)]~~ (77) "Model 2 seller" means a seller registered under the agreement that:

3197 (a) except as provided in Subsection ~~[(76)]~~ (77)(b), has selected a certified automated
3198 system to perform the seller's sales tax functions for agreement sales and use taxes; and

3199 (b) retains responsibility for remitting all of the sales tax:

3200 (i) collected by the seller; and

3201 (ii) to the appropriate local taxing jurisdiction.

3202 ~~[(77)]~~ (78) (a) Subject to Subsection ~~[(77)]~~ (78)(b), "model 3 seller" means a seller
3203 registered under the agreement that has:

3204 (i) sales in at least five states that are members of the agreement;

3205 (ii) total annual sales ~~[revenues]~~ revenue of at least \$500,000,000;

3206 (iii) a proprietary system that calculates the amount of tax:

3207 (A) for an agreement sales and use tax; and

3208 (B) due to each local taxing jurisdiction; and

3209 (iv) entered into a performance agreement with the governing board of the agreement.

3210 (b) ~~[For purposes of Subsection (77)(a), "model]~~ "Model 3 seller" includes an affiliated
3211 group of sellers using the same proprietary system.

3212 ~~[(78)]~~ (79) "Model 4 seller" means a seller that is registered under the agreement and is
3213 not a model 1 seller, model 2 seller, or model 3 seller.

3214 ~~[(79)]~~ (80) "Modular home" means a modular unit as defined in Section 15A-1-302.

3215 ~~[(80)]~~ (81) "Motor vehicle" means the same as that term is defined in Section
3216 41-1a-102.

3217 ~~[(81)]~~ (82) "Oil sands" means impregnated bituminous sands that:

3218 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with

3219 other hydrocarbons, or otherwise treated;

3220 (b) yield mixtures of liquid hydrocarbon; and

3221 (c) require further processing other than mechanical blending before becoming finished
3222 petroleum products.

3223 ~~[(82)]~~ (83) "Oil shale" means a group of fine black to dark brown shales containing
3224 kerogen material that yields petroleum upon heating and distillation.

3225 ~~[(83)]~~ (84) "Optional computer software maintenance contract" means a computer
3226 software maintenance contract that a customer is not obligated to purchase as a condition to the
3227 retail sale of computer software.

3228 ~~[(84)]~~ (85) (a) "Other fuels" means products that burn independently to produce heat or
3229 energy.

3230 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
3231 personal property.

3232 ~~[(85)]~~ (86) (a) "Paging service" means a telecommunications service that provides
3233 transmission of a coded radio signal for the purpose of activating a specific pager.

3234 (b) For purposes of Subsection ~~[(85)]~~ (86)(a), the transmission of a coded radio signal
3235 includes a transmission by message or sound.

3236 (87) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).

3237 ~~[(86)]~~ (88) "Pawnbroker" means the same as that term is defined in Section
3238 [13-32a-102](#).

3239 ~~[(87) "Pawn transaction" means the same as that term is defined in Section~~
3240 ~~[13-32a-102](#).]~~

3241 ~~[(88)]~~ (89) (a) "Permanently attached to real property" means that for tangible personal
3242 property attached to real property:

3243 (i) the attachment of the tangible personal property to the real property:

3244 (A) is essential to the use of the tangible personal property; and

3245 (B) suggests that the tangible personal property will remain attached to the real
3246 property in the same place over the useful life of the tangible personal property; or

3247 (ii) if the tangible personal property is detached from the real property, the detachment
3248 would:

3249 (A) cause substantial damage to the tangible personal property; or

3250 (B) require substantial alteration or repair of the real property to which the tangible
3251 personal property is attached.

3252 (b) "Permanently attached to real property" includes:

3253 (i) the attachment of an accessory to the tangible personal property if the accessory is:

3254 (A) essential to the operation of the tangible personal property; and

3255 (B) attached only to facilitate the operation of the tangible personal property;

3256 (ii) a temporary detachment of tangible personal property from real property for a
3257 repair or renovation if the repair or renovation is performed where the tangible personal
3258 property and real property are located; or

3259 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
3260 Subsection [~~88~~] (89)(c)(iii) or (iv).

3261 (c) "Permanently attached to real property" does not include:

3262 (i) the attachment of portable or movable tangible personal property to real property if
3263 that portable or movable tangible personal property is attached to real property only for:

3264 (A) convenience;

3265 (B) stability; or

3266 (C) for an obvious temporary purpose;

3267 (ii) the detachment of tangible personal property from real property except for the
3268 detachment described in Subsection [~~88~~] (89)(b)(ii);

3269 (iii) an attachment of the following tangible personal property to real property if the
3270 attachment to real property is only through a line that supplies water, electricity, gas,
3271 telecommunications, cable, or supplies a similar item as determined by the commission by rule
3272 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

3273 (A) a computer;

3274 (B) a telephone;

3275 (C) a television; or

3276 (D) tangible personal property similar to Subsections [~~88~~] (89)(c)(iii)(A) through (C)
3277 as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
3278 Administrative Rulemaking Act; or

3279 (iv) an item listed in Subsection [~~129~~] (135)(c).

3280 [~~89~~] (90) "Person" includes any individual, firm, partnership, joint venture,

3281 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
3282 city, municipality, district, or other local governmental entity of the state, or any group or
3283 combination acting as a unit.

3284 (91) (a) "Personal transportation service" means the transportation of one or more
3285 individuals by motor vehicle.

3286 (b) "Personal transportation" includes taxicab service, limousine service, driver service,
3287 shuttle service, scenic or sightseeing transportation, and a prearranged ride as defined in
3288 Section 13-51-102.

3289 (c) "Personal transportation service" does not include:

3290 (i) services provided by or through a governmental entity;

3291 (ii) transportation by ambulance as defined in Section 26-8a-102;

3292 (iii) transportation provided in connection with a funeral; or

3293 (iv) transportation by a low-speed vehicle, as defined in Section 41-6a-102, within a
3294 county of the first class, as classified in Section 17-50-501.

3295 (92) (a) "Pet boarding or care" means the furnishing of:

3296 (i) boarding for a pet; or

3297 (ii) daytime care for a pet at a location other than the pet owner's residence where the
3298 pet is dropped off and picked up.

3299 (b) "Pet boarding or care" does not include a service described in Subsection (92)(a):

3300 (i) by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, in
3301 conjunction with a veterinary medical service; or

3302 (ii) for a working animal, livestock, or a laboratory animal.

3303 (93) (a) "Pet grooming" means:

3304 (i) cleaning, maintaining, or enhancing the physical appearance of a pet; or

3305 (ii) furnishing other hygienic care for a pet.

3306 (b) "Pet grooming" does not include a service described in Subsection (93)(a):

3307 (i) by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, in
3308 conjunction with a veterinary medical service; or

3309 (ii) for a working animal, livestock, or a laboratory animal.

3310 ~~[(90)]~~ (94) "Place of primary use":

3311 (a) for telecommunications service other than mobile telecommunications service,

3312 means the street address representative of where the customer's use of the telecommunications
3313 service primarily occurs, which shall be:

3314 (i) the residential street address of the customer; or

3315 (ii) the primary business street address of the customer; or

3316 (b) for mobile telecommunications service, means the same as that term is defined in
3317 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

3318 ~~[(91)]~~ (95) (a) "Postpaid calling service" means a telecommunications service a person
3319 obtains by making a payment on a call-by-call basis:

3320 (i) through the use of a:

3321 (A) bank card;

3322 (B) credit card;

3323 (C) debit card; or

3324 (D) travel card; or

3325 (ii) by a charge made to a telephone number that is not associated with the origination
3326 or termination of the telecommunications service.

3327 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
3328 service, that would be a prepaid wireless calling service if the service were exclusively a
3329 telecommunications service.

3330 ~~[(92)]~~ (96) "Postproduction" means an activity related to the finishing or duplication of
3331 a medium described in Subsection 59-12-104~~[(54)]~~(47)(a).

3332 ~~[(93)]~~ (97) "Prepaid calling service" means a telecommunications service:

3333 (a) that allows a purchaser access to telecommunications service that is exclusively
3334 telecommunications service;

3335 (b) that:

3336 (i) is paid for in advance; and

3337 (ii) enables the origination of a call using an:

3338 (A) access number; or

3339 (B) authorization code;

3340 (c) that is dialed:

3341 (i) manually; or

3342 (ii) electronically; and

- 3343 (d) sold in predetermined units or dollars that decline:
- 3344 (i) by a known amount; and
- 3345 (ii) with use.
- 3346 [~~(94)~~] (98) "Prepaid wireless calling service" means a telecommunications service:
- 3347 (a) that provides the right to utilize:
- 3348 (i) mobile wireless service; and
- 3349 (ii) other service that is not a telecommunications service, including:
- 3350 (A) the download of a product transferred electronically;
- 3351 (B) a content service; or
- 3352 (C) an ancillary service;
- 3353 (b) that:
- 3354 (i) is paid for in advance; and
- 3355 (ii) enables the origination of a call using an:
- 3356 (A) access number; or
- 3357 (B) authorization code;
- 3358 (c) that is dialed:
- 3359 (i) manually; or
- 3360 (ii) electronically; and
- 3361 (d) sold in predetermined units or dollars that decline:
- 3362 (i) by a known amount; and
- 3363 (ii) with use.
- 3364 [~~(95)~~] (99) (a) "Prepared food" means:
- 3365 (i) food:
- 3366 (A) sold in a heated state; or
- 3367 (B) heated by a seller;
- 3368 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 3369 item; or
- 3370 (iii) except as provided in Subsection [~~(95)~~] (99)(c), food sold with an eating utensil
- 3371 provided by the seller, including a:
- 3372 (A) plate;
- 3373 (B) knife;

- 3374 (C) fork;
- 3375 (D) spoon;
- 3376 (E) glass;
- 3377 (F) cup;
- 3378 (G) napkin; or
- 3379 (H) straw.
- 3380 (b) "Prepared food" does not include:
- 3381 (i) food that a seller only:
- 3382 (A) cuts;
- 3383 (B) repackages; or
- 3384 (C) pasteurizes; or
- 3385 (ii) (A) the following:
- 3386 (I) raw egg;
- 3387 (II) raw fish;
- 3388 (III) raw meat;
- 3389 (IV) raw poultry; or
- 3390 (V) a food containing an item described in Subsections [~~95~~] (99)(b)(ii)(A)(I) through
- 3391 (IV); and
- 3392 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 3393 Food and Drug Administration's Food Code that a consumer cook the items described in
- 3394 Subsection [~~95~~] (99)(b)(ii)(A) to prevent food borne illness; or
- 3395 (iii) the following if sold without eating utensils provided by the seller:
- 3396 (A) food and food ingredients sold by a seller if the seller's proper primary
- 3397 classification under the 2002 North American Industry Classification System of the federal
- 3398 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 3399 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 3400 Manufacturing;
- 3401 (B) food and food ingredients sold in an unheated state:
- 3402 (I) by weight or volume; and
- 3403 (II) as a single item; or
- 3404 (C) a bakery item, including:

- 3405 (I) a bagel;
- 3406 (II) a bar;
- 3407 (III) a biscuit;
- 3408 (IV) bread;
- 3409 (V) a bun;
- 3410 (VI) a cake;
- 3411 (VII) a cookie;
- 3412 (VIII) a croissant;
- 3413 (IX) a danish;
- 3414 (X) a donut;
- 3415 (XI) a muffin;
- 3416 (XII) a pastry;
- 3417 (XIII) a pie;
- 3418 (XIV) a roll;
- 3419 (XV) a tart;
- 3420 (XVI) a torte; or
- 3421 (XVII) a tortilla.

3422 (c) An eating utensil provided by the seller does not include the following used to
3423 transport the food:

- 3424 (i) a container; or
- 3425 (ii) packaging.

3426 ~~[(96)]~~ (100) "Prescription" means an order, formula, or recipe that is issued:

- 3427 (a) (i) orally;
- 3428 (ii) in writing;
- 3429 (iii) electronically; or
- 3430 (iv) by any other manner of transmission; and
- 3431 (b) by a licensed practitioner authorized by the laws of a state.

3432 ~~[(97)]~~ (101) (a) ~~[Except as provided in Subsection (97)(b)(ii) or (iii), "prewritten]~~

3433 "Prewritten computer software" means computer software that is not designed and developed:

- 3434 (i) by the author or other creator of the computer software; and
- 3435 (ii) to the specifications of a specific purchaser.

- 3436 (b) "Prewritten computer software" includes:
- 3437 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 3438 software is not designed and developed:
- 3439 (A) by the author or other creator of the computer software; and
- 3440 (B) to the specifications of a specific purchaser;
- 3441 (ii) computer software designed and developed by the author or other creator of the
- 3442 computer software to the specifications of a specific purchaser if the computer software is sold
- 3443 to a person other than the purchaser; or
- 3444 (iii) except as provided in Subsection [~~97~~] (101)(c), prewritten computer software or
- 3445 a prewritten portion of prewritten computer software:
- 3446 (A) that is modified or enhanced to any degree; and
- 3447 (B) if the modification or enhancement described in Subsection [~~97~~] (101)(b)(iii)(A)
- 3448 is designed and developed to the specifications of a specific purchaser.
- 3449 (c) "Prewritten computer software" does not include a modification or enhancement
- 3450 described in Subsection [~~97~~] (101)(b)(iii) if the charges for the modification or enhancement
- 3451 are:
- 3452 (i) reasonable; and
- 3453 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
- 3454 invoice or other statement of price provided to the purchaser at the time of sale or later, as
- 3455 demonstrated by:
- 3456 (A) the books and records the seller keeps at the time of the transaction in the regular
- 3457 course of business, including books and records the seller keeps at the time of the transaction in
- 3458 the regular course of business for nontax purposes;
- 3459 (B) a preponderance of the facts and circumstances at the time of the transaction; and
- 3460 (C) the understanding of all of the parties to the transaction.
- 3461 [~~98~~] (102) (a) "Private communications service" means a telecommunications
- 3462 service:
- 3463 (i) that entitles a customer to exclusive or priority use of one or more communications
- 3464 channels between or among termination points; and
- 3465 (ii) regardless of the manner in which the one or more communications channels are
- 3466 connected.

3467 (b) "Private communications service" includes the following provided in connection
3468 with the use of one or more communications channels:

3469 (i) an extension line;

3470 (ii) a station;

3471 (iii) switching capacity; or

3472 (iv) another associated service that is provided in connection with the use of one or
3473 more communications channels as defined in Section [59-12-215](#).

3474 ~~[(99)]~~ [\(103\)](#) (a) ~~[Except as provided in Subsection (99)(b), "product]~~ "Product
3475 transferred electronically" means a product transferred electronically that would be subject to a
3476 tax under this chapter if that product was transferred in a manner other than electronically.

3477 (b) "Product transferred electronically" does not include:

3478 (i) an ancillary service;

3479 (ii) computer software; or

3480 (iii) a telecommunications service.

3481 ~~[(100)]~~ [\(104\)](#) (a) "Prosthetic device" means a device that is worn on or in the body to:

3482 (i) artificially replace a missing portion of the body;

3483 (ii) prevent or correct a physical deformity or physical malfunction; or

3484 (iii) support a weak or deformed portion of the body.

3485 (b) "Prosthetic device" includes:

3486 (i) parts used in the repairs or renovation of a prosthetic device;

3487 (ii) replacement parts for a prosthetic device;

3488 (iii) a dental prosthesis; or

3489 (iv) a hearing aid.

3490 (c) "Prosthetic device" does not include:

3491 (i) corrective eyeglasses; or

3492 (ii) contact lenses.

3493 ~~[(101)]~~ [\(105\)](#) (a) "Protective equipment" means an item:

3494 (i) for human wear; and

3495 (ii) that is:

3496 (A) designed as protection:

3497 (I) to the wearer against injury or disease; or

- 3498 (II) against damage or injury of other persons or property; and
- 3499 (B) not suitable for general use.
- 3500 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3501 commission shall make rules:
 - 3502 (i) listing the items that constitute "protective equipment"; and
 - 3503 (ii) that are consistent with the list of items that constitute "protective equipment"
 - 3504 under the agreement.
- 3505 [~~(102)~~] (106) (a) For purposes of Subsection 59-12-104~~[(41)]~~(36), "publication" means
- 3506 any written or printed matter, other than a photocopy:
 - 3507 (i) regardless of:
 - 3508 (A) characteristics;
 - 3509 (B) copyright;
 - 3510 (C) form;
 - 3511 (D) format;
 - 3512 (E) method of reproduction; or
 - 3513 (F) source; and
 - 3514 (ii) made available in printed or electronic format.
- 3515 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3516 commission may by rule define the term "photocopy."
- 3517 [~~(103)~~] (107) (a) "Purchase price" and "sales price" mean the total amount of
- 3518 consideration:
 - 3519 (i) valued in money; and
 - 3520 (ii) for which tangible personal property, a product transferred electronically, or
 - 3521 services are:
 - 3522 (A) sold;
 - 3523 (B) leased; or
 - 3524 (C) rented.
- 3525 (b) "Purchase price" and "sales price" include:
 - 3526 (i) the seller's cost of the tangible personal property, a product transferred
 - 3527 electronically, or services sold;
 - 3528 (ii) expenses of the seller, including:

- 3529 (A) the cost of materials used;
- 3530 (B) a labor cost;
- 3531 (C) a service cost;
- 3532 (D) interest;
- 3533 (E) a loss;
- 3534 (F) the cost of transportation to the seller; or
- 3535 (G) a tax imposed on the seller;
- 3536 (iii) a delivery charge; or
- 3537 (iv) an installation charge;
- 3538 [~~(iii)~~] (v) a charge by the seller for any service necessary to complete the sale; or
- 3539 [~~(iv)~~] (vi) consideration a seller receives from a person other than the purchaser if:
- 3540 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 3541 and
- 3542 (II) the consideration described in Subsection [~~(103)~~] (107)(b)[~~(iv)~~](vi)(A)(I) is directly
- 3543 related to a price reduction or discount on the sale;
- 3544 (B) the seller has an obligation to pass the price reduction or discount through to the
- 3545 purchaser;
- 3546 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 3547 the seller at the time of the sale to the purchaser; and
- 3548 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 3549 seller to claim a price reduction or discount; and
- 3550 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 3551 coupon, or other documentation with the understanding that the person other than the seller
- 3552 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 3553 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 3554 organization allowed a price reduction or discount, except that a preferred customer card that is
- 3555 available to any patron of a seller does not constitute membership in a group or organization
- 3556 allowed a price reduction or discount; or
- 3557 (III) the price reduction or discount is identified as a third party price reduction or
- 3558 discount on the:
- 3559 (Aa) invoice the purchaser receives; or

3560 (Bb) certificate, coupon, or other documentation the purchaser presents.
3561 (c) "Purchase price" and "sales price" do not include:
3562 (i) a discount:
3563 (A) in a form including:
3564 (I) cash;
3565 (II) term; or
3566 (III) coupon;
3567 (B) that is allowed by a seller;
3568 (C) taken by a purchaser on a sale; and
3569 (D) that is not reimbursed by a third party; or
3570 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
3571 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
3572 sale or later, as demonstrated by the books and records the seller keeps at the time of the
3573 transaction in the regular course of business, including books and records the seller keeps at the
3574 time of the transaction in the regular course of business for nontax purposes, by a
3575 preponderance of the facts and circumstances at the time of the transaction, and by the
3576 understanding of all of the parties to the transaction:
3577 (A) the following from credit extended on the sale of tangible personal property or
3578 services:
3579 (I) a carrying charge;
3580 (II) a financing charge; or
3581 (III) an interest charge;
3582 [~~(B) a delivery charge;~~]
3583 [~~(C) an installation charge;~~]
3584 [~~(D)~~] (B) a manufacturer rebate on a motor vehicle; or
3585 [~~(E)~~] (C) a tax or fee legally imposed directly on the consumer.
3586 [~~(104)~~] (108) "Purchaser" means a person to whom:
3587 (a) a sale of tangible personal property is made;
3588 (b) a product is transferred electronically; or
3589 (c) a service is furnished.
3590 [~~(105)~~] (109) "Qualifying [~~enterprise~~] data center" means [~~an establishment that will:~~

- 3591 ~~(a) own and operate~~] a data center facility that ~~[will house]~~;
- 3592 (a) houses a group of networked server computers in one physical location in order to
- 3593 ~~[centralize the dissemination, management, and storage of]~~ disseminate, manage, and store data
- 3594 and information;
- 3595 (b) ~~[be]~~ is located in the state;
- 3596 (c) ~~[be]~~ is a new operation constructed on or after July 1, 2016;
- 3597 (d) ~~[consist]~~ consists of one or more buildings that total 150,000 or more square feet;
- 3598 (e) ~~[be]~~ is owned or leased by:
- 3599 (i) the ~~[establishment]~~ operator of the data center facility; or
- 3600 (ii) a person under common ownership, as defined in Section 59-7-101, of the
- 3601 ~~[establishment]~~ operator of the data center facility; and
- 3602 (f) ~~[be]~~ is located on one or more parcels of land that are owned or leased by:
- 3603 (i) the ~~[establishment]~~ operator of the data center facility; or
- 3604 (ii) a person under common ownership, as defined in Section 59-7-101, of the
- 3605 ~~[establishment]~~ operator of the data center facility.
- 3606 ~~[(106)]~~ (110) "Regularly rented" means:
- 3607 (a) rented to a guest for value three or more times during a calendar year; or
- 3608 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 3609 value.
- 3610 ~~[(107)]~~ (111) "Rental" means the same as that term is defined in Subsection (60).
- 3611 ~~[(108)]~~ (112) (a) ~~[Except as provided in Subsection (108)(b), "repairs"]~~ "Repairs or
- 3612 renovations of tangible personal property" means:
- 3613 (i) a repair or renovation of tangible personal property that is not permanently attached
- 3614 to real property; or
- 3615 (ii) attaching tangible personal property or a product transferred electronically to other
- 3616 tangible personal property or detaching tangible personal property or a product transferred
- 3617 electronically from other tangible personal property if:
- 3618 (A) the other tangible personal property to which the tangible personal property or
- 3619 product transferred electronically is attached or from which the tangible personal property or
- 3620 product transferred electronically is detached is not permanently attached to real property; and
- 3621 (B) the attachment of tangible personal property or a product transferred electronically

3622 to other tangible personal property or detachment of tangible personal property or a product
3623 transferred electronically from other tangible personal property is made in conjunction with a
3624 repair or replacement of tangible personal property or a product transferred electronically.

3625 (b) "Repairs or renovations of tangible personal property" does not include:

3626 (i) attaching prewritten computer software to other tangible personal property if the
3627 other tangible personal property to which the prewritten computer software is attached is not
3628 permanently attached to real property; or

3629 (ii) detaching prewritten computer software from other tangible personal property if the
3630 other tangible personal property from which the prewritten computer software is detached is
3631 not permanently attached to real property.

3632 [~~(109)~~] (113) "Research and development" means the process of inquiry or
3633 experimentation aimed at the discovery of facts, devices, technologies, or applications and the
3634 process of preparing those devices, technologies, or applications for marketing.

3635 [~~(110)~~] (114) (a) "Residential telecommunications services" means a
3636 telecommunications service or an ancillary service that is provided to an individual for personal
3637 use:

3638 (i) at a residential address; or

3639 (ii) at an institution, including a nursing home or a school, if the telecommunications
3640 service or ancillary service is provided to and paid for by the individual residing at the
3641 institution rather than the institution.

3642 (b) For purposes of Subsection [~~(110)~~] (114)(a)(i), a residential address includes an:

3643 (i) apartment; or

3644 (ii) other individual dwelling unit.

3645 [~~(111)~~] (115) "Residential use" means the use in or around a home, apartment building,
3646 sleeping quarters, and similar facilities or accommodations.

3647 [~~(112)~~] (116) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
3648 other than:

3649 (a) resale;

3650 (b) sublease; or

3651 (c) subrent.

3652 [~~(113)~~] (117) (a) "Retailer" means any person, unless prohibited by the Constitution of

3653 the United States or federal law, that is engaged in a regularly organized business in tangible
3654 personal property or any other taxable transaction under Subsection 59-12-103(1), and who is
3655 selling to the user or consumer and not for resale.

3656 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
3657 engaged in the business of selling to users or consumers within the state.

3658 [~~(114)~~] (118) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
3659 otherwise, in any manner, of tangible personal property or any other taxable transaction under
3660 Subsection 59-12-103(1), for consideration.

3661 (b) "Sale" includes:

3662 (i) installment and credit sales;

3663 (ii) any closed transaction constituting a sale;

3664 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
3665 chapter;

3666 (iv) any transaction if the possession of property is transferred but the seller retains the
3667 title as security for the payment of the price; and

3668 (v) any transaction under which right to possession, operation, or use of any article of
3669 tangible personal property is granted under a lease or contract and the transfer of possession
3670 would be taxable if an outright sale were made.

3671 [~~(115)~~] (119) "Sale at retail" means the same as that term is defined in Subsection
3672 [~~(112)~~] (116).

3673 [~~(116)~~] (120) "Sale-leaseback transaction" means a transaction by which title to
3674 tangible personal property or a product transferred electronically that is subject to a tax under
3675 this chapter is transferred:

3676 (a) by a purchaser-lessee;

3677 (b) to a lessor;

3678 (c) for consideration; and

3679 (d) if:

3680 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
3681 of the tangible personal property or product transferred electronically;

3682 (ii) the sale of the tangible personal property or product transferred electronically to the
3683 lessor is intended as a form of financing;

- 3684 (A) for the tangible personal property or product transferred electronically; and
- 3685 (B) to the purchaser-lessee; and
- 3686 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
- 3687 is required to:
 - 3688 (A) capitalize the tangible personal property or product transferred electronically for
 - 3689 financial reporting purposes; and
 - 3690 (B) account for the lease payments as payments made under a financing arrangement.
- 3691 [~~(H7)~~] (121) "Sales price" means the same as that term is defined in Subsection
- 3692 [~~(H3)~~] (107).
- 3693 [~~(H8)~~] (122) (a) "Sales relating to schools" means the following sales by, amounts
- 3694 paid to, or amounts charged by a school:
 - 3695 (i) sales that are directly related to the school's educational functions or activities
 - 3696 including:
 - 3697 (A) the sale of:
 - 3698 (I) textbooks;
 - 3699 (II) textbook fees;
 - 3700 (III) laboratory fees;
 - 3701 (IV) laboratory supplies; or
 - 3702 (V) safety equipment;
 - 3703 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
 - 3704 that:
 - 3705 (I) a student is specifically required to wear as a condition of participation in a
 - 3706 school-related event or school-related activity; and
 - 3707 (II) is not readily adaptable to general or continued usage to the extent that it takes the
 - 3708 place of ordinary clothing;
 - 3709 (C) sales of the following if the net or gross revenues generated by the sales are
 - 3710 deposited into a school district fund or school fund dedicated to school meals:
 - 3711 (I) food and food ingredients; or
 - 3712 (II) prepared food; or
 - 3713 (D) transportation charges for official school activities; or
 - 3714 (ii) amounts paid to or amounts charged by a school for admission to a school-related

3715 event or school-related activity.

3716 (b) "Sales relating to schools" does not include:

3717 (i) bookstore sales of items that are not educational materials or supplies;

3718 (ii) except as provided in Subsection [~~(118)~~] (122)(a)(i)(B):

3719 (A) clothing;

3720 (B) clothing accessories or equipment;

3721 (C) protective equipment; or

3722 (D) sports or recreational equipment; or

3723 (iii) amounts paid to or amounts charged by a school for admission to a school-related
3724 event or school-related activity if the amounts paid or charged are passed through to a person:

3725 (A) other than a:

3726 (I) school;

3727 (II) nonprofit organization authorized by a school board or a governing body of a
3728 private school to organize and direct a competitive secondary school activity; or

3729 (III) nonprofit association authorized by a school board or a governing body of a
3730 private school to organize and direct a competitive secondary school activity; and

3731 (B) that is required to collect sales and use taxes under this chapter.

3732 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3733 commission may make rules defining the term "passed through."

3734 [~~(119)~~] (123) For purposes of this section and Section [59-12-104](#), "school" means:

3735 (a) an elementary school or a secondary school that:

3736 (i) is a:

3737 (A) public school; or

3738 (B) private school; and

3739 (ii) provides instruction for one or more grades kindergarten through 12; or

3740 (b) a public school district.

3741 (124) "Security system monitoring" means the service of monitoring signals from an
3742 alarm system, as defined in Section [58-55-102](#), regardless of whether the monitoring is
3743 performed electronically or by an individual.

3744 [~~(120)~~] (125) (a) "Seller" means a person that makes a sale, lease, or rental of:

3745 (i) tangible personal property;

- 3746 (ii) a product transferred electronically; or
- 3747 (iii) a service.
- 3748 (b) "Seller" includes a marketplace facilitator.
- 3749 (126) "Seller-hosted prewritten computer software" means prewritten computer
- 3750 software that is accessed through the Internet or a seller-hosted server, regardless of whether:
- 3751 (a) the access is permanent; or
- 3752 (b) any downloading occurs.
- 3753 [~~(121)~~] (127) (a) "Semiconductor fabricating, processing, research, or development
- 3754 materials" means tangible personal property or a product transferred electronically if the
- 3755 tangible personal property or product transferred electronically is:
- 3756 (i) used primarily in the process of:
- 3757 (A) (I) manufacturing a semiconductor;
- 3758 (II) fabricating a semiconductor; or
- 3759 (III) research or development of a:
- 3760 (Aa) semiconductor; or
- 3761 (Bb) semiconductor manufacturing process; or
- 3762 (B) maintaining an environment suitable for a semiconductor; or
- 3763 (ii) consumed primarily in the process of:
- 3764 (A) (I) manufacturing a semiconductor;
- 3765 (II) fabricating a semiconductor; or
- 3766 (III) research or development of a:
- 3767 (Aa) semiconductor; or
- 3768 (Bb) semiconductor manufacturing process; or
- 3769 (B) maintaining an environment suitable for a semiconductor.
- 3770 (b) "Semiconductor fabricating, processing, research, or development materials"
- 3771 includes:
- 3772 (i) parts used in the repairs or renovations of tangible personal property or a product
- 3773 transferred electronically described in Subsection [~~(121)~~] (127)(a); or
- 3774 (ii) a chemical, catalyst, or other material used to:
- 3775 (A) produce or induce in a semiconductor a:
- 3776 (I) chemical change; or

- 3777 (II) physical change;
- 3778 (B) remove impurities from a semiconductor; or
- 3779 (C) improve the marketable condition of a semiconductor.
- 3780 [~~(122)~~] (128) "Senior citizen center" means a facility having the primary purpose of
- 3781 providing services to the aged as defined in Section 62A-3-101.
- 3782 [~~(123)~~] (129) (a) [~~Subject to Subsections (123)(b) and (c), "short-term]~~ "Short-term
- 3783 lodging consumable" means tangible personal property that:
- 3784 (i) a business that provides accommodations and services described in Subsection
- 3785 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
- 3786 to a purchaser;
- 3787 (ii) is intended to be consumed by the purchaser; and
- 3788 (iii) is:
- 3789 (A) included in the purchase price of the accommodations and services; and
- 3790 (B) not separately stated on an invoice, bill of sale, or other similar document provided
- 3791 to the purchaser.
- 3792 (b) "Short-term lodging consumable" includes:
- 3793 (i) a beverage;
- 3794 (ii) a brush or comb;
- 3795 (iii) a cosmetic;
- 3796 (iv) a hair care product;
- 3797 (v) lotion;
- 3798 (vi) a magazine;
- 3799 (vii) makeup;
- 3800 (viii) a meal;
- 3801 (ix) mouthwash;
- 3802 (x) nail polish remover;
- 3803 (xi) a newspaper;
- 3804 (xii) a notepad;
- 3805 (xiii) a pen;
- 3806 (xiv) a pencil;
- 3807 (xv) a razor;

- 3808 (xvi) saline solution;
- 3809 (xvii) a sewing kit;
- 3810 (xviii) shaving cream;
- 3811 (xix) a shoe shine kit;
- 3812 (xx) a shower cap;
- 3813 (xxi) a snack item;
- 3814 (xxii) soap;
- 3815 (xxiii) toilet paper;
- 3816 (xxiv) a toothbrush;
- 3817 (xxv) toothpaste; or
- 3818 (xxvi) an item similar to Subsections [~~(123)~~] (129)(b)(i) through (xxv) as the
- 3819 commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah
- 3820 Administrative Rulemaking Act.
- 3821 (c) "Short-term lodging consumable" does not include:
- 3822 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 3823 property to be reused; or
- 3824 (ii) a product transferred electronically.
- 3825 [~~(124)~~] (130) "Simplified electronic return" means the electronic return:
- 3826 (a) described in Section 318(C) of the agreement; and
- 3827 (b) approved by the governing board of the agreement.
- 3828 [~~(125)~~] (131) "Solar energy" means the sun used as the sole source of energy for
- 3829 producing electricity.
- 3830 [~~(126)~~] (132) (a) "Sports or recreational equipment" means an item:
- 3831 (i) designed for human use; and
- 3832 (ii) that is:
- 3833 (A) worn in conjunction with:
- 3834 (I) an athletic activity; or
- 3835 (II) a recreational activity; and
- 3836 (B) not suitable for general use.
- 3837 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3838 commission shall make rules:

- 3839 (i) listing the items that constitute "sports or recreational equipment"; and
3840 (ii) that are consistent with the list of items that constitute "sports or recreational
3841 equipment" under the agreement.
- 3842 ~~[(127)]~~ (133) "State" means the state of Utah, its departments, and agencies.
- 3843 ~~[(128)]~~ (134) "Storage" means any keeping or retention of tangible personal property or
3844 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
3845 except sale in the regular course of business.
- 3846 ~~[(129)]~~ (135) (a) ~~[Except as provided in Subsection (129)(d) or (c), "tangible]~~
3847 "Tangible personal property" means personal property that:
- 3848 (i) may be:
- 3849 (A) seen;
- 3850 (B) weighed;
- 3851 (C) measured;
- 3852 (D) felt; or
- 3853 (E) touched; or
- 3854 (ii) is in any manner perceptible to the senses.
- 3855 (b) "Tangible personal property" includes:
- 3856 (i) electricity;
- 3857 (ii) water;
- 3858 (iii) gas;
- 3859 (iv) steam; or
- 3860 (v) prewritten computer software, regardless of the manner in which the prewritten
3861 computer software is transferred.
- 3862 (c) "Tangible personal property" includes the following regardless of whether the item
3863 is attached to real property:
- 3864 (i) a dishwasher;
- 3865 (ii) a dryer;
- 3866 (iii) a freezer;
- 3867 (iv) a microwave;
- 3868 (v) a refrigerator;
- 3869 (vi) a stove;

3870 (vii) a washer; or
3871 (viii) an item similar to Subsections [~~(129)~~] (135)(c)(i) through (vii) as determined by
3872 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3873 Rulemaking Act.

3874 (d) "Tangible personal property" does not include a product that is transferred
3875 electronically.

3876 (e) "Tangible personal property" does not include the following if attached to real
3877 property, regardless of whether the attachment to real property is only through a line that
3878 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
3879 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3880 Rulemaking Act:

- 3881 (i) a hot water heater;
- 3882 (ii) a water filtration system; or
- 3883 (iii) a water softener system.

3884 [~~(130)~~] (136) (a) "Telecommunications enabling or facilitating equipment, machinery,
3885 or software" means an item listed in Subsection [~~(130)~~] (136)(b) if that item is purchased or
3886 leased primarily to enable or facilitate one or more of the following to function:

- 3887 (i) telecommunications switching or routing equipment, machinery, or software; or
- 3888 (ii) telecommunications transmission equipment, machinery, or software.

3889 (b) The following apply to Subsection [~~(130)~~] (136)(a):

- 3890 (i) a pole;
- 3891 (ii) software;
- 3892 (iii) a supplementary power supply;
- 3893 (iv) temperature or environmental equipment or machinery;
- 3894 (v) test equipment;
- 3895 (vi) a tower; or

3896 (vii) equipment, machinery, or software that functions similarly to an item listed in
3897 Subsections [~~(130)~~] (136)(b)(i) through (vi) as determined by the commission by rule made in
3898 accordance with Subsection [~~(130)~~] (136)(c).

3899 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3900 commission may by rule define what constitutes equipment, machinery, or software that

3901 functions similarly to an item listed in Subsections [~~(130)~~] (136)(b)(i) through (vi).

3902 [~~(131)~~] (137) "Telecommunications equipment, machinery, or software required for
3903 911 service" means equipment, machinery, or software that is required to comply with 47
3904 C.F.R. Sec. 20.18.

3905 [~~(132)~~] (138) "Telecommunications maintenance or repair equipment, machinery, or
3906 software" means equipment, machinery, or software purchased or leased primarily to maintain
3907 or repair one or more of the following, regardless of whether the equipment, machinery, or
3908 software is purchased or leased as a spare part or as an upgrade or modification to one or more
3909 of the following:

3910 (a) telecommunications enabling or facilitating equipment, machinery, or software;

3911 (b) telecommunications switching or routing equipment, machinery, or software; or

3912 (c) telecommunications transmission equipment, machinery, or software.

3913 [~~(133)~~] (139) (a) "Telecommunications service" means the electronic conveyance,
3914 routing, or transmission of audio, data, video, voice, or any other information or signal to a
3915 point, or among or between points.

3916 (b) "Telecommunications service" includes:

3917 (i) an electronic conveyance, routing, or transmission with respect to which a computer
3918 processing application is used to act:

3919 (A) on the code, form, or protocol of the content;

3920 (B) for the purpose of electronic conveyance, routing, or transmission; and

3921 (C) regardless of whether the service:

3922 (I) is referred to as voice over Internet protocol service; or

3923 (II) is classified by the Federal Communications Commission as enhanced or value
3924 added;

3925 (ii) an 800 service;

3926 (iii) a 900 service;

3927 (iv) a fixed wireless service;

3928 (v) a mobile wireless service;

3929 (vi) a postpaid calling service;

3930 (vii) a prepaid calling service;

3931 (viii) a prepaid wireless calling service; or

- 3932 (ix) a private communications service.
- 3933 (c) "Telecommunications service" does not include:
- 3934 (i) advertising, including directory advertising;
- 3935 (ii) an ancillary service;
- 3936 (iii) a billing and collection service provided to a third party;
- 3937 (iv) a data processing and information service if:
- 3938 (A) the data processing and information service allows data to be:
- 3939 (I) (Aa) acquired;
- 3940 (Bb) generated;
- 3941 (Cc) processed;
- 3942 (Dd) retrieved; or
- 3943 (Ee) stored; and
- 3944 (II) delivered by an electronic transmission to a purchaser; and
- 3945 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 3946 or information;
- 3947 (v) installation or maintenance of the following on a customer's premises:
- 3948 (A) equipment; or
- 3949 (B) wiring;
- 3950 (vi) Internet access service;
- 3951 (vii) a paging service;
- 3952 (viii) a product transferred electronically, including:
- 3953 (A) music;
- 3954 (B) reading material;
- 3955 (C) a ring tone;
- 3956 (D) software; or
- 3957 (E) video;
- 3958 (ix) a radio and television audio and video programming service:
- 3959 (A) regardless of the medium; and
- 3960 (B) including:
- 3961 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 3962 programming service by a programming service provider;

- 3963 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
3964 (III) audio and video programming services delivered by a commercial mobile radio
3965 service provider as defined in 47 C.F.R. Sec. 20.3;
3966 (x) a value-added nonvoice data service; or
3967 (xi) tangible personal property.
- 3968 [~~(134)~~] (140) (a) "Telecommunications service provider" means a person that:
3969 (i) owns, controls, operates, or manages a telecommunications service; and
3970 (ii) engages in an activity described in Subsection [~~(134)~~] (140)(a)(i) for the shared use
3971 with or resale to any person of the telecommunications service.
- 3972 (b) A person described in Subsection [~~(134)~~] (140)(a) is a telecommunications service
3973 provider whether or not the Public Service Commission of Utah regulates:
3974 (i) that person; or
3975 (ii) the telecommunications service that the person owns, controls, operates, or
3976 manages.
- 3977 [~~(135)~~] (141) (a) "Telecommunications switching or routing equipment, machinery, or
3978 software" means an item listed in Subsection [~~(135)~~] (141)(b) if that item is purchased or
3979 leased primarily for switching or routing:
3980 (i) an ancillary service;
3981 (ii) data communications;
3982 (iii) voice communications; or
3983 (iv) telecommunications service.
- 3984 (b) The following apply to Subsection [~~(135)~~] (141)(a):
3985 (i) a bridge;
3986 (ii) a computer;
3987 (iii) a cross connect;
3988 (iv) a modem;
3989 (v) a multiplexer;
3990 (vi) plug in circuitry;
3991 (vii) a router;
3992 (viii) software;
3993 (ix) a switch; or

3994 (x) equipment, machinery, or software that functions similarly to an item listed in
3995 Subsections [~~(135)~~] (141)(b)(i) through (ix) as determined by the commission by rule made in
3996 accordance with Subsection [~~(135)~~] (141)(c).

3997 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3998 commission may by rule define what constitutes equipment, machinery, or software that
3999 functions similarly to an item listed in Subsections [~~(135)~~] (141)(b)(i) through (ix).

4000 [~~(136)~~] (142) (a) "Telecommunications transmission equipment, machinery, or
4001 software" means an item listed in Subsection [~~(136)~~] (142)(b) if that item is purchased or
4002 leased primarily for sending, receiving, or transporting:

- 4003 (i) an ancillary service;
 - 4004 (ii) data communications;
 - 4005 (iii) voice communications; or
 - 4006 (iv) telecommunications service.
- 4007 (b) The following apply to Subsection [~~(136)~~] (142)(a):
- 4008 (i) an amplifier;
 - 4009 (ii) a cable;
 - 4010 (iii) a closure;
 - 4011 (iv) a conduit;
 - 4012 (v) a controller;
 - 4013 (vi) a duplexer;
 - 4014 (vii) a filter;
 - 4015 (viii) an input device;
 - 4016 (ix) an input/output device;
 - 4017 (x) an insulator;
 - 4018 (xi) microwave machinery or equipment;
 - 4019 (xii) an oscillator;
 - 4020 (xiii) an output device;
 - 4021 (xiv) a pedestal;
 - 4022 (xv) a power converter;
 - 4023 (xvi) a power supply;
 - 4024 (xvii) a radio channel;

- 4025 (xviii) a radio receiver;
- 4026 (xix) a radio transmitter;
- 4027 (xx) a repeater;
- 4028 (xxi) software;
- 4029 (xxii) a terminal;
- 4030 (xxiii) a timing unit;
- 4031 (xxiv) a transformer;
- 4032 (xxv) a wire; or
- 4033 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 4034 Subsections ~~[(136)]~~ (142)(b)(i) through (xxv) as determined by the commission by rule made in
- 4035 accordance with Subsection ~~[(136)]~~ (142)(c).
- 4036 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 4037 commission may by rule define what constitutes equipment, machinery, or software that
- 4038 functions similarly to an item listed in Subsections ~~[(136)]~~ (142)(b)(i) through (xxv).
- 4039 ~~[(137) (a) "Textbook for a higher education course" means a textbook or other printed~~
- 4040 ~~material that is required for a course:]~~
- 4041 ~~[(i) offered by an institution of higher education; and]~~
- 4042 ~~[(ii) that the purchaser of the textbook or other printed material attends or will attend.]~~
- 4043 ~~[(b) "Textbook for a higher education course" includes a textbook in electronic~~
- 4044 ~~format.]~~
- 4045 ~~[(138)]~~ (143) "Tobacco" means:
- 4046 (a) a cigarette;
- 4047 (b) a cigar;
- 4048 (c) chewing tobacco;
- 4049 (d) pipe tobacco; or
- 4050 (e) any other item that contains tobacco.
- 4051 ~~[(139)]~~ (144) "Unassisted amusement device" means an amusement device, skill
- 4052 device, or ride device that is started ~~[and]~~ or stopped by the purchaser or renter of the right to
- 4053 use or operate the amusement device, skill device, or ride device.
- 4054 ~~[(140)]~~ (145) (a) "Use" means the exercise of any right or power over tangible personal
- 4055 property, a product transferred electronically, or a service under Subsection [59-12-103\(1\)](#),

4056 incident to the ownership or the leasing of that tangible personal property, product transferred
4057 electronically, or service.

4058 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
4059 property, a product transferred electronically, or a service in the regular course of business and
4060 held for resale.

4061 ~~[(141)]~~ (146) "Value-added nonvoice data service" means a service:

4062 (a) that otherwise meets the definition of a telecommunications service except that a
4063 computer processing application is used to act primarily for a purpose other than conveyance,
4064 routing, or transmission; and

4065 (b) with respect to which a computer processing application is used to act on data or
4066 information:

- 4067 (i) code;
- 4068 (ii) content;
- 4069 (iii) form; or
- 4070 (iv) protocol.

4071 ~~[(142)]~~ (147) (a) Subject to Subsection ~~[(142)]~~ (147)(b), "vehicle" means the following
4072 that are required to be titled, registered, or titled and registered:

- 4073 (i) an aircraft as defined in Section 72-10-102;
- 4074 (ii) a vehicle as defined in Section 41-1a-102;
- 4075 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 4076 (iv) a vessel as defined in Section 41-1a-102.

4077 (b) For purposes of Subsection 59-12-104~~[(33)]~~(30) only, "vehicle" includes:

- 4078 (i) a vehicle described in Subsection ~~[(142)]~~ (147)(a); or
- 4079 (ii) (A) a locomotive;
- 4080 (B) a freight car;
- 4081 (C) railroad work equipment; or
- 4082 (D) other railroad rolling stock.

4083 ~~[(143)]~~ (148) "Vehicle dealer" means a person engaged in the business of buying,
4084 selling, or exchanging a vehicle ~~[as defined in Subsection (142)]~~.

4085 ~~[(144)]~~ (149) (a) "Vertical service" means an ancillary service that:

- 4086 (i) is offered in connection with one or more telecommunications services; and

4087 (ii) offers an advanced calling feature that allows a customer to:

4088 (A) identify a caller; and

4089 (B) manage multiple calls and call connections.

4090 (b) "Vertical service" includes an ancillary service that allows a customer to manage a

4091 conference bridging service.

4092 ~~[(145)]~~ (150) (a) "Voice mail service" means an ancillary service that enables a

4093 customer to receive, send, or store a recorded message.

4094 (b) "Voice mail service" does not include a vertical service that a customer is required

4095 to have in order to utilize a voice mail service.

4096 ~~[(146)]~~ (151) (a) ~~[Except as provided in Subsection (146)(b), "waste]~~ "Waste energy

4097 facility" means a facility that generates electricity:

4098 (i) using as the primary source of energy waste materials that would be placed in a

4099 landfill or refuse pit if it were not used to generate electricity, including:

4100 (A) tires;

4101 (B) waste coal;

4102 (C) oil shale; or

4103 (D) municipal solid waste; and

4104 (ii) in amounts greater than actually required for the operation of the facility.

4105 (b) "Waste energy facility" does not include a facility that incinerates:

4106 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

4107 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

4108 ~~[(147)]~~ (152) "Watercraft" means a vessel as defined in Section [73-18-2](#).

4109 ~~[(148)]~~ (153) "Wind energy" means wind used as the sole source of energy to produce

4110 electricity.

4111 ~~[(149)]~~ (154) "ZIP Code" means a Zoning Improvement Plan Code assigned to a

4112 geographic location by the United States Postal Service.

4113 Section 44. Section **59-12-103** is amended to read:

4114 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
4115 **tax revenue.**

4116 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or

4117 sales price for amounts paid or charged for the following transactions:

- 4118 (a) retail sales of tangible personal property made within the state;
- 4119 (b) amounts paid for:
 - 4120 (i) telecommunications service, other than mobile telecommunications service or a 900
 - 4121 service, that originates and terminates within the boundaries of this state;
 - 4122 (ii) mobile telecommunications service that originates and terminates within the
 - 4123 boundaries of one state only to the extent permitted by the Mobile Telecommunications
 - 4124 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; [~~or~~]
 - 4125 (iii) a 900 service; or
 - 4126 [~~(iii)~~] (iv) an ancillary service associated with a:
 - 4127 (A) telecommunications service described in Subsection (1)(b)(i); [~~or~~]
 - 4128 (B) mobile telecommunications service described in Subsection (1)(b)(ii); or
 - 4129 (C) 900 service;
 - 4130 (c) sales of the following for commercial use:
 - 4131 (i) gas;
 - 4132 (ii) electricity;
 - 4133 (iii) heat;
 - 4134 (iv) coal;
 - 4135 (v) fuel oil; or
 - 4136 (vi) other fuels;
 - 4137 (d) sales of the following for residential use:
 - 4138 (i) gas;
 - 4139 (ii) electricity;
 - 4140 (iii) heat;
 - 4141 (iv) coal;
 - 4142 (v) fuel oil; or
 - 4143 (vi) other fuels;
 - 4144 (e) sales of prepared food;
 - 4145 (f) except as provided in Section [59-12-104](#), amounts paid or charged as admission or
 - 4146 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
 - 4147 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
 - 4148 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit

4149 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
4150 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
4151 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
4152 horseback rides, sports activities, or any other amusement, entertainment, recreation,
4153 exhibition, cultural, or athletic activity;

4154 (g) amounts paid or charged for services for repairs or renovations of tangible personal
4155 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

4156 (i) the tangible personal property; and

4157 (ii) parts used in the repairs or renovations of the tangible personal property described
4158 in Subsection (1)(g)(i), regardless of whether:

4159 (A) any parts are actually used in the repairs or renovations of that tangible personal
4160 property; or

4161 (B) the particular parts used in the repairs or renovations of that tangible personal
4162 property are exempt from a tax under this chapter;

4163 (h) [~~except as provided in Subsection 59-12-104(7),~~] amounts paid or charged for
4164 [~~assisted~~] cleaning or washing of tangible personal property;

4165 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
4166 accommodations and services that are regularly rented for less than 30 consecutive days;

4167 (j) amounts paid or charged for laundry or dry cleaning services;

4168 (k) amounts paid or charged for leases or rentals of tangible personal property if within
4169 this state the tangible personal property is:

4170 (i) stored;

4171 (ii) used; or

4172 (iii) otherwise consumed;

4173 (l) amounts paid or charged for tangible personal property if within this state the
4174 tangible personal property is:

4175 (i) stored;

4176 (ii) used; or

4177 (iii) consumed; [~~and~~]

4178 (m) amounts paid or charged for a sale:

4179 (i) (A) of a product transferred electronically; or

4180 (B) of a repair or renovation of a product transferred electronically; and
4181 (ii) regardless of whether the sale provides:
4182 (A) a right of permanent use of the product; or
4183 (B) a right to use the product that is less than a permanent use, including a right:
4184 (I) for a definite or specified length of time; and
4185 (II) that terminates upon the occurrence of a condition[-];
4186 (n) amounts paid or charged for access to digital audio-visual works, digital audio
4187 works, digital books, or gaming services, including the streaming of or subscription for access
4188 to digital audio-visual works, digital audio works, digital books, or gaming services regardless
4189 of:
4190 (i) the delivery method; or
4191 (ii) whether the amount paid or charged for access provides a right to:
4192 (A) single-use access to the digital audio-visual works, digital audio works, digital
4193 books, or gaming services; or
4194 (B) access the digital audio-visual works, digital audio works, digital books, or gaming
4195 services through a subscription, including a right that terminates upon the occurrence of a
4196 condition;
4197 (o) amounts paid or charged for the storage, use, or other consumption of:
4198 (i) prewritten computer software delivered electronically or by load and leave; or
4199 (ii) seller-hosted prewritten computer software; and
4200 (p) amounts paid or charged for the following services:
4201 (i) security system monitoring;
4202 (ii) personal transportation that originates in the state and terminates in the state;
4203 (iii) parking or garaging a motor vehicle at a location that:
4204 (A) is designed and used for parking or garaging one or more motor vehicles,
4205 regardless of whether the location is sometimes used for other purposes; and
4206 (B) is not residential property;
4207 (iv) tow truck service as defined in Section [72-9-102](#), including any related fees;
4208 (v) pet boarding or care;
4209 (vi) pet grooming;
4210 (vii) dating referral services; and

4211 (viii) identity theft protection.

4212 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
4213 are imposed on a transaction described in Subsection (1) equal to the sum of:

4214 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

4215 [~~(A) (I) through March 31, 2019, 4.70%; and~~]

4216 [~~(H) (A) [beginning on April 1, 2019,]~~ 4.70% plus the rate specified in Subsection

4217 [~~(13)~~] (12)(a); and

4218 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
4219 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
4220 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
4221 State Sales and Use Tax Act; and

4222 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
4223 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
4224 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
4225 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

4226 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
4227 transaction under this chapter other than this part.

4228 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax are
4229 imposed on a transaction described in Subsection (1)(d) equal to the sum of:

4230 (i) a state tax imposed on the transaction at a tax rate of 2%; and

4231 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
4232 transaction under this chapter other than this part.

4233 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax are
4234 imposed on amounts paid or charged for food and food ingredients equal to the sum of:

4235 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
4236 a tax rate of 1.75%; and

4237 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
4238 amounts paid or charged for food and food ingredients under this chapter other than this part.

4239 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
4240 tangible personal property other than food and food ingredients, a state tax and a local tax is
4241 imposed on the entire bundled transaction equal to the sum of:

4242 (A) a state tax imposed on the entire bundled transaction equal to the sum of:
4243 (I) the tax rate described in Subsection (2)(a)(i)(A); and
4244 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
4245 Sales and Use Tax Act, if the location of the transaction as determined under Sections
4246 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
4247 Additional State Sales and Use Tax Act; and
4248 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
4249 Sales and Use Tax Act, if the location of the transaction as determined under Sections
4250 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
4251 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
4252 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
4253 described in Subsection (2)(a)(ii).
4254 (ii) If an optional computer software maintenance contract is a bundled transaction that
4255 consists of taxable and nontaxable products that are not separately itemized on an invoice or
4256 similar billing document, the purchase of the optional computer software maintenance contract
4257 is 40% taxable under this chapter and 60% nontaxable under this chapter.
4258 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
4259 transaction described in Subsection (2)(d)(i) or (ii):
4260 (A) if the sales price of the bundled transaction is attributable to tangible personal
4261 property, a product, or a service that is subject to taxation under this chapter and tangible
4262 personal property, a product, or service that is not subject to taxation under this chapter, the
4263 entire bundled transaction is subject to taxation under this chapter unless:
4264 (I) the seller is able to identify by reasonable and verifiable standards the tangible
4265 personal property, product, or service that is not subject to taxation under this chapter from the
4266 books and records the seller keeps in the seller's regular course of business; or
4267 (II) state or federal law provides otherwise; or
4268 (B) if the sales price of a bundled transaction is attributable to two or more items of
4269 tangible personal property, products, or services that are subject to taxation under this chapter
4270 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
4271 higher tax rate unless:
4272 (I) the seller is able to identify by reasonable and verifiable standards the tangible

4273 personal property, product, or service that is subject to taxation under this chapter at the lower
4274 tax rate from the books and records the seller keeps in the seller's regular course of business; or

4275 (II) state or federal law provides otherwise.

4276 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
4277 seller's regular course of business includes books and records the seller keeps in the regular
4278 course of business for nontax purposes.

4279 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
4280 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
4281 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
4282 of tangible personal property, other property, a product, or a service that is not subject to
4283 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
4284 the seller, at the time of the transaction:

4285 (A) separately states the portion of the transaction that is not subject to taxation under
4286 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

4287 (B) is able to identify by reasonable and verifiable standards, from the books and
4288 records the seller keeps in the seller's regular course of business, the portion of the transaction
4289 that is not subject to taxation under this chapter.

4290 (ii) A purchaser and a seller may correct the taxability of a transaction if:

4291 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
4292 the transaction that is not subject to taxation under this chapter was not separately stated on an
4293 invoice, bill of sale, or similar document provided to the purchaser because of an error or
4294 ignorance of the law; and

4295 (B) the seller is able to identify by reasonable and verifiable standards, from the books
4296 and records the seller keeps in the seller's regular course of business, the portion of the
4297 transaction that is not subject to taxation under this chapter.

4298 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
4299 in the seller's regular course of business includes books and records the seller keeps in the
4300 regular course of business for nontax purposes.

4301 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
4302 personal property, products, or services that are subject to taxation under this chapter at
4303 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate

4304 unless the seller, at the time of the transaction:

4305 (A) separately states the items subject to taxation under this chapter at each of the
4306 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

4307 (B) is able to identify by reasonable and verifiable standards the tangible personal
4308 property, product, or service that is subject to taxation under this chapter at the lower tax rate
4309 from the books and records the seller keeps in the seller's regular course of business.

4310 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
4311 seller's regular course of business includes books and records the seller keeps in the regular
4312 course of business for nontax purposes.

4313 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
4314 rate imposed under the following shall take effect on the first day of a calendar quarter:

4315 (i) Subsection (2)(a)(i)(A);

4316 (ii) Subsection (2)(b)(i);

4317 (iii) Subsection (2)(c)(i); or

4318 (iv) Subsection (2)(d)(i)(A)(I).

4319 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
4320 begins on or after the effective date of the tax rate increase if the billing period for the
4321 transaction begins before the effective date of a tax rate increase imposed under:

4322 (A) Subsection (2)(a)(i)(A);

4323 (B) Subsection (2)(b)(i);

4324 (C) Subsection (2)(c)(i); or

4325 (D) Subsection (2)(d)(i)(A)(I).

4326 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
4327 statement for the billing period is rendered on or after the effective date of the repeal of the tax
4328 or the tax rate decrease imposed under:

4329 (A) Subsection (2)(a)(i)(A);

4330 (B) Subsection (2)(b)(i);

4331 (C) Subsection (2)(c)(i); or

4332 (D) Subsection (2)(d)(i)(A)(I).

4333 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
4334 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or

- 4335 change in a tax rate takes effect:
- 4336 (A) on the first day of a calendar quarter; and
- 4337 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 4338 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:
- 4339 (A) Subsection (2)(a)(i)(A);
- 4340 (B) Subsection (2)(b)(i);
- 4341 (C) Subsection (2)(c)(i); or
- 4342 (D) Subsection (2)(d)(i)(A)(I).
- 4343 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 4344 the commission may by rule define the term "catalogue sale."
- 4345 (3) (a) The following state taxes shall be deposited into the General Fund:
- 4346 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 4347 (ii) the tax imposed by Subsection (2)(b)(i);
- 4348 (iii) the tax imposed by Subsection (2)(c)(i); or
- 4349 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
- 4350 (b) The following local taxes shall be distributed to a county, city, or town as provided
- 4351 in this chapter:
- 4352 (i) the tax imposed by Subsection (2)(a)(ii);
- 4353 (ii) the tax imposed by Subsection (2)(b)(ii);
- 4354 (iii) the tax imposed by Subsection (2)(c)(ii); and
- 4355 (iv) the tax imposed by Subsection (2)(d)(i)(B).
- 4356 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
- 4357 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
- 4358 through (g):
- 4359 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
- 4360 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- 4361 (B) for the fiscal year; or
- 4362 (ii) \$17,500,000.
- 4363 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
- 4364 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
- 4365 Department of Natural Resources to:

4366 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
4367 protect sensitive plant and animal species; or

4368 (B) award grants, up to the amount authorized by the Legislature in an appropriations
4369 act, to political subdivisions of the state to implement the measures described in Subsections
4370 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

4371 (ii) Money transferred to the Department of Natural Resources under Subsection
4372 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
4373 person to list or attempt to have listed a species as threatened or endangered under the
4374 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

4375 (iii) At the end of each fiscal year:

4376 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
4377 Conservation and Development Fund created in Section 73-10-24;

4378 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
4379 Program Subaccount created in Section 73-10c-5; and

4380 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
4381 Program Subaccount created in Section 73-10c-5.

4382 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
4383 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
4384 created in Section 4-18-106.

4385 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
4386 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
4387 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
4388 water rights.

4389 (ii) At the end of each fiscal year:

4390 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
4391 Conservation and Development Fund created in Section 73-10-24;

4392 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
4393 Program Subaccount created in Section 73-10c-5; and

4394 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
4395 Program Subaccount created in Section 73-10c-5.

4396 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described

4397 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
4398 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

4399 (ii) In addition to the uses allowed of the Water Resources Conservation and
4400 Development Fund under Section 73-10-24, the Water Resources Conservation and
4401 Development Fund may also be used to:

4402 (A) conduct hydrologic and geotechnical investigations by the Division of Water
4403 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
4404 quantifying surface and ground water resources and describing the hydrologic systems of an
4405 area in sufficient detail so as to enable local and state resource managers to plan for and
4406 accommodate growth in water use without jeopardizing the resource;

4407 (B) fund state required dam safety improvements; and

4408 (C) protect the state's interest in interstate water compact allocations, including the
4409 hiring of technical and legal staff.

4410 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
4411 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
4412 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

4413 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
4414 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
4415 created in Section 73-10c-5 for use by the Division of Drinking Water to:

4416 (i) provide for the installation and repair of collection, treatment, storage, and
4417 distribution facilities for any public water system, as defined in Section 19-4-102;

4418 (ii) develop underground sources of water, including springs and wells; and

4419 (iii) develop surface water sources.

4420 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
4421 2006, the difference between the following amounts shall be expended as provided in this
4422 Subsection (5), if that difference is greater than \$1:

4423 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
4424 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

4425 (ii) \$17,500,000.

4426 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

4427 (A) transferred each fiscal year to the Department of Natural Resources as dedicated

4428 credits; and

4429 (B) expended by the Department of Natural Resources for watershed rehabilitation or
4430 restoration.

4431 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
4432 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
4433 created in Section 73-10-24.

4434 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
4435 remaining difference described in Subsection (5)(a) shall be:

4436 (A) transferred each fiscal year to the Division of Water Resources as dedicated
4437 credits; and

4438 (B) expended by the Division of Water Resources for cloud-seeding projects
4439 authorized by Title 73, Chapter 15, Modification of Weather.

4440 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
4441 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
4442 created in Section 73-10-24.

4443 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
4444 remaining difference described in Subsection (5)(a) shall be deposited into the Water
4445 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
4446 Division of Water Resources for:

4447 (i) preconstruction costs:

4448 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
4449 26, Bear River Development Act; and

4450 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
4451 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

4452 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
4453 Chapter 26, Bear River Development Act;

4454 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
4455 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

4456 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
4457 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

4458 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to

4459 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be
4460 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
4461 incurred for employing additional technical staff for the administration of water rights.

4462 (f) At the end of each fiscal year, any unexpended dedicated credits described in
4463 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
4464 Fund created in Section [73-10-24](#).

4465 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
4466 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
4467 (1) for the fiscal year shall be deposited as follows:

4468 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)
4469 shall be deposited into the Transportation Investment Fund of 2005 created by Section
4470 [72-2-124](#);

4471 (b) for fiscal year 2017-18 only:

4472 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the
4473 Transportation Investment Fund of 2005 created by Section [72-2-124](#); and

4474 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the
4475 Water Infrastructure Restricted Account created by Section [73-10g-103](#);

4476 (c) for fiscal year 2018-19 only:

4477 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the
4478 Transportation Investment Fund of 2005 created by Section [72-2-124](#); and

4479 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the
4480 Water Infrastructure Restricted Account created by Section [73-10g-103](#);

4481 (d) for fiscal year 2019-20 only:

4482 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the
4483 Transportation Investment Fund of 2005 created by Section [72-2-124](#); and

4484 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the
4485 Water Infrastructure Restricted Account created by Section [73-10g-103](#);

4486 (e) for fiscal year 2020-21 only:

4487 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
4488 Transportation Investment Fund of 2005 created by Section [72-2-124](#); and

4489 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the

4490 Water Infrastructure Restricted Account created by Section 73-10g-103; and

4491 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
4492 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
4493 created by Section 73-10g-103.

4494 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
4495 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
4496 [~~2012~~] 2020, the Division of Finance shall deposit into the Transportation Investment Fund of
4497 2005 created by Section 72-2-124:

4498 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
4499 the [~~revenues~~] revenue collected from the following taxes, which represents a portion of the
4500 approximately 17% of sales and use tax [~~revenues~~] revenue generated annually by the sales and
4501 use tax on vehicles and vehicle-related products:

4502 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

4503 (B) the tax imposed by Subsection (2)(b)(i);

4504 (C) the tax imposed by Subsection (2)(c)(i); and

4505 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

4506 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
4507 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
4508 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
4509 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

4510 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
4511 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total
4512 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
4513 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
4514 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
4515 (7)(a) equal to the product of:

4516 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
4517 previous fiscal year; and

4518 (B) the total sales and use tax revenue generated by the taxes described in Subsections
4519 (7)(a)(i)(A) through (D) in the current fiscal year.

4520 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under

4521 Subsection (7)(a) would exceed [~~17%~~] 14.31% of the [~~revenues~~] revenue collected from the
4522 sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year,
4523 the Division of Finance shall deposit [~~17%~~] 14.31% of the [~~revenues~~] revenue collected from
4524 the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal
4525 year under Subsection (7)(a).

4526 (iii) In all subsequent fiscal years after a year in which [~~17%~~] 14.31% of the [~~revenues~~]
4527 revenue collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through
4528 (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit
4529 [~~17%~~] 14.31% of the [~~revenues~~] revenue collected from the sales and use taxes described in
4530 Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

4531 [~~(8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited~~
4532 ~~under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall~~
4533 ~~deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into~~
4534 ~~the Transportation Investment Fund of 2005 created by Section [72-2-124](#).]~~

4535 [~~(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under~~
4536 ~~Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit~~
4537 ~~\$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the~~
4538 ~~Transportation Investment Fund of 2005 created by Section [72-2-124](#).]~~

4539 [~~(c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under~~
4540 ~~Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning on or~~
4541 ~~after July 1, 2018, the commission shall annually deposit into the Transportation Investment~~
4542 ~~Fund of 2005 created by Section [72-2-124](#) a portion of the taxes listed under Subsection (3)(a)~~
4543 ~~in an amount equal to 3.68% of the revenues collected from the following taxes:]~~

4544 [~~(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;]~~

4545 [~~(B) the tax imposed by Subsection (2)(b)(i);]~~

4546 [~~(C) the tax imposed by Subsection (2)(c)(i); and]~~

4547 [~~(D) the tax imposed by Subsection (2)(d)(i)(A)(I).]~~

4548 [~~(ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually~~
4549 ~~reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i)~~
4550 ~~by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year~~
4551 ~~by the portion of the tax imposed on motor and special fuel that is sold, used, or received for~~

4552 ~~sale or use in this state that exceeds 29.4 cents per gallon.]~~

4553 [(iii)] (8) [The] For a fiscal year beginning on or after July 1, 2020, the commission
4554 shall deposit annually [~~deposit the amount described in Subsection (8)(c)(ii)] into the Transit~~
4555 and Transportation Investment Fund created in Section 72-2-124 an amount of the revenue
4556 generated by the taxes listed under Subsection (3)(a) that is equal to 35% of the amount of
4557 revenue generated in the current fiscal year by the portion of the tax imposed on motor and
4558 special fuel under Chapter 13, Motor and Special Fuel Tax Act, Part 2 Motor Fuel or Part 3
4559 Special Fuel, that is sold, used, or received for sale or use in the state that exceeds 29.4 cents
4560 per gallon.

4561 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
4562 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
4563 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

4564 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),
4565 in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17
4566 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund
4567 of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on
4568 the transactions described in Subsection (1).

4569 (b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in
4570 addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance
4571 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
4572 amount of revenue described as follows:

4573 (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%
4574 tax rate on the transactions described in Subsection (1);

4575 (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05%
4576 tax rate on the transactions described in Subsection (1);

4577 (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%
4578 tax rate on the transactions described in Subsection (1);

4579 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
4580 .05% tax rate on the transactions described in Subsection (1); and

4581 (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%
4582 tax rate on the transactions described in Subsection (1).

4583 (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not
4584 deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts
4585 paid or charged for food and food ingredients, except for tax revenue generated by a bundled
4586 transaction attributable to food and food ingredients and tangible personal property other than
4587 food and food ingredients described in Subsection (2)(d).

4588 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
4589 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
4590 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
4591 Finance shall, for two consecutive fiscal years, [~~annually~~] deposit annually \$1,900,000 of the
4592 revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation
4593 Fund, created in Section 63N-2-512.

4594 [~~(12)(a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the~~
4595 ~~Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed~~
4596 ~~under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section~~
4597 ~~35A-8-308.;~~]

4598 [~~(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division~~
4599 ~~of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under~~
4600 ~~Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.;~~]

4601 [~~(13)~~] (12) (a) The rate specified in this subsection is 0.15%.

4602 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall [~~:(i) on or before~~
4603 ~~September 30, 2019, transfer the amount of revenue collected from the rate described in~~
4604 ~~Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the~~
4605 ~~transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the~~
4606 ~~Medicaid Expansion Fund created in Section 26-36b-208, and (ii)] for a fiscal year beginning
4607 on or after July 1, 2019, [~~annually~~] transfer annually the amount of revenue collected from the
4608 rate described in Subsection [~~(13)~~] (12)(a) on the transactions that are subject to the sales and
4609 use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section
4610 26-36b-208.~~

4611 Section 45. Section 59-12-104 is amended to read:

4612 **59-12-104. Exemptions.**

4613 [~~Exemptions from the taxes imposed by this chapter are as follows] Except as provided~~

4614 in Subsection 59-12-103(2)(d), the purchase price of the following are exempt from the taxes
4615 imposed by this chapter:

4616 (1) (a) sales of aviation fuel~~[, motor fuel, and special]~~ or diesel fuel subject to a ~~[Utah]~~
4617 state excise tax under Chapter 13, Motor and Special Fuel Tax Act; or

4618 (b) sales of motor fuel or nondiesel special fuel, as defined in Section 59-13-601, that
4619 are subject to a sales tax under Chapter 13, Part 6, Sales Tax on Motor Fuel and Special Fuel,
4620 Other than Diesel Fuel;

4621 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
4622 subdivisions; however, this exemption does not apply to sales of:

4623 (a) construction materials except:

4624 (i) construction materials purchased by or on behalf of institutions of the public
4625 education system as defined in Utah Constitution, Article X, Section 2, provided the
4626 construction materials are clearly identified and segregated and installed or converted to real
4627 property which is owned by institutions of the public education system; and

4628 (ii) construction materials purchased by the state, its institutions, or its political
4629 subdivisions which are installed or converted to real property by employees of the state, its
4630 institutions, or its political subdivisions; or

4631 (b) tangible personal property in connection with the construction, operation,
4632 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
4633 providing additional project capacity, as defined in Section 11-13-103;

4634 [~~(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:~~]

4635 [~~(i) the proceeds of each sale do not exceed \$1; and]~~

4636 [~~(ii) the seller or operator of the vending machine reports an amount equal to 150% of~~
4637 ~~the cost of the item described in Subsection (3)(b) as goods consumed; and]~~

4638 [~~(b) Subsection (3)(a) applies to:~~]

4639 [~~(i) food and food ingredients; or]~~

4640 [~~(ii) prepared food;]~~

4641 [~~(4)~~] (3) (a) sales of the following to a commercial airline carrier for in-flight
4642 consumption:

4643 (i) alcoholic beverages;

4644 (ii) food and food ingredients; or

4645 (iii) prepared food;

4646 (b) sales of tangible personal property or a product transferred electronically:

4647 (i) to a passenger;

4648 (ii) by a commercial airline carrier; and

4649 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or

4650 (c) services related to Subsection ~~[(4)]~~ (3)(a) or (b);

4651 ~~[(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts~~

4652 ~~and equipment:]~~

4653 ~~[(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002~~

4654 ~~North American Industry Classification System of the federal Executive Office of the~~

4655 ~~President, Office of Management and Budget; and]~~

4656 ~~[(H) for:]~~

4657 ~~[(Aa) installation in an aircraft, including services relating to the installation of parts or~~

4658 ~~equipment in the aircraft;]~~

4659 ~~[(Bb) renovation of an aircraft; or]~~

4660 ~~[(Cc) repair of an aircraft; or]~~

4661 ~~[(B) for installation in an aircraft operated by a common carrier in interstate or foreign~~

4662 ~~commerce; or]~~

4663 ~~[(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an~~

4664 ~~aircraft operated by a common carrier in interstate or foreign commerce; and]~~

4665 ~~[(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~

4666 ~~a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a~~

4667 ~~refund:]~~

4668 ~~[(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;]~~

4669 ~~[(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;]~~

4670 ~~[(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for~~

4671 ~~the sale prior to filing for the refund;]~~

4672 ~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~

4673 ~~[(v) in accordance with Section 59-1-1410; and]~~

4674 ~~[(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,~~

4675 ~~if the person files for the refund on or before September 30, 2011;]~~

4676 (4) sales of parts and equipment for installation in an aircraft operated by a common
4677 carrier in interstate or foreign commerce;

4678 ~~[(6)] (5) sales of commercials, motion picture films, prerecorded audio program tapes~~
4679 ~~or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture~~
4680 ~~exhibitor, distributor, or commercial television or radio broadcaster;~~

4681 ~~[(7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of~~
4682 ~~cleaning or washing of tangible personal property if the cleaning or washing of the tangible~~
4683 ~~personal property is not assisted cleaning or washing of tangible personal property;]~~

4684 ~~[(b) if a seller that sells at the same business location assisted cleaning or washing of~~
4685 ~~tangible personal property and cleaning or washing of tangible personal property that is not~~
4686 ~~assisted cleaning or washing of tangible personal property, the exemption described in~~
4687 ~~Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning~~
4688 ~~or washing of the tangible personal property; and]~~

4689 ~~[(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,~~
4690 ~~Utah Administrative Rulemaking Act, the commission may make rules:]~~

4691 ~~[(i) governing the circumstances under which sales are at the same business location;~~
4692 ~~and]~~

4693 ~~[(ii) establishing the procedures and requirements for a seller to separately account for~~
4694 ~~sales of assisted cleaning or washing of tangible personal property;]~~

4695 ~~[(8)] (6) sales made to or by religious or charitable institutions in the conduct of their~~
4696 ~~regular religious or charitable functions and activities, if the requirements of Section~~
4697 ~~59-12-104.1 are fulfilled;~~

4698 ~~[(9)] (7) sales of a vehicle of a type required to be registered under the motor vehicle~~
4699 ~~laws of this state if the vehicle is:~~

4700 (a) not registered in this state; and

4701 (b) (i) not used in this state; or

4702 (ii) used in this state:

4703 (A) if the vehicle is not used to conduct business, for a time period that does not
4704 exceed the longer of:

4705 (I) 30 days in any calendar year; or

4706 (II) the time period necessary to transport the vehicle to the borders of this state; or

4707 (B) if the vehicle is used to conduct business, for the time period necessary to transport
4708 the vehicle to the borders of this state;

4709 ~~[(10)(a)]~~ (8) amounts paid for ~~[an item described in Subsection (10)(b) if]:~~

4710 (a) menstrual products; or

4711 (b) a drug, syringe, or stoma supply if:

4712 (i) the item is intended for human use; and

4713 (ii) (A) a prescription was issued for the item; or

4714 (B) the item was purchased by a hospital or other medical facility; ~~[and]~~

4715 ~~[(b)(i) Subsection (10)(a) applies to:]~~

4716 ~~[(A) a drug;]~~

4717 ~~[(B) a syringe; or]~~

4718 ~~[(C) a stoma supply; and]~~

4719 ~~[(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
4720 ~~the commission may by rule define the terms:]~~

4721 ~~[(A) "syringe"; or]~~

4722 ~~[(B) "stoma supply";]~~

4723 ~~[(H)]~~ (9) purchases or leases exempt under Section 19-12-201;

4724 ~~[(I2)]~~ (10) (a) sales of an item described in Subsection ~~[(I2)]~~ (10)(c) served by:

4725 (i) the following if the item described in Subsection ~~[(I2)]~~ (10)(c) is not available to
4726 the general public:

4727 (A) a church; or

4728 (B) a charitable institution; or

4729 (ii) an institution of higher education if:

4730 (A) the item described in Subsection ~~[(I2)]~~ (10)(c) is not available to the general
4731 public; or

4732 (B) the item described in Subsection ~~[(I2)]~~ (10)(c) is prepaid as part of a student meal
4733 plan offered by the institution of higher education; or

4734 (b) sales of an item described in Subsection ~~[(I2)]~~ (10)(c) provided for a patient by:

4735 (i) a medical facility; or

4736 (ii) a nursing facility; and

4737 (c) Subsections ~~[(I2)]~~ (10)(a) and (b) apply to:

4738 (i) food and food ingredients;
4739 (ii) prepared food; or
4740 (iii) alcoholic beverages;
4741 ~~[(13)]~~ (11) (a) except as provided in Subsection ~~[(13)]~~ (11)(b), the sale of tangible
4742 personal property or a product transferred electronically by a person:
4743 (i) regardless of the number of transactions involving the sale of that tangible personal
4744 property or product transferred electronically by that person; and
4745 (ii) not regularly engaged in the business of selling that type of tangible personal
4746 property or product transferred electronically;
4747 (b) this Subsection ~~[(13)]~~ (11) does not apply if:
4748 (i) the sale is one of a series of sales of a character to indicate that the person is
4749 regularly engaged in the business of selling that type of tangible personal property or product
4750 transferred electronically;
4751 (ii) the person holds that person out as regularly engaged in the business of selling that
4752 type of tangible personal property or product transferred electronically;
4753 (iii) the person sells an item of tangible personal property or product transferred
4754 electronically that the person purchased as a sale that is exempt under Subsection ~~[(25)]~~ (22);
4755 or
4756 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
4757 this state in which case the tax is based upon:
4758 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
4759 sold; or
4760 (B) in the absence of a bill of sale or other written evidence of value, the fair market
4761 value of the vehicle or vessel being sold at the time of the sale as determined by the
4762 commission; and
4763 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4764 commission shall make rules establishing the circumstances under which:
4765 (i) a person is regularly engaged in the business of selling a type of tangible personal
4766 property or product transferred electronically;
4767 (ii) a sale of tangible personal property or a product transferred electronically is one of
4768 a series of sales of a character to indicate that a person is regularly engaged in the business of

4769 selling that type of tangible personal property or product transferred electronically; or
4770 (iii) a person holds that person out as regularly engaged in the business of selling a type
4771 of tangible personal property or product transferred electronically;
4772 [~~(14)~~] (12) amounts paid or charged for a purchase or lease of machinery, equipment,
4773 normal operating repair or replacement parts, or materials, except for office equipment or
4774 office supplies, by:

- 4775 (a) a manufacturing facility that:
 - 4776 (i) is located in the state; and
 - 4777 (ii) uses or consumes the machinery, equipment, normal operating repair or
4778 replacement parts, or materials:
 - 4779 (A) in the manufacturing process to manufacture an item sold as tangible personal
4780 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
4781 Utah Administrative Rulemaking Act; or
 - 4782 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
4783 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
4784 Administrative Rulemaking Act;
 - 4785 (b) an establishment, as the commission defines that term in accordance with Title
4786 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
 - 4787 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
4788 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
4789 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
4790 2002 North American Industry Classification System of the federal Executive Office of the
4791 President, Office of Management and Budget;
 - 4792 (ii) is located in the state; and
 - 4793 (iii) uses or consumes the machinery, equipment, normal operating repair or
4794 replacement parts, or materials in:
 - 4795 (A) the production process to produce an item sold as tangible personal property, as the
4796 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
4797 Administrative Rulemaking Act;
 - 4798 (B) research and development, as the commission may define that phrase in accordance
4799 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

4800 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
4801 produced from mining;

4802 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
4803 mining; or

4804 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

4805 (c) an establishment, as the commission defines that term in accordance with Title 63G,
4806 Chapter 3, Utah Administrative Rulemaking Act, that:

4807 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
4808 American Industry Classification System of the federal Executive Office of the President,
4809 Office of Management and Budget;

4810 (ii) is located in the state; and

4811 (iii) uses or consumes the machinery, equipment, normal operating repair or
4812 replacement parts, or materials in the operation of the web search portal;

4813 ~~[(15)]~~ (13) (a) sales of the following if the requirements of Subsection ~~[(15)]~~ (13)(b)
4814 are met:

4815 (i) tooling;

4816 (ii) special tooling;

4817 (iii) support equipment;

4818 (iv) special test equipment; or

4819 (v) parts used in the repairs or renovations of tooling or equipment described in
4820 Subsections ~~[(15)]~~ (13)(a)(i) through (iv); and

4821 (b) sales of tooling, equipment, or parts described in Subsection ~~[(15)]~~ (13)(a) are
4822 exempt if:

4823 (i) the tooling, equipment, or parts are used or consumed exclusively in the
4824 performance of any aerospace or electronics industry contract with the United States
4825 government or any subcontract under that contract; and

4826 (ii) under the terms of the contract or subcontract described in Subsection ~~[(15)]~~
4827 (13)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as
4828 evidenced by:

4829 (A) a government identification tag placed on the tooling, equipment, or parts; or

4830 (B) listing on a government-approved property record if placing a government

4831 identification tag on the tooling, equipment, or parts is impractical;
4832 ~~[(16) sales of newspapers or newspaper subscriptions;]~~
4833 ~~[(17)]~~ (14) (a) except as provided in Subsection ~~[(17)]~~ (14)(b), tangible personal
4834 property or a product transferred electronically traded in as full or part payment of the purchase
4835 price, except that for purposes of calculating sales or use tax upon vehicles not sold by a
4836 vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:
4837 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
4838 vehicle being traded in; or
4839 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
4840 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
4841 commission; and
4842 (b) Subsection ~~[(17)]~~ (14)(a) does not apply to the following items of tangible personal
4843 property or products transferred electronically traded in as full or part payment of the purchase
4844 price:
4845 (i) money;
4846 (ii) electricity;
4847 (iii) water;
4848 (iv) gas; or
4849 (v) steam;
4850 ~~[(18)]~~ (15) (a) (i) except as provided in Subsection ~~[(18)]~~ (15)(b), sales of tangible
4851 personal property or a product transferred electronically used or consumed primarily and
4852 directly in farming operations, regardless of whether the tangible personal property or product
4853 transferred electronically:
4854 (A) becomes part of real estate; or
4855 (B) is installed by a~~[:]~~ farmer, contractor, or subcontractor; or
4856 ~~[(F) farmer;]~~
4857 ~~[(H) contractor; or]~~
4858 ~~[(H) subcontractor; or]~~
4859 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
4860 product transferred electronically if the tangible personal property or product transferred
4861 electronically is exempt under Subsection ~~[(18)]~~ (15)(a)(i); and

4862 (b) amounts paid or charged for the following are subject to the taxes imposed by this
4863 chapter:

4864 (i) (A) subject to Subsection [~~(18)~~] (15)(b)(i)(B), machinery, equipment, materials, or
4865 supplies if used in a manner that is incidental to farming; and

4866 (B) tangible personal property that is considered to be used in a manner that is
4867 incidental to farming includes:

4868 (I) hand tools; or

4869 (II) maintenance and janitorial equipment and supplies;

4870 (ii) (A) subject to Subsection [~~(18)~~] (15)(b)(ii)(B), tangible personal property or a
4871 product transferred electronically if the tangible personal property or product transferred
4872 electronically is used in an activity other than farming; and

4873 (B) tangible personal property or a product transferred electronically that is considered
4874 to be used in an activity other than farming includes:

4875 (I) office equipment and supplies; or

4876 (II) equipment and supplies used in:

4877 (Aa) the sale or distribution of farm products;

4878 (Bb) research; or

4879 (Cc) transportation; or

4880 (iii) a vehicle required to be registered by the laws of this state during the period
4881 ending two years after the date of the vehicle's purchase;

4882 [~~(19)~~] (16) sales of hay;

4883 [~~(20)~~] (17) exclusive sale during the harvest season of seasonal crops, seedling plants,
4884 or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
4885 garden, farm, or other agricultural produce is sold by:

4886 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
4887 agricultural produce;

4888 (b) an employee of the producer described in Subsection [~~(20)~~] (17)(a); or

4889 (c) a member of the immediate family of the producer described in Subsection [~~(20)~~]
4890 (17)(a);

4891 [~~(21)~~] (18) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is
4892 issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

4893 [~~(22)~~] (19) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
4894 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
4895 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
4896 manufacturer, processor, wholesaler, or retailer;

4897 [~~(23)~~] (20) a product stored in the state for resale;

4898 [~~(24)~~] (21) (a) purchases of a product if:

4899 (i) the product is:

4900 (A) purchased outside of this state;

4901 (B) brought into this state:

4902 (I) at any time after the purchase described in Subsection [~~(24)~~] (21)(a)(i)(A); and

4903 (II) by a nonresident person who is not living or working in this state at the time of the
4904 purchase;

4905 (C) used for the personal use or enjoyment of the nonresident person described in
4906 Subsection [~~(24)~~] (21)(a)(i)(B)(II) while that nonresident person is within the state; and

4907 (D) not used in conducting business in this state; and

4908 (ii) for:

4909 (A) a product other than a boat described in Subsection [~~(24)~~] (21)(a)(ii)(B), the first
4910 use of the product for a purpose for which the product is designed occurs outside of this state;

4911 (B) a boat, the boat is registered outside of this state; or

4912 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
4913 outside of this state;

4914 (b) the exemption provided for in Subsection [~~(24)~~] (21)(a) does not apply to:

4915 (i) a lease or rental of a product; or

4916 (ii) a sale of a vehicle exempt under Subsection [~~(33)~~] (30); and

4917 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
4918 purposes of Subsection [~~(24)~~] (21)(a), the commission may by rule define what constitutes the
4919 following:

4920 (i) conducting business in this state if that phrase has the same meaning in this
4921 Subsection [~~(24)~~] (21) as in Subsection [~~(63)~~] (55);

4922 (ii) the first use of a product if that phrase has the same meaning in this Subsection
4923 [~~(24)~~] (21) as in Subsection [~~(63)~~] (55); or

4924 (iii) a purpose for which a product is designed if that phrase has the same meaning in
4925 this Subsection [~~(24)~~] (21) as in Subsection [~~(63)~~] (55);

4926 [~~(25)~~] (22) a product purchased for resale in the regular course of business, either in its
4927 original form or as an ingredient or component part of a manufactured or compounded product;

4928 [~~(26)~~] (23) a product upon which a sales or use tax was paid to some other state, or one
4929 of its subdivisions, except that the state shall be paid any difference between the tax paid and
4930 the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is
4931 allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and
4932 Use Tax Act;

4933 [~~(27)~~] (24) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d)
4934 to a person for use in compounding a service taxable under the subsections;

4935 [~~(28)~~] (25) purchases made in accordance with the special supplemental nutrition
4936 program for women, infants, and children established in 42 U.S.C. Sec. 1786;

4937 [~~(29)~~] (26) sales or leases of rolls, rollers, refractory brick, electric motors, or other
4938 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
4939 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
4940 the President, Office of Management and Budget;

4941 [~~(30)~~] (27) sales of a boat of a type required to be registered under Title 73, Chapter 18,
4942 State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard
4943 motor is:

4944 (a) not registered in this state; and

4945 (b) (i) not used in this state; or

4946 (ii) used in this state:

4947 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
4948 time period that does not exceed the longer of:

4949 (I) 30 days in any calendar year; or

4950 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
4951 the borders of this state; or

4952 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
4953 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
4954 state;

4955 ~~[(31)]~~ (28) sales of aircraft manufactured in Utah;

4956 ~~[(32)]~~ (29) amounts paid for the purchase of telecommunications service for purposes

4957 of providing telecommunications service;

4958 ~~[(33)]~~ (30) sales, leases, or uses of the following:

4959 (a) a vehicle by an authorized carrier; or

4960 (b) tangible personal property that is installed on a vehicle:

4961 (i) sold or leased to or used by an authorized carrier; and

4962 (ii) before the vehicle is placed in service for the first time;

4963 ~~[(34)]~~ (31) (a) 45% of the sales price of any new manufactured home; and

4964 (b) 100% of the sales price of any used manufactured home;

4965 ~~[(35)]~~ (32) sales relating to schools and fundraising sales;

4966 ~~[(36)]~~ (33) sales or rentals of durable medical equipment if:

4967 (a) a person presents a prescription for the durable medical equipment; and

4968 (b) the durable medical equipment is used for home use only;

4969 ~~[(37)]~~ (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in

4970 Section ~~72-11-102~~; and]

4971 ~~[(b) the commission shall by rule determine the method for calculating sales exempt~~

4972 ~~under Subsection (37)(a) that are not separately metered and accounted for in utility billings;]~~

4973 ~~[(38)]~~ (34) sales to a ski resort of:

4974 (a) snowmaking equipment;

4975 (b) ski slope grooming equipment;

4976 (c) passenger ropeways as defined in Section ~~72-11-102~~; or

4977 (d) parts used in the repairs or renovations of equipment or passenger ropeways

4978 described in Subsections ~~[(38)]~~ (34)(a) through (c);

4979 ~~[(39)]~~ (35) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for

4980 industrial use;

4981 ~~[(40)]~~ (a) subject to Subsection ~~(40)(b)~~, sales or rentals of the right to use or operate for

4982 amusement, entertainment, or recreation an unassisted amusement device as defined in Section

4983 ~~59-12-102~~;

4984 ~~[(b) if a seller that sells or rents at the same business location the right to use or operate~~

4985 ~~for amusement, entertainment, or recreation one or more unassisted amusement devices and~~

4986 ~~one or more assisted amusement devices, the exemption described in Subsection (40)(a)~~
4987 ~~applies if the seller separately accounts for the sales or rentals of the right to use or operate for~~
4988 ~~amusement, entertainment, or recreation for the assisted amusement devices; and]~~
4989 ~~[(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,~~
4990 ~~Utah Administrative Rulemaking Act, the commission may make rules:]~~
4991 ~~[(i) governing the circumstances under which sales are at the same business location;~~
4992 ~~and]~~
4993 ~~[(ii) establishing the procedures and requirements for a seller to separately account for~~
4994 ~~the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for~~
4995 ~~assisted amusement devices;]~~
4996 ~~[(41)] (36) (a) sales of photocopies by:~~
4997 ~~(i) a governmental entity; or~~
4998 ~~(ii) an entity within the state system of public education, including:~~
4999 ~~(A) a school; or~~
5000 ~~(B) the State Board of Education; or~~
5001 ~~(b) sales of publications by a governmental entity;~~
5002 ~~[(42) amounts paid for admission to an athletic event at an institution of higher~~
5003 ~~education that is subject to the provisions of Title IX of the Education Amendments of 1972,~~
5004 ~~20 U.S.C. Sec. 1681 et seq.;~~
5005 ~~[(43)] (37) (a) sales made to or by:~~
5006 ~~(i) an area agency on aging; or~~
5007 ~~(ii) a senior citizen center owned by a county, city, or town; or~~
5008 ~~(b) sales made by a senior citizen center that contracts with an area agency on aging;~~
5009 ~~[(44)] (38) sales or leases of semiconductor fabricating, processing, research, or~~
5010 ~~development materials regardless of whether the semiconductor fabricating, processing,~~
5011 ~~research, or development materials:~~
5012 ~~(a) actually come into contact with a semiconductor; or~~
5013 ~~(b) ultimately become incorporated into real property;~~
5014 ~~[(45)] (39) an amount paid by or charged to a purchaser for accommodations and~~
5015 ~~services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under~~
5016 ~~Section 59-12-104.2;~~

5017 ~~[(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary~~
5018 ~~sports event registration certificate in accordance with Section 41-3-306 for the event period~~
5019 ~~specified on the temporary sports event registration certificate;]~~

5020 ~~[(47)]~~ (40) (a) sales or uses of electricity, if the sales or uses are made under a retail
5021 tariff adopted by the Public Service Commission only for purchase of electricity produced from
5022 a new alternative energy source built after January 1, 2016, as designated in the tariff by the
5023 Public Service Commission; and

5024 (b) for a residential use customer only, the exemption under Subsection ~~[(47)]~~ (40)(a)
5025 applies only to the portion of the tariff rate a customer pays under the tariff described in
5026 Subsection ~~[(47)]~~ (40)(a) that exceeds the tariff rate under the tariff described in Subsection
5027 ~~[(47)]~~ (40)(a) that the customer would have paid absent the tariff;

5028 ~~[(48)]~~ (41) sales or rentals of mobility enhancing equipment if a person presents a
5029 prescription for the mobility enhancing equipment;

5030 ~~[(49)]~~ (42) sales of water in a:

- 5031 (a) pipe;
5032 (b) conduit;
5033 (c) ditch; or
5034 (d) reservoir;

5035 ~~[(50)]~~ (43) sales of currency or coins that constitute legal tender of a state, the United
5036 States, or a foreign nation;

5037 ~~[(51)]~~ (44) (a) sales of an item described in Subsection ~~[(51)]~~ (44)(b) if the item:

- 5038 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
5039 (ii) has a gold, silver, or platinum content of 50% or more; and

5040 (b) Subsection ~~[(51)]~~ (44)(a) applies to a gold, silver, or platinum:

- 5041 (i) ingot;
5042 (ii) bar;
5043 (iii) medallion; or
5044 (iv) decorative coin;

5045 ~~[(52)]~~ (45) amounts paid on a sale-leaseback transaction;

5046 ~~[(53)]~~ (46) sales of a prosthetic device:

- 5047 (a) for use on or in a human; and

5048 (b) (i) for which a prescription is required; or
5049 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
5050 ~~[(54)]~~ (47) (a) except as provided in Subsection ~~[(54)]~~ (47)(b), purchases, leases, or
5051 rentals of machinery or equipment by an establishment described in Subsection ~~[(54)]~~ (47)(c) if
5052 the machinery or equipment is primarily used in the production or postproduction of the
5053 following media for commercial distribution:
5054 (i) a motion picture;
5055 (ii) a television program;
5056 (iii) a movie made for television;
5057 (iv) a music video;
5058 (v) a commercial;
5059 (vi) a documentary; or
5060 (vii) a medium similar to Subsections ~~[(54)]~~ (47)(a)(i) through (vi) as determined by
5061 the commission by administrative rule made in accordance with Subsection ~~[(54)]~~ (47)(d); or
5062 (b) purchases, leases, or rentals of machinery or equipment by an establishment
5063 described in Subsection ~~[(54)]~~ (47)(c) that is used for the production or postproduction of the
5064 following are subject to the taxes imposed by this chapter:
5065 (i) a live musical performance;
5066 (ii) a live news program; or
5067 (iii) a live sporting event;
5068 (c) the following establishments listed in the 1997 North American Industry
5069 Classification System of the federal Executive Office of the President, Office of Management
5070 and Budget, apply to Subsections ~~[(54)]~~ (47)(a) and (b):
5071 (i) NAICS Code 512110; or
5072 (ii) NAICS Code 51219; and
5073 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5074 commission may by rule:
5075 (i) prescribe what constitutes a medium similar to Subsections ~~[(54)]~~ (47)(a)(i) through
5076 (vi); or
5077 (ii) define:
5078 (A) "commercial distribution";

- 5079 (B) "live musical performance";
- 5080 (C) "live news program"; or
- 5081 (D) "live sporting event";
- 5082 [~~55~~] (48) (a) leases of seven or more years or purchases made on or after July 1,
- 5083 2004, but on or before June 30, 2027, of tangible personal property that:
- 5084 (i) is leased or purchased for or by a facility that:
- 5085 (A) is an alternative energy electricity production facility;
- 5086 (B) is located in the state; and
- 5087 (C) (I) becomes operational on or after July 1, 2004; or
- 5088 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 5089 2004, as a result of the use of the tangible personal property;
- 5090 (ii) has an economic life of five or more years; and
- 5091 (iii) is used to make the facility or the increase in capacity of the facility described in
- 5092 Subsection [~~55~~] (48)(a)(i) operational up to the point of interconnection with an existing
- 5093 transmission grid including:
- 5094 (A) a wind turbine;
- 5095 (B) generating equipment;
- 5096 (C) a control and monitoring system;
- 5097 (D) a power line;
- 5098 (E) substation equipment;
- 5099 (F) lighting;
- 5100 (G) fencing;
- 5101 (H) pipes; or
- 5102 (I) other equipment used for locating a power line or pole; and
- 5103 (b) this Subsection [~~55~~] (48) does not apply to:
- 5104 (i) tangible personal property used in construction of:
- 5105 (A) a new alternative energy electricity production facility; or
- 5106 (B) the increase in the capacity of an alternative energy electricity production facility;
- 5107 (ii) contracted services required for construction and routine maintenance activities;
- 5108 and
- 5109 (iii) unless the tangible personal property is used or acquired for an increase in capacity

5110 of the facility described in Subsection [~~55~~] (48)(a)(i)(C)(II), tangible personal property used
5111 or acquired after:

5112 (A) the alternative energy electricity production facility described in Subsection [~~55~~]
5113 (48)(a)(i) is operational as described in Subsection [~~55~~] (48)(a)(iii); or

5114 (B) the increased capacity described in Subsection [~~55~~] (48)(a)(i) is operational as
5115 described in Subsection [~~55~~] (48)(a)(iii);

5116 [~~56~~] (49) (a) leases of seven or more years or purchases made on or after July 1,
5117 2004, but on or before June 30, 2027, of tangible personal property that:

5118 (i) is leased or purchased for or by a facility that:

5119 (A) is a waste energy production facility;

5120 (B) is located in the state; and

5121 (C) (I) becomes operational on or after July 1, 2004; or

5122 (II) has its generation capacity increased by one or more megawatts on or after July 1,
5123 2004, as a result of the use of the tangible personal property;

5124 (ii) has an economic life of five or more years; and

5125 (iii) is used to make the facility or the increase in capacity of the facility described in
5126 Subsection [~~56~~] (49)(a)(i) operational up to the point of interconnection with an existing
5127 transmission grid including:

5128 (A) generating equipment;

5129 (B) a control and monitoring system;

5130 (C) a power line;

5131 (D) substation equipment;

5132 (E) lighting;

5133 (F) fencing;

5134 (G) pipes; or

5135 (H) other equipment used for locating a power line or pole; and

5136 (b) this Subsection [~~56~~] (49) does not apply to:

5137 (i) tangible personal property used in construction of:

5138 (A) a new waste energy facility; or

5139 (B) the increase in the capacity of a waste energy facility;

5140 (ii) contracted services required for construction and routine maintenance activities;

5141 and

5142 (iii) unless the tangible personal property is used or acquired for an increase in capacity
5143 described in Subsection [~~56~~] (49)(a)(i)(C)(II), tangible personal property used or acquired
5144 after:

5145 (A) the waste energy facility described in Subsection [~~56~~] (49)(a)(i) is operational as
5146 described in Subsection [~~56~~] (49)(a)(iii); or

5147 (B) the increased capacity described in Subsection [~~56~~] (49)(a)(i) is operational as
5148 described in Subsection [~~56~~] (49)(a)(iii);

5149 [~~57~~] (50) (a) leases of five or more years or purchases made on or after July 1, 2004,
5150 but on or before June 30, 2027, of tangible personal property that:

5151 (i) is leased or purchased for or by a facility that:

5152 (A) is located in the state;

5153 (B) produces fuel from alternative energy, including:

5154 (I) methanol; or

5155 (II) ethanol; and

5156 (C) (I) becomes operational on or after July 1, 2004; or

5157 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
5158 a result of the installation of the tangible personal property;

5159 (ii) has an economic life of five or more years; and

5160 (iii) is installed on the facility described in Subsection [~~57~~] (50)(a)(i);

5161 (b) this Subsection [~~57~~] (50) does not apply to:

5162 (i) tangible personal property used in construction of:

5163 (A) a new facility described in Subsection [~~57~~] (50)(a)(i); or

5164 (B) the increase in capacity of the facility described in Subsection [~~57~~] (50)(a)(i); or

5165 (ii) contracted services required for construction and routine maintenance activities;

5166 and

5167 (iii) unless the tangible personal property is used or acquired for an increase in capacity
5168 described in Subsection [~~57~~] (50)(a)(i)(C)(II), tangible personal property used or acquired
5169 after:

5170 (A) the facility described in Subsection [~~57~~] (50)(a)(i) is operational; or

5171 (B) the increased capacity described in Subsection [~~57~~] (50)(a)(i) is operational;

5172 ~~[(58)]~~ (51) (a) subject to Subsection ~~[(58)(b) or (c)]~~ (51)(b), sales of tangible personal
5173 property or a product transferred electronically to a person within this state if that tangible
5174 personal property or product transferred electronically is subsequently shipped outside the state
5175 and incorporated pursuant to contract into and becomes a part of real property located outside
5176 of this state; and

5177 (b) the exemption under Subsection ~~[(58)]~~ (51)(a) is not allowed to the extent that the
5178 other state or political entity to which the tangible personal property is shipped imposes a sales,
5179 use, gross receipts, or other similar transaction excise tax on the transaction against which the
5180 other state or political entity allows a credit for sales and use taxes imposed by this chapter;
5181 [and]

5182 ~~[(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~
5183 ~~a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a~~
5184 ~~refund:]~~

5185 ~~[(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;]~~

5186 ~~[(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on~~
5187 ~~which the sale is made;]~~

5188 ~~[(iii) if the person did not claim the exemption allowed by this Subsection (58) for the~~
5189 ~~sale prior to filing for the refund;]~~

5190 ~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~

5191 ~~[(v) in accordance with Section 59-1-1410; and]~~

5192 ~~[(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,~~
5193 ~~if the person files for the refund on or before June 30, 2011;]~~

5194 ~~[(59) purchases:]~~

5195 ~~[(a) of one or more of the following items in printed or electronic format:]~~

5196 ~~[(i) a list containing information that includes one or more:]~~

5197 ~~[(A) names; or]~~

5198 ~~[(B) addresses; or]~~

5199 ~~[(ii) a database containing information that includes one or more:]~~

5200 ~~[(A) names; or]~~

5201 ~~[(B) addresses; and]~~

5202 ~~[(b) used to send direct mail;]~~

5203 ~~[(60)]~~ (52) redemptions or repurchases of a product by a person if that product was:
5204 (a) delivered to a pawnbroker as part of a pawn transaction; and
5205 (b) redeemed or repurchased within the time period established in a written agreement
5206 between the person and the pawnbroker for redeeming or repurchasing the product;
5207 ~~[(61)]~~ (53) (a) purchases or leases of an item described in Subsection ~~[(61)]~~ (53)(b) if
5208 the item:
5209 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
5210 and
5211 (ii) has a useful economic life of one or more years; and
5212 (b) the following apply to Subsection ~~[(61)]~~ (53)(a):
5213 (i) telecommunications enabling or facilitating equipment, machinery, or software;
5214 (ii) telecommunications equipment, machinery, or software required for 911 service;
5215 (iii) telecommunications maintenance or repair equipment, machinery, or software;
5216 (iv) telecommunications switching or routing equipment, machinery, or software; or
5217 (v) telecommunications transmission equipment, machinery, or software;
5218 ~~[(62)]~~ (54) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of
5219 tangible personal property or a product transferred electronically that are used in the research
5220 and development of alternative energy technology; and
5221 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5222 commission may, for purposes of Subsection ~~[(62)]~~ (54)(a), make rules defining what
5223 constitutes purchases of tangible personal property or a product transferred electronically that
5224 are used in the research and development of alternative energy technology;
5225 ~~[(63)]~~ (55) (a) purchases of tangible personal property or a product transferred
5226 electronically if:
5227 (i) the tangible personal property or product transferred electronically is:
5228 (A) purchased outside of this state;
5229 (B) brought into this state at any time after the purchase described in Subsection ~~[(63)]~~
5230 (55)(a)(i)(A); and
5231 (C) used in conducting business in this state; and
5232 (ii) for:
5233 (A) tangible personal property or a product transferred electronically other than the

5234 tangible personal property described in Subsection ~~[(63)]~~ (55)(a)(ii)(B), the first use of the
5235 property for a purpose for which the property is designed occurs outside of this state; or
5236 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
5237 outside of this state;

5238 (b) the exemption provided for in Subsection ~~[(63)]~~ (55)(a) does not apply to:

5239 (i) a lease or rental of tangible personal property or a product transferred electronically;

5240 or

5241 (ii) a sale of a vehicle exempt under Subsection ~~[(33)]~~ (30); and

5242 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

5243 purposes of Subsection ~~[(63)]~~ (55)(a), the commission may by rule define what constitutes the

5244 following:

5245 (i) conducting business in this state if that phrase has the same meaning in this

5246 Subsection ~~[(63)]~~ (55) as in Subsection ~~[(24)]~~ (21);

5247 (ii) the first use of tangible personal property or a product transferred electronically if

5248 that phrase has the same meaning in this Subsection ~~[(63)]~~ (55) as in Subsection ~~[(24)]~~ (21); or

5249 (iii) a purpose for which tangible personal property or a product transferred

5250 electronically is designed if that phrase has the same meaning in this Subsection ~~[(63)]~~ (55) as

5251 in Subsection ~~[(24)]~~ (21);

5252 ~~[(64)]~~ (56) sales of disposable home medical equipment or supplies if:

5253 (a) a person presents a prescription for the disposable home medical equipment or

5254 supplies;

5255 (b) the disposable home medical equipment or supplies are used exclusively by the

5256 person to whom the prescription described in Subsection ~~[(64)]~~ (56)(a) is issued; and

5257 (c) the disposable home medical equipment and supplies are listed as eligible for

5258 payment under:

5259 (i) Title XVIII, federal Social Security Act; or

5260 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

5261 ~~[(65) sales:]~~

5262 ~~[(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit~~

5263 ~~District Act; or]~~

5264 ~~[(b) of tangible personal property to a subcontractor of a public transit district, if the~~

5265 ~~tangible personal property is:]~~

5266 ~~[(i) clearly identified; and]~~

5267 ~~[(ii) installed or converted to real property owned by the public transit district;]~~

5268 ~~[(66)] (57) sales of construction materials:~~

5269 (a) purchased on or after July 1, 2010;

5270 (b) purchased by, on behalf of, or for the benefit of an international airport:

5271 (i) located within a county of the first class; and

5272 (ii) that has a United States customs office on its premises; and

5273 (c) if the construction materials are:

5274 (i) clearly identified;

5275 (ii) segregated; and

5276 (iii) installed or converted to real property:

5277 (A) owned or operated by the international airport described in Subsection ~~[(66)]~~

5278 ~~(57)(b); and~~

5279 (B) located at the international airport described in Subsection ~~[(66)] (57)(b);~~

5280 ~~[(67)] (58) sales of construction materials:~~

5281 (a) purchased on or after July 1, 2008;

5282 (b) purchased by, on behalf of, or for the benefit of a new airport:

5283 (i) located within a county of the second class; and

5284 (ii) that is owned or operated by a city in which an airline as defined in Section

5285 59-2-102 is headquartered; and

5286 (c) if the construction materials are:

5287 (i) clearly identified;

5288 (ii) segregated; and

5289 (iii) installed or converted to real property:

5290 (A) owned or operated by the new airport described in Subsection ~~[(67)] (58)(b);~~

5291 (B) located at the new airport described in Subsection ~~[(67)] (58)(b); and~~

5292 (C) as part of the construction of the new airport described in Subsection ~~[(67)]~~

5293 ~~(58)(b);~~

5294 ~~[(68) sales of fuel to a common carrier that is a railroad for use in a locomotive~~

5295 ~~engine;]~~

5296 [~~(69)~~] (59) purchases and sales described in Section [63H-4-111](#);

5297 [~~(70)~~] (60) (a) sales of tangible personal property to an aircraft maintenance, repair, and

5298 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of

5299 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration

5300 lists a state or country other than this state as the location of registry of the fixed wing turbine

5301 powered aircraft; or

5302 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul

5303 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of

5304 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration

5305 lists a state or country other than this state as the location of registry of the fixed wing turbine

5306 powered aircraft;

5307 [~~(71)~~ subject to Section [59-12-104.4](#), sales of a textbook for a higher education

5308 course;]

5309 [~~(a)~~ to a person admitted to an institution of higher education; and]

5310 [~~(b)~~ by a seller, other than a bookstore owned by an institution of higher education, if

5311 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a

5312 textbook for a higher education course;]

5313 [~~(72)~~] (61) a license fee or tax a municipality imposes in accordance with Subsection

5314 [10-1-203\(5\)](#) on a purchaser from a business for which the municipality provides an enhanced

5315 level of municipal services;

5316 [~~(73)~~] (62) amounts paid or charged for construction materials used in the construction

5317 of a new or expanding life science research and development facility in the state, if the

5318 construction materials are:

5319 (a) clearly identified;

5320 (b) segregated; and

5321 (c) installed or converted to real property;

5322 [~~(74)~~] (63) amounts paid or charged for:

5323 (a) a purchase or lease of machinery and equipment that:

5324 (i) are used in performing qualified research:

5325 (A) as defined in Section 41(d), Internal Revenue Code; and

5326 (B) in the state; and

- 5327 (ii) have an economic life of three or more years; and
- 5328 (b) normal operating repair or replacement parts:
- 5329 (i) for the machinery and equipment described in Subsection [~~(74)~~] (63)(a); and
- 5330 (ii) that have an economic life of three or more years;
- 5331 [~~(75)~~] (64) a sale or lease of tangible personal property used in the preparation of
- 5332 prepared food if:
- 5333 (a) for a sale:
- 5334 (i) the ownership of the seller and the ownership of the purchaser are identical; and
- 5335 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
- 5336 tangible personal property prior to making the sale; or
- 5337 (b) for a lease:
- 5338 (i) the ownership of the lessor and the ownership of the lessee are identical; and
- 5339 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
- 5340 personal property prior to making the lease;
- 5341 [~~(76)~~] (65) (a) purchases of machinery or equipment if:
- 5342 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
- 5343 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
- 5344 System of the federal Executive Office of the President, Office of Management and Budget;
- 5345 (ii) the machinery or equipment:
- 5346 (A) has an economic life of three or more years; and
- 5347 (B) is used by one or more persons who pay admission or user fees described in
- 5348 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- 5349 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- 5350 (A) amounts paid or charged as admission or user fees described in Subsection
- 5351 59-12-103(1)(f); and
- 5352 (B) subject to taxation under this chapter; and
- 5353 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 5354 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
- 5355 previous calendar quarter is:
- 5356 (i) amounts paid or charged as admission or user fees described in Subsection
- 5357 59-12-103(1)(f); and

5358 (ii) subject to taxation under this chapter;

5359 ~~[(77)]~~ (66) purchases of a short-term lodging consumable by a business that provides

5360 accommodations and services described in Subsection 59-12-103(1)(i);

5361 ~~[(78) amounts paid or charged to access a database;]~~

5362 ~~[(a) if the primary purpose for accessing the database is to view or retrieve information~~

5363 ~~from the database; and]~~

5364 ~~[(b) not including amounts paid or charged for a:]~~

5365 ~~[(i) digital audiowork;]~~

5366 ~~[(ii) digital audio-visual work; or]~~

5367 ~~[(iii) digital book;]~~

5368 ~~[(79)]~~ (67) amounts paid or charged for a purchase or lease made by an electronic

5369 financial payment service, of:

5370 (a) machinery and equipment that:

5371 (i) are used in the operation of the electronic financial payment service; and

5372 (ii) have an economic life of three or more years; and

5373 (b) normal operating repair or replacement parts that:

5374 (i) are used in the operation of the electronic financial payment service; and

5375 (ii) have an economic life of three or more years;

5376 ~~[(80)]~~ (68) ~~[beginning on April 1, 2013;]~~ sales of a fuel cell as defined in Section

5377 54-15-102;

5378 ~~[(81)]~~ (69) amounts paid or charged for a purchase or lease of tangible personal

5379 property or a product transferred electronically if the tangible personal property or product

5380 transferred electronically:

5381 (a) is stored, used, or consumed in the state; and

5382 (b) is temporarily brought into the state from another state:

5383 (i) during a disaster period as defined in Section 53-2a-1202;

5384 (ii) by an out-of-state business as defined in Section 53-2a-1202;

5385 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

5386 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

5387 ~~[(82)]~~ (70) sales of goods and services at a morale, welfare, and recreation facility, as

5388 defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and

5389 Recreation Program;

5390 ~~[(83)]~~ (71) amounts paid or charged for a purchase or lease of molten magnesium;

5391 ~~[(84)]~~ (72) amounts paid or charged for a purchase or lease made by a qualifying

5392 ~~[enterprise]~~ data center or an occupant of a qualifying data center of machinery, equipment, or

5393 normal operating repair or replacement parts, if the machinery, equipment, or normal operating

5394 repair or replacement parts:

5395 (a) are used in ~~[the operation of the establishment; and]~~:

5396 (i) the operation of the qualifying data center; or

5397 (ii) the occupant's operations in the qualifying data center; and

5398 (b) have an economic life of one or more years;

5399 ~~[(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a~~

5400 ~~vehicle that includes cleaning or washing of the interior of the vehicle;]~~

5401 ~~[(86)]~~ (73) amounts paid or charged for a purchase or lease of machinery, equipment,

5402 normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or

5403 supplies used or consumed:

5404 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined

5405 in Section [63M-4-701](#) located in the state;

5406 (b) if the machinery, equipment, normal operating repair or replacement parts,

5407 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

5408 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is

5409 added to gasoline or diesel fuel;

5410 (ii) research and development;

5411 (iii) transporting, storing, or managing raw materials, work in process, finished

5412 products, and waste materials produced from refining gasoline or diesel fuel, or adding

5413 blendstock to gasoline or diesel fuel;

5414 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in

5415 refining; or

5416 (v) preventing, controlling, or reducing pollutants from refining; and

5417 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office

5418 of Energy Development under Subsection [63M-4-702\(2\)](#);

5419 ~~[(87)]~~ (74) amounts paid to or charged by a proprietor for accommodations and

5420 services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA
5421 accommodations tax imposed under Section 63H-1-205;

5422 ~~[(88)]~~ (75) amounts paid or charged for a purchase or lease of machinery, equipment,
5423 normal operating repair or replacement parts, or materials, except for office equipment or
5424 office supplies, by an establishment, as the commission defines that term in accordance with
5425 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

5426 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
5427 American Industry Classification System of the federal Executive Office of the President,
5428 Office of Management and Budget;

5429 (b) is located in this state; and

5430 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
5431 materials in the operation of the establishment; ~~[and]~~

5432 ~~[(89)]~~ (76) amounts paid or charged for an item exempt under Section 59-12-104.10~~[-];~~
5433 and

5434 (77) if paid for through a machine that accepts only cash for payment and if the
5435 machine is the only method by which to pay:

5436 (a) sales of cleaning or washing of tangible personal property if the cleaning or
5437 washing of the tangible personal property is not assisted cleaning or washing of tangible
5438 personal property;

5439 (b) sales of food and food ingredients or prepared food from a vending machine if:

5440 (i) the proceeds of each sale do not exceed \$1; and

5441 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
5442 the cost of the food and food ingredients or prepared food as goods consumed;

5443 (c) sales or rentals of the right to use or operate an unassisted amusement device for
5444 amusement, entertainment, or recreation; and

5445 (78) amounts paid or charged for tangible personal property that:

5446 (a) is not electricity, gas, machinery, equipment, vehicles, parts, office equipment, or
5447 office supplies; and

5448 (b) is consumed as part of a service described in Subsection 59-12-103(1)(g), (h), or
5449 (i).

5450 Section 46. Section 59-12-104.5 is amended to read:

5451 **59-12-104.5. Revenue and Taxation Interim Committee review of sales and use**
5452 **taxes.**

5453 The Revenue and Taxation Interim Committee shall:

5454 (1) review Subsection ~~59-12-104[(28)]~~(25) before October 1 of the year after the year
5455 in which Congress permits a state to participate in the special supplemental nutrition program
5456 under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on
5457 purchases of food under that program; and

5458 (2) review Subsection ~~59-12-104[(21)]~~(18) before October 1 of the year after the year
5459 in which Congress permits a state to participate in the SNAP as defined in Section ~~35A-1-102~~,
5460 even if state or local sales taxes are collected within the state on purchases of food under that
5461 program.

5462 Section 47. Section **59-12-1201** is amended to read:

5463 **59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration,**
5464 **collection, and enforcement of tax -- Administrative charge -- Deposits.**

5465 (1) (a) Except as provided in Subsection (3), there is imposed a tax of [~~2.5%~~] 4% on all
5466 short-term leases and rentals of motor vehicles not exceeding 30 days.

5467 (b) The tax imposed in this section is in addition to all other state, county, or municipal
5468 fees and taxes imposed on rentals of motor vehicles.

5469 (2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax
5470 imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

5471 (b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall
5472 take effect on the first day of the first billing period:

5473 (A) that begins after the effective date of the tax rate increase; and

5474 (B) if the billing period for the transaction begins before the effective date of a tax rate
5475 increase imposed under Subsection (1).

5476 (ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax
5477 rate decrease shall take effect on the first day of the last billing period:

5478 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
5479 and

5480 (B) if the billing period for the transaction begins before the effective date of the repeal
5481 of the tax or the tax rate decrease imposed under Subsection (1).

5482 (3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:
5483 (a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;
5484 (b) the motor vehicle is rented as a personal household goods moving van; or
5485 (c) the lease or rental of the motor vehicle is made for the purpose of temporarily
5486 replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an
5487 insurance agreement.

5488 (4) (a) (i) The tax authorized under this section shall be administered, collected, and
5489 enforced in accordance with:

5490 (A) the same procedures used to administer, collect, and enforce the tax under Part 1,
5491 Tax Collection; and

5492 (B) Chapter 1, General Taxation Policies.

5493 (ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to
5494 Subsections 59-12-103(4) through (10) or Section 59-12-107.1 or 59-12-123.

5495 (b) The commission shall retain and deposit an administrative charge in accordance
5496 with Section 59-1-306 from the ~~revenues~~ revenue the commission collects from a tax under
5497 this part.

5498 (c) Except as provided under Subsection (4)(b), all revenue received by the
5499 commission under this section shall be deposited daily with the state treasurer and credited
5500 monthly to the Marda Dillree Corridor Preservation Fund under Section 72-2-117.

5501 Section 48. Section 59-13-202 is amended to read:

5502 **59-13-202. Refund of tax for agricultural uses on individual income and**
5503 **corporate franchise and income tax returns -- Application for permit for refund --**
5504 **Division of Finance to pay claims -- Rules permitted to enforce part -- Penalties --**
5505 **Revenue and Taxation Interim Committee study.**

5506 (1) As used in this section:

5507 (a) (i) Except as provided in Subsection (1)(a)(ii), "claimant" means a resident or
5508 nonresident person.

5509 (ii) "Claimant" does not include an estate or trust.

5510 (b) "Estate" means a nonresident estate or a resident estate.

5511 (c) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or
5512 trust may claim:

- 5513 (i) as provided by statute; and
- 5514 (ii) regardless of whether, for the taxable year for which the claimant, estate, or trust
- 5515 claims the tax credit, the claimant, estate, or trust has a tax liability under:
- 5516 (A) Chapter 7, Corporate Franchise and Income Taxes; or
- 5517 (B) Chapter 10, Individual Income Tax Act.
- 5518 (d) "Trust" means a nonresident trust or a resident trust.
- 5519 (2) Any claimant, estate, or trust that purchases and uses any motor fuel within the state
- 5520 for the purpose of operating or propelling stationary farm engines and self-propelled farm
- 5521 machinery used for nonhighway agricultural uses, and that has paid the tax on the motor fuel as
- 5522 provided by this part, is entitled to a refund of the tax subject to the conditions and limitations
- 5523 provided under this part.
- 5524 (3) (a) A claimant, estate, or trust desiring a nonhighway agricultural use refund under
- 5525 this part shall claim the refund as a refundable tax credit on the tax return the claimant, estate,
- 5526 or trust files under:
- 5527 (i) Chapter 7, Corporate Franchise and Income Taxes; or
- 5528 (ii) Chapter 10, Individual Income Tax Act.
- 5529 (b) A claimant, estate, or trust not subject to filing a tax return described in Subsection
- 5530 (3)(a) shall obtain a permit and file claims on a calendar year basis.
- 5531 (c) Any claimant, estate, or trust claiming a refundable tax credit under this section is
- 5532 required to furnish any or all of the information outlined in this section upon request of the
- 5533 commission.
- 5534 (d) A refundable tax credit under this section is allowed only on purchases on which
- 5535 tax is paid during the taxable year covered by the tax return.
- 5536 (4) In order to obtain a permit for a refund of motor fuel tax paid, an application shall
- 5537 be filed containing:
- 5538 (a) the name of the claimant, estate, or trust;
- 5539 (b) the claimant's, estate's, or trust's address;
- 5540 (c) location and number of acres owned and operated, location and number of acres
- 5541 rented and operated, the latter of which shall be verified by a signed statement from the legal
- 5542 owner;
- 5543 (d) number of acres planted to each crop, type of soil, and whether irrigated or dry; and

5544 (e) make, size, and type of fuel used and power rating of each piece of equipment using
5545 fuel. If the claimant, estate, or trust is an operator of self-propelled or tractor-pulled farm
5546 machinery with which the claimant, estate, or trust works for hire doing custom jobs for other
5547 farmers, the application shall include information the commission requires and shall all be
5548 contained in, and be considered part of, the original application. The claimant, estate, or trust
5549 shall also file with the application a certificate from the county assessor showing each piece of
5550 equipment using fuel. This original application and all information contained in it constitutes a
5551 permanent file with the commission in the name of the claimant, estate, or trust.

5552 (5) A claimant, estate, or trust claiming the right to a refund of motor fuel tax paid shall
5553 file a claim with the commission by April 15 of each year for the refund for the previous
5554 calendar year. The claim shall state the name and address of the claimant, estate, or trust, the
5555 number of gallons of motor fuel purchased for nonhighway agricultural uses, and the amount
5556 paid for the motor fuel. The claimant, estate, or trust shall retain the original invoice to support
5557 the claim. No more than one claim for a tax refund may be filed annually by each user of
5558 motor fuel purchased for nonhighway agricultural uses.

5559 (6) Upon commission approval of the claim for a refund, the Division of Finance shall
5560 pay the amount found due to the claimant, estate, or trust. The total amount of claims for
5561 refunds shall be paid from motor fuel taxes.

5562 (7) The commission may refuse to accept as evidence of purchase or payment any
5563 instruments that show alteration or that fail to indicate the quantity of the purchase, the price of
5564 the motor fuel, a statement that the motor fuel is purchased for purposes other than
5565 transportation, and the date of purchase and delivery. If the commission is not satisfied with
5566 the evidence submitted in connection with the claim, the commission may reject the claim or
5567 require additional evidence.

5568 (8) A claimant, estate, or trust aggrieved by the decision of the commission with
5569 respect to a refundable tax credit or refund may file a request for agency action, requesting a
5570 hearing before the commission.

5571 (9) A claimant, estate, or trust that makes any false claim, report, or statement, as
5572 claimant, estate, trust, agent, or creditor, with intent to defraud or secure a refund to which the
5573 claimant, estate, or trust is not entitled, is subject to the criminal penalties provided under
5574 Section [59-1-401](#), and the commission shall initiate the filing of a complaint for alleged

5575 violations of this part. In addition to these penalties, the claimant, estate, or trust may not
 5576 receive any refund as a claimant, estate, or trust or as a creditor of a claimant, estate, or trust for
 5577 refund for a period of five years.

5578 ~~[(10)(a) In accordance with any rules prescribed by the commission under Subsection~~
 5579 ~~(10)(b), the Division of Finance shall transfer at least annually from the Transportation Fund~~
 5580 ~~into the Education Fund an amount equal to the amount of the refund claimed under this~~
 5581 ~~section.]~~

5582 ~~[(b)]~~ (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
 5583 Act, the commission may make rules providing procedures for:

5584 (i) making a refund to a claimant, estate, or trust as required by Subsection (3)(a)(i); or

5585 ~~[(ii) making a transfer from the Transportation Fund into the Education Fund as~~
 5586 ~~required by Subsection (10)(a); or]~~

5587 ~~[(iii)]~~ (ii) enforcing this part.

5588 (11) (a) On or before November 30, 2017, and every three years after 2017, the
 5589 Revenue and Taxation Interim Committee shall review the tax credit provided by this section
 5590 and make recommendations concerning whether the tax credit should be continued, modified,
 5591 or repealed.

5592 (b) In conducting the review required by Subsection (11)(a), the Revenue and Taxation
 5593 Interim Committee shall:

5594 (i) schedule time on at least one committee agenda to conduct the review;

5595 (ii) invite state agencies, individuals, and organizations concerned with the credit under
 5596 review to provide testimony;

5597 (iii) ensure that the recommendations described in this section include an evaluation of:

5598 (A) the cost of the tax credit to the state;

5599 (B) the purpose and effectiveness of the tax credit; and

5600 (C) the extent to which the state benefits from the tax credit; and

5601 (iv) undertake other review efforts as determined by the chairs of the Revenue and
 5602 Taxation Interim Committee.

5603 Section 49. Section **59-13-323** is enacted to read:

5604 **59-13-323. Additional special fuel tax on diesel fuel.**

5605 (1) A supplier shall pay an additional special fuel tax on diesel fuel that is subject to

5606 the special fuel tax imposed under Section [59-13-301](#) in an amount equal to:

5607 (a) beginning on April 1, 2020, and ending on December 31, 2021, six cents per gallon;

5608 and

5609 (b) beginning on January 1, 2022, 10 cents per gallon.

5610 (2) (a) The commission shall deposit daily the revenue that the commission collects
5611 under this section with the state treasurer.

5612 (b) Notwithstanding Section [59-13-301](#), the state treasurer shall credit the revenue
5613 deposited in accordance with Subsection (2)(a) to the Transportation Investment Fund of 2005
5614 created in Section [72-2-124](#).

5615 (3) (a) A person entitled to a refund of a special fuel tax under this part may receive a
5616 refund of the additional special fuel tax due under this section for the same gallons that the
5617 person is entitled to a refund of a special fuel tax.

5618 (b) Notwithstanding Section [59-13-318](#), the total amount of claims for refunds under
5619 Subsection (3)(a) shall be paid from the Transportation Investment Fund of 2005.

5620 (4) Beginning in 2021, the commission shall submit annually on or before October 1,
5621 an electronic report to a legislative committee designated by the Legislative Management
5622 Committee that:

5623 (a) states the amount of revenue collected from the tax imposed under Section
5624 [59-13-323](#) during the preceding fiscal year; and

5625 (b) provides an estimate of the revenue that will be collected from the tax imposed
5626 under Section [59-13-323](#) during the current fiscal year.

5627 Section 50. Section **59-13-601** is enacted to read:

5628 **Part 6. Sales Tax on Motor Fuel and Special Fuel, Other than Diesel Fuel**
5629 **59-13-601. Sales tax on motor fuel and special fuel, other than diesel fuel.**

5630 (1) (a) As used in this part, "nondiesel special fuel" means special fuel, other than
5631 diesel fuel.

5632 (b) For purposes of this part, the definitions in Section [59-13-102](#) that contain the
5633 words special fuel in the definition shall be read as though the words special fuel were replaced
5634 with nondiesel special fuel.

5635 (2) (a) Beginning on April 1, 2020, and subject to the other provisions of this
5636 Subsection (2), a sales tax is imposed on motor fuel and nondiesel special fuel at an

5637 amount equal to the product of:

5638 (i) the rate described in Subsection [59-12-103\(2\)\(a\)\(i\)\(A\)](#);

5639 (ii) the average daily rack price, calculated in accordance with Subsection (3) or (4);

5640 and

5641 (iii) (A) the number of gallons of motor fuel;

5642 (B) the number of diesel gallon equivalent for liquified natural gas;

5643 (C) the number of gasoline gallon equivalent for compressed natural gas or hydrogen;

5644 or

5645 (D) the number of units sold of nondiesel special fuel that is not liquified natural gas,
5646 compressed natural gas, or hydrogen.

5647 (b) (i) The distributor shall pay the tax on motor fuel.

5648 (ii) The supplier shall pay the tax on nondiesel special fuel.

5649 (c) (i) Except as provided in Subsection (2)(c)(iii), the provisions of Part 2, Motor
5650 Fuel, apply to the sales tax imposed by this section on motor fuel.

5651 (ii) Except as provided in Subsection (2)(c)(iii), the provisions of Part 3, Special Fuel,
5652 apply to the sales tax imposed by this section on nondiesel special fuel.

5653 (iii) (A) The sales tax rate on motor fuel and nondiesel special fuel is as provided in
5654 this

5655 Subsection (2).

5656 (B) The treasurer shall deposit the revenue collected from the sales tax imposed under
5657 this section into the Transportation Investment Fund of 2005 created in Section
5658 [72-2-124](#).

5659 (C) The commission shall pay any refunds from the Transportation Investment Fund of
5660 2005 created in Section [72-2-124](#).

5661 (3) (a) The commission shall determine annually the average daily rack price for motor
5662 fuel.

5663 (b) For the 2020 calendar year, the commission shall make the determination required
5664 by Subsection (3)(a) by:

5665 (i) calculating the previous fiscal year statewide average rack price of a gallon of
5666 regular unleaded motor fuel, excluding federal and state excise taxes, for the 12 months ending
5667 on the previous June 30 as published by an oil pricing service; and

5668 (ii) rounding to the nearest one-hundredth of a cent.
5669 (c) For the 2021 calendar year, the commission shall make the determination required
5670 by Subsection (3)(a) by:
5671 (i) calculating the previous two fiscal years statewide average rack price of a gallon of
5672 regular unleaded motor fuel, excluding federal and state excise taxes, for the 24 months ending
5673 on the previous June 30 as published by an oil pricing service.
5674 (d) Beginning on January 1, 2022, the commission shall make the determination
5675 required by Subsection (3)(a) by:
5676 (i) calculating the previous three fiscal years statewide average rack price of a gallon of
5677 regular unleaded motor fuel, excluding federal and state excise taxes, for the 36 months ending
5678 on the previous June 30 as published by an oil pricing service; and
5679 (ii) rounding to the nearest one-hundredth of a cent.
5680 (e) If the average daily rack price of a gallon of motor fuel determined under
5681 Subsection (3)(c) or (d) is less than the average daily rack price of a gallon of motor fuel
5682 calculated in accordance with Subsection (3)(b), the average daily rack price shall be the
5683 average daily rack price calculated in accordance with Subsection (3)(b).
5684 (4) The average daily rack price for nondiesel special fuel is the product of:
5685 (a) the average daily rack price calculated in accordance with Subsection (3); and
5686 (b) the percentage calculated by dividing the rate calculated in accordance with
5687 Subsection 59-13-301(12) by the rate calculated in accordance with Subsection 59-13-201(1).
5688 (5) (a) The commission shall annually:
5689 (i) publish the average daily rack prices calculated in accordance with Subsections (3)
5690 and (4); and
5691 (ii) post or otherwise make public the average daily rack prices no later than 60 days
5692 prior to the annual effective date under Subsection (5)(b).
5693 (b) The average daily rack price described in Subsection (2) and calculated in
5694 accordance with Subsections (3) and (4) shall take effect:
5695 (i) for the 2020 calendar year, on April 1; and
5696 (ii) beginning with the 2021 calendar year, on January 1 of each year.
5697 Section 51. Section **63I-2-241** is enacted to read:
5698 **63I-2-241. Repeal dates -- Title 41.**

5699 Subsection 41-6a-702(5), which allows a vehicle with a clean fuel vehicle decal to
5700 travel in a lane designated for the use of high occupancy vehicles regardless of the number of
5701 occupants, is repealed September 30, 2025.

5702 Section 52. Section **63I-2-253** is amended to read:

5703 **63I-2-253. Repeal dates -- Titles 53 through 53G.**

5704 (1) (a) Subsections **53B-2a-103**(2) and (4), regarding the composition of the UTech
5705 Board of Trustees and the transition to that composition, are repealed July 1, 2019.

5706 (b) When repealing Subsections **53B-2a-103**(2) and (4), the Office of Legislative
5707 Research and General Counsel shall, in addition to its authority under Subsection **36-12-12**(3),
5708 make necessary changes to subsection numbering and cross references.

5709 (2) (a) Subsection **53B-2a-108**(5), regarding exceptions to the composition of a
5710 technical college board of directors, is repealed July 1, 2022.

5711 (b) When repealing Subsection **53B-2a-108**(5), the Office of Legislative Research and
5712 General Counsel shall, in addition to its authority under Subsection **36-12-12**(3), make
5713 necessary changes to subsection numbering and cross references.

5714 (3) Section **53B-6-105.7** is repealed July 1, 2024.

5715 (4) (a) Subsection **53B-7-705**(6)(b)(ii)(A), the language that states "Except as provided
5716 in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

5717 (b) Subsection **53B-7-705**(6)(b)(ii)(B), regarding comparing a technical college's
5718 change in performance with the technical college's average performance, is repealed July 1,
5719 2021.

5720 (5) (a) Subsection **53B-7-707**(3)(a)(ii), the language that states "Except as provided in
5721 Subsection (3)(b)," is repealed July 1, 2021.

5722 (b) Subsection **53B-7-707**(3)(b), regarding performance data of a technical college
5723 during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

5724 (6) Section **53B-8-112** is repealed July 1, 2024.

5725 (7) Section **53B-8-114** is repealed July 1, 2024.

5726 (8) (a) The following sections, regarding the Regents' scholarship program, are
5727 repealed on July 1, 2023:

5728 (i) Section **53B-8-202**;

5729 (ii) Section **53B-8-203**;

- 5730 (iii) Section [53B-8-204](#); and
5731 (iv) Section [53B-8-205](#).
- 5732 (b) (i) Subsection [53B-8-201](#)(2), regarding the Regents' scholarship program for
5733 students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.
- 5734 (ii) When repealing Subsection [53B-8-201](#)(2), the Office of Legislative Research and
5735 General Counsel shall, in addition to its authority under Subsection [36-12-12](#)(3), make
5736 necessary changes to subsection numbering and cross references.
- 5737 (9) Section [53B-10-101](#) is repealed on July 1, 2027.
- 5738 (10) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is
5739 repealed July 1, 2023.
- 5740 (11) Section [53E-3-519](#) regarding school counselor services is repealed July 1, 2020.
- 5741 (12) Section [53E-3-520](#) is repealed July 1, 2021.
- 5742 (13) Subsection [53E-5-306](#)(3)(b)(ii)(B), related to improving school performance and
5743 continued funding relating to the School Recognition and Reward Program, is repealed July 1,
5744 2020.
- 5745 (14) Section [53E-5-307](#) is repealed July 1, 2020.
- 5746 (15) In Subsections [53F-2-205](#)(4) and (5), regarding the State Board of Education's
5747 duties if contributions from the minimum basic tax rate are overestimated or underestimated,
5748 the language that states "or [53F-2-301.5](#), as applicable" is repealed July 1, 2023.
- 5749 (16) Subsection [53F-2-301](#)(1), relating to the years the section is not in effect, is
5750 repealed July 1, 2023.
- 5751 (17) In Subsection [53F-2-515](#)(1), the language that states "or [53F-2-301.5](#), as
5752 applicable" is repealed July 1, 2023.
- 5753 (18) Section [53F-4-204](#) is repealed July 1, 2019.
- 5754 (19) In Subsection [53F-9-302](#)(3), the language that states "or [53F-2-301.5](#), as
5755 applicable" is repealed July 1, 2023.
- 5756 (20) Section [53F-9-304](#) is repealed July 1, 2020.
- 5757 [~~(20)~~] (21) In Subsection [53F-9-305](#)(3)(a), the language that states "or [53F-2-301.5](#), as
5758 applicable" is repealed July 1, 2023.
- 5759 [~~(21)~~] (22) In Subsection [53F-9-306](#)(3)(a), the language that states "or [53F-2-301.5](#), as
5760 applicable" is repealed July 1, 2023.

5761 [~~(22)~~] (23) In Subsection [53G-3-304](#)(1)(c)(i), the language that states "or [53F-2-301.5](#),
5762 as applicable" is repealed July 1, 2023.

5763 [~~(23)~~] (24) On July 1, 2023, when making changes in this section, the Office of
5764 Legislative Research and General Counsel shall, in addition to the office's authority under
5765 Subsection [36-12-12](#)(3), make corrections necessary to ensure that sections and subsections
5766 identified in this section are complete sentences and accurately reflect the office's perception of
5767 the Legislature's intent.

5768 Section 53. Section **63I-2-259** is amended to read:

5769 **63I-2-259. Repeal dates -- Title 59.**

5770 [~~(1) Section [59-1-102](#) is repealed on May 14, 2019.~~]

5771 [~~(2)~~] (1) In Section [59-2-926](#), the language that states "applicable" and "or
5772 [53F-2-301.5](#)" is repealed July 1, 2023.

5773 [~~(3) Subsection [59-2-1007](#)(15) is repealed on December 31, 2018.~~]

5774 (2) Section [59-10-1018.1](#) is repealed January 1, 2021.

5775 (3) Subsections [59-12-102](#)(61) and (62), which define "life science establishment" and
5776 "life science research and development facility," are repealed January 1, 2027.

5777 (4) Subsection [59-12-104](#)(62), which provides a sales and use tax exemption related to
5778 amounts paid or charged for construction materials used in the construction of a life science
5779 research and development facility, is repealed January 1, 2027.

5780 (5) Section [59-12-104.4](#) is repealed April 1, 2020.

5781 Section 54. Section **63I-2-272** is amended to read:

5782 **63I-2-272. Repeal dates -- Title 72.**

5783 (1) Subsections [72-1-213](#)(2) and (3)(a)(i), related to the Road Usage Charge Advisory
5784 Committee, are repealed January 1, 2022.

5785 [~~(2) On July 1, 2018:~~]

5786 [~~(a) in Subsection [72-2-108](#)(2), the language that states "and except as provided in
5787 Subsection (10)" is repealed; and]~~

5788 [~~(b) in Subsection [72-2-108](#)(4)(c)(ii)(A), the language that states "-", excluding any
5789 amounts appropriated as additional support for class B and class C roads under Subsection
5790 (10)," is repealed.~~]

5791 [~~(3)~~] (2) Section [72-3-113](#) is repealed January 1, 2020.

5792 (3) Section [72-6-121](#) is repealed September 30, 2025.

5793 Section 55. Section **63M-4-702** is amended to read:

5794 **63M-4-702. Refiner gasoline standard reporting -- Office of Energy Development**
5795 **certification of sales and use tax exemption eligibility.**

5796 (1) (a) Beginning on July 1, 2021, a refiner that seeks to be eligible for a sales and use
5797 tax exemption under Subsection [59-12-104](#)~~[(86)]~~[\(73\)](#) shall annually report to the office
5798 whether the refiner's facility that is located within the state will have an average gasoline sulfur
5799 level of 10 parts per million (ppm) or less using the formulas prescribed in 40 C.F.R. Sec.
5800 80.1603, excluding the offset for credit use and transfer as prescribed in 40 C.F.R. Sec.
5801 80.1616.

5802 (b) Fuels for which a final destination outside Utah can be demonstrated or that are not
5803 subject to the standards and requirements of 40 C.F.R. Sec. 80.1603 as specified in 40 C.F.R.
5804 Sec. 80.1601 are not subject to the reporting provisions under Subsection (1)(a).

5805 (2) (a) Beginning on July 1, 2021, the office shall annually certify that the refiner is
5806 eligible for the sales and use tax exemption under Subsection [59-12-104](#)~~[(86)]~~[\(73\)](#):

5807 (i) on a form provided by the State Tax Commission that shall be retained by the
5808 refiner claiming the sales and use tax exemption under Subsection [59-12-104](#)~~[(86)]~~[\(73\)](#);

5809 (ii) if the refiner's refinery that is located within the state had an average sulfur level of
5810 10 parts per million (ppm) or less as reported under Subsection (1) in the previous calendar
5811 year; and

5812 (iii) before a taxpayer is allowed the sales and use tax exemption under Subsection
5813 [59-12-104](#)~~[(86)]~~[\(73\)](#).

5814 (b) The certification provided by the office under Subsection (2)(a) shall be renewed
5815 annually.

5816 (c) The office:

5817 (i) shall accept a copy of a report submitted by a refiner to the Environmental
5818 Protection Agency under 40 C.F.R. Sec. 80.1652 as sufficient evidence of the refiner's average
5819 gasoline sulfur level; or

5820 (ii) may establish another reporting mechanism through rules made under Subsection
5821 (3).

5822 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

5823 office may make rules to implement this section.

5824 Section 56. Section **72-1-201** is amended to read:

5825 **72-1-201. Creation of Department of Transportation -- Functions, powers, duties,**
5826 **rights, and responsibilities.**

5827 (1) There is created the Department of Transportation which shall:

5828 (a) have the general responsibility for planning, research, design, construction,
5829 maintenance, security, and safety of state transportation systems;

5830 (b) provide administration for state transportation systems and programs;

5831 (c) implement the transportation policies of the state;

5832 (d) plan, develop, construct, and maintain state transportation systems that are safe,
5833 reliable, environmentally sensitive, and serve the needs of the traveling public, commerce, and
5834 industry;

5835 (e) establish standards and procedures regarding the technical details of administration
5836 of the state transportation systems as established by statute and administrative rule;

5837 (f) advise the governor and the Legislature about state transportation systems needs;

5838 (g) coordinate with utility companies for the reasonable, efficient, and cost-effective
5839 installation, maintenance, operation, relocation, and upgrade of utilities within state highway
5840 rights-of-way;

5841 (h) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
5842 make rules for the administration of the department, state transportation systems, and
5843 programs;

5844 (i) jointly with the commission annually report to the Transportation Interim
5845 Committee, by November 30 of each year, as to the operation, maintenance, condition,
5846 mobility, and safety needs for state transportation systems;

5847 (j) ensure that any training or certification required of a public official or public
5848 employee, as those terms are defined in Section [63G-22-102](#), complies with Title 63G, Chapter
5849 22, State Training and Certification Requirements, if the training or certification is required:

5850 (i) under this title;

5851 (ii) by the department; or

5852 (iii) by an agency or division within the department; ~~and~~

5853 (k) study and make recommendations to the Legislature on potential managed lane use

5854 and implementation on selected transportation systems within the state[-]; and

5855 (l) implement one or more strategies to manage congestion on state highways and
5856 generate highway user fees, including the use of one or more high occupancy toll lanes as
5857 defined in Section 72-6-118 and implementation of the technology described in Subsection
5858 72-6-118(2)(e).

5859 (2) (a) The department shall exercise reasonable care in designing, constructing, and
5860 maintaining a state highway in a reasonably safe condition for travel.

5861 (b) Nothing in this section shall be construed as:

5862 (i) creating a private right of action; or

5863 (ii) expanding or changing the department's common law duty as described in
5864 Subsection (2)(a) for liability purposes.

5865 Section 57. Section 72-1-213.1 is amended to read:

5866 **72-1-213.1. Road usage charge program.**

5867 (1) As used in this section:

5868 (a) "Account manager" means an entity under contract with the department to
5869 administer and manage the road usage charge program.

5870 (b) "Alternative fuel vehicle" means the same as that term is defined in Section
5871 41-1a-102.

5872 (c) "Payment period" means the interval during which an owner is required to report
5873 mileage and pay the appropriate road usage charge according to the terms of the program.

5874 (d) "Program" means the road usage charge program established and described in this
5875 section.

5876 (2) There is established a road usage charge program as described in this section.

5877 (3) (a) The department shall implement and oversee the administration of the program,
5878 which shall begin on January 1, 2020.

5879 (b) To implement and administer the program, the department may contract with an
5880 account manager.

5881 (4) (a) The owner or lessee of an alternative fuel vehicle may apply for enrollment of
5882 the alternative fuel vehicle in the program.

5883 (b) If an application for enrollment into the program is approved by the department, the
5884 owner or lessee of an alternative fuel vehicle may participate in the program in lieu of paying

5885 the fee described in Subsection 41-1a-1206(1)(h) or (2)(b).

5886 (5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
5887 and consistent with this section, the department:

5888 (i) shall make rules to establish:

5889 (A) processes and terms for enrollment into and withdrawal or removal from the
5890 program;

5891 (B) payment periods and other payment methods and procedures for the program;

5892 (C) standards for mileage reporting mechanisms for an owner or lessee of an
5893 alternative fuel vehicle to report mileage as part of participation in the program;

5894 (D) standards for program functions for mileage recording, payment processing,
5895 account management, and other similar aspects of the program;

5896 (E) contractual terms between an owner or lessee of an alternative fuel vehicle owner
5897 and an account manager for participation in the program;

5898 (F) contractual terms between the department and an account manager, including
5899 authority for an account manager to enforce the terms of the program;

5900 (G) procedures to provide security and protection of personal information and data
5901 connected to the program, and penalties for account managers for violating privacy protection
5902 rules;

5903 (H) penalty procedures for a program participant's failure to pay a road usage charge or
5904 tampering with a device necessary for the program; and

5905 (I) department oversight of an account manager, including privacy protection of
5906 personal information and access and auditing capability of financial and other records related to
5907 administration of the program; and

5908 (ii) may make rules to establish:

5909 (A) an enrollment cap for certain alternative fuel vehicle types to participate in the
5910 program;

5911 (B) a process for collection of an unpaid road usage charge or penalty; or

5912 (C) integration of the program with other similar programs, such as tolling.

5913 (b) The department shall make recommendations to and consult with the commission
5914 regarding road usage mileage rates for each type of alternative fuel vehicle.

5915 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and

5916 consistent with this section, the commission shall, after consultation with the department, make
5917 rules to establish the road usage charge mileage rate for each type of alternative fuel vehicle.

5918 (7) (a) Revenue generated by the road usage charge program and relevant penalties
5919 shall be deposited into the Transportation Fund.

5920 (b) The department may use revenue generated by the program to cover the costs of
5921 administering the program.

5922 (8) (a) The department may:

5923 (i) (A) impose a penalty for failure to timely pay a road usage charge according to the
5924 terms of the program or tampering with a device necessary for the program; and

5925 (B) request that the Division of Motor Vehicles place a hold on the registration of the
5926 owner's or lessee's alternative fuel vehicle for failure to pay a road usage charge according to
5927 the terms of the program;

5928 (ii) send correspondence to the owner of an alternative fuel vehicle to inform the owner
5929 or lessee of:

5930 (A) the road usage charge program, implementation, and procedures;

5931 (B) an unpaid road usage charge and the amount of the road usage charge to be paid to
5932 the department;

5933 (C) the penalty for failure to pay a road usage charge within the time period described
5934 in Subsection (8)(a)(iii); and

5935 (D) a hold being placed on the owner's or lessee's registration for the alternative fuel
5936 vehicle, if the road usage charge and penalty are not paid within the time period described in
5937 Subsection (8)(a)(iii), which would prevent the renewal of the alternative fuel vehicle's
5938 registration; and

5939 (iii) require that the owner or lessee of the alternative fuel vehicle pay the road usage
5940 charge to the department within 30 days of the date when the department sends written notice
5941 of the road usage charge to the owner or lessee.

5942 (b) The department shall send the correspondence and notice described in Subsection
5943 (8)(a) to the owner of the alternative fuel vehicle according to the terms of the program.

5944 (9) (a) The Division of Motor Vehicles and the department shall share and provide
5945 access to:

5946 (i) information pertaining to an alternative fuel vehicle and participation in the program

5947 including:

5948 [(†)] (A) registration and ownership information pertaining to an alternative fuel
5949 vehicle;

5950 [(††)] (B) information regarding the failure of an alternative fuel vehicle owner or lessee
5951 to pay a road usage charge or penalty imposed under this section within the time period
5952 described in Subsection (8)(a)(iii); and

5953 [(†††)] (C) the status of a request for a hold on the registration of an alternative fuel
5954 vehicle[-]; and

5955 (ii) the following information, in a format that does not allow the department to
5956 identify the vehicle owner, from each certificate of emissions inspection provided in
5957 accordance with Section [41-6a-1642](#):

5958 (A) the odometer reading; and

5959 (B) the date of the odometer reading.

5960 (b) If the department requests a hold on the registration in accordance with this section,
5961 the Division of Motor Vehicles may not renew the registration of a motor vehicle under Title
5962 41, Chapter 1a, Part 2, Registration, until the department withdraws the hold request.

5963 (10) The owner of an alternative fuel vehicle may apply for enrollment in the program
5964 or withdraw from the program according to the terms established by the department pursuant to
5965 rules made under Subsection (5).

5966 (11) If enrolled in the program, the owner or lessee of an alternative fuel vehicle shall:

5967 (a) report mileage driven as required by the department pursuant to Subsection (5);

5968 (b) pay the road usage fee for each payment period as set by the department and the
5969 commission pursuant to Subsections (5) and (6); and

5970 (c) comply with all other provisions of this section and other requirements of the
5971 program.

5972 (12) On or before October 1 of each year, the department shall submit an electronic
5973 report to a legislative committee designated by the Legislative Management Committee that:

5974 (a) describes the amount of revenue generated by the program during the preceding
5975 fiscal year; and

5976 (b) recommends strategies for expanding enrollment in the program.

5977 Section 58. Section **72-1-213.2** is enacted to read:

5978 72-1-213.2. Reports on revenue from road usage charge program.

5979 (1) As used in this section:

5980 (a) "Committees" means the Transportation Interim Committee and the Infrastructure
5981 and General Government Appropriations Subcommittee.

5982 (b) "Program" means the same as that term is defined in Section [72-1-213.1](#).

5983 (2) On or before October 1, 2020, the department shall submit to the committees a plan
5984 to enroll all vehicles registered in the state in the program by December 31, 2020.

5985 (3) Beginning in 2021, the committees shall receive and consider annually, on or
5986 before October 1, an electronic report from the department that:

5987 (a) provides the participation rate in the program;

5988 (b) states for the preceding fiscal year:

5989 (i) the amount of revenue collected from the program; and

5990 (ii) the department's cost to administer the program;

5991 (c) provides for the current fiscal year, an estimate of:

5992 (i) the revenue that will be collected from the program; and

5993 (ii) the department's cost to administer the program; and

5994 (d) recommends strategies to expand enrollment in the program to meet the deadline
5995 provided in Subsection (2).

5996 (4) In a year in which the revenue generated under the program, minus cost to
5997 administer the program, equals or exceeds 25%, 50%, 75%, or 100% of the revenue collected
5998 under Section [59-13-601](#), the department shall include that information in the report required
5999 under Subsection (3).

6000 Section 59. Section **72-2-120** is amended to read:

6001 **72-2-120. Tollway Special Revenue Fund -- Revenue.**

6002 (1) There is created a special revenue fund within the Transportation Fund known as
6003 the "Tollway Special Revenue Fund."

6004 (2) The fund shall be funded from the following sources:

6005 (a) tolls collected by the department under Section [72-6-118](#);

6006 (b) funds received by the department through a tollway development agreement under
6007 Section [72-6-203](#);

6008 (c) appropriations made to the fund by the Legislature;

6009 (d) contributions from other public and private sources for deposit into the fund;

6010 (e) interest earnings on cash balances; and

6011 (f) money collected for repayments and interest on fund money.

6012 (3) The Division of Finance may create a subaccount for each tollway as defined in

6013 Section [72-6-118](#).

6014 (4) The commission may authorize the money deposited into the fund to be spent by

6015 the department [~~to establish and operate tollways and related facilities and state transportation~~

6016 ~~systems, including design, construction, reconstruction, operation, maintenance, enforcement,~~

6017 ~~impacts from tollways, and the acquisition of right-of-way] for any state transportation~~

6018 purpose.

6019 Section 60. Section **72-2-124** is amended to read:

6020 **72-2-124. Transportation Investment Fund of 2005.**

6021 (1) There is created a capital projects fund entitled the Transportation Investment Fund
6022 of 2005.

6023 (2) The fund consists of money generated from the following sources:

6024 (a) any voluntary contributions received for the maintenance, construction,

6025 reconstruction, or renovation of state and federal highways;

6026 (b) appropriations made to the fund by the Legislature;

6027 (c) registration fees designated under Section [41-1a-1201](#);

6028 (d) the sales and use tax revenues deposited into the fund in accordance with [~~Section~~

6029 ~~[59-12-103](#); and] Sections [59-12-103](#) and [59-13-601](#);~~

6030 (e) the additional special fuel tax revenues deposited into the fund in accordance with

6031 Section [59-13-323](#); and

6032 [~~(e)~~] (f) revenues transferred to the fund in accordance with Section [72-2-106](#).

6033 (3) (a) The fund shall earn interest.

6034 (b) All interest earned on fund money shall be deposited into the fund.

6035 (4) (a) Except as provided in Subsection (4)(b), the executive director may only use
6036 fund money to pay:

6037 (i) the costs of maintenance, construction, reconstruction, or renovation to state and

6038 federal highways prioritized by the Transportation Commission through the prioritization

6039 process for new transportation capacity projects adopted under Section [72-1-304](#);

6040 (ii) the costs of maintenance, construction, reconstruction, or renovation to the highway
6041 projects described in Subsections 63B-18-401(2), (3), and (4);

6042 (iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401
6043 minus the costs paid from the County of the First Class Highway Projects Fund in accordance
6044 with Subsection 72-2-121(4)(f);

6045 (iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt
6046 Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified
6047 by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the
6048 debt service on \$30,000,000 of the revenue bonds issued by Salt Lake County;

6049 (v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101
6050 for projects prioritized in accordance with Section 72-2-125;

6051 (vi) all highway general obligation bonds that are intended to be paid from revenues in
6052 the Centennial Highway Fund created by Section 72-2-118;

6053 [~~(vii) for fiscal year 2015-16 only, to transfer \$25,000,000 to the County of the First
6054 Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described
6055 in Section 72-2-121; and]~~

6056 [~~(viii)~~] (vii) if a political subdivision provides a contribution equal to or greater than
6057 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or
6058 paved nonmotorized transportation for projects that:

6059 (A) mitigate traffic congestion on the state highway system;

6060 (B) are part of an active transportation plan approved by the department; and

6061 (C) are prioritized by the commission through the prioritization process for new
6062 transportation capacity projects adopted under Section 72-1-304[-]; and

6063 (viii) for a fiscal year beginning on or after July 1, 2020, to annually transfer an equal
6064 portion of \$5,000,000 to each county with a population of less than 14,000, as determined by
6065 the lieutenant governor in accordance with Subsection 17-50-502(2), for expenses related to the
6066 improvement of class B roads located within the county.

6067 (b) The executive director may use fund money to exchange for an equal or greater
6068 amount of federal transportation funds to be used as provided in Subsection (4)(a).

6069 (5) (a) Except as provided in Subsection (5)(b), the executive director may not use fund
6070 money, including fund money from the Transit Transportation Investment Fund, within the

6071 boundaries of a municipality that is required to adopt a moderate income housing plan element
6072 as part of the municipality's general plan as described in Subsection 10-9a-401(3), if the
6073 municipality has failed to adopt a moderate income housing plan element as part of the
6074 municipality's general plan or has failed to implement the requirements of the moderate income
6075 housing plan as determined by the results of the Department of Workforce Service's review of
6076 the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

6077 (b) Within the boundaries of a municipality that is required under Subsection
6078 10-9a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate
6079 income housing plan element as part of the municipality's general plan or has failed to
6080 implement the requirements of the moderate income housing plan as determined by the results
6081 of the Department of Workforce Service's review of the annual moderate income housing
6082 report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

6083 (i) may use fund money in accordance with Subsection (4)(a) for a limited-access
6084 facility;

6085 (ii) may not use fund money for the construction, reconstruction, or renovation of an
6086 interchange on a limited-access facility;

6087 (iii) may use Transit Transportation Investment Fund money for a multi-community
6088 fixed guideway public transportation project; and

6089 (iv) may not use Transit Transportation Investment Fund money for the construction,
6090 reconstruction, or renovation of a station that is part of a fixed guideway public transportation
6091 project.

6092 (6) (a) Except as provided in Subsection (6)(b), the executive director may not use fund
6093 money, including fund money from the Transit Transportation Investment Fund, within the
6094 boundaries of the unincorporated area of a county, if the county is required to adopt a moderate
6095 income housing plan element as part of the county's general plan as described in Subsection
6096 17-27a-401(3) and if the county has failed to adopt a moderate income housing plan element as
6097 part of the county's general plan or has failed to implement the requirements of the moderate
6098 income housing plan as determined by the results of the Department of Workforce Service's
6099 review of the annual moderate income housing report described in Subsection
6100 35A-8-803(1)(a)(vii).

6101 (b) Within the boundaries of the unincorporated area of a county where the county is

6102 required under Subsection 17-27a-401(3) to plan for moderate income housing growth but has
6103 failed to adopt a moderate income housing plan element as part of the county's general plan or
6104 has failed to implement the requirements of the moderate income housing plan as determined
6105 by the results of the Department of Workforce Service's review of the annual moderate income
6106 housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

6107 (i) may use fund money in accordance with Subsection (4)(a) for a limited-access
6108 facility;

6109 (ii) may not use fund money for the construction, reconstruction, or renovation of an
6110 interchange on a limited-access facility;

6111 (iii) may use Transit Transportation Investment Fund money for a multi-community
6112 fixed guideway public transportation project; and

6113 (iv) may not use Transit Transportation Investment Fund money for the construction,
6114 reconstruction, or renovation of a station that is part of a fixed guideway public transportation
6115 project.

6116 (7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued
6117 in any fiscal year, the department and the commission shall appear before the Executive
6118 Appropriations Committee of the Legislature and present the amount of bond proceeds that the
6119 department needs to provide funding for the projects identified in Subsections 63B-18-401(2),
6120 (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

6121 (b) The Executive Appropriations Committee of the Legislature shall review and
6122 comment on the amount of bond proceeds needed to fund the projects.

6123 (8) The Division of Finance shall, from money deposited into the fund, transfer the
6124 amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by
6125 Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or
6126 sinking fund.

6127 (9) (a) There is created in the Transportation Investment Fund of 2005 the Transit
6128 Transportation Investment Fund.

6129 (b) The fund shall be funded by:

6130 (i) contributions deposited into the fund in accordance with Section 59-12-103;

6131 (ii) appropriations into the account by the Legislature;

6132 (iii) private contributions; and

6133 (iv) donations or grants from public or private entities.

6134 (c) (i) The fund shall earn interest.

6135 (ii) All interest earned on fund money shall be deposited into the fund.

6136 (d) Subject to Subsection (9)(e), the Legislature may appropriate money from the fund
6137 for public transit capital development of new capacity projects to be used as prioritized by the
6138 commission.

6139 (e) (i) The Legislature may only appropriate money from the fund for a public transit
6140 capital development project or pedestrian or nonmotorized transportation project that provides
6141 connection to the public transit system if the public transit district or political subdivision
6142 provides funds of equal to or greater than 40% of the costs needed for the project.

6143 (ii) A public transit district or political subdivision may use money derived from a loan
6144 granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or
6145 part of the 40% requirement described in Subsection (9)(e)(i) if:

6146 (A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2,
6147 State Infrastructure Bank Fund; and

6148 (B) the proposed capital project has been prioritized by the commission pursuant to
6149 Section [72-1-303](#).

6150 Section 61. Section **72-6-118** is amended to read:

6151 **72-6-118. Definitions -- Establishment and operation of tollways -- Imposition**
6152 **and collection of tolls -- Amount of tolls -- Rulemaking.**

6153 (1) As used in this section:

6154 (a) (i) ~~["High]~~ Before January 1, 2025, "high occupancy toll lane" means a high
6155 occupancy vehicle lane designated under Section [41-6a-702](#) that may be used by an operator of
6156 a vehicle carrying less than the number of persons specified for the high occupancy vehicle
6157 lane if the operator of the vehicle pays a toll or fee.

6158 (ii) On or after January 1, 2025, "high occupancy toll lane" means a high occupancy
6159 vehicle lane designated under Section [41-6a-702](#) that may be used by an operator of a vehicle
6160 only if:

6161 (A) the vehicle is carrying three or more occupants; or

6162 (B) the operator pays a toll or fee.

6163 (b) "Toll" means any tax, fee, or charge assessed for the specific use of a tollway.

6164 (c) "Toll lane" means a designated new highway or additional lane capacity that is
6165 constructed, operated, or maintained for which a toll is charged for its use.

6166 (d) (i) "Tollway" means a highway, highway lane, bridge, path, tunnel, or right-of-way
6167 designed and used as a transportation route that is constructed, operated, or maintained through
6168 the use of toll revenues.

6169 (ii) "Tollway" includes a high occupancy toll lane and a toll lane.

6170 (e) "Tollway development agreement" has the same meaning as defined in Section
6171 [72-6-202](#).

6172 (2) Subject to the provisions of Subsection (3), the department may:

6173 (a) establish, expand, and operate tollways and related facilities for the purpose of
6174 funding in whole or in part the acquisition of right-of-way and the design, construction,
6175 reconstruction, operation, enforcement, and maintenance of or impacts from a transportation
6176 route for use by the public;

6177 (b) enter into contracts, agreements, licenses, franchises, tollway development
6178 agreements, or other arrangements to implement this section;

6179 (c) impose and collect tolls on any tollway established under this section, including
6180 collection of past due payment of a toll or penalty;

6181 (d) grant exclusive or nonexclusive rights to a private entity to impose and collect tolls
6182 pursuant to the terms and conditions of a tollway development agreement;

6183 (e) use technology to automatically monitor a tollway and collect payment of a toll,
6184 including:

6185 (i) license plate reading technology; and

6186 (ii) photographic or video recording technology; and

6187 (f) in accordance with Subsection (5), request that the Division of Motor Vehicles deny
6188 a request for registration of a motor vehicle if the motor vehicle owner has failed to pay a toll
6189 or penalty imposed for usage of a tollway involving the motor vehicle for which registration
6190 renewal has been requested.

6191 (3) (a) The department may establish or operate a tollway on an existing highway if
6192 approved by the commission in accordance with the terms of this section.

6193 (b) To establish a tollway on an existing highway, the department shall submit a
6194 proposal to the commission including:

- 6195 (i) a description of the tollway project;
- 6196 (ii) projected traffic on the tollway;
- 6197 (iii) the anticipated amount of the toll to be charged; and
- 6198 (iv) projected toll revenue.
- 6199 (4) (a) For a tollway established under this section, the department may:
- 6200 (i) according to the terms of each tollway, impose the toll upon the owner of a motor
- 6201 vehicle using the tollway according to the terms of the tollway;
- 6202 (ii) send correspondence to the owner of the motor vehicle to inform the owner of:
- 6203 (A) an unpaid toll and the amount of the toll to be paid to the department;
- 6204 (B) the penalty for failure to pay the toll timely; and
- 6205 (C) a hold being placed on the owner's registration for the motor vehicle if the toll and
- 6206 penalty are not paid timely, which would prevent the renewal of the motor vehicle's
- 6207 registration;
- 6208 (iii) require that the owner of the motor vehicle pay the toll to the department within 30
- 6209 days of the date when the department sends written notice of the toll to the owner; and
- 6210 (iv) impose a penalty for failure to pay a toll timely.
- 6211 (b) The department shall mail the correspondence and notice described in Subsection
- 6212 (4)(a) to the owner of the motor vehicle according to the terms of a tollway.
- 6213 (5) (a) The Division of Motor Vehicles and the department shall share and provide
- 6214 access to information pertaining to a motor vehicle and tollway enforcement including:
- 6215 (i) registration and ownership information pertaining to a motor vehicle;
- 6216 (ii) information regarding the failure of a motor vehicle owner to timely pay a toll or
- 6217 penalty imposed under this section; and
- 6218 (iii) the status of a request for a hold on the registration of a motor vehicle.
- 6219 (b) If the department requests a hold on the registration in accordance with this section,
- 6220 the Division of Motor Vehicles may not renew the registration of a motor vehicle under Title
- 6221 41, Chapter 1a, Part 2, Registration, if the owner of the motor vehicle has failed to pay a toll or
- 6222 penalty imposed under this section for usage of a tollway involving the motor vehicle for which
- 6223 registration renewal has been requested until the department withdraws the hold request.
- 6224 (6) (a) Except as provided in Subsection (6)(b), in accordance with Title 63G, Chapter
- 6225 3, Utah Administrative Rulemaking Act, the commission shall:

6226 (i) set the amount of any toll imposed or collected on a tollway on a state highway; and
6227 (ii) for tolls established under Subsection (6)(b), set:

6228 (A) an increase in a toll rate or user fee above an increase specified in a tollway
6229 development agreement; or

6230 (B) an increase in a toll rate or user fee above a maximum toll rate specified in a
6231 tollway development agreement.

6232 (b) A toll or user fee and an increase to a toll or user fee imposed or collected on a
6233 tollway on a state highway that is the subject of a tollway development agreement shall be set
6234 in the tollway development agreement.

6235 (7) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
6236 the department shall make rules:

6237 (i) necessary to establish and operate tollways on state highways;

6238 (ii) that establish standards and specifications for automatic tolling systems and
6239 automatic tollway monitoring technology; and

6240 (iii) to set the amount of a penalty for failure to pay a toll under this section.

6241 (b) The rules shall:

6242 (i) include minimum criteria for having a tollway; and

6243 (ii) conform to regional and national standards for automatic tolling.

6244 (8) (a) The commission may provide funds for public or private tollway pilot projects
6245 or high occupancy toll lanes from General Fund money appropriated by the Legislature to the
6246 commission for that purpose.

6247 (b) The commission may determine priorities and funding levels for tollways
6248 designated under this section.

6249 (9) (a) Except as provided in Subsection (9)(b), all revenue generated from a tollway
6250 on a state highway shall be deposited into the Tollway Special Revenue Fund created in
6251 Section 72-2-120 and used for ~~[acquisition of right-of-way and the design, construction,
6252 reconstruction, operation, maintenance, enforcement of state transportation systems and
6253 facilities, including operating improvements to the tollway, and other facilities used exclusively
6254 for the operation of a tollway facility within the corridor served by the tollway]~~ any state
6255 transportation purpose.

6256 (b) Revenue generated from a tollway that is the subject of a tollway development

6257 agreement shall be deposited into the Tollway Special Revenue Fund and used in accordance
6258 with Subsection (9)(a) unless:

6259 (i) the revenue is to a private entity through the tollway development agreement; or

6260 (ii) the revenue is identified for a different purpose under the tollway development
6261 agreement.

6262 (10) Data described in Subsection (2)(e) obtained for the purposes of this section:

6263 (a) in accordance with Section 63G-2-305, is a protected record under Title 63G,
6264 Chapter 2, Government Records Access and Management Act, if the photographic or video
6265 data is maintained by a governmental entity;

6266 (b) may not be used or shared for any purpose other than the purposes described in this
6267 section;

6268 (c) may only be preserved:

6269 (i) so long as necessary to collect the payment of a toll or penalty imposed in
6270 accordance with this section; or

6271 (ii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an
6272 equivalent federal warrant; and

6273 (d) may only be disclosed:

6274 (i) in accordance with the disclosure requirements for a protected record under Section
6275 63G-2-202; or

6276 (ii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an
6277 equivalent federal warrant.

6278 (11) (a) The department may not sell for any purpose photographic or video data
6279 captured under Subsection (2)(e)(ii).

6280 (b) The department may not share captured photographic or video data for a purpose
6281 not authorized under this section.

6282 ~~[(12) Before November 1, 2018, the Driver License Division, the Division of Motor~~
6283 ~~Vehicles, and the department shall jointly study and report findings and recommendations to~~
6284 ~~the Transportation Interim Committee regarding the use of Title 53, Chapter 3, Part 6, Drivers'~~
6285 ~~License Compact, and other methods to collect a toll or penalty under this section from:]~~

6286 ~~[(a) an owner of a motor vehicle registered outside this state; or]~~

6287 ~~[(b) a driver or lessee of a motor vehicle leased or rented for 30 days or less.]~~

6288 Section 62. Section 72-9-603 is amended to read:

6289 **72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned**
6290 **vehicle title restrictions -- Rules for maximum rates and certification.**

6291 (1) Except for a tow truck service that was ordered by a peace officer, or a person
6292 acting on behalf of a law enforcement agency, or a highway authority, after performing a tow
6293 truck service that is being done without the vehicle, vessel, or outboard motor owner's
6294 knowledge, the tow truck operator or the tow truck motor carrier shall:

6295 (a) immediately upon arriving at the place of storage or impound of the vehicle, vessel,
6296 or outboard motor:

6297 (i) send a report of the removal to the Motor Vehicle Division that complies with the
6298 requirements of Subsection 41-6a-1406(4)(b); and

6299 (ii) contact the law enforcement agency having jurisdiction over the area where the
6300 vehicle, vessel, or outboard motor was picked up and notify the agency of the:

6301 (A) location of the vehicle, vessel, or outboard motor;

6302 (B) date, time, and location from which the vehicle, vessel, or outboard motor was
6303 removed;

6304 (C) reasons for the removal of the vehicle, vessel, or outboard motor;

6305 (D) person who requested the removal of the vehicle, vessel, or outboard motor; and

6306 (E) description, including the identification number, license number, or other
6307 identification number issued by a state agency, of the vehicle, vessel, or outboard motor;

6308 (b) within two business days of performing the tow truck service under Subsection
6309 (1)(a), send a certified letter to the last-known address of each party described in Subsection
6310 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor obtained from the
6311 Motor Vehicle Division or, if the person has actual knowledge of the party's address, to the
6312 current address, notifying the party of the:

6313 (i) location of the vehicle, vessel, or outboard motor;

6314 (ii) date, time, and location from which the vehicle, vessel, or outboard motor was
6315 removed;

6316 (iii) reasons for the removal of the vehicle, vessel, or outboard motor;

6317 (iv) person who requested the removal of the vehicle, vessel, or outboard motor;

6318 (v) a description, including its identification number and license number or other

6319 identification number issued by a state agency; and

6320 (vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor; and

6321 (c) upon initial contact with the owner whose vehicle, vessel, or outboard motor was

6322 removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding

6323 Towing established by the department in Subsection (7)(e).

6324 (2) (a) Until the tow truck operator or tow truck motor carrier reports the removal as

6325 required under Subsection (1)(a), a tow truck operator, tow truck motor carrier, or impound

6326 yard may not:

6327 (i) collect any fee associated with the removal; or

6328 (ii) begin charging storage fees.

6329 (b) (i) Except as provided in Subsection (2)(c), a tow truck operator or tow truck motor

6330 carrier may not perform a tow truck service without the vehicle, vessel, or outboard motor

6331 owner's or a lien holder's knowledge at either of the following locations without signage that

6332 meets the requirements of Subsection (2)(b)(ii):

6333 (A) a mobile home park as defined in Section 57-16-3; or

6334 (B) a multifamily dwelling of more than eight units.

6335 (ii) Signage under Subsection (2)(b)(i) shall display:

6336 (A) where parking is subject to towing; and

6337 (B) (I) the Internet website address that provides access to towing database information

6338 in accordance with Section 41-6a-1406; or

6339 (II) one of the following:

6340 (Aa) the name and phone number of the tow truck operator or tow truck motor carrier

6341 that performs a tow truck service for the locations listed under Subsection (2)(b)(i); or

6342 (Bb) the name of the mobile home park or multifamily dwelling and the phone number

6343 of the mobile home park or multifamily dwelling manager or management office that

6344 authorized the vehicle, vessel, or outboard motor to be towed.

6345 (c) Signage is not required under Subsection (2)(b) for parking in a location:

6346 (i) that is prohibited by law; or

6347 (ii) if it is reasonably apparent that the location is not open to parking.

6348 (d) Nothing in Subsection (2)(b) restricts the ability of a mobile home park as defined

6349 in Section 57-16-3 or a multifamily dwelling from instituting and enforcing regulations on

6350 parking.

6351 (3) The party described in Subsection 41-6a-1406(5)(a) with an interest in a vehicle,
6352 vessel, or outboard motor lawfully removed is only responsible for paying:

6353 (a) the tow truck service and storage fees set in accordance with Subsection (7); [~~and~~]

6354 (b) the administrative impound fee set in Section 41-6a-1406, if applicable[-]; and

6355 (c) the applicable sales and use tax.

6356 (4) (a) The fees under Subsection (3) are a possessory lien on the vehicle, vessel, or
6357 outboard motor and any nonlife essential items contained in the vehicle, vessel, or outboard
6358 motor that are owned by the owner of the vehicle, vessel, or outboard motor until paid.

6359 (b) The tow truck operator or tow truck motor carrier shall securely store the vehicle,
6360 vessel, or outboard motor and items described in Subsection (4)(a) in an approved state
6361 impound yard until a party described in Subsection 41-6a-1406(5)(a) with an interest in the
6362 vehicle, vessel, or outboard motor:

6363 (i) pays the [~~fees~~] amounts described in Subsection (3); and

6364 (ii) removes the vehicle, vessel, or outboard motor from the state impound yard.

6365 (5) (a) A vehicle, vessel, or outboard motor shall be considered abandoned if a party
6366 described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard
6367 motor does not, within 30 days after notice has been sent under Subsection (1)(b):

6368 (i) pay the [~~fees~~] amounts described in Subsection (3); and

6369 (ii) remove the vehicle, vessel, or outboard motor from the secure storage facility.

6370 (b) A person may not request a transfer of title to an abandoned vehicle, vessel, or
6371 outboard motor until at least 30 days after notice has been sent under Subsection (1)(b).

6372 (6) (a) A tow truck motor carrier or impound yard shall clearly and conspicuously post
6373 and disclose all its current fees, rates, and acceptable forms of payment for tow truck service
6374 and storage of a vehicle in accordance with rules established under Subsection (7).

6375 (b) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept
6376 payment by cash and debit or credit card for a tow truck service under Subsection (1) or any
6377 service rendered, performed, or supplied in connection with a tow truck service under
6378 Subsection (1).

6379 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6380 department shall:

- 6381 (a) subject to the restriction in Subsection (8), set maximum rates that:
- 6382 (i) a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel,
- 6383 or outboard motor that are transported in response to:
- 6384 (A) a peace officer dispatch call;
- 6385 (B) a motor vehicle division call; and
- 6386 (C) any other call or request where the owner of the vehicle, vessel, or outboard motor
- 6387 has not consented to the removal; and
- 6388 (ii) an impound yard may charge for the storage of a vehicle, vessel, or outboard motor
- 6389 stored as a result of one of the conditions listed under Subsection (7)(a)(i);
- 6390 (b) establish authorized towing certification requirements, not in conflict with federal
- 6391 law, related to incident safety, clean-up, and hazardous material handling;
- 6392 (c) specify the form and content of the posting and disclosure of fees and rates charged
- 6393 and acceptable forms of payment by a tow truck motor carrier or impound yard;
- 6394 (d) set a maximum rate for an administrative fee that a tow truck motor carrier may
- 6395 charge for reporting the removal as required under Subsection (1)(a)(i) and providing notice of
- 6396 the removal to each party described in Subsection 41-6a-1406(5)(a) with an interest in the
- 6397 vehicle, vessel, or outboard motor as required in Subsection (1)(b); and
- 6398 (e) establish a Utah Consumer Bill of Rights Regarding Towing form that contains
- 6399 specific information regarding:
- 6400 (i) a vehicle owner's rights and responsibilities if the owner's vehicle is towed;
- 6401 (ii) identifies the maximum rates that a tow truck motor carrier may charge for the tow
- 6402 truck service of a vehicle, vessel, or outboard motor that is transported in response to a call or
- 6403 request where the owner of the vehicle, vessel, or outboard motor has not consented to the
- 6404 removal; and
- 6405 (iii) identifies the maximum rates that an impound yard may charge for the storage of
- 6406 vehicle, vessel, or outboard motor that is transported in response to a call or request where the
- 6407 owner of the vehicle, vessel, or outboard motor has not consented to the removal.
- 6408 (8) An impound yard may not charge a fee for the storage of an impounded vehicle,
- 6409 vessel, or outboard motor if:
- 6410 (a) the vehicle, vessel, or outboard motor is being held as evidence; and
- 6411 (b) the vehicle, vessel, or outboard motor is not being released to a party described in

6412 Subsection 41-6a-1406(5)(a), even if the party satisfies the requirements to release the vehicle,
6413 vessel, or outboard motor under Section 41-6a-1406.

6414 (9) (a) (i) A tow truck motor carrier may charge a rate up to the maximum rate set by
6415 the department in rules made under Subsection (7).

6416 (ii) In addition to the maximum rates established under Subsection (7) [~~and when~~
6417 ~~receiving payment by credit card~~], a tow truck operator, a tow truck motor carrier, or an
6418 impound yard;

6419 (A) shall collect the sales and use tax due; and

6420 (B) when receiving payment by credit card, may charge a credit card processing fee of
6421 3% of the transaction total.

6422 (b) A tow truck motor carrier may not be required to maintain insurance coverage at a
6423 higher level than required in rules made pursuant to Subsection (7).

6424 (10) When a tow truck motor carrier or impound lot is in possession of a vehicle,
6425 vessel, or outboard motor as a result of a tow service that was performed without the consent of
6426 the owner, and that was not ordered by a peace officer or a person acting on behalf of a law
6427 enforcement agency, the tow truck motor carrier or impound yard shall make personnel
6428 available:

6429 (a) by phone 24 hours a day, seven days a week; and

6430 (b) to release the impounded vehicle, vessel, or outboard motor to the owner within
6431 one hour of when the owner calls the tow truck motor carrier or impound yard.

6432 **Section 63. Appropriations -- Operating and Capital Budgets.**

6433 **Subsection 63 (a)(i). Fiscal Year 2020 Appropriation -- Operating and Capital**
6434 **Budgets.**

6435 The following sums of money are appropriated for the fiscal year beginning July 1,
6436 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for
6437 fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
6438 Act, the Legislature appropriates the following sums of money from the funds or accounts
6439 indicated for the use and support of the government of the state of Utah.

6440 ITEM 1

6441 To Department of Workforce Services -- Administration

6442 From General Fund, One-time \$500,000

6443 Schedule of Programs:

6444 Communications \$500,000

6445 The Legislature intends that the Department of Workforce Services use this
 6446 appropriation for outreach to inform eligible individuals, particularly low income individuals,
 6447 of available income tax credits, exemptions, and rebates and how to claim them.

6448 Subsection 63 (a)(ii). **Fiscal Year 2020 Appropriation -- Transfers to Unrestricted**
 6449 **Funds.**

6450 The following sums of money are appropriated for the fiscal year beginning July 1,
 6451 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for
 6452 fiscal year 2020.

6453 The Legislature authorizes the State Division of Finance to transfer the following
 6454 amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as
 6455 indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the
 6456 General Fund, Education Fund, or Uniform School Fund must be authorized by an
 6457 appropriation.

6458 ITEM 2

6459 To General Fund, One-time

6460 From Education Fund Restricted --

6461 Underage Drinking Prevention Program Restricted Account \$1,750,000

6462 Schedule of Programs:

6463 General Fund, One-time \$1,750,000

6464 The Legislature intends that, after satisfying all prior appropriations from the Underage
 6465 Drinking Prevention Program Restricted Account, the State Division of Finance transfer all
 6466 remaining balances in the Underage Drinking Prevention Program Restricted Account to the
 6467 General Fund at the close of fiscal year 2020 and close the account.

6468 Subsection 65 (b). **Fiscal Year 2021 Appropriations -- Operating and Capital**
 6469 **Budgets.**

6470 The following sums of money are appropriated for the fiscal year beginning July 1,
 6471 2020, and ending June 30, 2021. These are additions to amounts otherwise appropriated for
 6472 fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
 6473 Act, the Legislature appropriates the following sums of money from the funds or accounts

6474	<u>indicated for the use and support of the government of the state of Utah.</u>	
6475	<u>ITEM 3</u>	
6476	<u>To State Board of Education -- Child Nutrition</u>	
6477	<u>From Education Fund</u>	<u>\$55,500,000</u>
6478	<u>From Dedicated Credits -- Liquor Tax</u>	<u>(\$39,275,700)</u>
6479	<u>Schedule of Programs:</u>	
6480	<u>Child Nutrition</u>	<u>\$16,224,300</u>
6481	<u>ITEM 4</u>	
6482	<u>To State Board of Education -- State Administrative Office</u>	
6483	<u>From Education Fund</u>	<u>\$2,850,000</u>
6484	<u>From Education Fund Restricted --</u>	
6485	<u>Underage Drinking Prevention Program Restricted Account</u>	<u>(\$1,751,000)</u>
6486	<u>Schedule of Programs:</u>	
6487	<u>Student Advocacy Services</u>	<u>\$1,099,000</u>
6488	<u>ITEM 5</u>	
6489	<u>To University of Utah -- Education and General</u>	
6490	<u>From General Fund</u>	<u>\$101,608,900</u>
6491	<u>From Education Fund</u>	<u>(\$101,608,900)</u>
6492	<u>ITEM 6</u>	
6493	<u>To University of Utah -- School of Medicine</u>	
6494	<u>From General Fund</u>	<u>\$35,899,500</u>
6495	<u>From Education Fund</u>	<u>(\$35,899,500)</u>
6496	<u>ITEM 7</u>	
6497	<u>To University of Utah -- University Hospital</u>	
6498	<u>From General Fund</u>	<u>\$1,533,000</u>
6499	<u>From Education Fund</u>	<u>(\$1,533,000)</u>
6500	<u>ITEM 8</u>	
6501	<u>To University of Utah -- School of Dentistry</u>	
6502	<u>From General Fund</u>	<u>\$2,324,700</u>
6503	<u>From Education Fund</u>	<u>(\$2,324,700)</u>
6504	<u>ITEM 9</u>	

6505	<u>To Utah State University -- Education and General</u>	
6506	<u>From General Fund</u>	\$73,521,400
6507	<u>From Education Fund</u>	(\$73,521,400)
6508	<u>ITEM 10</u>	
6509	<u>To Utah State University -- USU-Eastern Education and General</u>	
6510	<u>From General Fund</u>	\$12,503,400
6511	<u>From Education Fund</u>	(\$12,503,400)
6512	<u>ITEM 11</u>	
6513	<u>To Weber State University -- Education and General</u>	
6514	<u>From General Fund</u>	\$94,098,000
6515	<u>From Education Fund</u>	(\$94,098,000)
6516	<u>ITEM 12</u>	
6517	<u>To Southern Utah University -- Education and General</u>	
6518	<u>From General Fund</u>	\$47,444,900
6519	<u>From Education Fund</u>	(\$47,444,900)
6520	<u>ITEM 13</u>	
6521	<u>To Utah Valley University -- Education and General</u>	
6522	<u>From General Fund</u>	\$22,092,900
6523	<u>From Education Fund</u>	(\$22,092,900)
6524	Section 64. Effective date.	
6525	<u>(1) Except as provided in Subsections (2) through (6), if approved by two-thirds of all</u>	
6526	<u>the members elected to each house, this bill takes effect on January 1, 2020.</u>	
6527	<u>(2) If approved by two-thirds of all the members elected to each house, the following</u>	
6528	<u>sections take effect for a taxable year beginning on or after January 1, 2020:</u>	
6529	<u>(a) Section 35A-9-214;</u>	
6530	<u>(b) Section 59-7-104;</u>	
6531	<u>(c) Section 59-7-201;</u>	
6532	<u>(d) Section 59-7-610;</u>	
6533	<u>(e) Section 59-7-614.1;</u>	
6534	<u>(f) Section 59-7-618;</u>	
6535	<u>(g) Section 59-7-620;</u>	

- 6536 (h) Section 59-10-104;
- 6537 (i) Section 59-10-529.1;
- 6538 (j) Section 59-10-1005;
- 6539 (k) Section 59-10-1007;
- 6540 (l) Section 59-10-1017;
- 6541 (m) Section 59-10-1017.1;
- 6542 (n) Section 59-10-1018;
- 6543 (o) Section 59-10-1019;
- 6544 (p) Section 59-10-1022;
- 6545 (q) Section 59-10-1023;
- 6546 (r) Section 59-10-1028;
- 6547 (s) Section 59-10-1033;
- 6548 (t) Section 59-10-1035;
- 6549 (u) Section 59-10-1036;
- 6550 (v) Section 59-10-1041;
- 6551 (w) Section 59-10-1102.1;
- 6552 (x) Section 59-10-1105;
- 6553 (y) Section 59-10-1114;
- 6554 (z) Section 59-10-1403.3; and
- 6555 (aa) Section 59-13-202.
- 6556 (3) The following sections take effect on April 1, 2020:
- 6557 (a) Section 15A-1-204;
- 6558 (b) Section 26-36b-208;
- 6559 (c) Section 59-1-1503;
- 6560 (d) Section 59-12-102;
- 6561 (e) Section 59-12-103;
- 6562 (f) Section 59-12-104;
- 6563 (g) Section 59-12-104.5;
- 6564 (h) Section 59-12-1201;
- 6565 (i) Section 59-13-323;
- 6566 (j) Section 63I-2-259;

6567 (k) Section 63M-4-702; and

6568 (l) Section 72-2-124.

6569 (4) If approved by two-thirds of all the members elected to each house, Subsection
6570 63(a) of this bill takes effect upon approval by the governor, or the day following the
6571 constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's
6572 signature, or in the case of veto, the date of veto override.

6573 (5) Subsection 63(b) of this bill takes effect on July 1, 2020.

6574 (6) The following sections take effect on January 1, 2021:

6575 (a) Section 46-6a-1642; and

6576 (b) Section 72-1-213.2.

6577 **Section 65. Contingent retrospective operation.**

6578 If this bill is approved by less than two-thirds of all the members elected to each house,
6579 the following sections have retrospective operation for a taxable year beginning on or after
6580 January 1, 2020:

6581 (1) Section 35A-9-214;

6582 (2) Section 59-7-104;

6583 (3) Section 59-7-201;

6584 (4) Section 59-7-610;

6585 (5) Section 59-7-614.1;

6586 (6) Section 59-7-618;

6587 (7) Section 59-7-620;

6588 (8) Section 59-10-104;

6589 (9) Section 59-10-529.1;

6590 (10) Section 59-10-1005;

6591 (11) Section 59-10-1007;

6592 (12) Section 59-10-1017;

6593 (13) Section 59-10-1017.1;

6594 (14) Section 59-10-1018;

6595 (15) Section 59-10-1019;

6596 (16) Section 59-10-1022;

6597 (17) Section 59-10-1023;

- 6598 (18) Section 59-10-1028;
- 6599 (19) Section 59-10-1033;
- 6600 (20) Section 59-10-1035;
- 6601 (21) Section 59-10-1036;
- 6602 (22) Section 59-10-1041;
- 6603 (23) Section 59-10-1102.1;
- 6604 (24) Section 59-10-1105;
- 6605 (25) Section 59-10-1114;
- 6606 (26) Section 59-10-1403.3; and
- 6607 (27) Section 59-13-202.